

fecting accomplishment of purposes of the Sugar Act of 1937, expired on Dec. 31, 1947, and was covered by section 410 of the Sugar Act of 1948, which was set out as former section 1160 of this title.

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

## CHAPTER 35—AGRICULTURAL ADJUSTMENT ACT OF 1938

### GENERAL PROVISIONS

Sec.  
1281. Short title.  
1282. Declaration of policy.  
1282a. Emergency supply of agricultural products.

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

1291. Adjustments in freight rates.  
1292. New uses and markets for commodities.  
1293. Transferred.

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

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

1301. Definitions.  
1301a. References to parity prices, etc., in other laws after January 1, 1950.  
1301b, 1302. Repealed.  
1303. Parity payments.  
1304. Consumer safeguards.  
1305. Transfer of acreage allotments or feed grain bases on public lands upon request of State agencies.  
1306. Projected yields; determination; base period.  
1307. Limitation on payments under wheat, feed grains, and cotton programs for 1974 through 1977 crops.  
1308. Payment limitations.  
1308-1. Notification of interests; payments limited to active farmers.  
1308-2. Denial of program benefits.  
1308-3. Foreign persons made ineligible for program benefits.  
1308-3a. Adjusted gross income limitation.  
1308-4. Education program.  
1308-5. Treatment of multiyear program contract payments.  
1308a. Cost reduction options.  
1309. Normally planted acreage and target prices.  
1310. American agriculture protection program.  
1310a. Normal supply of commodity for 1986 through 1995 crops.

#### PART B—MARKETING QUOTAS

##### SUBPART I—MARKETING QUOTAS—TOBACCO

1311 to 1316. Repealed.

##### SUBPART II—ACREAGE ALLOTMENTS—CORN

1321. Legislative finding of effect on interstate and foreign commerce and necessity of regulation.  
1322 to 1325. Repealed.  
1326. Adjustment of farm marketing quotas.  
1327 to 1329. Omitted.  
1329a. Discontinuance of acreage allotments on corn.

Sec.  
1330. Omitted.

##### SUBPART III—MARKETING QUOTAS—WHEAT

1331. Legislative finding of effect on interstate and foreign commerce and necessity of regulation.  
1332. National marketing quota.  
1333. National acreage allotment.  
1334. Apportionment of national acreage allotment.  
1334a. Omitted.  
1334a-1. Summer fallow farms; upper limit on required set aside acreage for 1971 through 1977 wheat, feed grain, and cotton crops.  
1334b. Designation of States outside commercial wheat-producing areas.  
1335. Small-farm exemption; small-farm base acreage; election; acreage allotment; land-use provisions; price support; wheat marketing certificates.  
1336. Referendum.  
1337. Repealed.  
1338. Transfer of quotas.  
1339. Land use.  
1339a. Repealed.  
1339b. Wheat diversion programs; credits in establishment of State, county and farm acreage allotments for wheat.  
1339c. Feed grains diversion programs for 1964 and subsequent years; feed grain acreage considered wheat acreage and wheat acreage considered feed grain acreage.  
1339d. Hay production on set-aside or diverted acreage; storage; emergency use; loans.  
1340. Supplemental provisions relating to wheat marketing quotas; marketing penalty for rice; crop loans on cotton, wheat, rice, tobacco, and peanuts.

##### SUBPART IV—MARKETING QUOTAS—COTTON

1341. Legislative findings.  
1342. National marketing quota; proclamation; amount; date of proclamation.  
1342a. National cotton production goal.  
1343. Referendum.  
1344. Apportionment of national acreage allotments.  
1344a. Exclusion of 1949 acreage in computation of future allotments.  
1344b. Sale, lease, or transfer of cotton acreage allotments.  
1345. Farm marketing quotas; farm marketing excess.  
1346. Penalties.  
1347. Repealed.  
1348. Payments in kind to equalize cost of cotton to domestic and foreign users; rules and regulations; termination date; persons eligible; amount; terms and conditions; raw cotton in inventory.  
1349. Export market acreage.  
1350. National base acreage allotment.  
1350a. Repealed.

##### SUBPART V—MARKETING QUOTAS—RICE

1351 to 1356. Omitted or Repealed.

##### SUBPART VI—MARKETING QUOTAS—PEANUTS

1357 to 1359a. Repealed.

##### SUBPART VII—FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR

1359aa. Definitions.  
1359bb. Flexible marketing allotments for sugar.  
1359cc. Establishment of flexible marketing allotments.  
1359dd. Allocation of marketing allotments.  
1359ee. Reassignment of deficits.

- Sec.  
 1359ff. Provisions applicable to producers.  
 1359gg. Special rules.  
 1359hh. Regulations; violations; publication of Secretary's determinations; jurisdiction of the courts; United States attorneys.  
 1359ii. Appeals.  
 1359jj. Administration.  
 1359kk. Administration of tariff rate quotas.  
 1359ll. Period of effectiveness.

PART C—ADMINISTRATIVE PROVISIONS

SUBPART I—PUBLICATION AND REVIEW OF QUOTAS

1361. Application of subpart.  
 1362. Publication of marketing quota; mailing of allotment notice.  
 1363. Review of quota; review committee.  
 1364. Compensation of review committee.  
 1365. Institution of proceeding for court review of committee findings.  
 1366. Court review.  
 1367. Stay of proceedings and exclusive jurisdiction.  
 1368. Effect of increase on other quotas.

SUBPART II—ADJUSTMENT OF QUOTAS AND ENFORCEMENT

1371. General adjustment of quotas.  
 1372. Payment, collection, and refund of penalties.  
 1373. Reports and records.  
 1374. Measurement of farms and report of plantings; remeasurement.  
 1375. Regulations.  
 1376. Court jurisdiction; duties of United States attorneys; remedies and penalties as additional.  
 1377. Preservation of unused acreage allotments.  
 1378. Transfer of acreage allotments ensuing from agency acquisition of farmlands.  
 1379. Reconstitution of farms.

PART D—WHEAT MARKETING ALLOCATION

- 1379a. Legislative findings.  
 1379b. Wheat marketing allocation; amount; national allocation percentage; commercial and noncommercial wheat-producing areas.  
 1379c. Marketing certificates.  
 1379d. Marketing restrictions.  
 1379e. Assistance in purchase and sale of marketing certificates; regulations; administrative expenses; interest.  
 1379f. Conversion factors.  
 1379g. Authority to facilitate transition.  
 1379h. Applicability of provisions to designated persons; reports and records; examinations by the Secretary.  
 1379i. Penalties.  
 1379j. Regulations.

PART E—RICE CERTIFICATES

1380a to 1380p. Omitted.

PART F—MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

SUBPART I—MISCELLANEOUS

- 1381 to 1382. Omitted.  
 1383. Insurance of cotton; reconcentration.  
 1383a. Written consent for reconcentration of cotton.  
 1384. Repealed.  
 1385. Finality of payments and loans; substitution of beneficiaries.  
 1386. Exemption from laws prohibiting interest of Members of Congress in contracts.  
 1387. Photographic reproductions and maps.  
 1388. Utilization of local agencies.  
 1389. Personnel.  
 1390. Separability.

Sec.  
 SUBPART II—APPROPRIATIONS AND ADMINISTRATIVE EXPENSES

1391. Authorization of appropriations; loans from Commodity Credit Corporation.  
 1392. Administrative expenses; posting names and compensation of local employees.  
 1393. Allotment of appropriations.

SUBCHAPTER III—COTTON POOL PARTICIPATION TRUST CERTIFICATES

1401 to 1407. Omitted.

GENERAL PROVISIONS

§ 1281. Short title

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

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

EFFECTIVE DATE OF 1985 AMENDMENT

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

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106-113, div. B, §1000(a)(3) [title IV, § 401], Nov. 29, 1999, 113 Stat. 1535, 1501A-210, provided that: "This title [amending section 1387 of this title] may be cited as the 'Mississippi National Forest Improvement Act of 1999'."

SHORT TITLE OF 1990 AMENDMENT

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

SHORT TITLE OF 1986 AMENDMENT

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

SHORT TITLE OF 1985 AMENDMENT

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

SHORT TITLE OF 1982 AMENDMENT

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

SHORT TITLE OF 1981 AMENDMENT

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

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-113, §1, Sept. 29, 1977, 91 Stat. 913, provided: "That this Act [enacting sections 1308 to 1310, 1444c,

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

#### SHORT TITLE OF 1973 AMENDMENT

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

#### SHORT TITLE OF 1970 AMENDMENT

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

#### SHORT TITLE OF 1964 AMENDMENT

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

#### SHORT TITLE OF 1963 AMENDMENT

Pub. L. 88-26, § 1, May 20, 1963, 77 Stat. 44, provided: "That this Act [amending section 1339a of this title and

section 590p of Title 16, Conservation, and provisions set out as note under section 1441 of this title] may be cited as the 'Feed Grain Act of 1963'."

#### SHORT TITLE OF 1962 AMENDMENT

Pub. L. 87-703, § 1, Sept. 27, 1962, 76 Stat. 605, provided: "That this Act [enacting sections 1334b, 1339 to 1339c, 1379a to 1379j, 1431d, 1445a and 1991 of this title and section 713a-13 of Title 15, Commerce and Trade, amending sections 608c, 1010, 1011, 1301, 1331 to 1334, 1335, 1336, 1340, 1371, 1385, 1427, 1431, 1431b, 1444b, 1697, 1731 to 1733, 1735, 1736, 1923, 1926, 1929, and 1942 of this title and sections 590g, 590h, 590p, 1004 and 1005 of Title 16, Conservation, repealing section 1337 of this title, enacting provisions set out as notes under this section, sections 1301, 1334, and 1441 of this title, and section 590p of Title 16] may be cited as the 'Food and Agriculture Act of 1962'."

#### SHORT TITLE OF 1958 AMENDMENT

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

#### SHORT TITLE OF 1956 AMENDMENT

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

#### SHORT TITLE OF 1948 AMENDMENT

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

#### SEPARABILITY

Pub. L. 87-703, title IV, § 405, Sept. 27, 1962, 76 Stat. 632, provided that: "If any provision of this Act [see Short Title of 1962 Amendment note above] is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby."

### § 1282. Declaration of policy

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

(Feb. 16, 1938, ch. 30, § 2, 52 Stat. 31; Pub. L. 108-357, title VI, § 611(e), Oct. 22, 2004, 118 Stat. 1522.)

#### REFERENCES IN TEXT

The Soil Conservation and Domestic Allotment Act, as amended, referred to in text, is act Apr. 27, 1935, ch.

85, 49 Stat. 163, as amended, which is classified generally to chapter 3B (§ 590a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 590q of Title 16 and Tables.

#### AMENDMENTS

2004—Pub. L. 108-357 struck out “tobacco,” after “corn.”

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as an Effective Date note under section 518 of this title.

#### SAVINGS PROVISION

Amendment by sections 611 to 614 of Pub. L. 108-357 not to affect the liability of any person under any provision of law so amended with respect to the 2004 or an earlier crop of tobacco, see section 614 of Pub. L. 108-357, set out as a note under section 515 of this title.

#### TRANSFER OF FUNCTIONS

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

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

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

#### CONGRESSIONAL DECLARATION OF POLICY UNDER AGRICULTURAL ACT OF 1961

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

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

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

“(c) expand foreign trade in agricultural commodities with friendly nations, as defined in section 107 of Public Law 480, 83d Congress, as amended (7 U.S.C. 1707), and in no manner either subsidize the export, sell, or make available any subsidized agricultural commodity to any nations other than such friendly nations and thus make full use of our agricultural abundance;

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

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

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

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

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

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

#### CONGRESSIONAL DECLARATION OF POLICY FOR YEAR 1949

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

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

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

#### PRICE STABILIZATION DURING YEAR 1950

Act July 3, 1948, ch. 827, title I, § 1(a), (b), 62 Stat. 1247, 1248, as amended June 10, 1949, ch. 191, 63 Stat. 169, authorized the Secretary of Agriculture through any instrumentality or agency within or under the direction of the Department of Agriculture, by loans, purchases, or other operations to support prices received by producers of cotton, wheat, corn, tobacco, rice, and peanuts marketed before June 30, 1950 (Sept. 30, 1950, in the case of Maryland and the cigar-leaf types of tobacco), if producers had not disapproved marketing quotas for such commodity for the marketing year beginning in the calendar year in which the crop is harvested.

Act July 3, 1948, ch. 827, title I, § 2, 62 Stat. 1248, authorized the Secretary, from any funds available to the Department of Agriculture or any agency operating under its direction for price support operations or for the disposal of agricultural commodities, to use such sums as may be necessary to carry out the provisions of section 1 of the Act (enacting provisions set out as notes under this section and amending provisions set out as a note under section 713a-8 of this title).

#### § 1282a. Emergency supply of agricultural products

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

Notwithstanding any other provision of law, the Secretary of Agriculture shall assist farm-

ers, processors, and distributors in obtaining such prices for agricultural products that an orderly, adequate and steady supply of such products will exist for the consumers of this nation.

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

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

**(c) "Agricultural products" defined**

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

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

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

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

REFERENCES IN TEXT

Executive Order 11723 (dated June 13, 1973), referred to in subsec. (b), was revoked by Ex. Ord. No. 11788, June 18, 1974, 39 F.R. 22113.

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

CODIFICATION

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

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

**§ 1291. Adjustments in freight rates**

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

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

and practices relating to the transportation of farm products, the Board shall cause the Secretary to be notified, and, upon application by the Secretary, shall permit the Secretary to appear and be heard.

**(b) Secretary as party to proceedings**

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

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

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

**(d) Cooperation with complaining farm associations**

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

(Feb. 16, 1938, ch. 30, title II, §201, 52 Stat. 36; Pub. L. 104-88, title III, §311, Dec. 29, 1995, 109 Stat. 948.)

AMENDMENTS

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

EFFECTIVE DATE OF 1995 AMENDMENT

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

**§ 1292. New uses and markets for commodities**

**(a) Regional research laboratories**

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

**(b) Acquisition of land for laboratories; donations**

For the purposes of subsection (a) of this section, the Secretary is authorized to acquire land and interests therein, and to accept in the name of the United States donations of any property, real or personal, to any laboratory established

pursuant to this section, and to utilize voluntary or uncompensated services at such laboratories. Donations to any one of such laboratories shall not be available for use by any other of such laboratories.

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

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

**(d) Appropriation for purposes of subsection (a)**

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

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

**(f) Appropriation to Secretary of Commerce**

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

**(g) Duty of Secretary**

It shall be the duty of the Secretary to use available funds to stimulate and widen the use of all farm commodities in the United States and to increase in every practical way the flow of such commodities and the products thereof into the markets of the world.

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

AMENDMENTS

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

WHEAT RESEARCH AND PROMOTION ACT

Pub. L. 91-430, Sept. 26, 1970, 84 Stat. 885, provided: “[Section 1. Short Title]. That this Act shall be known as the ‘Wheat Research and Promotion Act.’”

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

**§ 1293. Transferred**

CODIFICATION

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

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

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

**§ 1301. Definitions**

**(a) General definitions**

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

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

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

(C) The “parity index”, as of any date, shall be the ratio of (i) the general level of prices for

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

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

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

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

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

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

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

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

agriculture for such year as the average gross income from such commodity for the preceding ten calendar years bears to the average gross income from agriculture for such ten calendar years.

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

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

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

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

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

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

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

**(b) Definitions applicable to one or more commodities**

For the purposes of this subchapter—

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

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

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

(3)(A) "Carry-over", in the case of corn, rice, and peanuts for any marketing year shall be

the quantity of the commodity on hand in the United States at the beginning of such marketing year, not including any quantity which was produced in the United States during the calendar year then current.

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

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

(4)(A) "Commercial corn-producing area" shall include all counties in which the average production of corn (excluding corn used as silage) during the ten calendar years immediately preceding the calendar year for which such area is determined, after adjustment for abnormal weather conditions, is four hundred and fifty bushels or more per farm and four bushels or more for each acre of farm land in the county.

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

(5) "Farm consumption" of corn means consumption by the farmer's family, employees, or household, or by his work stock; or consumption by poultry or livestock on his farm

if such poultry or livestock, or the products thereof, are consumed or to be consumed by the farmer's family, employees, or household.

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

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

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

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

Corn, September 1–August 31;

Cotton, August 1–July 31;

Rice, August 1–July 31;

Tobacco (flue-cured), July 1–June 30;

Tobacco (other than flue-cured), October 1–September 30;

Wheat, June 1–May 31.

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

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

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

(10)(A) "Normal supply" in the case of corn, rice, wheat, and peanuts for any marketing year shall be (i) the estimated domestic consumption of the commodity for the marketing year ending immediately prior to the marketing year for which normal supply is being determined, plus (ii) the estimated exports of the

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

(B) The "normal supply" of cotton for any marketing year shall be the estimated domestic consumption of cotton for the marketing year for which such normal supply is being determined, plus the estimated exports of cotton for such marketing year, plus, 30 per centum of the sum of such consumption and exports as an allowance for carry-over.

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

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

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

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

(13)(A) Repealed. Pub. L. 87-703, title III, § 320(1), Sept. 27, 1962, 76 Stat. 625.

(B) "Normal yield" for any county, in the case of peanuts, shall be the average yield per acre of peanuts for the county, adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined. For 1942, the normal yield for any county, in the case of peanuts, shall be the average yield per acre for peanuts for the county, adjusted for abnormal conditions, during the years 1936-1940, inclusive, except that for

any county in which the years 1935-1939, inclusive, are equally as representative, such period may be used in determining the normal yields for counties in the State.

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

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

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

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

<sup>1</sup> So in original. Probably should be "consumed".

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

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

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

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

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

such farm as provided in subparagraph (E) of this paragraph.

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

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

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

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

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

**(c) Use of Federal statistics**

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

**(d) Exclusion of stocks of certain commodities**

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

(Feb. 16, 1938, ch. 30, title III, §301, 52 Stat. 38; Apr. 7, 1938, ch. 107, §§2-4, 52 Stat. 202; June 13, 1940, ch. 360, §1, 54 Stat. 392; July 2, 1940, ch. 521,

§§3-5, 54 Stat. 727, 728; Nov. 22, 1940, ch. 914, §§1, 3, 4, 54 Stat. 1209, 1210; Nov. 25, 1940, ch. 917, 54 Stat. 1211; Apr. 3, 1941, ch. 39, §§2, 3, 55 Stat. 91, 92; July 9, 1942, ch. 497, §1(4), (5), 56 Stat. 654; July 3, 1948, ch. 827, title II, §201(a), (b), (d), (e), 62 Stat. 1250; Aug. 29, 1949, ch. 518, §2(a), 63 Stat. 675; Oct. 31, 1949, ch. 792, title IV, §§409(a)-(d), 415(c)-(e), 418(b), (c), 63 Stat. 1056-1058, 1062; July 8, 1952, ch. 587, 66 Stat. 442; July 17, 1952, ch. 933, §1, 66 Stat. 758; July 14, 1953, ch. 194, §6, 67 Stat. 152; Aug. 28, 1954, ch. 1041, title III, §§301, 302, 68 Stat. 902; May 28, 1956, ch. 327, title V, §502, title VI, §602, 70 Stat. 212, 213; Pub. L. 85-92, §1, July 10, 1957, 71 Stat. 284; Pub. L. 87-703, title III, §320, Sept. 27, 1962, 76 Stat. 625; Pub. L. 88-297, title I, §106(5)-(7), Apr. 11, 1964, 78 Stat. 177; Pub. L. 89-321, title IV, §403, title V, §§509, 511(a), Nov. 3, 1965, 79 Stat. 1197, 1204, 1205; Pub. L. 91-524, title IV, §405(b), Nov. 30, 1970, as added Pub. L. 93-86, §1(12)(a), Aug. 10, 1973, 87 Stat. 229; Pub. L. 94-61, §1, July 25, 1975, 89 Stat. 302; Pub. L. 97-218, title III, §303(a), July 20, 1982, 96 Stat. 211; Pub. L. 99-198, title X, §1020, Dec. 23, 1985, 99 Stat. 1459; Pub. L. 99-272, title I, §1103(a), Apr. 7, 1986, 100 Stat. 85; Pub. L. 107-171, title I, §1610, May 13, 2002, 116 Stat. 218; Pub. L. 108-357, title VI, §611(f), Oct. 22, 2004, 118 Stat. 1522.)

## REFERENCES IN TEXT

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

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

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

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

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

## AMENDMENTS

2004—Subsec. (b)(3)(C), (D). Pub. L. 108-357, §611(f)(1), redesignated subpar. (D) as (C) and struck out former subpar. (C) which defined “carry-over” of tobacco for any marketing year.

Subsec. (b)(6)(A). Pub. L. 108-357, §611(f)(2), struck out “tobacco,” after “rice.”

Subsec. (b)(10)(B), (C). Pub. L. 108-357, §611(f)(3), redesignated subpar. (C) as (B) and struck out former subpar. (B) which defined “normal supply” in the case of tobacco.

Subsec. (b)(11)(B). Pub. L. 108-357, §611(f)(4), struck out “and tobacco” after “cotton”.

Subsec. (b)(12). Pub. L. 108-357, §611(f)(5), struck out “tobacco,” after “rice.”

Subsec. (b)(14). Pub. L. 108-357, §611(f)(6), struck out “(A)” after “(14)” and subpars. (B) to (D) which defined

“reserve supply level” of tobacco, “reserve stock level” in the case of Flue-cured tobacco, and “reserve stock level” in the case of Burley tobacco.

Subsec. (b)(15). Pub. L. 108-357, §611(f)(7), (10), redesignated par. (16) as (15) and struck out former par. (15) which defined “tobacco” and “kind of tobacco”.

Subsec. (b)(16). Pub. L. 108-357, §611(f)(10), redesignated par. (16) as (15).

Subsec. (b)(16)(B), (C). Pub. L. 108-357, §611(f)(8), redesignated subpar. (C) as (B) and struck out former subpar. (B) which defined “total supply” of tobacco for any marketing year.

Subsec. (b)(17). Pub. L. 108-357, §611(f)(9), struck out par. (17) which defined “domestic manufacturer of cigarettes”.

2002—Subsec. (b)(14)(C). Pub. L. 107-171 substituted “60,000,000” for “100,000,000” in cl. (i) and “10 percent” for “15 percent” in cl. (ii).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1953—Subsec. (d). Act July 14, 1953, added subsec. (d).  
1952—Subsec. (a)(1)(G). Act July 17, 1952, extended dual parity provisions for two years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

resentative, such period may be used in determining normal yields for farms in the county".

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

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

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

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

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

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

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

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

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

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

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as an Effective Date note under section 518 of this title.

#### EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94-61, §2, July 25, 1975, 89 Stat. 302, provided that: "The amendment made by the first section of this Act [amending this section] shall become effective June 1, 1975".

#### EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Pub. L. 91-524, title IV, §405(b), as added by Pub. L. 93-86, §1(12)(a), Aug. 10, 1973, 87 Stat. 229, provided that the amendment made by Pub. L. 91-524 is effective with respect to the 1974 through 1977 crops.

#### EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-321, title V, §511(a), Nov. 3, 1965, 79 Stat. 1205, provided that the amendment made by that section is effective beginning with the crop planted for harvest in 1966.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-703, title III, §323, Sept. 27, 1962, 76 Stat. 626, provided that: "The amendments to the Agricultural Adjustment Act of 1938, as amended, and to Public Law 74, Seventy-seventh Congress, as amended, made by sections 310 through 322 of this Act [enacting sections 1334b and 1339 of this title, amending this section and sections 1331 to 1336, 1340, 1371 and 1385 of this title, and repealing section 1337 of this title] shall be in effect only with respect to programs applicable to the crops planted for harvest in the calendar year 1964 or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year".

#### EFFECTIVE DATE OF 1949 AMENDMENT

Act Oct. 31, 1949, ch. 792, title IV, §415(a), (b), 63 Stat. 1057, provided that:

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

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

#### EFFECTIVE DATE OF 1948 AMENDMENT

Act July 3, 1948, ch. 827, title III, §303, 62 Stat. 1259, provided that: “Titles II and III of this Act [amending this section and sections 602, 608c, 612c, 672, 1301a, 1302, 1312, 1322, 1328, 1333, 1335, 1336, 1343, 1345, 1355, and 1385 of this title and repealing sections 608e and 1322a of this title] shall take effect on January 1, 1950.”

#### SAVINGS PROVISION

Amendment by sections 611 to 614 of Pub. L. 108-357 not to affect the liability of any person under any provision of law so amended with respect to the 2004 or an earlier crop of tobacco, see section 614 of Pub. L. 108-357, set out as a note under section 515 of this title.

#### TRANSFER OF FUNCTIONS

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

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

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

#### RULEMAKING PROCEDURES

Pub. L. 99-272, title I, §1108(c), Apr. 7, 1986, 100 Stat. 95, provided that: “The Secretary of Agriculture shall implement sections 1102 through 1109, and the amendments made by such sections [enacting sections 1314g, 1314h, and 1445-3 of this title, amending this section and sections 1312, 1314c, 1314e, 1372, 1445, 1445-1, and 1445-2 of this title, and enacting provisions set out as notes under sections 1314c, 1314e, 1314g, 1314h, 1372, 1445, 1445-1, and 1445-2 of this title], without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of title 5, United States Code, or in any directive of the Secretary.”

#### STUDY OF METHODS OF IMPROVING PARITY FORMULA

Act May 28, 1956, ch. 327, title VI, §602, 70 Stat. 213, required the Secretary to make a thorough study of the possible methods of improving the parity formula and report thereon, with specific recommendations, including drafts of necessary legislation to carry out such recommendations, to Congress not later than Jan. 31, 1957.

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

All references in other laws to—

- (1) parity,
- (2) parity prices,
- (3) prices comparable to parity prices, or

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

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

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

#### CODIFICATION

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

#### EFFECTIVE DATE

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

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

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

#### EFFECTIVE DATE OF REPEAL

Pub. L. 85-835, title I, §108, Aug. 28, 1958, 72 Stat. 993, provided in part that: “This section [amending section 1423 of this title and repealing this section] shall become effective with the 1961 crop.”

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

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

#### § 1303. Parity payments

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

(Feb. 16, 1938, ch. 30, title III, §303, 52 Stat. 45; Pub. L. 108-357, title VI, §611(g), Oct. 22, 2004, 118 Stat. 1522.)

#### AMENDMENTS

2004—Pub. L. 108-357 substituted “or rice,” for “rice, or tobacco.”

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as an Effective Date note under section 518 of this title.

## SAVINGS PROVISION

Amendment by sections 611 to 614 of Pub. L. 108-357 not to affect the liability of any person under any provision of law so amended with respect to the 2004 or an earlier crop of tobacco, see section 614 of Pub. L. 108-357, set out as a note under section 515 of this title.

**§ 1304. Consumer safeguards**

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

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

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

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

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

## CODIFICATION

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

## AMENDMENTS

1973—Pub. L. 93-86 amended Pub. L. 91-524. See 1970 Amendment notes below.

1970—Pub. L. 91-524, § 606, temporarily inserted at end “The term ‘acreage allotments’ as used in this section includes the farm base acreage allotments for upland cotton.” See Effective and Termination Dates of 1970 Amendment note below.

Pub. L. 91-524, § 405(2), which temporarily inserted at end “The term ‘acreage allotments’ as used in this section includes the domestic allotment for wheat.”, was repealed by Pub. L. 93-86.

Pub. L. 91-524, § 405(a), formerly § 405, as renumbered and amended by Pub. L. 93-86, temporarily inserted “or the Agricultural Act of 1949, as amended,” after “title 16.” See Effective and Termination Dates of 1970 Amendment note below.

## EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93-86, § 1(12)(a), Aug. 10, 1973, 87 Stat. 229, provided that the repeal of section 405(2) of Pub. L. 91-524 is effective with the 1974 crop.

## EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Pub. L. 91-524, title IV, § 405(a), formerly § 405, Nov. 30, 1970, 84 Stat. 1366, as renumbered and amended by Pub. L. 93-86, § 1(12)(a), Aug. 10, 1973, 87 Stat. 229, provided that the amendment made by section 405(a) of Pub. L. 91-524 is effective only with respect to the 1971 through 1977 crops of wheat.

Pub. L. 91-524, title VI, § 606, Nov. 30, 1970, 84 Stat. 1378, as amended by Pub. L. 93-86, § 1(22), Aug. 10, 1973, 87 Stat. 235, provided that the amendment made by section 606 of Pub. L. 91-524 is effective only with respect to the 1971 through 1977 crops.

**§ 1306. Projected yields; determination; base period**

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

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

## CODIFICATION

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

## AMENDMENTS

1973—Pub. L. 91-524, § 405(b), as added by Pub. L. 93-86, temporarily inserted “(except that in the case of wheat, if the yield is abnormally low in any one of the calendar years of the base period because of drought, flood, or other natural disaster, the Secretary shall take into account the actual yield proved by the producer in the other four years of such base period)” after “determining the projected yield”. See Effective and Termination Dates of 1973 Amendment note below.

## EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Pub. L. 91-524, title IV, § 405(b), as added by Pub. L. 93-86, § 1(12)(a), Aug. 10, 1973, 87 Stat. 229, provided that

the amendment made by Pub. L. 91-524 is effective with respect to the 1974 through 1977 crops.

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

Notwithstanding any other provision of law—

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

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

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

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

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

REFERENCES IN TEXT

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

The Food and Agriculture Act of 1977, referred to in par. (1), is Pub. L. 95-113, Sept. 29, 1977, 91 Stat. 913.

Title IV of the Food and Agriculture Act of 1977 enacted section 1445b of this title, amended sections 1385, 1427, and 1428 of this title, and enacted provisions set out as notes under sections 1330, 1331, 1379d, 1385, 1427, 1428, 1445a, and 1445b of this title. Title V of the Food and Agriculture Act of 1977 enacted section 1444c of this title and enacted provisions set out as notes under sections 1444b and 1444c of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under 1281 of this title and Tables.

CODIFICATION

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

AMENDMENTS

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

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

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

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

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

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-113, title XIX, § 1901, Sept. 29, 1977, 91 Stat. 1045, provided that: "Except as otherwise provided herein, the provisions of this Act [see Short Title of 1977 Amendment note set out under section 1281 of this title] shall become effective October 1, 1977."

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

Pub. L. 95-156, Nov. 8, 1977, 91 Stat. 1264, provided: "That, notwithstanding any other provision of law, the term 'payments' as used in section 101 of the Agricultural Act of 1970, as amended [this section], and section 101(g)(13) of the Agricultural Act of 1949, as amended [section 1441(g)(13) of this title], shall not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss with respect to the 1977 crops of wheat, feed grains, upland cotton, and rice."

**§ 1308. Payment limitations**

**(a) Definitions**

In this section through section 1308-5 of this title:

**(1) Covered commodity**

The term "covered commodity" has the meaning given that term in section 1001 of the

Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8702].

**(2) Family member**

The term “family member” means a person to whom a member in the farming operation is related as lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.

**(3) Legal entity**

The term “legal entity” means an entity that is created under Federal or State law and that—

- (A) owns land or an agricultural commodity; or
- (B) produces an agricultural commodity.

**(4) Person**

The term “person” means a natural person, and does not include a legal entity.

**(5) Secretary**

The term “Secretary” means the Secretary of Agriculture.

**(b) Limitation on direct payments, counter-cyclical payments, and ACRE payments for covered commodities (other than peanuts)**

**(1) Direct payments**

The total amount of direct payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under subtitle A of title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8711 et seq.] for 1 or more covered commodities (except for peanuts) may not exceed—

(A) in the case of a person or legal entity that does not participate in the average crop revenue election program under section 1105 of that Act [7 U.S.C. 8715], \$40,000; or

(B) in the case of a person or legal entity that participates in the average crop revenue election program under section 1105 of that Act, an amount equal to—

(i) the payment limit specified in subparagraph (A); less

(ii) the amount of the reduction in direct payments under section 1105(a)(1) of that Act.

**(2) Counter-cyclical payments**

In the case of a person or legal entity (except a joint venture or a general partnership) that does not participate in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year under subtitle A of title I of that Act [7 U.S.C. 8711 et seq.] for 1 or more covered commodities (except for peanuts) may not exceed \$65,000.

**(3) ACRE and counter-cyclical payments**

In the case of a person or legal entity (except a joint venture or a general partnership) that participates in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of average crop revenue election payments and counter-cyclical payments received, directly or indirectly, by the person

or legal entity for any crop year for 1 or more covered commodities (except for peanuts) may not exceed the sum of—

(A) \$65,000; and

(B) the amount by which the direct payment limitation is reduced under paragraph (1)(B).

**(c) Limitation on direct payments, counter-cyclical payments, and ACRE payments for peanuts**

**(1) Direct payments**

The total amount of direct payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under subtitle C of title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8751 et seq.] for peanuts may not exceed—

(A) in the case of a person or legal entity that does not participate in the average crop revenue election program under section 1105 of that Act [7 U.S.C. 8715], \$40,000; or

(B) in the case of a person or legal entity that participates in the average crop revenue election program under section 1105 of that Act, an amount equal to—

(i) the payment limit specified in subparagraph (A); less

(ii) the amount of the reduction in direct payments under section 1105(a)(1) of that Act.

**(2) Counter-cyclical payments**

In the case of a person or legal entity (except a joint venture or a general partnership) that does not participate in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year under subtitle C of title I of that Act [7 U.S.C. 8751 et seq.] for peanuts may not exceed \$65,000.

**(3) ACRE and counter-cyclical payments**

In the case of a person or legal entity (except a joint venture or a general partnership) that participates in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of average crop revenue election payments received, directly or indirectly, by the person or legal entity for any crop year for peanuts may not exceed the sum of—

(A) \$65,000; and

(B) the amount by which the direct payment limitation is reduced under paragraph (1)(B).

**(d) Limitation on applicability**

Nothing in this section authorizes any limitation on any benefit associated with the marketing assistance loan program or the loan deficiency payment program under title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.].

**(e) Attribution of payments**

**(1) In general**

In implementing subsections (b) and (c) and a program described in paragraphs (1)(C) and

(2)(B) of section 1308-3a(b) of this title, the Secretary shall issue such regulations as are necessary to ensure that the total amount of payments are attributed to a person by taking into account the direct and indirect ownership interests of the person in a legal entity that is eligible to receive the payments.

**(2) Payments to a person**

Each payment made directly to a person shall be combined with the pro rata interest of the person in payments received by a legal entity in which the person has a direct or indirect ownership interest unless the payments of the legal entity have been reduced by the pro rata share of the person.

**(3) Payments to a legal entity**

**(A) In general**

Each payment made to a legal entity shall be attributed to those persons who have a direct or indirect ownership interest in the legal entity unless the payment to the legal entity has been reduced by the pro rata share of the person.

**(B) Attribution of payments**

**(i) Payment limits**

Except as provided in clause (ii), payments made to a legal entity shall not exceed the amounts specified in subsections (b) and (c).

**(ii) Exception for joint ventures and general partnerships**

Payments made to a joint venture or a general partnership shall not exceed, for each payment specified in subsections (b) and (c), the amount determined by multiplying the maximum payment amount specified in subsections (b) and (c) by the number of persons and legal entities (other than joint ventures and general partnerships) that comprise the ownership of the joint venture or general partnership.

**(iii) Reduction**

Payments made to a legal entity shall be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise exceeded the applicable maximum payment limitation.

**(4) 4 levels of attribution for embedded legal entities**

**(A) In general**

Attribution of payments made to legal entities shall be traced through 4 levels of ownership in legal entities.

**(B) First level**

Any payments made to a legal entity (a first-tier legal entity) that is owned in whole or in part by a person shall be attributed to the person in an amount that represents the direct ownership in the first-tier legal entity by the person.

**(C) Second level**

**(i) In general**

Any payments made to a first-tier legal entity that is owned (in whole or in part)

by another legal entity (a second-tier legal entity) shall be attributed to the second-tier legal entity in proportion to the ownership of the second-tier legal entity in the first-tier legal entity.

**(ii) Ownership by a person**

If the second-tier legal entity is owned (in whole or in part) by a person, the amount of the payment made to the first-tier legal entity shall be attributed to the person in the amount that represents the indirect ownership in the first-tier legal entity by the person.

**(D) Third and fourth levels**

**(i) In general**

Except as provided in clause (ii), the Secretary shall attribute payments at the third and fourth tiers of ownership in the same manner as specified in subparagraph (C).

**(ii) Fourth-tier ownership**

If the fourth-tier of ownership is that of a fourth-tier legal entity and not that of a person, the Secretary shall reduce the amount of the payment to be made to the first-tier legal entity in the amount that represents the indirect ownership in the first-tier legal entity by the fourth-tier legal entity.

**(f) Special rules**

**(1) Minor children**

**(A) In general**

Except as provided in subparagraph (B), payments received by a child under the age of 18 shall be attributed to the parents of the child.

**(B) Regulations**

The Secretary shall issue regulations specifying the conditions under which payments received by a child under the age of 18 will not be attributed to the parents of the child.

**(2) Marketing cooperatives**

Subsections (b) and (c) shall not apply to a cooperative association of producers with respect to commodities produced by the members of the association that are marketed by the association on behalf of the members of the association but shall apply to the producers as persons.

**(3) Trusts and estates**

**(A) In general**

With respect to irrevocable trusts and estates, the Secretary shall administer this section through section 1308-5 of this title in such manner as the Secretary determines will ensure the fair and equitable treatment of the beneficiaries of the trusts and estates.

**(B) Irrevocable trust**

**(i) In general**

In order for a trust to be considered an irrevocable trust, the terms of the trust agreement shall not—

(I) allow for modification or termination of the trust by the grantor;

(II) allow for the grantor to have any future, contingent, or remainder interest in the corpus of the trust; or

(III) except as provided in clause (ii), provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years beginning on the date the trust is established.

**(ii) Exception**

Clause (i)(III) shall not apply in a case in which the transfer is—

(I) contingent on the remainder beneficiary achieving at least the age of majority; or

(II) contingent on the death of the grantor or income beneficiary.

**(C) Revocable trust**

For the purposes of this section through section 1308–5 of this title, a revocable trust shall be considered to be the same person as the grantor of the trust.

**(4) Cash rent tenants**

**(A) Definition**

In this paragraph, the term “cash rent tenant” means a person or legal entity that rents land—

(i) for cash; or

(ii) for a crop share guaranteed as to the amount of the commodity to be paid in rent.

**(B) Restriction**

A cash rent tenant who makes a significant contribution of active personal management, but not of personal labor, with respect to a farming operation shall be eligible to receive a payment described in subsection (b) or (c) only if the tenant makes a significant contribution of equipment to the farming operation.

**(5) Federal agencies**

**(A) In general**

Notwithstanding subsection (d), a Federal agency shall not be eligible to receive any payment, benefit, or loan under title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.] or title XII of this Act [16 U.S.C. 3801 et seq.].

**(B) Land rental**

A lessee of land owned by a Federal agency may receive a payment described in subsection (b), (c), or (d) if the lessee otherwise meets all applicable criteria.

**(6) State and local governments**

**(A) In general**

Notwithstanding subsection (d), except as provided in subsection (g), a State or local government, or political subdivision or agency of the government, shall not be eligible to receive any payment, benefit, or loan under title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.] or title XII of this Act [16 U.S.C. 3801 et seq.].

**(B) Tenants**

A lessee of land owned by a State or local government, or political subdivision or agen-

cy of the government, may receive payments described in subsections (b), (c), and (d) if the lessee otherwise meets all applicable criteria.

**(7) Changes in farming operations**

**(A) In general**

In the administration of this section through section 1308–5 of this title, the Secretary may not approve any change in a farming operation that otherwise will increase the number of persons to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive.

**(B) Family members**

The addition of a family member to a farming operation under the criteria set out in section 1308–1 of this title shall be considered a bona fide and substantive change in the farming operation.

**(8) Death of owner**

**(A) In general**

If any ownership interest in land or a commodity is transferred as the result of the death of a program participant, the new owner of the land or commodity may, if the person is otherwise eligible to participate in the applicable program, succeed to the contract of the prior owner and receive payments subject to this section without regard to the amount of payments received by the new owner.

**(B) Limitations on prior owner**

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

**(g) Public schools**

**(1) In general**

Notwithstanding subsection (f)(6)(A), a State or local government, or political subdivision or agency of the government, shall be eligible, subject to the limitation in paragraph (2), to receive a payment described in subsection (b) or (c) for land owned by the State or local government, or political subdivision or agency of the government, that is used to maintain a public school.

**(2) Limitation**

**(A) In general**

For each State, the total amount of payments described in subsections (b) and (c) that are received collectively by the State and local government and all political subdivisions or agencies of those governments shall not exceed \$500,000.

**(B) Exception**

The limitation in subparagraph (A) shall not apply to States with a population of less than 1,500,000.

**(h) Time limits; reliance**

Regulations of the Secretary shall establish time limits for the various steps involved with

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

(Pub. L. 99-198, title X, §1001, Dec. 23, 1985, 99 Stat. 1444; Pub. L. 99-500, §108(a), Oct. 18, 1986, 100 Stat. 1783-346, and Pub. L. 99-591, §108(a), Oct. 30, 1986, 100 Stat. 3341-346; Pub. L. 100-71, title I, July 11, 1987, 101 Stat. 428; Pub. L. 100-203, title I, §§1301(a)(1), (2), 1303, 1305(c), 1307, Dec. 22, 1987, 101 Stat. 1330-12, 1330-16, 1330-18, 1330-19; Pub. L. 101-217, §§1, 2, Dec. 11, 1989, 103 Stat. 1857; Pub. L. 101-624, title XI, §1111(a), (c), (e), Nov. 28, 1990, 104 Stat. 3497-3499; Pub. L. 102-237, title I, §118(b), Dec. 13, 1991, 105 Stat. 1841; Pub. L. 103-66, title I, §1101(b)(3)(A), Aug. 10, 1993, 107 Stat. 314; Pub. L. 104-127, title I, §115(b), Apr. 4, 1996, 110 Stat. 902; Pub. L. 107-171, title I, §1603(a), (b), May 13, 2002, 116 Stat. 213, 214; Pub. L. 110-234, title I, §1603(a), (b), May 22, 2008, 122 Stat. 1002; Pub. L. 110-246, §4(a), title I, §1603(a), (b), June 18, 2008, 122 Stat. 1664, 1730.)

#### REFERENCES IN TEXT

The Food, Conservation, and Energy Act of 2008, referred to in subsecs. (b)(1), (2), (c)(1), (2), (d), and (f)(5)(A), (6)(A), is Pub. L. 110-246, June 18, 2008, 122 Stat. 1651. Title I of the Act is classified principally to chapter 113 (§8701 et seq.) of this title. Subtitles A and C of title I of the Act are classified generally to subchapters I (§8711 et seq.) and III (§8751 et seq.), respectively, of chapter 113 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

Title XII of this Act, referred to in subsec. (f)(5)(A), (6)(A), means title XII of the Food Security Act of 1985, Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1504, popularly known as the Sodbuster Law, which is classified principally to chapter 58 (§3801 et seq.) of Title 16, Conservation.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

#### PRIOR PROVISIONS

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

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

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-246, §1603(b)(1)(A), inserted “through section 1308-5 of this title” after “this section” in introductory provisions.

Subsec. (a)(1). Pub. L. 110-246, §1603(a), substituted “Food, Conservation, and Energy Act of 2008” for “Farm Security and Rural Investment Act of 2002”.

Subsec. (a)(2). Pub. L. 110-246, §1603(b)(1)(B), (C), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “The term ‘loan commodity’ has the meaning given that term in section 1001 of the Farm Security and Rural Investment Act of 2002, except that the term does not include wool, mohair, or honey.”

Subsec. (a)(3) to (5). Pub. L. 110-246, §1603(b)(1)(B), (C), added pars. (3) and (4) and redesignated former par. (3) as (5).

Subsecs. (b) to (d). Pub. L. 110-246, §1603(b)(2), added subsecs. (b) to (d) and struck out former subsecs. (b) to (d) which related to limitation on direct payments, limitation on counter-cyclical payments, and limitation on marketing loan gains and loan deficiency payments, respectively.

Subsecs. (e) to (h). Pub. L. 110-246, §1603(b)(3), added subsecs. (e) to (g), redesignated former subsec. (g) as (h), and struck out former subsecs. (e) and (f) which related to issuance of regulations defining “person” and prescribing rules determined necessary to assure a fair and reasonable application of section limitation, and inapplicability to public schools of provisions limiting payments to any person.

2002—Pub. L. 107-171, §1603(a), substituted section catchline for former section catchline.

Subsec. (a) to (d). Pub. L. 107-171, §1603(a), added subsecs. (a) to (d) and struck out former pars. (1) to (4) which related to limitation on payments under production flexibility contracts, limitation on marketing loan gains and loan deficiency payments, description of payments subject to limitation, and definitions, respectively.

Subsec. (e). Pub. L. 107-171, §1603(b)(1), redesignated par. (5) as subsec. (e), inserted heading, further redesignated former subpars., cls., and subcls. as pars., subpars., and cls., respectively, substituted “paragraph (1), subject to subparagraph (B)” for “subparagraph (A), subject to clause (ii)” in subsec. (e)(2)(A) and “as described in subsections (b), (c), and (d) of this section” for “as described in paragraphs (1) and (2)” in subsec. (e)(2)(C)(ii), and struck out second sentence of subsec. (e)(1) which read as follows: “Such regulations shall incorporate the provisions in subparagraphs (B) through (E) of this paragraph, paragraphs (6) and (7), and sections 1308-1 through 1308-3 of this title.”

Subsec. (f). Pub. L. 107-171, §1603(b)(2), redesignated par. (6) as subsec. (f) and inserted heading.

Subsec. (g). Pub. L. 107-171, §1603(b)(3), redesignated par. (7) as subsec. (g) and inserted heading.

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

1993—Pars. (1)(A), (B), (2)(A). Pub. L. 103-66 substituted “1997” for “1995”.

1991—Par. (2)(B)(iv). Pub. L. 102-237 inserted “section” before “107B(c)(1)”.

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

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

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

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

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

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

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

Par. (5)(B)(iii). Pub. L. 101-624, §1111(c), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “Such regulations shall provide that, with respect to any married couple, the husband and wife shall be considered to be one person, except that any married couple consisting of spouses who, prior to their marriage, were separately engaged in unrelated farming operations, each spouse shall be treated as a separate person with respect to the farming operation brought into the marriage by such spouse so long as such operation remains as a separate farming operation, for the purposes of the application of the limitations under this section.”

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

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

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

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

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

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

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

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

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

Par. (5)(A). Pub. L. 100-203, §1303(a)(1), (2), inserted after first sentence “Such regulations shall incorporate the provisions in subparagraphs (B) through (E) of this

paragraph, paragraphs (6) and (7), and sections 1308-1 through 1308-3 of this title” and struck out at end “Such regulations shall provide that the term ‘person’ does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers.”

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

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

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

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

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

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

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

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

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

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

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

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

EFFECTIVE AND TERMINATION DATES OF 1989  
AMENDMENT

Pub. L. 101-217, §1, Dec. 11, 1989, 103 Stat. 1857, provided that the amendment made by that section is effective only for the 1989 crops.

Pub. L. 101-217, §2, Dec. 11, 1989, 103 Stat. 1857, as amended by Pub. L. 101-624, title XI, §1111(i), Nov. 28, 1990, 104 Stat. 3500, provided that the amendment made by that section is effective beginning with the 1990 crops.

## EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title I, §§1301(a), 1303, Dec. 22, 1987, 101 Stat. 1330-12, 1330-16, provided that the amendments made by sections 1301(a)(1), (2) and 1303 of Pub. L. 100-203 are effective beginning with 1989 crops.

EFFECTIVE AND TERMINATION DATES OF 1986  
AMENDMENT

Pub. L. 99-500, §108(a), Oct. 18, 1986, 100 Stat. 1783-346, and Pub. L. 99-591, §108(a), Oct. 30, 1986, 100 Stat. 3341-346, provided that the amendment made by Pub. L. 99-500 and Pub. L. 99-591 is effective with respect to each of the 1987 through 1990 crops.

Pub. L. 99-500, §108(b), Oct. 18, 1986, 100 Stat. 1783-347, and Pub. L. 99-591, §108(b), Oct. 30, 1986, 100 Stat. 3341-347, provided that: "The amendments made by subsection (a) [amending this section] shall not apply with respect to any payment or loan received under any agreement or contract made before the date of enactment of this Act [Oct. 18, 1986]."

## TRANSITION PROVISIONS

Pub. L. 110-234, title I, §1603(h), May 22, 2008, 122 Stat. 1012, and Pub. L. 110-246, §4(a), title I, §1603(h), June 18, 2008, 122 Stat. 1664, 1740, provided that: "Section 1001, 1001A, and 1001B of the Food Security Act of 1985 (7 U.S.C. 1308, 1308-1, 1308-2), as in effect on September 30, 2007, shall continue to apply with respect to the 2007 and 2008 crops of any covered commodity or peanuts."

[For definition of "covered commodity" as used in section 1603(h) of Pub. L. 110-246, set out above, see section 8702 of this title.]

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of this title.]

Pub. L. 107-171, title I, §1603(d), May 13, 2002, 116 Stat. 215, provided that: "Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), as in effect on the day before the date of the enactment of this Act [May 13, 2002], shall continue to apply with respect to the 2001 crop of any covered commodity."

## EQUITABLE RELIEF

Pub. L. 101-217, §3, Dec. 11, 1989, 103 Stat. 1858, provided that: "Nothing in this Act [amending this section and enacting provisions set out as notes under this section] shall be construed in any way to limit the authority of the Secretary of Agriculture to provide equitable relief under any provision of law."

## PAYMENT PROVISIONS EDUCATION PROGRAM

Pub. L. 100-203, title I, §1304(a), Dec. 22, 1987, 101 Stat. 1330-17, provided that:

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

"(2) TRAINING.—The education program shall provide training to such personnel in the fair, accurate, and

uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1001 through 1001C of the Food Security Act of 1985. Particular emphasis shall be given to the changes in the law made by sections 1301, 1302, and 1303 of this Act [enacting section 1308-1 of this title, amending this section, and enacting provisions set out as notes under this section and section 1308-1 of this title].

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

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

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

Pub. L. 100-203, title I, §1305(a), (b), Dec. 22, 1987, 101 Stat. 1330-18, provided that:

"(a) REGULATIONS.—

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

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

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

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

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

## CONSERVATION RESERVE APPLICATION

Section 1305(d) of Pub. L. 100-203 provided that: "Notwithstanding section 1234(f)(2) of the Food Security Act of 1985 (16 U.S.C. 3834(f)), paragraphs (5) through (7) of section 1001 [section 1308(5)-(7) of this title], as amended by this subtitle, and sections 1001A through 1001C, of the Food Security Act of 1985 [sections 1308-1 to 1308-3 of this title] shall apply to the conservation reserve program under subtitle D of title XII of such Act (16 U.S.C. 3830 et seq.) with respect to rental payments to persons under contracts entered into after the date of the enactment of this Act [Dec. 22, 1987], except with respect to landlords that receive cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land."

## REVISION OF REGULATIONS

Pub. L. 99-500, §108(c), Oct. 18, 1986, 100 Stat. 1783-347, and Pub. L. 99-591, §108(c), Oct. 30, 1986, 100 Stat. 3341-347, provided that:

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

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

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

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

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

## SEPARATE PERSON STATUS AMONG FAMILY MEMBERS

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

### § 1308-1. Notification of interests; payments limited to active farmers

#### (a) Notification of interests

To facilitate administration of section 1308 of this title and this section, each person or legal entity receiving payments described in subsections (b) and (c) of section 1308 of this title as a separate person or legal entity shall separately provide to the Secretary, at such times and in such manner as prescribed by the Secretary—

(1) the name and social security number of each person, or the name and taxpayer identification number of each legal entity, that holds or acquires an ownership interest in the separate person or legal entity; and

(2) the name and taxpayer identification number of each legal entity in which the person or legal entity holds an ownership interest.

#### (b) Actively engaged

##### (1) In general

To be eligible to receive a payment described in subsection (b) or (c) of section 1308 of this title, a person or legal entity shall be actively engaged in farming with respect to a farming operation as provided in this subsection or subsection (c).

#### (2) Classes actively engaged

Except as provided in subsections (c) and (d)—

(A) a person (including a person participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity, as determined by the Secretary) shall be considered to be actively engaged in farming with respect to a farming operation if—

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

(I) capital, equipment, or land; and

(II) personal labor or active personal management;

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

(iii) the contributions of the person are at risk;

(B) a legal entity that is a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity determined by the Secretary (including any such legal entity participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar legal entity as determined by the Secretary) shall be considered as actively engaged in farming with respect to a farming operation if—

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

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

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

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

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

**(c) Special classes actively engaged****(1) Landowner**

A person or legal entity that is a landowner contributing the owned land to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if—

(A) the landowner receives rent or income for the use of the land based on the production on the land or the operating results of the operation; and

(B) the person or legal entity meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

**(2) Adult family member**

If a majority of the participants in a farming operation are family members, an adult family member shall be considered to be actively engaged in farming with respect to the farming operation if the person—

(A) makes a significant contribution, based on the total value of the farming operation, of active personal management or personal labor; and

(B) with respect to such contribution, meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

**(3) Sharecropper**

A sharecropper who makes a significant contribution of personal labor to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if the contribution meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

**(4) Growers of hybrid seed**

In determining whether a person or legal entity growing hybrid seed under contract shall be considered to be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.

**(5) Custom farming services****(A) In general**

A person or legal entity receiving custom farming services shall be considered separately eligible for payment limitation purposes if the person or legal entity is actively engaged in farming based on subsection (b)(2) or paragraphs (1) through (4) of this subsection.

**(B) Prohibition**

No other rules with respect to custom farming shall apply.

**(6) Spouse**

If 1 spouse (or estate of a deceased spouse) is determined to be actively engaged, the other spouse shall be determined to have met the requirements of subsection (b)(2)(A)(i)(II).

**(d) Classes not actively engaged****(1) Cash rent landlord**

A landlord contributing land to a farming operation shall not be considered to be actively engaged in farming with respect to the farming operation if the landlord receives cash

rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.

**(2) Other persons and legal entities**

Any other person or legal entity that the Secretary determines does not meet the standards described in subsections (b)(2) and (c) shall not be considered to be actively engaged in farming with respect to a farming operation.

(Pub. L. 99-198, title X, §1001A, as added and amended Pub. L. 100-203, title I, §§1301(a)(3), 1302, Dec. 22, 1987, 101 Stat. 1330-12, 1330-14; Pub. L. 101-624, title XI, §1111(d), (f), Nov. 28, 1990, 104 Stat. 3498, 3499; Pub. L. 102-237, title I, §118(c), Dec. 13, 1991, 105 Stat. 1841; Pub. L. 104-127, title I, §115(c)(1), Apr. 4, 1996, 110 Stat. 903; Pub. L. 107-171, title I, §1603(c)(1), May 13, 2002, 116 Stat. 215; Pub. L. 110-234, title I, §1603(c), (d), May 22, 2008, 122 Stat. 1007, 1008; Pub. L. 110-246, §4(a), title I, §1603(c), (d), June 18, 2008, 122 Stat. 1664, 1735, 1736.)

## CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

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

## AMENDMENTS

2008—Pub. L. 110-246, §1603(c)(1), substituted “Notification of interests” for “Prevention of creation of entities to qualify as separate persons” in section catchline.

Subsec. (a). Pub. L. 110-246, §1603(c)(2), added subsec. (a) and struck out former subsec. (a) which related to prevention of use of multiple legal entities to avoid effective application of payment limitations under section 1308 of this title.

Subsecs. (b) to (d). Pub. L. 110-246, §1603(d), added subsecs. (b) to (d) and struck out former subsec. (b) which related to requirement that a person be an individual or entity described in former section 1308(e)(2)(A) of this title and actively engaged in farming with respect to a particular farming operation to be separately eligible for farm program payments with respect to that operation.

2002—Subsec. (a)(1). Pub. L. 107-171, §1603(c)(1), substituted “section 1308(e)(2)(A) of this title” for “section 1308(5)(B)(i) of this title” and “section 1308(e)(2)(A)(ii) of this title” for “section 1308(5)(B)(i)(II) of this title”.

Subsec. (b)(1). Pub. L. 107-171, §1603(c)(1)(B), substituted “section 1308(e)(2)(A) of this title” for “section 1308(5)(B)(i) of this title”.

Subsec. (b)(2)(B). Pub. L. 107-171, §1603(c)(1)(A), substituted “section 1308(e)(2)(A)(ii) of this title” for “section 1308(5)(B)(i)(II) of this title”.

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

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

1991—Subsec. (a)(2). Pub. L. 102-237 struck out “0 to” after “less than”.

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

Subsec. (b)(6). Pub. L. 101-624, §1111(d), added par. (6). 1987—Subsec. (b). Pub. L. 100-203, §1302, added subsec. (b).

## EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the

date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

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

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title I, §1302, Dec. 22, 1987, 101 Stat. 1330-14, provided that the amendment made by that section is effective beginning with the 1989 crops.

EFFECTIVE DATE

Pub. L. 100-203, title I, §1301(a), Dec. 22, 1987, 101 Stat. 1330-12, provided that this section is effective beginning with the 1989 crops.

TRANSITION PROVISIONS

Section, as in effect on Sept. 30, 2007, to continue to apply with respect to the 2007 and 2008 crops of any covered commodity or peanuts, see section 1603(h) of Pub. L. 110-246, set out as a note under section 1308 of this title.

**§ 1308-2. Denial of program benefits**

**(a) 2-year denial of program benefits**

A person or legal entity shall be ineligible to receive payments specified in subsections (b) and (c) of section 1308 of this title for the crop year, and the succeeding crop year, in which the Secretary determines that the person or legal entity—

(1) failed to comply with section 1308-1(b) of this title and adopted or participated in adopting a scheme or device to evade the application of section 1308, 1308-1, or 1308-3 of this title; or

(2) intentionally concealed the interest of the person or legal entity in any farm or legal entity engaged in farming.

**(b) Extended ineligibility**

If the Secretary determines that a person or legal entity, for the benefit of the person or legal entity or the benefit of any other person or legal entity, has knowingly engaged in, or aided in the creation of a fraudulent document, failed to disclose material information relevant to the administration of sections 1308 through 1308-5 of this title, or committed other equally serious actions (as identified in regulations issued by the Secretary), the Secretary may for a period not to exceed 5 crop years deny the issuance of payments to the person or legal entity.

**(c) Pro rata denial**

**(1) In general**

Payments otherwise owed to a person or legal entity described in subsections (a) or (b) shall be denied in a pro rata manner based on the ownership interest of the person or legal entity in a farm.

**(2) Cash rent tenant**

Payments otherwise payable to a person or legal entity shall be denied in a pro rata manner if the person or legal entity is a cash rent tenant on a farm owned or under the control of a person or legal entity with respect to which a determination has been made under subsection (a) or (b).

**(d) Joint and several liability**

Any legal entity (including partnerships and joint ventures) and any member of any legal entity determined to have knowingly participated in a scheme or device to evade, or that has the purpose of evading, sections 1308, 1308-1, or 1308-3 of this title shall be jointly and severally liable for any amounts that are payable to the Secretary as the result of the scheme or device (including amounts necessary to recover those amounts).

**(e) Release**

The Secretary may partially or fully release from liability any person or legal entity who cooperates with the Secretary in enforcing sections 1308, 1308-1, and 1308-3 of this title, and this section.

(Pub. L. 99-198, title X, §1001B, as added Pub. L. 100-203, title I, §1304(b), Dec. 22, 1987, 101 Stat. 1330-17; amended Pub. L. 107-171, title I, §1603(c)(2), May 13, 2002, 116 Stat. 215; Pub. L. 110-234, title I, §1603(e), May 22, 2008, 122 Stat. 1010; Pub. L. 110-246, §4(a), title I, §1603(e), June 18, 2008, 122 Stat. 1664, 1738.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

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

AMENDMENTS

2008—Pub. L. 110-246, §1603(e), amended section generally. Prior to amendment, text read as follows: “If the Secretary of Agriculture determines that any person has adopted a scheme or device to evade, or that has the purpose of evading, section 1308, 1308-1, or 1308-3 of this title, such person shall be ineligible to receive farm program payments (as described in subsections (b), (c), and (d) of section 1308 of this title as being subject to limitation) applicable to the crop year for which such scheme or device was adopted and the succeeding crop year.”

2002—Pub. L. 107-171 substituted “as described in subsections (b), (c), and (d) of section 1308 of this title” for “as described in paragraphs (1) and (2) of section 1308 of this title”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE

Pub. L. 100-203, title I, §1304(b), Dec. 22, 1987, 101 Stat. 1330-17, provided that this section is effective beginning with the 1989 crops.

TRANSITION PROVISIONS

Section, as in effect on Sept. 30, 2007, to continue to apply with respect to the 2007 and 2008 crops of any covered commodity or peanuts, see section 1603(h) of Pub. L. 110-246, set out as a note under section 1308 of this title.

**§ 1308-3. Foreign persons made ineligible for program benefits**

Notwithstanding any other provision of law:

**(a) In general**

Any person who is not a citizen of the United States or an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall be ineligible to receive any type of loans or payments made available under title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.], the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.], the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.),<sup>1</sup> or under any contract entered into under title XII [16 U.S.C. 3801 et seq.], with respect to any commodity produced, or land set aside from production, on a farm that is owned or operated by such person, unless such person is an individual who is providing land, capital, and a substantial amount of personal labor in the production of crops on such farm.

**(b) Corporations or other entities**

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

**(c) Prospective application**

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

(Pub. L. 99-198, title X, §1001C, as added Pub. L. 100-203, title I, §1306, Dec. 22, 1987, 101 Stat. 1330-19; amended Pub. L. 101-624, title XI, §1111(b), Nov. 28, 1990, 104 Stat. 3498; Pub. L. 103-66, title I, §1101(b)(3)(B), Aug. 10, 1993, 107 Stat. 314; Pub. L. 104-127, title I, §115(c)(2), Apr. 4, 1996, 110 Stat. 903; Pub. L. 107-171, title I, §1603(c)(3), May 13, 2002, 116 Stat. 215; Pub. L. 110-234, title I, §1603(a), May 22, 2008, 122 Stat. 1002; Pub. L. 110-246, §4(a), title I, §1603(a), June 18, 2008, 122 Stat. 1664, 1730.)

<sup>1</sup> See References in Text note below.

## REFERENCES IN TEXT

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

The Food, Conservation, and Energy Act of 2008, referred to in subsec. (a), is Pub. L. 110-246, June 18, 2008, 122 Stat. 1651. Title I of the Act is classified principally to chapter 113 (§8701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

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

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

The Food Security Act of 1985, referred to in subsec. (a), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. Title XII of the Act, popularly known as the "Sodbuster Law", is classified principally to chapter 58 (§3801 et seq.) of Title 16, Conservation. Subtitle D of title XII of the Act is classified generally to subchapter IV (§3830 et seq.) of chapter 58 of Title 16. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

## CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

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

## AMENDMENTS

2008—Subsec. (a). Pub. L. 110-246, §1603(a), substituted "Food, Conservation, and Energy Act of 2008" for "Farm Security and Rural Investment Act of 2002".

2002—Subsec. (a). Pub. L. 107-171 inserted "title I of the Farm Security and Rural Investment Act of 2002," after "made available under".

1996—Subsec. (a). Pub. L. 104-127 substituted "Any person" for "For each of the 1991 through 1997 crops, any person", substituted "loans or payments made available under the Agricultural Market Transition Act," for "production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)", and struck out "during the 1989 through 1997 crop years" before ", with respect to any commodity produced".

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

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

## EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

## EFFECTIVE DATE OF 1990 AMENDMENT

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

## EFFECTIVE DATE

Pub. L. 100-203, title I, § 1306, Dec. 22, 1987, 101 Stat. 1330-19, provided that this section is effective beginning with the 1989 crops.

**§ 1308-3a. Adjusted gross income limitation****(a) Definitions****(1) In general**

In this section:

**(A) Average adjusted gross income**

The term “average adjusted gross income”, with respect to a person or legal entity, means the average of the adjusted gross income or comparable measure of the person or legal entity over the 3 taxable years preceding the most immediately preceding complete taxable year, as determined by the Secretary.

**(B) Average adjusted gross farm income**

The term “average adjusted gross farm income”, with respect to a person or legal entity, means the average of the portion of adjusted gross income of the person or legal entity that is attributable to activities related to farming, ranching, or forestry for the 3 taxable years described in subparagraph (A), as determined by the Secretary in accordance with subsection (c).

**(C) Average adjusted gross nonfarm income**

The term “average adjusted gross nonfarm income”, with respect to a person or legal entity, means the difference between—

- (i) the average adjusted gross income of the person or legal entity; and
- (ii) the average adjusted gross farm income of the person or legal entity.

**(2) Special rules for certain persons and legal entities**

In the case of a legal entity that is not required to file a Federal income tax return or a person or legal entity that did not have taxable income in 1 or more of the taxable years used to determine the average under subparagraph (A) or (B) of paragraph (1), the Secretary shall provide, by regulation, a method for determining the average adjusted gross income, the average adjusted gross farm income, and the average adjusted gross nonfarm income of the person or legal entity for purposes of this section.

**(3) Allocation of income**

On the request of any person filing a joint tax return, the Secretary shall provide for the allocation of average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income among the persons filing the return if—

- (A) the person provides a certified statement by a certified public accountant or attorney that specifies the method by which the average adjusted gross income, average

adjusted gross farm income, and average adjusted gross nonfarm income would have been declared and reported had the persons filed 2 separate returns; and

(B) the Secretary determines that the method described in the statement is consistent with the information supporting the filed joint tax return.

**(b) Limitations****(1) Commodity programs****(A) Nonfarm limitation**

Notwithstanding any other provision of law, a person or legal entity shall not be eligible to receive any benefit described in subparagraph (C) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross nonfarm income of the person or legal entity exceeds \$500,000.

**(B) Farm limitation**

Notwithstanding any other provision of law, a person or legal entity shall not be eligible to receive a direct payment under subtitle A or C of title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8711 et seq., 8751 et seq.] during a crop year, if the average adjusted gross farm income of the person or legal entity exceeds \$750,000.

**(C) Covered benefits**

Subparagraph (A) applies with respect to the following:

(i) A direct payment or counter-cyclical payment under subtitle A or C of title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8711 et seq., 8751 et seq.] or an average crop revenue election payment under subtitle A of title I of that Act [7 U.S.C. 8711 et seq.].

(ii) A marketing loan gain or loan deficiency payment under subtitle B or C of title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8731 et seq., 8751 et seq.].

(iii) A payment or benefit under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(iv) A payment or benefit under section 1506 of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8773].

(v) A payment or benefit under title IX of the Trade Act of 1974 [19 U.S.C. 2497 et seq.] or subtitle B of the Federal Crop Insurance Act [7 U.S.C. 1531].

**(2) Conservation programs****(A) Limits****(i) In general**

Notwithstanding any other provision of law, except as provided in clause (ii), a person or legal entity shall not be eligible to receive any benefit described in subparagraph (B) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross nonfarm income of the person or legal entity exceeds \$1,000,000, unless not less than 66.66 percent of the average adjusted gross income of the person or legal entity is average adjusted gross farm income.

**(ii) Exception**

The Secretary may waive the limitation established under clause (i) on a case-by-case basis if the Secretary determines that environmentally sensitive land of special significance would be protected.

**(B) Covered benefits**

Subparagraph (A) applies with respect to the following:

(i) A payment or benefit under title XII of this Act [16 U.S.C. 3801 et seq.].

(ii) A payment or benefit under title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171; 116 Stat. 223) or title II of the Food, Conservation, and Energy Act of 2008.

(iii) A payment or benefit under section 524(b) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)).

**(c) Income determination****(1) In general**

In determining the average adjusted gross farm income of a person or legal entity, the Secretary shall include income or benefits derived from or related to—

(A) the production of crops, including specialty crops (as defined in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108-465)) and unfinished raw forestry products;

(B) the production of livestock (including cattle, elk, reindeer, bison, horses, deer, sheep, goats, swine, poultry, fish, and other aquacultural products used for food, honeybees, and other animals designated by the Secretary) and products produced by, or derived from, livestock;

(C) the production of farm-based renewable energy (as defined in section 9001 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101));

(D) the sale, including the sale of easements and development rights, of farm, ranch, or forestry land, water or hunting rights, or environmental benefits;

(E) the rental or lease of land or equipment used for farming, ranching, or forestry operations, including water or hunting rights;

(F) the processing (including packing), storing (including shedding), and transporting of farm, ranch, and forestry commodities, including renewable energy;

(G) the feeding, rearing, or finishing of livestock;

(H) the sale of land that has been used for agriculture;

(I) payments or other benefits received under any program authorized under title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 et seq.) or title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.];

(J) payments or other benefits received under any program authorized under title XII of this Act [16 U.S.C. 3801 et seq.], title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171; 116 Stat. 223), or title II of the Food, Conservation, and Energy Act of 2008;

(K) payments or other benefits received under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333);

(L) payments or other benefits received under title IX of the Trade Act of 1974 [19 U.S.C. 2497 et seq.] or subtitle B of the Federal Crop Insurance Act [7 U.S.C. 1531];

(M) risk management practices, including benefits received under a program authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (including a catastrophic risk protection plan offered under section 508(b) of that Act (7 U.S.C. 1508(b))); and

(N) any other activity related to farming, ranching, or forestry, as determined by the Secretary.

**(2) Income derived from farming, ranching, or forestry**

In determining the average adjusted gross farm income of a person or legal entity, in addition to the inclusions described in paragraph (1), the Secretary shall include any income reported on the Schedule F or other schedule used by the person or legal entity to report income from farming, ranching, or forestry operations to the Internal Revenue Service, to the extent such income is not already included under paragraph (1).

**(3) Special rule**

If not less than 66.66 percent of the average adjusted gross income of a person or legal entity is derived from farming, ranching, or forestry operations described in paragraphs (1) and (2), in determining the average adjusted gross farm income of the person or legal entity, the Secretary shall also include—

(A) the sale of equipment to conduct farm, ranch, or forestry operations; and

(B) the provision of production inputs and services to farmers, ranchers, foresters, and farm operations.

**(d) Enforcement****(1) In general**

To comply with subsection (b), at least once every 3 years a person or legal entity shall provide to the Secretary—

(A) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income of the person or legal entity does not exceed the applicable limitation specified in that subsection; or

(B) information and documentation regarding the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income of the person or legal entity through other procedures established by the Secretary.

**(2) Denial of program benefits**

If the Secretary determines that a person or legal entity has failed to comply with this section, the Secretary shall deny the issuance of applicable payments and benefits specified in paragraphs (1)(C) and (2)(B) of subsection (b) to the person or legal entity, under similar terms

and conditions as described in section 1308-2 of this title.

### (3) Audit

The Secretary shall establish statistically valid procedures under which the Secretary shall conduct targeted audits of such persons or legal entities as the Secretary determines are most likely to exceed the limitations under subsection (b).

### (e) Commensurate reduction

In the case of a payment or benefit described in paragraphs (1)(C) and (2)(B) of subsection (b) made in a crop, program, or fiscal year, as appropriate, to an entity, general partnership, or joint venture, the amount of the payment or benefit shall be reduced by an amount that is commensurate with the direct and indirect ownership interest in the entity, general partnership, or joint venture of each person who has an average adjusted gross income, average adjusted gross farm income, or average adjusted gross nonfarm income in excess of the applicable limitation specified in subsection (b).

### (f) Effective period

This section shall apply only during the 2009 through 2012 crop, program, or fiscal years, as appropriate.

(Pub. L. 99-198, title X, § 1001D, as added Pub. L. 107-171, title I, § 1604(2), May 13, 2002, 116 Stat. 215; amended Pub. L. 110-234, title I, § 1604(a), May 22, 2008, 122 Stat. 1012; Pub. L. 110-246, § 4(a), title I, § 1604(a), June 18, 2008, 122 Stat. 1664, 1740.)

#### REFERENCES IN TEXT

The Food, Conservation, and Energy Act of 2008, referred to in subsecs. (b)(1)(B), (C)(i), (ii), (2)(B)(ii) and (c)(1)(I), (J), is Pub. L. 110-246, June 18, 2008, 122 Stat. 1651. Title I of the Act is classified principally to chapter 113 (§ 8701 et seq.) of this title. Subtitles A, B, and C of title I of the Act are classified generally to subchapters I (§ 8711 et seq.), II (§ 8731 et seq.), and III (§ 8751 et seq.), respectively, of chapter 113 of this title. Title II of the Act enacted, amended, and repealed numerous sections and provisions set out as notes in this title, Title 16, Conservation, and Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

The Trade Act of 1974, referred to in subsecs. (b)(1)(C)(v) and (c)(1)(L), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978. Title IX of the Act is classified generally to subchapter VIII (§ 2497 et seq.) of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

The Federal Crop Insurance Act, referred to in subsecs. (b)(1)(C)(v) and (c)(1)(L), (M), is subtitle A of title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, which is classified generally to subchapter I (§ 1501 et seq.) of chapter 36 of this title. Subtitle B of the Federal Crop Insurance Act probably means subtitle B (§ 531) of title V of act Feb. 16, 1938, which is classified generally to subchapter II (§ 1531) of chapter 36 of this title. For complete classification of this Act to the Code, see section 1501 of this title and Tables.

Title XII of this Act, referred to in subsecs. (b)(2)(B)(i) and (c)(1)(J), is title XII of the Food Security Act of 1985, Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1504, popularly known as the “Sodbuster Law”, which is classified principally to chapter 58 (§ 3801 et seq.) of Title 16, Conservation. For complete classification of title XII to the Code, see Tables.

The Farm Security and Rural Investment Act of 2002, referred to in subsecs. (b)(2)(B)(ii) and (c)(1)(I), (J), is

Pub. L. 107-171, May 13, 2002, 116 Stat. 134. Title I of the Act is classified principally to chapter 106 (§ 7901 et seq.) of this title. Title II of the Act enacted, amended, and repealed numerous sections and provisions set out as notes in this title, Title 16, Conservation, and Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 7901 of this title and Tables.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

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

#### PRIOR PROVISIONS

A prior section 1001D of Pub. L. 99-198 was renumbered section 1001E and is classified to section 1308-4 of this title.

#### AMENDMENTS

2008—Pub. L. 110-246, § 1604(a), amended section generally, substituting subsecs. (a) to (f) for former provisions which related to: in subsec. (a), definition of “average adjusted gross income”; in subsec. (b), limitation on benefits if average adjusted gross income exceeded \$2,500,000; in subsec. (c), certification that average adjusted gross income did not exceed limitation; in subsec. (d), reduction of benefits commensurate with ownership interest; and in subsec. (e), applicability of section during 2003 through 2007 crop years.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

#### TRANSITION PROVISIONS

Pub. L. 110-234, title I, § 1604(b), May 22, 2008, 122 Stat. 1016, and Pub. L. 110-246, § 4(a), title I, § 1604(b), June 18, 2008, 122 Stat. 1664, 1744, provided that: “Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a), as in effect on September 30, 2007, shall apply with respect to the 2007 and 2008 crop, fiscal, or program year, as appropriate, for each program described in paragraphs (1)(C) and (2)(B) of subsection (b) of that section (as amended by subsection (a)).”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of this title.]

## § 1308-4. Education program

### (a) In general

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

### (b) Training

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

**(c) Administration**

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

**(d) Commodity Credit Corporation**

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

(Pub. L. 99-198, title X, § 1001E, formerly § 1001D, as added Pub. L. 101-624, title XI, § 1111(g), Nov. 28, 1990, 104 Stat. 3499; renumbered § 1001E, Pub. L. 107-171, title I, § 1604(1), May 13, 2002, 116 Stat. 215.)

## CODIFICATION

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

## PRIOR PROVISIONS

A prior section 1001E of Pub. L. 99-198 was renumbered section 1001F and is classified to section 1308-5 of this title.

## EFFECTIVE DATE

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

**§ 1308-5. Treatment of multiyear program contract payments****(a) In general**

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

**(b) Limitation**

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

(Pub. L. 99-198, title X, § 1001F, formerly § 1001E, as added Pub. L. 101-624, title XI, § 1111(h), Nov. 28, 1990, 104 Stat. 3499; renumbered § 1001F, Pub. L. 107-171, title I, § 1604(1), May 13, 2002, 116 Stat. 215.)

## REFERENCES IN TEXT

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

<sup>1</sup> See References in Text note below.

## CODIFICATION

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

## EFFECTIVE DATE

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

**§ 1308a. Cost reduction options****(a) Authority of Secretary to take action**

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

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

In the announcement of the specific provisions of any commodity program administered by the Secretary of Agriculture, the Secretary shall include a statement setting forth which, if any, of the actions are to be initially included in the program, and a statement that the Secretary reserves the right to initiate at a later date any action not previously included but authorized by this section, including the right to reopen and change a contract entered into by a producer under the program if the producer voluntarily agrees to the change.

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

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

**(d) Reduction in settlement price of nonrecourse loans**

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

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

- (2) avoidance of default; or
- (3) elimination of storage, handling, and carrying charges on the forfeited commodity.

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

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

**(f) Other authorities of Secretary not affected**

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

(Pub. L. 99-198, title X, §1009, Dec. 23, 1985, 99 Stat. 1453; Pub. L. 101-134, §3, Oct. 30, 1989, 103 Stat. 781; Pub. L. 110-234, title I, §1603(g)(1), May 22, 2008, 122 Stat. 1011; Pub. L. 110-246, §4(a), title I, §1603(g)(1), June 18, 2008, 122 Stat. 1664, 1739.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

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

AMENDMENTS

2008—Subsec. (e). Pub. L. 110-246, §1603(g)(1), struck out “of \$50,000” before “per person” in second sentence.

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

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

**§ 1309. Normally planted acreage and target prices**

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

Notwithstanding any other provision of law, whenever a set-aside program is in effect for one

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

**(b) Established price payments**

Notwithstanding any other provision of law—

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

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

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

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

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

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

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

(2) the individual farm program acreage for the farm under section 107B(d)(3)(A)<sup>1</sup> of such Act.

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

#### REFERENCES IN TEXT

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

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

#### CODIFICATION

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

#### AMENDMENTS

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

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

1985—Subsecs. (a), (b)(1). Pub. L. 99-198 substituted “1982 through 1990” for “1982 through 1985”.

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

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

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

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

1980—Subsec. (a). Pub. L. 96-213 amended subsec. (a) generally, temporarily substituting provisions relating to requiring producers not to exceed the acreage on the farm normally planted to designated crops, as reduced, for the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, for provisions relating to reduction of

acreage normally planted to designated crops by the acreage set-aside or diversion for the 1978 through 1981 crops of wheat, feed grains, upland cotton, and rice. See Effective and Termination Dates of 1980 Amendment note below.

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

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

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

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

#### EFFECTIVE DATE OF 1990 AMENDMENT

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

#### EFFECTIVE DATE OF 1981 AMENDMENT

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

#### EFFECTIVE AND TERMINATION DATES OF 1980 AMENDMENT

Pub. L. 96-213, §6, Mar. 18, 1980, 94 Stat. 120, provided that the amendment made by that section is effective for the 1980 and 1981 crops.

#### EFFECTIVE DATE OF 1978 AMENDMENTS

Pub. L. 95-334, title V, §501(b), Aug. 4, 1978, 92 Stat. 434, provided that: “This section [amending this section] shall become effective October 1, 1978, and any producers who, prior to such date, receive payments on the 1978 crop of rice as computed under the Agricultural Act of 1949 [see Short Title note set out under section 1421 of this title], as amended by the Food and Agriculture Act of 1977 [see Short Title of 1977 Amendment note set out under section 1281 of this title], may elect after September 30, 1978, to receive payments as computed under section 1001(b) of the Food and Agriculture Act of 1977, as amended by this section.”

Pub. L. 95-279, title I, §103, May 15, 1978, 92 Stat. 241, provided that: “Sections 101 and 102 [amending this section and section 1444 of this title] of this title shall become effective October 1, 1978, and any producers who, prior to such date, receive loans and payments on the 1978 crop of the commodity as computed under the Agricultural Act of 1949 [see Short Title note set out under section 1421 of this title], as amended by the Food and Agriculture Act of 1977 [see Short Title of 1977 Amendment note set out under section 1281 of this title] may elect after September 30, 1978, to receive loans and payments as computed under this title.”

#### EFFECTIVE DATE

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

### § 1310. American agriculture protection program

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

Notwithstanding any other provision of law, whenever the President or any other member of the executive branch of the Federal Government

<sup>1</sup> See References in Text note below.

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

**(b) Duration of loan level**

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

**(c) “Commodity” defined**

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

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

REFERENCES IN TEXT

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

CODIFICATION

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

EFFECTIVE DATE

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

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

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

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

CODIFICATION

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

PRIOR PROVISIONS

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

AMENDMENTS

1990—Pub. L. 101-624 substituted “1995” for “1990”.

EFFECTIVE DATE OF 1990 AMENDMENT

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

PART B—MARKETING QUOTAS

SUBPART I—MARKETING QUOTAS—TOBACCO

**§§ 1311 to 1314-1. Repealed. Pub. L. 108-357, title VI, § 611(a), Oct. 22, 2004, 118 Stat. 1522**

Section 1311, act Feb. 16, 1938, ch. 30, title III, §311, 52 Stat. 45, set forth legislative findings.

Section 1312, acts Feb. 16, 1938, ch. 30, title III, §312, 52 Stat. 46; Mar. 26, 1938, ch. 54, 52 Stat. 120; Aug. 7, 1939, ch. 562, 563, 53 Stat. 1261; June 13, 1940, ch. 360, §§2, 3, 54 Stat. 392; Nov. 22, 1940, ch. 914, §§2, 5, 54 Stat. 1209, 1210; Feb. 28, 1942, ch. 123, 56 Stat. 121; July 3, 1948, ch. 827, title II, §208, 62 Stat. 1257; Aug. 9, 1955, ch. 639, 69 Stat. 557; June 22, 1956, ch. 427, 70 Stat. 330; Pub. L. 99-272, title I, §1104(a), Apr. 7, 1986, 100 Stat. 89, related to national tobacco marketing quotas.

Section 1313, acts Feb. 16, 1938, ch. 30, title III, §313, 52 Stat. 47; Apr. 7, 1938, ch. 107, §5, 52 Stat. 202; May 31, 1938, ch. 292, §2, 52 Stat. 586; Aug. 7, 1939, ch. 564, 53 Stat. 1261; June 13, 1940, ch. 360, §4, 54 Stat. 392; Feb. 6, 1942, ch. 44, §1, 56 Stat. 51; Apr. 29, 1943, ch. 80, 57 Stat. 69; Oct. 17, 1951, ch. 511, 65 Stat. 422; Mar. 31, 1955, ch. 21, §§3, 4, 69 Stat. 24; Aug. 11, 1955, ch. 789, 69 Stat. 670; Aug. 11, 1955, ch. 799, 69 Stat. 684; Pub. L. 85-489, §1, July 2, 1958, 72 Stat. 291; Feb. 16, 1938, ch. 30, title III, §378(d), as added Pub. L. 85-835, title V, §501, Aug. 28, 1958, 72 Stat. 995; Pub. L. 89-12, §2, Apr. 16, 1965, 79 Stat. 72; Pub. L. 90-106, Oct. 12, 1967, 81 Stat. 275, related to apportionment of national marketing quotas.

Section 1314, acts Feb. 16, 1938, ch. 30, title III, §314, 52 Stat. 48; Aug. 7, 1939, ch. 565, 53 Stat. 1262; June 13, 1940, ch. 360, §5, 54 Stat. 393; Feb. 19, 1946, ch. 31, §2, 60 Stat. 21; June 22, 1954, ch. 339, 68 Stat. 270; Mar. 31, 1955, ch. 21, §5, 69 Stat. 24; Pub. L. 97-218, title I, §103, title II, §206(a), July 20, 1982, 96 Stat. 201, 206, related to penalties for marketing of tobacco which is in excess of quotas or not eligible for price supports.

Section 1314-1, act Feb. 16, 1938, ch. 30, title III, §314A, as added Pub. L. 97-218, title III, §306, July 20, 1982, 96 Stat. 215, related to limitation on sale of tobacco floor sweepings.

EFFECTIVE DATE OF REPEAL

Repeal applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as an Effective Date note under section 518 of this title.

SAVINGS PROVISION

Repeal not to affect the liability of any person under this subpart with respect to the 2004 or an earlier crop of tobacco, see section 614 of Pub. L. 108-357, set out as a note under section 515 of this title.

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

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

**§§ 1314b to 1314j. Repealed. Pub. L. 108-357, title VI, § 611(a), Oct. 22, 2004, 118 Stat. 1522**

Section 1314b, act Feb. 16, 1938, ch. 30, title III, §316, as added Pub. L. 87-200, Sept. 6, 1961, 75 Stat. 469;

amended Pub. L. 87-530, July 10, 1962, 76 Stat. 151; Pub. L. 87-824, Oct. 15, 1962, 76 Stat. 947; Pub. L. 88-68, July 19, 1963, 77 Stat. 81; Pub. L. 88-80, July 30, 1963, 77 Stat. 114; Pub. L. 88-469, §§ 1, 2, Aug. 20, 1964, 78 Stat. 581; Pub. L. 89-29, May 27, 1965, 79 Stat. 118; Pub. L. 89-321, title VII, § 703, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 89-471, June 24, 1966, 80 Stat. 220; Pub. L. 90-6, Mar. 29, 1967, 81 Stat. 6; Pub. L. 90-52, July 7, 1967, 81 Stat. 121; Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91-284, §§ 1-4, June 19, 1970, 84 Stat. 314; Pub. L. 92-311, June 6, 1972, 86 Stat. 215; Pub. L. 93-80, Aug. 1, 1973, 87 Stat. 178; Pub. L. 93-464, Oct. 24, 1974, 88 Stat. 1416; Pub. L. 94-445, Oct. 1, 1976, 90 Stat. 1489; Pub. L. 95-54, June 25, 1977, 91 Stat. 250; Pub. L. 97-218, title II, § 201, July 20, 1982, 96 Stat. 201; Pub. L. 98-180, title II, §§ 205(a), 206, Nov. 29, 1983, 97 Stat. 1145, 1147; Pub. L. 100-203, title I, § 1112(a), Dec. 22, 1987, 101 Stat. 1330-7; Pub. L. 101-134, § 2(b), Oct. 30, 1989, 103 Stat. 781; Pub. L. 106-78, title VIII, § 803(c)(6)(A), (B), Oct. 22, 1999, 113 Stat. 1177, 1178; Pub. L. 107-171, title I, § 1611(a), May 13, 2002, 116 Stat. 218, related to lease or sale of acreage allotments.

Section 1314b-1, act Feb. 16, 1938, ch. 30, title III, § 316A, as added Pub. L. 97-218, title II, § 202, July 20, 1982, 96 Stat. 205; amended Pub. L. 98-180, title II, § 207(a), Nov. 29, 1983, 97 Stat. 1148, related to mandatory sale of certain Flue-cured tobacco acreage allotments and marketing quotas.

Section 1314b-2, act Feb. 16, 1938, ch. 30, title III, § 316B, as added Pub. L. 97-218, title III, § 302, July 20, 1982, 96 Stat. 210; amended Pub. L. 98-180, title II, § 207(b), Nov. 29, 1983, 97 Stat. 1148, related to mandatory sale of certain Burley tobacco acreage allotments and marketing quotas.

Section 1314c, act Feb. 16, 1938, ch. 30, title III, § 317, as added Pub. L. 89-12, § 1, Apr. 16, 1965, 79 Stat. 66; amended Pub. L. 91-284, § 5, June 19, 1970, 84 Stat. 314; Pub. L. 97-218, title II, §§ 203, 205(a), 206(b), July 20, 1982, 96 Stat. 205-207; Pub. L. 98-180, title II, §§ 205(b), 208-210, Nov. 29, 1983, 97 Stat. 1147-1149; Pub. L. 99-182, § 4, Dec. 13, 1985, 99 Stat. 1173; Pub. L. 99-241, § 1, Jan. 30, 1986, 100 Stat. 3; Pub. L. 99-272, title I, §§ 1103(b), 1104(c), 1105(a)(1), Apr. 7, 1986, 100 Stat. 86, 89, 90; Pub. L. 100-203, title I, § 1112(b), Dec. 22, 1987, 101 Stat. 1330-8; Pub. L. 101-134, § 2(a)(2), Oct. 30, 1989, 103 Stat. 781; Pub. L. 103-66, title I, § 1106(d)(2), Aug. 10, 1993, 107 Stat. 323; Pub. L. 103-437, § 4(a)(5), Nov. 2, 1994, 108 Stat. 4581, related to acreage-poundage quotas.

Section 1314d, act Feb. 16, 1938, ch. 30, title III, § 318, as added Pub. L. 90-51, § 1, July 7, 1967, 81 Stat. 120; amended Pub. L. 90-387, July 5, 1968, 82 Stat. 293; Pub. L. 92-144, Oct. 23, 1971, 85 Stat. 393; Pub. L. 98-180, title II, § 212(a), Nov. 29, 1983, 97 Stat. 1149; Pub. L. 102-566, § 1, Oct. 28, 1992, 106 Stat. 4269; Pub. L. 106-224, title II, § 204(b)(8), June 20, 2000, 114 Stat. 402, related to transfers involving fire-cured, dark air-cured, and Virginia sun-cured tobacco.

Section 1314e, act Feb. 16, 1938, ch. 30, title III, § 319, as added Pub. L. 92-10, § 1, Apr. 14, 1971, 85 Stat. 23; amended Pub. L. 97-218, title III, § 303(b)-(j), July 20, 1982, 96 Stat. 211-214; Pub. L. 98-59, § 2, July 25, 1983, 97 Stat. 296; Pub. L. 98-180, title II, § 211, Nov. 29, 1983, 97 Stat. 1149; Pub. L. 99-241, § 2, Jan. 30, 1986, 100 Stat. 3; Pub. L. 99-272, title I, §§ 1103(c), 1104(b), (d), 1105(a)(2), 1107, Apr. 7, 1986, 100 Stat. 86, 89-91; Pub. L. 100-387, title III, § 304(a)(1), Aug. 11, 1988, 102 Stat. 948; Pub. L. 101-134, § 2(a)(1), Oct. 30, 1989, 103 Stat. 781; Pub. L. 101-577, § 2(a), (b), (d), (e), Nov. 15, 1990, 104 Stat. 2856, 2857; Pub. L. 102-237, title I, § 116(1), Dec. 13, 1991, 105 Stat. 1840; Pub. L. 103-66, title I, § 1106(d)(1), Aug. 10, 1993, 107 Stat. 323; Pub. L. 106-78, title VII, § 755(a), Oct. 22, 1999, 113 Stat. 1170; Pub. L. 106-224, title II, § 204(b)(9)-(12), June 20, 2000, 114 Stat. 403; Pub. L. 108-7, div. A, title VII, § 765(a), Feb. 20, 2003, 117 Stat. 47, related to farm poundage quotas for certain kinds of tobacco.

Section 1314f, act Feb. 16, 1938, ch. 30, title III, § 320, as added Pub. L. 93-411, Sept. 3, 1974, 88 Stat. 1089; amended Pub. L. 95-592, § 17, Nov. 4, 1978, 92 Stat. 2534; Pub. L. 97-98, title XI, § 1108, Dec. 22, 1981, 95 Stat. 1266; Pub. L. 97-218, title II, § 204, July 20, 1982, 96 Stat. 206, related to nonquota tobacco subject to quota.

Section 1314g, act Feb. 16, 1938, ch. 30, title III, § 320A, as added Pub. L. 99-272, title I, § 1103(d), Apr. 7, 1986, 100 Stat. 88, related to submission of purchase intentions by cigarette manufacturers.

Section 1314h, act Feb. 16, 1938, ch. 30, title III, § 320B, as added Pub. L. 99-272, title I, § 1106(a), Apr. 7, 1986, 100 Stat. 90; amended Pub. L. 108-357, title VI, § 613, Oct. 22, 2004, 118 Stat. 1524, related to purchase requirements and penalty for failure to meet them.

Section 1314i, act Feb. 16, 1938, ch. 30, title III, § 320C, as added Pub. L. 103-66, title I, § 1106(a), Aug. 10, 1993, 107 Stat. 318; amended Pub. L. 103-465, title IV, § 422(a), Dec. 8, 1994, 108 Stat. 4964, related to quantity of tobacco grown in the United States that is required to be used by a cigarette manufacturer.

Section 1314j, act Feb. 16, 1938, ch. 30, title III, § 320D, as added Pub. L. 106-47, § 1, Aug. 13, 1999, 113 Stat. 228, and Pub. L. 106-78, title VII, § 755(b), Oct. 22, 1999, 113 Stat. 1170; amended Pub. L. 106-113, div. B, § 1000(a)(5) [title II, § 211], Nov. 29, 1999, 113 Stat. 1536, 1501A-295, related to release of tobacco production and marketing information.

#### EFFECTIVE DATE OF REPEAL

Repeal applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as an Effective Date note under section 518 of this title.

#### SAVINGS PROVISION

Repeal not to affect the liability of any person under this subpart with respect to the 2004 or an earlier crop of tobacco, see section 614 of Pub. L. 108-357, set out as a note under section 515 of this title.

#### TOBACCO DEFINITION AND INCREASE OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS TO MEET DEMAND UNAFFECTED BY ACREAGE-POUNDRAGE MARKETING QUOTAS AND PRICE SUPPORT PROVISIONS

Pub. L. 89-12, § 4, Apr. 16, 1965, 79 Stat. 72, which provided that nothing in the Act could be construed as affecting the authority or responsibility of the Secretary of Agriculture under former sections 1301(b)(15) or 1313(i) of this title with respect to providing that different types of tobacco were to be treated as different kinds of tobacco, or with respect to increasing allotments or quotas for farms producing certain types of tobacco, was repealed by Pub. L. 108-357, title VI, §§ 611(n), 643, Oct. 22, 2004, 118 Stat. 1523, 1536, applicable to the 2005 and subsequent crops of tobacco.

#### § 1315. Repealed. Pub. L. 108-357, title VI, § 611(o), Oct. 22, 2004, 118 Stat. 1523

Section, acts July 12, 1952, ch. 709, 66 Stat. 597; Mar. 31, 1955, ch. 21, § 2, 69 Stat. 24, related to additional Burley tobacco acreage allotments.

#### EFFECTIVE DATE OF REPEAL

Repeal applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as an Effective Date note under section 518 of this title.

#### SAVINGS PROVISION

Repeal not to affect the liability of any person under this section with respect to the 2004 or an earlier crop of tobacco, see section 614 of Pub. L. 108-357, set out as a note under section 515 of this title.

#### § 1316. Repealed. Pub. L. 108-357, title VI, § 611(p), Oct. 22, 2004, 118 Stat. 1523

Section, Pub. L. 89-321, title VII, § 703, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 91-284, § 6, June 19, 1970, 84 Stat. 314; Pub. L. 97-218, title II, § 205(b), July 20, 1982, 96 Stat. 206, related to transfer of allotments subsequent to 1965.

#### EFFECTIVE DATE OF REPEAL

Repeal applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as an Effective Date note under section 518 of this title.

## SAVINGS PROVISION

Repeal not to affect the liability of any person under this section with respect to the 2004 or an earlier crop of tobacco, see section 614 of Pub. L. 108-357, set out as a note under section 515 of this title.

## SUBPART II—ACREAGE ALLOTMENTS—CORN

## AMENDMENTS

1954—Act Aug. 28, 1954, ch. 1041, title III, § 303, 68 Stat. 902, substituted “Acreage Allotments—Corn” for “Marketing Quotas—Corn” in subpart II heading.

**§ 1321. Legislative finding of effect on interstate and foreign commerce and necessity of regulation**

Corn is a basic source of food for the Nation, and corn produced in the commercial corn-producing area moves almost wholly in interstate and foreign commerce in the form of corn, livestock, and livestock products.

Abnormally excessive and abnormally deficient supplies of corn acutely and directly affect, burden, and obstruct interstate and foreign commerce in corn, livestock, and livestock products. When abnormally excessive supplies exist, transportation facilities in interstate and foreign commerce are overtaxed, and the handling and processing facilities through which the flow of interstate and foreign commerce in corn, livestock, and livestock products is directed become acutely congested. Abnormally deficient supplies result in substantial decreases in livestock production and in an inadequate flow of livestock and livestock products in interstate and foreign commerce, with the consequence of unreasonably high prices to consumers.

Violent fluctuations from year to year in the available supply of corn disrupt the balance between the supply of livestock and livestock products moving in interstate and foreign commerce and the supply of corn available for feeding. When available supplies of corn are excessive, corn prices are low and farmers overexpand livestock production in order to find outlets for corn. Such expansion, together with the relative scarcity and high price of corn, forces farmers to market abnormally excessive supplies of livestock in interstate commerce at sacrifice prices, endangering the financial stability of producers, and overtaxing handling and processing facilities through which the flow of interstate and foreign commerce in livestock and livestock products is directed. Such excessive marketings deplete livestock on farms, and livestock marketed in interstate and foreign commerce consequently becomes abnormally low, with resultant high prices to consumers and danger to the financial stability of persons engaged in transporting, handling, and processing livestock in interstate and foreign commerce. These high prices in turn result in another overexpansion of livestock production.

Recurring violent fluctuations in the price of corn resulting from corresponding violent fluctuations in the supply of corn directly affect the movement of livestock in interstate commerce from the range cattle regions to the regions where livestock is fattened for market in interstate and foreign commerce, and also directly affect the movement in interstate commerce of

corn marketed as corn which is transported from the regions where produced to the regions where livestock is fattened for market in interstate and foreign commerce.

Substantially all the corn moving in interstate commerce, substantially all the corn fed to livestock transported in interstate commerce for fattening, and substantially all the corn fed to livestock marketed in interstate and foreign commerce, is produced in the commercial corn-producing area. Substantially all the corn produced in the commercial corn-producing area, with the exception of a comparatively small amount used for farm consumption, is either sold or transported in interstate commerce, or is fed to livestock transported in interstate commerce for feeding, or is fed to livestock marketed in interstate and foreign commerce. Almost all the corn produced outside the commercial corn-producing area is either consumed, or is fed to livestock which is consumed, in the State in which such corn is produced.

The conditions affecting the production and marketing of corn and the livestock products of corn are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of disparities between the supplies of livestock moving in interstate and foreign commerce and the supply of corn available for feeding, and provide for orderly marketing of corn in interstate and foreign commerce and livestock and livestock products in interstate and foreign commerce.

The national public interest requires that the burdens on interstate and foreign commerce above described be removed by the exercise of Federal power. By reason of the administrative and physical impracticability of regulating the movement of livestock and livestock products in interstate and foreign commerce and the inadequacy of any such regulation to remove such burdens, such power can be feasibly exercised only by providing for the withholding from market of excessive and burdensome supplies of corn in times of excessive production, and providing a reserve supply of corn available for market in times of deficient production, in order that a stable and continuous flow of livestock and livestock products in interstate and foreign commerce may at all times be assured and maintained.

(Feb. 16, 1938, ch. 30, title III, § 321, 52 Stat. 48.)

## INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

**§ 1322. Repealed. Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902**

Section, acts Feb. 16, 1938, ch. 30, title III, § 322, 52 Stat. 49; July 3, 1948, ch. 827, title II, § 203, 62 Stat. 1255; Oct. 31, 1949, ch. 792, title IV, § 409(e), 63 Stat. 1057, related to establishment, referendum, and suspension of farm marketing quotas.

**§ 1322a. Repealed. July 3, 1948, ch. 827, title II, § 203(b), 62 Stat. 1256**

Section, act July 26, 1939, ch. 378, 53 Stat. 1125, related to time for proclamation of referendum.

**EFFECTIVE DATE OF REPEAL**

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

**§§ 1323 to 1325. Repealed. Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902**

Section 1323, act Feb. 16, 1938, ch. 30, title III, § 323, 52 Stat. 50, related to amount of farm marketing quota with respect to corn.

Section 1324, act Feb. 16, 1938, ch. 30, title III, § 324, 52 Stat. 50, related to storage amounts.

Section 1325, act Feb. 16, 1938, ch. 30, title III, § 325, 52 Stat. 51, related to penalties for marketing corn in excess of quota.

**§ 1326. Adjustment of farm marketing quotas**

(a) Whenever in any county or other area the Secretary finds that the actual production of corn plus the amount of corn stored under seal in such county or other area is less than the normal production of the marketing percentage of the farm acreage allotments in such county or other area, the Secretary shall terminate farm marketing quotas for corn in such county or other area.

(b) Whenever, upon any farm, the actual production of the acreage of corn is less than the normal production of the marketing percentage of the farm acreage allotment, there may be marketed, without penalty, from such farm an amount of corn from the corn stored under seal pursuant to section 1324 of this title which, together with the actual production of the then current crop, will equal the normal production of the marketing percentage of the farm acreage allotment.

(c) Whenever, in any marketing year, marketing quotas are not in effect with respect to the crop of corn produced in the calendar year in which such marketing year begins, all marketing quotas applicable to previous crops of corn shall be terminated.

(Feb. 16, 1938, ch. 30, title III, § 326, 52 Stat. 51.)

**REFERENCES IN TEXT**

Section 1324 of this title, referred to in subsec. (b), was repealed by act Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902.

**INAPPLICABILITY OF SECTION**

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

**REPEALS**

Act Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902, repealed this section insofar as it is applicable to corn. Section has been made applicable to wheat by sections 1330(6) and 1340(6) of this title.

**§§ 1327 to 1329. Omitted**

**CODIFICATION**

Sections provided for establishment of a commercial corn-producing area and corn acreage allotments, which were discontinued. See sections 1329a, 1444a, and 1444b of this title.

Section 1327, acts Feb. 16, 1938, ch. 30, title III, § 327, 52 Stat. 51; Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 903, provided for proclamation of commercial corn-producing area not later than February 1 of each year.

Section 1328, acts Feb. 16, 1938, ch. 30, title III, § 328, 52 Stat. 52; Apr. 7, 1938, ch. 107, § 6, 52 Stat. 202; July 3, 1948, ch. 827, title II, § 207(a), 62 Stat. 1257; Oct. 31, 1949, ch. 792, title IV, § 409(f), 63 Stat. 1057; Aug. 28, 1954, ch. 1041, title III, § 305, 68 Stat. 903, provided for establishment of acreage allotment of corn for each calendar year and proclamation of such acreage allotment not later than February 1 of each year.

Section 1329, acts Feb. 16, 1938, ch. 30, title III, § 329, 52 Stat. 52; Aug. 28, 1954, ch. 1041, title III, § 306, 68 Stat. 903, provided for apportionment of acreage allotment for corn.

**§ 1329a. Discontinuance of acreage allotments on corn**

Notwithstanding any other provision of law, acreage allotments and a commercial corn-producing area shall not be established for the 1959 and subsequent crops of corn.

(Feb. 16, 1938, ch. 30, title III, § 330, as added Oct. 31, 1949, ch. 792, title I, § 104(b)(1), as added Pub. L. 85-835, title II, § 201, Aug. 28, 1958, 72 Stat. 994.)

**INAPPLICABILITY OF SECTION**

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

**1958 REFERENDUM FOR SELECTION OF ALTERNATIVE CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PROVISIONS**

Corn producers voted for adoption of price support program as provided in section 1444a(b) of this title (254,262) rather than alternative corn acreage allotment and price support program (102,907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

**§ 1330. Omitted**

**CODIFICATION**

Section, acts May 26, 1941, ch. 133, 55 Stat. 203; Dec. 26, 1941, ch. 626, § 2, 55 Stat. 860; Dec. 26, 1941, ch. 636, 55 Stat. 872; Aug. 29, 1949, ch. 518, § 3(b), 63 Stat. 676; July 14, 1953, ch. 194, § 3, 67 Stat. 151; Aug. 28, 1954, ch. 1041, title III, § 313, 68 Stat. 905, initially contained supplemental provisions relating to wheat and corn marketing quotas; marketing penalty for cotton and rice; crop loans on cotton, corn, wheat, rice, tobacco, and peanuts, but was amended generally in 1954 to make it inapplicable to corn. See section 1340 of this title.

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

**SUBPART III—MARKETING QUOTAS—WHEAT**

**§ 1331. Legislative finding of effect on interstate and foreign commerce and necessity of regulation**

Wheat is a basic source of food for the Nation, is produced throughout the United States by

more than a million farmers, is sold on the country-wide market and, as wheat or flour, flows almost entirely through instrumentalities of interstate and foreign commerce from producers to consumers.

Abnormally excessive and abnormally deficient supplies of wheat on the country-wide market acutely and directly affect, burden, and obstruct interstate and foreign commerce. Abnormally excessive supplies overtax the facilities of interstate and foreign transportation, congest terminal markets and milling centers in the flow of wheat from producers to consumers, depress the price of wheat in interstate and foreign commerce, and otherwise disrupt the orderly marketing of such commodity in such commerce. Abnormally deficient supplies result in an inadequate flow of wheat and its products in interstate and foreign commerce with consequent injurious effects to the instrumentalities of such commerce and with excessive increases in the prices of wheat and its products in interstate and foreign commerce.

It is in the interest of the general welfare that interstate and foreign commerce in wheat and its products be protected from such burdensome surpluses and distressing shortages, and that a supply of wheat be maintained which is adequate to meet domestic consumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of such burdensome surpluses. Such surpluses result in disastrously low prices of wheat and other grains to wheat producers, destroy the purchasing power of grain producers for industrial products, and reduce the value of the agricultural assets supporting the national credit structure. Such shortages of wheat result in unreasonably high prices of flour and bread to consumers and loss of market outlets by wheat producers.

The conditions affecting the production and marketing of wheat are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of such surpluses and shortages and the burdens on interstate and foreign commerce resulting therefrom, maintain normal supplies of wheat, or provide for the orderly marketing thereof in interstate and foreign commerce.

Wheat which is planted and not disposed of prior to the date prescribed by the Secretary for the disposal of excess acres of wheat is an addition to the total supply of wheat and has a direct effect on the price of wheat in interstate and foreign commerce and may also affect the supply and price of livestock and livestock products. In the circumstances, wheat not disposed of prior to such date must be considered in the same manner as mechanically harvested wheat in order to achieve the policy of the chapter.

The diversion of substantial acreages from wheat to the production of commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage would burden, obstruct, and adversely affect interstate and foreign commerce in such commodities, and would adversely affect the prices of such commodities in interstate and foreign commerce. Small changes in the supply

of a commodity could create a sufficient surplus to affect seriously the price of such commodity in interstate and foreign commerce. Large changes in the supply of such commodity could have a more acute effect on the price of the commodity in interstate and foreign commerce and, also, could overtax the handling, processing, and transportation facilities through which the flow of interstate and foreign commerce in such commodity is directed. Such adverse effects caused by overproduction in one year could further result in a deficient supply of the commodity in the succeeding year, causing excessive increases in the price of the commodity in interstate and foreign commerce in such year. It is, therefore, necessary to prevent acreage diverted from the production of wheat to be used to produce commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage.

The provisions of this subpart affording a cooperative plan to wheat producers are necessary in order to minimize recurring surpluses and shortages of wheat in interstate and foreign commerce, to provide for the maintenance of adequate reserve supplies thereof, to provide for an adequate and orderly flow of wheat and its products in interstate and foreign commerce at prices which are fair and reasonable to farmers and consumers, and to prevent acreage diverted from the production of wheat from adversely affecting other commodities in interstate and foreign commerce.

(Feb. 16, 1938, ch. 30, title III, §331, 52 Stat. 52; Pub. L. 87-703, title III, §310, Sept. 27, 1962, 76 Stat. 618.)

#### AMENDMENTS

1962—Pub. L. 87-703 provided additional findings respecting the addition of wheat to total supply of wheat and effect of such addition on price of wheat and supply and price of livestock and livestock products, the need to prevent the use of acreage diverted from wheat production to produce other commodities in surplus supply and the consequences of a small or large change in the supply of a commodity and the necessity of a cooperative plan to wheat producers to provide for flow of wheat at fair and reasonable prices to farmers and consumers and to prevent diverted acreage from production of wheat from adversely affecting other commodities in interstate and foreign commerce.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Pub. L. 101-624, title III, §303, Nov. 28, 1990, 104 Stat. 3400, provided that: "Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1991 through 1995 crops of wheat."

Pub. L. 99-198, title III, §310(b), Dec. 23, 1985, 99 Stat. 1395, provided that: "Sections 331, 339, 379b, and 379c of such Act [the Agricultural Adjustment Act of 1938] (7 U.S.C. 1331, 1339, 1379b, and 1379c) shall not be applicable to the 1986 through 1990 crops of wheat."

Pub. L. 97-98, title III, §303, Dec. 22, 1981, 95 Stat. 1227, provided that: "Sections 331, 332, 333, 334, 335, 336, 338, 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 [this section and sections 1332, 1333, 1334, 1335, 1336, 1338, 1339, 1379b, and 1379c of this title] shall not be applicable to the 1982 through 1985 crops of wheat."

Pub. L. 95-113, title IV, §404, Sept. 29, 1977, 91 Stat. 927, provided that: "Sections 331, 332, 333, 334, 335, 336, 338, 339, 379b, and 379c of the Agricultural Adjustment Act of 1938, as amended [this section and sections 1332, 1333, 1334, 1335, 1336, 1338, 1339, 1379b, and 1379c of this title], shall not be applicable to the 1978 through 1981 crops of wheat."

Pub. L. 91-524, title IV, §404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, §1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

### § 1332. National marketing quota

#### (a) Proclamation; duration of program

Whenever prior to April 15 in any calendar year the Secretary determines that the total supply of wheat in the marketing year beginning in the next succeeding calendar year will, in the absence of a marketing quota program, likely be excessive, the Secretary shall proclaim that a national marketing quota for wheat shall be in effect for such marketing year and for either the following marketing year or the following two marketing years, if the Secretary determines and declares in such proclamation that a two- or three-year marketing quota program is necessary to effectuate the policy of the chapter.

#### (b) Amount; minimum

If a national marketing quota for wheat has been proclaimed for any marketing year, the Secretary shall determine and proclaim the amount of the national marketing quota for such marketing year not earlier than January 1 or later than April 15 of the calendar year preceding the year in which such marketing year begins. The amount of the national marketing quota for wheat for any marketing year shall be an amount of wheat which the Secretary estimates (i) will be utilized during such marketing year for human consumption in the United States as food, food products, and beverages, composed wholly or partly of wheat, (ii) will be utilized during such marketing year in the United States for seed, (iii) will be exported either in the form of wheat or products thereof, and (iv) will be utilized during such marketing year in the United States as livestock (including poultry) feed, excluding the estimated quantity of wheat which will be utilized for such purpose as a result of the substitution of wheat for feed grains under section 1339c of this title; less (A) an amount of wheat equal to the estimated imports of wheat into the United States during such marketing year and, (B) if the stocks of wheat owned by the Commodity Credit Corporation are determined by the Secretary to be excessive, an amount of wheat determined by the Secretary to be a desirable reduction in such marketing year in such stocks to achieve the policy of the chapter: *Provided*, That if the Sec-

retary determines that the total stocks of wheat in the Nation are insufficient to assure an adequate carryover for the next succeeding marketing year, the national marketing quota otherwise determined shall be increased by the amount the Secretary determines to be necessary to assure an adequate carryover: *And provided further*, That the national marketing quota for wheat for any marketing year shall be not less than one billion bushels.

#### (c) National emergencies or material increase in demand; investigation; increase or termination

If, after the proclamation of a national marketing quota for wheat for any marketing year, the Secretary has reason to believe that, because of a national emergency or because of a material increase in the demand for wheat, the national marketing quota should be terminated or the amount thereof increased, he shall cause an immediate investigation to be made to determine whether such action is necessary in order to meet such emergency or increase in the demand for wheat. If, on the basis of such investigation, the Secretary finds that such action is necessary, he shall immediately proclaim such finding and the amount of any such increase found by him to be necessary and thereupon such national marketing quota shall be so increased or terminated. In case any national marketing quota is increased under this subsection, the Secretary shall provide for such increase by increasing acreage allotments established under this subpart by a uniform percentage.

#### (d) Farm marketing quotas for wheat crops planted in calendar years 1966-1970

Notwithstanding any other provision of this chapter, the Secretary shall proclaim a national marketing quota for the crops of wheat planted for harvest in the calendar years 1966 through 1970, and farm marketing quotas shall not be in effect for such crops of wheat.

(Feb. 16, 1938, ch. 30, title III, §332, 52 Stat. 53; Aug. 28, 1954, ch. 1041, title III, §307, 68 Stat. 903; Pub. L. 87-703, title III, §311, Sept. 27, 1962, 76 Stat. 619; Pub. L. 89-321, title V, §501(1), Nov. 3, 1965, 79 Stat. 1199; Pub. L. 90-559, §1(1), Oct. 11, 1968, 82 Stat. 996; Pub. L. 99-198, title III, §302, Dec. 23, 1985, 99 Stat. 1378.)

#### AMENDMENTS

1985—Pub. L. 99-198 temporarily substituted "Proclamation of marketing quotas" for "National marketing quota" in section catchline. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (a). Pub. L. 99-198 amended subsec. (a) generally, temporarily substituting provisions defining the terms "base period" and "marketing quota period" for provisions which authorized the Secretary to proclaim a national marketing quota for wheat for either a two- or three-year period. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (b). Pub. L. 99-198 amended subsec. (b) generally, temporarily substituting provisions authorizing the proclamation of a national marketing quota for each marketing year, not later than June 15, 1986, in an amount which the Secretary determines is required to meet anticipated needs during such marketing year, and the conducting of a marketing quota referendum not later than Aug. 1, 1986 for provisions which had au-

thorized the proclamation of a national marketing quota upon a determination made between Jan. 1 and Apr. 15 of the calendar year preceding the year in which the marketing year began, which determination had to provide a minimum of one billion bushels for any marketing year, and investigation of stocks to adjust for imports and excessive or insufficient amounts generally. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (c). Pub. L. 99-198 amended subsec. (c) generally, temporarily substituting provisions requiring the Secretary to adjust or terminate the national marketing quota in the event of a national emergency or material change in the demand for wheat for provisions which had required the Secretary to cause an immediate investigation to be made to determine whether termination or increase in the quota was necessary in order to meet such emergency or increase in demand, and struck out provisions requiring the Secretary to proclaim such findings and the amount of any increase, with any such increase to be based on a uniform percentage. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (d). Pub. L. 99-198 amended section generally, temporarily striking out subsec. (d) which provided for farm marketing quotas for wheat crops planted in calendar years 1969-1970. See Effective and Termination Dates of 1985 Amendment note below.

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

1965—Subsec. (b). Pub. L. 89-321 changed item (iv) from the average amount of wheat which was used for livestock feed during 1959-60 to the amount which will be utilized during the marketing year for which the quota is being determined for livestock feed, excluding the estimated quantity of wheat which will be utilized for such purpose as a result of the substitution of wheat for feed grains under section 1339c of this title.

Subsec. (d). Pub. L. 89-321 added subsec. (d).

1962—Pub. L. 87-703 substituted provisions for proclamation of a national marketing quota upon a determination made prior to April 15 in any calendar year, the duration of such a program, the amount of, including the minimum, quota, and investigation of stocks to increase or terminate the quota during national emergencies or material increase in demand for provision for proclamation, not later than May 15 of each calendar year, of a national marketing quota for the crop produced in the next calendar year.

1954—Act Aug. 28, 1954, struck out proclamations relating to supplies, and changed proclamation date from July 15 to May 15.

#### EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Pub. L. 99-198, title III, §302, Dec. 23, 1985, 99 Stat. 1378, provided that the amendment made by that section is effective only for the 1987 through 1990 crops of wheat.

#### EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-321, title V, §501, Nov. 3, 1965, 79 Stat. 1199, provided that the amendments made by section 501 (amending this section and sections 1333, 1334, 1335, and 1339 of this title) are effective beginning with the crop planted for harvest in the calendar year 1966.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101-624, set out as a note under section 1331 of this title.

Pub. L. 101-270, Apr. 10, 1990, 104 Stat. 134, provided: "That section 332 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1332) shall not be applicable to the 1991 crop of wheat."

Pub. L. 99-198, title III, §310(a), Dec. 23, 1985, 99 Stat. 1395, provided that: "Sections 332, 333, 334, 335, 336, and 338 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1332-1336 and 1338) shall not be applicable to the 1986 crop of wheat."

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97-98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95-113, set out as a note under section 1331 of this title.

Pub. L. 91-524, title IV, §404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, §1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

#### 1965 CROP NATIONAL MARKETING QUOTA AND CROP ACREAGE ALLOTMENT

Pub. L. 88-297, title II, §201, Apr. 11, 1964, 78 Stat. 178, directed Secretary to not proclaim a national marketing quota for 1965 crop of wheat and that farm marketing quotas shall not be in effect for such crop of wheat, and required Secretary to proclaim a national acreage allotment for 1965 crop of wheat which shall be the number of acres which he determined would make available an adequate supply of wheat, but not less than forty-nine million five hundred thousand acres.

#### DEFERRAL OF PROCLAMATION FOR 1963 CROP

Pub. L. 87-485, June 15, 1962, 76 Stat. 103, authorized Secretary of Agriculture to defer until July 15, 1962, any proclamation under this section with respect to a national acreage allotment for 1963 crop of wheat and any proclamation under section 1335 of this title with respect to marketing quotas for such crop of wheat.

Pub. L. 87-450, May 15, 1962, 76 Stat. 69, authorized Secretary of Agriculture to defer until June 15, 1962, any proclamation under this section with respect to a national acreage allotment for 1963 crop of wheat and any proclamation under section 1335 of this title for such crop of wheat.

#### DEFERRAL OF PROCLAMATION FOR 1960 CROP

Pub. L. 86-27, May 15, 1959, 73 Stat. 25, authorized Secretary of Agriculture to defer until June 1, 1959, any proclamation under this section with respect to a national acreage allotment for 1960 crop of wheat and any proclamation under section 1335 of this title with respect to marketing quotas for such crop of wheat.

### § 1333. National acreage allotment

The Secretary shall proclaim a national acreage allotment for each crop of wheat. The amount of the national acreage allotment for any crop of wheat shall be the number of acres which the Secretary determines on the basis of the projected national yield and expected underplantings (acreage other than that not harvested because of program incentives) of farm acreage allotments will produce an amount of wheat equal to the national marketing quota for wheat for the marketing year for such crop, or if a national marketing quota was not proclaimed, the quota which would have been determined if one had been proclaimed.

(Feb. 16, 1938, ch. 30, title III, §333, 52 Stat. 53; June 20, 1938, ch. 518, 52 Stat. 775; July 26, 1939,

ch. 377, 53 Stat. 1125; July 3, 1948, ch. 827, title II, §207(b), 62 Stat. 1257; Pub. L. 87-703, title III, §312, Sept. 27, 1962, 76 Stat. 620; Pub. L. 89-321, title V, §501(2), Nov. 3, 1965, 79 Stat. 1199; Pub. L. 99-198, title III, §303, Dec. 23, 1985, 99 Stat. 1379.)

#### AMENDMENTS

1985—Pub. L. 99-198 amended section generally, temporarily substituting provisions relating to the establishment and determination of a marketing quota apportionment factor for each crop of wheat for which a national marketing quota is proclaimed under section 1332 of this title for provisions relating to the proclamation and determination of a national acreage allotment for each crop of wheat. See Effective and Termination Dates of 1985 Amendment note below.

1965—Pub. L. 89-321 substituted projected national yield for expected yield in the determination of the basis to be used in arriving at the national acreage allotment, inserted limiting parenthetical reference to acreage other than that harvested because of program incentives, and struck out references to expected production on the increases in acreage allotments for farms based upon small-farm base acreages pursuant to section 1335 of this title and to the expected production on the increased acreages resulting from the small-farm exemption pursuant to section 1335 of this title.

1962—Pub. L. 87-703 substituted provision for proclamation of a national acreage allotment at the time of proclamation of the national marketing quota in an amount that would be the number of acres which on the basis of expected yields would, together with the expected production on increases in acreage allotments for small farms and on increased acreages resulting from the small-farm exemption, make available a supply equal to the national marketing quota for provision for determination of the national acreage allotment as such acreage as on the basis of the national average yield would produce an amount, which, with estimated carryover and imports, would make available a supply equal to a normal year's domestic consumption and exports plus 30 per centum and prescribing a national acreage allotment for wheat for 1938 at sixty-two million five hundred thousand acres and for any year at not less than fifty-five million acres.

1948—Act July 3, 1948, required the Secretary to take imports into consideration in determining acreage allotments for the purposes of marketing quotas.

1939—Act July 26, 1939, amended last sentence.

1938—Act June 20, 1938, inserted last sentence.

#### EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Pub. L. 99-198, title III, §303, Dec. 23, 1985, 99 Stat. 1379, provided that the amendment made by that section is effective only for the 1987 through 1990 crops of wheat.

#### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-321 effective beginning with crop planted for harvest in calendar year 1966, see section 501 of Pub. L. 89-321, set out as a note under section 1332 of this title.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

#### EFFECTIVE DATE OF 1948 AMENDMENT

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

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable

to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101-624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99-198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97-98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95-113, set out as a note under section 1331 of this title.

Pub. L. 91-524, title IV, §404(2), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, §1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1972 through 1977 crops of wheat.

#### 1965 CROP ACREAGE ALLOTMENT

Proclamation of a national acreage allotment for 1965 crop of wheat that will make available an adequate supply of wheat but shall not be less than forty-nine million five hundred thousand acres, see section 201 of Pub. L. 88-297, set out as a note under section 1332 of this title.

### § 1334. Apportionment of national acreage allotment

#### (a) Apportionment among States; special acreage reserve

The national allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment as provided in this subsection and less the special acreage reserve provided for in this subsection, shall be apportioned by the Secretary among the States on the basis of the preceding year's allotment for each such State, including all amounts allotted to the State and including for 1967 the increased acreage in the State allotted for 1966 under section 1335 of this title, adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors. The reserve acreage set aside herein for apportionment by the Secretary shall be used (1) to make allotments to counties in addition to the county allotments made under subsection (b) of this section, on the basis of the relative needs of counties for additional allotments because of reclamation and other new areas coming into production of wheat, or (2) to increase the allotment for any county, in which wheat is the principal grain crop produced, on the basis of its relative need for such increase if the average ratio of wheat acreage allotment to cropland on old wheat farms in such county is less by at least 20 per centum than such average ratio on old wheat farms in an adjoining county or counties in which wheat is the principal grain crop produced or if there is a definable contiguous area consisting of at least 10 per centum of the cropland acreage in such county in which the average ratio of wheat acreage allotment to cropland on old wheat farms is less by at least 20 per centum than such average ratio on the re-

maining old wheat farms in such county, provided that such low ratio of wheat acreage allotment to cropland is due to the shift prior to 1951 from wheat to one or more alternative income-producing crops which, because of plant disease or sustained loss of markets, may no longer be produced at a fair profit and there is no other alternative income-producing crop suitable for production in the area or county. The increase in the county allotment under clause (2) of the preceding sentence shall be used to increase allotments for old wheat farms in the affected area to make such allotments comparable with those on similar farms in adjoining areas or counties but the average ratio of increased allotments to cropland on such farms shall not exceed the average ratio of wheat acreage allotment to cropland on old wheat farms in the adjoining areas or counties. There also shall be made available a special acreage reserve of not in excess of one million acres as determined by the Secretary to be desirable for the purposes hereof which shall be in addition to the national acreage reserve provided for in this subsection. Such special acreage reserve shall be made available to the States to make additional allotments to counties on the basis of the relative needs of counties, as determined by the Secretary, for additional allotments to make adjustments in the allotments on old wheat farms (that is, farms on which wheat has been seeded or regarded as seeded to one or more of the three crops immediately preceding the crop for which the allotment is established) on which the ratio of wheat acreage allotment to cropland on the farm is less than one-half the average ratio of wheat acreage allotment to cropland on old wheat farms in the county. Such adjustments shall not provide an allotment for any farm which would result in an allotment-cropland ratio for the farm in excess of one-half of such county average ratio and the total of such adjustments in any county shall not exceed the acreage made available therefor in the county. Such apportionment from the special acreage reserve shall be made only to counties where wheat is a major income-producing crop, only to farms on which there is limited opportunity for the production of an alternative income-producing crop, and only if an efficient farming operation on the farm requires the allotment of additional acreage from the special acreage reserve. For the purposes of making adjustments hereunder the cropland on the farm shall not include any land developed as cropland subsequent to the 1963 crop year.

**(b) Apportionment among counties**

The State acreage allotment for wheat, less a reserve of not to exceed 3 per centum thereof for apportionment as provided in subsection (c) of this section, shall be apportioned by the Secretary among the counties in the State, on the basis of the preceding year's wheat allotment in each such county, including for 1967 the increased acreage in the county allotted for 1966 pursuant to section 1335 of this title, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county, taking into consideration established crop rotation practices, esti-

mated decrease in farm allotments because of loss of history, and other relevant factors.

**(c) Apportionment among farms; overplanted allotments; reductions; notice**

(1) The allotment to the county shall be apportioned by the Secretary, through the local committees, among the farms within the county on the basis of past acreage of wheat, tillable acres, crop-rotation practices, type of soil, and topography. Not more than 3 per centum of the State allotment shall be apportioned to farms on which wheat has not been planted during any of the three marketing years immediately preceding the marketing year in which the allotment is made. For the purpose of establishing farm acreage allotments—(i) the past acreage of wheat on any farm for 1958 or 1965 shall be the base acreage determined for the farm under the regulations issued by the Secretary for determining 1958 or 1965 farm wheat acreage allotments; (ii) if subsequent to the determination of such base acreage the 1958 or 1965 wheat acreage allotment for the farm is increased through administrative, review, or court proceedings, the 1958 or 1965 farm base acreage shall be increased in the same proportion; and (iii) the past acreage of wheat for 1959 and any subsequent year except 1965 shall be the wheat acreage on the farm which is not in excess of the farm wheat acreage allotment, plus, in the case wheat acreage on the farm which is not in excess of wheat acreage allotment, the acreage diverted under such wheat allotment programs: *Provided*, That for 1959 and subsequent years in the case of any farm on which the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty, the past acreage of wheat for the year in which such farm marketing excess is so delivered or stored shall be the farm base acreage of wheat determined for the farm under the regulations issued by the Secretary for determining farm wheat acreage allotments for such year, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion, for the purpose of establishing farm wheat acreage allotments subsequent to such depletion the past acreage of wheat for the farm for the year in which the excess was produced shall be reduced to the farm wheat acreage allotment for such year.

(2) Notwithstanding any other provision of law, each old or new farm acreage allotment for the 1962 crop of wheat as determined on the basis of a minimum national acreage allotment of fifty-five million acres shall be reduced by 10 per centum. In the event notices of farm acreage allotments for the 1962 crop of wheat have been mailed to farm operators prior to the effective date of this subparagraph (2), new notices showing the required reduction shall be mailed to farm operators as soon as practicable.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, the past acreage of wheat for 1967 and any subsequent year shall be the acreage of wheat planted, plus the acreage regarded as planted, for harvest as grain on the farm which is not in excess of the farm acreage allotment.

(4) Notwithstanding any other provision of this subsection (c), the farm acreage allotment for the 1967 and any subsequent crop of wheat shall be established for each old farm by apportioning the county wheat acreage allotment among farms in the county on which wheat has been planted, or is considered to have been planted, for harvest as grain in any one of the three years immediately preceding the year for which allotments are determined on the basis of past acreage of wheat and the farm acreage allotment for the year immediately preceding the year for which the allotment is being established, adjusted as hereinafter provided. For purposes of this paragraph, the acreage allotment for the immediately preceding year may be adjusted to reflect established crop-rotation practices, may be adjusted downward to reflect a reduction in the tillable acreage on the farm, and may be adjusted upward to reflect such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable allotment: *Provided*, That (i) for the purposes of computing the allotment for any year, the acreage allotment for the farm for the immediately preceding year shall be decreased by 7 per centum if for the year immediately preceding the year for which such reduction is made neither a voluntary diversion program nor a voluntary certificate program was in effect and there was noncompliance with the farm acreage allotment for such year; (ii) for purposes of clause (i), any farm on which the entire amount of farm marketing excess is delivered to the Secretary, stored, or adjusted to zero in accordance with applicable regulations to avoid or postpone payment of the penalty when farm marketing quotas are in effect, shall be considered in compliance with the allotment, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion, the allotment for such farm next computed after determination of such depletion shall be reduced by reducing the allotment for the immediately preceding year by 7 per centum; and (iii) for purposes of clause (i) if the Secretary determines that the reduction in the allotment does not provide fair and equitable treatment to producers on farms following special crop rotation practices, he may modify such reduction in the allotment as he determines to be necessary to provide fair and equitable treatment to such producers.

**(d) Repealed. Pub. L. 89-321, title V, § 501(6), Nov. 3, 1965, 79 Stat. 1201**

**(e) Increase in acreage allotments and marketing quotas for class II durum wheat**

If, with respect to the 1962 and 1963 crops of wheat, the Secretary determines that the acreage allotments of farms producing durum wheat are inadequate to provide for the production of a sufficient quantity of durum wheat to satisfy the demands therefor (but not including export demand involving a subsidy by, or a loss to, the Federal Government), he shall increase the farm marketing quotas and acreage allotments for such crop of wheat for farms located in counties in the States of North Dakota, Minnesota, Montana, South Dakota, and California, designated by the Secretary as counties which (1) are capa-

ble of producing durum wheat (class II), and (2) have produced such wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested. The Secretary shall determine the percentage factor by which the average acreage of durum wheat (class II) produced during the last two-year period for which statistics are available (excluding any increases in durum wheat acreage as a result of increases in wheat acreage allotments authorized by this subsection) must be increased to satisfy such demand. The wheat acreage allotment for any farm established for such crop without regard to this subsection, after reduction in the case of the 1962 crop as required by subsection (c)(2) of this section (hereinafter referred to as the "original allotment"), shall be increased by an acreage computed by multiplying the average acreage of durum wheat (class II) on the farm during such two-year period (excluding any increase in the acreage of durum wheat as a result of an increase in the wheat acreage allotment for the farm authorized by this subsection) by such percentage factor: *Provided*, That such increased allotment shall not exceed the cropland on the farm well suited to wheat. The increase in the wheat acreage allotment for any farm shall be conditioned upon the production of an acreage of durum wheat (class II) at least equal to the average acreage of such wheat produced during such two-year period plus the number of acres by which the allotment is increased. Any increases in wheat acreage allotments authorized by this subsection shall be in addition to the National, State, and county wheat acreage allotments, and such increases shall not be considered in establishing future State, county, and farm allotments. The provisions of sections 1326(b) and 1340(6) of this title, relating to the reduction of the storage amount of wheat shall apply to the allotment for the farm established without regard to this subsection and not to the increased allotment under this subsection. As used in this subsection the term "durum wheat" means durum wheat (class II) other than the varieties known as "Golden Ball" and "Peliss". Any farm receiving an increased allotment under this subsection shall not be required as a condition of eligibility for price support, or permitted, to participate in the special 1962 wheat program formulated under section 124 of the Agricultural Act of 1961, or section 307 of the Food and Agriculture Act of 1962. The Secretary shall give growers and millers of durum wheat and manufacturers of semolina products an opportunity to present their views and recommendations, prior to making any determination hereunder.

**(f) Voluntary surrender of acreage allotment**

Any part of any 1955, 1956, or 1957 farm wheat acreage allotment on which wheat will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of wheat tillable acres, crop rotation

practices, type of soil, and topography. If all of the allotted acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used for the same purposes as the State acreage reserve under subsection (c) of this section. Any allotment transferred under this provision shall be regarded for the purposes of subsection (c) of this section as having been planted on the farm from which transferred rather than on the farm to which transferred, except that this shall not operate to make the farm from which the allotment was transferred eligible for an allotment as having wheat planted thereon during the three-year base period: *Provided*, That notwithstanding any other provisions of law, any part of any 1955, 1956, or 1957 farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein. Acreage surrendered, reapportioned under this subsection, and planted shall be credited to the State and county in determining future acreage allotments.

**(g) Plantings in excess of allotments or where no allotment is established**

Notwithstanding any other provision of law, no acreage in the commercial wheat-producing area seeded to wheat for harvest as grain in 1958 or thereafter except 1965 in excess of acreage allotments shall be considered in establishing future State and county acreage allotments. The planting on a farm in the commercial wheat-producing area of wheat of the 1958 or any subsequent crop for which no farm wheat acreage allotment was established shall not make the farm eligible for an allotment as an old farm pursuant to the first sentence of subsection (c) of this section nor shall such farm by reason of such planting be considered ineligible for an allotment as a new farm under the second sentence of such subsection.

**(h) Omitted**

**(i) Increase in acreage allotments for any kind of wheat in short supply; storage reduction and land-use provisions inapplicable to such wheat**

If, with respect to any crop of wheat, the Secretary finds that the acreage allotments of farms producing any type of wheat are inadequate to provide for the production of a sufficient quantity of such type of wheat to satisfy the demand therefor, the wheat acreage allotment for such crop for each farm located in a county designated by the Secretary as a county which (1) is capable of producing such type of wheat, and (2) has produced such type of wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested, shall be increased by such uniform percentage as he deems necessary to provide for such quantity. No increase shall be made under this subsection in the wheat acreage allotment of any farm for any crop if any wheat other than such type of wheat is planted on such farm for such crop. Any increases in wheat acreage allotments authorized by this subsection shall be in addition to the National, State, and county wheat acre-

age allotments, and such increases shall not be considered in establishing future State, county, and farm allotments. The provisions of sections 1326(b) and 1340(6) of this title, relating to the reduction of the storage amount of wheat shall apply to the allotment for the farm established without regard to this subsection and not to the increased allotment under this subsection. The land-use provisions of section 1339 of this title shall not be applicable to any farm receiving an increased allotment under this subsection and the producers on such farms shall not be required to comply with such provisions as a condition of eligibility for price support.

**(j) Increased durum wheat acreage allotments to Tulelake area, California, for 1970 and subsequent years; factors determinative; effect of increased allotments on marketing allocations and diversion payments**

Notwithstanding any other provision of this chapter, the Secretary shall increase the acreage allotments for the 1970 and subsequent crops of wheat for privately owned farms in the irrigable portion of the area known as the Tulelake division of the Klamath project of California located in Modoc and Siskiyou Counties, California, as defined by the United States Department of the Interior, Bureau of Reclamation, and hereinafter referred to as the area. The increase for the area for each such crop shall be determined by adding, to the extent applications are made therefor, to the total allotments established for privately owned farms in the area for the particular crop without regard to this subsection (hereinafter referred to as the original allotments) an acreage sufficient to make available for each such crop a total allotment of twelve thousand acres for the area. The additional allotments made available by this subsection shall be in addition to the National, State, and county allotments otherwise established under this section, and the acreage planted to wheat pursuant to such increases in allotments shall not be taken into account in establishing future State, county, and farm acreage allotments except as may be desirable in providing increases in allotments for subsequent years under this subsection for the production of Durum wheat. The Secretary shall apportion the additional allotment acreage made available under this subsection between Modoc and Siskiyou Counties on the basis of the relative needs for additional allotments for the portion of the area in each county. The Secretary shall allot such additional acreage to individual farms in the area for which applications for increased acreages are made on the basis of tillable acres, crop rotation practices, type of soil and topography, and the original allotment for the farm, if any. The increase in the wheat acreage allotment for any farm under this subsection (1) shall not be taken into account in computing the farm wheat marketing allocation under section 1379b of this title, and (2) shall be conditioned upon the production of Durum wheat on the original allotment and on the increased acreage. The producers on a farm receiving an increased allotment under this subsection shall not be eligible for diversion payments under section 1339 of this title.

**(k) Transfer of farm wheat acreage allotments in case of natural disasters**

Notwithstanding any other provision of this chapter, if the Secretary determines that because of a natural disaster a portion of the farm wheat acreage allotments in a county cannot be timely planted or replanted, he may authorize the transfer of all or a part of the wheat acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of wheat and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be planted on the farm from which it was transferred for the purposes of acreage history credits under this chapter.

(Feb. 16, 1938, ch. 30, title III, §334, 52 Stat. 53; Apr. 7, 1938, ch. 107, §7, 52 Stat. 203; Feb. 6, 1942, ch. 44, §2, 56 Stat. 52; July 14, 1953, ch. 194, §1, 67 Stat. 151; Jan. 30, 1954, ch. 2, §4, 68 Stat. 6; Aug. 28, 1954, ch. 1041, title III, §308, 68 Stat. 903; Feb. 19, 1955, ch. 8, 69 Stat. 9; Mar. 16, 1956, ch. 86, 70 Stat. 50; May 28, 1956, ch. 327, title III, §301, 70 Stat. 203; Aug. 7, 1956, ch. 1030, §2, 70 Stat. 1117; Pub. L. 85-13, Apr. 2, 1957, 71 Stat. 10; Pub. L. 85-203, §2, Aug. 28, 1957, 71 Stat. 477; Pub. L. 85-366, Apr. 4, 1958, 72 Stat. 78; Pub. L. 85-390, May 1, 1958, 72 Stat. 101; Feb. 16, 1938, ch. 30, title III, §378(d), as added Pub. L. 85-835, title V, §501, Aug. 28, 1958, 72 Stat. 996; Pub. L. 86-385, Feb. 20, 1960, 74 Stat. 4; Pub. L. 86-419, Apr. 9, 1960, 74 Stat. 39; Pub. L. 87-128, title I, §§121, 125, Aug. 8, 1961, 75 Stat. 296, 300; Pub. L. 87-357, Oct. 4, 1961, 75 Stat. 778; Pub. L. 87-703, title III, §§308(a), 313, Sept. 27, 1962, 76 Stat. 618, 620; Pub. L. 88-64, July 17, 1963, 77 Stat. 79; Pub. L. 88-297, title II, §202(1)-(5), Apr. 11, 1964, 78 Stat. 178, 179; Pub. L. 89-321, title V, §501(3)-(7), Nov. 3, 1965, 79 Stat. 1199-1201; Pub. L. 90-243, Jan. 2, 1968, 81 Stat. 781; Pub. L. 91-220, Mar. 31, 1970, 84 Stat. 86; Pub. L. 99-198, title III, §304, Dec. 23, 1985, 99 Stat. 1379.)

## REFERENCES IN TEXT

Section 124 of the Agricultural Act of 1961, referred to in subsec. (e), is section 124 of Pub. L. 87-128 which was set out below.

Section 307 of the Food and Agriculture Act of 1962, referred to in subsec. (e), is section 307 of Pub. L. 87-703 which was set out below.

## CODIFICATION

For omission of subsec. (h), see 1963 Amendment note below.

## AMENDMENTS

1985—Pub. L. 99-198, in amending section generally, temporarily substituted "Farm marketing quotas" for "Apportionment of national acreage allotment" in section catchline. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (a). Pub. L. 99-198 amended subsec. (a) generally, temporarily substituting provisions requiring the Secretary to establish, for each crop of wheat for which a national marketing quota under section 1332 of this title has been proclaimed, a farm marketing quota for each farm on which wheat was planted, or considered planted, for harvest during the base period for provisions which required the Secretary to apportion the national acreage allotment for wheat, less a national

acreage reserve and a special reserve which were provided for herein, among the States on the basis of each State's allotment for the preceding year, adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (b). Pub. L. 99-198 amended subsec. (b) generally, temporarily substituting provisions establishing a formula for determination of the farm marketing quota for provisions which required the Secretary to apportion each State's acreage allotment for wheat among the counties of the State, less a reserve not to exceed 3 per centum thereof, on the basis of the preceding year's wheat allotment in each such county, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (c). Pub. L. 99-198 amended subsec. (c) generally, temporarily substituting provisions defining the circumstances under which wheat shall be considered to have been planted for harvest on the farm in any crop year for provisions relating to the apportionment among farms of each county's allotment under this section. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (d). Pub. L. 99-198, in amending section generally, temporarily added subsec. (d).

Subsecs. (e) to (k). Pub. L. 99-198, in amending section generally, temporarily struck out subsecs. (e) to (k) as follows:

Subsec. (e) related to increase in acreage allotments and marketing quotas for class II durum wheat.

Subsec. (f) related to voluntary surrender of acreage allotments for 1955, 1956, and 1957 crops of wheat.

Subsec. (g) related to plantings in excess of allotments or where no allotment was established, in the case of 1958 and subsequent crops of wheat.

Subsec. (h). There is no subsec. (h) for 1964 and subsequent crop years. Subsec. (h) was omitted pursuant to the 1963 amendment to this section by Pub. L. 88-64. See 1963 Amendments note set out under this section.

Subsec. (i) related to an increase in acreage allotments for any kind of wheat in short supply, and enumerated provisions of law inapplicable to such wheat.

Subsec. (j) related to increased durum wheat acreage allotments to the Tulelake area in California for 1970 and subsequent crops of wheat.

Subsec. (k) related to transfer of farm wheat acreage allotments in case of natural disasters. See Effective and Termination Dates of 1985 Amendment note below.

1970—Subsec. (j). Pub. L. 91-220 removed the 1963 deadline on the Secretary's power to increase acreage allotments, empowering him to do so for the 1970 and subsequent wheat crops, made the area increase for each crop determinable, among other factors, by the extent to which applications are received therefor, removed requirement that acreage planted to wheat pursuant to increased allotments be considered in establishing future state, county and farm acreage allotments except where such consideration may be desirable in providing increased allotments for production of Durum wheat in subsequent years, conditioned wheat acreage allotments upon the production of Durum wheat on the original and increased acreage allotment, prohibited consideration of the increased acreage allotment in computing the farm wheat marketing allocation under section 1379b of this title, made producers on farms receiving increased allotments ineligible for diversion payments under section 1339 of this title, and struck out provisions prohibiting such producers from receiving price support, provisions making land use rules of section 1339 of this title inapplicable to farms receiving additional allotments, and provisions relating to 1962 and 1963 wheat crops.

1968—Subsec. (a). Pub. L. 90-243 inserted provisions allowing the Secretary to make additional use, with

specified limitations, of the 1 percent national wheat acreage allotment reserve in counties which have wheat as the principal grain crop, an average ratio of wheat acreage allotment to cropland on old wheat farms at least 20 percent below that in an adjoining county or alternative ratio, a low ratio caused by a shift prior to 1951 from wheat to an alternative crop or crops which have become unprofitable because of plant disease or sustained loss of markets, and no alternative income-producing crop.

1965—Subsec. (a). Pub. L. 89-321, §501(3), substituted the preceding year's allotment for the acreage seeded for the production of wheat over the preceding ten-year period as the basis for determining the state's apportioned share of the national acreage allotment and made provision for a special acreage reserve to be apportioned only to counties where wheat is a major income-producing crop.

Subsec. (b). Pub. L. 89-321, §501(4), substituted the county's allotment covering the preceding year for the acreage seeded for the production of wheat during the ten calendar years immediately preceding the calendar year in which the national acreage allotment is determined as the basis for determining the county's allotment.

Subsec. (c)(3), (4). Pub. L. 89-321, §501(5), added pars. (3) and (4).

Subsec. (d). Pub. L. 89-321, §501(6), repealed subsec. (d) dealing with farms on which the entire amount of the farm marketing excess has been delivered to the Secretary or stored in accordance with applicable provisions.

Subsec. (g). Pub. L. 89-321, §501(7), struck out "except as prescribed in the provisos to the first sentence of subsections (a) and (b) respectively of this section" after "county acreage allotments."

1964—Subsec. (a). Pub. L. 88-297, §202(1), provided (1) for the apportionment among the States of the national acreage allotment for wheat less the special acreage reserve; (2) that in establishing State acreage allotments, the acreage seeded for the production of wheat plus the acreage diverted for 1965 for any farm shall be the base acreage of wheat determined for the farm under regulations for determining farm wheat acreage allotments for 1965; and (3) beginning with the 1965 crop, a special acreage reserve and uses of such reserve and apportionment to counties of such reserve.

Subsec. (b). Pub. L. 88-297, §202(2), provided that in establishing county acreage allotments, the acreage seeded for the production of wheat plus the acreage diverted for 1965 for any farm shall be the base acreage of wheat determined for the farm under regulations for determining farm wheat acreage allotments for 1965.

Subsec. (c)(1). Pub. L. 88-297, §202(3), inserted in third sentence, cls. (i) and (ii), "or 1965" after "1958" wherever appearing and in third sentence, cl. (iii), "except 1965" after "any subsequent year."

Subsec. (g). Pub. L. 88-297, §202(4), inserted in first sentence "except 1965" after "in 1958 or thereafter".

Subsec. (k). Pub. L. 88-297, §202(5), added subsec. (k).  
1963—Subsec. (h). There is no subsec. (h) for 1964 and Subsequent Wheat Crops. Pub. L. 87-703, §313(2), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (h). Pub. L. 88-64, §1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j).

Subsec. (i). Pub. L. 88-64, §1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j). Pub. L. 87-703, §313(4), added subsec. (i) (effective with the 1964 Wheat Crop). See 1962 Amendment note hereunder.

Subsec. (j). Pub. L. 88-64 redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j), inserted "privately owned" before "farms" in first and second sentences and increased from eight to twelve thousand acres the total acreage allotment for each crop.

1962—Subsec. (e). Pub. L. 87-703, §§308(a), 313(1), inserted provision respecting participation in the special wheat program formulated under section 307 of the

Food and Agriculture Act of 1962 and substituted "the 1962 and 1963 crops" for "any of the 1962, 1963, and 1964 crops", respectively.

Subsec. (g). Pub. L. 87-703, §313(2), redesignated former subsec. (h) as (g). Former subsec. (g), which related to weather conditions, underplanting, and subnormal production affecting acreage allotments, was repealed by such section 313(2). See section 1377 of this title.

Subsec. (h). Pub. L. 87-703, §313 (2), (3), redesignated former subsec. (i) as (h) and inserted the sentence "The land-use provisions of section 1339 of this title shall not be applicable to any farm receiving an additional allotment under this subsection." Former subsec. (h) redesignated (g). See Effective Date of 1962 Amendment note below making the changes effective with the 1964 Wheat Crop. Pub. L. 88-64, §1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j). There is no subsec. (h) for 1964 and Subsequent Wheat Crops. See 1963 Amendment note above.

Subsec. (i). Pub. L. 87-703, §313(4), added subsec. (i). Former subsec. (i) redesignated (h).

1961—Subsec. (c). Pub. L. 87-128, §121, designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 87-128, §125, authorized the Secretary to increase durum wheat acreage allotment during 1962, 1963, and 1964 crops of wheat when he determines that acreage allotments established for durum wheat farms will be inadequate to produce a sufficient quantity of durum wheat to meet demand therefor, not including export demand involving a subsidy by or loss to the Federal Government, by such percentage factor as is determined to be necessary to provide for the increase in quantity the increase not to exceed the cropland on the farm well suited to wheat and to be conditioned upon the production of an acreage of durum wheat (class II) at least equal to the average acreage of such wheat produced during prescribed two-year period plus the number of acres by which the allotment is increased, provided that any farm receiving an increased durum wheat allotment shall not be required as a condition of price support, or permitted, to participate in the special 1962 wheat diversion program, and required the Secretary to become familiar with the views and recommendations of durum wheat grower and millers and manufacturers of semolina products prior to making any determinations. Former provisions of the subsection related to increase in allotment for durum wheat farms for 1957 crop of wheat, conditioned upon the production of durum wheat (class II) on the increased acreage and determined by adding to the allotment established without regard to subsec. (e) an acreage equal to the acreage by which the original allotment exceeded the 1957 acreage on the farm of classes of wheat other than durum wheat (class II), but not exceeding the smaller of the cropland on the farm well suited to wheat or the wheat acreage on the farm.

Subsec. (i). Pub. L. 87-357 substituted "1958 through 1963" for "1958 through 1961", and excluded from any general reduction in farm acreage allotments or farm acreage diversion program for the 1962 or 1963 wheat crop, the farms for which acreage allotments are increased under the provisions hereof, unless such reduction is specifically made applicable.

1960—Subsec. (d). Pub. L. 86-419 added subsec. (d).

Subsec. (i). Pub. L. 86-385 substituted "1958 through 1961" for "1958 and 1959".

1958—Subsec. (a). Pub. L. 85-366, §1(1), inserted proviso that in establishing State acreage allotments acreage seeded plus acreage diverted for 1959 and subsequent years for farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty shall be base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, farm's seeded plus diverted acreage for year excess was produced shall be reduced to acreage allotment for such year.

Subsec. (b). Pub. L. 85-366, §1(2), inserted proviso that in establishing county acreage allotments acreage

seeded plus acreage diverted for 1959 and subsequent years for farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty shall be base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, farm's seeded plus diverted acreage for year excess was produced shall be reduced to acreage for such year.

Subsec. (c). Pub. L. 85-366, §1(3), inserted sentence relating to establishment of farm acreage allotment for 1958 and past acreage for 1959 and subsequent years, with the proviso that for 1959 and subsequent years, any farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty, the past acreage for the year of delivery or storage shall be the base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, past acreage of wheat for year excess was produced shall be reduced to farm allotment for such year.

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

Subsec. (h). Pub. L. 85-366, §1(4), substituted "future State and county acreage allotments except as prescribed in the provisos to the first sentence of subsections (a) and (b), respectively, of this section" for "future State, county, and farm acreage allotments".

Subsec. (i). Pub. L. 85-390 added subsec. (i).

1957—Subsec. (e). Pub. L. 85-13 substituted "1957" for "1956" in two places, substituted "1952 through 1956" for "1951 through 1955", prohibited increase of acreage allotment under subsec. (e) by more than 60 acres, inserted clause providing for fixing "farm acreage allotment" as allotment established without regard to subsec. (e) and clause providing for counting each acre planted to durum wheat as one-half acre of wheat for application of section 1821(a)(1) of this title, and inserted provision that "wheat acreage on the farm" includes acreage in the wheat acreage report.

Subsec. (h). Pub. L. 85-203 added subsec. (h).

1956—Subsec. (e). Act Mar. 16, 1956, extended increased durum allotment to the 1956 crop and to certain counties in California, shortened the production history from 10 to 5 years and advanced it 1 year to include 1955, and made increased durum allotment dependent upon reduced planting of other wheat.

Subsec. (f). Act May 28, 1956, substituted "1955, 1956, or 1957" for "1955", in two places.

Subsec. (g). Act Aug. 7, 1956, added subsec. (g).

1955—Subsec. (e). Act Feb. 19, 1955, removed for 1955, requirements restricting increased acreage allotments to producers who devote a normal share of their original allotment to durum and who have produced durum in 1 or more of the preceding 3 years.

1954—Subsec. (e). Act Jan. 30, 1954, added subsec. (e).

Subsec. (f). Act Aug. 28, 1954, added subsec. (f).

1953—Subsec. (a). Act July 14, 1953, provided a reserve of up to 1 percent of the national acreage allotment for counties in which new areas have come into production.

Subsec. (b). Act July 14, 1953, provided for a 3 percent reserve of State acreage allotments for new farms.

Subsec. (c). Act July 14, 1953, recognized the use of past acreage as a factor in making farm allotments and placed the reserves for new farms on a State basis instead of a county basis.

Subsec. (d). Act July 14, 1953, made the provision relating to farms acquired for national-defense purposes apply to farms acquired in 1950 or thereafter instead of 1940 or thereafter.

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

1938—Subsec. (b). Act Apr. 7, 1938, struck out "net" before "acreage diverted" from parenthetical provision.

#### EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Pub. L. 99-198, title III, §304, Dec. 23, 1985, 99 Stat. 1379, provided that the amendment made by that sec-

tion is effective only for the 1987 through 1990 crops of wheat.

#### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-321 effective beginning with crop planted for harvest in calendar year 1966, see section 501 of Pub. L. 89-321, set out as a note under section 1332 of this title.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 313 of Pub. L. 87-703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

#### EFFECTIVE DATE OF 1956 AMENDMENT

Act Aug. 7, 1956, ch. 1030, §2, 70 Stat. 1117, provided that the amendment made by that act is effective beginning with the 1957 crop of wheat.

#### EFFECTIVE DATE OF 1955 AMENDMENT

Act Feb. 19, 1955, ch. 8, 69 Stat. 9, provided that the amendment made by that act is effective beginning with the 1955 crop of wheat.

#### EFFECTIVE DATE OF 1953 AMENDMENT

Act July 14, 1953, ch. 194, §5, 67 Stat. 152, provided that: "Sections 1, 2, and 3 of this Act [amending this section and section 1340 of this title and repealing section 1339 of this title] shall become effective with respect to the 1954 and subsequent crops of wheat."

#### SAVINGS PROVISION

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

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101-624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99-198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97-98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95-113, set out as a note under section 1331 of this title.

Pub. L. 91-524, title IV, §404(2), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, §1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1972 through 1977 crops of wheat.

#### FARM ACREAGE ALLOTMENTS FOR 1966 CROP OF WHEAT

Pub. L. 89-321, title V, §512, Nov. 3, 1965, 79 Stat. 1205, required the national, State, county, and farm acreage allotments for the 1966 crop of wheat to be established in accordance with the provisions of law in effect prior to Nov. 3, 1965.

#### 1963 DIVERTED WHEAT ACREAGE PROGRAM

Pub. L. 87-703, title III, §307, Sept. 27, 1962, 76 Stat. 615, provided that payments were authorized to be made in cash or wheat by the Commodity Credit Cor-

poration to producers on any farm, except farms with new farm wheat allotments, if marketing quotas were in effect for the 1963 wheat crop, if they diverted certain acreage from wheat production, and if they devoted such acreage to conservation uses; that such acreage was to be in addition to acreage diverted to conservation uses for which payment was made under other federal programs although cost-sharing payments under the agricultural conservation program or the Great Plains program were not precluded; that advance payments up to fifty per cent could be made; that wheat stored to avoid a marketing quota penalty was not to be released for underplanting based on such diverted acreage; that the Secretary could promulgate regulations; and that the Commodity Credit Corporation could use its capital funds and assets to make payments.

APPLICABILITY OF 1963 DIVERTED WHEAT ACREAGE PROGRAM TO INCREASED ALLOTMENT FARMS

Pub. L. 87-703, title III, §308(b), Sept. 27, 1962, 76 Stat. 618, provided that the special wheat program formulated under section 307 of Pub. L. 87-703 [set out above] was not applicable to any farm receiving an additional acreage allotment for wheat in short supply under section 334(i) of the Agricultural Adjustment Act of 1938, as amended [subsec. (i) of this section].

1962 DIVERTED WHEAT ACREAGE PROGRAM

Pub. L. 87-128, title I, §124, Aug. 8, 1961, 75 Stat. 297, as amended by Pub. L. 87-410, Mar. 3, 1962, 76 Stat. 19; Pub. L. 87-451, §§1-3, May 15, 1962, 76 Stat. 70, provided that producers on any farm, except farms with a new farm wheat allotment, were entitled to payments if marketing quotas were in effect for the 1962 wheat crop, if they diverted certain acreage from wheat production, and if such diverted acreage were devoted to conservation uses; that the payments were to be made by the Commodity Credit Corporation in cash or wheat and computed as therein provided; that additional acreage could be diverted and payments made with respect thereto; that any diverted acreage was to be in addition to acreage diverted for conservation uses for which payment is made under any other federal program except that cost-sharing payments under the agricultural conservation program or the Great Plains program were not precluded; that advance payments up to 50 per cent could be made; that wheat stored to avoid a marketing quota penalty was not to be released for underplanting based on such diverted acreage; that the Secretary could promulgate regulations; and that the Commodity Credit Corporation could use its capital funds and assets to make payments.

ACREAGE ALLOTMENT FOR 1954 CROP

Act July 14, 1953, ch. 194, §4(a), 67 Stat. 152, provided that the National acreage allotment for the 1954 crop of wheat shall not be less than sixty-two million acres.

ACREAGE ALLOTMENT FOR 1950 CROP

Act Aug. 29, 1949, ch. 518, §5, 63 Stat. 677, provided that the farm acreage allotment of wheat for 1950 crop for any farm was not to be less than the larger of—

(A) 50 per centum of—

(1) the acreage on the farm seeded for the production of wheat in 1949, and

(2) any other acreage seeded for the production of wheat in 1948 which was fallowed and from which no crop was harvested in the calendar year 1949, or

(B) 50 per centum of—

(1) the acreage on the farm seeded for the production of wheat in 1948, and

(2) any other acreage seeded for the production of wheat in 1947 which was fallowed and from which no crop was harvested in the calendar year 1948,

adjusted in the same ratio as the national average seedings for the production of wheat during the ten calendar years 1939-1948 (adjusted as provided by this chapter) bore to the national acreage allotment for

wheat for the 1950 crop: *Provided*, That no acreage was to be included under (A) or (B) which the Secretary, by appropriate regulations, determined would become an undue erosion hazard under continued farming. To the extent that the allotment to any county was insufficient to provide for such minimum farm allotments, the Secretary was to allot such county such additional acreage (which was to be in addition to the county, State, and national acreage allotments otherwise provided for under the Agricultural Adjustment Act of 1938, as amended [this chapter]) as was necessary in order to provide for such minimum farm allotments.

EMERGENCY FARM ACREAGE ALLOTMENT

Act Feb. 28, 1945, ch. 15, 59 Stat. 9, provided for farm acreage allotment during national emergency proclaimed by the President on Sept. 8, 1939, and May 27, 1941. Such emergencies terminated on July 25, 1947, by the provisions of Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451.

§ 1334a. Omitted

CODIFICATION

Section, act Aug. 28, 1954, ch. 1041, title III, §314, 68 Stat. 905, related to 1955 wheat acreage allotment in areas where a summer fallow crop rotation of wheat was a common practice.

§ 1334a-1. Summer fallow farms; upper limit on required set aside acreage for 1971 through 1977 wheat, feed grain, and cotton crops

Notwithstanding any other provision of law, for the 1971 through 1977 crops of wheat, feed grains and cotton, if in any year at least 55 per centum of the cropland acreage on an established summer fallow farm is devoted to a summer fallow use, no further acreage shall be required to be set aside under the wheat, feed grain and cotton programs for such year.

(Pub. L. 91-524, title IV, §410, Nov. 30, 1970, 84 Stat. 1367; Pub. L. 93-86, §1(17), Aug. 10, 1973, 87 Stat. 230.)

CODIFICATION

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

AMENDMENTS

1973—Pub. L. 93-86 substituted “1971 through 1977” for “1971, 1972, and 1973”.

§ 1334b. Designation of States outside commercial wheat-producing areas

If the acreage allotment for any State for any crop of wheat is twenty-five thousand acres or less, the Secretary, in order to promote efficient administration of this chapter and the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], may designate such State as outside the commercial wheat-producing area for the marketing year for such crop. If such State is so designated, acreage allotments for such crop and marketing quotas for the marketing year therefor shall not be applicable to any farm in such State. Acreage allotments in any State shall not be increased by reason of such designation.

(Feb. 16, 1938, ch. 30, title III, §334a, as added Pub. L. 87-703, title III, §314, Sept. 27, 1962, 76 Stat. 620.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended,

which is classified principally to chapter 35A (§1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

#### EFFECTIVE DATE

Section effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as an Effective Date of 1962 Amendment note under section 1301 of this title.

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101-624, set out as a note under section 1331 of this title.

### § 1335. Small-farm exemption; small-farm base acreage; election; acreage allotment; land-use provisions; price support; wheat marketing certificates

Notwithstanding any other provision of this subpart, no farm marketing quota for any crop of wheat shall be applicable to any farm with a farm acreage allotment of less than fifteen acres if the acreage of such crop of wheat does not exceed the small-farm base acreage determined for the farm, unless the operator elects in writing on a form and within the time prescribed by the Secretary to be subject to the farm acreage allotment and marketing quota. The small-farm base acreage for a farm shall be the smaller of (A) the average acreage of the crop of wheat planted for harvest in the three years 1959, 1960, and 1961, or such later three-year period, excluding 1963, determined by the Secretary to be representative, with adjustments for abnormal weather conditions, established crop-rotation practices on the farm, and such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable small-farm base acreage, or (B) fifteen acres. The acreage allotment for any farm shall be the larger of (1) the small-farm base acreage determined as provided above on the basis of the three-year period 1959-1961, reduced by the same percentage by which the national acreage allotment for the crop is reduced below fifty-five million acres, or (2) the acreage allotment determined without regard to (1) above. If the operator of any such farm fails to make such election with respect to any crop of wheat, (i) for the purposes of section 1340 of this title, the farm acreage allotment for such crop of wheat shall be deemed to be the larger of (A) the small-farm base acreage or (B) the acreage allotment for the farm, (ii) the land-use provisions of section 1339 of this title shall be inapplicable to the farm, (iii) such crop of wheat shall not be eligible for price support, and (iv) wheat marketing certificates applicable to such crop shall not be issued with respect to the farm. The additional acreage required to provide acreage allotments for farms based upon small-farm base acreages

under this section shall be in addition to National, State, and county acreage allotments. This section shall not be applicable to the crops planted for harvest in 1967 and subsequent years.

(Feb. 16, 1938, ch. 30, title III, §335, 52 Stat. 54; July 26, 1939, ch. 379, 53 Stat. 1126; June 6, 1940, ch. 237, 54 Stat. 232; July 3, 1948, ch. 827, title II, §§204(a), 62 Stat. 1256; Aug. 28, 1954, ch. 1041, title III, §309, 68 Stat. 903; Pub. L. 85-203, §1, Aug. 28, 1957, 71 Stat. 477; Pub. L. 87-128, title I, §122(e), Aug. 8, 1961, 75 Stat. 297; Pub. L. 87-703, title III, §315, Sept. 27, 1962, 76 Stat. 621; Pub. L. 89-321, title V, §501(8), Nov. 3, 1965, 79 Stat. 1201; Pub. L. 99-198, title III, §305, Dec. 23, 1985, 99 Stat. 1380.)

#### AMENDMENTS

1985—Pub. L. 99-198 amended section generally, temporarily substituting provisions relating to marketing penalties for provisions for small-farm exemptions from marketing quotas. See Effective and Termination Dates of 1985 Amendment note below.

1965—Pub. L. 89-321 made section inapplicable to crops planted for harvest in 1967 and subsequent years.

1962—Pub. L. 87-703 substituted provisions for small-farm exemption from marketing quotas for provisions of subsecs. (a), (b), (c), (e), and (f), respecting the establishment of marketing quotas, the amount of national and farm marketing quotas, designation of States outside commercial wheat-producing areas (now covered by section 1334b of this title), and feed wheat exemption permitting any producer to harvest up to 30 acres of wheat without penalty if the entire crop is used on the farm where produced.

1961—Subsec. (d). Pub. L. 87-128 repealed subsec. (d) which provided that no farm marketing quota with respect to wheat shall be applicable in any marketing year to any farm on which the normal production of the acreage planted to wheat of the current crop is less than 200 bushels.

1957—Subsec. (f). Pub. L. 85-203 added subsec. (f).

1954—Subsec. (a). Act Aug. 28, 1954, §309(a), substituted "May 15" for "July 1".

Subsec. (e). Act Aug. 28, 1954, §309(b), added subsec. (e).

1948—Subsec. (a). Act July 3, 1948, changed conditions which must be determined by the Secretary to exist before marketing quotas can be imposed.

1940—Subsec. (d). Act June 6, 1940, substituted "two hundred" for "one hundred".

#### EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Pub. L. 99-198, title III, §305, Dec. 23, 1985, 99 Stat. 1380, provided that the amendment made by Pub. L. 99-198 is effective only for the 1987 through 1990 crops of wheat.

#### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-321 effective beginning with the crop planted for harvest in calendar year 1966, see section 501 of Pub. L. 89-321, set out as a note under section 1332 of this title.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

#### EFFECTIVE DATE OF 1961 AMENDMENT

Pub. L. 87-128, title I, §122(e), Aug. 8, 1961, 75 Stat. 297, provided that the amendment made by Pub. L. 87-128 is effective with the 1962 crop of wheat.

## EFFECTIVE DATE OF 1948 AMENDMENT

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

## INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101-624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99-198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97-98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95-113, set out as a note under section 1331 of this title.

Pub. L. 91-524, title IV, §404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, §1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

**§ 1336. Referendum**

If a national marketing quota for wheat for one, two, or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 1335 of this title to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum, and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period. Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1986, may be conducted not later than thirty-one days after December 20, 1985.

(Feb. 16, 1938, ch. 30, title III, §336, 52 Stat. 55; July 3, 1948, ch. 827, title II, §204(b), 62 Stat. 1256; Pub. L. 87-104, July 25, 1961, 75 Stat. 220; Pub. L. 87-128, title I, §122(f), Aug. 8, 1961, 75 Stat. 297; Pub. L. 87-540, July 19, 1962, 76 Stat. 170; Pub. L.

87-703, title III, §316, Sept. 27, 1962, 76 Stat. 621; Pub. L. 88-297, title II, §202(6), Apr. 11, 1964, 78 Stat. 179; Pub. L. 89-82, July 24, 1965, 79 Stat. 258; Pub. L. 91-348, July 23, 1970, 84 Stat. 448; Pub. L. 91-455, Oct. 15, 1970, 84 Stat. 969; Pub. L. 93-68, July 10, 1973, 87 Stat. 161; Pub. L. 95-48, June 17, 1977, 91 Stat. 229; Pub. L. 97-24, §1, July 23, 1981, 95 Stat. 143; Pub. L. 97-62, Oct. 14, 1981, 95 Stat. 1010; Pub. L. 97-67, §2, Oct. 20, 1981, 95 Stat. 1039; Pub. L. 97-77, §2(b), Nov. 13, 1981, 95 Stat. 1069; Pub. L. 99-63, July 11, 1985, 99 Stat. 119; Pub. L. 99-198, title III, §306, Dec. 23, 1985, 99 Stat. 1382.)

## CODIFICATION

"December 20, 1985" substituted in text for "adjournment sine die of the first session of the Ninety-ninth Congress".

## AMENDMENTS

1985—Pub. L. 99-198, temporarily amended section generally. Prior to amendment, section read as follows: "If a national marketing quota for wheat for one, two, or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 1335 of this title to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum, and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period. Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress." See Effective and Termination Dates of 1985 Amendment note below.

Pub. L. 99-63 substituted "year beginning June 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress" for "year beginning June 1, 1982, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-seventh Congress, or (2) January 1, 1982".

1981—Pub. L. 97-77 substituted "January 1, 1982" for "November 15, 1981" in sentence covering the date of the referendum for the national marketing quota for wheat for the marketing year beginning June 1, 1982.

Pub. L. 97-62 and Pub. L. 97-67 made identical amendments providing for substitution of "November 15, 1981" for "October 15, 1981" in sentence covering the date of the referendum for the national marketing quota for wheat for the marketing year beginning June 1, 1982.

Pub. L. 97-24 substituted "June 1, 1982" for "June 1, 1978", "Ninety-seventh Congress" for "Ninety-fifth Congress", and "October 15, 1981" for "October 15, 1977".

1977—Pub. L. 95-48 substituted provisions extending the date for the conduct of the referendum with respect

to the national marketing for wheat for the marketing year beginning June 1, 1978, by allowing the referendum to be conducted not later than thirty days after the adjournment sine die of the first session of the Ninety-fifth Congress or Oct. 15, 1977, whichever is earlier, for provisions which had set the time limits for the referendums with respect to the national marketing quotas for wheat for the marketing years beginning July 1, 1966, July 1, 1971, and July 1, 1974, respectively.

1973—Pub. L. 93-68 extended time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1974 crop of wheat, if marketing quotas are to be in effect for that crop, to the earlier of thirty days after adjournment of the first session of the Ninety-third Congress or Oct. 15, 1973.

1970—Pub. L. 91-455 inserted provision extending until 30 days after adjournment sine die of the second session of the 91st Congress the time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1971 crop of wheat, if marketing quotas are to be in effect for that crop.

Pub. L. 91-348 extended the time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1971 crop of wheat, if marketing quotas are to be in effect for that crop, to the earlier of thirty days after adjournment sine die of the second session of the ninety-first Congress or October 15, 1970.

1965—Pub. L. 89-82 extended until 30 days after adjournment sine die of the first session of the 89th Congress the time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1966 crop of wheat, if marketing quotas are to be in effect for that crop.

1964—Pub. L. 88-297 substituted “not later than August 1 of the calendar year in which such national marketing quota is proclaimed” for “not later than sixty days after such proclamation is published in the Federal Register”.

1962—Pub. L. 87-703 substituted provisions for a referendum to be held not later than sixty days after publication in the Federal Register of national marketing quota proclamation to determine if the farmers favor or oppose the quota for the year or years for which proclaimed, making producers on farms having farm acreage allotments eligible to vote except farmers with small farm base acreage for which the operator did not elect to be subject to the program, directing results of referendum to be proclaimed within 30 days after date of referendum for provisions for referendum between date of proclamation of national marketing quota and July 25, making farmers, who produced more than 15 acres of wheat eligible to vote, excluding farmers who obtained the feed wheat exemption for the immediately preceding crop, permitting such referendum for marketing year beginning July 1, 1962, to be held not later than Aug. 26, 1961, and excluding farmers from voting in the 1961 referendum who had not produced in excess of 13.5 acres of wheat in at least one of the years 1959, 1960, or 1961 and permitting such referendum for marketing year beginning July 1, 1963, to be held not later than Aug. 31, 1962.

Pub. L. 87-540 inserted provisions for conducting wheat marketing quota referendum for marketing year beginning July 1, 1963, not later than August 31, 1962.

1961—Pub. L. 87-128 prohibited farmers who have not produced in excess of 13.5 acres of wheat in at least one of the years 1959, 1960, or 1961 from voting in the referendum conducted with respect to the national marketing quota for the marketing year beginning July 1, 1962.

Pub. L. 87-104 inserted provisions for conducting wheat marketing quota referendum for marketing year beginning July 1, 1962, not later than August 26, 1961.

1948—Act July 3, 1948, substituted “July 25” for “June 10”.

#### EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Pub. L. 99-198, title III, §306, Dec. 23, 1985, 99 Stat. 1382, provided that the amendment made by Pub. L.

99-198 is effective only for the 1987 through 1990 crops of wheat.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

#### EFFECTIVE DATE OF 1948 AMENDMENT

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

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101-624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99-198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97-98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95-113, set out as a note under section 1331 of this title.

Pub. L. 91-524, title IV, §404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, §1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

#### DATE OF REFERENDUM FOR 1954 CROP

Act July 14, 1953, ch. 194, §4(b), 67 Stat. 152, provided that the referendum with respect to 1954 crop of wheat could be held as late as Aug. 15, 1953.

#### § 1337. Repealed. Pub. L. 87-703, title III, § 317, Sept. 27, 1962, 76 Stat. 622

Section, act Feb. 16, 1938, ch. 30, title III, §337, 52 Stat. 55, related to adjustment and suspension of quotas.

#### EFFECTIVE DATE OF REPEAL

Repeal effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

#### § 1338. Transfer of quotas

Farm marketing quotas for wheat shall not be transferable, but, in accordance with regulations prescribed by the Secretary for such purpose, any farm marketing quota in excess of the supply of wheat for such farm for any marketing year may be allocated to other farms on which the acreage allotment has not been exceeded.

(Feb. 16, 1938, ch. 30, title III, §338, 52 Stat. 55; Pub. L. 99-198, title III, §307, Dec. 23, 1985, 99 Stat. 1382.)

#### AMENDMENTS

1985—Pub. L. 99-198 amended section generally, temporarily substituting provisions for voluntary surren-

der of any part of a farm marketing quota by the producer and reallocation by the Secretary to other farms having farm marketing quotas for provisions authorizing allocation of excess quotas to other farms on which the acreage allotment had not been exceeded. See Effective and Termination Dates of 1985 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1985  
AMENDMENT

Pub. L. 99-198, title III, §307, Dec. 23, 1985, 99 Stat. 1382, provided that the amendment made by Pub. L. 99-198 is effective only for the 1987 through 1990 crops of wheat.

INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101-624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99-198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97-98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95-113, set out as a note under section 1331 of this title.

Pub. L. 91-524, title IV, §404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, §1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

§ 1339. Land use

**(a) Penalties: computation, lien, joint and several liability and interest; exceptions: nonsurplus supply crops, substantial impairment, and nonproduction of wheat; diverted acreage: amount, annual identity, and grazing; crops available for marketing**

(1) During any year in which marketing quotas for wheat are in effect, the producers on any farm (except a new farm receiving an allotment from the reserve for new farms) on which any crop is produced on acreage required to be diverted from the production of wheat shall be subject to a penalty on such crop, in addition to any marketing quota penalty applicable to such crops, as provided in this subsection unless (1) the crop is designated by the Secretary as one which is not in surplus supply and will not be in surplus supply if it is permitted to be grown on the diverted acreage, or as one the production of which will not substantially impair the purpose of the requirements of this section, or (2) no wheat is produced on the farm, and the producers have not filed an agreement or a statement of intention to participate in the payment program formulated pursuant to subsection (b) of this section. The acreage required to be diverted from the production of wheat on the farm shall be an acreage of cropland equal to the number of acres determined by multiplying the farm acreage allotment by the diversion factor determined by dividing the number of acres by which the national acreage allotment (less an acreage

equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title) is reduced below fifty-five million acres by the number of acres in the national acreage allotment (less an acreage equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title). The actual production of any crop subject to penalty under this subsection shall be regarded as available for marketing and the penalty on such crop shall be computed on the actual acreage of such crop at the rate of 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which such crop is harvested, multiplied by the normal yield of wheat per acre established for the farm. Until the producers on any farm pay the penalty on such crop, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty. Each producer having an interest in the crop or crops on acreage diverted or required to be diverted from the production of wheat shall be jointly and severally liable for the entire amount of the penalty. The persons liable for the payment or collection of the penalty under this section shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(2) The Secretary may require that the acreage on any farm diverted from the production of wheat be land which was diverted from the production of wheat in the previous year, to the extent he determines that such requirement is necessary to effectuate the purposes of this part.

(3) The Secretary may permit the diverted acreage to be grazed in accordance with regulations prescribed by the Secretary.

**(b) Payment program for 1964 through 1970 crops; terms and conditions; amount; additional diverted acreage; conservation and soil-conserving uses; adjustment; knowledge of exceeding acreage allotment; acreage allotment not exceeded by delivery to Secretary of farm marketing excess or storage in accordance with regulations to avoid or postpone payment of penalty or by farms exempt from marketing quota; new farms ineligible for payments; sharing and medium of payments**

The Secretary is authorized to formulate and carry out a program with respect to the crops of wheat planted for harvest in the calendar years 1964 through 1970 under which, subject to such terms and conditions as he determines are desirable to effectuate the purposes of this section, payments may be made in amounts not in excess of 50 per centum of the estimated basic county support rate for wheat not accompanied by marketing certificates on the normal production of the acreage diverted taking into account the income objectives of the chapter, determined by the Secretary to be fair and reasonable with respect to acreage diverted pursuant to subsection (a) of this section. Any producer who complies with his 1964 farm acreage allotment for wheat and with the other requirements of the program shall be eligible to receive payments under the

program for the 1964 crop of wheat. The Secretary may permit producers on any farm to divert from the production of wheat an acreage, in addition to the acreage diverted pursuant to subsection (a) of this section, equal to 50 per centum of the farm acreage allotment for wheat: *Provided*, That the producers on any farm may, at their election, divert such acreage in addition to the acreage diverted pursuant to subsection (a) of this section, as will bring the total acreage diverted on the farm to twenty-five acres. Such program shall require (1) that the diverted acreage shall be devoted to conservation uses approved by the Secretary; (2) that the total acreage of cropland on the farm devoted to soil-conserving uses, including summer fallow and idle land but excluding the acreage diverted as provided above, shall be not less than the total average acreage of cropland devoted to soil-conserving uses including summer fallow and idle land on the farm during a representative period, as determined by the Secretary, adjusted to the extent the Secretary determines appropriate for (i) abnormal weather conditions or other factors affecting production, (ii) established crop-rotation practices on the farm, (iii) participation in other Federal farm programs, (iv) unusually high percentage of land on the farm devoted to conserving uses, and (v) other factors which the Secretary determines should be considered for the purpose of establishing a fair and equitable soil-conserving acreage for the farm; and (3) that the producer shall not knowingly exceed (i) any farm acreage allotment in effect for any commodity produced on the farm, and (ii) except as the Secretary may by regulations prescribe, with the farm acreage allotments on any other farm for any crop in which the producer has a share: *Provided*, That no producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty: *And provided further*, That no producer shall be deemed to have exceeded a farm acreage allotment for any crop of wheat if the farm is exempt from the farm marketing quota for such crop under section 1335 of this title. The producers on a new farm shall not be eligible for payments hereunder. The Secretary shall provide for the sharing of payment among producers on the farm on a fair and equitable basis. Payments may be made in cash or in wheat.

**(c) Adjustment of payments**

The Secretary may provide for adjusting any payment on account of failure to comply with the terms and conditions of the land-use program formulated under subsection (b) of this section.

**(d) Advance payments**

Not to exceed 50 per centum of any payment to producers under subsection (b) of this section may be made in advance of determination of performance.

**(e) Diverted acreage used for production of certain crops; rate of payment; limitation on rate**

The Secretary may permit all or any part of the diverted acreage to be devoted to the pro-

duction of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, and flaxseed, if he determines that such production of the commodity is needed to provide an adequate supply, is not likely to increase the cost of the price-support program and will not adversely affect farm income, subject to the condition that payment with respect to diverted acreage devoted to any such crop shall be at a rate determined by the Secretary to be fair and reasonable taking into consideration the use of such acreage for the production of such crops: *Provided*, That in no event shall the payment exceed one-half the rate which otherwise would be applicable if such acreage were devoted to conservation uses.

**(f) Additional terms and conditions**

The program formulated pursuant to subsection (b) of this section may include such terms and conditions, including provision for the control of erosion, in addition to those specifically provided for herein, as the Secretary determines are desirable to effectuate the purposes of this section.

**(g) Regulations**

The Secretary is authorized to promulgate such regulations as may be desirable to carry out the provisions of this section.

**(h) Commodity Credit Corporation funds and authorization of appropriations for payments and administrative expenses**

The Commodity Credit Corporation is authorized to utilize its capital funds and other assets for the purpose of making the payments authorized in this section and to pay administrative expenses necessary in carrying out this section during the period ending June 30, 1965. There is authorized to be appropriated such amounts as may be necessary thereafter to pay such administrative expenses.

(Feb. 16, 1938, ch. 30, title III, § 339, as added Pub. L. 87-703, title III, § 318, Sept. 27, 1962, 76 Stat. 622; amended Pub. L. 88-297, title II, § 202(7)-(9), Apr. 11, 1964, 78 Stat. 179; Pub. L. 89-321, title V, §§ 501(9), (10), 507, Nov. 3, 1965, 79 Stat. 1201, 1204; Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996.)

PRIOR PROVISIONS

A prior section 1339, act Feb. 16, 1938, ch. 30, title III, § 339, 52 Stat. 55, related to penalties for marketing wheat in excess of quotas, prior to repeal by act July 14, 1953, ch. 194, §§ 2, 5, 67 Stat. 151, 152, effective with respect to the 1954 and subsequent crops of wheat. See section 1340(2) of this title.

AMENDMENTS

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

1965—Subsec. (a)(1). Pub. L. 89-321, § 507, inserted “(less an acreage equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title)” after “national acreage allotment” wherever appearing.

Subsec. (b). Pub. L. 89-321, § 501(9), substituted “crops of wheat planted for harvest in the calendar years 1964 through 1969” for “1964 and 1965 crops of wheat”, “50 per centum of the farm acreage allotment” for “20 per centum of the farm acreage allotment”, and “twenty-five acres” for “fifteen acres”.

Subsec. (e). Pub. L. 89-321, § 501(10), authorized Secretary to permit all or part of diverted acreage to be devoted to mustardseed, crambe, and plantago ovato in

addition to previously authorized guar, sesame, safflower, sunflower, castor beans, and flax, if he determines that such production of the commodity is needed, is not likely to increase cost of price-support program, and will not adversely affect farm income, and removed from proviso the prohibition against making available price supports for production of such crops on diverted acreage.

1964—Subsec. (a)(1). Pub. L. 88-297, §202(7), temporarily suspended land-use penalties and made the diversion of land from the production of wheat only a condition of eligibility for receiving wheat marketing certificates. See Effective and Termination Dates of 1964 Amendment note below.

Subsec. (b). Pub. L. 88-297, §202(8), inserted in first sentence “for wheat not accompanied by marketing certificates” after “basic county support rate” and inserted after first sentence “Any producer who complies with his 1964 farm acreage allotment for wheat and with the other requirements of the program shall be eligible to receive payments under the program for the 1964 crop of wheat.”

Subsec. (h). Pub. L. 88-297, §202(9), substituted “June 30, 1965” for “June 30, 1963”.

#### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 501 of Pub. L. 89-321 effective beginning with crop planted for harvest in calendar year 1966, see section 501 of Pub. L. 89-321, set out as a note under section 1332 of this title.

Pub. L. 89-321, title V, §507, Nov. 3, 1965, 79 Stat. 1204, provided that the amendment made by that section is effective beginning with the crop planted for harvest in calendar year 1967.

#### EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Pub. L. 88-297, title II, §202(7), Apr. 11, 1964, 78 Stat. 179, as amended by Pub. L. 89-321, title V, §505(1), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90-559, §1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by section 202(7) of Pub. L. 88-297 is effective only with respect to the crops planted for harvest in calendar years 1964 through 1970.

#### EFFECTIVE DATE

Section effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as an Effective Date of 1962 Amendment note under section 1301 of this title.

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101-624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 through 1990 crops of wheat, see section 310(b) of Pub. L. 99-198, set out as a note under section 1331 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97-98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95-113, set out as a note under section 1331 of this title.

Pub. L. 91-524, title IV, §404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, §1(11), Aug. 10, 1973,

87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

#### WHEAT DIVERSION PROGRAMS; CREDITS IN ESTABLISHMENT OF STATE, COUNTY AND FARM ACREAGE ALLOTMENTS FOR WHEAT

Credits to State, county and farm of acreage diverted from production of wheat as though actually devoted to such production, see section 1339b of this title.

#### § 1339a. Repealed. Pub. L. 107-171, title I, § 1613(j)(1), May 13, 2002, 116 Stat. 221

Section, Pub. L. 87-703, title III, §326, Sept. 27, 1962, 76 Stat. 631; Pub. L. 88-26, §4, May 20, 1963, 77 Stat. 47; Pub. L. 89-321, title III, §303, Nov. 3, 1965, 79 Stat. 1192; Pub. L. 101-624, title XI, §1132(c), Nov. 28, 1990, 104 Stat. 3515; Pub. L. 102-237, title I, §118(d), Dec. 13, 1991, 105 Stat. 1842, related to good faith reliance.

#### § 1339b. Wheat diversion programs; credits in establishment of State, county and farm acreage allotments for wheat

In the establishment of State, county, and farm acreage allotments for wheat under this chapter, the acreage which is determined under regulations of the Secretary to have been diverted from the production of wheat under the special programs formulated pursuant to section 307 of this Act, section 1339 of this title, and section 124 of the Agricultural Act of 1961, shall be credited to the State, county, and farm as though such acreage had actually been devoted to the production of wheat.

(Pub. L. 87-703, title III, §327, Sept. 27, 1962, 76 Stat. 631.)

#### REFERENCES IN TEXT

Section 307 of this Act (the Food and Agriculture Act of 1962) and section 124 of the Agricultural Act of 1961, referred to in text, are set out as notes under section 1334 of this title.

#### CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

#### § 1339c. Feed grains diversion programs for 1964 and subsequent years; feed grain acreage considered wheat acreage and wheat acreage considered feed grain acreage

Effective with the 1964 crop, during any year in which an acreage diversion program is in effect for feed grains, the Secretary shall, notwithstanding any other provision of law, permit producers of feed grains to have acreage devoted to the production of feed grains considered as devoted to the production of wheat and producers of wheat to have acreage devoted to the production of wheat considered as devoted to the production of feed grains to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program for feed grains or wheat. In establishing terms and conditions for permitting wheat to be planted in lieu of oats and rye, the Secretary may take into account the number of feed units per acre of wheat in relation to the number of feed units per acre of oats and rye.

(Pub. L. 87-703, title III, §328, Sept. 27, 1962, 76 Stat. 631; Pub. L. 89-321, title V, §514, Nov. 3, 1965, 79 Stat. 1206.)

## AMENDMENTS

1965—Pub. L. 89-321 authorized the Secretary, in establishing terms and conditions for permitting wheat to be planted in lieu of oats and rye, to take into account the number of feed units per acre of wheat in relation to the number of feed units per acre of oats and rye.

## CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

**§ 1339d. Hay production on set-aside or diverted acreage; storage; emergency use; loans**

(a) Notwithstanding any other provision of law, the Secretary shall permit any producer who is participating in the wheat program under title IV of this Act, in the feed grain program under title V of this Act, or in the cotton program under title VI of this Act, in any year in which an acreage diversion or set-aside program is in effect, under any such program in which such producer is participating, subject to the conditions prescribed in subsection (b) of this section, to plant and harvest hay from 25 per centum of the acreage on the farm diverted from production under such programs or twenty-five acres, whichever is greater.

(b) Any producer who elects to plant and harvest hay on diverted or set aside acreage pursuant to this section shall first agree not to use any such hay harvested from such acreage unless authorized to do so by the Secretary.

(c) When any diverted or set aside acreage has been planted and harvested under authority of this section, the hay harvested therefrom shall be baled and stored in sealed storage on the farm in accordance with such regulations as the Secretary may prescribe and shall be available only for use during periods of emergency declared by the Secretary. In order to avoid deterioration of such hay stored on the farm for emergency purposes pursuant to this section, the Secretary may permit such hay to be removed and used or sold from time to time so long as an amount of hay equal to the amount removed is previously placed in storage and sealed.

(d) Any farmer who has hay stored on his farm for emergency purposes pursuant to this section may remove such hay from storage and use it whenever the Secretary has (1) designated as an emergency area the area in which such farm is located, and (2) specifically authorized the use of emergency hay by farmers in the area.

(e) The Secretary of Agriculture is authorized to make or guarantee loans to farmers, both tenants and landowners, to assist such farmers in the construction of storage facilities on the farm for the storage of emergency hay pursuant to the provisions of this section if such farmers are unable to obtain loans from commercial sources at reasonable rates and on reasonable terms and conditions. Loans made by the Secretary under this subsection shall be made at the current rate of interest for periods not exceeding ten years, and on such other terms and conditions as the Secretary may prescribe.

(Pub. L. 91-524, title VIII, § 805, Nov. 30, 1970, 84 Stat. 1382.)

## REFERENCES IN TEXT

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

## CODIFICATION

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

**§ 1340. Supplemental provisions relating to wheat marketing quotas; marketing penalty for rice; crop loans on cotton, wheat, rice, tobacco, and peanuts**

Notwithstanding the other provisions of this chapter—

(1) The farm marketing quota for any crop of wheat shall be the actual production of the acreage planted to such crop of wheat on the farm less the farm marketing excess. The farm marketing excess shall be an amount equal to twice the projected farm yield multiplied by the number of acres of such crop of wheat on the farm in excess of the farm acreage allotment for such crop unless the producer, in accordance with regulations issued by the Secretary and within the time prescribed therein, establishes to the satisfaction of the Secretary the actual production of such crop of wheat on the farm. If such actual production is so established, the farm marketing excess shall be an amount equal to the actual production of the number of acres of wheat on the farm in excess of the farm acreage allotment for such crop. In determining the farm marketing quota and farm marketing excess, any acreage of wheat remaining after the date prescribed by the Secretary for the disposal of excess acres of wheat shall be included as acreage of wheat on the farm, and the production thereof shall be appraised in such manner as the Secretary determines will provide a reasonably accurate estimate of such production. Any acreage of wheat disposed of in accordance with regulations issued by the Secretary prior to such date as may be prescribed by the Secretary shall be excluded in determining the farm marketing quota and farm marketing excess. Self-seeded (volunteer) wheat shall be included in determining the acreage of wheat. Marketing quotas for any marketing year shall be in effect with respect to wheat harvested in the calendar year in which such marketing year begins notwithstanding that the wheat is mar-

keted prior to the beginning of such marketing year.

(2) Whenever farm marketing quotas are in effect with respect to any crop of wheat, the producers on a farm shall be subject to a penalty on the farm marketing excess of wheat at a rate per bushel equal to 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which the crop is harvested. Each producer having an interest in the crop of wheat on any farm for which a farm marketing excess of wheat is determined shall be jointly and severally liable for the entire amount of the penalty on the farm marketing excess.

(3) The farm marketing excess for wheat shall be regarded as available for marketing, and the penalty and the storage amount or amounts to be delivered to the Secretary of the commodity shall be computed upon twice the normal production of the excess acreage. Where, upon the application of the producer for an adjustment of penalty or of storage, it is shown to the satisfaction of the Secretary that the actual production of the excess acreage is less than twice the normal production thereof, the difference between the amount of the penalty or storage as computed upon the basis of twice the normal production and as computed upon the basis of actual production shall be returned to or allowed the producer. The Secretary shall issue regulations under which the farm marketing excess of the commodity for the farm may be stored or delivered to him. Upon failure to store or deliver to the Secretary the farm marketing excess within such time as may be determined under regulations prescribed by the Secretary, the penalty computed as aforesaid shall be paid by the producer. Any wheat delivered to the Secretary hereunder shall become the property of the United States and shall be disposed of by the Secretary for relief purposes in the United States or in foreign countries or in such other manner as he shall determine will divert it from the normal channels of trade and commerce.

(4) Until the producers on any farm store, deliver to the Secretary, or pay the penalty on, the farm marketing excess of any crop of wheat, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty.

(5) The penalty upon wheat stored shall be paid by the producer at the time, and to the extent, of any depletion in the amount of the commodity so stored, except depletion resulting from some cause beyond the control of the producer.

(6) Whenever the planted acreage of the then current crop of wheat on any farm is less than the farm acreage allotment for such commodity, the total amount of the commodity from any previous crops required to be stored in order to postpone or avoid payment of penalty shall be reduced by that amount which is equal to the normal production of the number of acres by which the farm acreage allotment

exceeds the planted acreage. The provisions of section 1326(b) and (c) of this title shall be applicable also to wheat.

(7) Until the farm marketing excess of wheat is stored or delivered to the Secretary or the penalty thereon is paid, each bushel of the commodity produced on the farm which is sold by the producer to any person within the United States shall be subject to the penalty as specified in paragraph (2) of this section. Such penalty shall be paid by the buyer, who may deduct an amount equivalent to the penalty from the price paid to the producer. If the buyer fails to collect such penalty, such buyer and all persons entitled to share in the wheat marketed from the farm or the proceeds thereof shall be jointly and severally liable for such penalty.

(8) The marketing penalty for rice produced in the calendar year in which any marketing year begins (if beginning with or after the 1941-1942 marketing year) shall be at a rate equal to 50 per centum of the basic rate of the loan for cooperators for such marketing year under section 1302 of this title and this section.

(9) Omitted.

(10) The provisions of this section are amendatory of and supplementary to this chapter, and all provisions of law applicable in respect of marketing quotas and loans under such chapter as so amended and supplemented shall be applicable, but nothing in this section shall be construed to amend or repeal sections 1301(b)(6), 1323(b), or 1335(d) of this title.

(11) The persons liable for the payment or collection of the penalty on any amount of wheat shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(12) If marketing quotas for wheat are not in effect for any marketing year, all previous marketing quotas applicable to wheat shall be terminated, effective as of the first day of such marketing year. Such termination shall not abate any penalty previously incurred by a producer or relieve any buyer of the duty to remit penalties previously collected by him.

(May 26, 1941, ch. 133, 55 Stat. 203; Dec. 26, 1941, ch. 626, § 2, 55 Stat. 860; Dec. 26, 1941, ch. 636, 55 Stat. 872; Aug. 29, 1949, ch. 518, § 3(b), 63 Stat. 676; July 14, 1953, ch. 194, § 3, 67 Stat. 151; Aug. 28, 1954, ch. 1041, title III, § 313, 68 Stat. 905; Pub. L. 87-128, title I, § 122(d), Aug. 8, 1961, 75 Stat. 297; Pub. L. 87-703, title III, §§ 309, 319, Sept. 27, 1962, 76 Stat. 618, 624; Pub. L. 87-801, Oct. 11, 1962, 76 Stat. 909; Pub. L. 89-321, title V, § 511(b), Nov. 3, 1965, 79 Stat. 1205.)

#### REFERENCES IN TEXT

Section 1302 of this title, referred to in par. (8), was repealed by act Oct. 31, 1949, ch. 792, title IV, § 414, 63 Stat. 1057.

Section 1323(b) of this title, referred to in par. (10), was repealed by act Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902, and had provided that no farm marketing quota with respect to any crop of corn shall be applicable to any farm on which the normal production of the acreage planted to corn is less than 300 bushels.

Section 1335(d) of this title, referred to in par. (10), was repealed by Pub. L. 87-129, title I, § 122(e), Aug. 8,

1961, 75 Stat. 297, and had provided that no farm marketing quota with respect to wheat shall be applicable in any marketing year to any farm on which the normal production of the acreage planted to wheat of the current crop is less than 200 bushels.

#### CODIFICATION

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

Par. (9), which directed the Commodity Credit Corporation to make loans upon the 1941 to 1946 cotton, wheat, rice, tobacco, and peanut crops for which producers did not disapprove marketing quotas at the rate of 85% of parity to cooperators and, to noncooperators, at the rate of 60% of the rate specified for cooperators and limited to that amount of the commodity as would be subject to penalty if marketed by the noncooperators, was omitted from the Code.

#### AMENDMENTS

1965—Par. (1). Pub. L. 89-321 substituted “projected farm yield” for “normal yield of wheat per acre established for the farm”.

1962—Par. (1). Pub. L. 87-703, § 319(1), substituted requirement that computation of the farm marketing excess initially be double the farm normal yield of wheat times the excess acres, such excess acres being reduced to the actual yield times the excess acres, upon proof by the producer of the actual yield, for provision that the farm marketing excess could not be more than the actual production of wheat on the farm less the normal production of the farm acreage allotment and provided that the acreage of wheat not disposed of by the prescribed date would be considered wheat acreage, with the wheat production thereon appraised for the purposes of determining the farm marketing quota and farm marketing excess, that wheat acreage disposed of prior to the disposal date would not be considered acreage and that the acreage of volunteer wheat not disposed of would be considered wheat acreage.

Par. (2). Pub. L. 87-703, § 319(2), increased from 45 to 65 per centum the rate of penalty on farm marketing excess and provided for joint and several liability for such penalty.

Par. (3). Pub. L. 87-703, § 319(3), required computation of the farm marketing excess initially upon twice the normal yield and eliminated reference to corn. Act Aug. 28, 1954, had made the section in applicable to corn.

Par. (4). Pub. L. 87-703, § 319(4), inserted “and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest” after “produced on the farm” and struck out reference to corn. Act Aug. 28, 1954, had made the section inapplicable to corn.

Pars. (5), (6). Pub. L. 87-703, § 319(5), (6), struck out reference to corn. Act Aug. 28, 1954, had made section inapplicable to corn.

Par. (7). Pub. L. 87-703, § 319(7), (8), redesignated par. (8) as (7), and inserted provision for joint and several liability for penalty and struck out reference to corn, respectively. Act Aug. 28, 1954, had made section inapplicable to corn. Provisions of former par. (7), which provided a 15-acre exemption but provided for a farm marketing quota on 1962 crop of wheat to any farm on which the acreage of wheat exceeded the smaller of (1) 13.5 acres, or (2) of the highest number of acres actually planted to, wheat on the farm for harvest in any of the calendar years 1959, 1960, or 1961 and provisions of former par. (7), added by Pub. L. 87-703, § 309, which provided for a farm marketing quota on 1963 crop of wheat to any farm on which the acreage of wheat exceeded the smaller of (1) 15 acres, or (2) the highest number of acres actually planted to wheat on the farm for harvest in any of the calendar years 1959, 1960, or 1961, or 1963 (provided by Pub. L. 87-801), were repealed by such section 319(7) and are covered by section 1335 of this title.

Pars. (8) to (10). Pub. L. 87-703, § 319(7), redesignated pars. (9) to (11) as (8) to (10). Former par. (8) redesignated (7).

Par. (11). Pub. L. 87-703, § 319(9), added par. (11). Former par. (11) redesignated (10).

Par. (12). Pub. L. 87-703, § 319(9), added par. (12). Former par. (12), which limited farm marketing excess for any crop of wheat and provided for return to producer of difference between amount of penalty or storage as computed upon farm marketing excess before adjustment and as computed upon adjusted farm marketing excess, where a downward adjustment in amount of farm marketing excess was made, was repealed by such section 319(9).

1961—Par. (7). Pub. L. 87-128 authorized Secretary to prescribe regulations relating to the exemption of farms from marketing quotas on any crop of wheat, specified the exemption for the 1962 crop and eliminated marketing penalty provisions relating to non-allotment farms under the Soil Conservation and Domestic Allotment Act.

1954—Act Aug. 28, 1954, amended section generally to make it inapplicable to corn.

1953—Act July 14, 1953, omitted penalty for marketing corn in excess of quotas and changed penalty for marketing wheat in excess of quotas from 50 per centum of basic loan rate on commodity for cooperators to 45 per centum of parity price.

1949—Par. (9). Act Aug. 29, 1949, struck out “cotton and” after “penalty for”.

1941—Par. (10). Act Dec. 26, 1941, ch. 626, substituted “1941, 1942, 1943, 1944, 1945 and 1946 crops of the commodities cotton, corn, wheat, rice, tobacco and peanuts” for “1941 crop of the commodities cotton, corn, wheat, rice, or tobacco” and “for the marketing year beginning in the calendar year in which such crop is harvested” for “marketing year beginning in 1941.”

Par. (12). Act Dec. 26, 1941, ch. 636, added par. (12).

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 319 of Pub. L. 87-703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

#### EFFECTIVE DATE OF 1953 AMENDMENT

Amendment by act July 14, 1953, effective with respect to 1954 and subsequent crops of wheat, see section 5 of act July 14, 1953, set out as a note under section 1334 of this title.

#### TRANSFER OF FUNCTIONS

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

#### EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

#### INAPPLICABILITY OF SECTION

Section inapplicable to crops of wheat planted for harvest in calendar years 2002 through 2007, see section 7992(c) of this title.

Section inapplicable to crops of wheat planted for harvest in calendar years 1996 through 2002, see section 7301(c) of this title.

Pub. L. 101-624, title III, § 304, Nov. 28, 1990, 104 Stat. 3400, provided that: “The joint resolution entitled ‘A

joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended', approved May 26, 1941 (7 U.S.C. 1330 and 1340) shall not be applicable to the crops of wheat planted for harvest in the calendar years 1991 through 1995."

Pub. L. 99-198, title III, §311, Dec. 23, 1985, 99 Stat. 1395, provided that: "The joint resolution entitled 'A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended', approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1986 through 1990."

Pub. L. 97-98, title III, §304, Dec. 22, 1981, 95 Stat. 1227, provided that: "Public Law 74, Seventy-seventh Congress (55 Stat. 203, as amended) [this section] shall not be applicable to the crops of wheat planted for harvest in the calendar years 1982 through 1985."

Pub. L. 95-113, title IV, §406, Sept. 29, 1977, 91 Stat. 927, provided that: "Public Law 74, Seventy-seventh Congress (55 Stat. 203, as amended) [this section] shall not be applicable to the crops of wheat planted for harvest in the calendar years 1978 through 1981."

Pub. L. 91-524, title IV, §406, Nov. 30, 1970, 84 Stat. 1367, as amended by Pub. L. 93-86, §1(13), Aug. 10, 1973, 87 Stat. 229, provided that: "Public Law 74, Seventy-seventh Congress (68 Stat. 905) [this section], shall not be applicable to the crops of wheat planted for harvest in the calendar years 1971 through 1977."

#### SUBPART IV—MARKETING QUOTAS—COTTON

### § 1341. Legislative findings

American cotton is a basic source of clothing and industrial products used by every person in the United States and by substantial numbers of people in foreign countries. American cotton is sold on a world-wide market and moves from the places of production almost entirely in interstate and foreign commerce to processing establishments located throughout the world at places outside the State where the cotton is produced.

Fluctuations in supplies of cotton and the marketing of excessive supplies of cotton in interstate and foreign commerce disrupt the orderly marketing of cotton in such commerce with consequent injury to and destruction of such commerce. Excessive supplies of cotton directly and materially affect the volume of cotton moving in interstate and foreign commerce and cause disparity in prices of cotton and industrial products moving in interstate and foreign commerce with consequent diminution of the volume of such commerce in industrial products.

The conditions affecting the production and marketing of cotton are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of excessive supplies of cotton and fluctuations in supplies, cannot prevent indiscriminate dumping of excessive supplies on the Nation-wide and foreign markets, cannot maintain normal carry-overs of cotton, and cannot provide for the orderly marketing of cotton in interstate and foreign commerce.

It is in the interest of the general welfare that interstate and foreign commerce in cotton be protected from the burdens caused by the marketing of excessive supplies of cotton in such commerce, that a supply of cotton be maintained which is adequate to meet domestic con-

sumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of excessive supplies of cotton.

The provisions of this subpart affording a cooperative plan to cotton producers are necessary and appropriate to prevent the burdens on interstate and foreign commerce caused by the marketing in such commerce of excessive supplies, and to promote, foster, and maintain an orderly flow of an adequate supply of cotton in such commerce.

(Feb. 16, 1938, ch. 30, title III, §341, 52 Stat. 55.)

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

#### 1947 MARKETING QUOTAS AND ACREAGE ALLOTMENTS

Joint Res. July 24, 1946, ch. 616, 60 Stat. 662, suspended marketing quotas and acreage allotments for 1947 in view of the critical shortage of fats and oils and protein feeds.

### § 1342. National marketing quota; proclamation; amount; date of proclamation

Whenever during any calendar year the Secretary determines that the total supply of cotton for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year, the Secretary shall proclaim such fact and a national marketing quota shall be in effect for the crop of cotton produced in the next calendar year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the number of bales of cotton (standard bales of five hundred pounds gross weight) adequate, together with (1) the estimated carry-over at the beginning of the marketing year which begins in the next calendar year and (2) the estimated imports during such marketing year, to make available a normal supply of cotton: *Provided*, That beginning with the 1961 crop, the national marketing quota shall be not less than a number of bales equal to the estimated domestic consumption and estimated exports (less estimated imports) for the marketing year for which the quota is proclaimed, except that the Secretary shall make such adjustment in the amount of such quota as he determines necessary after taking into consideration the estimated stocks of cotton in the United States (including the qualities of such stocks) and stocks in foreign countries which would be available for the marketing year for which the quota is being proclaimed if no adjustment of such quota is made hereunder, to assure the maintenance of adequate but not excessive stocks in the United States to provide a continuous and stable supply of the different qualities of cotton needed in the United States and in foreign cotton consuming countries, and for purposes of national security; but the Secretary, in making such adjustments, may not reduce the national marketing quota

for any year below (i) one million bales less than the estimated domestic consumption and estimated exports for the marketing year for which such quota is being proclaimed, or (ii) ten million bales, whichever is larger. Such proclamation shall be made not later than October 15 of the calendar year in which such determination is made. Notwithstanding the foregoing provisions of this section, the national marketing quota for cotton for 1957 and 1958 shall be not less than the number of bales required to provide a national acreage allotment for 1957 and 1958 equal to the national acreage allotment for 1956: *Provided*, That if the acreage allotment for any State for 1957 or 1958 is less than its allotment for the preceding year by more than 1 per centum, such State allotment shall be increased so that the reduction shall not exceed 1 per centum per annum, and the acreage required for such increase shall be in addition to the national acreage allotment for such year. Additional acreage apportioned to a State for 1957 or 1958 under the foregoing proviso shall not be taken into account in establishing future State allotments. Notwithstanding any other provision of this chapter, the national marketing quota for upland cotton for 1959 and subsequent years shall be not less than the number of bales required to provide a national acreage allotment for each such year of sixteen million acres.

(Feb. 16, 1938, ch. 30, title III, §342, 52 Stat. 56; Aug. 29, 1949, ch. 518, §1, 63 Stat. 670; May 28, 1956, ch. 327, title III, §302, 70 Stat. 203; Pub. L. 85-835, title I, §103(1), (2), Aug. 28, 1958, 72 Stat. 989, 990.)

#### AMENDMENTS

1958—Pub. L. 85-835, §103(1), substituted proviso prescribing, beginning with the 1961 crop, a minimum national marketing quota for cotton equal to estimated domestic consumption and exports less imports subject to adjustment assuring maintenance of adequate but not excessive stocks, the adjustment not to reduce the national marketing quota for any year below the larger of (1) estimated domestic consumption and exports less one million bales or (2) ten million bales, for provisions prescribing for a national marketing quota not less than the smaller of ten million bales or one million bales less than estimated domestic consumption plus exports and providing for 1950 a national marketing quota based on a twenty-one million national acreage allotment.

Pub. L. 85-835, §103(2), provided for a national marketing quota for upland cotton for 1959 and subsequent years based on a sixteen million national acreage allotment.

1956—Act May 28, 1956, provided that national marketing quota for cotton for 1957 and 1958 shall be not less than the number of bales required to provide a national acreage allotment for 1957 and 1958 equal to national acreage allotment for 1956.

1949—Act Aug. 29, 1949, amended section generally to set up a national marketing quota and to provide for amount and proclamation of such quota.

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Pub. L. 101-624, title V, §502, Nov. 28, 1990, 104 Stat. 3440, provided that: "Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342-1346 and 1377) shall not be applicable to any of the 1991 through 1995 crops of upland cotton."

Pub. L. 99-198, title V, §502, Dec. 23, 1985, 99 Stat. 1418, provided that: "Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342-1346 and 1377) [7 U.S.C. 1342, 1343, 1344, 1345, 1346, and 1377] shall not be applicable to any of the 1986 through 1990 crops of upland cotton."

Pub. L. 98-88, §3, Aug. 26, 1983, 97 Stat. 494, provided that: "Sections 342, 343, 344, 344a, 345, 346, and 377 of the Agricultural Adjustment Act of 1938, as amended [sections 1342, 1343, 1344, 1344b, 1345, 1346, and 1377 of this title], shall not be applicable to the 1984 and subsequent crops of extra long staple cotton."

Pub. L. 97-98, title V, §501, Dec. 22, 1981, 95 Stat. 1234, provided that: "Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 [sections 1342, 1343, 1344, 1345, 1346, and 1377 of this title] shall not be applicable to upland cotton of the 1982 through 1985 crops."

Pub. L. 95-113, title VI, §601, Sept. 29, 1977, 91 Stat. 933, provided that: "Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938, as amended [sections 1342, 1343, 1344, 1345, 1346, and 1377 of this title], shall not be applicable to upland cotton of the 1978 through 1981 crops."

Pub. L. 91-524, title VI, §601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, §1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section shall not be applicable to upland cotton of 1971 through 1977 crops.

#### PRELIMINARY ALLOTMENTS FOR 1996 CROP OF UPLAND COTTON

Pub. L. 101-624, title V, §505, Nov. 28, 1990, 104 Stat. 3440, provided that: "Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 1996 crop."

#### PRELIMINARY ALLOTMENTS FOR 1991 CROP OF UPLAND COTTON

Pub. L. 99-198, title V, §506, Dec. 23, 1985, 99 Stat. 1418, provided that: "Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 1991 crop."

#### PRELIMINARY ALLOTMENTS FOR 1986 CROP OF UPLAND COTTON

Pub. L. 97-98, title V, §506, Dec. 22, 1981, 95 Stat. 1241, provided that: "Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938, as amended [section 1379 of this title], shall again become effective as preliminary allotments for the 1986 crop."

#### PRELIMINARY ALLOTMENTS FOR 1982 CROP OF UPLAND COTTON

Pub. L. 95-113, title VI, §606, Sept. 29, 1977, 91 Stat. 940, provided that: "Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938, as amended [section 1379 of this title], shall again become effective as preliminary allotments for the 1982 crop."

**§ 1342a. National cotton production goal**

The Secretary shall, not later than November 15, of the calendar years 1970 through 1976 proclaim a national cotton production goal for the 1971 and subsequent crops of upland cotton. The national cotton production goal for any year shall be the number of bales of upland cotton (standard bales of four hundred and eighty pounds net weight) equal to the estimated domestic consumption and estimated exports for the marketing year beginning in the calendar year for which such national cotton production goal is proclaimed, plus an allowance of not less than 5 per centum of such estimated consumption and estimated exports for market expansion except that the Secretary shall make such adjustments in the amount of such production goal as he determines necessary after taking into consideration the estimated stocks of upland cotton in the United States (including the qualities of such stocks) and stocks in foreign countries, which would be available for the marketing year, to assure the maintenance of adequate but not excessive carryover stocks in the United States (not less than 50 per centum of the average offtake for the three preceding marketing years) to provide a continuous and stable supply of the different qualities of upland cotton needed in the United States and in foreign cotton consuming countries and, in addition, to provide an adequate reserve for purposes of national security.

(Feb. 16, 1938, ch. 30, title III, §342a, as added Pub. L. 91-524, title VI, §601(2), Nov. 30, 1970, 84 Stat. 1371; amended Pub. L. 93-86, §1(19)(B), Aug. 10, 1973, 87 Stat. 233.)

**AMENDMENTS**

1973—Pub. L. 93-86 substituted “1970 through 1976” for “1970, 1971, and 1972”.

**EFFECTIVE DATE**

Pub. L. 91-524, title VI, §601, Nov. 30, 1970, 84 Stat. 1371, provided that this section is effective beginning with the 1971 crop of upland cotton.

**INAPPLICABILITY OF SECTION**

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

**§ 1343. Referendum**

Not later than December 15 following the issuance of the marketing quota proclamation provided for in section 1342 of this title, the Secretary shall conduct a referendum, by secret ballot, of farmers engaged in the production of cotton in the calendar year in which the referendum is held, to determine whether such farmers are in favor of or opposed to the quota so proclaimed. If more than one-third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become ineffective upon proclamation of the results of the referendum. The Secretary shall proclaim the results of any referendum held hereunder within

thirty days after the date of such referendum. Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for cotton for the marketing year beginning August 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.

(Feb. 16, 1938, ch. 30, title III, §343, 52 Stat. 56; Apr. 7, 1938, ch. 107, §8, 52 Stat. 203; July 26, 1939, ch. 376, 53 Stat. 1125; July 3, 1948, ch. 827, title II, §207(c), 62 Stat. 1257; Aug. 29, 1949, ch. 518, §1, 63 Stat. 670; Oct. 31, 1949, ch. 792, title IV, §415(e), 63 Stat. 1058; Pub. L. 97-77, §2(c), Nov. 13, 1981, 95 Stat. 1069; Pub. L. 99-157, §4, Nov. 15, 1985, 99 Stat. 818.)

**CODIFICATION**

Provision that if marketing quotas were proclaimed for the 1950 crop, farmers eligible to vote in the referendum with respect to such crop were to be those farmers who had produced cotton in the 1948 calendar year was omitted from the Code.

**AMENDMENTS**

1985—Pub. L. 99-157 amended last sentence generally, substituting “August 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress” for “August 1, 1982, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-seventh Congress, or (2) January 1, 1982”.

1981—Pub. L. 97-77 inserted provision that the referendum with respect to the national marketing quota for cotton for the marketing year beginning Aug. 1, 1982, be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-seventh Congress, or (2) Jan. 1, 1982.

1949—Act Aug. 29, 1949, amended section generally by providing for a secret referendum. Former provisions of this section are now covered by section 1342 of this title.

Subsec. (a). Act Oct. 31, 1949, repealed amendatory provisions of act July 3, 1948.

1948—Subsec. (a). Act July 3, 1948, required Secretary to take imports into consideration in determining acreage allotments for purposes of marketing quotas.

1939—Subsec. (b). Act July 26, 1939, inserted last sentence.

1938—Subsec. (c). Act Apr. 7, 1938, substituted “for any year” for “for 1938 and 1939”.

**EFFECTIVE DATE OF 1948 AMENDMENT**

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

**INAPPLICABILITY OF SECTION**

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98-88, set out as a note under section 1342 of this title.

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101-624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99-198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97-98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95-113, set out as a note under section 1342 of this title.

Pub. L. 91-524, title VI, §601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, §1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

### **§ 1344. Apportionment of national acreage allotments**

#### **(a) Basis**

Whenever a national marketing quota is proclaimed under section 1342 of this title, the Secretary shall determine and proclaim a national acreage allotment for the crop of cotton to be produced in the next calendar year. The national acreage allotment for cotton shall be that acreage, based upon the national average yield per acre of cotton for the four years immediately preceding the calendar year in which the national marketing quota is proclaimed, required to make available from such crop an amount of cotton equal to the national marketing quota.

#### **(b) Apportionment among States for year 1953 and subsequent years; adjustment; national acreage reserve**

The national acreage allotment for cotton for 1953 and subsequent years shall be apportioned to the States on the basis of the acreage planted to cotton (including the acreage regarded as having been planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) during the five calendar years immediately preceding the calendar year in which the national marketing quota is proclaimed, with adjustments for abnormal weather conditions during such period: *Provided*, That there is established a national acreage reserve consisting of three hundred and ten thousand acres which shall be in addition to the national acreage allotment; and such reserve shall be apportioned to the States on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, as determined by the Secretary without regard to State and county acreage reserves (except that the amount apportioned to Nevada shall be one thousand acres). For the 1960 and succeeding crops of cotton, the needs of States (other than Nevada) for such additional acreage for such purpose may be estimated by the Secretary, after taking into consideration such needs as determined or estimated for the preceding crop of cotton and the size of the national acreage allotment for such crop. The additional acreage so apportioned to the State shall be apportioned to the counties on the basis of the needs of the counties for such additional acreage for such purpose, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreage). Additional acreage apportioned to a State for any year under the foregoing proviso shall not be taken

into account in establishing future State acreage allotments. Needs for additional acreage under the foregoing provisions and under the last proviso in subsection (e) of this section shall be determined or estimated as though allotments were first computed without regard to subsection (f)(1) of this section.

#### **(c) Apportionment among States for years 1950 and 1951; computation and adjustment**

The national acreage allotments for cotton for the years 1950 and 1951 shall be apportioned to the States on the basis of a national acreage allotment base of twenty-two million five hundred thousand acres, computed and adjusted as follows:

(1) The average of the planted acreages (including acreage regarded as planted under the provisions of Public Law 12, Seventy-ninth Congress) in the States for the years 1945, 1946, 1947, and 1948 shall constitute the national base; except that in the case of any State having a 1948 planted cotton acreage of over one million acres and less than 50 per centum of the 1943 allotment, the average of the acreage planted (or regarded as planted under Public Law 12, Seventy-ninth Congress) for the years 1944, 1945, 1946, 1947, and 1948 shall constitute the base for such State and shall be included in computing the national base; to this is to be added (A) the estimated additional acreage for each State required for small-farm allotments under subsection (f)(1) of this section; (B) the acreage required as a result of the State adjustment provisions of paragraph (2) of this subsection; (C) the additional acreage required to determine a total national allotment base of twenty-two million five hundred thousand acres, which additional acreage shall be distributed on a proportionate basis among States receiving no adjustment under paragraph (2) of this subsection.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the acreage allotment base for 1950 and 1951 for any State (on the basis of a national acreage allotment base of twenty-two million five hundred thousand acres) shall not be less than the larger of (1) 95 per centum of the average acreage actually planted to cotton in the State during the years 1947 and 1948, or (2) 85 per centum of the acreage planted to cotton in the State in 1948.

(3) If the national acreage allotment for 1950 or 1951 is more or less than twenty-two million five hundred thousand acres, horizontal adjustments shall be made percentagewise by States so as to reflect the ratio of the national acreage allotment for 1950 and 1951 to twenty-two million five hundred thousand acres.

#### **(d) Apportionment for year 1952; adjustment**

The national acreage allotment for cotton for 1952 shall be apportioned to States on the basis of the acreage planted to cotton (including the acreage regarded as having been planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) during the years 1946, 1947, 1948, and 1950, with adjustments for abnormal weather conditions during such period.

**(e) Apportionment among counties; reservation of acreage; additional acreage for establishing minimum farm allotments**

The State acreage allotment for cotton shall be apportioned to counties on the same basis as to years and conditions as is applicable to the State under subsections (b), (c), and (d) of this section: *Provided*, That the State committee may reserve not to exceed 10 per centum of its State acreage allotment (15 per centum if the State's 1948 planted acreage was in excess of one million acres and less than half its 1943 allotment) which shall be used to make adjustments in county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardship: *Provided further*, That if the additional acreage allocated to a State under the proviso in subsection (b) of this section is less than the requirements as determined or estimated by the Secretary for establishing minimum farm allotments for the State under subsection (f)(1) of this section, the acreage reserved under this subsection shall not be less than the smaller of (1) the remaining acreage so determined or estimated to be required for establishing minimum farm allotments or (2) 3 per centum of the State acreage allotment; and the acreage which is required to be reserved under this proviso shall be allocated to counties on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreages).

**(f) Apportionment among farms**

The county acreage allotment, less not to exceed the percentage provided for in paragraph 3 of this subsection, shall be apportioned to farms on which cotton has been planted (or regarded as having been planted under the provisions of Public Law 12, Seventy-ninth Congress) in any one of the three years immediately preceding the year for which such allotment is determined on the following basis:

(1) Insofar as such acreage is available, there shall be allotted the smaller of the following: (A) ten acres; or (B) the acreage allotment established for the farm for the 1958 crop.

(2) The remainder shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment to such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county or administrative area) of the acreage, during the preceding year, on the farm which is tilled annually or in regular rotation, excluding from such acreages the acres devoted to the production of sugarcane for sugar; sugar beets for sugar; wheat, tobacco, or rice for market; pea-

nuts picked and threshed; wheat or rice for feeding to livestock for market; or lands determined to be devoted primarily to orchards or vineyards, and nonirrigated lands in irrigated areas: *Provided, however*, That if a farm would be allotted under this paragraph an acreage together with the amount of the allotment to such farm under paragraph (1)(A) of this subsection in excess of the largest acreage planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) to cotton during any of the preceding three years, the acreage allotment for such farm shall not exceed such largest acreage so planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) in any such year.

(3) The county committee may reserve not in excess of 15 per centum of the county allotment (15 per centum if the State's 1948 planted cotton acreage was in excess of one million acres and less than half its 1943 allotment) which, in addition to the acreage made available under the proviso in subsection (e) of this section, shall be used for (A) establishing allotments for farms on which cotton was not planted (or regarded as planted under Public Law 12, Seventy-ninth Congress) during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton, crop-rotation practices, and the soil and other physical facilities affecting the production of cotton; and (B) making adjustments of the farm acreage allotments established under paragraphs (1) and (2) of this subsection so as to establish allotments which are fair and reasonable in relation to the factors set forth in this paragraph and abnormal conditions of production on such farms, or in making adjustments in farm acreage allotments to correct inequities and to prevent hardship: *Provided*, That not less than 20 per centum of the acreage reserved under this subsection shall, to the extent required, be allotted, upon such basis as the Secretary deems fair and reasonable to farms (other than farms to which an allotment has been made under paragraph (1)(B) of this subsection), if any, to which an allotment of not exceeding fifteen acres may be made under other provisions of this subsection.

(4) Any part of the acreage allotted for 1950 to individual farms in any county under the provisions of this section which will not be planted to cotton and which is voluntarily surrendered to the county committee shall be deducted from the allotments to such farms and may be reapportioned by the county committee to other farms in the same county receiving allotments to the extent necessary to provide such farms with the allotments authorized under paragraph (5) of this subsection. If any acreage remains after providing such allotments, it may be apportioned in amounts determined by the county committee to be fair and reasonable to other farms in the same county receiving allotments which the county committee determines are inadequate and not representative in view of their past production of cotton and to new farms in such county. No allotment shall be made, or increased, by rea-

son of this paragraph to an acreage in excess of 40 per centum of the acreage on the farm which is tilled annually or in regular rotation, as determined under regulations prescribed by the Secretary. Any transfer of allotment under this paragraph shall not operate to reduce the allotment for any subsequent year for the farm from which acreage is transferred, except in accordance with paragraph (1)(B) and the proviso in paragraph (2) of this subsection: *Provided*, That any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm and may be reapportioned in the manner set forth above. In any subsequent year, unless hereafter otherwise provided by law, acreage surrendered under this paragraph and reallocated pursuant to applications filed in accordance with the provisions of paragraph (5) of this section shall be credited to the State and county in determining acreage allotments.

(5) Notwithstanding any other provision of law and without reducing any farm acreage allotment determined pursuant to the foregoing provisions of this subsection, each farm acreage allotment for 1950 shall be increased by such amount as may be necessary to provide an allotment equal to the larger of 65 per centum of the average acreage planted to cotton (or regarded as planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) on the farm in 1946, 1947, and 1948, or 45 per centum of the highest acreage planted to cotton (or regarded as planted to cotton under Public Law 12, Seventy-ninth Congress) on the farm in any one of such three years; but no such allotment shall be increased by reason of this provision to an acreage in excess of 40 per centum of the acreage on the farm which is tilled annually or in regular rotation, as determined under regulations prescribed by the Secretary. An increase in any 1950 farm acreage allotment shall be made pursuant to this paragraph only upon application in writing by the owner or operator of the farm within such reasonable period of time (in no event less than fifteen days) as may be prescribed by the Secretary. The additional acreage required to be allotted to farms under this paragraph shall be in addition to the county, State, and national acreage allotments and the production from such acreage shall be in addition to the national marketing quota. The additional acreage authorized by this paragraph shall not be taken into account in establishing future State, county, and farm acreage allotments.

(6) Notwithstanding the provisions of paragraph (2) of the subsection, if the county committee recommends such action and the Secretary determines that such action will result in a more equitable distribution of the county allotment among farms in the county, the remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment of such farm under

paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county) of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined, adjusted as may be necessary for abnormal conditions affecting plantings during such three-year period: *Provided*, That the county committee may in its discretion limit any farm acreage allotment established under the provisions of this paragraph for any year to an acreage not in excess of 50 per centum of the cropland on the farm, as determined pursuant to the provisions of paragraph (2) of this subsection: *Provided further*, That any part of the county acreage allotment not apportioned under this paragraph by reason of the initial application of such 50 per centum limitation shall be added to the county acreage reserve under paragraph (3) of this subsection and shall be available for the purposes specified therein. If the county acreage allotment is apportioned among the farms of the county in accordance with the provisions of this paragraph, the acreage reserved under paragraph (3) of this subsection may be used to make adjustments so as to establish allotments which are fair and reasonable to farms receiving allotments under this paragraph in relation to the factors set forth in paragraph (3) of this subsection.

(7)(A) In the event that any farm acreage allotment is less than that prescribed by paragraph (1) of this subsection, such acreage allotment shall be increased to the acreage prescribed by said paragraph (1). The additional acreage required to be allotted to farms under this paragraph shall be in addition to the county, State, and national acreage allotments and the production from such acreage shall be in addition to the national marketing quota.

(B) Notwithstanding any other provision of law—

(i) the acreage by which any farm acreage allotment for 1959 or any subsequent crop established under paragraph (1) of this subsection exceeds the acreage which would have been allotted to such farm if its allotment had been computed on the basis of the same percentage factor applied to other farms in the county under paragraph (2), (6), or (8) of this subsection shall not be taken into account in establishing the acreage allotment for such farm for any crop for which acreage is allotted to such farm under paragraph (2), (6), or (8) of this subsection; and acreage shall be allotted under paragraph (2), (6), or (8) of this subsection to farms which did not receive 1958 crop allotments in excess of ten acres if and only if the Secretary determines (after considering the allotments to other farms in the county for such crop compared with their 1958 allotments and other relevant factors) that equity and justice require the allotment of additional acreage to such farm under paragraph (2), (6), or (8) of this subsection.

(ii) the acreage by which any county acreage allotment for 1959 or any subsequent

crop is increased from the national or State reserve on the basis of its needs for additional acreage for establishing minimum farm allotments shall not be taken into account in establishing future county acreage allotments, and

(iii) the additional acreage allotted pursuant to subparagraph (A) of this paragraph (7) shall not be taken into account in establishing future State, county, or farm acreage allotments.

(8) Notwithstanding the foregoing provisions of paragraphs (2) and (6) of this subsection, the Secretary shall, if allotments were in effect the preceding year, provide for the county acreage allotment for the 1959 and succeeding crops of cotton, less the acreage reserved under paragraph (3) of this subsection, to be apportioned to farms on which cotton has been planted in any one of the three years immediately preceding the year for which such allotment is determined, on the basis of the farm acreage allotment for the year immediately preceding the year for which such apportionment is made, adjusted as may be necessary (i) for any change in the acreage of cropland available for the production of cotton, or (ii) to meet the requirements of any provision (other than those contained in paragraphs (2) and (6)) with respect to the counting of acreage for history purposes: *Provided*, That, beginning with allotments established for the 1961 crop of cotton, if the acreage actually planted (or regarded as planted under the Soil Bank Act, the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa et seq.], and the release and reapportionment provisions of subsection (m) (2) of this section) to cotton on the farm in the preceding year was less than 75 per centum of the farm allotment for such year or, in the case of a farm which qualified for price support on the crop produced in such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for such year, whichever is smaller, in lieu of using such allotment as the farm base as provided in this paragraph, the base shall be the average of (1) the cotton acreage for the farm for the preceding year as determined for purposes of this proviso and (2) the allotment established for the farm pursuant to the provisions of this subsection for such preceding year; and the 1958 allotment used for establishing the minimum farm allotment under paragraph (1) of this subsection shall be adjusted to the average acreage so determined. The base for a farm shall not be adjusted as provided in this paragraph if the county committee determines that failure to plant at least 75 per centum of the farm allotment was due to conditions beyond the control of producers on the farm. The Secretary shall establish limitations to prevent allocations of allotment to farms not affected by the foregoing proviso, which would be excessive on the basis of the cropland, past cotton acreage, allotments for other commodities, and good soil conservation practices on such farms.

**(g) Law and conditions governing establishment of acreage allotments and yields**

Notwithstanding the foregoing provisions of this section—

(1) State, county, and farm acreage allotments and yields for cotton shall be established in conformity with section 1344a of this title.

(2) In apportioning the county allotment among the farms within the county, the Secretary, through the local committees, shall take into consideration different conditions within separate administrative areas within a county if any exist, including types, kinds, and productivity of the soil so as to prevent discrimination among the administrative areas of the county.

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

**(i) Excess planting; old and new farm allotment**

Notwithstanding any other provision of this chapter, any acreage planted to cotton in excess of the farm acreage allotment shall not be taken into account in establishing State, county, and farm acreage allotments. Notwithstanding any other provision of this chapter, beginning with the 1960 crop the planting of cotton on a farm in any of the immediately preceding three years that allotments were in effect but no allotment was established for such farm for any year of such three-year period shall not make the farm eligible for an allotment as an old farm under subsection (f) of this section: *Provided, however*, That by reason of such planting the farm need not be considered as ineligible for a new farm allotment under subsection (f)(3) of this section.

**(j) Availability of records for inspection**

Notwithstanding any other provision of this chapter, State and county committees shall make available for inspection by owners or operators of farms receiving cotton acreage allotments all records pertaining to cotton acreage allotments and marketing quotas.

**(k) Minimum allotments to States**

Notwithstanding any other provision of this section except subsection (g)(1) of this section, there shall be allotted to each State for which an allotment is made under this section not less than the smaller of (A) four thousand acres or (B) the highest acreage planted to cotton in any one of the three calendar years immediately preceding the year for which the allotment is made.

**(l) Administration of law governing war crops**

Notwithstanding any other provision of law, the Secretary, in administering the provisions of Public Law 12, Seventy-ninth Congress, as it relates to war crops, shall carry out the provisions of such Act in the following manner:

(i) A survey shall be conducted of every farm which had a 1942 cotton acreage allotment, and of such other farms as the Secretary considers necessary in the administration of Public Law 12. This survey shall obtain for each farm the most accurate information possible on (a) the total acreage in cultivation, and (b) the acreage of individual crops planted on each farm in the years 1941, 1945, 1946, and 1947.

(ii) An eligible farm for war-crop credit shall be a farm on which (a) the cotton acreage on the farm in 1945, 1946, or 1947, was reduced below the cotton acreage planted on the farm in 1941; (b) the war-crop acreage on the farm in 1945, 1946, or 1947, was increased above the war-crop acreage on the farm in 1941; and (c) the farm had a cotton acreage allotment in 1942.

(iii) A farm shall be regarded as having planted cotton (in addition to the actual acreage planted to cotton) to the extent of the lesser of (a) the reduction in cotton acreage for each of the years 1945, 1946, and 1947, below the acreage planted to cotton in 1941, or (b) the increase in war crops for each of the years 1945, 1946, and 1947, above that planted to such war crops in 1941. However, the county committee may be given the discretion to adjust such war-crop credit when the county committee determines that the reduction in cotton acreage was not related to an increase in war crops, but the adjustment shall be made only after consultation with the producer.

(iv) The Secretary, using the best information obtainable, and working with and through the State and county committees, shall use whatever means necessary to make an accurate determination of the credits due each individual farm, under Public Law 12.

(v) The total of the war-crop credits due the individual farms in each county shall be credited to the county and the total of the war-crop credits due all of the counties in a State shall be credited to the State.

(vi) The acreage credited to States, counties, and farms for the years 1945, 1946, or 1947, because of war crops, shall be taken into full account in the determination and distribution of cotton acreage allotments on a national, State, county, and farm basis.

**(m) Acreage allotments, 1954; increases; apportionments; limitations; unallotted farm acreage; reapportionment of surrendered acreage; extra long staple cotton; reserve acreage**

Notwithstanding any other provision of law—

(1) The national acreage allotment established under subsection (a) of this section for the 1954 crop of cotton shall be increased to twenty-one million acres and apportioned to the States in the same manner in which the national acreage allotment heretofore established for 1954 was apportioned to the States. In addition to such increased national acreage allotment, and in order to provide equitable adjustments in 1954 farm acreage allotments, (A) three hundred and fifteen thousand additional acres shall be prorated as follows: one-half to the States of Arizona, California, and New Mexico, and one-half to the other States (excluding those which receive a minimum allotment under subsection (k) of this section), the proration of each half being made to the States participating therein on the basis of their respective shares of the increased national acreage allotment, and (B) such additional acreage shall be added as may be required to provide each State a total allotment under subsection (b) of this section and the provisions of this paragraph of not less than 66 per centum of the acreage planted to cotton in

the State in 1952. The additional acreage made available to States under clause (B) of the preceding sentence shall not be taken into account in establishing future State acreage allotments. The additional acreage made available to States under the provisions of this paragraph shall be apportioned to counties on the basis of their respective shares of the State acreage allotment heretofore apportioned pursuant to subsection (e) of this section, and the additional acreage shall be apportioned to farms pursuant to the provisions of subsection (f) of this section: *Provided*, That, if the county committee determines that such action will result in a more equitable distribution of the additional county allotment among farms in the county, the additional acreage shall be apportioned by the county committee to farms so as to provide each farm with an allotment equal to the larger of 65 per centum of the average acreage planted to cotton on the farm in 1951, 1952, and 1953 (as determined by the county committee in establishing allotments under subsection (f) of this section) or 40 per centum of the highest acreage planted to cotton on the farm in any one of such three years as so determined: *Provided*, That the State committee in each State shall limit such increase based on the system of farming, soil, crop-rotation practices, and other physical factors affecting production in such State, to an acreage not in excess of 50 per centum of the cropland on the farm, as determined under regulations heretofore prescribed by the Secretary. If the additional acreage is insufficient to meet the total of the farm increases so computed, such farm increases shall be reduced pro rata to the additional acreage available to the county; if the additional acreage available to the county is in excess of the total of the farm increases so computed the acreage remaining after making such increases shall be allotted to farms pursuant to the provisions of subsection (f)(3) of this section. Notwithstanding the foregoing provisions of this paragraph, if the State committee determines that such action will result in a more equitable distribution of the additional acreage made available to the State under this paragraph it shall apportion such additional allotment directly to farms so as to provide each farm with an allotment equal to the larger of 65 per centum of the average acreage planted to cotton on the farm in 1951, 1952, and 1953 (as determined by the county committee in establishing allotments under subsection (f) of this section) or 40 per centum of the highest acreage planted to cotton on the farm in any one of such three years as so determined: *Provided*, That the State committee in each State shall limit such increase based on the system of farming, soil, crop-rotation practices, and other physical factors affecting production in such State, to an acreage not in excess of 50 per centum of the cropland on the farm, as determined under regulations heretofore prescribed by the Secretary: *Provided*, That if the State total of the farm increases so computed exceeds the additional acreage made available to the State under this paragraph, such farm increases shall be reduced pro rata

to the additional acreage available to the State. Any acreage unallotted to farms because of the limitations contained in the preceding sentence shall be apportioned by the State committee to counties on the basis of past acreages planted to cotton and shall be used by county committees for adjustments in farm allotments on the basis of one or more of the following: The past acreage of cotton on the farm, the percentage of cropland heretofore determined under subsection (f)(2) of this section, and the factors enumerated in subsection (f)(3) of this section. Before apportioning such unallotted acreage to counties as provided in the foregoing sentence, the State committee may, if it determines that such action is required to provide equitable allotments within the State, apportion such unallotted acreage directly to farms to the extent required to provide each farm with the minimum allotment described in subsection (f)(1) of this section. Any part of the county allotment heretofore established for the 1954 crop which was not apportioned to farms because of the limitation contained in the proviso in subsection (f)(2) of this section shall be available to the State committee and used as provided above for apportionment of unallotted acreage to farms. The provisions of this subsection, except paragraph (2) of this subsection, shall not apply to extra long staple cotton covered by section 1347 of this title.

(2) Any part of any farm cotton acreage allotment on which cotton will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of cotton land, labor, equipment available for the production of cotton, crop rotation practices, and soil and other physical facilities affecting the production of cotton. If all of the allotted acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used for the same purposes as the State acreage reserve under subsection (e) of this section. Any allotment released under this provision shall be regarded for the purposes of establishing future allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred, except that this shall not operate to make the farm from which the allotment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period. *Provided*, That notwithstanding any other provisions of law, any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein. Acreage released under this paragraph shall be credited to the State in determining future allotments. The provisions of this paragraph shall apply also to extra long staple cotton covered by section 1347 of this title.

(3) Notwithstanding any other provision of this section or other provision of law, the acreage allotted to any State for 1954 under the provisions of subsection (b) of this section and the provisions of paragraph (1) of this subsection which is less than one hundred thousand acres but more than thirty thousand acres shall be increased by an acreage equal to 15 per centum of the acreage allotted to it prior to January 30, 1954. Such acreage shall be used by the State committee as a reserve to make equitable adjustments in 1954 farm acreage allotments on the basis of land, labor, equipment available for the production of cotton, crop-rotation practices, past acreages of cotton, soil, and other physical factors affecting the production of cotton.

**(n) Transfer of farm cotton acreage allotments in case of natural disasters; eligibility for allotment**

Notwithstanding any other provision of this chapter, if the Secretary determines for any year that because of a natural disaster a portion of the farm cotton acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of the cotton acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this paragraph shall be deemed to be released acreage for purposes of acreage history credits under subsections (f)(8) and (m)(2) of this section, and section 1377 of this title: *Provided*, That, notwithstanding the provisions of subsection (m)(2) of this section, the transfer of any farm allotment under this subsection for any year shall operate to make the farm from which the allotment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period.

(Feb. 16, 1938, ch. 30, title III, §344, 52 Stat. 57; Apr. 7, 1938, ch. 107, §9, 52 Stat. 203; May 31, 1938, ch. 292, §1, 52 Stat. 586; Mar. 13, 1939, ch. 9, 53 Stat. 512; June 22, 1939, ch. 238, §§1-3, 53 Stat. 853; Feb. 6, 1942, ch. 44, §3, 56 Stat. 52; Aug. 29, 1949, ch. 518, §1, 63 Stat. 670; Oct. 31, 1949, ch. 792, title IV, §419, 63 Stat. 1062; Mar. 31, 1950, ch. 81, §1, 64 Stat. 40; Jan. 30, 1954, ch. 2, §§1-3, 68 Stat. 4-6; Aug. 28, 1954, ch. 1041, title III, §310, 68 Stat. 904; May 28, 1956, ch. 327, title III, §303(a)-(d), 70 Stat. 203; Pub. L. 85-456, June 11, 1958, 72 Stat. 186; Pub. L. 85-835, title I, §§103(4), 104(a)-(d), 105-107, Aug. 28, 1958, 72 Stat. 990-992; Feb. 16, 1938, ch. 30, title III, §378(d), as added Pub. L. 85-835, title V, §501, Aug. 28, 1958, 72 Stat. 996; Pub. L. 86-172, §2, Aug. 18, 1959, 73 Stat. 393; Pub. L. 87-37, May 20, 1961, 75 Stat. 84; Pub. L. 87-446, Apr. 27, 1962, 76 Stat. 64; Pub. L. 88-12, Apr. 26, 1963, 77 Stat. 13; Pub. L. 88-297, title I, §106(3), (8), Apr. 11, 1964, 78 Stat. 177; Pub. L. 104-127, title III, §336(b)(2)(A), Apr. 4, 1996, 110 Stat. 1006.)

REFERENCES IN TEXT

Public Law 12, Seventy-ninth Congress, referred to in subsecs. (b), (c), (d), (f), (l), is act Feb. 28, 1945, ch. 15,

59 Stat. 9, which related to Emergency Farm Acreage Allotments. See note below. For complete classification of this Act to the Code, see Tables.

The Soil Bank Act, referred to in subsec. (f)(8), is act May 28, 1956, ch. 327, 70 Stat. 188, as amended, which was classified to subchapters I to III of chapter 45 (§1801 et seq.) of this title and was repealed by Pub. L. 89-321, title VI, §601, Nov. 3, 1965, 79 Stat. 1206. For complete classification of this Act to the Code prior to its repeal, see Tables.

The Food Security Act of 1985, referred to in subsec. (f)(8), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. Chapter 4 of subtitle D of title XII of the Act is classified generally to part IV (§3839aa et seq.) of subchapter IV of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

Section 1347 of this title, referred to in subsec. (m)(1), (2), was repealed by Pub. L. 98-88, §2, Aug. 26, 1983, 97 Stat. 494.

#### AMENDMENTS

1996—Subsec. (f)(8). Pub. L. 104-127 substituted “environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985” for “Great Plains program”.

1964—Subsec. (f)(8). Pub. L. 88-297, §106(3), inserted “or, in the case of a farm which qualified for price support on the crop produced in such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for such year, whichever is smaller” after “75 per centum of the farm allotment for such year” to protect the farm base of any farm participating in the domestic allotment choice program if the acreage planted on the farm was at least 75 per centum of the farm domestic allotment.

Subsec. (n). Pub. L. 88-297, §106(8), extended the transfer provisions to natural disasters occurring in any year instead of only during 1963.

1963—Subsec. (n). Pub. L. 88-12 substituted “portion of the 1963” for “substantial portion of the 1962”, and inserted proviso “that notwithstanding subsection (m)(2) of this section, transfers under this subsection for 1963 makes the farm from which the allotment was transferred eligible for an allotment as having cotton during the three-year period”.

1962—Subsec. (n). Pub. L. 87-466 substituted “1962” for “1961”.

1961—Subsec. (n). Pub. L. 87-37 substituted “1961” for “1958”, and “Any farm allotment transferred under this paragraph shall be deemed to be released acreage for purposes of acreage history credits under subsections (f)(8) and (m)(2) of this section, and section 1377 of this title” for “Acreage history credits for transferred acreage shall be governed by the provisions of subsection (m)(2) of this section pertaining to the release and reapportionment of acreage allotments. No transfer hereunder shall be made to a farm covered by a 1958 acreage reserve contract for cotton.”

1959—Subsec. (f)(8). Pub. L. 86-172, §2(1), inserted proviso for determination of base beginning with allotments established for the 1961 crop of cotton, and inserted provisions prohibiting the adjustment of the base for a farm where the county committee determines that failure to plant at least 75 per centum of the farm allotment was due to conditions beyond control of producers on the farm, and requiring the Secretary to establish limitations to prevent allocations of allotment to farms not affected by proviso.

Subsec. (g)(3). Pub. L. 86-172, §2(2), repealed par. (3) which provided that for any farm on which the acreage planted to cotton in any year was less than the farm acreage allotment for such year by not more than the larger of 10 per centum of the allotment or one acre, an acreage equal to the farm acreage allotment should be deemed to be the acreage planted to cotton on such farm, and the additional acreage added to the cotton acreage history for the farm should be added to the cotton acreage history for the county and State.

Subsec. (i). Pub. L. 86-172, §2(3), inserted provisions respecting eligibility for old and new farm allotment.

Subsec. (m)(2). Pub. L. 86-172, §2(4), struck out “; but no such acreage shall be surrendered to the State committee so long as any farmer receiving a cotton acreage allotment in such county desires additional cotton acreage” after “subsection (e) of this section” and substituted “Any allotment released under this provision shall be regarded for the purpose of establishing future allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred” for “Any allotment transferred under this provision shall be regarded for the purposes of subsection (f) of this section as having been planted on the farm from which transferred rather than on the farm to which transferred” and “Acreage released under this paragraph shall be credited to the State in determining future allotments” for “Acreage surrendered, reapportioned under this paragraph, and planted shall be credited to the State and county in determining future acreage allotments”.

1958—Subsec. (a). Pub. L. 85-835, §103(4), substituted “four” for “five” in second sentence.

Subsec. (b). Pub. L. 85-835, §104(a), established a national acreage reserve of 310,000 acres in addition to the national acreage allotment, provided that apportionments of additional acreage shall not be taken into account in establishing future State allotments, and inserted provisions for determination of needs for additional acreage.

Subsec. (e). Pub. L. 85-835, §104(b), inserted proviso relating to additional acreage allocated to a State.

Subsec. (f)(1). Pub. L. 85-835, §104(c), substituted “(A) ten acres; or (B) the acreage allotment established for the farm for the 1958 crop” for “(A) four acres; or (B) the highest number of acres planted to cotton in any year of such three-year period”.

Subsec. (f)(6). Pub. L. 85-835, §104(d), substituted “provisions of paragraph (2) of this subsection” for “foregoing provisions of this subsection except paragraph (3) of this subsection”, “remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted” for “county acreage allotment, less the acreage reserved under paragraph (3) of this subsection, shall be apportioned”, and inserted provisions requiring the allotments to be a prescribed percentage of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined.

Subsec. (f)(7). Pub. L. 85-835, §105, added par. (7).

Subsec. (f)(8). Pub. L. 85-835, §106, added par. (8).

Subsec. (h). Act Feb. 16, 1938, §378(d), as added by Pub. L. 85-835, §501, repealed subsec. (h) which related to apportionment by county committee and reallocation of flood lands.

Subsec. (m)(2). Pub. L. 85-835, §107, provided that any cotton acreage which is surrendered shall be retained in the county and not surrendered to the State committee so long as any farmer in the county desires additional cotton acreage.

Subsec. (n). Pub. L. 85-456 added subsec. (n).

1956—Subsec. (b). Act May 28, 1956, §303(a), temporarily inserted “Provided, That there is hereby established a national acreage reserve consisting of one hundred thousand acres which shall be in addition to the national acreage allotment; and such reserve shall be apportioned to the States on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, as determined by the Secretary without regard to State and county acreage reserves (except that the amount apportioned to Nevada shall be one thousand acres), and the additional acreage so apportioned to the State shall be apportioned to the counties on the same basis and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per cen-

tum of the county allotment determined without regard to such additional acreage). Additional acreage apportioned to a State for any year under the foregoing proviso shall not be taken into account in establishing future State acreage allotments. Needs for additional acreage under the foregoing proviso and under the last proviso in subsection (e) of this section shall be determined as though allotments were first computed without regard to subsection (f)(1) of this section." See Effective and Termination Dates of 1956 Amendment note below.

Subsec. (e). Act May 28, 1956, §303(b), temporarily inserted "Provided further, That if the additional acreage allocated to a State under the proviso in subsection (b) of this section is less than the requirements as determined by the Secretary for establishing minimum farm allotments for the State under subsection (f)(1) of this section, the acreage reserved by the State committee under this subsection shall not be less than the smaller of (1) the remaining acreage so determined to be required for establishing minimum farm allotments or (2) 3 per centum of the State acreage allotment; and the acreage which the State committee is required to reserve under this proviso shall be allocated to counties on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreages)." See Effective and Termination Dates of 1956 Amendment note below.

Subsec. (f)(1). Act May 28, 1956, §303(c), temporarily inserted "Insofar as such acreage is available," substituted "four acres" for "five acres", and struck out "(or regarded as planted under Public Law 12, Seventy-ninth Congress)" after "planted". See Effective and Termination Dates of 1956 Amendment note below.

Subsec. (f)(6). Act May 28, 1956, §303(d), temporarily substituted "provisions of paragraph (2) of this subsection" for "foregoing provisions of this subsection except paragraph (3) of this subsection" and "the remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment of such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county) of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined," for "the county acreage allotment, less the acreage reserved under paragraph (3) of this subsection, shall be apportioned to farms on which cotton has been planted in any one of the three years immediately preceding the year for which such allotment is determined, on the basis of the acreage planted to cotton on the farm during such three-year period," and struck out "(A) apportion such county allotment by first establishing minimum allotments in accordance with paragraph (1) of this subsection and by allotting the remaining acreage to farms other than those receiving an allotment under paragraph (1)(B) in accordance with the foregoing provisions of this paragraph and (B)" after "committee may in its discretion". See Effective and Termination Dates of 1956 Amendment note below.

1954—Subsec. (e). Act Jan. 30, 1954, §3(a), inserted at end "or to correct inequities in farm allotments and to prevent hardship".

Subsec. (f)(3). Act Jan. 30, 1954, §3(b), inserted " , or in making adjustments in farm acreage allotments to correct inequities and to prevent hardship".

Subsec. (f)(6). Act Aug. 28, 1954, §310(a), inserted proviso to first sentence.

Act Jan. 30, 1954, §3(c), added par. (6).

Subsec. (h). Act Jan. 30, 1954, §2, inserted sentence relating to reallocation of flood lands.

Subsec. (m). Act Jan. 30, 1954, §1, added subsec. (m).

Subsec. (m)(2). Act Aug. 28, 1954, §310(b), struck out "1954 or 1955" wherever appearing.

1950—Subsec. (f)(4), (5). Act Mar. 31, 1950, added pars. (4) and (5).

1949—Subsec. (f)(3). Act Oct. 31, 1949, increased reserve percentage of county allotment from 10 to 15 in first sentence and decreased percentage of acreage reserved from 30 to 20 in proviso.

Act Aug. 29, 1949, amended section generally to provide for a national acreage base to be used in apportioning to the States the actual national acreage allotment, and to make the national acreage allotment base and the outlined division among the States such as will complement the minimum national marketing quota provisions and thus permit a gradual reduction of any excessive carryover.

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

1939—Subsec. (e)(1). Act June 22, 1939, §1, substituted "For 1938, 1939, and any subsequent year" for "For 1938 and 1939".

Subsec. (g). Act June 22, 1939, §2, substituted "For 1938, 1939, and each subsequent year" for "For each of the years 1938 and 1939".

Subsec. (h). Act June 22, 1939, §3, substituted "for 1938, 1939, and each subsequent year" for "For each of the years 1938 and 1939".

Act Mar. 13, 1939, substituted "for any crop year" for "for the crop year 1938" and struck out "for 1938" from first proviso.

1938—Subsec. (b). Act Apr. 7, 1938, §9(a), amended second sentence.

Subsec. (d)(3). Act Apr. 7, 1938, §9(b), inserted "sugarcane for sugar," after "excluding from such acreage the acres devoted to the production of" in second sentence, and "wheat or rice" after "rice for market or".

Subsec. (e). Act Apr. 7, 1938, §9(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Act Apr. 7, 1938, §9(d), added subsec. (g).

Subsec. (h). Act May 31, 1938, among other changes, inserted "and for the crop year 1938 any part of the acreage allotted to individual farms in the State which it is determined, in accordance with regulations prescribed by the Secretary, will not be planted to cotton in the year for which the allotment is made, shall be deducted from the allotments to such farms and may be apportioned, in amounts determined by the Secretary to be fair and reasonable, preference being given to farms in the same county receiving allotments which the Secretary determines are inadequate and not representative in view of the past production of cotton and the acreage diverted from the production of cotton on such farms under the agricultural conservation program in the immediately preceding year: *Provided*, That any such transfer of allotment for 1938 shall not affect apportionment for any subsequent year" after "Secretary".

Act Apr. 7, 1938, §9(d), added subsec. (h).

Subsec. (i). Act Apr. 7, 1938, §9(d), added subsec. (i).

#### EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-835, title I, §104(e), Aug. 28, 1958, 72 Stat. 991, provided that: "The amendments made by this section [amending this section] shall be effective beginning with the 1959 crop."

Pub. L. 85-835, title I, §105, Aug. 28, 1958, 72 Stat. 991, provided that the amendment made by that section is effective beginning with the 1959 crop.

#### EFFECTIVE AND TERMINATION DATES OF 1956 AMENDMENT

Act May 28, 1956, ch. 327, title III, §303(e), 70 Stat. 204, provided that: "The amendments made by this section [amending this section] shall be effective only with respect to 1957 and 1958 crops. For the 1956 crop, an acreage in each State equal to the acreage allotted in such State which the Secretary determines will not be

planted, placed in the acreage reserve or conservation reserve, or considered as planted under section 377 of the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1377], may be apportioned by the Secretary among farms in such State having allotments of less than the smaller of the following: (1) four acres, or (2) the highest number of acres planted to cotton in any of the years 1953, 1954, and 1955."

#### EFFECTIVE DATE OF 1954 AMENDMENT

Act Jan. 30, 1954, ch. 2, § 3, 68 Stat. 6, provided that the amendments made by section 3 are effective beginning with the 1955 crop.

#### SAVINGS PROVISION

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

#### INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98-88, set out as a note under section 1342 of this title.

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101-624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99-198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97-98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95-113, set out as a note under section 1342 of this title.

Pub. L. 91-524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

#### EMERGENCY FARM ACREAGE ALLOTMENT

Act Feb. 28, 1945, ch. 15, 59 Stat. 9, provided for farm acreage allotment during national emergency proclaimed by the President on Sept. 8, 1939, and May 27, 1941, and which emergencies terminated on July 25, 1947, by the provisions of Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451.

#### COUNTY COMMITTEE ALLOTMENT

Act Mar. 13, 1939, ch. 9, 53 Stat. 512, in addition to amending former subsec. (h), contained the following: "Provided, That hereafter such allotment of acreage in counties shall be to such farms as the County Committee of such county may designate. In making such designation the County Committee shall consider only the character and adaptability of the soil and other physical facilities affecting the production of cotton and the need of operator for an additional allotment to meet the requirement of the families engaging in the production of cotton on the farm in such year."

#### § 1344a. Exclusion of 1949 acreage in computation of future allotments

Notwithstanding the provisions of subchapter III of this chapter, or of any other law, State, county, and farm acreage allotments and yields for cotton for any year after 1949 shall be computed without regard to yields or to the acreage planted to cotton in 1949.

(Mar. 29, 1949, ch. 38, 63 Stat. 17.)

#### CODIFICATION

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

#### § 1344b. Sale, lease, or transfer of cotton acreage allotments

##### (a) Authority for calendar years 1966 through 1970; transfer periods

Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the program involved, (1) may permit the owner and operator of any farm for which a cotton acreage allotment is established to sell or lease all or any part or the right to all or any part of such allotment (excluding that part of the allotment which the Secretary determines was apportioned to the farm from the national acreage reserve) to any other owner or operator of a farm for transfer to such farm; (2) may permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him; *Provided*, That the authority granted under this section may be exercised for the calendar years 1966 through 1970, but all transfers hereunder shall be for such period of years as the parties thereto may agree.

##### (b) Requisite conditions for transfer of acreage allotments

Transfers under this section shall be subject to the following conditions: (i) no allotment shall be transferred to a farm in another State or to a person for use in another State; (ii) no farm allotment may be sold or leased for transfer to a farm in another county unless the producers of cotton in the county from which transfer is being made have voted in a referendum within three years of the date of such transfer, by a two-thirds majority of the producers participating in such referendum, to permit the transfer of allotments to farms outside the county, which referendum, insofar as practicable, shall be held in conjunction with the marketing quota referendum for the commodity; (iii) no transfer of an allotment from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholder; (iv) no sale of a farm allotment shall be permitted if any sale of cotton allotment to the same farm has been made within the three immediately preceding crop years; (v) the total cotton allotment for any farm to which allotment is transferred by sale or lease shall not exceed the farm acreage allotment (excluding reapportioned acreage) established for such farm for 1965 by more than one hundred acres; (vi) no cotton in excess of the remaining acreage allotment on the farm shall be planted on any farm from which the allotment (or part of an allotment) is sold for a period of five years following such sale, nor shall any cotton in excess of the remaining acreage allotment on the farm be planted on any farm from which the allotment (or part of an allotment) is leased during the period of such lease, and the producer on such farm shall so agree as a condition precedent to the Secretary's approval of any such sale or lease; and (vii) no transfer of allotment shall be effective until a

record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section. Such record may be filed with such committee only during the period beginning June 1 and ending December 31.

**(c) Extent of estate transferred**

The transfer of an allotment shall have the effect of transferring also the acreage history, farm base, and marketing quota attributable to such allotment and if the transfer is made prior to the determination of the allotment for any year the transfer shall include the right of the owner or operator to have an allotment determined for the farm for such year: *Provided*, That in the case of a transfer by lease, the amount of the allotment shall be considered for purposes of determining allotments after the expiration of the lease to have been planted on the farm from which such allotment is transferred.

**(d) Period of ineligibility of land for new allotment**

The land in the farm from which the entire cotton allotment and acreage history have been transferred shall not be eligible for a new farm cotton allotment during the five years following the year in which such transfer is made.

**(e) Transfer of allotments established under minimum allotment provisions**

The transfer of a portion of a farm allotment which was established under minimum farm allotment provisions for cotton or which operates to bring the farm within the minimum farm allotment provision for cotton shall cause the minimum farm allotment or base to be reduced to an amount equal to the allotment remaining on the farm after such transfer.

**(f) Rules and regulations**

The Secretary shall prescribe regulations for the administration of this section, which shall include provisions for adjusting the size of the allotment transferred if the farm to which the allotment is transferred has a substantially higher yield per acre and such other terms and conditions as he deems necessary.

**(g) Adjustment upon transfer of land covered by conservation reserve contract**

If the sale or lease occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, cropland adjustment agreement, or other similar land utilization agreement, the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the allotment is transferred.

**(h) Exchange of cotton acreage allotments for rice acreage allotments**

The Secretary shall by regulations authorize the exchange between farms in the same county, or between farms in adjoining counties within a State, of cotton acreage allotment for rice acreage allotment. Any such exchange shall be made on the basis of application filed with the county

committee by the owners and operators of the farms, and the transfer of allotment between the farms shall include transfer of the related acreage history for the commodity. The exchange shall be acre for acre or on such other basis as the Secretary determines is fair and reasonable, taking into consideration the comparative productivity of the soil for the farms involved and other relevant factors. No farm from which the entire cotton or rice allotment has been transferred shall be eligible for an allotment of cotton or rice as a new farm within a period of five crop years after the date of such exchange.

**(i) Applicability to cotton restricted to upland cotton**

The provisions of this section relating to cotton shall apply only to upland cotton.

(Feb. 16, 1938, ch. 30, title III, §344a, as added Pub. L. 89-321, title IV, §405, Nov. 3, 1965, 79 Stat. 1197; amended Pub. L. 90-559, §1(2), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91-524, title VI, §601(3)(1), Nov. 30, 1970, 84 Stat. 1372; Pub. L. 93-86, §1(19)(C), (D), Aug. 10, 1973, 87 Stat. 233.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-86 struck out “for which a farm base acreage allotment is established (other than pursuant to section 1350(e)(1)(A) of this title)” after “to any other owner or operator of a farm” and substituted “1978” for “1974”.

1970—Subsec. (a). Pub. L. 91-524 temporarily directed Secretary to permit certain types of transfers of all or part of farm base acreage allotments between farms in same State. See Effective and Termination Dates of 1970 Amendment note below.

1968—Subsec. (a). Pub. L. 90-559 provided for a one year extension, substituting “1966 through 1970” for “1966, 1967, 1968, and 1969”.

EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93-86, §1(19)(C), Aug. 10, 1973, 87 Stat. 233, provided that the amendment made by section 1(19)(C) of Pub. L. 93-86 is effective beginning with the 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Pub. L. 91-524, title VI, §601(3), Nov. 30, 1970, 84 Stat. 1372, as amended by Pub. L. 93-86, §1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that the amendment made by that section is effective only with respect to the 1971 through 1977 crops.

INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98-88, set out as a note under section 1342 of this title.

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Pub. L. 91-524, title VI, §601(3)(2), Nov. 30, 1970, 84 Stat. 1372, as amended by Pub. L. 93-86, §1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that: “Subdivisions (ii), (iv), (v), and (vi) of subsection (b) [of this section], the last sentence of subsection (b) [of this section] and subsections (e) and (h) [of this section] shall not be applicable to the 1971 through 1977 crops: *Provided*, That no farm allotment may be sold or leased for transfer to a farm in another county unless the Agricultural Stabilization and Conservation Committee established pursuant to section 8(b) of the Soil Conservation and

Domestic Allotment Act, as amended [16 U.S.C. 590h(b)], for the county from which such transfers are being made (1) finds that a demand for such acreage allotments no longer exists in such county and (2) approves any transfers of allotments to farms outside such county."

§ 1345. Farm marketing quotas; farm marketing excess

The farm marketing quota for any crop of cotton shall be the actual production of the acreage planted to cotton on the farm less the farm marketing excess. The farm marketing excess shall be the normal production of that acreage planted to cotton on the farm which is in excess of the farm acreage allotment: *Provided*, That such farm marketing excess shall not be larger than the amount by which the actual production of cotton on the farm exceeds the normal production of the farm acreage allotment, if the producer establishes such actual production to the satisfaction of the Secretary.

(Feb. 16, 1938, ch. 30, title III, §345, 52 Stat. 58; July 3, 1948, ch. 827, title II, §205, 62 Stat. 1256; Aug. 29, 1949, ch. 518, §1, 63 Stat. 674; Oct. 31, 1949, ch. 792, title IV, §415(e), 63 Stat. 1058.)

AMENDMENTS

1949—Act Oct. 31, 1949, repealed amendatory provisions of act July 3, 1948.

Act Aug. 29, 1949, stated what the farm marketing quota shall be and what the farm marketing excess shall be.

1948—Act July 3, 1948, changed conditions which must be determined by Secretary to exist before marketing quotas can be imposed.

EFFECTIVE DATE OF 1948 AMENDMENT

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

INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98-88, set out as a note under section 1342 of this title.

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101-624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99-198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97-98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95-113, set out as a note under section 1342 of this title.

Pub. L. 91-524, title VI, §601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, §1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

§ 1346. Penalties

(a) Whenever farm marketing quotas are in effect with respect to any crop of cotton, the producer shall be subject to a penalty on the farm

marketing excess at a rate per pound equal to 50 per centum of the parity price per pound for cotton as of June 15 of the calendar year in which such crop is produced.

(b) The farm marketing excess of cotton shall be regarded as available for marketing and the amount of penalty shall be computed upon the normal production of the acreage on the farm planted to cotton in excess of the farm acreage allotment. If a downward adjustment in the amount of the farm marketing excess is made pursuant to the proviso in section 1345 of this title, the difference between the amount of the penalty computed upon the farm marketing excess before such adjustment and as computed upon the adjusted farm marketing excess shall be returned to or allowed the producer.

(c) The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(d) Until the penalty on the farm marketing excess is paid, all cotton produced on the farm and marketed by the producer shall be subject to the penalty provided by this section and a lien on the entire crop of cotton produced on the farm shall be in effect in favor of the United States.

(e) Notwithstanding any other provision of this chapter, for the 1966 through 1970 crops of upland cotton, if the farm operator elects to forgo price support for any such crop of cotton by applying to the county committee of the county in which the farm is located for additional acreage under this subsection, he may plant an acreage not in excess of the farm acreage allotment established under section 1344 of this title plus the acreage apportioned to the farm from the national export market acreage reserve, and all cotton of such crop produced on the farm may be marketed for export free of any penalty under this section: *Provided*, That the foregoing shall be applicable only to farms which had upland cotton allotments for 1965 and are operated by the same operator as in 1965 or by his heir.

For the 1966 crop the national export market acreage reserve shall be 250,000 acres. For each subsequent crop—

|   |  |
|---|--|
| If the carryover at the end of the marketing year for the preceding crop is estimated to be less than the carryover at the beginning of such marketing year by— | The national export market acreage reserve shall be— |
| At least 1,000,000 bales .....  | 250,000 acres.                                       |
| At least 750,000 bales, but not as much as 1,000,000 bales.   | 187,500 acres.                                       |
| At least 500,000 bales, but not as much as 750,000 bales.   | 125,000 acres.                                       |
| At least 250,000 bales, but not as much as 500,000 bales.   | 62,500 acres.  |
| Less than 250,000 bales .....   | None.  |

The national export market acreage reserve shall be apportioned to farms by the Secretary on the basis of the applications therefor. No application shall be accepted for a greater acreage than is available on the farm for the production of upland cotton. After apportionments are thus made to farms, the Secretary shall provide farm operators a reasonable time in which to cancel

their applications (and agreements to forgo price support) and surrender to the Secretary through the county committee the export market acreage assigned to the farm. Acreage so surrendered shall be available for reassignment by the Secretary to other eligible farms to which export market acreage has been apportioned on the basis of the applications remaining outstanding. The operator of any farm who elects to forgo price support for any such crop under this subsection shall not be eligible for price support on cotton of such crop produced on any other farm in which he has a controlling or substantial interest as determined by the Secretary. Acreage planted to cotton in excess of the farm acreage allotment established under section 1344 of this title shall not be taken into account in establishing future State, county, and farm acreage allotments. The operator of any farm to which export market acreage is apportioned, or the purchasers of cotton produced on such farm, shall, under regulations issued by the Secretary, furnish a bond or other undertaking prescribed by the Secretary providing for the exportation, without benefit of any Government cotton export subsidy and within such time as the Secretary may specify, of all cotton produced on such farm for such year. The bond or other undertaking given pursuant to this subsection shall provide that, upon failure to comply with the terms and conditions thereof, the person furnishing such bond or other undertaking shall be liable for liquidated damages in an amount which the Secretary determines and specifies in such undertaking will approximate the amount payable on excess cotton under subsection (a) of this section. The Secretary may, in lieu of the furnishing of a bond or other undertaking, provide for the payment of an amount equal to that which would be payable as liquidated damages under such bond or other undertaking. If such bond or other undertaking is not furnished, or if payment in lieu thereof is not made as provided herein, at such time and in the manner required by regulations of the Secretary, or if the acreage planted to cotton on the farm exceeds the sum of the farm acreage allotment established under section 1344 of this title and the acreage apportioned to the farm from the national export market acreage reserve, the acreage planted to cotton in excess of the farm acreage allotment established under section 1344 of this title shall be regarded as excess acreage for purposes of this section and section 1345 of this title. Amounts collected by the Secretary under this subsection shall be remitted to the Commodity Credit Corporation.

(Feb. 16, 1938, ch. 30, title III, §346, 52 Stat. 59; Aug. 29, 1949, ch. 518, §1, 63 Stat. 674; Pub. L. 89-321, title IV, §401(2), Nov. 3, 1965, 79 Stat. 1192; Pub. L. 90-559, §1(2), Oct. 11, 1968, 82 Stat. 996.)

#### AMENDMENTS

1968—Subsec. (e). Pub. L. 90-559 provided for a one year extension, substituting "1966 through 1970" for "1966, 1967, 1968, and 1969".

1965—Subsec. (e). Pub. L. 89-321 added subsec. (e).

1949—Act Aug. 29, 1949, amended section generally. Former provisions of section were covered by section 1345 of this title.

#### INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98-88, set out as a note under section 1342 of this title.

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101-624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99-198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97-98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95-113, set out as a note under section 1342 of this title.

Pub. L. 91-524, title VI, §601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, §1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

#### REMOVAL OF MARKETING PENALTIES ON CERTAIN LONG STAPLE COTTON

Act Jan. 9, 1951, ch. 1215, 64 Stat. 1237, provided that the marketing penalty provided in this section, shall not be applied to long staple cotton of the 1950 crop ginned on saw type gins where such action was necessary to conserve the cotton because of frost or weather damage.

#### § 1347. Repealed. Pub. L. 98-88, § 2, Aug. 26, 1983, 97 Stat. 494

Section, acts Feb. 16, 1938, ch. 30, title III, §347, 52 Stat. 59; Aug. 29, 1949, ch. 518, §1, 63 Stat. 675; July 17, 1952, ch. 933, §4, 66 Stat. 759; Aug. 28, 1958, Pub. L. 85-835, title I, § 103(3), 72 Stat. 990; Sept. 21, 1959, Pub. L. 86-341, title II, §203, 73 Stat. 611; June 30, 1960, Pub. L. 86-566, 74 Stat. 295; Aug. 11, 1968, Pub. L. 90-475, §§4, 6, 82 Stat. 701, 702, set out a program for long staple cotton. See section 1444(h) of this title.

#### EFFECTIVE DATE OF REPEAL

Pub. L. 98-88, §2, Aug. 26, 1983, 97 Stat. 494, provided that the repeal of this section is effective beginning with the 1984 crop of extra long staple cotton.

#### § 1348. Payments in kind to equalize cost of cotton to domestic and foreign users; rules and regulations; termination date; persons eligible; amount; terms and conditions; raw cotton in inventory

In order to maintain and expand domestic consumption of upland cotton produced in the United States and to prevent discrimination against the domestic users of such cotton, notwithstanding any other provision of law, the Commodity Credit Corporation, under such rules and regulations as the Secretary may prescribe, is authorized and directed for the period beginning with April 11, 1964 and ending July 31, 1966, to make payments through the issuance of payment-in-kind certificates to persons other than producers in such amounts and subject to such terms and conditions as the Secretary determines will eliminate inequities due to differences in the cost of raw cotton between domestic and foreign users of such cotton, includ-

ing such payments as may be necessary to make raw cotton in inventory on April 11, 1964 available for consumption at prices consistent with the purposes of this section: *Provided*, That for the period beginning August 1 of the marketing year for the first crop for which price support is made available under section 1444(b) of this title, and ending July 31, 1966, such payments shall be made in an amount which will make upland cotton produced in the United States available for domestic use at a price which is not in excess of the price at which such cotton is made available for export. The Secretary may extend the period for performance of obligations incurred in connection with payments made for the period ending July 31, 1966, or may make payments on raw cotton in inventory on July 31, 1966, at the rate in effect on such date. No payments shall be made hereunder with respect to 1966 crop cotton.

(Feb. 16, 1938, ch. 30, title III, § 348, as added Pub. L. 88-297, title I, § 101, Apr. 11, 1964, 78 Stat. 173; amended Pub. L. 89-321, title IV, § 401(1), Nov. 3, 1965, 79 Stat. 1192.)

#### PRIOR PROVISIONS

A prior section 1348, acts Feb. 16, 1938, ch. 30, title III, § 348, 52 Stat. 59; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 675; Aug. 28, 1954, ch. 1041, title III, § 311(a), 68 Stat. 904, prohibited agricultural conservation program payments to any farmer who knowingly harvested any basic commodity in excess of his acreage allotment and was repealed by act May 23, 1955, ch. 45, 69 Stat. 65, effective with respect to 1955 and subsequent crops.

#### AMENDMENTS

1965—Pub. L. 89-321 authorized Secretary to extend period for performance of obligations incurred in connection with payments made for period ending July 31, 1966, or to make payments in raw cotton in inventory on July 31, 1966.

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

#### § 1349. Export market acreage

**(a) Supplementary allotments for 1964 and 1965; acreage limitation; apportionment among States and farms; "export market acreage" on any farm; farm acreage allotment for farms with export acreage; additional allotment; establishment of future allotments without regard to export acreage; exclusion of extra-long-staple cotton and farms receiving additional price support for 1964 and 1965**

The acreage allotment established under the provisions of section 1344 of this title for each farm for the 1964 crop may be supplemented by the Secretary by an acreage equal to such percentage, but not more than 10 per centum, of such acreage allotment as he determines will not increase the carryover of upland cotton at the beginning of the marketing year for the next succeeding crop above one million bales less

than the carryover on the same date one year earlier, if the carryover on such earlier date exceeds eight million bales. For the 1965 crop, the Secretary may, after such hearing and investigation as he finds necessary, announce an export market acreage which he finds will not increase the carryover of upland cotton at the beginning of the marketing year for the next succeeding crop above one million bales less than the carryover on the same date one year earlier, if the carryover on such earlier date exceeds eight million bales. Such export market acreage shall be apportioned to the States on the basis of the State acreage allotments established under section 1344 of this title and apportioned by the States to farms receiving allotments under section 1344 of this title, pursuant to regulations issued by the Secretary, after considering applications for such acreage filed with the county committee of the county in which the farm is located. The "export market acreage" on any farm shall be the number of acres, not exceeding the maximum export market acreage for the farm established pursuant to this subsection, by which the acreage planted to cotton on the farm exceeds the farm acreage allotment. For purposes of sections 1345 and 1374 of this title and the provisions of any law requiring compliance with a farm acreage allotment as a condition of eligibility for price support or payments under any farm program, the farm acreage allotment for farms with export market acreage shall be the sum of the farm acreage allotment established under section 1344 of this title and the maximum export market acreage. Export market acreage shall be in addition to the county, State, and National acreage allotments and shall not be taken into account in establishing future State, county, and farm acreage allotments. The provisions of this section shall not apply to extra-long-staple cotton or to any farm which receives price support under section 1444(b) of this title.

**(b) Bond, other undertaking, and lieu payments for exportation without subsidy and within specified period; terms and conditions; liquidated damages; farm acreage allotment upon noncompliance with conditions; remissions to CCC for defraying costs of encouraging export sales of cotton**

The producers on any farm on which there is export market acreage or the purchasers of cotton produced thereon shall, under regulations issued by the Secretary, furnish a bond or other undertaking prescribed by the Secretary providing for the exportation, without benefit of any Government cotton export subsidy and within such period of time as the Secretary may specify, of a quantity of cotton produced on the farm equal to the average yield for the farm multiplied by the export market acreage as determined pursuant to regulations issued by the Secretary. The bond or other undertaking given pursuant to this section shall provide that, upon failure to comply with the terms and conditions thereof, the person furnishing such bond or other undertaking shall be liable for liquidated damages in an amount which the Secretary determines and specifies in such undertaking will approximate the amount payable on excess cot-

ton under section 1346(a) of this title. The Secretary may, in lieu of the furnishing of a bond or other undertaking, provide for the payment of an amount equal to that which would be payable as liquidated damages under such bond or other undertaking. If such bond or other undertaking is not furnished, or if payment in lieu thereof is not made as provided herein, at such time and in the manner required by regulations of the Secretary, or if the acreage planted to cotton on the farm exceeds the farm acreage allotment established under the provisions of section 1344 of this title by more than the maximum export market acreage, the farm acreage allotment shall be the acreage so established under section 1344 of this title. Amounts collected by the Secretary under this section shall be remitted to the Commodity Credit Corporation and used by the Corporation to defray costs of encouraging export sales of cotton under section 1853<sup>1</sup> of this title.

(Feb. 16, 1938, ch. 30, title III, § 349, as added Pub. L. 88-297, title I, § 106(1), Apr. 11, 1964, 78 Stat. 175.)

#### REFERENCES IN TEXT

Section 1853 of this title, referred to in subsec. (b), was repealed by Pub. L. 103-465, title IV, § 412(c), Dec. 8, 1994, 108 Stat. 4964.

#### PRIOR PROVISIONS

A prior section 1349, act Feb. 16, 1938, ch. 30, title III, § 349, 52 Stat. 59, was omitted by act Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670 which amended sections 342 to 350 of act Feb. 16, 1938, ch. 30, title III, 52 Stat. 56 to 60 (sections 1342 to 1344, 1345 to 1347, and prior sections 1348 to 1350 of this title) to be sections 342 to 348 of act Feb. 16, 1938 (sections 1342 to 1344, 1345 to 1347, and a prior section 1348 of this title).

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

### § 1350. National base acreage allotment

#### (a) Establishment

The Secretary shall establish for each of the 1971 through 1977 crops of upland cotton a national base acreage allotment. Such national base acreage allotment shall be announced not later than November 15 of the calendar year preceding the year for which the national base acreage allotment is to be effective. The national base acreage allotment for any crop of cotton shall be the number of acres which the Secretary determines on the basis of the expected national yield will produce an amount of cotton equal to the estimated domestic consumption of cotton (standard bales of four hundred and eighty pounds net weight) for the marketing year beginning in the year in which the crop is to be produced, plus not to exceed 25 per centum thereof if the Secretary, taking into consideration other actions he may take under the Agricultural Act of 1970, determines that

such additional amount is necessary to provide for a production which will equal the national cotton production goal, except that such national base acreage allotment shall be eleven million five hundred thousand acres for the 1971 crop and in the case of the 1972 through 1977 crops shall be in such amount as the Secretary determines necessary to maintain adequate supplies. The national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.

#### (b) Apportionment to States

The national base acreage allotment for each crop of upland cotton shall be apportioned by the Secretary to the States on the basis of the acreage planted (including acreage regarded as having been planted) to upland cotton within the farm acreage allotment or the farm base acreage allotment, whichever is in effect, during the five calendar years immediately preceding the calendar year in which the national cotton production goal is proclaimed, with adjustments for abnormal weather conditions or other natural disaster during such period.

#### (c) Apportionment to counties

The State base acreage allotment for each crop of upland cotton shall be apportioned to counties on the same basis as to years and conditions as is applicable to the State under subsection (b) of this section: *Provided*, That the State committee may reserve not to exceed 2 per centum of its State acreage allotment which shall be used to make adjustments in county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardships.

#### (d) Adjustment of apportionment bases for counties

The Secretary shall adjust the apportionment base for each county as may be necessary because of transfers of allotments across county lines.

#### (e) Apportionment to farms

(1) The county base acreage allotment for the 1971 crop shall be apportioned to old cotton farms in the county on the basis of the domestic acreage allotment established for the farm for the 1970 crop. For the 1972 and each subsequent crop of upland cotton the county base acreage allotment shall be apportioned to old cotton farms in the county on the basis of the farm base acreage allotment established for such farm for the preceding year. The county committee may reserve not in excess of 10 per centum of the county allotment which, in addition to the acreage made available under the proviso in subsection (c) of this section, shall be used for (A) establishing allotments for farms on which cotton was not planted (or regarded as planted) during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton, crop-rotation practices, and the soil and other physical facilities affecting the production of cotton; and (B) making adjustments of the

<sup>1</sup> See References in Text note below.

farm allotments established under this paragraph so as to establish allotments which are fair and reasonable in relation to the factors set forth in this paragraph and abnormal conditions of production on such farms, or in making adjustments in farm allotments to correct inequities and to prevent hardships. No part of such reserve shall be apportioned to a farm to reflect new cropland brought into production after November 30, 1970.

(2) If for any crop the total acreage of cotton planted on a farm is less than the farm base acreage allotment, the farm base acreage allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than such farm base acreage allotment, but such reduction shall not exceed 20 per centum of the farm base acreage allotment for the preceding crop. If not less than 90 per centum of the base acreage allotment for the farm is planted to cotton, the farm shall be considered to have an acreage planted to cotton equal to 100 per centum of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to cotton because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be considered to be an acreage planted to cotton. For the purpose of this paragraph, the Secretary shall, in the event producers of wheat or feed grains are permitted to do so, permit producers of cotton to have acreage devoted to soybeans, wheat, feed grains, guar, castor beans, triticale, oats, rye or such other crops as the Secretary may deem appropriate considered as devoted to the production of cotton to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the cotton or soybean program.

(3) If no acreage is planted to cotton for any three consecutive crop years on any farm which had a farm base acreage allotment for such years, such farm shall lose its base acreage allotment.

**(f) Surrender of farm base acreage allotments**

Effective for the 1971 through 1977 crops, any part of any farm base acreage allotment on which upland cotton will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the farm base acreage allotment for such farm and may be reapportioned by the county committee to other farms in the same county receiving farm base acreage allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of upland cotton, land, labor, equipment available for the production of upland cotton, crop rotation practices, and soil and other physical facilities affecting the production of upland cotton. If all of the acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used to make adjustments in farm base acreage allotments for other farms in the State adversely affected by abnormal conditions affecting plantings or to correct inequities or to prevent hardship. Any farm base acreage allotment released under this provision shall be re-

garded for the purpose of establishing future farm base acreage allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred: *Provided*, That, notwithstanding any other provision of law, any part of any farm base acreage allotment for any crop year may be permanently released in writing to the county committee by the owner and operator of the farm and reapportioned as provided herein. Acreage released under this subsection shall be credited to the State in determining future allotments.

**(g) Compliance with set-aside requirements**

Any farm receiving any base acreage allotment through release and reapportionment or sale, lease, or transfer shall, as a condition to the right to receive such allotment, comply with the set-aside requirements of section 1444(e)(4) of this title applicable to such acreage as determined by the Secretary.

**(h) Transfer of farm base acreage allotments not planted because of natural disaster or conditions beyond control of producer**

Notwithstanding any other provision of this chapter, if the Secretary determines for any year that because of drought, flood, other natural disaster, or a condition beyond the control of the producer a portion of the farm base acreage allotment in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of such cotton acreage for any farm in the county so affected to another farm in the county or in any other nearby county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of upland cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm base acreage allotment transferred under this subsection shall be regarded as planted to upland cotton on the farm and in the county and State from which transfer is made for purposes of establishing future farm, county and State allotments.

(Feb. 16, 1938, ch. 30, title III, § 350, as added Pub. L. 88-297, title I, § 105, Apr. 11, 1964, 78 Stat. 175; amended Pub. L. 89-321, title IV, § 401(3), Nov. 3, 1965, 79 Stat. 1193; Pub. L. 90-559, § 1(2), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91-524, title VI, § 601(4), Nov. 30, 1970, 84 Stat. 1372; Pub. L. 93-86, § 1(19)(A), (D)-(G), Aug. 10, 1973, 87 Stat. 233.)

REFERENCES IN TEXT

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

PRIOR PROVISIONS

A prior section 1350, act Feb. 16, 1938, ch. 30, title III, § 350, 52 Stat. 60, was omitted by act Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670, which amended sections 342 to 350 of act Feb. 16, 1938, ch. 30, title III, 52 Stat. 56 to 60 (sections 1342 to 1344, 1345 to 1347, and prior sections 1348 to 1350 of this title) to be sections 342 to 348 of act Feb. 16, 1938 (sections 1342 to 1344, 1345 to 1347, and a prior section 1348 of this title). See section 1347 of this title.

## AMENDMENTS

1973—Subsec. (a). Pub. L. 93-86, §1(19)(A), (D), (E), substituted “1971 through 1977” for “1971, 1972, and 1973” and “1972 through 1977” for “1972 and 1973” and inserted requirement that the national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.

Subsec. (e)(2). Pub. L. 93-86, §1(19)(F), substituted “soybeans, wheat, feed grains, guar, castor beans, triticale, oats, rye or such other crops as the Secretary may deem appropriate” for “soybeans, wheat or feed grains”.

Subsec. (f). Pub. L. 93-86, §1(19)(A), substituted “1971 through 1977” for “1971, 1972, and 1973”.

Subsec. (h). Pub. L. 93-86, §1(19)(G), substituted “to another farm in the county or in any other nearby county” for “to another farm in the county or in an adjoining county”.

1970—Pub. L. 91-524 designated existing provisions as subsec. (a), substituted provisions for the establishment of a national base acreage allotment covering each of the 1971, 1972, and 1973 crops of upland cotton for provisions authorizing the establishing of a national domestic allotment for the 1966 through 1970 crops of upland cotton, and added subsecs. (b) to (h).

1968—Pub. L. 90-559 provided for a one year extension, substituting “1966 through 1970” for “1966, 1967, 1968, and 1969”.

1965—Pub. L. 89-321 extended domestic acreage allotment program through the 1969 crop and otherwise amended section generally to authorize establishment of a national domestic allotment for each crop year equal to the estimated domestic consumption for the marketing year beginning in year in which crop is to be produced and to authorize determination of a farm domestic acreage allotment percentage for each year by dividing national domestic allotment by total for all States of product of State acreage allotment and the projected State yield.

## EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93-86, §1(19)(E)-(G), Aug. 10, 1973, 87 Stat. 233, provided that the amendments made by section 1(19)(E)-(G) of Pub. L. 93-86 are effective beginning with the 1974 crop.

## EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91-524, title VI, §601, Nov. 30, 1970, 84 Stat. 1371, provided that the amendment made by section 601 of Pub. L. 91-524 is effective beginning with the 1971 crop of upland cotton.

## EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-321, title IV, §401(3), Nov. 3, 1965, 79 Stat. 1193, provided that the amendment made by section 401(3) of Pub. L. 89-321 is effective with the 1966 crop.

## INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(1) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

**§ 1350a. Repealed. Pub. L. 96-470, title I, § 102(e), Oct. 19, 1980, 94 Stat. 2237**

Section, Pub. L. 91-524, title VI, §609, Nov. 30, 1970, 84 Stat. 1378, required Secretary to file annually with President for transmission to Congress a complete report of programs carried out under title VI of Pub. L. 91-524.

## SUBPART V—MARKETING QUOTAS—RICE

**§ 1351. Omitted**

## CODIFICATION

Section, act Feb. 16, 1938, ch. 30, title III, §351, 52 Stat. 60, set forth the legislative findings relating to rice marketing quotas pursuant to this subpart and was omitted in view of the repeal of the remaining sections of the subpart.

**§§ 1352 to 1356. Repealed. Pub. L. 97-98, title VI, § 601, Dec. 22, 1981, 95 Stat. 1242**

Section 1352, acts Feb. 16, 1938, ch. 30, title III, §352, 52 Stat. 60; Aug. 9, 1955, ch. 648, 69 Stat. 576; Feb. 16, 1976, Pub. L. 94-214, title I, §101, 90 Stat. 181; Sept. 29, 1977, Pub. L. 95-113, title VII, §701, 91 Stat. 940, provided for a national acreage allotment and allocation for 1976 through 1981 crops of rice.

Section 1353, acts Feb. 16, 1938, ch. 30, title III, §353, 52 Stat. 61; Oct. 31, 1949, ch. 792, title IV, §418(a), 63 Stat. 1059; June 16, 1950, ch. 268, §§1, 2, 64 Stat. 232; Apr. 30, 1955, ch. 29, 69 Stat. 45; Apr. 30, 1955, ch. 30, 69 Stat. 45; May 5, 1955, ch. 31, 69 Stat. 45; Aug. 9, 1955, ch. 652, 69 Stat. 578; May 28, 1956, ch. 327, title III, §304, 70 Stat. 205; June 4, 1958, Pub. L. 85-443, §§1, 2(a), (b), 3, 72 Stat. 177; Aug. 28, 1958, Pub. L. 85-835, title III, §301, 72 Stat. 994; Feb. 16, 1938, ch. 30, title III, §378(d), as added Aug. 28, 1958, Pub. L. 85-835, title V, §501, 72 Stat. 996; Mar. 6, 1962, Pub. L. 87-412, 76 Stat. 20; Jan. 28, 1964, Pub. L. 88-261, 78 Stat. 6; Nov. 3, 1965, Pub. L. 89-321, title VIII, §801, 79 Stat. 1212; Oct. 11, 1968, Pub. L. 90-559, §1(8), 82 Stat. 996; Apr. 27, 1973, Pub. L. 93-27, 87 Stat. 27, related to allocation of national acreage allotment.

Section 1354, acts Feb. 16, 1938, ch. 30, title III, §354, 52 Stat. 61; Oct. 31, 1949, ch. 792, title IV, §418(a), 63 Stat. 1059; Apr. 4, 1960, Pub. L. 86-408, 74 Stat. 15, related to proclamation of marketing quotas and referendum by farmers on such quotas.

Section 1355, acts Feb. 16, 1938, ch. 30, title III, §355, 52 Stat. 62; July 3, 1948, ch. 827, title II, §206, 62 Stat. 1256; Oct. 31, 1949, ch. 792, title IV, §§415(e), 418(a), 63 Stat. 1058, 1059, related to amount of farm marketing quota.

Section 1356, acts Feb. 16, 1938, ch. 30, title III, §356, 52 Stat. 62; Oct. 31, 1949, ch. 792, title IV, §418(a), 63 Stat. 1059; June 4, 1958, Pub. L. 85-443, §4, 72 Stat. 178; Dec. 14, 1967, Pub. L. 90-191, 81 Stat. 578, related to penalties for farm marketing excess when farm marketing quotas are in effect and to avoidance or postponement of penalties by storage or other disposition.

## EFFECTIVE DATE OF REPEAL

Pub. L. 97-98, title VI, §601, Dec. 22, 1981, 95 Stat. 1242, provided that the repeal of sections 1352 to 1356 of this title is effective beginning with the 1982 crop of rice.

## SUBPART VI—MARKETING QUOTAS—PEANUTS

**§§ 1357 to 1359a. Repealed. Pub. L. 107-171, title I, § 1309(a)(1), May 13, 2002, 116 Stat. 179**

Section 1357, act Feb. 16, 1938, ch. 30, title III, §357, as added Apr. 3, 1941, ch. 39, §1, 55 Stat. 88, related to legislative findings concerning peanut marketing quotas.

Section 1358, act Feb. 16, 1938, ch. 30, title III, §358, as added Apr. 3, 1941, ch. 39, §1, 55 Stat. 88; amended July 9, 1942, ch. 497, §1(1), 56 Stat. 653; July 26, 1946, ch. 677, 60 Stat. 705; Aug. 1, 1947, ch. 445, §1, 61 Stat. 721; Aug. 29, 1949, ch. 518, §4, 63 Stat. 676; Mar. 31, 1950, ch. 81, §6(b), 64 Stat. 43; Apr. 12, 1951, ch. 28, §1, 65 Stat. 29; Pub. L. 85-717, §1, Aug. 21, 1958, 72 Stat. 709; Feb. 16, 1938, ch. 30, title III, §378(d), as added Pub. L. 85-835, title V, §501, Aug. 28, 1958, 72 Stat. 996; Pub. L. 92-62, §§1-3, Aug. 3, 1971, 85 Stat. 163, 164; Pub. L. 94-247, Mar. 25, 1976, 90 Stat. 285; Pub. L. 95-113, title VIII, §§801(b), 802, Sept. 29, 1977, 91 Stat. 944; Pub. L. 97-98, title VII, §702, Dec. 22, 1981, 95 Stat. 1248; Pub. L. 99-157, §5, Nov.

15, 1985, 99 Stat. 818; Pub. L. 99-198, title VII, § 702, Dec. 23, 1985, 99 Stat. 1430; Pub. L. 102-237, title I, § 117(b)(2)(A), Dec. 13, 1991, 105 Stat. 1841, related to national marketing quota for peanuts.

Section 1358-1, act Feb. 16, 1938, ch. 30, title III, § 358-1, as added Pub. L. 101-624, title VIII, § 802, Nov. 28, 1990, 104 Stat. 3459; amended Pub. L. 102-237, title I, § 117(b)(2)(B), Dec. 13, 1991, 105 Stat. 1841; Pub. L. 103-66, title I, § 1109(c)(1), Aug. 10, 1993, 107 Stat. 326; Pub. L. 104-127, title I, § 155(i)(1)(A), (2)-(4)(A), (5), Apr. 4, 1996, 110 Stat. 927-929, related to national poundage quotas and acreage allotments for peanuts.

Section 1358a, act Feb. 16, 1938, ch. 30, title III, § 358a, as added Pub. L. 90-211, Dec. 18, 1967, 81 Stat. 658; amended Pub. L. 91-122, Nov. 21, 1969, 83 Stat. 213; Pub. L. 91-568, Dec. 22, 1970, 84 Stat. 1499; Pub. L. 95-113, title VIII, § 803, Sept. 29, 1977, 91 Stat. 946; Pub. L. 97-98, title VII, § 703, Dec. 22, 1981, 95 Stat. 1251; Pub. L. 99-198, title VII, § 703, Dec. 23, 1985, 99 Stat. 1434; Pub. L. 100-387, title III, § 304(a)(2), Aug. 11, 1988, 102 Stat. 948, related to transfer of peanut acreage allotments.

Section 1358b, act Feb. 16, 1938, ch. 30, title III, § 358b, as added Pub. L. 101-624, title VIII, § 803, Nov. 28, 1990, 104 Stat. 3466; amended Pub. L. 102-237, title I, § 122, Dec. 13, 1991, 105 Stat. 1844; Pub. L. 104-127, title I, § 155(i)(1)(B), (4)(B), (6), Apr. 4, 1996, 110 Stat. 928, 929, related to sale, lease, or transfer of farm poundage quota for peanuts.

Section 1358c, act Feb. 16, 1938, ch. 30, title III, § 358c, as added Pub. L. 101-624, title VIII, § 805, Nov. 28, 1990, 104 Stat. 3474; amended Pub. L. 104-127, title I, § 155(i)(1)(C), Apr. 4, 1996, 110 Stat. 928, related to experimental and research programs for peanuts.

Section 1359, act Feb. 16, 1938, ch. 30, title III, § 358d, formerly § 359, as added Apr. 3, 1941, ch. 39, § 1, 55 Stat. 90; amended July 9, 1942, ch. 497, § 1(2), (3), 56 Stat. 653; Aug. 1, 1947, ch. 445, § 2, 61 Stat. 721; July 3, 1948, ch. 827, title II, § 207(d), 62 Stat. 1257; Mar. 31, 1950, ch. 81, § 6(a), 64 Stat. 42; Apr. 12, 1951, ch. 28, § 2, 65 Stat. 31; Mar. 28, 1952, ch. 110, 66 Stat. 27; May 28, 1956, ch. 327, title III, §§ 305, 306, 70 Stat. 205; Pub. L. 85-127, Aug. 13, 1957, 71 Stat. 344; Pub. L. 85-717, § 2, Aug. 21, 1958, 72 Stat. 709; Pub. L. 95-113, title VIII, § 804, Sept. 29, 1977, 91 Stat. 946; Pub. L. 96-31, July 7, 1979, 93 Stat. 81; Pub. L. 97-98, title VII, § 704, Dec. 22, 1981, 95 Stat. 1251; Pub. L. 99-198, title VII, § 704, Dec. 23, 1985, 99 Stat. 1435; Pub. L. 101-82, title VI, § 601, Aug. 14, 1989, 103 Stat. 586; renumbered § 358d and amended Pub. L. 102-237, title I, § 117(a), (b)(2)(C), Dec. 13, 1991, 105 Stat. 1841, related to peanut marketing penalties.

Section 1359a, act Feb. 16, 1938, ch. 30, title III, § 358e, formerly § 359a, as added Pub. L. 101-624, title VIII, § 804, Nov. 28, 1990, 104 Stat. 3467; renumbered § 358e and amended Pub. L. 102-237, title I, § 117(a), (b)(2)(D), Dec. 13, 1991, 105 Stat. 1841; Pub. L. 103-66, title I, § 1109(c)(2), Aug. 10, 1993, 107 Stat. 326; Pub. L. 103-182, title III, § 321(d)(1)(B), Dec. 8, 1993, 107 Stat. 2110; Pub. L. 103-465, title IV, § 404(e)(6), Dec. 8, 1994, 108 Stat. 4961; Pub. L. 104-127, title I, § 155(i)(1)(D), Apr. 4, 1996, 110 Stat. 928, related to marketing penalties and disposition of additional peanuts.

#### TREATMENT OF 2001 CROP

For applicability of this subpart, as in effect on the day before May 13, 2002, with respect to the 2001 crop of peanuts notwithstanding repeal of this subpart by Pub. L. 107-171, see section 7959(a)(2) of this title.

#### SUBPART VII—FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR

##### CODIFICATION

Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938, comprising this subpart, was originally added to act Feb. 16, 1938, ch. 30, title III, by Pub. L. 101-624, title IX, § 902, Nov. 28, 1990, 104 Stat. 3479, and amended Pub. L. 102-237, title I, § 111(c)-(k), Dec. 13, 1991, 105 Stat. 1830-1836; Pub. L. 102-535, Oct. 27, 1992, 106 Stat. 3526; Pub. L. 103-66, title I, § 1107(b), Aug.

10, 1993, 107 Stat. 324. Part VII is shown herein, however, as having been added by Pub. L. 107-171, title I, § 1403, May 13, 2002, 116 Stat. 187, without reference to those intervening amendments because of the extensive revision of part VII by Pub. L. 107-171.

#### § 1359aa. Definitions

In this subpart:

##### (1) Human consumption

The term “human consumption”, when used in the context of a reference to sugar (whether in the form of sugar, in-process sugar, syrup, molasses, or in some other form) for human consumption, includes sugar for use in human food, beverages, or similar products.

##### (2) Mainland State

The term “mainland State” means a State other than an offshore State.

##### (3) Market

###### (A) In general

The term “market” means to sell or otherwise dispose of in commerce in the United States.

###### (B) Inclusions

The term “market” includes—

(i) the forfeiture of sugar under the loan program for sugar established under section 7272 of this title;

(ii) with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process; and

(iii) the sale of sugar for the production of ethanol or other bioenergy product, if the disposition of the sugar is administered by the Secretary under section 8110 of this title.

###### (C) Marketing year

Forfeited sugar described in subparagraph (B)(i) shall be considered to have been marketed during the crop year for which a loan is made under the loan program described in that subparagraph.

##### (4) Offshore State

The term “offshore State” means a sugar-cane producing State located outside of the continental United States.

##### (5) State

Notwithstanding section 1301 of this title, the term “State” means—

(A) a State;

(B) the District of Columbia; and

(C) the Commonwealth of Puerto Rico.

##### (6) United States

The term “United States”, when used in a geographical sense, means all of the States.

(Feb. 16, 1938, ch. 30, title III, § 359a, as added Pub. L. 107-171, title I, § 1403, May 13, 2002, 116 Stat. 187; amended Pub. L. 110-234, title I, § 1403(a), May 22, 2008, 122 Stat. 981; Pub. L. 110-246, § 4(a), title I, § 1403(a), June 18, 2008, 122 Stat. 1664, 1709.)

##### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub.

L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### PRIOR PROVISIONS

A prior section 1359aa, act Feb. 16, 1938, ch. 30, title III, § 359a, as added Pub. L. 101-624, title IX, § 902, Nov. 28, 1990, 104 Stat. 3479; amended Pub. L. 102-237, title I, § 111(c), Dec. 13, 1991, 105 Stat. 1830, related to information reporting with respect to sugar and crystalline fructose marketing quotas, prior to the general amendment of this subpart by Pub. L. 107-171.

A prior section 359a of act Feb. 16, 1938, was renumbered section 359e and was classified to section 1359a of this title prior to repeal by Pub. L. 107-171.

#### AMENDMENTS

2008—Pub. L. 110-246, § 1403(a), added pars. (1) and (3) and redesignated former pars. (1) to (4) as (2), (4), (5), and (6), respectively.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

### § 1359bb. Flexible marketing allotments for sugar

#### (a) Sugar estimates

##### (1) In general

Not later than August 1 before the beginning of each of the 2008 through 2012 crop years for sugarcane and sugar beets, the Secretary shall estimate—

(A) the quantity of sugar that will be subject to human consumption in the United States during the crop year;

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

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

(D) the quantity of sugar that will be available from the domestic processing of sugarcane, sugar beets, and in-process beet sugar; and

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

##### (2) Exclusion

The estimates under this subsection shall not apply to sugar imported for the production of polyhydric alcohol or to any sugar refined and reexported in refined form or in products containing sugar.

##### (3) Reestimates

The Secretary shall make reestimates of sugar consumption, stocks, production, and imports for a crop year as necessary, but not later than the beginning of each of the second through fourth quarters of the crop year.

#### (b) Sugar allotments

##### (1) Establishment

By the beginning of each crop year, the Secretary shall establish for that crop year appro-

priate allotments under section 1359cc of this title for the marketing by processors of sugar processed from sugar cane or sugar beets or in-process beet sugar (whether the sugar beets or in-process beet sugar was produced domestically or imported) at a level that is—

(A) sufficient to maintain raw and refined sugar prices above forfeiture levels so that there will be no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar established under section 7272 of this title; but

(B) not less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

#### (2) Products

The Secretary may include sugar products, the majority content of which is sucrose for human consumption, derived from sugar cane, sugar beets, molasses, or sugar in the allotments established under paragraph (1) if the Secretary determines it to be appropriate for purposes of this subpart.

#### (c) Coverage of allotments

##### (1) In general

The marketing allotments under this subpart shall apply to the marketing by processors of sugar intended for domestic human consumption that has been processed from sugar cane, sugar beets, or in-process beet sugar, whether such sugar beets or in-process beet sugar was produced domestically or imported.

##### (2) Exceptions

Consistent with the administration of marketing allotments for each of the 2002 through 2007 crop years, the marketing allotments shall not apply to sugar sold—

(A) to facilitate the exportation of the sugar to a foreign country, except that the exports of sugar shall not be eligible to receive credits under reexport programs for refined sugar or sugar containing products administered by the Secretary;

(B) to enable another processor to fulfill an allocation established for that processor; or

(C) for uses other than domestic human consumption, except for the sale of sugar for the production of ethanol or other bioenergy if the disposition of the sugar is administered by the Secretary under section 8110 of this title.

##### (3) Requirement

The sale of sugar described in paragraph (2)(B) shall be—

(A) made prior to May 1; and

(B) reported to the Secretary.

#### (d) Prohibitions

##### (1) In general

During all or part of any crop year for which marketing allotments have been established, no processor of sugar beets or sugarcane shall market for domestic human consumption a quantity of sugar in excess of the allocation established for the processor, except—

(A) to enable another processor to fulfill an allocation established for that other processor; or

(B) to facilitate the exportation of the sugar.

**(2) Civil penalty**

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

(Feb. 16, 1938, ch. 30, title III, § 359b, as added Pub. L. 107-171, title I, § 1403, May 13, 2002, 116 Stat. 188; amended Pub. L. 110-234, title I, § 1403(b), May 22, 2008, 122 Stat. 982; Pub. L. 110-246, § 4(a), title I, § 1403(b), June 18, 2008, 122 Stat. 1664, 1710.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 1359bb, act Feb. 16, 1938, ch. 30, title III, § 359b, as added Pub. L. 101-624, title IX, § 902, Nov. 28, 1990, 104 Stat. 3480; amended Pub. L. 102-237, title I, § 111(d), Dec. 13, 1991, 105 Stat. 1831; Pub. L. 103-66, title I, § 1107(b), Aug. 10, 1993, 107 Stat. 324, related to marketing allotments for sugar and crystalline fructose, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2008—Pub. L. 110-246, § 1403(b), amended section generally, substituting provisions relating to sugar estimates for 2008 through 2012 crop years, establishment of allotments, coverage of allotments, and prohibition against marketing in excess of allotments, for provisions relating to sugar estimates for 2002 through 2007 crop years, establishment of allotments, and prohibition against marketing in excess of allotments.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

**§ 1359cc. Establishment of flexible marketing allotments**

**(a) In general**

The Secretary shall establish flexible marketing allotments for sugar for any crop year in which the allotments are required under section 1359bb(b) of this title in accordance with this section.

**(b) Overall allotment quantity**

**(1) In general**

The Secretary shall establish the overall quantity of sugar to be allotted for the crop year (referred to in this subpart as the “overall allotment quantity”) at a level that is—

(A) sufficient to maintain raw and refined sugar prices above forfeiture levels to avoid forfeiture of sugar to the Commodity Credit Corporation; but

(B) not less than a quantity equal to 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

**(2) Adjustment**

Subject to paragraph (1), the Secretary shall adjust the overall allotment quantity to maintain—

(A) raw and refined sugar prices above forfeiture levels to avoid the forfeiture of sugar to the Commodity Credit Corporation; and

(B) adequate supplies of raw and refined sugar in the domestic market.

**(c) Marketing allotment for sugar derived from sugar beets and sugar derived from sugarcane**

The overall allotment quantity for the crop year shall be allotted between—

(1) sugar derived from sugar beets by establishing a marketing allotment for a crop year at a quantity equal to the product of multiplying the overall allotment quantity for the crop year by 54.35 percent; and

(2) sugar derived from sugarcane by establishing a marketing allotment for a crop year at a quantity equal to the product of multiplying the overall allotment quantity for the crop year by 45.65 percent.

**(d) Filling cane sugar and beet sugar allotments**

**(1) Cane sugar**

Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane.

**(2) Beet sugar**

Each marketing allotment for beet sugar established under this section may only be filled with sugar domestically processed from sugar beets or in-process beet sugar.

**(e) State cane sugar allotments**

**(1) In general**

The allotment for sugar derived from sugarcane shall be further allotted, among the States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner as provided in this subsection and section 1359dd(b)(1)(D) of this title.

**(2) Offshore allotment**

**(A) Collectively**

Prior to the allotment of sugar derived from sugarcane to any other State, 325,000 short tons, raw value shall be allotted to the offshore States.

**(B) Individually**

The collective offshore State allotment provided for under subparagraph (A) shall be further allotted among the offshore States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

(ii) the ability of processors to market the sugar covered under the allotments for the crop year; and

(iii) past processings of sugar from sugarcane, based on the 3-year average of the 1998 through 2000 crop years.

### (3) Mainland allotment

The allotment for sugar derived from sugarcane, less the amount provided for under paragraph (2), shall be allotted among the mainland States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

(A) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

(B) the ability of processors to market the sugar covered under the allotments for the crop year; and

(C) past processings of sugar from sugarcane, based on the 3 crop years with the greatest processings (in the mainland States collectively) during the 1991 through 2000 crop years.

### (f) Filling cane sugar allotments

Except as provided in section 1359ee of this title, a State cane sugar allotment established under subsection (e) of this section for a crop year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.

### (g) Adjustment of marketing allotments

#### (1) Adjustments

##### (A) In general

Subject to subparagraph (B), the Secretary shall, based on reestimates under section 1359bb(a)(3) of this title, adjust upward or downward marketing allotments in a fair and equitable manner, as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.

##### (B) Limitation

In carrying out subparagraph (A), the Secretary may not reduce the overall allotment quantity to a quantity of less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

#### (2) Allocation to processors

In the case of any increase or decrease in an allotment, each allocation to a processor of the allotment under section 1359dd of this title, and each proportionate share established with respect to the allotment under section 1359ff(c) of this title, shall be increased or decreased by the same percentage that the allotment is increased or decreased.

#### (3) Carry-over of reductions

Whenever a marketing allotment for a crop year is required to be reduced during the crop year under this subsection, if, at the time of

the reduction, the quantity of sugar marketed exceeds the processor's reduced allocation, the allocation of an allotment next established for the processor shall be reduced by the quantity of the excess sugar marketed.

(Feb. 16, 1938, ch. 30, title III, §359c, as added Pub. L. 107-171, title I, §1403, May 13, 2002, 116 Stat. 189; amended Pub. L. 110-234, title I, §1403(c), May 22, 2008, 122 Stat. 983; Pub. L. 110-246, §4(a), title I, §1403(c), June 18, 2008, 122 Stat. 1664, 1712.)

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### PRIOR PROVISIONS

A prior section 1359cc, act Feb. 16, 1938, ch. 30, title III, §359c, as added Pub. L. 101-624, title IX, §902, Nov. 28, 1990, 104 Stat. 3481; amended Pub. L. 102-237, title I, §111(e), Dec. 13, 1991, 105 Stat. 1832, related to establishment of marketing allotments, prior to the general amendment of this subpart by Pub. L. 107-171.

#### AMENDMENTS

2008—Subsec. (b). Pub. L. 110-246, §1403(c)(1), added subsec. (b) and struck out former subsec. (b) which related to: in par. (1), establishment of the overall allotment quantity by deducting from the sum of the estimated sugar consumption and reasonable carryover stocks for the crop year 1,532,000 short tons, raw value, and carry-in stocks of sugar, including sugar in Commodity Credit Corporation inventory; and in par. (2), adjustment of overall allotment quantity to avoid the forfeiture of sugar to the Commodity Credit Corporation.

Subsec. (d)(2). Pub. L. 110-246, §1403(c)(2), inserted “or in-process beet sugar” before period at end.

Subsec. (g)(1). Pub. L. 110-246, §1403(c)(3), substituted “Adjustments” for “In general” in par. heading, designated existing provisions as subpar. (A), inserted subpar. heading, substituted “Subject to subparagraph (B), the Secretary” for “The Secretary”, and added subpar. (B).

Subsec. (h). Pub. L. 110-246, §1403(c)(4), struck out subsec. (h). Prior to amendment, text read as follows: “Whenever the Secretary estimates or reestimates under section 1359bb(a) of this title, or has reason to believe, that imports of sugars, syrups or molasses for human consumption or to be used for the extraction of sugar for human consumption, whether under a tariff-rate quota or in excess or outside of a tariff-rate quota, will exceed 1,532,000 short tons (raw value equivalent) (excluding any imports attributable to reassignment under paragraph (1)(D) or (2)(C) of section 1359ee(b) of this title), and that the imports would lead to a reduction of the overall allotment quantity, the Secretary shall suspend the marketing allotments established under this section until such time as the imports have been restricted, eliminated, or reduced to or below the level of 1,532,000 short tons (raw value equivalent).”

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

### § 1359dd. Allocation of marketing allotments

#### (a) Allocation to processors

Whenever marketing allotments are established for a crop year under section 1359cc of this title, in order to afford all interested per-

sons an equitable opportunity to market sugar under an allotment, the Secretary shall allocate each such allotment among the processors covered by the allotment.

**(b) Hearing and notice**

**(1) Cane sugar**

**(A) In general**

The Secretary shall make allocations for cane sugar after a hearing, if requested by the affected sugarcane processors and growers, and on such notice as the Secretary by regulation may prescribe, in such manner and in such quantities as to provide a fair, efficient, and equitable distribution of the allocations under this paragraph. Each such allocation shall be subject to adjustment under section 1359cc(g) of this title.

**(B) Multiple processor States**

Except as provided in subparagraphs (C) and (D), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based on—

- (i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from among the 1996 through 2000 crops;
- (ii) the ability of processors to market sugar covered by that portion of the allotment allocated for the crop year; and
- (iii) past processings of sugar from sugarcane, based on the average of the 3 highest years of production during the 1996 through 2000 crop years.

**(C) Talisman processing facility**

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

**(D) Proportionate share States**

In the case of States subject to section 1359ff(c) of this title, the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based on—

- (i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from among the 1997 through 2001 crop years;
- (ii) the ability of processors to market sugar covered by that portion of the allotments allocated for the crop year; and
- (iii) past processings of sugar from sugarcane, based on the average of the 2 highest crop years of crop production during the 1997 through 2001 crop years.

**(E) New entrants**

**(i) In general**

Notwithstanding subparagraphs (B) and (D), the Secretary, on application of any processor that begins processing sugarcane on or after May 13, 2002, and after a hearing (if requested by the affected sugarcane

processors and growers) and on such notice as the Secretary by regulation may prescribe, may provide the processor with an allocation that provides a fair, efficient and equitable distribution of the allocations from the allotment for the State in which the processor is located.

**(ii) Proportionate share States**

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

**(iii) Limitations**

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

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

**(iv) New entrant States**

**(I) In general**

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

**(II) Effect on other allotments**

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

**(v) Adverse effects**

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

**(vi) Ability to market**

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

**(vii) Prohibition**

Not more than 1 processor allocation provided under this subparagraph may be

applicable to any individual sugar processing facility.

**(F) Transfer of ownership**

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

**(2) Beet sugar**

**(A) In general**

Except as otherwise provided in this paragraph and sections 1359cc(g), 1359ee(b), and 1359ff(b) of this title, the Secretary shall make allocations for beet sugar among beet sugar processors for each crop year that allotments are in effect on the basis of the adjusted weighted average quantity of beet sugar produced by the processors for each of the 1998 through 2000 crop years, as determined under this paragraph.

**(B) Quantity**

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

**(C) Weighted average quantity**

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

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

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

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

**(D) Adjustments**

**(i) In general**

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

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

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

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

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

**(ii) Quantity**

The quantity of beet sugar produced by a beet sugar processor under subparagraph (C) shall be—

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

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

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

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

**(E) Permanent termination of operations of a processor**

If a processor of beet sugar has been dissolved, liquidated in a bankruptcy proceeding, or otherwise has permanently terminated operations (other than in conjunction with a sale or other disposition of the processor or the assets of the processor), the Secretary shall—

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

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

**(F) Sale of all assets of a processor to another processor**

If a processor of beet sugar (or all of the assets of the processor) is sold to another

processor of beet sugar, the Secretary shall transfer the allocation of the seller to the buyer unless the allocation has been distributed to other sugar beet processors under subparagraph (E).

**(G) Sale of factories of a processor to another processor**

**(i) Effect of sale**

Subject to subparagraphs (E) and (F), if 1 or more factories of a processor of beet sugar (but not all of the assets of the processor) are sold to another processor of beet sugar during a crop year, the Secretary shall assign a pro rata portion of the allocation of the seller to the allocation of the buyer to reflect the historical contribution of the production of the sold 1 or more factories to the total allocation of the seller, unless the buyer and the seller have agreed upon the transfer of a different portion of the allocation of the seller, in which case, the Secretary shall transfer that portion agreed upon by the buyer and seller.

**(ii) Application of allocation**

The assignment of the allocation under clause (i) shall apply—

(I) during the remainder of the crop year for which the sale described in clause (i) occurs; and

(II) during each subsequent crop year.

**(iii) Use of other factories to fill allocation**

If the assignment of the allocation under clause (i) to the buyer for the 1 or more purchased factories cannot be filled by the production of the 1 or more purchased factories, the remainder of the allocation may be filled by beet sugar produced by the buyer from other factories of the buyer.

**(H) New entrants starting production, reopening, or acquiring an existing factory with production history**

**(i) Definition of new entrant**

**(I) In general**

In this subparagraph, the term “new entrant” means an individual, corporation, or other entity that—

(aa) does not have an allocation of the beet sugar allotment under this subpart;

(bb) is not affiliated with any other individual, corporation, or entity that has an allocation of beet sugar under this subpart (referred to in this clause as a “third party”); and

(cc) will process sugar beets produced by sugar beet growers under contract with the new entrant for the production of sugar at the new or re-opened factory that is the basis for the new entrant allocation.

**(II) Affiliation**

For purposes of subclause (I)(bb), a new entrant and a third party shall be considered to be affiliated if—

(aa) the third party has an ownership interest in the new entrant;

(bb) the new entrant and the third party have owners in common;

(cc) the third party has the ability to exercise control over the new entrant by organizational rights, contractual rights, or any other means;

(dd) the third party has a contractual relationship with the new entrant by which the new entrant will make use of the facilities or assets of the third party; or

(ee) there are any other similar circumstances by which the Secretary determines that the new entrant and the third party are affiliated.

**(ii) Allocation for a new entrant that has constructed a new factory or reopened a factory that was not operated since before 1998**

If a new entrant constructs a new sugar beet processing factory, or acquires and reopens a sugar beet processing factory that last processed sugar beets prior to the 1998 crop year and there is no allocation currently associated with the factory, the Secretary shall—

(I) assign an allocation for beet sugar to the new entrant that provides a fair and equitable distribution of the allocations for beet sugar so as to enable the new entrant to achieve a factory utilization rate comparable to the factory utilization rates of other similarly-situated processors; and

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

**(iii) Allocation for a new entrant that has acquired an existing factory with a production history**

**(I) In general**

If a new entrant acquires an existing factory that has processed sugar beets from the 1998 or subsequent crop year and has a production history, on the mutual agreement of the new entrant and the company currently holding the allocation associated with the factory, the Secretary shall transfer to the new entrant a portion of the allocation of the current allocation holder to reflect the historical contribution of the production of the 1 or more sold factories to the total allocation of the current allocation holder, unless the new entrant and current allocation holder have agreed upon the transfer of a different portion of the allocation of the current allocation holder, in which case, the Secretary shall transfer that portion agreed upon by the new entrant and the current allocation holder.

**(II) Prohibition**

In the absence of a mutual agreement described in subclause (I), the new entrant shall be ineligible for a beet sugar allocation.

**(iv) Appeals**

Any decision made under this subsection may be appealed to the Secretary in accordance with section 1359ii of this title.

(Feb. 16, 1938, ch. 30, title III, §359d, as added Pub. L. 107-171, title I, §1403, May 13, 2002, 116 Stat. 191; amended Pub. L. 110-234, title I, §1403(d), May 22, 2008, 122 Stat. 984; Pub. L. 110-246, §4(a), title I, §1403(d), June 18, 2008, 122 Stat. 1664, 1712.)

## CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

## PRIOR PROVISIONS

A prior section 1359dd, act Feb. 16, 1938, ch. 30, title III, §359d, as added Pub. L. 101-624, title IX, §902, Nov. 28, 1990, 104 Stat. 3483; amended Pub. L. 102-237, title I, §111(f), Dec. 13, 1991, 105 Stat. 1833, related to allocation of marketing allotments, prior to the general amendment of this subpart by Pub. L. 107-171.

## AMENDMENTS

2008—Subsec. (b)(1)(F). Pub. L. 110-246, §1403(d)(1), substituted “If” for “Except as otherwise provided in section 1359ff(c)(8) of this title, if”.

Subsec. (b)(2)(G) to (I). Pub. L. 110-246, §1403(d)(2), added subpars. (G) and (H) and struck out former subpars. (G) to (I) which related to sale of factories of a processor to another processor, new entrants starting production or reopening factories after May 13, 2002, and new entrants acquiring ongoing factories with production history during the period of the 1998 through 2000 crop years.

## EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

**§ 1359ee. Reassignment of deficits****(a) Estimates of deficits**

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

**(b) Reassignment of deficits****(1) Cane sugar**

If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the crop year—

(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the def-

icit to be assigned to it and taking into account the interests of producers served by the processors;

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

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

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

**(2) Beet sugar**

If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

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

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

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

**(3) Corresponding increase**

The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a crop year shall be increased to reflect the reassignment.

(Feb. 16, 1938, ch. 30, title III, §359e, as added Pub. L. 107-171, title I, §1403, May 13, 2002, 116 Stat. 197; amended Pub. L. 110-234, title I, §1403(e), May 22, 2008, 122 Stat. 986; Pub. L. 110-246, §4(a), title I, §1403(e), June 18, 2008, 122 Stat. 1664, 1714.)

## CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

## PRIOR PROVISIONS

A prior section 1359ee, act Feb. 16, 1938, ch. 30, title III, § 359e, as added Pub. L. 101-624, title IX, § 902, Nov. 28, 1990, 104 Stat. 3484; amended Pub. L. 102-237, title I, § 111(g), Dec. 13, 1991, 105 Stat. 1833, related to reassignment of sugar deficits, prior to the general amendment of this subpart by Pub. L. 107-171.

## AMENDMENTS

2008—Subsec. (b)(1)(D), (2)(C). Pub. L. 110-246, § 1403(e), inserted “of raw cane sugar” after “imports”.

## EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

**§ 1359ff. Provisions applicable to producers****(a) Processor assurances****(1) In general**

If allotments for a crop year are allocated to processors under section 1359dd of this title, the Secretary shall obtain from the processors such assurances as the Secretary considers adequate that the allocation will be shared among producers served by the processor in a fair and equitable manner that adequately reflects producers' production histories.

**(2) Arbitration****(A) In general**

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

**(B) Period**

The arbitration shall, to the maximum extent practicable, be—

- (i) commenced not more than 45 days after the request; and
- (ii) completed not more than 60 days after the request.

**(b) Sugar beet processing facility closures****(1) In general**

If a sugar beet processing facility is closed and the sugar beet growers that previously delivered beets to the facility elect to deliver their beets to another processing company, the growers may petition the Secretary to modify allocations under this subpart to allow the delivery.

**(2) Increased allocation for processing company**

The Secretary may increase the allocation to the processing company to which the growers elect to deliver their sugar beets, with the approval of the processing company, to a level that does not exceed the processing capacity of the processing company, to accommodate the change in deliveries.

**(3) Decreased allocation for closed company**

The increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been

closed and the remaining allocation shall be unaffected.

**(4) Timing**

The determinations of the Secretary on the issues raised by the petition shall be made within 60 days after the filing of the petition.

**(c) Proportionate shares of certain allotments****(1) Definition of seed****(A) In general**

In this subsection, the term “seed” means only those varieties of seed that are dedicated to the production of sugarcane from which is produced sugar for human consumption.

**(B) Exclusion**

The term “seed” does not include seed of a high-fiber cane variety dedicated to other uses, as determined by the Secretary<sup>1</sup>

**(2) In general****(A) States affected**

In any case in which a State allotment is established under section 1359cc(f) of this title and there are in excess of 250 sugarcane producers in the State (other than Puerto Rico), the Secretary shall make a determination under subparagraph (B).

**(B) Determination**

The Secretary shall determine, for each State allotment described in subparagraph (A), whether the production of sugarcane, in the absence of proportionate shares, will be greater than the quantity needed to enable processors to fill the allotment and provide a normal carryover inventory of sugar.

**(3) Establishment of proportionate shares**

If the Secretary determines under paragraph (2) that the quantity of sugar produced from sugarcane produced by producers in the area covered by a State allotment for a crop year will be in excess of the quantity needed to enable processors to fill the allotment for the crop year and provide a normal carryover inventory of sugar, the Secretary shall establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during the crop year the allotment is in effect as provided in this subsection. Each such proportionate share shall be subject to adjustment under paragraph (8) and section 1359cc(g) of this title.

**(4) Method of determining**

For purposes of determining proportionate shares for any crop of sugarcane:

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

<sup>1</sup> So in original. Probably should be followed by a period.

duction research data that the Secretary considers relevant.

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

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

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

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

#### (5) Acreage base

For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in the 2 highest of the 1999, 2000, and 2001 crop years.

(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

#### (6) Violation

##### (A) In general

Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the crop year, or otherwise violate proportionate share regulations issued by the Secretary under section 1359hh(a) of this title.

##### (B) Determination of violation

No producer shall be considered to have violated subparagraph (A) unless the processor of the sugarcane harvested by such producer from acreage in excess of the proportionate share of the farm markets an amount of sugar that exceeds the allocation of such processor for a crop year.

##### (C) Civil penalty

Any producer on a farm who violates subparagraph (A) by knowingly harvesting, or allowing to be harvested, an acreage of

sugarcane for sugar in excess of the farm's proportionate share shall be liable to the Commodity Credit Corporation for a civil penalty equal to one and one-half times the United States market value of the quantity of sugar that is marketed by the processor of such sugarcane in excess of the allocation of such processor for the crop year. The Secretary shall prorate penalties imposed under this subparagraph in a fair and equitable manner among all the producers of sugarcane harvested from excess acreage that is acquired by such processor.

#### (7) Waiver

Notwithstanding the preceding subparagraph, the Secretary may authorize the county and State committees established under section 590h(b) of title 16 to waive or modify deadlines and other proportionate share requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of proportionate shares.

#### (8) Adjustments

Whenever the Secretary determines that, because of a natural disaster or other condition beyond the control of producers that adversely affects a crop of sugarcane subject to proportionate shares, the amount of sugar from sugarcane produced by producers subject to the proportionate shares will not be sufficient to enable processors in the State to meet the State's cane sugar allotment and provide a normal carryover inventory of sugar, the Secretary may uniformly allow producers to harvest an amount of sugarcane in excess of their proportionate share, or suspend proportionate shares entirely, as necessary to enable processors to meet the State allotment and provide a normal carryover inventory of sugar.

(Feb. 16, 1938, ch. 30, title III, §359f, as added Pub. L. 107-171, title I, §1403, May 13, 2002, 116 Stat. 198; amended Pub. L. 110-234, title I, §1403(f), May 22, 2008, 122 Stat. 986; Pub. L. 110-246, §4(a), title I, §1403(f), June 18, 2008, 122 Stat. 1664, 1714.)

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### PRIOR PROVISIONS

A prior section 1359ff, act Feb. 16, 1938, ch. 30, title III, §359f, as added Pub. L. 101-624, title IX, §902, Nov. 28, 1990, 104 Stat. 3484; amended Pub. L. 102-237, title I, §111(h), Dec. 13, 1991, 105 Stat. 1834; Pub. L. 102-535, Oct. 27, 1992, 106 Stat. 3526, related to provisions applicable to producers, prior to the general amendment of this subpart by Pub. L. 107-171.

#### AMENDMENTS

2008—Subsec. (c). Pub. L. 110-246, §1403(f), added par. (1), redesignated former pars. (1) to (7) as (2) to (8), respectively, in par. (3), substituted "paragraph (2)" for "paragraph (1)", "quantity of sugar produced from sugarcane" for "quantity of sugarcane", and "paragraph (8)" for "paragraph (7)", in par. (6)(C), substituted "acreage of sugarcane for sugar" for "acreage of sugarcane", in par. (8), substituted "the amount of

sugar from sugarcane” for “the amount of sugarcane”, and struck out former par. (8) which related to petition to modify allocations to allow delivery to another sugarcane processing company if a processing facility was closed and the growers that had delivered sugarcane to the facility prior to closure had elected to deliver their sugarcane to another company.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

**§ 1359gg. Special rules**

**(a) Transfer of acreage base history**

**(1) Transfer authorized**

For the purpose of establishing proportionate shares for sugarcane farms under section 1359ff(c) of this title, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

**(2) Converted acreage base**

**(A) In general**

Sugarcane acreage base established under section 1359ff(c) of this title that has been or is converted to nonagricultural use on or after May 13, 2002, may be transferred to other land suitable for the production of sugarcane that can be delivered to a processor in a proportionate share State in accordance with this paragraph.

**(B) Notification**

Not later than 90 days after the Secretary becomes aware of a conversion of any sugarcane acreage base to a nonagricultural use, the Secretary shall notify the 1 or more affected landowners of the transferability of the applicable sugarcane acreage base.

**(C) Initial transfer period**

The owner of the base attributable to the acreage at the time of the conversion shall be afforded 90 days from the date of the receipt of the notification under subparagraph (B) to transfer the base to 1 or more farms owned by the owner.

**(D) Grower of record**

If a transfer under subparagraph (C) cannot be accomplished during the period specified in that subparagraph, the grower of record with regard to the acreage base on the date on which the acreage was converted to nonagricultural use shall—

- (i) be notified; and
- (ii) have 90 days from the date of the receipt of the notification to transfer the base to 1 or more farms operated by the grower.

**(E) Pool distribution**

**(i) In general**

If transfers under subparagraphs (B) and (C) cannot be accomplished during the periods specified in those subparagraphs, the county committee of the Farm Service

Agency for the applicable county shall place the acreage base in a pool for possible assignment to other farms.

**(ii) Acceptance of requests**

After providing reasonable notice to farm owners, operators, and growers of record in the county, the county committee shall accept requests from owners, operators, and growers of record in the county.

**(iii) Assignment**

The county committee shall assign the acreage base to other farms in the county that are eligible and capable of accepting the acreage base, based on a random drawing from among the requests received under clause (ii).

**(F) Statewide reallocation**

**(i) In general**

Any acreage base remaining unassigned after the transfers and processes described in subparagraphs (A) through (E) shall be made available to the State committee of the Farm Service Agency for allocation among the remaining county committees in the State representing counties with farms eligible for assignment of the base, based on a random drawing.

**(ii) Allocation**

Any county committee receiving acreage base under this subparagraph shall allocate the acreage base to eligible farms using the process described in subparagraph (E).

**(G) Status of reassigned base**

After acreage base has been reassigned in accordance with this subparagraph, the acreage base shall—

- (i) remain on the farm; and
- (ii) be subject to the transfer provisions of paragraph (1).

**(b) Preservation of acreage base history**

If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 1359ff(c) of this title, the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 5 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share.

**(c) Revisions of allocations and proportionate shares**

The Secretary, after such notice as the Secretary by regulation may prescribe, may revise or amend any allocation of a marketing allotment under section 1359dd of this title, or any proportionate share established or adjusted for a

farm under section 1359ff(c) of this title, on the same basis as the initial allocation or proportionate share was required to be established.

**(d) Transfers of mill allocations**

**(1) Transfer authorized**

A producer in a proportionate share State, upon written consent from all affected crop-share owners (or the representative of the affected crop-share owners) of a farm may deliver sugarcane to another processing company if the additional delivery, when combined with such other processing company's existing deliveries, does not exceed the processing capacity of the company.

**(2) Allocation adjustment**

Notwithstanding section 1359dd of this title, the Secretary shall adjust the allocations of each of such processing companies affected by a transfer under paragraph (1) to reflect the change in deliveries, based on—

(A) the number of acres of sugarcane base being transferred; and

(B) the pro rata amount of allocation at the processing company holding the applicable allocation that equals the contribution of the grower to allocation of the processing company for the sugarcane acreage base being transferred.

(Feb. 16, 1938, ch. 30, title III, §359g, as added Pub. L. 107-171, title I, §1403, May 13, 2002, 116 Stat. 201; amended Pub. L. 110-234, title I, §1403(g), May 22, 2008, 122 Stat. 987; Pub. L. 110-246, §4(a), title I, §1403(g), June 18, 2008, 122 Stat. 1664, 1715.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 1359gg, act Feb. 16, 1938, ch. 30, title III, §359g, as added Pub. L. 101-624, title IX, §902, Nov. 28, 1990, 104 Stat. 3486; amended Pub. L. 102-237, title I, §111(i), Dec. 13, 1991, 105 Stat. 1835, related to special rules, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-246, §1403(g)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "For the purpose of establishing proportionate shares for sugarcane farms under section 1359ff(c) of this title, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant."

Subsec. (d)(1). Pub. L. 110-246, §1403(g)(2)(A), inserted "affected" before "crop-share owners" in two places and struck out "and from the processing company holding the applicable allocation for such shares," before "may deliver".

Subsec. (d)(2). Pub. L. 110-246, §1403(g)(2)(B), struck out "the product of" after "based on" in introductory provisions, added subpars. (A) and (B), and struck out former subpars. (A) and (B) which read as follows:

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

"(B) the State's per acre yield goal established under section 1359ff(c)(3) of this title."

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

**§ 1359hh. Regulations; violations; publication of Secretary's determinations; jurisdiction of the courts; United States attorneys**

**(a) Regulations**

The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this subpart.

**(b) Violation**

Any person knowingly violating any regulation of the Secretary issued under subsection (a) of this section shall be subject to a civil penalty of not more than \$5,000 for each violation.

**(c) Publication in Federal Register**

Each determination issued by the Secretary to establish, adjust, or suspend allotments under this subpart shall be promptly published in the Federal Register and shall be accompanied by a statement of the reasons for the determination.

**(d) Jurisdiction of courts; United States attorneys**

**(1) Jurisdiction of courts**

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this subpart or any regulation issued thereunder.

**(2) United States attorneys**

Whenever the Secretary shall so request, it shall be the duty of the several United States attorneys, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties provided for in this subpart. The Secretary may elect not to refer to a United States attorney any violation of this subpart or regulation when the Secretary determines that the administration and enforcement of this subpart would be adequately served by written notice or warning to any person committing the violation.

**(e) Nonexclusivity of remedies**

The remedies and penalties provided for in this subpart shall be in addition to, and not exclusive of, any remedies or penalties existing at law or in equity.

(Feb. 16, 1938, ch. 30, title III, §359h, as added Pub. L. 107-171, title I, §1403, May 13, 2002, 116 Stat. 202.)

PRIOR PROVISIONS

A prior section 1359hh, act Feb. 16, 1938, ch. 30, title III, §359h, as added Pub. L. 101-624, title IX, §902, Nov. 28, 1990, 104 Stat. 3486; amended Pub. L. 102-237, title I, §111(j), Dec. 13, 1991, 105 Stat. 1836, related to regulations, violations, publication of Secretary's determinations, jurisdiction of courts, and United States attorneys, prior to the general amendment of this subpart by Pub. L. 107-171.

**§ 1359ii. Appeals****(a) In general**

An appeal may be taken to the Secretary from any decision under section 1359dd of this title establishing allocations of marketing allotments, or under section 1359ff or 1359gg(d) of this title, by any person adversely affected by reason of any such decision.

**(b) Procedure****(1) Notice of appeal**

Any such appeal shall be taken by filing with the Secretary, within 20 days after the decision complained of is effective, notice in writing of the appeal and a statement of the reasons therefor. Unless a later date is specified by the Secretary as part of the Secretary's decision, the decision complained of shall be considered to be effective as of the date on which announcement of the decision is made. The Secretary shall deliver a copy of any notice of appeal to each person shown by the records of the Secretary to be adversely affected by reason of the decision appealed, and shall at all times thereafter permit any such person to inspect and make copies of appellant's reasons for the appeal and shall on application permit the person to intervene in the appeal.

**(2) Hearing**

The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.

(Feb. 16, 1938, ch. 30, title III, §359i, as added Pub. L. 107-171, title I, §1403, May 13, 2002, 116 Stat. 202; amended Pub. L. 110-234, title I, §1403(h), May 22, 2008, 122 Stat. 988; Pub. L. 110-246, §4(a), title I, §1403(h), June 18, 2008, 122 Stat. 1664, 1716.)

## CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

## PRIOR PROVISIONS

A prior section 1359ii, act Feb. 16, 1938, ch. 30, title III, §359i, as added Pub. L. 101-624, title IX, §902, Nov. 28, 1990, 104 Stat. 3487; amended Pub. L. 102-237, title I, §111(k), Dec. 13, 1991, 105 Stat. 1836, related to appeals, prior to the general amendment of this subpart by Pub. L. 107-171.

## AMENDMENTS

2008—Subsec. (a). Pub. L. 110-246, §1403(h)(1), inserted “or 1359gg(d)” after “1359ff”.

Subsec. (c). Pub. L. 110-246, §1403(h)(2), struck out subsec. (c) which related to special appeal process regarding beet sugar allocations.

## EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

**§ 1359jj. Administration****(a) Use of certain agencies**

In carrying out this subpart, the Secretary may use the services of local committees of sugar beet or sugarcane producers, sugarcane processors, or sugar beet processors, State and county committees established under section 590h(b) of title 16, and the departments and agencies of the United States Government.

**(b) Use of Commodity Credit Corporation**

The Secretary shall use the services, facilities, funds, and authorities of the Commodity Credit Corporation to carry out this subpart.

(Feb. 16, 1938, ch. 30, title III, §359j, as added Pub. L. 107-171, title I, §1403, May 13, 2002, 116 Stat. 203.)

## PRIOR PROVISIONS

A prior section 1359jj, act Feb. 16, 1938, ch. 30, title III, §359j, as added Pub. L. 101-624, title IX, §902, Nov. 28, 1990, 104 Stat. 3488, related to administration of this subpart, prior to the general amendment of this subpart by Pub. L. 107-171.

**§ 1359kk. Administration of tariff rate quotas****(a) Establishment****(1) In general**

Except as provided in paragraph (2) and notwithstanding any other provision of law, at the beginning of the quota year, the Secretary shall establish the tariff-rate quotas for raw cane sugar and refined sugars at the minimum level necessary to comply with obligations under international trade agreements that have been approved by Congress.

**(2) Exception**

Paragraph (1) shall not apply to specialty sugar.

**(b) Adjustment****(1) Before April 1**

Before April 1 of each fiscal year, if there is an emergency shortage of sugar in the United States market that is caused by a war, flood, hurricane, or other natural disaster, or other similar event as determined by the Secretary—

(A) the Secretary shall take action to increase the supply of sugar in accordance with sections 1359cc(b)(2) and 1359ee(b) of this title, including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, and domestic raw cane sugar refining capacity has been maximized, the Secretary may increase the tariff-rate quota for refined sugars sufficient to accommodate the supply increase, if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 7272 of this title.

**(2) On or after April 1**

On or after April 1 of each fiscal year—

(A) the Secretary may take action to increase the supply of sugar in accordance

with sections 1359cc(b)(2) and 1359ee(b) of this title, including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, the Secretary may increase the tariff-rate quota for raw cane sugar if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 7272 of this title.

(Feb. 16, 1938, ch. 30, title III, § 359k, as added Pub. L. 110-234, title I, § 1403(j), May 22, 2008, 122 Stat. 988, and Pub. L. 110-246, § 4(a), title I, § 1403(j), June 18, 2008, 122 Stat. 1664, 1717.)

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

#### PRIOR PROVISIONS

A prior section 1359kk, act Feb. 16, 1938, ch. 30, title III, § 359k, as added Pub. L. 107-171, title I, § 1403, May 13, 2002, 116 Stat. 204, related to reallocation of sugar quota import shortfalls in 2002 through 2007 calendar years, prior to repeal by Pub. L. 110-234, title I, § 1403(i), May 22, 2008, 122 Stat. 988; Pub. L. 110-246, § 4, title I, § 1403(i), June 18, 2008, 122 Stat. 1664, 1716, effective May 22, 2008.

#### EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

### § 1359ll. Period of effectiveness

#### (a) In general

This subpart shall be effective only for the 2008 through 2012 crop years for sugar.

#### (b) Transition

The Secretary shall administer flexible marketing allotments for sugar for the 2007 crop year for sugar on the terms and conditions provided in this subpart as in effect on the day before the date of enactment of this section.

(Feb. 16, 1938, ch. 30, title III, § 359l, as added Pub. L. 110-234, title I, § 1403(k), May 22, 2008, 122 Stat. 989, and Pub. L. 110-246, § 4(a), title I, § 1403(k), June 18, 2008, 122 Stat. 1664, 1717.)

#### REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

#### EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

## PART C—ADMINISTRATIVE PROVISIONS

### SUBPART I—PUBLICATION AND REVIEW OF QUOTAS

#### INAPPLICABILITY OF SUBPART

Subpart inapplicable to 1996 through 2001 crops of peanuts, see section 7301(a)(1)(F) of this title.

Pub. L. 101-624, title VIII, § 801(4), Nov. 28, 1990, 104 Stat. 3459, provided that subpart I of part C of this subchapter (§ 1361 et seq.) is inapplicable to 1991 through 1995 crops of peanuts.

Pub. L. 99-198, title VII, § 701(4), Dec. 23, 1985, 99 Stat. 1430, provided that subpart I of part C of this subchapter (§ 1361 et seq.) is inapplicable to 1986 through 1990 crops of peanuts.

Pub. L. 97-98, title VII, § 701(4), Dec. 22, 1981, 95 Stat. 1248, provided that subpart I of part C of this subchapter (§ 1361 et seq.) is inapplicable to 1982 through 1985 crops of peanuts.

#### § 1361. Application of subpart

This subpart shall apply to the publication and review of farm marketing quotas established for corn, wheat, cotton, and rice, established under part B of this subchapter.

(Feb. 16, 1938, ch. 30, title III, § 361, 52 Stat. 62; Apr. 3, 1941, ch. 39, § 4, 55 Stat. 92; Pub. L. 107-171, title I, § 1309(h)(1), May 13, 2002, 116 Stat. 181; Pub. L. 108-357, title VI, § 611(h), Oct. 22, 2004, 118 Stat. 1522.)

#### AMENDMENTS

2004—Pub. L. 108-357 struck out “tobacco,” after “established for”.

2002—Pub. L. 107-171 struck out “peanuts,” after “cotton.”

1941—Act Apr. 3, 1941, inserted “peanuts,” after “cotton.”

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as an Effective Date note under section 518 of this title.

#### SAVINGS PROVISION

Amendment by sections 611 to 614 of Pub. L. 108-357 not to affect the liability of any person under any provision of law so amended with respect to the 2004 or an earlier crop of tobacco, see section 614 of Pub. L. 108-357, set out as a note under section 515 of this title.

### § 1362. Publication of marketing quota; mailing of allotment notice

All acreage allotments, and the farm marketing quotas established for farms in a county or other local administrative area shall, in accordance with regulations of the Secretary, be made and kept freely available for public inspection in such county or other local administrative area. An additional copy of this information shall be kept available in the office of the county agricultural extension agent or with the chairman of the local committee. Notice of the farm marketing quota of his farm shall be mailed to the farmer.

Notice of the farm acreage allotment established for each farm shown by the records of the county committee to be entitled to such allotment shall insofar as practicable be mailed to the farm operator in sufficient time to be received prior to the date of the referendum.

(Feb. 16, 1938, ch. 30, title III, § 362, 52 Stat. 62; Aug. 29, 1949, ch. 518, § 2(c), 63 Stat. 676.)

## AMENDMENTS

1949—Act Aug. 29, 1949, inserted paragraph providing for mailing of notice of allotment.

**§ 1363. Review of quota; review committee**

Any farmer who is dissatisfied with his farm marketing quota may, within fifteen days after mailing to him of notice as provided in section 1362 of this title, have such quota reviewed by a local review committee composed of three farmers from the same or nearby counties appointed by the Secretary. Such committee shall not include any member of the local committee which determined the farm acreage allotment, the normal yield, or the farm marketing quota for such farm. Unless application for review is made within such period, the original determination of the farm marketing quota shall be final.

(Feb. 16, 1938, ch. 30, title III, § 363, 52 Stat. 63; Apr. 12, 1951, ch. 28, § 3, 65 Stat. 31.)

## AMENDMENTS

1951—Act Apr. 12, 1951, provided that the Secretary appoint a local review committee composed of 3 farmers from the same or nearby counties.

## REVIEW OF 1950 COTTON FARM ACREAGE ALLOTMENT

Act Mar. 31, 1950, ch. 81, § 2, 64 Stat. 41, provided that any farmer dissatisfied with his farm acreage allotment for the 1950 cotton crop could have such allotment reviewed in accordance with the provisions of this chapter.

**§ 1364. Compensation of review committee**

The members of the review committee shall receive as compensation for their services the same per diem as that received by the members of the committee utilized for the purposes of chapter 3B of title 16. The members of the review committee shall not be entitled to receive compensation for more than thirty days in any one year.

(Feb. 16, 1938, ch. 30, title III, § 364, 52 Stat. 63.)

## REFERENCES IN TEXT

Chapter 3B [§590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

**§ 1365. Institution of proceeding for court review of committee findings**

If the farmer is dissatisfied with the determination of the review committee, he may, within fifteen days after a notice of such determination is mailed to him by registered mail or by certified mail, file a bill in equity against the review committee as defendant in the United States district court, or institute proceedings for review in any court of record of the State having general jurisdiction, sitting in the county or the district in which his farm is located, for the purpose of obtaining a review of such determination. Bond shall be given in an amount and with surety satisfactory to the court to secure the United States for the costs of the proceeding. The bill of complaint in such proceeding may be served by delivering a copy thereof to any one of the members of the review committee. Thereupon the review committee shall certify and file in the court a transcript of the

record upon which the determination complained of was made, together with its findings of fact.

(Feb. 16, 1938, ch. 30, title III, § 365, 52 Stat. 63; Pub. L. 86-507, § 1(5), June 11, 1960, 74 Stat. 200.)

## AMENDMENTS

1960—Pub. L. 86-507 inserted “or by certified mail” after “registered mail”.

**§ 1366. Court review**

The review by the court shall be limited to questions of law, and the findings of fact by the review committee, if supported by evidence shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the review committee, the court may direct such additional evidence to be taken before the review committee in such manner and upon such terms and conditions as to the court may seem proper. The review committee may modify its findings of fact or its determination by reason of the additional evidence so taken, and it shall file with the court such modified findings or determination, which findings of fact shall be conclusive. The court shall hear and determine the case upon the original record of the hearing before the review committee, and upon such record as supplemented if supplemented, by further hearing before the review committee pursuant to direction of the court. The court shall affirm the review committee's determination, or modified determination, if the court determines that the same is in accordance with law. If the court determines that such determination or modified determination is not in accordance with law, the court shall remand the proceeding to the review committee with direction either to make such determination as the court shall determine to be in accordance with law or to take such further proceedings as, in the court's opinion, the law requires.

(Feb. 16, 1938, ch. 30, title III, § 366, 52 Stat. 63; Pub. L. 98-620, title IV, § 402(6), Nov. 8, 1984, 98 Stat. 3357.)

## AMENDMENTS

1984—Pub. L. 98-620 substituted “The court” for “At the earliest convenient time, the court, in term time or vacation,”.

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

**§ 1367. Stay of proceedings and exclusive jurisdiction**

The commencement of judicial proceedings under this subpart shall not, unless specifically ordered by the court, operate as a stay of the review committee's determination. Notwithstanding any other provision of law, the jurisdiction conferred by this subpart to review the legal validity of a determination made by a review com-

mittee pursuant to this subpart shall be exclusive. No court of the United States or of any State shall have jurisdiction to pass upon the legal validity of any such determination except in a proceeding under this subpart.

(Feb. 16, 1938, ch. 30, title III, §367, 52 Stat. 64.)

#### § 1368. Effect of increase on other quotas

Notwithstanding any increase of any farm marketing quota for any farm as a result of review of the determination thereof under this subpart, the marketing quotas for other farms shall not be affected.

(Feb. 16, 1938, ch. 30, title III, §368, 52 Stat. 64.)

#### SUBPART II—ADJUSTMENT OF QUOTAS AND ENFORCEMENT

#### § 1371. General adjustment of quotas

##### (a) Investigation and adjustment to maintain normal supply

If at any time the Secretary has reason to believe that in the case of cotton,<sup>1</sup> or rice the operation of farm marketing quotas in effect will cause the amount of such commodity which is free of marketing restrictions to be less than the normal supply for the marketing year for the commodity then current, he shall cause an immediate investigation to be made with respect thereto. In the course of such investigation due notice and opportunity for hearing shall be given to interested persons. If upon the basis of such investigation the Secretary finds the existence of such fact, he shall proclaim the same forthwith. He shall also in such proclamation specify such increase in, or termination of, existing quotas as he finds, on the basis of such investigation, is necessary to make the amount of such commodity which is free of marketing restrictions equal the normal supply.

##### (b) Adjustment because of emergency or export demand

If the Secretary has reason to believe that, because of a national emergency or because of a material increase in export demand, any national marketing quota or acreage allotment for cotton,<sup>1</sup> or rice should be increased or terminated, he shall cause an immediate investigation to be made to determine whether the increase or termination is necessary to meet such emergency or increase in export demand. If, on the basis of such investigation, the Secretary finds that such increase or termination is necessary, he shall immediately proclaim such finding (and if he finds an increase is necessary, the amount of the increase found by him to be necessary) and thereupon such quota or allotment shall be increased, or shall terminate, as the case may be.

##### (c) Increase of farm quota on increase of national quota

In case any national marketing quota or acreage allotment for any commodity is increased under this section, each farm marketing quota or acreage allotment for the commodity shall be increased in the same ratio.

<sup>1</sup> So in original.

(Feb. 16, 1938, ch. 30, title III, §371, 52 Stat. 64; Apr. 3, 1941, ch. 39, §5, 55 Stat. 92; Aug. 28, 1954, ch. 1041, title III, §312, 68 Stat. 904; Pub. L. 87-703, title III, §321, Sept. 27, 1962, 76 Stat. 626; Pub. L. 107-171, title I, §1309(h)(2), May 13, 2002, 116 Stat. 182; Pub. L. 108-357, title VI, §611(i), Oct. 22, 2004, 118 Stat. 1522.)

#### AMENDMENTS

2004—Subsec. (a). Pub. L. 108-357, §611(i)(1), substituted “or rice” for “rice, or tobacco” in first sentence.

Subsec. (b). Pub. L. 108-357, §611(i)(2), which directed amendment of first sentence of subsec. (b) by substituting “or rice” for “rice, or tobacco”, was executed by making the substitution for “rice, or tobacco”, to reflect the probable intent of Congress.

2002—Subsec. (a). Pub. L. 107-171, §1309(h)(2)(A), struck out “peanuts,” before “or tobacco” in first sentence.

Subsec. (b). Pub. L. 107-171, §1309(h)(2)(B), struck out “peanuts” before “or tobacco” in first sentence.

1962—Subsec. (a). Pub. L. 87-703, §321(1), struck out “corn, wheat,” before “cotton”.

Subsec. (b). Pub. L. 87-703, §321(2), struck out “any national acreage allotment for corn, or” after “export demand,” “wheat,” before “cotton” and “in order to effect the declared policy of this chapter or” before “to meet such emergency”.

1954—Subsec. (b). Act Aug. 28, 1954, §312(a), inserted proviso relating to national acreage allotment for corn, and struck out corn from national marketing quota provision.

Subsec. (c). Act Aug. 28, 1954, §312(b), inserted “or acreage allotment” after “marketing quota” wherever appearing.

Subsec. (d). Act Aug. 28, 1954, §312(c), repealed subsec. (d) which related to the adjustment of corn storage regulations on change in marketing quotas.

1941—Subsecs. (a), (b). Act Apr. 3, 1941, inserted “peanuts,” after “rice.”

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as an Effective Date note under section 518 of this title.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964 or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

#### SAVINGS PROVISION

Amendment by sections 611 to 614 of Pub. L. 108-357 not to affect the liability of any person under any provision of law so amended with respect to the 2004 or an earlier crop of tobacco, see section 614 of Pub. L. 108-357, set out as a note under section 515 of this title.

#### INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF PEANUTS

Pub. L. 101-624, title VIII, §801(5), Nov. 28, 1990, 104 Stat. 3459, provided that this section is inapplicable to 1991 through 1995 crops of peanuts.

#### INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF PEANUTS

Pub. L. 99-198, title VII, §701(5), Dec. 23, 1985, 99 Stat. 1430, provided that this section is inapplicable to 1986 through 1990 crops of peanuts.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF  
PEANUTS

Pub. L. 97-98, title VII, §701(5), Dec. 22, 1981, 95 Stat. 1248, provided that this section is inapplicable to 1982 through 1985 crops of peanuts.

**§ 1372. Payment, collection, and refund of penalties**

(a) The penalty with respect to the marketing, by sale, of wheat, cotton, or rice, if the sale is to any person within the United States, shall be collected by the buyer.

(b) All penalties provided for in part B of this subchapter shall be collected and paid in such manner, at such times, and under such conditions as the Secretary may by regulations prescribe. Such penalties shall be remitted to the Secretary by the person liable for the penalty, except that if any other person is liable for the collection of the penalty, such other person shall remit the penalty. Except as provided in section 1314h<sup>1</sup> of this title, the amount of such penalties shall be covered into the general fund of the Treasury of the United States.

(c) Whenever, pursuant to a claim filed with the Secretary within two years after payment to him of any penalty collected from any person pursuant to this chapter, the Secretary finds that such penalty was erroneously, illegally, or wrongfully collected and the claimant bore the burden of the payment of such penalty, the Secretary shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary finds the claimant is entitled to receive as a refund of such penalty.

Notwithstanding any other provision of law, the Secretary is authorized to prescribe by regulations for the identification of farms and it shall be sufficient to schedule receipts into special deposit accounts or to schedule such receipts for transfer therefrom, or directly, into the separate fund provided for in subsection (b) of this section by means of such identification without reference to the names of the producers on such farms.

The Secretary is authorized to prescribe regulations governing the filing of such claims and the determination of such refunds.

(d) No penalty shall be collected under this chapter with respect to the marketing of any agricultural commodity grown for experimental purposes only by any publicly owned agricultural experiment station. Effective with the 1978 crops, no penalty shall be collected under this chapter with respect to the marketing of any agricultural commodity grown on State prison farms for consumption within such State prison system.

(Feb. 16, 1938, ch. 30, title III, §372, 52 Stat. 65; Apr. 7, 1938, ch. 107, §11, 52 Stat. 204; July 2, 1940, ch. 521, §6, 54 Stat. 728; Pub. L. 96-113, Nov. 16, 1979, 93 Stat. 850; Pub. L. 99-272, title I, §1106(b), Apr. 7, 1986, 100 Stat. 91.)

REFERENCES IN TEXT

Section 1314h of this title, referred to in subsec. (b), was repealed by Pub. L. 108-357, title VI, §611(a), Oct. 22, 2004, 118 Stat. 1522.

<sup>1</sup> See References in Text note below.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99-272 substituted “Except as provided in section 1314h of this title, the” for “The”.

1979—Subsec. (d). Pub. L. 96-113 inserted provisions respecting exemption from marketing quota penalties for State prison farms.

1940—Subsec. (c). Act July 2, 1940, substituted “within two years” for “within one year” and inserted “and the claimant bore the burden of the payment of such penalty” after “wrongfully collected” in first par. and inserted second par. authorizing regulations for farm identification, etc.

1938—Subsecs. (c), (d). Act Apr. 7, 1938, added subsecs. (c) and (d).

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-272, title I, §1106(b), Apr. 7, 1986, 100 Stat. 91, provided that the amendment made by that section is effective for the 1986 and subsequent crops of tobacco.

RULEMAKING PROCEDURES

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

**§ 1373. Reports and records**

**(a) Persons reporting**

This subsection shall apply to warehousemen, processors, and common carriers of corn, wheat, cotton, or rice, and<sup>1</sup> all ginners of cotton,<sup>2</sup> all persons engaged in the business of purchasing corn, wheat, cotton, or rice from producers. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this subchapter. Such information shall be reported and such records shall be kept in accordance with forms which the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of such person. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500.

**(b) Proof of acreage yield**

Farmers engaged in the production of corn, wheat, cotton, or rice for market shall furnish such proof of their acreage, yield, storage, and marketing of the commodity in the form of records, marketing cards, reports, storage under seal, or otherwise as the Secretary may prescribe as necessary for the administration of this subchapter.

<sup>1</sup> So in original. The word “and” probably should not appear.

<sup>2</sup> So in original. The word “and” probably should appear.

**(c) Data as confidential**

All data reported to or acquired by the Secretary pursuant to this section shall be kept confidential by all officers and employees of the Department, and only such data so reported or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under this subchapter. Nothing in this section shall be deemed to prohibit the issuance of general statements based upon the reports of a number of parties which statements do not identify the information furnished by any person.

(Feb. 16, 1938, ch. 30, title III, §373, 52 Stat. 65; June 13, 1940, ch. 360, §6, 54 Stat. 394; Apr. 3, 1941, ch. 39, §§6, 7, 55 Stat. 92; Pub. L. 86-507, §1(6), June 11, 1960, 74 Stat. 200; Pub. L. 95-113, title VIII, §805, Sept. 29, 1977, 91 Stat. 947; Pub. L. 97-98, title VII, §706, Dec. 22, 1981, 95 Stat. 1256; Pub. L. 97-218, title III, §304, July 20, 1982, 96 Stat. 214; Pub. L. 99-198, title VII, §706, Dec. 23, 1985, 99 Stat. 1441; Pub. L. 101-624, title VIII, §807, Nov. 28, 1990, 104 Stat. 3478; Pub. L. 104-127, title I, §171(a)(2), Apr. 4, 1996, 110 Stat. 937; Pub. L. 107-171, title I, §1309(h)(3), May 13, 2002, 116 Stat. 182; Pub. L. 108-357, title VI, §611(j), Oct. 22, 2004, 118 Stat. 1523.)

**AMENDMENTS**

2004—Subsec. (a). Pub. L. 108-357, §611(j)(2)(B), substituted “\$500.” for “\$500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required by this subsection within fifteen days after notice to him of such violation shall be subject to an additional fine of \$100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided*, That such fine shall not exceed \$5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by certified mail or by posting the same at any established place of business operated by him, or both.”

Pub. L. 108-357, §611(j)(2)(A), which directed that “all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,” be struck out in first sentence, was executed by striking out “, and all persons engaged in the business of redrying, prizing, or stemming tobacco for producers” before period at end of first sentence, to reflect the probable intent of Congress.

Pub. L. 108-357, §611(j)(1), substituted “or rice” for “rice, or tobacco” in two places in first sentence.

Subsec. (b). Pub. L. 108-357, §611(j)(1), substituted “or rice” for “rice, or tobacco”.

2002—Subsec. (a). Pub. L. 107-171, §1309(h)(3)(A), in first sentence, struck out “peanuts,” after “rice,” in two places, inserted “and” after “from producers,” and substituted “for producers.” for “for producers, all producers engaged in the production of peanuts, all brokers and dealers in peanuts, all agents marketing peanuts for producers, or acquiring peanuts for buyers and dealers, and all peanut growers’ cooperative associations, all persons engaged in the business of cleaning, shelling, crushing, and salting of peanuts and the manufacture of peanut products, and all persons owning or operating peanut-picking or peanut-threshing machines.”

Subsec. (b). Pub. L. 107-171, §1309(h)(3)(B), struck out “peanuts,” after “rice,”.

1996—Subsec. (a). Pub. L. 104-127 temporarily inserted “all producers engaged in the production of peanuts,” before “all brokers and dealers in peanuts”. See Effective and Termination Dates of 1996 Amendment note below.

1990—Subsec. (a). Pub. L. 101-624 temporarily inserted “all producers engaged in the production of peanuts,” before “all brokers and dealers in peanuts”. See Effective and Termination Dates of 1990 Amendment note below.

1985—Subsec. (a). Pub. L. 99-198 temporarily inserted “all producers engaged in the production of peanuts,” before “all brokers and dealers in peanuts”. See Effective and Termination Dates of 1985 Amendment note below.

1982—Subsec. (c). Pub. L. 97-218 inserted provision that nothing in this section shall be deemed to prohibit the issuance of general statements based upon the reports of a number of parties which statements do not identify the information furnished by any person.

1981—Subsec. (a). Pub. L. 97-98 temporarily inserted “all farmers engaged in the production of peanuts,” before “all brokers and dealers in peanuts”. See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (a). Pub. L. 95-113 temporarily inserted “all farmers engaged in the production of peanuts,” before “and brokers and dealers in peanuts”. See Effective and Termination Dates of 1977 Amendment note below.

1960—Subsec. (a). Pub. L. 86-507 inserted “or by certified mail” after “registered mail”.

1941—Subsec. (a). Act Apr. 3, 1941, §6, among other changes, inserted “peanuts” after “rice” wherever appearing and inserted “all brokers and dealers in peanuts, all agents marketing peanuts for producers, or acquiring peanuts for buyers and dealers, and all peanut growers’ cooperative associations, all persons engaged in the business of cleaning, shelling, crushing, and salting of peanuts and the manufacture of peanut products, and all persons owning or operating peanut-picking or peanut-threshing machines”.

Subsec. (b). Act Apr. 3, 1941, §7, inserted “peanuts,” after “rice,”.

1940—Subsec. (a). Act June 13, 1940, inserted all after “\$500;” in last sentence.

**EFFECTIVE DATE OF 2004 AMENDMENT**

Amendment by Pub. L. 108-357 applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as an Effective Date note under section 518 of this title.

**EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENT**

Pub. L. 104-127, title I, §171(a)(2), Apr. 4, 1996, 110 Stat. 937, provided that the amendment made by section 171(a)(2) is effective only for the 1996 through 2002 crops of peanuts.

**EFFECTIVE AND TERMINATION DATES OF 1990 AMENDMENT**

Pub. L. 101-624, title VIII, §807, Nov. 28, 1990, 104 Stat. 3478, provided that the amendment made by section 807 is effective only for the 1991 through 1995 crops of peanuts.

**EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT**

Pub. L. 99-198, title VII, §706, Dec. 23, 1985, 99 Stat. 1441, provided that the amendment made by section 706 is effective only for the 1986 through 1990 crops of peanuts.

**EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT**

Pub. L. 97-98, title VII, §706, Dec. 22, 1981, 95 Stat. 1256, provided that the amendment made by section 706 is effective for the 1982 through 1985 crop of peanuts.

**EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT**

Pub. L. 95-113, title VIII, §805, Sept. 29, 1977, 91 Stat. 947, provided that the amendment made by section 805 is effective for the 1978 through 1981 crops of peanuts.

## SAVINGS PROVISION

Amendment by sections 611 to 614 of Pub. L. 108-357 not to affect the liability of any person under any provision of law so amended with respect to the 2004 or an earlier crop of tobacco, see section 614 of Pub. L. 108-357, set out as a note under section 515 of this title.

**§ 1374. Measurement of farms and report of plantings; remeasurement**

(a) The Secretary shall provide for ascertaining, by measurement or otherwise, the acreage of any agricultural commodity or land use on farms for which the ascertainment of such acreage is necessary to determine compliance under any program administered by the Secretary. Insofar as practicable, the acreage of the commodity and land use shall be ascertained prior to harvest, and, if any acreage so ascertained is not in compliance with the requirements of the program the Secretary, under such terms and conditions as he prescribes, may provide a reasonable time for the adjustment of the acreage of the commodity or land use to the requirements of the program. Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1995 crops, except that, for the 1991 through 1995 crops, the rules shall allow 30 inch rows (or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows) to be taken into account for classifying the acreage planted to cotton and the area skipped. For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops.

(b) With respect to cotton, the Secretary, upon such terms and conditions as he may by regulation prescribe, shall provide, through the county and local committees for the measurement prior to planting of an acreage on the farm equal to the farm acreage allotment if so requested by the farm operator, and any farm on which the acreage planted to cotton does not exceed such measured acreage shall be deemed to be in compliance with the farm acreage allotment.

(c) The Secretary shall by appropriate regulations provide for the remeasurement upon request by the farm operator of the acreage planted to such commodity on the farm and for the measurement of the acreage planted to such commodity on the farm remaining after any adjustment of excess acreage hereunder and shall prescribe the conditions under which the farm operator shall be required to pay the county committee for the expense of the measurement of adjusted acreage or the expense of remeasurement after the initial measurement or the measurement of adjusted acreage. The regulations shall also provide for the refund of any deposit or payment made for the expense of the remeasurement of the initially determined acreage or the adjusted acreage when because of an error in the determination of such acreage the remeasurement brings the acreage within the allotment or permitted acreage or results in a change in acreage in excess of a reasonable variation normal to measurements of acreage of the

commodity. Unless the requirements for measurement of adjusted acreage are met by the farm operator, the acreage prior to such adjustment as determined by the county committee shall be considered the acreage of the commodity on the farm in determining whether the applicable farm allotment has been exceeded.

(Feb. 16, 1938, ch. 30, title III, §374, 52 Stat. 65; Apr. 3, 1941, ch. 39, §8, 55 Stat. 92; Aug. 29, 1949, ch. 518, §2(b), 63 Stat. 676; Aug. 28, 1954, ch. 1041, title III, §311(b), 68 Stat. 904; Pub. L. 86-553, §§1, 2, June 30, 1960, 74 Stat. 258; Pub. L. 89-321, title VII, §§701, 702, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 91-524, title VI, §612, Nov. 30, 1970, as added Pub. L. 93-86, §1(25), Aug. 10, 1973, 87 Stat. 236; Pub. L. 95-113, title VI, §605, Sept. 29, 1977, 91 Stat. 940; Pub. L. 97-98, title V, §505, Dec. 22, 1981, 95 Stat. 1241; Pub. L. 99-198, title V, §505, Dec. 23, 1985, 99 Stat. 1418; Pub. L. 101-624, title V, §504, Nov. 28, 1990, 104 Stat. 3440; Pub. L. 102-237, title I, §116(2), Dec. 13, 1991, 105 Stat. 1840.)

## AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237 inserted “(or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows)” after “30 inch rows” and inserted at end “For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops.”

1990—Subsec. (a). Pub. L. 101-624 substituted “1995 crops, except that, for the 1991 through 1995 crops, the rules shall allow 30 inch rows to be taken into account for classifying the acreage planted to cotton and the area skipped” for “1990 crops”.

1985—Subsec. (a). Pub. L. 99-198 substituted “1990 crops” for “1985 crops”.

1981—Subsec. (a). Pub. L. 97-98 substituted “1985 crops” for “1981 crops”.

1977—Subsec. (a). Pub. L. 95-113 substituted “1981” for “1977” in provisions setting the last year for application of the 1971 through 1973 skiprow patterns in classifying the acreage planted to cotton.

1973—Subsec. (a). Pub. L. 91-524, §612, as added by Pub. L. 93-86, inserted provisions relating to cotton planted in skiprow patterns.

1965—Subsec. (a). Pub. L. 89-321, §701, removed references to county and local committees as the agent for measuring commodity or land use acreage, substituted a general reference to any agricultural commodity or land use on farms requiring ascertainment of acreage for specific reference to corn, wheat, cotton, peanuts, or rice, and substituted provisions requiring ascertainment of commodity and land use prior to harvesting and allowing a reasonable time for adjustment of acreage requirements for provisions requiring the filing of a written report by the local committee with the state committee in the event of planting in excess of farm acreage allotment.

Subsec. (c). Pub. L. 89-321, §702, struck out sentence directing the Secretary to provide by regulation for the adjustment of planted acreage to the farm acreage allotment if the acreage determined to be planted to any basic agricultural commodity on the farm is in excess of the farm acreage allotment.

1960—Subsec. (b). Pub. L. 86-553, §1, struck out second sentence which read as follows: “The Secretary shall similarly provide for the remeasurement upon request by the farm operator of the acreage planted to cotton on the farm, but the operator shall be required to reimburse the local committee for the expense of such remeasurement if the planted acreage is found to be in excess of the allotted acreage” which is now covered by subsec. (c) of this section.

Subsec. (c). Pub. L. 86-553, §2, authorized Secretary to provide by regulations for remeasurement of acreage

planted to a basic agricultural commodity and for measurement of acreage planted to such commodity remaining after adjustment of excess of measurement and remeasurement and to provide for refunds, and prescribed method of computing acreage in determining whether the applicable farm allotment has been exceeded.

1954—Subsec. (b). Act Aug. 28, 1954, struck out last sentence relating to overplanting of cotton acreage.

Subsec. (c). Act Aug. 28, 1954, added subsec. (c).

1949—Act Aug. 29, 1949, redesignated existing provisions as subsec. (a) and added subsec. (b).

1941—Act Apr. 3, 1941, inserted “peanuts,” after “cotton.”

#### EFFECTIVE DATE OF 1990 AMENDMENT

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

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

### § 1375. Regulations

(a) The Secretary shall provide by regulations for the identification, wherever necessary, of corn, wheat, cotton, rice, or peanuts so as to afford aid in discovering and identifying such amounts of the commodities as are subject to and such amounts thereof as are not subject to marketing restrictions in effect under this subchapter.

(b) The Secretary shall prescribe such regulations as are necessary for the enforcement of this subchapter.

(Feb. 16, 1938, ch. 30, title III, §375, 52 Stat. 66; Apr. 3, 1941, ch. 39, §9, 55 Stat. 92; Pub. L. 108-357, title VI, §611(k), Oct. 22, 2004, 118 Stat. 1523.)

#### AMENDMENTS

2004—Subsec. (a). Pub. L. 108-357, §611(k)(1), substituted “or peanuts” for “peanuts, or tobacco”.

Subsec. (c). Pub. L. 108-357, §611(k)(2), which directed amendment of this section by striking out subsec. (c), could not be executed because this section does not contain a subsec. (c).

1941—Subsec. (a). Act Apr. 3, 1941, inserted “peanuts,” after “rice.”

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as an Effective Date note under section 518 of this title.

#### SAVINGS PROVISION

Amendment by sections 611 to 614 of Pub. L. 108-357 not to affect the liability of any person under any provision of law so amended with respect to the 2004 or an earlier crop of tobacco, see section 614 of Pub. L. 108-357, set out as a note under section 515 of this title.

### § 1376. Court jurisdiction; duties of United States attorneys; remedies and penalties as additional

The several district courts of the United States are vested with jurisdiction specifically to enforce the provisions of this subchapter. If and when the Secretary shall so request, it shall be the duty of the several United States attorneys in their respective districts, under the di-

rection of the Attorney General, to institute proceedings to collect the penalties provided in this subchapter. The remedies and penalties provided for herein shall be in addition to, and not exclusive of, any of the remedies or penalties under existing law. This section also shall be applicable to liquidated damages provided for pursuant to section 1349 of this title.

(Feb. 16, 1938, ch. 30, title III, §376, 52 Stat. 66; June 25, 1948, ch. 646, §1, 62 Stat. 869; Pub. L. 88-297, title I, §106(2), Apr. 11, 1964, 78 Stat. 176.)

#### AMENDMENTS

1964—Pub. L. 88-297 provided for application of this section to liquidated damages under section 1349 of this title.

#### CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted “United States attorneys” for “district attorneys”. See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

### § 1377. Preservation of unused acreage allotments

In any case in which, during any year beginning with 1956, the acreage planted to a commodity on any farm is less than the acreage allotment for such farm, the entire acreage allotment for such farm (excluding any allotment released from the farm or reapportioned to the farm and any allotment provided for the farm pursuant to subsection (f)(7)(A) of section 1344 of this title) shall, except as provided herein, be considered for the purpose of establishing future State, county and farm acreage allotments, to have been planted to such commodity in such year on such farm, but the 1956 acreage allotment of any commodity shall be regarded as planted under this section only if the owner or operator on such farm notified the county committee prior to the sixtieth day preceding the beginning of the marketing year for such commodity of his desire to preserve such allotment: *Provided*, That beginning with the 1960 crop, except for federally owned land, the current farm acreage allotment established for a commodity shall not be preserved as history acreage pursuant to the provisions of this section unless for the current year or either of the two preceding years an acreage equal to 75 per centum or more of the farm acreage allotment for such year or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for any such year, whichever is smaller was actually planted or devoted to the commodity on the farm (or was regarded as planted under provisions of the Soil Bank Act or the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa et seq.]): *Provided further*, That this section shall not be applicable in any case, within the period 1956 to 1959, in which the amount of the commodity required to be stored to postpone or avoid payment of penalty has been reduced because the allotment was not fully planted. Acreage history credits for released or reapportioned

acreage shall be governed by the applicable provisions of this subchapter pertaining to the release and reapportionment of acreage allotments.

(Feb. 16, 1938, ch. 30, title III, §377, as added May 28, 1956, ch. 327, title III, §307, 70 Stat. 206; amended Pub. L. 85-266, Sept. 2, 1957, 71 Stat. 592; Pub. L. 86-172, §1, Aug. 18, 1959, 73 Stat. 393; Pub. L. 88-297, title I, §106(4), Apr. 11, 1964, 78 Stat. 177; Pub. L. 95-113, title VIII, §806, Sept. 29, 1977, 91 Stat. 947; Pub. L. 104-127, title III, §336(b)(2)(A), Apr. 4, 1996, 110 Stat. 1006.)

#### REFERENCES IN TEXT

The Soil Bank Act, referred to in text, is act May 28, 1956, ch. 327, 70 Stat. 188, as amended, which was classified to subchapters I to III of chapter 45 (§1801 et seq.) of this title and was repealed by Pub. L. 89-321, title VI, §601, Nov. 3, 1965, 79 Stat. 1206. For complete classification of this Act to the Code prior to its repeal, see Tables.

The Food Security Act of 1985, referred to in text, is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. Chapter 4 of subtitle D of title XII of the Act is classified generally to part IV (§3839aa et seq.) of subchapter IV of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

#### AMENDMENTS

1996—Pub. L. 104-127 substituted “environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985” for “Great Plains program”.

1977—Pub. L. 95-113 temporarily inserted “or, in the case of peanuts, an acreage sufficient to produce 75 per centum of the farm poundage quota” after “of the farm acreage allotment for such year”. See Effective and Termination Dates of 1977 Amendment note below.

1964—Pub. L. 88-297 inserted “or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for any such year, whichever is smaller” in first proviso after “75 per centum or more of the farm acreage allotment for such year” to protect the farm base of any farm participating in the domestic allotment choice program if the acreage planted on the farm was at least 75 per centum of the farm domestic allotment.

1959—Pub. L. 86-172 excluded any allotment provided for a farm under section 1344(f)(7)(A) of this title from the entire acreage allotment for the farm which is considered as planted in the year for the purpose of establishing future acreage allotments and provided for the preservation of the current farm acreage allotment as history acreage under prescribed conditions.

1957—Pub. L. 85-266 struck out, for 1957, 1958, and 1959, requirement of filing notice of intention not to plant full acreage allotment and provided that acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this subchapter pertaining to the release and reapportionment of acreage allotments.

#### EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Pub. L. 95-113, title VIII, §806, Sept. 29, 1977, 91 Stat. 947, provided that the amendment made by that section is effective for the 1978 through 1981 crops of peanuts.

#### INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98-88, set out as a note under section 1342 of this title.

Section inapplicable to 2002 through 2007 crops of upland cotton, see section 7992(a)(2) of this title.

Section inapplicable to 1996 through 2001 crops of upland cotton, see section 7301(a)(1)(G) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101-624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99-198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97-98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of rice, see section 703 of Pub. L. 95-113.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95-113, set out as a note under section 1342 of this title.

Pub. L. 94-214, title III, §301, Feb. 16, 1976, 90 Stat. 187, provided that: “Section 377 of the Agricultural Adjustment Act of 1938 [this section] shall not be applicable to the 1976 and 1977 crops of rice.”

Pub. L. 91-524, title VI, §601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, §1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

### § 1378. Transfer of acreage allotments ensuing from agency acquisition of farmlands

#### (a) Allotment pool

Notwithstanding any other provision of this chapter, the allotment determined for any commodity for any land from which the owner is displaced because of acquisition of the land for any purpose, other than for the continued production of allotted crops, by any Federal, State, or other agency having the right of eminent domain shall be placed in an allotment pool and shall be available only for use in providing allotments for other farms owned by the owner so displaced. Upon application to the county committee, within three years after the date of such displacement, any owner so displaced shall be entitled to have allotments established for other farms owned by him, taking into consideration the land, labor, and equipment available on such other farms for the production of the commodity, crop-rotation practices, and the soil and other physical factors affecting the production of the commodity: *Provided*, That the acreage used to establish or increase the allotments for such farms shall be transferred from the pool and shall not exceed the allotment most recently established for the farm acquired from the applicant and placed in the pool. During the period of eligibility for the making of allotments under this section for a displaced owner, acreage allotments for the farm from which the owner was so displaced shall be established in accordance with the procedure applicable to other farms, and such allotments shall be considered to have been fully planted. After such allotment is made under this section, the proportionate part, or all, as the case may be, of the past acreage used in establishing the allotment most recently placed in the pool for the farm from which the owner was so displaced shall be transferred to and considered for the purposes of future State, county, and farm acreage allotments to have been planted on the farm to which allotment is made under this section. Except where subsection (c) of this section requires the transfer of allotment to another portion of the same farm, for the purpose of this section (1) that part of any farm from which the owner is

so displaced and that part from which he is not so displaced shall be considered as separate farms; and (2) an owner who voluntarily relinquishes possession of the land subsequent to its acquisition by an agency having the right of eminent domain shall be considered as having been displaced because of such acquisition. The former owner of land acquired as described in this subsection shall not be considered for the purposes hereof to have been displaced from such land during any period for which such land is leased to such former owner: *Provided*, That the occupancy of the former owner under the lease follows immediately after his occupancy as owner: *And provided further*, That if a former owner has been displaced prior to April 9, 1960, and no allotment from the land owned by such former owner has been transferred from the allotment pool and such former owner leases the land formerly owned by him prior to two years from April 9, 1960, such allotment shall be retransferred from the pool to such land and the occupancy of such former owner under the lease for the purposes of this subsection shall be deemed to have begun immediately after his displacement as owner. During any year of the 3-year period the allotment from a farm may remain in the allotment pool, the displaced owner may, in accordance with regulations of the Secretary, release for one year at a time any part or all of such farm allotment to the county committee for reapportionment to other farms in the county having allotments for such commodity on the basis of the past acreage of the commodity, land, labor, equipment available for the production of the commodity, crop rotation practices, and soil and other physical facilities affecting the production of the commodity; and the allotment reapportioned shall, for purposes of establishing future farm allotments, not be regarded as planted on the farm to which the allotment was transferred.

**(b) Circumstances precluding application of provisions**

The provisions of this section shall not be applicable if (1) there is any marketing quota penalty due with respect to the marketing of the commodity from the farm acquired by the Federal, State, or other agency or by the owner of the farm; (2) any of the commodity produced on such farm has not been accounted for as required by the Secretary; or (3) the allotment next established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper identification of the commodity produced on or marketed from such farm or due to a false acreage report.

**(c) Time of displacement determining application of provisions**

This section shall not be applicable, in the case of and<sup>1</sup> cotton, to any farm from which the owner was displaced prior to 1950, in the case of wheat and corn, to any farm from which the owner was displaced prior to 1954, and in the case of rice, to any farm from which the owner was displaced prior to 1955. In any case where the cropland acquired for nonfarming purposes from an owner by an agency having the right of

eminent domain represents less than 15 per centum of the total cropland on the farm, the allotment attributable to that portion of the farm so acquired shall be transferred to that portion of the farm not so acquired.

(Feb. 16, 1938, ch. 30, title III, §378, as added Pub. L. 85-835, title V, §501, Aug. 28, 1958, 72 Stat. 995; amended Pub. L. 86-423, §1, Apr. 9, 1960, 74 Stat. 41; Pub. L. 87-33, May 16, 1961, 75 Stat. 78; Pub. L. 91-524, title IV, §404(3), title VI, §605(1), Nov. 30, 1970, 84 Stat. 1366, 1378; Pub. L. 92-10, §2, Apr. 14, 1971, 85 Stat. 27; Pub. L. 92-354, July 26, 1972, 86 Stat. 499; Pub. L. 107-171, title I, §1309(h)(4), May 13, 2002, 116 Stat. 182; Pub. L. 108-357, title VI, §611(l), Oct. 22, 2004, 118 Stat. 1523.)

CODIFICATION

Part of subsec. (d) of section 378 of act Feb. 16, 1938, is set out as a Savings Provision note below. The remainder of such subsec. (d) repealed sections 1313(h), 1334(d), 1344(h), 1353(f), and 1358(h) of this title.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108-357, §611(l)(1), which directed amendment of subsec. (c) by substituting “and cotton” for “cotton, and tobacco”, was executed by making the substitution for “cotton and tobacco”, to reflect the probable intent of Congress.

Subsecs. (d), (e). Pub. L. 108-357, §611(l)(2), directed the repeal of subsecs. (d) and (e), added by Pub. L. 91-524, which had temporarily included farm base acreage allotment for upland cotton and domestic allotment for wheat within the term “allotment” as used in this section. See Codification note above and 1970 Amendment note below.

Subsec. (f). Pub. L. 108-357, §611(l)(2), struck out subsec. (f), which provided that the terms “allotment” and “acreage” would be construed to mean “marketing quota” and “poundage”, respectively, in applying provisions to a farm for which a quota had been determined under section 1314e of this title.

2002—Subsec. (c). Pub. L. 107-171 substituted “cotton and tobacco,” for “cotton, tobacco, and peanuts.”

1972—Subsec. (a). Pub. L. 92-354 struck out the alternative time limitation for filing applications to the county committee and substituted provisions describing allotments for provisions requiring the allotments to be comparable with allotments determined for other farms in the same area which are similar except for the past acreage of the commodity.

1971—Subsec. (f). Pub. L. 92-10 added subsec. (f).

1970—Subsec. (d). Pub. L. 91-524, §605(1), temporarily added subsec. (d). See Effective and Termination Dates of 1970 Amendment note below.

Subsec. (e). Pub. L. 91-524, §404(3), temporarily added subsec. (e). See Effective and Termination Dates of 1970 Amendment note below.

1961—Pub. L. 87-33 substituted provisions permitting displaced owners to release part or all of any allotment remaining in the allotment pool for reapportionment to other farms in the county having allotments for such commodity, for provisions making sections 1344(m)(2), 1353(e), and 1358(g) of this title inapplicable to allotments held under the lease by a displaced owner.

1960—Subsec. (a). Pub. L. 86-423 inserted sentences providing that the former owner of land shall not be considered to have been displaced during any period for which such land is leased to him if his occupancy under the lease immediately follows after his occupancy as owner, authorizing retransfer of allotments in cases where a former owner leases land formerly owned by him prior to two years from April 9, 1960, and making sections 1344(m)(2), 1353(e), and 1358(g) of this title inapplicable to allotments on lands held under the lease by a displaced owner which are subject to the provisions of this amendment.

<sup>1</sup> So in original. The word “and” probably should not appear.

## EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as an Effective Date note under section 518 of this title.

## EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Pub. L. 91-524, title IV, §404, title VI, §605, Nov. 30, 1970, 84 Stat. 1366, 1378, as amended by Pub. L. 93-86, §1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided that the amendments made by sections 404 and 605 are effective only with respect to the 1971 through 1977 crops.

## SAVINGS PROVISION

Amendment by sections 611 to 614 of Pub. L. 108-357 not to affect the liability of any person under any provision of law so amended with respect to the 2004 or an earlier crop of tobacco, see section 614 of Pub. L. 108-357, set out as a note under section 515 of this title.

Act Feb. 16, 1938, ch. 30, title III, §378(d), as added by Pub. L. 85-835, title V, §501, Aug. 28, 1958, 72 Stat. 995, provided in part that: "any transfer or reassignment of allotment heretofore made under the provisions of these sections [former sections 1313(h), 1334(d), 1344(h), 1353(f), and 1358(h) of this title] shall remain in effect, and any displaced farm owner for whom an allotment has been established under such repealed sections [such sections] shall not be eligible for additional allotment under subsection (a) of this section [7 U.S.C. 1378(a)] because of such displacement."

**§ 1379. Reconstitution of farms**

In any case in which the ownership of a tract of land is transferred from a parent farm, the acreage allotments, history acreages, and base acreages for the farm shall be divided between such tract and the parent farm in the same proportion that the cropland acreage in such tract bears to the cropland acreage in the parent farm, except that the Secretary shall provide by regulation the method to be used in determining the division, if any, of the acreage allotments, histories, and bases in any case in which—

- (1) the tract of land transferred from the parent farm has been or is being transferred to any agency having the right to acquire it by eminent domain;
- (2) the tract of land transferred from the parent farm is to be used for nonagricultural purposes;
- (3) the parent farm resulted from a combination of two or more tracts of land and records are available showing the contribution of each tract to the allotments, histories, and bases of the parent farm;
- (4) the appropriate county committee determines that a division based on cropland proportions would result in allotments and bases not representative of the operations normally carried out on any transferred tract during the base period;
- (5) the parent farm is divided among heirs in settling an estate; or
- (6) neither the tract transferred from the parent farm nor the remaining portion of the parent farm receives allotments in excess of allotments for similar farms in the community having allotments of the commodity or commodities involved and such allotments are consistent with good land uses.

(Feb. 16, 1938, ch. 30, title III, §379, as added Pub. L. 89-321, title VII, §707, Nov. 3, 1965, 79 Stat.

1211; amended Pub. L. 91-524, title IV, §404(4), title VI, §605(2), Nov. 30, 1970, 84 Stat. 1366, 1378; Pub. L. 98-180, title II, §212(b), Nov. 29, 1983, 97 Stat. 1149; Pub. L. 101-577, §2(c), Nov. 15, 1990, 104 Stat. 2856; Pub. L. 102-237, title I, §116(3), Dec. 13, 1991, 105 Stat. 1841; Pub. L. 106-78, title VIII, §803(c)(6)(C), Oct. 22, 1999, 113 Stat. 1178; Pub. L. 108-357, title VI, §611(m), Oct. 22, 2004, 118 Stat. 1523.)

## AMENDMENTS

2004—Pub. L. 108-357 struck out "(a)" before "In any case", struck out " but this clause (6) shall not be applicable in the case of burley tobacco" before period at end of par. (6), and struck out subsecs. (b) and (c), which related to combination of tracts in contiguous counties, and to burley tobacco poundage quota when a farm is divided through reconstitution, respectively.

1999—Subsec. (b). Pub. L. 106-78 inserted "or flue-cured" after "Burley".

1991—Subsecs. (a)(4) to (7), (c). Pub. L. 102-237 struck out "or" at end of par. (4), substituted ";" or" for period at end of par. (5), substituted a period for ";" or" at end of par. (6), and redesignated par. (7) as subsec. (c) and moved subsec. (c) to follow subsec. (b).

1990—Subsec. (a)(7). Pub. L. 101-577 added par. (7).

1983—Pub. L. 98-180 designated existing provisions as subsec. (a) and added subsec. (b).

1970—Pub. L. 91-524 temporarily inserted provision that term "acreage allotments" include the farm base acreage allotments for upland cotton and the domestic allotment for wheat. See Effective and Termination Dates of 1970 Amendment note below.

## EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as an Effective Date note under section 518 of this title.

## EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Pub. L. 91-524, title IV, §404, title VI, §605, Nov. 30, 1970, 84 Stat. 1366, 1378, as amended by Pub. L. 93-86, §1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided that the amendments made by sections 404 and 605 are effective only with respect to the 1971 through 1977 crops.

## SAVINGS PROVISION

Amendment by sections 611 to 614 of Pub. L. 108-357 not to affect the liability of any person under any provision of law so amended with respect to the 2004 or an earlier crop of tobacco, see section 614 of Pub. L. 108-357, set out as a note under section 515 of this title.

## PART D—WHEAT MARKETING ALLOCATION

**§ 1379a. Legislative findings**

Wheat, in addition to being a basic food, is one of the great export crops of American agriculture and its production for domestic consumption and for export is necessary to the maintenance of a sound national economy and to the general welfare. The movement of wheat from producer to consumer, in the form of the commodity or any of the products thereof, is preponderantly in interstate and foreign commerce. Unreasonably low prices of wheat to producers impair their purchasing power for non-agriculture products and place them in a position of serious disparity with other industrial groups. The conditions affecting the production of wheat are such that without Federal assistance, producers cannot effectively prevent disastrously low prices for wheat. It is necessary, in

order to assist wheat producers in obtaining fair prices, to regulate the price of wheat used for domestic food and for exports in the manner provided in this part.

(Feb. 16, 1938, ch. 30, title III, § 379a, as added Pub. L. 87-703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 626.)

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(3) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

#### § 1379b. Wheat marketing allocation; amount; national allocation percentage; commercial and noncommercial wheat-producing areas

During any marketing year for which a marketing quota is in effect for wheat, beginning with the marketing year for the 1964 crop, a wheat marketing allocation program shall be in effect as provided in this part. Whenever a wheat marketing allocation program is in effect for any marketing year the Secretary shall determine (1) the wheat marketing allocation for such year which shall be the amount of wheat which in determining the national marketing quota for such marketing year he estimated would be used during such year for food products for consumption in the United States, and that portion of the amount of wheat which in determining such quota he estimated would be exported in the form of wheat or products thereof during the marketing year on which the Secretary determines that marketing certificates shall be issued to producers in order to achieve, insofar as practicable, the price and income objectives of this part, and (2) the national allocation percentage which shall be the percentage which the national marketing allocation is of the national marketing quota. Each farm shall receive a wheat marketing allocation for such marketing year equal to the number of bushels obtained by multiplying the number of acres in the farm acreage allotment for wheat by the projected farm yield, and multiplying the resulting number of bushels by the national allocation percentage. If a noncommercial wheat-producing area is established for any marketing year, farms in such area shall be given wheat marketing allocations which are determined by the Secretary to be fair and reasonable in relation to the wheat marketing allocation given producers in the commercial wheat-producing area.

(Feb. 16, 1938, ch. 30, title III, § 379b, as added Pub. L. 87-703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 626; amended Pub. L. 88-297, title II, § 202(10), (11), Apr. 11, 1964, 78 Stat. 179, 180; Pub. L. 89-321, title V, §§ 502, 503, Nov. 3, 1965, 79 Stat. 1202; Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91-524, title IV, § 402(a), (b)(B), (C), Nov. 30, 1970, 84 Stat. 1362, as renumbered and amended Pub. L. 93-86, § 1(9), Aug. 10, 1973, 87 Stat. 225.)

#### AMENDMENTS

1973—Subsec. (c)(1). Pub. L. 91-524, § 402(b)(B)(i)-(vi), as added by Pub. L. 93-86, temporarily substituted

“payments authorized by section 1445a(c) of this title” for “certificates on wheat”, “wheat allotment” for “domestic wheat allotment”, “thirteen and three-tenths million” for “13.3 million”, “1971 crop; plus, if required by the Secretary, (ii) the acreage” for “1971 crop or 15 million acres in the case of the 1972 or 1973 crop, plus (ii) the acreage”, “The Secretary is authorized for the 1974 through 1977 crops to limit” for “The Secretary is authorized for the 1971, 1972, and 1973 crops to limit”, “such percentage of the acreage allotment” for “such percentage of the domestic wheat allotment as he determines necessary to provide an orderly transition to the program provided for under this section”, “The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and” for “Grazing shall not be permitted during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of Title 16 and subject to this limitation (1) the Secretary shall permit producers to plant and graze on the set-aside acreage sweet sorghum, and (2) the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to”, and “flaxseed, triticale, oats, rye, or other commodity” for “flaxseed, or other commodity”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(2). Pub. L. 91-524, § 402(b)(B)(i), as added by Pub. L. 93-86, temporarily substituted “payments authorized by section 1445a(c) of this title” for “certificates authorized in subsection (b) of this section”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(3). Pub. L. 91-524, § 402(b)(B)(vii), as added by Pub. L. 93-86, temporarily inserted provisions authorizing the Secretary, in the case of programs for the 1974 through 1977 crops, to pay an appropriate share of the cost of practices designated to protect set-aside acreage against erosion, insects, weeds, and rodents and to devote such acreage to wildlife food plots or wildlife habitat. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(4). Pub. L. 91-524, § 402(b)(B)(i), as added by Pub. L. 93-86, temporarily substituted “payments authorized by section 1445a(c) of this title” for “marketing certificates”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (d). Pub. L. 91-524, § 402(b)(C), as added by Pub. L. 93-86, temporarily struck out “certificates issued and of” before “payments made”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (e). Pub. L. 91-524, § 402(b)(C), as added by Pub. L. 93-86, temporarily struck out references to the issuance of certificates. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (g). Pub. L. 91-524, § 402(b)(C), as added by Pub. L. 93-86, temporarily reenacted subsec. (g) without change. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (i). Pub. L. 91-524, § 402(b)(C), as added by Pub. L. 93-86, temporarily reenacted subsec. (i) without change. See Effective and Termination Dates of 1973 Amendment note below.

1970—Pub. L. 91-524, § 402(a), formerly § 402, temporarily substituted provisions covering the issuance of domestic certificates to producers and a voluntary set-aside program for wheat for provisions for a wheat marketing allocation program for the 1964 to 1970 crops. See Effective and Termination Dates of 1970 Amendment note below.

1968—Pub. L. 90-559 temporarily provided for a one year extension through 1970.

1965—Pub. L. 89-321, § 502, temporarily amended section generally and, among other changes, extended the wheat marketing allocation program from 1964 and 1965 to 1966 through 1969, put a minimum limitation of five hundred million bushels on the amount of wheat in-

cluded in the marketing allocation for food products for consumption in the United States, and required the cost of any domestic marketing certificates issued to producers in excess of the number of certificates acquired by processors as a result of the application of the five hundred million bushel minimum or an overestimate of the amount of wheat used during such year for food products for consumption in the United States to be borne by the Commodity Credit Corporation. See Effective and Termination Dates of 1965 Amendment note below.

Pub. L. 89-321, § 503, substituted “projected farm yield” for “normal wheat for the farm as projected by the Secretary”.

1964—Pub. L. 88-297, § 202(10), temporarily struck out introductory phrase “During any marketing year for which a marketing quota is in effect for wheat”, reduced the national allocation percentage by the expected production on the acreage allotments for farms which will not be in compliance with the requirements of the program, and struck out provisions for wheat marketing allocations to non-commercial wheat-producing areas reasonably related to such allocations to producers in commercial wheat-producing areas. See Effective and Termination Dates of 1964 Amendment note below.

Pub. L. 88-297, § 202(11), substituted “food products for consumption in the United States” for “human consumption in the United States, as food, food products, and beverages, composed wholly or partly of wheat” in second sentence.

#### EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Pub. L. 91-524, title IV, § 402(b)(B), as added by Pub. L. 93-86, § 1(9), Aug. 10, 1973, 87 Stat. 226, provided that subsection (c) of this section, as amended by section 402(a), (b)(B) of Pub. L. 91-524, is effective with respect to the 1974 through 1977 crops of wheat.

Pub. L. 91-524, title IV, § 402(b)(C), as added by Pub. L. 93-86, § 1(9), Aug. 10, 1973, 87 Stat. 226, provided that subsections (d), (e), (g), and (i) of this section, as amended by section 402(a), (b)(C) of Pub. L. 91-524, is effective for the 1974 through 1977 crops.

#### EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Pub. L. 91-524, title IV, § 402(a), formerly § 402, Nov. 30, 1970, 84 Stat. 1362, as renumbered by Pub. L. 93-86, § 1(9), Aug. 10, 1973, 87 Stat. 225, provided that the amendment made by section 402(a) of Pub. L. 91-524 is effective only with respect to the 1971, 1972, and 1973 crops of wheat.

#### EFFECTIVE AND TERMINATION DATES OF 1965 AMENDMENT

Pub. L. 89-321, title V, § 502, Nov. 3, 1965, 79 Stat. 1202, as amended by Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by section 502 of Pub. L. 89-321 is effective only with respect to the crops of wheat planted for harvest in calendar years 1966 through 1970, and marketing years for such crops.

Pub. L. 89-321, title V, § 503, Nov. 3, 1965, 79 Stat. 1202, provided that the amendment made by section 503 of Pub. L. 89-321 is effective beginning with the 1970 crop.

#### EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Pub. L. 88-297, title II, § 202(10), Apr. 11, 1964, 78 Stat. 179, provided that the amendment made by section 202(10) of Pub. L. 88-297 is effective only with respect to crops planted for harvest in 1964 and 1965.

Pub. L. 88-297, title II, § 202(11), Apr. 11, 1964, 78 Stat. 180, provided that the amendment made by section 202(11) of Pub. L. 88-297 is effective with respect to the crops planted for harvest in calendar year 1966 and any subsequent year.

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable

to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(3) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101-624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 through 1990 crops of wheat, see section 310(b) of Pub. L. 99-198, set out as a note under section 1331 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97-98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95-113, set out as a note under section 1331 of this title.

Pub. L. 91-524, title IV, § 402(b)(A), as added by Pub. L. 93-86, § 1(9), Aug. 10, 1973, 87 Stat. 226, provided that: “Section 379b of the Agricultural Adjustment Act of 1938 [7 U.S.C. 1379b] (which provides for a wheat marketing certificate program) shall not be applicable to the 1974 through 1977 crops of wheat, except as provided in paragraphs (B) and (C) of this subsection [amending this section and enacting provisions set out as notes under this section].”

#### § 1379c. Marketing certificates

##### (a) Issuance; amount; reduction; sharing among producers; domestic and export certificates

The Secretary shall provide for the issuance of wheat marketing certificates for each marketing year for which a wheat marketing allocation program is in effect for the purpose of enabling producers on any farm with respect to which certificates are issued to receive, in addition to the other proceeds from the sale of wheat, an amount equal to the value of such certificates. The wheat marketing certificates issued with respect to any farm for any marketing year shall be in the amount of the farm wheat marketing allocation for such year, but not to exceed (i) the actual acreage of wheat planted on the farm for harvest in the calendar year in which the marketing year begins multiplied by the normal yield of wheat for the farm, plus (ii) the amount of wheat stored under subsection (b) of this section or to avoid or postpone a marketing quota penalty, which is released from storage during the marketing year on account of underplanting or underproduction, and if this limitation operates to reduce the amount of wheat marketing certificates which would otherwise be issued with respect to the farm, such reduction shall be made first from the amount of export certificates which would otherwise be issued. The Secretary shall provide for the sharing of wheat marketing certificates among producers on the farm on the basis of their respective shares in the wheat crop produced on the farm, or the proceeds therefrom; except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable. The Secretary shall, in accordance with such regulation as he may prescribe, provide for the issuance of domestic marketing certificates for the portion of the wheat marketing allocation representing wheat used for food products for consumption in the United States. The Secretary shall also provide for the

issuance of export marketing certificates to eligible producers at the end of the marketing year on a pro rata basis. For such purposes, the value per bushel of export marketing certificates shall be an average of the total net proceeds from the sale of export marketing certificates during the marketing year after deducting the total amount of wheat export subsidies paid to exporters. An acreage on the farm which the Secretary finds was not planted to wheat for harvest in 1965 because of drought, flood, or other natural disaster shall be deemed by the Secretary to be an actual acreage of wheat planted for harvest for purposes of this subsection, provided such acreage is not subsequently planted to any other price supported crop for 1965. An acreage on the farm not planted to wheat because of drought, flood, or other natural disaster shall be deemed to be an actual acreage of wheat planted for harvest for purposes of this subsection provided such acreage is not subsequently planted to any crop for which there are marketing quotas or voluntary adjustment programs in effect. Producers on any farm who have planted not less than 90 per centum of the acreage of wheat required to be planted in order to earn the full amount of marketing certificates for which the farm is eligible shall be deemed to have planted the entire acreage required to be planted for that purpose.

**(b) Producers eligible for certificates; storage conditions**

No producer shall be eligible to receive wheat marketing certificates with respect to any farm for any marketing year in which a marketing quota penalty is assessed for any commodity on such farm or in which the farm has not complied with the land-use requirements of section 1339 of this title to the extent prescribed by the Secretary, or in which, except as the Secretary may by regulation prescribe, the producer exceeds the farm acreage allotment on any other farm for any commodity in which he has an interest as a producer. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty. No producer shall be deemed to have exceeded the farm acreage allotment for wheat on any other farm if such farm is exempt from the farm marketing quota for such crop under section 1335 of this title. Any wheat delivered to the Secretary hereunder shall become the property of the United States and shall be disposed of by the Secretary for relief purposes in the United States or in foreign countries or in such other manner as he shall determine will divert it from the normal channels of trade and commerce. Notwithstanding any other provision of this chapter, the Secretary may provide that a producer shall not be eligible to receive marketing certificates, or may adjust the amount of marketing certificates to be received by the producer, with respect to any farm for any year in which a variety of wheat is planted on the farm which has been determined by the Secretary, after consultation with State Agricultural Experiment Stations, agronomists, cereal chem-

ists and other qualified technicians, to have undesirable milling or baking qualities and has made public announcement thereof.

**(c) Face value**

The Secretary shall determine and proclaim for each marketing year the face value per bushel of wheat marketing certificates. The face value per bushel of domestic certificates shall be the amount by which the level of price support for wheat accompanied by domestic certificates exceeds the level of price support for wheat not accompanied by certificates (noncertificate wheat).

**(d) Statement or form of certificates and transfers**

Marketing certificates and transfers thereof shall be represented by such documents, marketing cards, records, accounts, certifications, or other statements or forms as the Secretary may prescribe.

**(e) Failure of producer to comply with programs; issuance of certificates**

In any case in which the failure of a producer to comply fully with the term and conditions of the programs formulated under this chapter preclude the issuance of marketing certificates, the Secretary may, nevertheless, issue such certificates in such amounts as he determines to be equitable in relation to the seriousness of the default.

(Feb. 16, 1938, ch. 30, title III, §379c, as added Pub. L. 87-703, title III, §324(2), Sept. 27, 1962, 76 Stat. 627; amended Pub. L. 88-297, title II, §202(12)-(14), Apr. 11, 1964, 78 Stat. 180, 181; Pub. L. 89-112, §3, Aug. 6, 1965, 79 Stat. 447; Pub. L. 89-321, title V, §§508, 510(a), 513(b), (c), 515, 517, Nov. 3, 1965, 79 Stat. 1204-1206; Pub. L. 89-451, §3, June 17, 1966, 80 Stat. 202; Pub. L. 91-524, title IV, §402(a), (b)(D), Nov. 30, 1970, 84 Stat. 1364, as renumbered and amended Pub. L. 93-86, §1(9), Aug. 10, 1973, 87 Stat. 225.)

AMENDMENTS

1973—Subsec. (a)(1). Pub. L. 91-524, §402(b)(D), as added by Pub. L. 93-86, temporarily substituted references to a farm acreage allotment for references to the farm domestic allotment wherever appearing, struck out provisions limiting the impact of the section to the 1972 and 1973 crops of wheat, substituted “estimated national average yield for the crop for which the determination is being made will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks” for “estimated national yield will result in marketing certificates being issued to producers participating in the program in an amount equal to the amount of wheat which he estimates will be used for food products for consumption in the United States during the marketing year for the crop (not less than 535 million bushels)” in the provisions covering the determination of the estimated national yield, and inserted “(1973 national domestic allotment in the case of apportionment of the 1974 national acreage allotment)” before “adjusted to the extent deemed necessary”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(2). Pub. L. 91-524, §402(b)(D), as added by Pub. L. 93-86, temporarily struck out “domestic” be-

fore "acreage allotment" and "wheat allotment". See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(3). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86, temporarily struck out "domestic" before "allotment" and "wheat allotment" wherever appearing and struck out provisions establishing special requirements to be met in determining the allotment for the 1971 crop of wheat. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(4), (5). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86, temporarily struck out "domestic" before "allotment" wherever appearing. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(6). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86, temporarily reenacted par. (6) without change. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (b)(1). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86, temporarily struck out "domestic" before "allotment" wherever appearing and inserted ", guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate" after "feed grains for which there is a set-aside program in effect". See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (b)(2). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86, temporarily struck out "domestic" before "allotment" wherever appearing and substituted "payments" for "certificates" and "section 1445a(c) of this title" for "this chapter". See Effective and Termination Dates of 1973 Amendment note below.

1970—Pub. L. 91-524, § 402(a), formerly § 402, temporarily substituted provisions for the apportionment of the farm domestic allotment for each crop of wheat among the States for provisions covering the marketing certificates program. See Effective and Termination Dates of 1970 Amendment note below.

1966—Subsec. (a). Pub. L. 89-451 substituted "any crop for which there are marketing quotas or voluntary adjustment programs in effect" for "any other income-producing crops during such year" in penultimate sentence.

1965—Subsec. (a). Pub. L. 89-321, §§ 508, 513(b), authorized the Secretary to provide for the sharing of wheat marketing certificates among producers on a fair and equitable basis even though such basis might be other than the basis of their respective shares in the wheat crop produced on the farm, provided that acreage not planted to wheat because of drought, flood, or other natural disaster be deemed, with certain conditions, be planted for harvest for purposes of this subsection, and expanded the reference to the issuance of export marketing certificates by requiring their issuance on a pro rata basis and providing for the determination of such certificate's value per bushel.

Pub. L. 89-112 provided that the Secretary shall deem acreage on the farm which the Secretary finds was not planted to wheat for harvest in 1965 because of drought, flood, or other natural disaster, to be an actual acreage of wheat planted for harvest when that acreage was not subsequently planted to any other price supported crop for 1965.

Subsec. (b). Pub. L. 89-321, §§ 510(a), 517 substituted "projected farm yield" for "normal yield of wheat per acre established for the farm", permitted delivery to the Secretary of the wheat produced on excess acreage as an additional means of disposing of excess wheat so as to allow a producer to be deemed not to have exceeded the farm acreage allotment for wheat for purposes of this section, and provided for the disposition of wheat delivered to the Secretary and the adjustment of certificates to a producer who has produced an undesirable variety of wheat following public announcement by the Secretary of its undesirable characteristics.

Subsec. (c). Pub. L. 89-321, § 513(c), struck out provisions that the face value per bushel of export certificates shall be the amount by which the level of price support for wheat accompanied by export certificates exceeds the level of price support for noncertificate wheat.

Subsec. (e). Pub. L. 89-321, § 515, added subsec. (e).

1964—Subsec. (a). Pub. L. 88-297, § 202(12), inserted "under subsection (b) of this section or" after "stored" in second sentence, added to such sentence provision for reduction of wheat marketing certificates from amount of export certificates, and inserted provision for issuance of domestic marketing certificates for wheat used for domestic consumption and export marketing certificates for wheat used for export.

Subsec. (b). Pub. L. 88-297, § 202(13), temporarily authorized producers who exceeded their wheat allotments to store their excess wheat in accordance with regulations issued by the Secretary and be eligible for wheat marketing certificates, prohibited wheat stored under this provision from being removed from storage until a subsequent year when acreage allotment was underplanted or the production on the acreage allotment was less than normal, required the producer (for removal of the wheat contrary to these conditions) to pay an amount one and one-half times the value of the wheat marketing certificates issued with respect to the farm for the year in which the wheat on the acreage in excess of the allotment was produced, and made producers who exceeded their allotment and stored their excess wheat ineligible for diversion payments. See Effective and Termination Dates of 1964 Amendment note below.

Subsec. (c). Pub. L. 88-297, § 202(14), struck out introductory phrase "Whenever a wheat marketing allocation program is in effect for any marketing year" from first sentence, substituted in such sentence "each marketing year" for "such marketing year", inserted in such sentence "wheat" before "marketing certificates", substituted in second sentence "domestic certificates shall be the amount" for "marketing certificates shall be equal to the amount" and "domestic certificates" for "certificates" before "exceeds", and inserted to such sentence provision for face value per bushel of export certificates.

#### EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Pub. L. 91-524, title IV, § 402(b)(D), as added by Pub. L. 93-86, § 1(9), Aug. 10, 1973, 87 Stat. 227, provided that the amendment made by section 402(b)(D) of Pub. L. 91-524 is effective only with respect to the 1974 through 1977 crops of wheat.

#### EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Pub. L. 91-524, title IV, § 402(a), formerly § 402, Nov. 30, 1970, 84 Stat. 1362, as renumbered by Pub. L. 93-86, § 1(9), Aug. 10, 1973, 87 Stat. 225, provided that the amendment made by section 402(a) of Pub. L. 91-524 is effective only with respect to the 1971, 1972, and 1973 crops of wheat.

#### EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-321, title V, § 508, Nov. 3, 1965, 79 Stat. 1204, provided that the amendment made by section 508 of Pub. L. 89-321 is effective beginning with the crop planted for harvest in calendar year 1966.

Pub. L. 89-321, title V, § 510(a), Nov. 3, 1965, 79 Stat. 1205, provided that the amendment made by section 510(a) of Pub. L. 89-321 is effective beginning with the 1966 crop.

Pub. L. 89-321, title V, § 515, Nov. 3, 1965, 79 Stat. 1206, provided that the amendment made by section 515 of Pub. L. 89-321 is effective beginning with the crop planted for harvest in calendar year 1964.

#### EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Pub. L. 88-297, title II, § 202(13), Apr. 11, 1964, 78 Stat. 180, as amended by Pub. L. 89-321, title V, § 505(2), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by section 202(13) of Pub. L. 88-297 is effective with respect to crops planted for harvest in calendar years 1965 through 1970.

## INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(3) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101-624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 through 1990 crops of wheat, see section 310(b) of Pub. L. 99-198, set out as a note under section 1331 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97-98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95-113, set out as a note under section 1331 of this title.

## REDUCTION OF WHEAT STORED BY PRODUCERS PRIOR TO 1971 CROP

Pub. L. 91-524, title IV, §407, Nov. 30, 1970, 84 Stat. 1367, as amended by Pub. L. 93-86, §1(14), Aug. 10, 1973, 87 Stat. 229, provided that: "The amount of any wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1379c(b)], prior to the 1971 crop of wheat may be reduced by the amount by which the actual total production of the 1971, 1972, or 1973 crop on the farm is less than the number of bushels determined by multiplying three times the domestic allotment for such crop on the farm by the yield established for the farm for the purpose of issuance of domestic marketing certificates. The provisions of such section shall continue to apply to the wheat so stored to the extent not inconsistent therewith. Notwithstanding the foregoing, the Secretary may authorize release of wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended, prior to the 1971 crop, whenever he determines such release will not significantly affect market prices for wheat. As a condition of release, the Secretary may require a refund of such portion of the value of certificates received in the crop year the excess wheat was produced as he deems appropriate considering the period of time the excess wheat has been in storage and the need to provide fair and equitable treatment among all wheat program participants."

**§ 1379d. Marketing restrictions****(a) Transfers of certificates; purchases by Commodity Credit Corporation**

Marketing certificates shall be transferable only in accordance with regulations prescribed by the Secretary. Any unused certificates legally held by any person shall be purchased by Commodity Credit Corporation if tendered to the Corporation for purchase in accordance with regulations prescribed by the Secretary.

**(b) Processor and exporter acquisition of domestic and export certificates; international trade, expansion; refunds or credits for certificates; exemptions from requirements**

During any marketing year for which a wheat marketing allocation program is in effect, (i) all persons engaged in the processing of wheat into food products shall, prior to marketing any such food product or removing such food product for sale or consumption, acquire domestic marketing certificates equivalent to the number of bushels of wheat contained in such product and (ii) all persons exporting wheat shall, prior to

such export, acquire export marketing certificates equivalent to the number of bushels so exported. The cost of the export marketing certificates per bushel to the exporter shall be that amount determined by the Secretary on a daily basis which would make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States. The Secretary may exempt from the requirements of this subsection wheat exported for donation abroad and other non-commercial exports of wheat, wheat processed for use on the farm where grown, wheat produced by a State or agency thereof and processed for use by the State or agency thereof, wheat processed for donation, and wheat processed for uses determined by the Secretary to be noncommercial. Such exemptions may be made applicable with respect to any wheat processed or exported beginning July 1, 1964. There shall be exempt from the requirements of this subsection beverage distilled from wheat prior to July 1, 1964. A beverage distilled from wheat after July 1, 1964, shall be deemed to be removed for sale or consumption at the time it is placed in barrels for aging except that upon the giving of a bond as prescribed by the Secretary, the purchase of and payment for such marketing certificates as may be required may be deferred until such beverage is bottled for sale. Wheat shipped to a Canadian port for storage in bond, or storage under a similar arrangement, and subsequent exportation, shall be deemed to have been exported for purposes of this subsection when it is exported from the Canadian port. Marketing certificates shall be valid to cover only sales or removals for sale or consumption or exportations made during the marketing year with respect to which they are issued, and after being once used to cover a sale or removal for sale or consumption or export of a food product or an export of wheat shall be void and shall be disposed of in accordance with regulations prescribed by the Secretary. Notwithstanding the foregoing provisions hereof, the Secretary may require marketing certificates issued for any marketing year to be acquired to cover sales, removals, or exportations made on or after the date during the calendar year in which wheat harvested in such calendar year begins to be marketed as determined by the Secretary even though such wheat is marketed prior to the beginning of the marketing year, and marketing certificates for such marketing year shall be valid to cover sales, removals, or exportations made on or after the date so determined by the Secretary. Whenever the face value per bushel of domestic marketing certificates for a marketing year is different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary may require marketing certificates issued for the preceding marketing year to be acquired to cover all wheat processed into food products during such preceding marketing year even though the food product may be marketed or removed for sale or consumption after the end of the marketing year.

**(c) Undertaking to secure marketing of commodity without certificate**

Upon the giving of a bond or other undertaking satisfactory to the Secretary to secure the purchase of and payment for such marketing certificates as may be required, and subject to such regulations as he may prescribe, any person required to have marketing certificates in order to market or export a commodity may be permitted to market any such commodity without having first acquired marketing certificates.

**(d) "Food products" defined; exemption of flour second clears**

As used in this part, the term "food products" means flour (excluding flour second clears not used for human consumption as determined by the Secretary), semolina, farina, bulgur, beverage, and any other product composed wholly or partly of wheat which the Secretary may determine to be a food product. The Secretary may at his election administer the exemption for wheat processed into flour second clears through refunds either to processors of such wheat or to the users of such clears. For the purpose of such refunds, the wheat equivalent of flour second clears may be determined on the basis of conversion factors authorized by section 1379f of this title, even though certificates had been surrendered on the basis of the weight of the wheat.

(Feb. 16, 1938, ch. 30, title III, §379d, as added Pub. L. 87-703, title III, §324(2), Sept. 27, 1962, 76 Stat. 628; amended Pub. L. 88-297, title II, §202(15)-(17), Apr. 11, 1964, 78 Stat. 181, 182; Pub. L. 89-321, title V, §§504(a)-(c), 513(a), Nov. 3, 1965, 79 Stat. 1202, 1203, 1205; Pub. L. 91-524, title IV, §403(a)(1), (2), formerly §403(1), (2), Nov. 30, 1970, 84 Stat. 1366, as renumbered Pub. L. 93-86, §1(10), Aug. 10, 1973, 87 Stat. 228.)

## REFERENCES IN TEXT

This part, referred to in subsec. (d), commences with section 1379a of this title.

## AMENDMENTS

1970—Subsec. (b). Pub. L. 91-524, temporarily struck out provision limiting the section to only those marketing years for which a wheat marketing allocation program is in effect and inserted provisions authorizing the Secretary to temporarily suspend the requirement for export marketing certificates for the period beginning July 1, 1971, and ending June 30, 1974. See Effective and Termination Dates of 1970 Amendment note below.

1965—Subsec. (b). Pub. L. 89-321, §§504(a), (c), 513(a), among other changes, amended second sentence, and also authorized the Secretary to exempt from the requirements of this subsection wheat produced by a State or agency thereof and processed for use by the State or agency thereof, wheat processed for donations, and wheat processed for uses determined by the Secretary to be noncommercial, permitted exemptions to be made applicable with respect to any wheat processed or exported beginning July 1, 1964, exempted from requirements of this subsection beverage distilled from wheat prior to July 1, 1964, required beverage distilled from wheat after July 1, 1964, to be deemed as being removed for sale or consumption at the time it is placed in barrels for aging, permitted upon the giving of a bond as prescribed by the Secretary, the purchase of and payment for such marketing certificates as may be required to be deferred until such beverage is bottled for sale, required wheat shipped to a Canadian port for storage in bond, or storage under a similar arrange-

ment, and subsequent exportation, to be deemed as having been exported for purposes of this subsection when it is exported from the Canadian port, and, whenever the face value per bushel of domestic marketing certificates for a marketing year is different from the face value of domestic marketing certificates for the preceding marketing year, empowered the Secretary to require marketing certificates issued for the preceding marketing year to be acquired to cover all wheat processed into food products during such preceding marketing year even though the food product may be marketed or removed for sale or consumption after the end of the marketing year.

Subsec. (d). Pub. L. 89-321, §504(b), excluded four second clears not used for human consumption from term "food products", authorized the Secretary at his election to administer the exemption for wheat processed into flour second clears through refunds either to processors of such wheat or to the users of such clears, and permitted, for the purpose of such refunds, the wheat equivalent of flour second clears to be determined on the basis of conversion factors authorized by section 1379f of this title, even though certificates had been surrendered on the basis of the weight of the wheat.

1964—Subsec. (a). Pub. L. 88-297, §202(15), struck out provisions prohibiting persons from acquiring marketing certificates from the producer to whom such certificates were issued, unless such certificates were acquired in connection with acquisition from such producer of a number of bushels of wheat equivalent to the marketing certificates and authorizing the CCC to purchase from producers certificates not accompanied by wheat in cases where the Secretary determined that it would constitute an undue hardship to require the producer to transfer his certificates only in connection with the disposition of wheat and substituted "by any person" for "by persons other than the producer to whom such certificates are issued".

Subsec. (b). Pub. L. 88-297, §202(16), in cl. (i) substituted "marketing any such food product or removing such food product for sale or consumption" for "marketing any such product for human food in the United States" and inserted "domestic" before "marketing certificates"; in cl. (ii) struck out "or food products" after "wheat" and inserted "export" before "marketing certificates"; inserted references to removals for sale or consumption in two other places and to removals in two places to make it clear that certificates were required on all wheat processed into food products whether sold, removed for sale, or removed for consumption; required the CCC to refund to the exporter such part of the cost of the certificate as the Secretary determined would make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States; and authorized the Secretary to exempt from the requirement to have marketing certificates, wheat which was donated abroad and wheat processed for use on the farm where grown.

Subsec. (d). Pub. L. 88-297, §202(17), redefined "food products" to mean flour, semolina, farina, bulgur, beverage, and any other product composed wholly or partly of wheat which the Secretary may determine to be a food product instead of any product composed wholly or partly of wheat to be used for human consumption, including beverage.

## EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Pub. L. 91-524, title IV, §403(a), formerly §403, Nov. 30, 1970, 84 Stat. 1366, as renumbered by Pub. L. 93-86, §1(10), Aug. 10, 1973, 87 Stat. 228, provided that the amendment made by Pub. L. 91-524 is effective only with respect to the marketing years beginning July 1, 1971, July 1, 1972, and July 1, 1973.

## EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-321, title V, §504(a), Nov. 3, 1965, 79 Stat. 1202, provided that the amendment made by section

504(a) of Pub. L. 89-321 is effective upon the enactment of Pub. L. 89-321 (Nov. 3, 1965).

Pub. L. 89-321, title V, § 504(b), Nov. 3, 1965, 79 Stat. 1202, provided in part that: "This subsection [amending this section] shall be effective as to products sold, or removed for sale or consumption on or after sixty days following enactment of this Act [Nov. 3, 1965], unless the Secretary shall by regulation designate an earlier effective date within such sixty-day period."

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(3) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Pub. L. 101-624, title III, § 302, Nov. 28, 1990, 104 Stat. 3400, provided that: "Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d-1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1991, through May 31, 1996."

Pub. L. 99-198, title III, § 309, Dec. 23, 1985, 99 Stat. 1394, provided that: "Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d-1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1986, through May 31, 1991."

Pub. L. 97-98, title III, § 302, Dec. 22, 1981, 95 Stat. 1227, provided that: "Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i, and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1982, through May 31, 1986."

Pub. L. 95-113, title IV, § 403, Sept. 29, 1977, 91 Stat. 926, provided that: "Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i, and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period July 1, 1973, through May 31, 1982."

Pub. L. 91-524, title IV, § 403(b), as added by Pub. L. 93-86, § 1(10), Aug. 10, 1973, 87 Stat. 228, provided in part that: "Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978".

#### § 1379e. Assistance in purchase and sale of marketing certificates; regulations; administrative expenses; interest

For the purpose of facilitating the purchase and sale of marketing certificates, the Commodity Credit Corporation is authorized to issue, buy, and sell marketing certificates in accordance with regulations prescribed by the Secretary. Such regulations may authorize the Corporation to issue and sell certificates in excess of the quantity of certificates which it purchases. Such regulations may authorize the Corporation in the sale of marketing certificates to charge, in addition to the face value thereof, an amount determined by the Secretary to be appropriate to cover estimated administrative costs in connection with the purchase and sale of the certificates and estimated interest in-

curred on funds of the Corporation invested in certificates purchased by it.

(Feb. 16, 1938, ch. 30, title III, § 379e, as added Pub. L. 87-703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 628; amended Pub. L. 89-321, title V, § 516, Nov. 3, 1965, 79 Stat. 1206; Pub. L. 90-559, § 1(6), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91-524, title IV, § 403(a)(3), Nov. 30, 1970, 84 Stat. 1366.)

#### CODIFICATION

The sentence added by Pub. L. 89-321, as amended by Pub. L. 90-559, which directed the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1966 through 1970 wheat crops to persons processing food products at the face value thereof less any amount by which price support for wheat accompanied by domestic certificates exceeded \$2 per bushel, was omitted as executed.

#### AMENDMENTS

1970—Pub. L. 91-524, temporarily directed the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1971, 1972, and 1973 crops of wheat to persons engaged in the processing of food products but directed that, in determining the cost to processors of food products, the face value be 75 cents per bushel. See Effective and Termination Dates of 1970 Amendment note below.

1968—Pub. L. 90-559 provided for a one year extension of period for sale of marketing certificates, substituting "1966 through the 1970" for "1966 through the 1969" wheat crops.

1965—Pub. L. 89-321 required the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1966 through the 1969 wheat crops to persons engaged in the processing of food products at the face value thereof less any amount by which price support for wheat accompanied by domestic certificates exceeds \$2 per bushel.

#### EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 403(a) of Pub. L. 91-524 provided that the amendment made by that section is effective only with respect to marketing years beginning July 1, 1971, July 1, 1972, and July 1, 1973.

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(3) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101-624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99-198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97-98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95-113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, set out as a note under section 1379d of this title.

**§ 1379f. Conversion factors**

The Secretary shall establish conversion factors which shall be used to determine the amount of wheat contained in any food product. The conversion factor for any such food product shall be determined upon the basis of the weight of wheat used in the manufacture of such product.

(Feb. 16, 1938, ch. 30, title III, §379f, as added Pub. L. 87-703, title III, §324(2), Sept. 27, 1962, 76 Stat. 629.)

**INAPPLICABILITY OF SECTION**

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(3) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101-624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99-198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97-98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95-113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, set out as a note under section 1379d of this title.

**§ 1379g. Authority to facilitate transition**

(a) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the program currently in effect to the program provided for in this part. Notwithstanding any other provision of this part, such authority shall include, but shall not be limited to, the authority to exempt all or a portion of the wheat or food products made therefrom in the channels of trade on the effective date of the program under this part from the marketing restrictions in subsection (b) of section 1379d of this title, or to sell certificates to persons owning such wheat or food products at such prices as the Secretary may determine. Any such certificate shall be issued by Commodity Credit Corporation.

(b) Whenever the face value per bushel of domestic marketing certificates for a marketing year is substantially different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary is authorized to take such action as he determines necessary to facilitate the transition between marketing years. Notwithstanding any other provision of this part, such authority shall include, but shall not be limited to, the authority to sell certificates to persons engaged in the processing of wheat into food products covering such quantities of wheat, at such prices, and

under such terms and conditions as the Secretary may by regulation provide. Any such certificate shall be issued by Commodity Credit Corporation.

(c) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the certificate program provided for under section 1379d of this title to a program under which no certificates are required. Notwithstanding any other provision of law, such authority shall include, but shall not be limited to the authority to exempt all or a portion of wheat or food products made therefrom in the channels of trade on July 1, 1973, from the marketing restrictions in subsection (b) of section 1379d of this title, or to sell certificates to persons owning such wheat or food products made therefrom at such price and under such terms and conditions as the Secretary may determine. Any such certificate shall be issued by the Commodity Credit Corporation. Nothing herein shall authorize the Secretary to require certificates on wheat processed after June 30, 1973.

(Feb. 16, 1938, ch. 30, title III, §379g, as added Pub. L. 87-703, title III, §324(2), Sept. 27, 1962, 76 Stat. 629; amended Pub. L. 89-321, title V, §504(d), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 91-524, title IV, §403(b), Nov. 30, 1970, as added Pub. L. 93-86, §1(10), Aug. 10, 1973, 87 Stat. 228.)

**REFERENCES IN TEXT**

This part, referred to in subsecs. (a) and (b), commences with section 1379a of this title.

**AMENDMENTS**

1973—Subsec. (c). Pub. L. 91-524, §403(b), as added by Pub. L. 93-86, added subsec. (c).

1965—Pub. L. 89-321 designated existing provisions as subsec. (a) and added subsec. (b).

**INAPPLICABILITY OF SECTION**

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(3) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101-624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99-198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97-98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95-113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, set out as a note under section 1379d of this title.

**§ 1379h. Applicability of provisions to designated persons; reports and records; examinations by the Secretary**

This section shall apply to processors of wheat, warehousemen and exporters of wheat and food products, and all persons purchasing, selling, or otherwise dealing in wheat marketing certificates. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this part. Such information shall be reported and such records shall be kept in such manner as the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memorandums as he has reason to believe are relevant and are within the control of such person.

(Feb. 16, 1938, ch. 30, title III, §379h, as added Pub. L. 87-703, title III, §324(2), Sept. 27, 1962, 76 Stat. 629.)

REFERENCES IN TEXT

This part, referred to in text, commences with section 1379a of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(3) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101-624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99-198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97-98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95-113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, set out as a note under section 1379d of this title.

**§ 1379i. Penalties**

**(a) Forfeitures; amount; civil action**

Any person who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provisions of subsection (b) of section 1379d of this title shall forfeit to the United States a sum equal to two times the face value of the marketing certificates involved in such violation. Such forfeiture shall be recoverable in a civil action brought in the name of the United States.

**(b) Misdemeanors; punishment**

Any person, except a producer in his capacity as a producer, who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any provision of this part, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or who knowingly fails to make any report or keep any record as required by section 1379h of this title shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$5,000 for each violation.

**(c) Forfeiture of right to receive certificates; payment of face value**

Any person who, in his capacity as a producer, knowingly violates or attempts to violate or participates or aids in the violation of any provision of this part, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or fails to make any report or keep any record as required by section 1379h of this title shall, (i) forfeit any right to receive marketing certificates, in whole or in part as the Secretary may determine, with respect to the farm or farms and for the marketing year with respect to which any such act or default is committed, or (ii), if such marketing certificates have already been issued, pay to the Secretary, upon demand, the amount of the face value of such certificates, or such part thereof as the Secretary may determine. Such determination by the Secretary with respect to the amount of such marketing certificates to be forfeited or the amount to be paid by such producer shall take into consideration the circumstances relating to the act or default committed and the seriousness of such act or default.

**(d) Felonies; punishment**

Any person who falsely makes, issues, alters, forges, or counterfeits any marketing certificate, or with fraudulent intent possesses, transfers, or uses any such falsely made, issued, altered, forged, or counterfeited marketing certificate, shall be deemed guilty of a felony and upon conviction thereof shall be subject to a fine of not more than \$10,000 or imprisonment of not more than ten years, or both.

(Feb. 16, 1938, ch. 30, title III, §379i, as added Pub. L. 87-703, title III, §324(2), Sept. 27, 1962, 76 Stat. 629; amended Pub. L. 89-321, title V, §510(b), Nov. 3, 1965, 79 Stat. 1205.)

REFERENCES IN TEXT

This part, referred to in subsecs. (b) and (c), commences with section 1379a of this title.

AMENDMENTS

1965—Subsecs. (a), (b). Pub. L. 89-321 inserted “knowingly” after “who” wherever appearing.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-321, title V, §510(b), Nov. 3, 1965, 79 Stat. 1205, provided that the amendment made by Pub. L. 89-321 is effective as of the effective date of the original enactment of this section.

INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable

to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(3) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101-624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99-198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97-98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95-113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, set out as a note under section 1379d of this title.

### § 1379j. Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this part including but not limited to regulations governing the acquisition, disposition, or handling of marketing certificates.

(Feb. 16, 1938, ch. 30, title III, §379j, as added Pub. L. 87-703, title III, §324(2), Sept. 27, 1962, 76 Stat. 630.)

#### REFERENCES IN TEXT

This part, referred to in text, commences with section 1379a of this title.

#### INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(3) of this title.

Section inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101-624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99-198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97-98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95-113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, set out as a note under section 1379d of this title.

### PART E—RICE CERTIFICATES

#### AMENDMENTS

1962—Pub. L. 87-703, title III, §324(1), Sept. 27, 1962, 76 Stat. 626, redesignated D as E.

### §§ 1380a to 1380p. Omitted

#### CODIFICATION

Sections 1380a to 1380p of this title were effective only with respect to 1957 and 1958 rice crops.

Section 1380a, act Feb. 16, 1938, ch. 30, title III, §380a, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 208, provided legislative findings for this part.

Section 1380b, act Feb. 16, 1938, ch. 30, title III, §380b, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 208, related to effective date and termination of program.

Section 1380c, act Feb. 16, 1938, ch. 30, title III, §380c, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 208, related to determination of primary market quota for rice.

Section 1380d, act Feb. 16, 1938, ch. 30, title III, §380d, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 209, related to apportionment of the primary market quota by the Secretary among the States and among farms.

Section 1380e, act Feb. 16, 1938, ch. 30, title III, §380e, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 209, provided that a farm operator to which a primary market quota applied could have such quota reviewed.

Section 1380f, act Feb. 16, 1938, ch. 30, title III, §380f, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 209, related to price supports made available to co-operators on crops of rice.

Section 1380g, act Feb. 16, 1938, ch. 30, title III, §380g, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 209, related to certificates issued to cooperators.

Section 1380h, act Feb. 16, 1938, ch. 30, title III, §380h, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 210, related to inventory adjustment payments to persons owning rough rice located in continental United States, for purpose of facilitating transition from price support program formerly in effect.

Section 1380i, act Feb. 16, 1938, ch. 30, title III, §380i, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 210, related to set-aside of certain rough and processed rice.

Section 1380j, act Feb. 16, 1938, ch. 30, title III, §380j, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 210, related to exemptions from provisions of this part.

Section 1380k, act Feb. 16, 1938, ch. 30, title III, §380k, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 210, related to rice processing restrictions.

Section 1380l, act Feb. 16, 1938, ch. 30, title III, §380l, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 211, related to rice import restrictions.

Section 1380m, act Feb. 16, 1938, ch. 30, title III, §380m, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 211, directed the Secretary to prescribe regulations governing the issuance, redemption, acquisition, use, transfer, and disposition of certificates.

Section 1380n, act Feb. 16, 1938, ch. 30, title III, §380n, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 211, related to penalties for violations of import and processing restrictions of this part or regulations prescribed by the Secretary for enforcing such provisions.

Section 1380o, act Feb. 16, 1938, ch. 30, title III, §380o, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 211, related to reports and records.

Section 1380p, act Feb. 16, 1938, ch. 30, title III, §380p, as added May 28, 1956, ch. 327, title V, §501(3), 70 Stat. 211, defined “cooperator”, “processing of rough rice”, “processed rice”, “United States”, “exporter”, “rough rice equivalent”, and “import”, for purposes of this part.

### PART F—MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

#### AMENDMENTS

1962—Pub. L. 87-703, title III, §324(1), Sept. 27, 1962, 76 Stat. 626, redesignated part E as F.

1956—Act May 28, 1956, ch. 327, title V, §501(2), 70 Stat. 208, redesignated as part E.

## SUBPART I—MISCELLANEOUS

## §§ 1381 to 1382. Omitted

## CODIFICATION

Section 1381, acts Feb. 16, 1938, ch. 30, title III, §381, 52 Stat. 66; Apr. 7, 1938, ch. 107, §12, 52 Stat. 204, related to cotton price adjustment payments with respect to 1937 cotton crop, and to transfer of pledged cotton of 1937 crop to Commodity Credit Corporation. Subsec. (c) of section 1381, which authorized sale of pledged cotton by Commodity Credit Corporation, was repealed by act July 3, 1948, ch. 827, title II, §202(b), 62 Stat. 1255.

Section 1381a, act June 16, 1938, ch. 464, title I, 52 Stat. 745, which was not a part of the Agricultural Adjustment Act of 1938, related only to payments for 1937 crops.

Section 1382, act Feb. 16, 1938, ch. 30, title III, §382, 52 Stat. 67, required the Commodity Credit Corporation to provide for the extension, from July 31, 1938, to July 31, 1939, of 1937 cotton loan.

## § 1383. Insurance of cotton; reconcentration

(a) The Commodity Credit Corporation shall place all insurance of every nature taken out by it on cotton, and all renewals, extensions, or continuations of existing insurance, with insurance agents who are bonafide residents of and doing business in the State where the cotton is warehoused: *Provided*, That such insurance may be secured at a cost not greater than similar insurance offered on said cotton elsewhere.

(b) Cotton held as security for any loan heretofore or hereafter made or arranged for by the Commodity Credit Corporation shall not hereafter be reconcentrated without the written consent of the producer or borrower.

(Feb. 16, 1938, ch. 30, title III, §383, 52 Stat. 67.)

## TRANSFER OF FUNCTIONS

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

## EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

## § 1383a. Written consent for reconcentration of cotton

In the administration of section 1383(b) of this title the written consent of the producer or borrower to the reconcentration of any cotton held as security for any loan heretofore or hereafter made or arranged for by the Commodity Credit Corporation shall not be deemed to have been given unless such consent shall have been given in an instrument made solely for that purpose. Notwithstanding any provision of any loan agreement heretofore made, no cotton held under any such agreement as security for any such loan shall be moved from one warehouse to another unless the written consent of the producer or borrower shall have been obtained in a

separate instrument given solely for that purpose, as required by this section. The giving of written consent for the reconcentration of cotton shall not be made a condition upon the making of any loan hereafter made or arranged for by the Commodity Credit Corporation: *Provided, however*, That in cases where there is congestion and lack of storage facilities, and the local warehouse certifies such fact and requests the Commodity Credit Corporation to move the cotton for reconcentration to some other point, or when the Commodity Credit Corporation determines such loan cotton is improperly warehoused and subject to damage, or if uninsured, or if any of the terms of the loan agreement are violated, or if carrying charges are substantially in excess of the average of carrying charges available elsewhere, and the local warehouse, after notice, declines to reduce such charges, such written consent as provided in this section need not be obtained; and consent to movement under any of the conditions of this proviso may be required in future loan agreements.

(June 16, 1938, ch. 480, 52 Stat. 762.)

## CODIFICATION

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

## TRANSFER OF FUNCTIONS

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

## EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

## § 1384. Repealed. Aug. 7, 1946, ch. 770, § 1(3), 60 Stat. 866

Section, act Feb. 16, 1938, ch. 30, title III, §384, 52 Stat. 68, related to reports to Congress by the Secretary of Agriculture.

## § 1385. Finality of payments and loans; substitution of beneficiaries

The facts constituting the basis for any chapter 3B of title 16 payment, any payment under the wheat, feed grain, upland cotton, extra long staple cotton, and rice programs authorized by chapter 35A of this title and this chapter, any loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the

payment shall, without regard to any other provisions of law, be made as the Secretary of Agriculture may determine to be fair and reasonable in all the circumstances and provide by regulations. This section also shall be applicable to payments provided for under section 1348 of this title.

(Feb. 16, 1938, ch. 30, title III, §385, 52 Stat. 68; July 2, 1940, ch. 521, §7, 54 Stat. 728; July 3, 1948, ch. 827, title II, §207(e), 62 Stat. 1257; Pub. L. 87-703, title III, §322, Sept. 27, 1962, 76 Stat. 626; Pub. L. 88-297, title I, §102, Apr. 11, 1964, 78 Stat. 174; Pub. L. 91-524, title IV, §404(5), title VI, §605(3), Nov. 30, 1970, 84 Stat. 1366, 1378; Pub. L. 94-214, title III, §302, Feb. 16, 1976, 90 Stat. 187; Pub. L. 95-113, title IV, §405, Sept. 29, 1977, 91 Stat. 927; Pub. L. 97-98, title XI, §1102, Dec. 22, 1981, 95 Stat. 1263; Pub. L. 99-198, title X, §1017(a), Dec. 23, 1985, 99 Stat. 1459.)

#### REFERENCES IN TEXT

Chapter 3B [§590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation Act, probably meaning the Soil Conservation and Domestic Allotment Act.

Chapter 35A [§1421 et seq.] of this title, referred to in text, was in the original a reference to the Agricultural Act of 1949.

#### AMENDMENTS

1985—Pub. L. 99-198 inserted “extra long staple cotton,” after “upland cotton,” in first sentence.

1981—Pub. L. 97-98 amended first sentence generally.

1977—Pub. L. 95-113 temporarily amended first sentence generally. See Effective and Termination Dates of 1977 Amendment note below.

1976—Pub. L. 94-214 temporarily inserted reference to payments under the rice program authorized by section 1441(g) of this title. See Effective and Termination Dates of 1976 Amendment note below.

1970—Pub. L. 91-524 temporarily inserted references to payments under the cotton set-aside program and to payments (including certificates) under the wheat and feed grain set-aside programs. See Effective and Termination Dates of 1970 Amendment note below.

1964—Pub. L. 88-297 provided for application of this section to payments in kind to equalize cost of cotton to domestic and foreign users.

1962—Pub. L. 87-703 inserted “payment under section 1339 of this title,” after “parity payment.”

1948—Act July 3, 1948, substituted “loan, or price support operation” for “or loan”.

1940—Act July 2, 1940, inserted last sentence.

#### EFFECTIVE DATE OF 1981 AMENDMENT

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

#### EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Pub. L. 95-113, title IV, §405, Sept. 29, 1977, 91 Stat. 927, provided that the amendment made by section 405 is effective only for the 1978 through 1981 crops.

#### EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Pub. L. 94-214, title III, §302, Feb. 16, 1976, 90 Stat. 187, provided that the amendment made by section 302 is effective only with respect to the 1976 and 1977 crops of rice.

#### EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Pub. L. 91-524, title IV, §404, title VI, §605, Nov. 30, 1970, 84 Stat. 1366, 1378, as amended by Pub. L. 93-86,

§1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided that the amendments made by sections 404 and 605 are effective only with respect to the 1971 through 1977 crops.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

#### EFFECTIVE DATE OF 1948 AMENDMENT

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

#### TRANSFER OF FUNCTIONS

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

#### EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

#### DETERMINATION OF RATE OF LOANS, PAYMENTS, AND PURCHASES UNDER PRICE SUPPORT PROGRAM; NOTICE AND PUBLIC PARTICIPATION IN RULEMAKING NOT REQUIRED

Pub. L. 99-198, title X, §1017(b), Dec. 23, 1985, 99 Stat. 1459, as amended by Pub. L. 101-624, title XI, §1144, Nov. 28, 1990, 104 Stat. 3516, provided that: “The Secretary of Agriculture shall determine the rate of loans, payments, and purchases under a program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for any of the 1991 through 1995 crops of a commodity without regard to the requirements for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.”

#### § 1386. Exemption from laws prohibiting interest of Members of Congress in contracts

The provisions of section 6306 of title 41 and sections 431 and 432 of title 18 shall not be applicable to loans or payments made under this chapter (except under section 1383(a) of this title).

(Feb. 16, 1938, ch. 30, title III, §386, 52 Stat. 68.)

#### CODIFICATION

In text, “section 6306 of title 41” substituted for “section 3741 of the Revised Statutes (U.S.C., 1934 edition, title 41, sec. 22)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

“Sections 431 and 432 of title 18” substituted in text for “sections 114 and 115 of the Criminal Code of the United States (U.S.C., 1934 edition, title 18, secs. 204 and 205)” on authority of act June 25, 1948, ch. 645, 62 Stat. 683, the first section of which enacted Title 18, Crimes and Criminal Procedure.

#### WOOL SUPPORT PROGRAM

Wool support program, application of this section to, see note set out under section 713a-8 of Title 15, Commerce and Trade.

**§ 1387. Photographic reproductions and maps**

The Secretary may furnish reproductions of information such as geo-referenced data from all sources, aerial or other photographs, mosaics, and maps as have been obtained in connection with the authorized work of the Department to farmers and governmental agencies at the estimated cost of furnishing such reproductions, and to persons other than farmers at such prices as the Secretary may determine (but not less than the estimated costs of data processing, updating, revising, reformatting, repackaging and furnishing the reproductions and information), the money received from such sales to be deposited in the Treasury to the credit of the appropriation charged with the cost of making such reproductions. This section shall not affect the power of the Secretary to make other disposition of such or similar materials under any other provisions of existing law.

(Feb. 16, 1938, ch. 30, title III, §387, 52 Stat. 68; Pub. L. 106-113, div. B, §1000(a)(3) [title IV, §407], Nov. 29, 1999, 113 Stat. 1535, 1501A-214.)

## AMENDMENTS

1999—Pub. L. 106-113 substituted “information such as geo-referenced data from all sources, aerial” for “such aerial”, struck out “(not less than estimated cost of furnishing such reproductions)” after “such prices”, and inserted “(but not less than the estimated costs of data processing, updating, revising, reformatting, repackaging and furnishing the reproductions and information)” after “determine”.

## WOOL SUPPORT PROGRAM

Wool support program, application of this section to, see note set out under section 713a-8 of Title 15, Commerce and Trade.

**§ 1388. Utilization of local agencies****(a) Designation of local agencies and local administrative areas**

The provisions of sections 590h(b) and 590k of title 16, relating to the utilization of State, county, local committees, the extension service, and other approved agencies, and to recognition and encouragement of cooperative associations, shall apply in the administration of this chapter; and the Secretary shall, for such purposes, utilize the same local, county, and State committees as are utilized under sections 590g, 590h, 590i, and 590j to 590q of title 16. The local administrative areas designated under section 590h(b) of title 16, for the administration of programs under chapter 3B of title 16, and the local administrative areas designated for the administration of this chapter shall be the same.

**(b) Payments to county committees for administrative expenses**

(1) The Secretary is authorized and directed, from any funds made available for the purposes of this chapter and chapter 3B of title 16 in connection with which county committees are utilized, to make payments to county committees of farmers to cover the estimated administrative expenses incurred or to be incurred by them in cooperating in carrying out the provisions of this chapter and chapter 3B of title 16. All or part of such estimated administrative expenses of any such committee may be deducted pro rata

from chapter 3B of title 16 payments, parity payments, or loans, or other payments under this chapter and chapter 3B of title 16, made unless payment of such expenses is otherwise provided by law. The Secretary may make such payments to such committees in advance of determination of performance by farmers.

(2)(A) The Secretary shall provide compensation to members of such county committees (at not less than the level in effect on December 31, 1985 for county committees) for work actually performed by such persons in cooperating in carrying out this chapter and chapter 3B of title 16 in connection with which such committees are used.

(B) The rate of compensation received by such persons for such work on December 23, 1985, shall be increased at the discretion of the Secretary.

**(c) Travel expenses**

(1) The Secretary shall make payments to members of local, county, and State committees to cover expenses for travel incurred by such persons (including, in the case of a member of a local or county committee, travel between the home of such member and the local county office of the Agricultural Stabilization and Conservation Service) in cooperating in carrying out this chapter and chapter 3B of title 16 in connection with which such Committees<sup>1</sup> are used.

(2) Such travel expenses shall be paid in the manner authorized under section 5703 of title 5 for the payment of expenses and allowances for individuals employed intermittently in the Federal Government service.

(Feb. 16, 1938, ch. 30, title III, §388, 52 Stat. 68; Pub. L. 99-198, title XVII, §1713(a), (b), Dec. 23, 1985, 99 Stat. 1636, 1637.)

## REFERENCES IN TEXT

Chapter 3B [§590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

## AMENDMENTS

1985—Subsecs. (b), (c). Pub. L. 99-198 designated existing provisions of subsec. (b) as par. (1), added par. (2), and added subsec. (c).

## EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-198, title XVII, §1713(c), Dec. 23, 1985, 99 Stat. 1637, provided that: “The amendments made by this section [amending this section] shall become effective on January 1, 1986.”

**§ 1389. Personnel**

The Secretary is authorized and directed to provide for the execution by the Agricultural Adjustment Administration of such of the powers conferred upon him by this chapter as he deems may be appropriately exercised by such Administration; and for such purposes the provisions of law applicable to appointment and compensation of persons employed by the Agricultural Adjustment Administration shall apply.

(Feb. 16, 1938, ch. 30, title III, §389, 52 Stat. 69.)

## TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain ex-

<sup>1</sup> So in original. Probably should not be capitalized.

ceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of Agricultural Adjustment Administration transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees. See note set out under section 610 of this title.

Agricultural Adjustment Administration consolidated with other agencies into Agricultural Conservation and Adjustment Administration for duration of war, see Ex. Ord. No. 9069.

### § 1390. Separability

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the chapter and the application of such provision to other persons or circumstances, and the provisions of chapter 3B of title 16, shall not be affected thereby. Without limiting the generality of the foregoing, if any provision of this chapter should be held not to be within the power of the Congress to regulate interstate and foreign commerce, such provision shall not be held invalid if it is within the power of the Congress to provide for the general welfare or any other power of the Congress. If any provision of this chapter for marketing quotas with respect to any commodity should be held invalid, no provision of this chapter for marketing quotas with respect to any other commodity shall be affected thereby. If the application of any provision for a referendum should be held invalid, the application of other provisions shall not be affected thereby. If by reason of any provision for a referendum the application of any such other provision to any person or circumstance is held invalid, the application of such other provision to other persons or circumstances shall not be affected thereby.

(Feb. 16, 1938, ch. 30, title III, §390, 52 Stat. 69.)

#### REFERENCES IN TEXT

Chapter 3B [§590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

#### SUBPART II—APPROPRIATIONS AND ADMINISTRATIVE EXPENSES

### § 1391. Authorization of appropriations; loans from Commodity Credit Corporation

(a) Beginning with the fiscal year ending June 30, 1938, there is hereby authorized to be appropriated, for each fiscal year for the administration of this chapter and for the making of soil conservation and other payments such sums as Congress may determine, in addition to any amount made available pursuant to section 590o of title 16.

(b) For the administration of this chapter (and the provisions of chapter 36 of this title) during the fiscal year ending June 30, 1938, there is hereby authorized to be made available from the funds appropriated for such fiscal year for carrying out the purposes of sections 590g, 590h, 590i, and 590j to 590q of title 16, a sum not to exceed \$5,000,000.

(c) During each fiscal year, beginning with the fiscal year ending June 30, 1941, the Commodity

Credit Corporation is authorized and directed to loan to the Secretary such sums, not to exceed \$50,000,000, as he estimates will be required during such fiscal year, to make crop insurance premium advances and to make advances pursuant to the applicable provisions of sections 590h and 590l of title 16, in connection with programs applicable to crops harvested in the calendar year in which such fiscal year ends, and to pay the administrative expenses of county agricultural conservation associations for the calendar year in which such fiscal year ends. The sums so loaned during any fiscal year shall be transferred to the current appropriation available for carrying out sections 590g, 590h, 590i, and 590j to 590q of title 16 and shall be repaid, with interest at a rate to be determined by the Secretary but not less than the cost of money to the Commodity Credit Corporation for a comparable period, during the succeeding fiscal year from the appropriation available for that year or from any unobligated balance of the appropriation for any other year.

(Feb. 16, 1938, ch. 30, title III, §391, 52 Stat. 69; July 2, 1940, ch. 521, §8, 54 Stat. 728.)

#### AMENDMENTS

1940—Subsec. (c). Act July 2, 1940, added subsec. (c).

#### TRANSFER OF FUNCTIONS

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

#### EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

### § 1392. Administrative expenses; posting names and compensation of local employees

(a) The Secretary is authorized and directed to make such expenditures as he deems necessary to carry out the provisions of this chapter and sections 590g, 590h, 590i, and 590j to 590q of title 16, including personal services and rents in the District of Columbia and elsewhere; traveling expenses; supplies and equipment; lawbooks, books of reference, directories, periodicals, and newspapers; and the preparation and display of exhibits, including such displays at community, county, State, interstate, and international fairs within the United States. The Secretary of the Treasury is authorized and directed upon the request of the Secretary to establish one or more separate appropriation accounts into which there shall be transferred from the respective funds available for the purposes of this chapter and chapter 3B of title 16, in connection with which personnel or other facilities of the Agricultural Adjustment Administration are utilized, proportionate amounts estimated by the Secretary to be required by the Agricultural

Adjustment Administration for administrative expenses in carrying out or cooperating in carrying out any of the provisions of this chapter and chapter 3B of title 16.

(b) In the administration of this subchapter and sections 590g, 590h, 590i, and 590j to 590q of title 16, the aggregate amount expended in any fiscal year, beginning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 3 per centum of the total amount available for such fiscal year for carrying out the purposes of this subchapter and chapter 3B of title 16, unless otherwise provided by appropriation or other law. In the administration of section 612c of this title, and sections 601, 602, 608a, 608b, 608c, 608d, 610, 612, 614, 624, and 671 to 673 of this title, the aggregate amount expended in any fiscal year beginning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 4 per centum of the total amount available for such fiscal year for carrying out the purposes of said sections, unless otherwise provided by appropriation or other law. In the event any administrative expenses of any county or local committee are deducted in any fiscal year, beginning with the fiscal year ending June 30, 1939, from chapter 3B of title 16 payments, parity payments, or loans, each farmer receiving benefits under such provisions shall be apprised of the amount or percentage deducted from such benefit payment or loan on account of such administrative expenses. The names and addresses of the members and employees of any county or local committee, and the amount of such compensation received by each of them, shall be posted annually in a conspicuous place in the area within which they are employed.

(Feb. 16, 1938, ch. 30, title III, §392, 52 Stat. 69; Jan. 31, 1942, ch. 32, 56 Stat. 41; Aug. 3, 1956, ch. 950, §7, 70 Stat. 1034.)

#### REFERENCES IN TEXT

Chapter 3B [§590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

#### AMENDMENTS

1956—Subsec. (b). Act Aug. 3, 1956, changed the period to a comma at end of first and second sentences and inserted “unless otherwise provided by appropriation or other law”.

1942—Subsecs. (a), (b). Act Jan. 31, 1942, among other changes, inserted reference to sections of title 16, after “this chapter” and “this subchapter”.

#### EFFECTIVE DATE OF 1942 AMENDMENT

Act Jan. 31, 1942, provided that the amendments made by that act are effective for the fiscal year 1942 and subsequent fiscal years.

#### TRANSFER OF FUNCTIONS

Agricultural Adjustment Administration consolidated into Production and Marketing Administration by 1946 Reorg. Plan No. 3, eff. July 4, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Govern-

ment Organization and Employees. See note set out under section 610 of this title.

#### EXPENSES OF AN ADVISORY COMMITTEE ON SOIL AND WATER CONSERVATION

Act Aug. 3, 1956, ch. 934, 70 Stat. 989, provided: “That the Secretary of Agriculture is authorized to pay expenses of an Advisory Committee on Soil and Water Conservation and related matters, but such Committee members (other than ex officio members) shall not be deemed to be employees of the United States and shall not receive compensation.”

#### TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

#### § 1393. Allotment of appropriations

All funds for carrying out the provisions of this chapter shall be available for allotment to bureaus and offices of the Department, and for transfer to such other agencies of the Federal Government, and to such State agencies, as the Secretary may request to cooperate or assist in carrying out the provisions of this chapter.

(Feb. 16, 1938, ch. 30, title III, §393, 52 Stat. 70.)

#### SUBCHAPTER III—COTTON POOL PARTICIPATION TRUST CERTIFICATES

#### §§ 1401 to 1407. Omitted

#### CODIFICATION

Section 1401, act Feb. 16, 1938, ch. 30, title IV, §401, 52 Stat. 70, authorized an appropriation of \$1,800,000 to accomplish the purposes declared in former provisions of this subchapter and provided for payments by Secretary of Treasury upon order of Secretary of Agriculture.

Section 1402, act Feb. 16, 1938, ch. 30, title IV, §402, 52 Stat. 70, provided for deposit of appropriation to credit of the Secretary of Agriculture for disbursement for purposes stated in former provisions of this subchapter.

Section 1403, acts Feb. 16, 1938, ch. 30, title IV, §403, 52 Stat. 70; Apr. 7, 1938, ch. 107, §13, 52 Stat. 204, provided allotment of funds to manager of cotton pool for purchase of pool participation trust certificates, to be tendered by lawful holder and owner thereof on or before May 1, 1938, at rate of \$1 per five-hundred-pound bale, payment of costs and expenses incident to such purchases and covering into the Treasury as miscellaneous receipts balance remaining at expiration of purchase period.

Section 1404, acts Feb. 16, 1938, ch. 30, title IV, §404, 52 Stat. 71; Apr. 7, 1938, ch. 107, §14, 52 Stat. 204, extended the time limit for purchase of outstanding pool participation certificates to and including July 31, 1938, authorized issuance of rules and regulations and prohibited purchases from other than record holders on or before May 1, 1938.

Section 1404a, acts June 16, 1938, ch. 464, title I, 52 Stat. 747; Apr. 5, 1939, ch. 44, 53 Stat. 572, extended the time limit for purchase of certificates to and including Sept. 30, 1939 and made the date of May 1, 1938 inapplicable.

Section 1404b, act June 16, 1938, ch. 464, title I, 52 Stat. 747, provided for issuance of regulations for payments on participation trust certificates in case of death, incompetence or disappearance of payee.

Section 1405, act Feb. 16, 1938, ch. 30, title IV, §405, 52 Stat. 71, authorized continuance of 1933 cotton producers pool as long as necessary to effectuate purposes of former provisions of this subchapter and use of funds for payment of expenses.

Section 1406, act Feb. 16, 1938, ch. 30, title IV, §406, 52 Stat. 71, prohibited purchase of certificates after expiration of time limit.

Section 1407, acts Feb. 16, 1938, ch. 30, title IV, §407, 52 Stat. 71; Apr. 7, 1938, ch. 107, §15, 52 Stat. 204, provided for payment by assignee of certificate transferred subsequent to May 1, 1937, limited to the purchase price paid by the assignee, with interest at rate of four per centum from date of purchase, not exceeding an amount of \$1 per bale, payment to be based upon affidavit of assignee.

#### INAPPLICABILITY OF SUBCHAPTER

Subchapter, with the exception of former sections 1404a and 1404b, inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(a)(4) of this title.

Subchapter, with the exception of former sections 1404a and 1404b, inapplicable to 1996 through 2001 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(I) of this title.

#### SETTLEMENT OF CERTAIN CLAIMS AND ACCOUNTS

Act June 5, 1942, ch. 349, §§2, 3, 56 Stat. 324, authorized Comptroller General to relieve disbursing and certifying officers from liability for payments made under former provisions of this subchapter upon certificate of Secretary of Agriculture that such payments were made in good faith, and also provided that no action should be taken to recover such excess payments, if the Secretary of Agriculture should further certify that, in view of the good faith of the parties or other circumstances of the case, such attempt to recover them would be inadvisable or inequitable.

### CHAPTER 35A—PRICE SUPPORT OF AGRICULTURAL COMMODITIES

#### SUBCHAPTER I—GENERAL PROVISIONS

|         |  |
|---------|--|
| Sec.    |  |
| 1421.   | Price support.   |
| 1421a.  | Financial impact study.  |
| 1421b.  | Costs of production.   |
| 1421c.  | Repealed.  |
| 1421d.  | Commodity reports.   |
| 1422.   | Increase of price support levels.  |
| 1423.   | Adjustments of support prices.   |
| 1424.   | Utilization of services and facilities of Commodity Credit Corporation.                        |
| 1425.   | Producer rights and liabilities.   |
| 1425a.  | Producers of honey; loan obligations and liabilities.  |
| 1426.   | Repealed.  |
| 1427.   | Commodity Credit Corporation sales price restrictions.   |
| 1427-1. | Quality requirements for Commodity Credit Corporation owned grain.                             |
| 1427a.  | Reserve inventories for alleviation of distress of natural disaster.                           |
| 1428.   | Definitions.   |
| 1429.   | Determinations of Secretary as final and conclusive.   |
| 1430.   | Retroactive effect.  |
| 1431.   | Disposition of commodities to prevent waste.   |
| 1431a.  | Cotton donations to educational institutions.  |
| 1431b.  | Distribution of surplus commodities to other United States areas.                              |
| 1431c.  | Enrichment and packaging of cornmeal, grits, rice, and white flour available for distribution. |

|                 |  |
|-----------------|--|
| Sec.            |  |
| 1431d.          | Donations for school feeding programs abroad; student financing; priorities.   |
| 1431e.          | Distribution of surplus commodities to special nutrition projects; reprocessing agreements with private companies.   |
| 1431f.          | Assistance to foreign countries to mitigate effects of HIV and AIDS.   |
| 1432.           | Extension of price support on long staple cotton seeds and products.   |
| 1433.           | Repealed.  |
| 1433a.          | Forgiveness of violations; determinations.   |
| 1433b.          | Processing of surplus agricultural commodities into liquid fuels and agricultural commodity byproducts.  |
| 1433c.          | Advance recourse commodity loans.  |
| 1433c-1.        | Advance recourse loans.  |
| 1433d to 1433f. | Omitted or Repealed.   |
| 1434.           | Encouragement of production of crops of which United States is a net importer and for which price support programs are not in effect; authority to plant on set-aside acreage with no reduction in payment rate. |
| 1435.           | Production of commodities for conversion into alcohol or hydrocarbons for use as motor fuels or other fuels; terms and conditions; determinations; payments, etc., for program.                                  |

#### SUBCHAPTER II—BASIC AGRICULTURAL COMMODITIES

|                   |   |
|-------------------|---|
| 1441.             | Price support levels.   |
| 1441-1.           | Omitted.  |
| 1441-1a.          | Marketing certificates for rice.  |
| 1441-2.           | Repealed.   |
| 1441a.            | Cost of production study and establishment of current national weighted average cost of production.   |
| 1442.             | Price support and acreage requirements for corn and other feed grains.  |
| 1443.             | Omitted.  |
| 1444.             | Cotton price support levels.  |
| 1444-1, 1444-2.   | Omitted or Repealed.  |
| 1444a.            | Corn and feed grains and cotton programs.   |
| 1444b.            | Feed grains; price support program.   |
| 1444c to 1444e.   | Repealed or Omitted.  |
| 1444e-1.          | Loans and purchases for 1986 through 1996 crops of corn.  |
| 1444f to 1445-2.  | Repealed.   |
| 1445-3.           | Purchase of inventory stock.  |
| 1445a.            | Wheat price support levels; "cooperator" defined.   |
| 1445b to 1445c-3. | Repealed, Transferred, or Omitted.  |
| 1445d.            | Special wheat acreage grazing and hay program for 1978 through 1990 crop years.   |
| 1445e.            | Farmer owned reserve program.   |
| 1445f.            | International Emergency Food Reserve.   |
| 1445g.            | Production of commodities for conversion into industrial hydrocarbons; terms and conditions; incentive payments; regulations; appropriations; effective date. |
| 1445h.            | Repealed.   |
| 1445i.            | Multiyear set-aside contracts for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice.   |
| 1445j.            | Deficiency and land diversion payments.   |
| 1445k.            | Payments in commodities.  |

#### SUBCHAPTER III—NONBASIC AGRICULTURAL COMMODITIES

|          |   |
|----------|---|
| 1446.    | Price support levels for designated non-basic agricultural commodities.   |
| 1446a.   | Dairy products; availability through Commodity Credit Corporation.  |
| 1446a-1. | Use of Commodity Credit Corporation funds for purchases of dairy products requirements for school and other programs. |