

TITLE 7—AGRICULTURE

Chap.		Sec.	Chap.		Sec.
1.	Commodity Exchanges	1	31A.	Distance Learning and Medical Link Programs	950aaa
2.	Cotton Standards	51	32.	Peanut Statistics	951
3.	Grain Standards	71	33.	Farm Tenancy	1000
4.	Naval Stores	91	34.	Sugar Production and Control [Omitted or Repealed]	1100
5.	Importation of Adulterated Seeds [Repealed]	111	35.	Agricultural Adjustment Act of 1938	1281
6.	Insecticides and Environmental Pesticide Control	121	35A.	Price Support of Agricultural Commodities	1421
6A.	National Laboratory Accreditation	138	36.	Crop Insurance	1501
7.	Insect Pests Generally	141	37.	Seeds	1551
7A.	Golden Nematode	150	38.	Distribution and Marketing of Agricultural Products	1621
7B.	Plant Pests	150aa	39.	Stabilization of International Wheat Market	1641
8.	Nursery Stock and Other Plants and Plant Products	151	40.	Halogeton Glomeratus Control	1651
8A.	Rubber and Other Critical Agricultural Materials	171	41.	Agricultural Trade Development and Assistance	1691
9.	Packers and Stockyards	181	42.	Agricultural Commodity Set-Aside	1741
10.	Warehouses	241	43.	Foreign Market Development	1761
11.	Honeybees	281	44.	Wool Program	1781
12.	Associations of Agricultural Products Producers	291	45.	Soil Bank Program	1801
13.	Agricultural and Mechanical Colleges	301	46.	Surplus Disposal of Agricultural Commodities	1851
14.	Agricultural Experiment Stations ..	361	47.	Interchange of Department of Agriculture and State Employees [Repealed]	1881
15.	Bureau of Animal Industry	391	48.	Humane Methods of Livestock Slaughter	1901
16.	Bureau of Dairy Industry	401	49.	Consultation on Agricultural Programs	1911
17.	Miscellaneous Matters	411	50.	Agricultural Credit	1921
18.	Cooperative Marketing	451	51.	Food Stamp Program	2011
19.	Cotton Statistics and Estimates	471	52.	Farm Labor Contractor Registration [Repealed]	2041
20.	Dumping or Destruction of Interstate Produce	491	53.	Cotton Research and Promotion	2101
20A.	Perishable Agricultural Commodities	499a	54.	Transportation, Sale, and Handling of Certain Animals	2131
21.	Tobacco Statistics	501	55.	Department of Agriculture	2201
21A.	Tobacco Inspection	511	55A.	Department of Agriculture Advisory Committees	2281
21B.	Tobacco Control	515	56.	Unfair Trade Practices Affecting Producers of Agricultural Products	2301
22.	Agricultural Marketing [Omitted or Transferred]	521	57.	Plant Variety Protection	2321
23.	Foreign Agricultural Service [Repealed]	541	58.	Potato Research and Promotion	2611
24.	Perishable Agricultural Commodities [Transferred to Chapter 20A]	551	59.	Rural Fire Protection, Development, and Small Farm Research and Education	2651
25.	Export Standards for Apples and Pears	581	60.	Egg Research and Consumer Information	2701
25A.	Export Standards for Grapes and Plums	591	61.	Noxious Weeds	2801
26.	Agricultural Adjustment	601	62.	Beef Research and Information	2901
26A.	Agricultural Marketing Agreements	671	63.	Farmer-to-Consumer Direct Marketing	3001
27.	Cotton Marketing [Repealed or Omitted]	701	64.	Agricultural Research, Extension, and Teaching	3101
28.	Tobacco Industry [Repealed]	751			
29.	Potato Act of 1935 [Repealed]	801			
30.	Anti-Hog-Cholera Serum and Hog-Cholera Virus	851			
31.	Rural Electrification and Telephone Service	901			

Chap.		Sec.	Sec.	
65.	Wheat and Wheat Foods Research and Nutrition Education	3401	2a.	Designation of boards of trade as contract markets; approval by and jurisdiction of Commodity Futures Trading Commission and Securities and Exchange Commission.
66.	Agricultural Foreign Investment Disclosure	3501	3.	Transaction in interstate commerce.
67.	Implementation of International Sugar Agreement, 1977	3601	4.	Liability of principal for act of agent.
68.	Agricultural Subterminal Facilities	3701	4a.	Commodity Futures Trading Commission.
69.	Swine Health Protection	3801		(a) Establishment; composition; term of Commissioners.
70.	Animal Cancer Research	3901		(b) Vacancies.
71.	Agricultural Trade Suspension Adjustment	4001		(c) General Counsel.
72.	National Agricultural Cost of Production Standards Review Board	4101		(d) Executive Director.
73.	Farmland Protection Policy	4201		(e) Powers and functions of Chairman.
74.	Floral Research and Consumer Information	4301		(f) Conflict of interest.
75.	International Carriage of Perishable Foodstuffs	4401		(g) Liaison with Department of Agriculture; communications with Department of Treasury, Federal Reserve Board, and Securities and Exchange Commission; application by a board of trade for designation as a contract market for future delivery of securities.
76.	Dairy Research and Promotion	4501		(h) Transmittal of budget requests and legislative recommendations to Congressional committees.
77.	Honey Research, Promotion, and Consumer Information	4601		(i) Seal.
78.	Agricultural Productivity Research [Repealed]	4701		(j) Rules and regulations.
79.	Pork Promotion, Research, and Consumer Information	4801	5.	Legislative findings.
80.	Watermelon Research and Promotion	4901	6.	Regulation of futures trading and foreign transactions.
81.	National Commission on Agriculture and Rural Development Policy [Omitted]	5001		(a) Restriction of futures trading to contract markets.
82.	State Agricultural Loan Mediation Programs	5101		(b) Regulation of foreign transactions by United States persons.
83.	Agricultural Competitiveness and Trade	5201		(c) Public interest exemption from contract market requirement.
84.	National Nutrition Monitoring and Related Research	5301		(d) Effect of exemption on investigative authority of Commission.
85.	Administration of Environmental Programs	5401	6a.	Excessive speculation.
86.	Water Quality Research, Education, and Coordination	5501		(a) Burden on interstate commerce; trading or position limits.
87.	Export Promotion	5601		(b) Prohibition on trading or positions in excess of limits fixed by Commission.
88.	Research	5801		(c) Applicability to bona fide hedging transactions or positions.
89.	Pecan Promotion and Research	6001		(d) Persons subject to regulation; applicability to transactions made by or on behalf of United States.
90.	Mushroom Promotion, Research, and Consumer Information	6101		(e) Rulemaking power of contract markets and penalties for violation.
91.	Lime Promotion, Research, and Consumer Information	6201	6b.	Fraud, false reporting, or deception prohibited.
92.	Soybean Promotion, Research, and Consumer Information	6301		(a) Contracts designed to defraud or mislead; bucketing orders.
93.	Processor-Funded Milk Promotion Program	6401		(b) Buying and selling orders for commodity.
94.	Organic Certification	6501		(c) Inapplicability to transactions on foreign exchanges.
95.	Rural Revitalization Through Forestry	6601	6c.	Prohibited transactions.
96.	Global Climate Change	6701		(a) Meretricious transactions.
97.	Fresh Cut Flowers and Fresh Cut Greens Promotion and Information	6801		(b) Regulated option trading.
98.	Department of Agriculture Reorganization	6901		(c) Regulations for elimination of pilot status of commodity option transactions; terms and conditions of options trading.
99.	Sheep Promotion, Research, and Information	7101		(d) Dealer options exempt from subsections (b) and (c) prohibitions; requirements.
CHAPTER 1—COMMODITY EXCHANGES				
1.	Short title.			
1a.	Definitions.			
2.	Accounts, agreements, and transactions subject to jurisdiction of Commodity Futures Trading Commission; relation to jurisdiction of Securities and Exchange Commission and Federal and State courts; excepted transactions.		6d.	Dealing by unregistered futures commission merchants or introducing brokers prohibited; duties of merchants regarding monies and securities of customers.
			6e.	Dealings by unregistered floor trader or broker prohibited.

Sec. 6f.	Registration and financial requirements; risk assessment. (a) Registration of futures commission merchants, introducing brokers, and floor brokers and traders. (b) Financial requirements for futures commission merchants and introducing brokers. (c) Risk assessment for holding company systems.	Sec. 12.	Public disclosure. (a) Investigations respecting operations of boards of trade and others subject to this chapter; publication of results; restrictions; information received from foreign futures authorities; undercover operations. (b) Business matters; congressional, administrative, judicial, and bankruptcy proceedings. (c) Reports respecting conduct of boards of trade or transactions of violators; contents. (d) Investigations respecting marketing conditions of commodities and commodity products and byproducts; reports. (e) Names and addresses of traders of boards of trade previously disclosed; disclosure to Congress and agencies or departments of States or foreign governments or foreign futures authority. (f) Compliance with subpoena after notice to informant; congressional subpoenas and requests for information excepted. (g) Requests for information by State agencies or subdivisions; volunteering of information by Commission. (h) Annual report to Congress. (i) Review and audits by Comptroller General.
6g.	Reporting and recordkeeping. (a) In general. (b) Daily trading records: clearinghouses and contract markets. (c) Daily trading records: floor brokers, introducing brokers, and futures commission merchants. (d) Daily trading records: form and reports. (e) Disclosure of information. (f) Authority of Commission to make separate determinations unimpaired.		
6h.	False self-representation as contract market member prohibited.		
6i.	Reports of deals equal to or in excess of trading limits; books and records; cash and controlled transactions.		
6j.	Regulation of trades and executions. (a) Dual trading prohibited; exemptions. (b) Trades and executions by floor brokers. (c) Trades by futures commission merchants. (d) Restrictions on trading among members of broker associations.		
6k.	Registration of associates of futures commission merchants, commodity pool operators, and commodity trading advisors; required disclosure of disqualifications.		
6l.	Commodity trading advisors and commodity pool operators; Congressional finding.		
6m.	Use of mails or other means or instrumentalities of interstate commerce by commodity trading advisors and commodity pool operators; relation to other law.		
6n.	Registration of commodity trading advisors and commodity pool operators; application; expiration and renewal; record keeping and reports; disclosure; statements of account.		
6o.	Fraud and misrepresentation by commodity trading advisors, commodity pool operators, and associated persons.		
6p.	Standards and examinations.		
7.	Designation of board of trade as "contract market"; conditions and requirements.		
7a.	Duties of contract markets. (a) In general. (b) Monitoring system to detect violations of rules and regulations.		
7b.	Suspension or revocation of designation as "contract market".		
8.	Application for designation as "contract market"; time; suspension or revocation of designation; hearing; review by court of appeals.		
9.	Exclusion of persons from privilege of "contract markets"; procedure for exclusion; review by court of appeals.		
9a.	Assessment of money penalties.		
9b.	Rules prohibiting deceptive and other abusive telemarketing acts or practices.		
10.	Repealed.		
10a.	Cooperative associations and corporations, exclusion from board of trade; rules of board inapplicable to payment of compensation by association.		
11.	Vacation on request of designation as "contract market"; redesignation.		
		12-1 to 12-3.	Omitted.
		12a.	Registration of commodity dealers and associated persons; regulation of contract markets.
		12b.	Trading ban violations; prohibition.
		12c.	Disciplinary actions. (a) Action taken; written notice of reasons for action. (b) Review by Commission. (c) Affirmance, modification, set aside, or remand of action. (d) Stay of action. (e) Major disciplinary rule violations.
		12d.	Commission action for noncompliance with export sales reporting requirements.
		12e.	Commission oversight; deficiency orders. (a) Assessments. (b) Deficiency orders. (c) Rescission, modification, or delay of deficiency orders. (d) Penalties. (e) Judicial review.
		13.	Violations generally; punishment; costs of prosecution. (a) Felonies generally. (b) Suspension of convicted felons. (c) Transactions by Commissioners and Commission employees prohibited. (d) Use of information by Commissioners and Commission employees prohibited. (e) Redesignated (d). (f) Insider trading prohibited.
		13-1.	Violations, prohibition against dealings in onion futures; punishment.
		13a.	Nonenforcement of rules of government or other violations; cease and desist orders; fines and penalties; imprisonment; misdemeanor; separate offenses.
		13a-1.	Enjoining or restraining violations. (a) Action to enjoin or restrain violations. (b) Injunction or restraining order. (c) Writs or other orders. (d) Civil penalties. (e) Venue and process.

Sec.		Sec.	
	(f) Action by Attorney General.		(a) Registration statement.
	(g) Notice to Attorney General of action brought by Commission.		(b) Standards for registration; Commission findings.
13a-2.	Jurisdiction of States.		(c) Suspension of registration.
13b.	Manipulations or other violations; cease and desist orders against persons other than contract markets; punishment; misdemeanor or felony; separate offenses.		(d) Fees and charges.
13c.	Responsibility as principal; minor violations.		(e) Registered persons not members of registered associations.
14.	Repealed.		(f) Denial of registration.
15.	Enforcement powers of Commission.		(g) Withdrawal from registration; notice of withdrawal.
15a.	Repealed.		(h) Commission review of disciplinary actions taken by registered futures associations.
15b.	Cotton futures contracts.		(i) Notice; hearing; findings; cancellation, reduction, or remission of penalties; review by court of appeals.
	(a) Short title.		(j) Changes or additions to association rules.
	(b) Repeal of tax on cotton futures.		(k) Abrogation of association rules; requests to associations by Commission to alter or supplement rules.
	(c) Definitions.		(l) Suspension and revocation of registration; expulsion of members; removal of association officers or directors.
	(d) Bona fide spot markets and commercial differences.		(m) Rules requiring membership in associations.
	(e) Form and validity of cotton futures contracts.		(n) Reports to Congress.
	(f) Basis grade contracts.		(o) Delegation to futures associations of registrative functions; discretionary review by Commission; judicial appeal.
	(g) Tendered grade contracts.		(p) Establishment of rules for futures associations; approval by Commission.
	(h) Specific grade contracts.		(q) Major disciplinary rule violations.
	(i) Liability of principal for acts of agent.		(r) Program for implementation of rules.
	(j) Regulations.	22.	Research and information programs; reports to Congress.
	(k) Violations.	23.	Standardized contracts for certain commodities.
	(l) Applicability to contracts prior to effective date.		(a) Margin accounts or contracts and leverage accounts or contracts prohibited except as authorized.
	(m) Authorization.		(b) Permission to enter into contracts for delivery of silver or gold bullion, bulk silver or gold coins, or platinum; rules and regulations.
16.	Commission operations.		(c) Survey of persons interested in engaging in transactions of silver and gold, etc.; assistance of futures association; regulations.
	(a) Cooperation with other agencies.		(d) Savings provision.
	(b) Employment of investigators, experts, Administrative Law Judges, consultants, clerks, and other personnel; contracts.	24.	Regulations respecting commodity broker debtors; definitions.
	(c) Expenses.	25.	Private rights of action.
	(d) Authorization of appropriations.		(a) Actual damages; actionable transactions; exclusive remedy.
	(e) Relation to other laws, departments, or agencies.		(b) Liabilities of organizations and individuals; bad faith requirement; exclusive remedy.
	(f) Investigative assistance to foreign futures authorities.		(c) Jurisdiction; statute of limitations; venue; process.
	(g) Computerized futures trading.		(d) Dates of application to actions.
16a.	Service fees and National Futures Association study.	26.	Repealed.
	(a) Development and implementation of plan for user fees; report to and approval by Congressional committees.		CHAPTER REFERRED TO IN OTHER SECTIONS
	(b) National Futures Association regulatory experience; report; contents.		This chapter is referred to in sections 15b, 16a, 499n of this title; title 11 section 761; title 12 section 4402; title 15 sections 78c, 78o, 80a-9, 80b-3, 431; title 26 section 277.
	(c) Schedule of fees for services, activities and functions; notice and hearing; actual cost standard.		§ 1. Short title
17.	Separability.		This chapter may be cited as the "Commodity Exchange Act."
17a.	Separability of 1936 amendment.		(Sept. 21, 1922, ch. 369, §1, 42 Stat. 998; June 15, 1936, ch. 545, §1, 49 Stat. 1491.)
17b.	Separability of 1968 amendment.		PRIOR PROVISIONS
18.	Complaints against registered persons.		This chapter superseded act Aug. 24, 1921, ch. 86, 42 Stat. 187, known as "The Future Trading Act," which
	(a) Petition for actual damages.		
	(b) Rules and regulations; control over right of appeal.		
	(c) Bond requirement when complainant is nonresident; waiver.		
	(d) Enforcement of reparation award.		
	(e) Review.		
	(f) Automatic bar from trading and suspension for noncompliance; effect of appeal.		
	(g) Effective date.		
19.	Antitrust laws; anticompetitive means.		
20.	Market reports.		
	(a) Information.		
	(b) Avoidance of duplication.		
	(c) Furnishing of information; confidentiality.		
	(d) Disclosure of business transactions, market positions, trade secrets, or names of customers.		
21.	Registered futures associations.		

act was declared unconstitutional, at least in part, in *Hill v. Wallace*, 111. 1922, 42 S.Ct. 453, 259 U.S. 44, 66 L.Ed. 822. Section 3 of that act was found unconstitutional as imposing a penalty in *Trusler v. Crooks*, Mo. 1926, 46 S.Ct. 165, 269 U.S. 475, 70 L.Ed. 365.

AMENDMENTS

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

EFFECTIVE DATE OF 1936 AMENDMENT

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

SHORT TITLE OF 1992 AMENDMENT

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

SHORT TITLE OF 1986 AMENDMENT

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

SHORT TITLE OF 1983 AMENDMENT

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

SHORT TITLE OF 1978 AMENDMENT

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

SHORT TITLE OF 1974 AMENDMENT

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

sections 2, 4a, and 6a of this title] may be cited as the ‘Commodity Futures Trading Commission Act of 1974.’”

CROSS REFERENCES

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

§ 1a. Definitions

As used in this chapter:

(1) Board of trade

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

(2) Commission

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

(3) Commodity

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

(4) Commodity pool operator

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

(5) Commodity trading advisor

(A) In general

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

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

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

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

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

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

(B) Exclusions

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

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

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

(iii) any floor broker or futures commission merchant;

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

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

(vi) any contract market; and

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

(C) Incidental services

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

(D) Advisors

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

(6) Contract of sale

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

(7) Cooperative association of producers

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

(8) Floor broker

The term “floor broker” means any person who, in or surrounding any pit, ring, post, or

other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery on or subject to the rules of any contract market.

(9) Floor trader

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

(10) Foreign futures authority

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

(11) Future delivery

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

(12) Futures commission merchant

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

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

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

(13) Interstate commerce

The term “interstate commerce” means commerce—

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

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

(14) Introducing broker

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

¹ So in original. Probably should be capitalized.

trades or contracts that result or may result therefrom.

(15) Member of a contract market

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

(16) Person

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

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

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in par. (5)(B)(v), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 832, as amended, which is classified principally to chapter 18 (§1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

EFFECTIVE DATE

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

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

(i) The Commission shall have exclusive jurisdiction, except to the extent otherwise provided in section 2a of this title, with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an “option”, “privilege”, “indemnity”, “bid”, “offer”, “put”, “call”, “advance guaranty”, or “decline guaranty”), and transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market designated pursuant to section 7 of this title or any other board of trade, exchange, or market, and transactions subject to regulation by the Commission pursuant to section 23 of this title. Except as hereinabove provided, nothing contained in this section shall (I) supersede or limit the jurisdiction at any time conferred on the Securities and Exchange Commission or other regulatory authorities under the laws of the United States or of any State, or (II) restrict the Securities and Exchange Commission and such other authorities from carrying out their duties and responsibilities in accordance with such laws. Nothing in this section shall supersede or limit the jurisdiction conferred on courts of the United States or

any State. (ii) Nothing in this chapter shall be deemed to govern or in any way be applicable to transactions in foreign currency, security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, or mortgages and mortgage purchase commitments, unless such transactions involve the sale thereof for future delivery conducted on a board of trade.

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

CODIFICATION

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

AMENDMENTS

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

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

1983—Pub. L. 97-444, §101(a)(2), inserted in third sentence, first proviso, “, except to the extent otherwise provided in section 2a of this title,” after “exclusive jurisdiction”.

Pub. L. 97-444, §201(1), inserted definition of “introducing broker”.

Pub. L. 97-444, §201(2), in revising definition of “commodity trading advisor”, included any person advising others through electronic media; substituted provision respecting advising others “as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market, any commodity option authorized under section 6c of this title, or any leverage transaction authorized under section 23 of this title, or who, for compensation or profit, and as part of a regular business, issues or promulgates analy-

ses or reports concerning any of the foregoing" for provision respecting advising others "as to the value of commodities or as to the advisability of trading in any commodity for future delivery on or subject to the rules of any market, or who for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning commodities"; excluded in item (i) any person acting as an employee of any bank or trust company; substituted in cl. (ii) "news reporter, news columnist, or news editor of the print or electronic media" for "newspaper reporter, newspaper columnist, newspaper editor"; substituted in cl. (iv) "the publisher or producer of any print or electronic data of general and regular dissemination, including its employees" for "the publisher of any bona fide newspaper magazine, or business or financial publication of general and regular circulation including their employees"; inserted item (v); redesignated as items (vi) and (vii) former items (v) and (vi); and authorized Commission to effectuate purposes of definition by rule or regulation by including within definition any person advising as to the value of commodities or issuing reports or analyses concerning commodities.

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

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

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE OF 1955 AMENDMENT

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

EFFECTIVE DATE OF 1954 AMENDMENT

Section 710(b) of act Aug. 28, 1954, provided that: "The amendment made by this section [amending this section] shall become effective sixty days after the date of enactment of this Act [Aug. 28, 1954]."

EFFECTIVE DATE OF 1940 AMENDMENT

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

EFFECTIVE DATE OF 1936 AMENDMENT

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

CROSS REFERENCES

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

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

SECTION REFERRED TO IN OTHER SECTIONS

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

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

Notwithstanding any other provision of law—

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

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

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

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

(III) Such group or index of securities shall be predominately composed of the securities

of unaffiliated issuers and shall be a widely published measure of, and shall reflect, the market for all publicly traded equity or debt securities or a substantial segment thereof, or shall be comparable to such measure.

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

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

(II) Effective for any application submitted by a board of trade on or after December 9, 1982, for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery of a group or index of securities, the Commission shall transmit a copy of such application to the Securities and Exchange Commission for review. The Commission shall not approve any such application if the Securities and Exchange Commission determines that such contract (or option on such contract) fails to meet the minimum requirements set forth in clause (ii) of this subparagraph. Such determination shall be made by order no later than forty-five days after the close of the public comment pe-

riod under clause (iii) of this subparagraph. In the event of such determination, the board of trade shall be afforded an opportunity for a hearing on the record before the Securities and Exchange Commission. If a board of trade requests a hearing on the record, the hearing shall commence no later than thirty days following the receipt of the request, and a final determination shall be made no later than thirty days after the close of the hearing. A person aggrieved by any such order of the Securities and Exchange Commission may obtain judicial review thereof in the same manner and under such terms and conditions as are provided in section 8(b) of this title.

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

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

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

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

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

(V) Any action taken by the Board, or by the Commission acting under the delegation of authority under subclause III,¹ under this clause directing a contract market to alter or supplement a contract market rule shall be subject to review only in the Court of Appeals where the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit. The review shall be based on

the examination of all information before the Board or the Commission, as the case may be, at the time the determination was made. The court reviewing the action of the Board or the Commission shall not enter a stay or order of mandamus unless the court has determined, after notice and a hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

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

REFERENCES IN TEXT

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

CODIFICATION

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

AMENDMENTS

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

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

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

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

EFFECTIVE DATE

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 3. Transaction in interstate commerce

For the purposes of this chapter (but not in any wise limiting the definition of interstate commerce in section 2 of this title) a transaction in respect to any article shall be considered to be in interstate commerce if such article is part of that current of commerce usual in the commodity trade whereby commodities and commodity products and by-products thereof are sent from one State, with the expectation that they will end their transit, after purchase, in another, including in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for manufacture within the State and the shipment outside the State of the products resulting from such manufacture. Articles nor-

¹ So in original. Probably should be subclause "(III)".

mally in such current of commerce shall not be considered out of such commerce through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter. For the purpose of this section the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nation.

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

CODIFICATION

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

AMENDMENTS

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

EFFECTIVE DATE OF 1936 AMENDMENT

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

CROSS REFERENCES

Interstate commerce defined, see section 2 of this title.

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

§ 4. Liability of principal for act of agent

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

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

CODIFICATION

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 4a. Commodity Futures Trading Commission

(a) Establishment; composition; term of Commissioners

(1) There is hereby established, as an independent agency of the United States Government, a Commodity Futures Trading Commission.

The Commission shall be composed of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. In nominating persons for appointment, the President shall—

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

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

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

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

(b) Vacancies

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

(c) General Counsel

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

(d) Executive Director

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

(e) Powers and functions of Chairman

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

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

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

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

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

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

(f) Conflict of interest

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

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

(1) The Commission shall, in cooperation with the Secretary of Agriculture, maintain a liaison between the Commission and the Department of Agriculture. The Secretary shall take such steps as may be necessary to enable the Commission

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

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

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

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

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

(1) Whenever the Commission submits any budget estimate or request to the President or

the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.

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

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

(i) Seal

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

(j) Rules and regulations

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

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

CODIFICATION

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

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

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

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–546, §215, substituted second and third sentences for “The Commission shall

be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. In nominating persons for appointment, the President shall seek to establish and maintain a balanced Commission, including, but not limited to, persons of demonstrated knowledge in futures trading or its regulation and persons of demonstrated knowledge in the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services, rights and interests covered by this chapter.”

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE

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

SEPARABILITY

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

COMPETITIVENESS STUDY

Section 219 of Pub. L. 102–546 provided that: “(a) IN GENERAL.—No later than eighteen months following the enactment of this Act [Oct. 28, 1992], the Commodity Futures Trading Commission shall study

the competitiveness of boards of trade over which it has jurisdiction compared with the boards of trade (or their foreign equivalent) over which foreign futures authorities, as defined in section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)) [see 7 U.S.C. 1a(10)], have jurisdiction, and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report of its findings with respect to—

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

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

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

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

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

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

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

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

NON-ABATEMENT OF PENDING PROCEEDINGS

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

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

Pub. L. 94-16, §1, Apr. 16, 1975, 89 Stat. 77, provided that the Commodity Futures Trading Commission

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

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

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

TRANSFER OF OPERATIONS TO COMMODITY FUTURES TRADING COMMISSION

Section 411 of Pub. L. 93-463 provided that all operations of the Commodity Exchange Commission and of the Secretary of Agriculture under the Commodity Exchange Act [this chapter], including all pending administrative proceedings, be transferred to the Commodity Futures Trading Commission as of the effective date of Pub. L. 93-463 [see Effective Date of 1974 Amendment note set out under section 2 of this title] and continue to completion and that all rules, regulations, and orders theretofore issued by the Commodity Exchange Commission and by The Secretary of Agriculture under the Commodity Exchange Act [this chapter] to the extent not inconsistent with the provisions of Pub. L. 93-463 [see Short Title note set out under section 1 of this title] continue in full force and effect unless and until terminated, modified, or suspended by the Commodity Futures Trading Commission.

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

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 5. Legislative findings

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

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

AMENDMENTS

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1936 AMENDMENT

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

§ 6. Regulation of futures trading and foreign transactions

(a) Restriction of futures trading to contract markets

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

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

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

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

(b) Regulation of foreign transactions by United States persons

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

(c) Public interest exemption from contract market requirement

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

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

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

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

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

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

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

(B) A savings association.

(C) An insurance company.

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

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

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

(G) An employee benefit plan with assets exceeding \$1,000,000, or whose investment decisions are made by a bank, trust company, insurance company, investment adviser registered under the Investment Advisers Act of

1940 [15 U.S.C. 80b-1 et seq.], or a commodity trading advisor subject to regulation under this chapter.

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

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

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

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

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

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

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

(5) The Commission may—

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

(B) promptly following October 28, 1992, or upon application by any person, exercise the exemptive authority granted under paragraph (1) effective as of October 23, 1974, with respect to classes of swap agreements (as defined in section 101 of title 11) that are not part of a fungible class of agreements that are standardized as to their material economic terms, to the extent that such agreements may be regarded as subject to the provisions of this chapter.

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

(d) Effect of exemption on investigative authority of Commission

The granting of an exemption under this section shall not affect the authority of the Commission under any other provision of this chapter to conduct investigations in order to determine compliance with the requirements or conditions of such exemption or to take enforcement action for any violation of any provision

¹ So in original. Probably should be capitalized.

of this chapter or any rule, regulation or order thereunder caused by the failure to comply with or satisfy such conditions or requirements.

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

REFERENCES IN TEXT

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

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

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

AMENDMENTS

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

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

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

1974—Pub. L. 93-463 substituted “Commission” for “Secretary of Agriculture” and “United States Department of Agriculture”.

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1936 AMENDMENT

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

CROSS REFERENCES

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 6a. Excessive speculation

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

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

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

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

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

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

(c) Applicability to bona fide hedging transactions or positions

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

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

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

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

Nothing in this section shall prohibit or impair the adoption by any contract market or by any other board of trade licensed or designated by the Commission of any bylaw, rule, regulation, or resolution fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery traded on or subject to the rules of such contract market, or under options on such contracts or commodities traded on or subject to the rules of such contract market or such board of trade: *Provided*, That if the Commission shall have fixed limits under this section for any contract or under section 6c of this title for any commodity option, then the limits fixed by the bylaws, rules, regulations, and resolutions adopted by

such contract market or such board of trade shall not be higher than the limits fixed by the Commission. It shall be a violation of this chapter for any person to violate any bylaw, rule, regulation, or resolution of any contract market or other board of trade licensed or designated by the Commission fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery or under options on such contracts or commodities, if such bylaw, rule, regulation, or resolution has been approved by the Commission: *Provided*, That the provisions of section 13(c)¹ of this title shall apply only to those who knowingly violate such limits.

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

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

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

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

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

Par. (3). Pub. L. 97-444, §205(4), substituted “No rule, regulation, or order issued under paragraph (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission by rule, regulation, or order consistent with the purposes of this chapter” for “No order issued under paragraph (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission within one hundred and eighty days after the effective date of the Commodity Futures Trading Commission Act of 1974 by order consistent

¹ See References in Text note below.

with the purposes of this chapter” and inserted “Such terms may be defined to permit producers, purchasers, sellers, middlemen, and users of a commodity or a product derived therefrom to hedge their legitimate anticipated business needs for that period of time into the future for which an appropriate futures contract is open and available on an exchange. To determine the adequacy of this chapter and the powers of the Commission acting thereunder to prevent unwarranted price pressures by large hedgers, the Commission shall monitor and analyze the trading activities of the largest hedgers, as determined by the Commission, operating in the cattle, hog, or pork belly markets and shall report its findings and recommendations to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture in its annual reports for at least two years following January 11, 1983.”

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

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

1975—Par. (3). Pub. L. 94-16 substituted “one hundred and eighty days” for “ninety days”.

1974—Par. (1). Pub. L. 93-463, §403, inserted “or ‘arbitrage’” after “or ‘straddles’”, inserted definition of “arbitrage”, and authorized Commission to define “international arbitrage”.

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

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

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

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE OF 1956 AMENDMENT

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

EFFECTIVE DATE

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

REGULATIONS DEFINING BONA FIDE HEDGING TRANSACTIONS AND POSITIONS

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

CROSS REFERENCES

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

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

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

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

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

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

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

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

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

(b) Buying and selling orders for commodity

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

(c) Inapplicability to transactions on foreign exchanges

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

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

AMENDMENTS

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

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

1974—Pub. L. 93-463 substituted “a commodity” for “cotton” in provisions following subpar. (D) and in-

serted requirement that execution of buying and selling orders for commodities held simultaneously by the same merchant or broker be carried out in accordance with such rules and regulations as the Commission may promulgate regarding the manner of the execution of such transactions.

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE

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

CROSS REFERENCES

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

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 6c. Prohibited transactions

(a) Meretricious transactions

It shall be unlawful for any person to offer to enter into, enter into, or confirm the execution of, any transaction involving any commodity, which is or may be used for (1) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or (2) determining the price basis of any such transaction in interstate commerce in such commodity, or (3) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof—

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

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

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

(b) Regulated option trading

No person shall offer to enter into, enter into or confirm the execution of, any transaction in-

volving any commodity regulated under this chapter which is of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe. Any such order, rule, or regulation may be made only after notice and opportunity for hearing, and the Commission may set different terms and conditions for different markets.

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

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

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

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

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

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

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

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

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

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

(ii) at all times has a net worth of at least \$5,000,000 certified annually by an

independent public accountant using generally accepted accounting principles;

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

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

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

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

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

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

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

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

(iv) provides a disclosure statement to its customers, under regulations of the Commission, that discloses, among other things, all costs, including any markups or commissions involved in such transaction; and

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

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

(e) Rules and regulations

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

(f) Nonapplicability to foreign currency options

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

(g) Oral orders

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

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

AMENDMENTS

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

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

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

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

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

Subsec. (c). Pub. L. 97-444, § 206(3), inserted "With respect to any commodity regulated under this chapter and specifically set forth in section 2 of this title prior to October 23, 1974, the Commission may, pursuant to the procedures set forth in this subsection, establish a pilot program for a period not to exceed three years to permit such commodity option transactions. The Com-

mission may authorize commodity option transactions during the pilot program in as many commodities as will provide an adequate test of the trading of such option transactions. After completion of the pilot program, the Commission may authorize commodity option transactions without regard to the restrictions in the pilot program after the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry the documentation required under clause (1) of the first sentence of this subsection and the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal."

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1992 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE

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

CROSS REFERENCES

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

SECTION REFERRED TO IN OTHER SECTIONS

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

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

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

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

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

chant: *Provided further*, That such money may be invested in obligations of the United States, in general obligations of any State or of any political subdivision thereof, and in obligations fully guaranteed as to principal and interest by the United States, such investments to be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.

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

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

AMENDMENTS

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

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

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

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

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE

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

CROSS REFERENCES

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

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

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

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

AMENDMENTS

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

1974—Pub. L. 93-463 substituted "Commission" for "Secretary of Agriculture".

EFFECTIVE DATE OF 1992 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE

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

CROSS REFERENCES

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

§ 6f. Registration and financial requirements; risk assessment

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

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

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

Notwithstanding any other provisions of this chapter, no person desiring to register as futures commission merchant or as introducing broker shall be so registered unless he meets such minimum financial requirements as the Commission may by regulation prescribe as necessary to insure his meeting his obligation as a registrant, and each person so registered shall at all times continue to meet such prescribed minimum financial requirements: *Provided*, That such minimum financial requirements will be considered met if the applicant for registration or registrant is a member of a contract market and conforms to minimum financial standards and related reporting requirements set by such contract market in its bylaws, rules, regulations, or resolutions and approved by the Commission as adequate to effectuate the purposes of this subsection.

(c) Risk assessment for holding company systems

(1) As used in this subsection:

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

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

(2)(A) Each registered futures commission merchant shall obtain such information and

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

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

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

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

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

(4)(A) in² developing and implementing reporting requirements pursuant to paragraph (2) with respect to affiliated persons subject to examination by or reporting requirements of a Federal banking agency, the Commission shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Commission under this subsection that has been published for comment, the Commission shall respond in writing to the written comment before adopting the proposed rule. The Commission shall, at the request of the Federal banking agency, publish the comment and response in the Federal Register at the time of publishing the adopted rule.

(B)(i) Except as provided in clause (ii), a registered futures commission merchant shall be considered to have complied³ with a record-

keeping or reporting requirement adopted pursuant to paragraph (2) concerning an affiliated person that is subject to examination by, or reporting requirements of, a Federal banking agency if the futures commission merchant utilizes for the recordkeeping or reporting requirement copies of reports filed by the affiliated person with the Federal banking agency pursuant to section 161 of title 12, section 9 of the Federal Reserve Act (12 U.S.C. 321 et seq.), section 1817(a) of title 12, section 1467a(b) of title 12, or section 1844 of title 12.

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

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

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

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

(6) Nothing in this subsection shall be construed to permit the Commission to require any futures commission merchant to obtain, maintain, or furnish any examination report of any Federal banking agency or any supervisory recommendations or analysis contained in the report.

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

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

(9) The Commission, by rule, regulation, or order, may exempt any person or class of persons under such terms and conditions and for such periods as the Commission shall provide in

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

² So in original. Probably should be capitalized.

³ So in original. Probably should be "complied".

the rule, regulation, or order, from this subsection and the rules and regulations issued under this subsection. In granting the exemption, the Commission shall consider, among other factors—

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

(B) the primary business of any affiliated person;

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

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

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

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

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

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

REFERENCES IN TEXT

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

AMENDMENTS

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

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

Subsec. (c). Pub. L. 102-546, § 229(3), added subsec. (c).
1983—Par. (1). Pub. L. 97-444, § 208(1), made grammatical changes, made registration provisions applicable to introducing brokers, and substituted “revoked pursuant to the provisions of this chapter” for “revoked after notice and hearing as prescribed in this chapter”.

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

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

1974—Pub. L. 93-463 substituted “Commission” for “Secretary of Agriculture”.

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

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

EFFECTIVE DATE OF 1992 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE

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

CROSS REFERENCES

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

§ 6g. Reporting and recordkeeping

(a) In general

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

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

(b) Daily trading records: clearinghouses and contract markets

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

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

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

(d) Daily trading records: form and reports

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

(e) Disclosure of information

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

(f) Authority of Commission to make separate determinations unimpaired

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

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

AMENDMENTS

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

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

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

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

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

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

1978—Par. (3). Pub. L. 95-405 substituted “Floor brokers” for “Brokers”.

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

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

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

EFFECTIVE DATE OF 1992 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE

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

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

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

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

AMENDMENTS

1983—Pub. L. 97-444 struck out provisions formerly designated as par. (1) relating to conduct of offices or places of business anywhere in the United States or its territories that were used for dealing in commodities for future delivery unless such dealings were executed or consummated by or through a member of a contract market, which provisions were transferred to section

6(a) of this title, and broadened remaining provisions, formerly designated as par. (2), to prohibit false representations that a person is registered with the Commission in any capacity, and not only as a futures commission merchant, as previously provided.

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE

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

CROSS REFERENCES

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

SECTION REFERRED TO IN OTHER SECTIONS

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

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

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

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

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

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

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

AMENDMENTS

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

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE

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

CROSS REFERENCES

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

§ 6j. Regulation of trades and executions

(a) Dual trading prohibited; exemptions

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

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

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

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

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

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

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

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

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

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

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

(A) the account of such floor broker;

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

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

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

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

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

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

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

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

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

(i) increase, or

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

the threshold trading level for specific contract markets after taking into consideration the ac-

tual or potential effects of a dual trading ban on the public interest in hedging or price basing at the affected contract market.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) Any board of trade which has applied to the Commission to exempt a contract market from the regulations issued under paragraph (1) may

obtain judicial review of any final action of the Commission to deny such application, to issue an exemption subject to conditions, or to revoke an exemption, only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, under the standards applicable to rulemaking proceedings under section 553 of title 5.

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

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

(b) Trades and executions by floor brokers

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

(c) Trades by futures commission merchants

The Commission shall within nine months after the effective date of the Commodity Futures Trading Commission Act of 1974, and subsequently when it determines that changes are required, make a determination, after notice and opportunity for hearing, whether or not a futures commission merchant may trade for its own account or any proprietary account, as defined by the Commission, and if the Commission determines that such trades shall be permitted, the Commission shall further determine the terms, conditions, and circumstances under which such trades shall be conducted: *Provided*, That any such determination, at a minimum, shall take into account the effect upon the li-

quidity of trading of each market: *And provided further*, That nothing herein shall be construed to prohibit the Commission from making separate determinations for different contract markets when such are warranted in the judgment of the Commission, or to prohibit contract markets from setting terms and conditions more restrictive than those set by the Commission.

(d) Restrictions on trading among members of broker associations

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

- (A) a partner in a partnership;
- (B) an employer or employee; or
- (C) Such¹ other affiliation as the Commission may specify by rule.

(2) Paragraph (1) shall not apply—

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

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

(Sept. 21, 1922, ch. 369, § 4j, as added Oct. 23, 1974, Pub. L. 93-463, title II, § 203, 88 Stat. 1396; amended Apr. 16, 1975, Pub. L. 94-16, § 2, 89 Stat. 77; Oct. 28, 1992, Pub. L. 102-546, title I, §§ 101, 102(a), 106 Stat. 3591, 3594.)

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

Subsec. (d). Pub. L. 102-546, § 102(a), added subsec. (d). 1975—Pub. L. 94-16 substituted "nine months" for "six months" in pars. (1) and (2).

¹ So in original. Probably should not be capitalized.

EFFECTIVE DATE OF 1992 AMENDMENT

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

EFFECTIVE DATE

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

SECTION REFERRED TO IN OTHER SECTIONS

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

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

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

(2) It shall be unlawful for any person to be associated with a commodity pool operator as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves (i) the solicitation of funds, securities, or property for a participation in a commodity pool or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this chapter as an associated person of such commodity pool operator and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked. It shall be unlawful for a commodity pool operator to permit such a person to become or remain associated with the commodity pool operator in any such capacity if the commodity pool operator knew or should have known that such person was not so registered or that such registration had ex-

pired, been suspended (and the period of suspension has not expired), or been revoked. Any individual who is registered as a floor broker, futures commission merchant, introducing broker, commodity pool operator, or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this paragraph. The Commission may exempt any person or class of persons from having to register under this paragraph by rule, regulation, or order.

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

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

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

(Sept. 21, 1922, ch. 369, § 4k, as added Oct. 23, 1974, Pub. L. 93-463, title II, § 204(a), 88 Stat. 1396; amended Sept. 30, 1978, Pub. L. 95-405, § 7, 92

Stat. 869; Jan. 11, 1983, Pub. L. 97-444, title II, §212, 96 Stat. 2303.)

AMENDMENTS

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 67. Commodity trading advisors and commodity pool operators; Congressional finding

It is hereby found that the activities of commodity trading advisors and commodity pool op-

erators are affected with a national public interest in that, among other things—

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

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

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

(Sept. 21, 1922, ch. 369, §41, as added Oct. 23, 1974, Pub. L. 93-463, title II, §205(a), 88 Stat. 1397.)

EFFECTIVE DATE

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

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

(1) It shall be unlawful for any commodity trading advisor or commodity pool operator, unless registered under this chapter, to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as such commodity trading advisor or commodity pool operator: *Provided*, That the provisions of this section shall not apply to any commodity trading advisor who, during the course of the preceding twelve months, has not furnished commodity trading advice to more than fifteen persons and who does not hold himself out generally to the public as a commodity trading advisor. The provisions of this section shall not apply to any commodity trading advisor who is a (1) dealer, processor, broker, or seller in cash market transactions of any commodity specifically set forth in section 2 of this title prior to October 23, 1974, (or products thereof) or (2) nonprofit, voluntary membership, general farm organization, who provides advice on the sale or purchase of any commodity specifically set forth in section 2 of this title prior to October 23, 1974; if the advice by the person described in clause (1) or (2) of this sentence as a commodity trading advisor is solely incidental to the conduct of that person's business: *Provided*, That such person shall be subject to proceedings under section 18 of this title.

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

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

REFERENCES IN TEXT

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

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

AMENDMENTS

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AMENDMENTS

1983—Par. (5). Pub. L. 97-444 struck out par. (5) which authorized Commission, without hearing, to deny registration to any person as a commodity trading advisor or commodity pool operator if such person was subject to an outstanding order under this chapter denying to

such person trading privileges on any contract market, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

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

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE

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

§ 60. Fraud and misrepresentation by commodity trading advisors, commodity pool operators, and associated persons

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

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

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

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

associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator, if such statement is true in fact and if the effect of such registration is not misrepresented.

(Sept. 21, 1922, ch. 369, §40, as added Oct. 23, 1974, Pub. L. 93-463, title II, §205(a), 88 Stat. 1399; amended Sept. 30, 1978, Pub. L. 95-405, §10, 92 Stat. 870; Jan. 11, 1983, Pub. L. 97-444, title II, §214, 96 Stat. 2305.)

AMENDMENTS

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

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 6p. Standards and examinations

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

protect the interests of customers, clients, pool participants, or other members of the public with whom such individuals deal.

(b) The Commission shall issue regulations to require new registrants, within six months after receiving such registration, to attend a training session, and all other registrants to attend periodic training sessions, to ensure that registrants understand their responsibilities to the public under this chapter, including responsibilities to observe just and equitable principles of trade, any rule or regulation of the Commission, any rule of any appropriate contract market, registered futures association, or other self-regulatory organization, or any other applicable Federal or state¹ law, rule or regulation.

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

AMENDMENTS

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE

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

REGULATIONS

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

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

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

(1) When located at a terminal market where any cash commodity of the kind specified in the contracts of sale of commodities for future delivery to be executed on such board is sold in sufficient volumes and under such conditions as fairly to reflect the general value of the commodity and the differences in value be-

tween the various grades of such commodity, and where there is available to such board of trade, official inspection service approved by the Secretary of Agriculture or the Commission for the purpose: *Provided*, That any board of trade not so located shall be designated as a “contract market” if such board of trade provides for the delivery of commodities on such contracts at a delivery point or points and upon terms and conditions approved by the Commission.

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

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

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

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

(6) When the governing board provides for making effective the final orders or decisions

¹ So in original. Probably should be capitalized.

entered pursuant to the provisions of section 9 of this title, and the orders issued pursuant to the provisions of section 7a of this title, and for compliance in all other respects with the requirements applicable to such board of trade under this chapter.

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

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

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

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE OF 1936 AMENDMENT

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

CROSS REFERENCES

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

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 7a. Duties of contract markets

(a) In general

Each contract market shall—

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

(2) keep all books, records, minutes, and journals of proceedings of such contract market, and its governing board, committees, subsidiaries, and affiliates in a manner that will clearly describe all matters discussed by such contract market, governing board, committees, subsidiaries and affiliates and reveal any action taken in such matters, and allow inspection at all times by any authorized representative of the Commission or United States Department of Justice of all such books, records, minutes, and journals of proceedings. Such books, records, minutes, and journals of proceedings shall be kept for a period of three years from the date thereof, or for a longer period if the Commission shall so direct;

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

(4) when so directed by order of the Commission, provide for a period, after trading in contracts of sale of any commodity for future delivery in a delivery month has ceased, during which contracts of sale of such commodity for future delivery in such month may be satisfied by the delivery of the actual cash commodity. Whenever, after due notice and opportunity for hearing, the Commission finds that provision for such a period of delivery for any one

or more commodities or markets would prevent or tend to prevent "squeezes" and market congestion endangering price stability, it shall, by order, require such period of delivery (which shall be not less than three nor more than ten business days) applicable to such commodities and markets as it finds will prevent or tend to prevent such "squeezes" and market congestion: *Provided, however,* That such order shall not apply to then existing contracts;

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

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

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

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

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

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

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

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

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

(12)(A) except as otherwise provided in this paragraph, submit to the Commission for its prior approval all bylaws, rules, regulations, and resolutions ("rules") made or issued by such contract market, or by the governing board thereof or any committee thereof, that relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market, as such terms and conditions are defined by the Commission by rule or regulation, except those rules relating to the setting of levels of margin. Each contract market shall submit to the Commission all other rules (except those relating to the setting of levels of margin and except those that the Commission may specify by regulation) and may make such rules effective ten days after receipt of such submission by the Commission unless, within the ten-day period, the contract market requests review and approval thereof by the Commission or the Commission notifies such contract market in writing of its determination to review such rules for approval. The determination to review such rules for approval shall not be delegable to any employee of the Commission. At least thirty days before approving any rules of major economic significance, as determined by the Commission, the Commission shall publish a notice of such rules in the Federal Register. The Commission shall give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such rules are of major economic significance shall be final and not subject to judicial review. The Commission shall approve such rules if such rules are determined by the Commission not to be in violation of this chapter or the regulations of the Commission and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be in violation of the provisions of this chapter or the regulations of the Commission. If the

Commission institutes proceedings to determine whether a rule should be disapproved pursuant to this paragraph, it shall provide the contract market with written notice of the proposed grounds for disapproval, including the specific sections of this chapter or the Commission's regulations which would be violated. At the conclusion of such proceedings, the Commission shall approve or disapprove such rule. Any disapproval shall specify the sections of this chapter or the Commission's regulations which the Commission determines such rule has violated or, if effective, would violate. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period as the contract market may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the contract market may agree to, such rule may be made effective by the contract market until such time as the Commission disapproves such rule in accordance with this paragraph.

(B)(i) The Commission shall issue regulations to specify the terms and conditions under which, in an emergency as defined by the Commission, a contract market may, by a two-thirds vote of its governing board, make a rule (hereinafter referred to as an "emergency rule") effective on a temporary basis without prior Commission approval, or without compliance with the ten-day notice requirement under subparagraph (A), or during any period of review by the Commission, if the contract market makes every effort practicable to notify the Commission of such emergency rule, along with a complete explanation of the emergency involved, prior to making the emergency rule effective. If the contract market does not provide the Commission with such notification and explanation before making the emergency rule effective, the contract market shall provide the Commission with such notification and explanation at the earliest possible date. The Commission may delegate the power to receive such notification and explanation to such individuals as the Commission determines necessary and appropriate.

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

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

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

The Commission shall submit a report on its determination and the basis thereof with respect to such emergency rule to the affected contract market, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. If the report is submitted more than ten days after the Commission's

¹ So in original.

receipt of notification of such an emergency rule from a contract market, the report shall explain why submission within such ten-day period was not practicable. A determination by the Commission to suspend the effect of a rule under this subparagraph shall be subject to judicial review on the same basis as an emergency determination under section 12a(9) of this title. Nothing in this paragraph shall be construed to limit the authority of the Commission under section 12a(9) of this title;

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

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

- (i) futures commission merchants;
- (ii) producers of, and consumers, processors, distributors, or merchandisers of, principal commodities traded on the board of trade;
- (iii) floor brokers and traders; and
- (iv) participants in a variety of pits or principal groups of commodities traded on the exchange.

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

- (i) expertise in futures trading, or the regulation thereof, or in commodities traded through contracts on the board of trade; or
- (ii) other eminent qualifications making such person capable of participating in and contributing to board deliberations.

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

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

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

- (i) a majority of qualified persons representing a trading status other than that of the subject of the proceeding; and
- (ii) where appropriate to carry out the purposes of this chapter, qualified persons who are not members of the exchange.

(C) For purposes of this paragraph, a trading status on a contract market may include, consistent with Commission rules, such categories as²

- (i) floor brokers and traders;

- (ii) producers, consumers, processors, distributors, or merchandisers of commodities;
- (iii) futures commission merchants; and
- (iv) members of the aforementioned categories who participate in particular contract markets or principal groups of commodities on the board of trade.

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

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

(17)(A) provide for the avoidance of conflict of interest in deliberations by the governing board and any disciplinary and oversight committees. In order to comply with this subparagraph, each contract market shall adopt rules and procedures to require, at a minimum, that²

- (i) any member of a governing board or a disciplinary or other oversight committee must abstain from confidential deliberations and voting on any matter where the named party in interest is the member, the member's employer, the member's employee, or any other person that has a business, employment, or family relationship with the member that warrants abstention by the member;

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

(iii) prior to the deliberations of the governing board, disciplinary board, or other oversight committee, acting directly or indirectly through an authorized member or contract market official, the positions of the members of such board or committee, and positions of the firm or firms with which such members are affiliated, are reviewed: *Provided, however,* That no contract market or official, employee, member, other than the member whose position or positions are being reviewed, or agent thereof shall be subject to liability, except for liability in an

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

action initiated by the Commission, for having conducted this review and for having taken or not taken further action; and

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

Any member prohibited from voting on a rule pursuant to this paragraph shall not be included in determining whether there has been a two-thirds vote of members of the governing board or committee as required by subparagraph³ (12).

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

(i) any nonphysical emergency rule; or

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

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

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

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

(A) physical observation of trading areas;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) independently of the person making the trade;

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

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

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

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

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

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

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

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

³ So in original. Probably should be "paragraph".

(iii) identifies such time—

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

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

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

(iv) is adequately precise to determine—

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

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

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

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

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

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

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

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

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

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

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

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

(Sept. 21, 1922, ch. 369, §5a, as added June 15, 1936, ch. 545, §7, 49 Stat. 1497; amended Feb. 19,

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

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

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

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

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

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

1986—Par. (12). Pub. L. 99-641 substituted “participate” for “participate”.

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

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

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

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

Par. (12). Pub. L. 95-405, §12, inserted “(or within sixty days of their receipt if the Commission determines them to be of major economic significance)”

after “thirty days of their receipt” and inserted provisions requiring that the Commission at least thirty days before approving any bylaws, rules, etc., of major economic significance publish such bylaws, rules, etc., in the Federal Register and that the Commission give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments and making the determination of the Commission as to whether any such bylaws, rules, etc., are of major economic significance final and not subject to judicial review.

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

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

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

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

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

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

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

Par. (9). Pub. L. 93-463, §103(a), substituted “Commission” for “Secretary of Agriculture”.

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

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

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

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE

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

REGULATIONS

Section 206(c) of Pub. L. 102-546 provided that: “Not later than two hundred and seventy days after the date of enactment of this Act [Oct. 28, 1992], the Commodity

Futures Trading Commission shall adopt such rules as are necessary to carry out the amendments made by subsections (a) and (b) [amending this section and sections 12c and 21 of this title], including rules that—

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

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

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

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

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

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

STUDY

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

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

“(A) an assessment of the progress of each contract market in developing and implementing systems to record the times of transactions independently, precisely, and completely as required under section 5a(b) of the Commodity Exchange Act [7 U.S.C. 7a(b)] (as added by subsection (a) of this section); and

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

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

SECTION REFERRED TO IN OTHER SECTIONS

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

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

The failure or refusal of any board of trade to comply with any of the provisions of this chapter, or any of the rules, regulations, or orders of the Commission or the commission¹ thereunder, shall be cause for suspending for a period not to exceed six months or revoking the designation of such board of trade as a “contract market” in accordance with the procedure and subject to

¹So in original. The words “or the commission” probably should not appear.

the judicial review provided in section 8(b) of this title.

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

AMENDMENTS

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

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

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE

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

SECTION REFERRED TO IN OTHER SECTIONS

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

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

(a) Any board of trade desiring to be designated a “contract market” shall make application to the Commission for such designation and accompany the same with a showing that it complies with the conditions of section 7 of this title, and with a sufficient assurance that it will continue to comply with the requirements of such section 7. The Commission shall approve or deny an application for designation as a contract market within one year of the filing of the application. If the Commission notifies the board of trade that its application is materially incomplete and specifies the deficiencies in the application, the running of the one-year period shall be stayed from the time of such notification until the application is resubmitted in completed form: *Provided*, That the Commission shall have not less than sixty days to approve or deny the application from the time the application is resubmitted in completed form. If the Commission denies an application, it shall specify the grounds for the denial. In the event of a

refusal to designate as a “contract market” any board of trade that has made application therefor, such board of trade shall be afforded an opportunity for a hearing on the record before the Commission, with the right to appeal an adverse decision after such hearing to the court of appeals as provided for in other cases in subsection (b) of this section.

(b) The Commission is authorized to suspend for a period not to exceed six months or to revoke the designation of any board of trade as a “contract market” upon a showing that such board of trade is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in section 7 of this title or that such board of trade, or any director, officer, agent, or employee thereof, otherwise is violating or has violated any of the provisions of this chapter or any of the rules, regulations, or orders of the Commission or the Commission¹ thereunder. Such suspension or revocation shall only be after a notice to the officers of the board of trade affected and upon a hearing on the record: *Provided*, That such suspension or revocation shall be final and conclusive, unless within fifteen days after such suspension or revocation by the Commission such board of trade appeals to the court of appeals for the circuit in which it has its principal place of business, by filing with the clerk of such court a written petition praying that the order of the Commission be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such board of trade will pay the costs of the proceedings if the court so directs. The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Commission and file in the court the record in such proceedings, as provided in section 2112 of title 28. The testimony and evidence taken or submitted before the Commission, duly filed as aforesaid as a part of the record, shall be considered by the court of appeals as the evidence in the case. Such a court may affirm or set aside the order of the Commission or may direct it to modify its order. No such order of the Commission shall be modified or set aside by the court of appeals unless it is shown by the board of trade that the order is unsupported by the weight of the evidence or was issued without due notice and a reasonable opportunity having been afforded to such board of trade for a hearing, or infringes the Constitution of the United States, or is beyond the jurisdiction of the Commission.

(Sept. 21, 1922, ch. 369, §6(a), (b), formerly §6(a), 42 Stat. 1001; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85-791, §7(a), 72 Stat. 944; Feb. 19, 1968, Pub. L. 90-258, §§14, 15, 82 Stat. 30; Oct. 23, 1974, Pub. L. 93-463, title I, §103(a)-(c), 88 Stat. 1392; Sept. 30, 1978, Pub. L. 95-405, §13(1), (2), 92 Stat. 871; Jan. 11, 1983, Pub. L. 97-444, title II, §218, 96 Stat. 2308; Nov. 8, 1984, Pub. L. 98-620, title IV, §402(3), 98 Stat. 3357; renumbered §6(a), (b) and amended Oct. 28, 1992, Pub. L. 102-546, title II, §209(a)(1)-(3), title IV, §402(1)(B), (9)(A), 106 Stat. 3606, 3624, 3625.)

¹So in original. The words “or the Commission” probably should not appear.

CODIFICATION

Section is comprised of subssecs. (a) and (b) of section 6 of act Sept. 21, 1922. Subsec. (c) of section 6 is classified to sections 9 and 15 of this title. Subssecs. (d), (e), and (f) of section 6 are classified to sections 13b, 9a, and 9b of this title, respectively.

AMENDMENTS

1992—Pub. L. 102-546, §209(a)(1), (2), designated first par. as subsec. (a) and redesignated former par. (a) as subsec. (b).

Subsec. (a). Pub. L. 102-546, §209(a)(3), substituted "subsection (b)" for "paragraph (a)".

Subsec. (b). Pub. L. 102-546, §402(9)(A), which directed amendment of first sentence by striking "the Secretary of Agriculture or", could not be executed because of amendment by Pub. L. 93-463, §103(a). See 1974 Amendment note below.

Pub. L. 102-546, §402(1)(B), substituted "Commission" for "commission" wherever appearing.

1984—Par. (a). Pub. L. 98-620 struck out provisions requiring proceedings in such cases in the court of appeals to be made a preferred cause and expedited in every way.

1983—Pub. L. 97-444 required approval or denial of application within one year period of filing of application, stay of such period following notification that application was incomplete and deficient until resubmission of application, minimum period prior to acting upon resubmitted application, and specification of grounds for denial of application.

1978—Pub. L. 95-405, §13(1), in provisions before par. (a) inserted "on the record" after "opportunity for a hearing".

Par. (a). Pub. L. 95-405, §13(2), inserted "on the record" after "upon a hearing".

1974—Pub. L. 93-463, §103(a), substituted "Commission" for "Secretary of Agriculture" in first par.

Par. (a). Pub. L. 93-463, §103(c), struck out "the Secretary of Agriculture, who shall thereupon notify the other members of" after "The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to".

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

1968—Pub. L. 90-258, §14, inserted provision affording any board of trade refused a contract market designation a hearing before the Commission with right to appeal in adverse decision to the court of appeals as provided for in par. (a) of this section at end of first par.

Par. (a). Pub. L. 90-258, §15, amended par. (a) generally, striking out such parts both of first sentence and of proviso of last sentence as described the commission as made up of the Secretary of Agriculture, Secretary of Commerce, and Attorney General (covered in definition of "Commission" in section 2 of this title, including representation of such officials by their designees), extending grounds for suspension or revocation of designation to include violations of any provisions of this chapter or rules, regulations, or orders of the Secretary of Agriculture or commission, requiring delivery of appeal petitions to Secretary of Agriculture rather than any member of the commission, who would notify the other members, and filing of commission records of proceedings on appeal by the Secretary of Agriculture and not the commission, striking out provisions describing Secretary of Agriculture as Chairman (now found in section 2 of this title), superseding such part of proviso of seventh sentence as authorized appeals to

the commission from Secretary of Agriculture's refusal of a contract market designation by provisions of first par. of this section, and striking out such other part as made decision of court on appeal from commission final and binding on the parties.

1958—Pub. L. 85-791 substituted "thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28" for "forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings including the notice to the board of trade, a copy of the charges, the evidence, and the report and order" in third notice, and struck out "certified and" after "duly" in fourth sentence.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals" wherever appearing in this section.

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.

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

CROSS REFERENCES

Cease and desist orders, review of, see section 13a of this title.

Orders with respect to exclusion from boards of trade of cooperative associations and corporations, review of under the procedure provided in this section, see section 10a of this title.

Suspension or revocation of designation as contract market in accordance with procedure and subject to judicial review provided in this section, see section 7b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2a, 6j, 7b, 10a, 12, 12a, 12e, 13a of this title.

§ 9. Exclusion of persons from privilege of "contract markets"; procedure for exclusion; review by court of appeals

If the Commission has reason to believe that any person (other than a contract market) is manipulating or attempting to manipulate or has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any contract market, or has willfully made any false or misleading statement of a material fact in any registration application or any report filed with the Commission under this chapter, or willfully omitted to state in any such application or report any ma-

terial fact which is required to be stated therein, or otherwise is violating or has violated any of the provisions of this chapter or of the rules, regulations, or orders of the Commission or the Commission¹ thereunder, it may serve upon such person a complaint stating its charges in that respect, which complaint shall have attached or shall contain therein a notice of hearing, specifying a day and place not less than three days after the service thereof, requiring such person to show cause why an order should not be made prohibiting him from trading on or subject to the rules of any contract market, and directing that all contract markets refuse all trading privileges to such person, until further notice of the Commission, and to show cause why the registration of such person, if registered with the Commission in any capacity, should not be suspended or revoked. Said hearing may be held in Washington, District of Columbia, or elsewhere, before the Commission, or before an Administrative Law Judge designated by the Commission, which Administrative Law Judge shall cause all evidence to be reduced to writing and forthwith transmit the same to the Commission. Upon evidence received, the Commission may (1) prohibit such person from trading on or subject to the rules of any contract market and require all contract markets to refuse such person all trading privileges thereon for such period as may be specified in the order, (2) if such person is registered with the Commission in any capacity, suspend, for a period not to exceed six months, or revoke, the registration of such person, (3) assess such person a civil penalty of not more than the higher of \$100,000 or triple the monetary gain to such person for each such violation² and (4) require restitution to customers of damages proximately caused by violations of such persons. Notice of such order shall be sent forthwith by registered mail or by certified mail or delivered to the offending person and to the governing boards of said contract markets. After the issuance of the order by the Commission, the person against whom it is issued may obtain a review of such order or such other equitable relief as to the court may seem just by filing in the United States court of appeals of the circuit in which the petitioner is doing business, or in the case of an order denying registration, the circuit in which the petitioner's principal place of business listed on petitioner's application for registration is located, a written petition, within fifteen days after the notice of such order is given to the offending person praying that the order of the Commission be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and thereupon the Commission shall file in the court the record theretofore made, as provided in section 2112 of title 28. Upon the filing of the petition the court shall have jurisdiction to affirm, to set aside, or modify the order of the Commission, and the findings of the Commission as to the facts, if sup-

ported by the weight of evidence, shall in like manner be conclusive.

(Sept. 21, 1922, ch. 369, §6(c), formerly §6(b), 42 Stat. 1002; June 15, 1936, ch. 545, §8(a)-(d), (h)-(j), 49 Stat. 1498, 1499; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85-791, §7(b), 72 Stat. 944; June 11, 1960, Pub. L. 86-507, §1(2), 74 Stat. 200; Feb. 19, 1968, Pub. L. 90-258, §16, 82 Stat. 30; Oct. 23, 1974, Pub. L. 93-463, title I, §103(a), (b), (e), title II, §§204(b), 205(b), 212(a)(1), (2), title IV, §408, 88 Stat. 1392, 1397, 1400, 1403, 1414; Jan. 11, 1983, Pub. L. 97-444, title II, §219, 96 Stat. 2308; renumbered §6(c) and amended Oct. 28, 1992, Pub. L. 102-546, title II, §§209(a)(1), 212(b), 223, title IV, §402(1)(C), (6), (9)(B), 106 Stat. 3606, 3609, 3617, 3624, 3625.)

CODIFICATION

Section is comprised of part of subsec. (c) of section 6 of act Sept. 21, 1922. A further provision of subsec. (c) is contained in section 15 of this title. Subsecs. (a) and (b) of section 6 are classified to section 8 of this title. Subsecs. (d), (e), and (f) of section 6 are classified to sections 13b, 9a, and 9b of this title, respectively.

AMENDMENTS

1992—Pub. L. 102-546, §402(9)(B), which directed amendment of first sentence by striking "the Secretary of Agriculture or", could not be executed because of amendment by Pub. L. 93-463, §103(a). See 1974 Amendment note below.

Pub. L. 102-546, §§209(a)(1), 212(b), 223, 402(1)(C), (6), substituted, in first sentence, "Commission thereunder" for "commission thereunder", in sentence beginning "Upon evidence received", inserted "(1)", substituted "(2) if" for "and, if", "suspend" for "may suspend", "(3)" for "and may", "the higher of \$100,000 or triple the monetary gain to such person" for "\$100,000", and inserted before period "and (4) require restitution to customers of damages proximately caused by violations of such persons", and in sentence beginning "After the issuance", substituted "offending person" for "offending person."

1983—Pub. L. 97-444 struck out "as futures commission merchant or any person associated therewith as described in section 6k of this title, commodity trading advisor, commodity pool operator, or as floor broker hereunder" after "such person, if registered" and also after "such person is registered" and inserted ", or in the case of an order denying registration, the circuit in which the petitioner's principal place of business listed on petitioner's application for registration is located," after "court of appeals of the circuit in which the petitioner is doing business".

1974—Pub. L. 93-463, §§103(e), 204(b), 205(b), 212(a)(1), (2), 408, substituted "it" for "he", inserted "or any person associated therewith as described in section 6k of this title," after "futures commission merchant" wherever appearing, inserted "commodity trading advisor, commodity pool operator" before "or as floor broker" wherever appearing, inserted provision for the assessment of civil penalties of not more than \$100,000 for each violation, set a limit of fifteen days after the issuance of an order within which period the person against whom the order was issued must file with the court of appeals his petition that the order be set aside, and substituted "an Administrative Law Judge" and "Administrative Law Judge" for "a referee" and "referee", respectively.

Pub. L. 93-463, §103(a), provided for substitution of "Commission" for "Secretary of Agriculture" except where such words would be stricken by section 103(b), which directed striking the words "the Secretary of Agriculture or" where they appeared in the phrase "the Secretary of Agriculture or the Commission". Section 103(a) was executed wherever the term "Secretary of

¹ So in original. The words "or the Commission" probably should not appear.

² So in original. Probably should be followed by a comma.

Agriculture" appeared in this section including in the phrase "the Secretary of Agriculture or the commission" in the first sentence. Because the word "commission" was not capitalized in that phrase in the first sentence, section 103(b) did not apply to that phrase and therefore section 103(a) was executed, resulting in the substitution of "the Commission or the commission" for "the Secretary of Agriculture or the commission".

1968—Pub. L. 90-258 amended first sentence generally, providing for denial of trading privileges to persons other than contract markets and suspension or revocation of registration of futures commission merchants and floor brokers, who are manipulating or have attempted to manipulate prices, for willful, material, misstatements in, or omissions from, reports or registration statements, and for violations of orders of Secretary of Agriculture or commission, and authorizing the Secretary to prohibit such persons from trading on or subject to rules of any contract market.

1960—Pub. L. 86-507 inserted "or by certified mail" after "registered mail".

1958—Pub. L. 85-791 substituted "transmitted by the clerk of the court to the Secretary of Agriculture and thereupon the Secretary of Agriculture shall file in the court the record theretofore made, as provided in section 2112 of Title 28" for "served upon the Secretary of Agriculture by delivering such copy to him and thereupon the Secretary of Agriculture shall forthwith certify and file in the court a transcript of the record theretofore made, including evidence received" in seventh sentence, and substituted "petition" for "transcript" in eighth sentence.

1936—Act June 15, 1936, among other changes, amended section by inserting provisions relating to the service of complaints and penalties for violations of this chapter.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals" wherever appearing in this section.

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE OF 1936 AMENDMENT

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

CROSS REFERENCES

Conditional requirements for designation of board of trade as "contract market", see section 7 of this title.

Suspension or revocation of registration as futures commission merchant for accepting orders from person denied trading privileges pursuant to order under provisions of this section, see section 12a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2a, 7, 9a, 12, 12a, 13b, 18, 21 of this title.

§ 9a. Assessment of money penalties

(1) In determining the amount of the money penalty assessed under section 9 of this title, the

Commission shall consider the appropriateness of such penalty to the gravity of the violation.

(2) Unless the person against whom a money penalty is assessed under section 9 of this title shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for payment of such penalty that either an appeal as authorized by section 9 of this title has been taken or payment of the full amount of the penalty then due has been made, at the end of such fifteen-day period and until such person shows to the satisfaction of the Commission that payment of such amount with interest thereon to date of payment has been made—

(A) such person shall be prohibited automatically from trading on all contract markets; and

(B) if such person is registered with the Commission, such registration shall be suspended automatically.

(3) If a person against whom a money penalty is assessed under section 9 of this title takes an appeal and if the Commission prevails or the appeal is dismissed, unless such person shows to the satisfaction of the Commission that payment of the full amount of the penalty then due has been made by the end of thirty days from the date of entry of judgment on the appeal—

(A) such person shall be prohibited automatically from trading on all contract markets; and

(B) if such person is registered with the Commission, such registration shall be suspended automatically.

If the person against whom the money penalty is assessed fails to pay such penalty after the lapse of the period allowed for appeal or after the affirmation of such penalty, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

(Sept. 21, 1922, ch. 369, §6(e), formerly §6(d), as added Oct. 23, 1974, Pub. L. 93-463, title II, §212(a)(3), 88 Stat. 1403; renumbered §6(e) and amended Oct. 28, 1992, Pub. L. 102-546, title II, §209(a)(1), (5), 106 Stat. 3606.)

REFERENCES IN TEXT

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

CODIFICATION

Section is comprised of subsec. (e) of section 6 of act Sept. 21, 1922. Subsecs. (a) and (b) of section 6 are classified to section 8 of this title. Subsec. (c) of section 6 is classified to sections 9 and 15 of this title. Subsecs. (d) and (f) of section 6 are classified to sections 13b and 9b of this title, respectively.

AMENDMENTS

1992—Pub. L. 102-546 amended section generally. Prior to amendment, section read as follows: "In determining the amount of the money penalty assessed under section 9 of this title, the Commission shall consider, in the case of a person whose primary business involves the use of the commodity futures market—the appropriateness of such penalty to the size of the business of the person charged, the extent of such person's ability to continue in business, and the gravity of the viola-

tion; and in the case of a person whose primary business does not involve the use of the commodity futures market—the appropriateness of such penalty to the net worth of the person charged, and the gravity of the violation. If the offending person upon whom such penalty is imposed, after the lapse of the period allowed for appeal or after the affirmance of such penalty, shall fail to pay such penalty the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.”

EFFECTIVE DATE

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

§ 9b. Rules prohibiting deceptive and other abusive telemarketing acts or practices

(1) Except as provided in paragraph (2), not later than six months after the effective date of rules promulgated by the Federal Trade Commission under section 6102(a) of title 15, the Commission shall promulgate, or require each registered futures association to promulgate, rules substantially similar to such rules to prohibit deceptive and other abusive telemarketing acts or practices by any person registered or exempt from registration under this chapter in connection with such person's business as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or a person associated with any such person.

(2) The Commission is not required to promulgate rules under paragraph (1) if it determines that—

(A) rules adopted by the Commission under this chapter provide protection from deceptive and abusive telemarketing by persons described under paragraph (1) substantially similar to that provided by rules promulgated by the Federal Trade Commission under section 6102(a) of title 15; or

(B) such a rule promulgated by the Commission is not necessary or appropriate in the public interest, or for the protection of customers in the futures and options markets, or would be inconsistent with the maintenance of fair and orderly markets.

If the Commission determines that an exception described in subparagraph (A) or (B) applies, the Commission shall publish in the Federal Register its determination with the reasons for it.

(Sept. 21, 1922, ch. 369, §6(f), as added Aug. 16, 1994, Pub. L. 103-297, §3(e)(2), 108 Stat. 1547.)

CODIFICATION

Section is comprised of subsec. (f) of section 6 of act Sept. 21, 1922. Subsecs. (a) and (b) of section 6 are classified to section 8 of this title. Subsec. (c) of section 6 is classified to sections 9 and 15 of this title. Subsecs. (d) and (e) of section 6 are classified to sections 13b and 9a of this title, respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 6102.

§ 10. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, acts Sept. 21, 1922, ch. 369, §6(b), 42 Stat. 1001; June 15, 1936, ch. 545, §8(k), 49 Stat. 1499, related to re-

view by Supreme Court on certiorari. See section 1254 of Title 28, Judiciary and Judicial Procedure.

§ 10a. Cooperative associations and corporations, exclusion from board of trade; rules of board inapplicable to payment of compensation by association

(a) No board of trade which has been designated as a “contract market” shall exclude from membership in, and all privileges on, such board of trade, any association or corporation engaged in cash commodity business having adequate financial responsibility which is organized under the cooperative laws of any State, or which has been recognized as a cooperative association of producers by the United States Government or by any agency thereof, if such association or corporation complies and agrees to comply with such terms and conditions as are or may be imposed lawfully upon other members of such board, and as are or may be imposed lawfully upon a cooperative association of producers engaged in cash commodity business, unless such board of trade is authorized by the commission to exclude such association or corporation from membership and privileges after hearing held upon at least three days' notice subsequent to the filing of complaint by the board of trade: *Provided, however,* That if any such association or corporation shall fail to meet its obligations with any established clearing house or clearing agency of any contract market, such association or corporation shall be ipso facto debarred from further trading on such contract market, except such trading as may be necessary to close open trades and to discharge existing contracts in accordance with the rules of such contract market applicable in such cases. Such commission may prescribe that such association or corporation shall have and retain membership and privileges, with or without imposing conditions, or it may permit such board of trade immediately to bar such association or corporation from membership and privileges. Any order of said commission entered hereunder shall be reviewable by the court of appeals for the circuit in which such association or corporation, or such board of trade, has its principal place of business, on written petition either of such association or corporation, or of such board of trade, under the procedure provided in section 8(b) of this title, but such order shall not be stayed by the court pending review.

(b) No rule of any board of trade designated as a contract market shall forbid or be construed to forbid the payment of compensation on a commodity-unit basis, or otherwise, by any federated cooperative association to its regional member-associations for services rendered or to be rendered in connection with any organization work, educational activity, or procurement of patronage, provided no part of any such compensation is returned to patrons (whether members or nonmembers) of such cooperative association, or of its regional or local member-associations, otherwise than as a dividend on capital stock or as a patronage dividend out of the net earnings or surplus of such federated cooperative association.

(Sept. 21, 1922, ch. 369, §6a, as added June 15, 1936, ch. 545, §9, 49 Stat. 1499; amended June 25,

1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Oct. 28, 1992, Pub. L. 102-546, title II, §209(b)(4), title IV, §402(8), 106 Stat. 3607, 3625.)

AMENDMENTS

1992—Pub. L. 102-546 redesignated subsecs. (1) and (2) as (a) and (b), respectively, and in subsec. (a) substituted reference to section 8(b) of this title for reference to section 8 of this title.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted “court of appeals” for “circuit court of appeals” wherever appearing.

EFFECTIVE DATE

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

§ 11. Vacation on request of designation as “contract market”; redesignation

Any board of trade that has been designated a contract market in the manner provided in this chapter may have such designation vacated and set aside by giving notice in writing to the Commission requesting that its designation as a contract market be vacated, which notice shall be served at least ninety days prior to the date named therein as the date when the vacation of designation shall take effect. Upon receipt of such notice the Commission shall forthwith order the vacation of the designation of such board of trade as a contract market, effective upon the day named in the notice, and shall forthwith send a copy of the notice and its order to all other contract markets. From and after the date upon which the vacation became effective the said board of trade can thereafter be designated again a contract market by making application to the Commission in the manner in this chapter provided for an original application.

(Sept. 21, 1922, ch. 369, §7, 42 Stat. 1002; Oct. 23, 1974, Pub. L. 93-463, title I, §103(a), (e), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93-463 substituted “Commission” for “Secretary of Agriculture” and “its order” for “his order”.

EFFECTIVE DATE OF 1974 AMENDMENT

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

§ 12. Public disclosure

(a) Investigations respecting operations of boards of trade and others subject to this chapter; publication of results; restrictions; information received from foreign futures authorities; undercover operations

(1) For the efficient execution of the provisions of this chapter, and in order to provide information for the use of Congress, the Commission may make such investigations as it deems necessary to ascertain the facts regarding the operations of boards of trade and other persons subject to the provisions of this chapter. The

Commission may publish from time to time the results of any such investigation and such general statistical information gathered therefrom as it deems of interest to the public: *Provided*, That except as otherwise specifically authorized in this chapter, the Commission may not publish data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers: *Provided further*, That the Commission may withhold from public disclosure any data or information concerning or obtained in connection with any pending investigation of any person. The Commission shall not be compelled to disclose any information or data obtained from a foreign futures authority if—

(A) the foreign futures authority has in good faith determined and represented to the Commission that disclosure of such information or data by that foreign futures authority would violate the laws applicable to that foreign futures authority; and

(B) the Commission obtains such information pursuant to—

(i) such procedure as the Commission may authorize for use in connection with the administration or enforcement of this chapter; or

(ii) a memorandum of understanding with that foreign futures authority;

except that nothing in this subsection shall prevent the Commission from disclosing publicly any information or data obtained by the Commission from a foreign futures authority when such disclosure is made in connection with a congressional proceeding, an administrative or judicial proceeding commenced by the United States or the Commission, in any receivership proceeding commenced involving a receiver appointed in a judicial proceeding by the United States or the Commission, or in any proceeding under title 11 in which the Commission has intervened or in which the Commission has the right to appear and be heard. Nothing in this subsection shall be construed to authorize the Commission to withhold information or data from Congress. For purposes of section 552 of title 5, this subsection shall be considered a statute described in subsection (b)(3)(B) of section 552.

(2) In conducting investigations authorized under this subsection or any other provision of this chapter, the Commission shall continue, as the Commission determines necessary, to request the assistance of and cooperate with the appropriate Federal agencies in the conduct of such investigations, including undercover operations by such agencies. The Commission and the Department of Justice shall assess the effectiveness of such undercover operations and, within two years of October 28, 1992, shall recommend to Congress any additional undercover or other authority for the Commission that the Commission or the Department of Justice believes to be necessary.

(b) Business matters; congressional, administrative, judicial, and bankruptcy proceedings

The Commission may disclose publicly any data or information that would separately disclose the market positions, business trans-

actions, trade secrets, or names of customers of any person when such disclosure is made in connection with a congressional proceeding, in an administrative or judicial proceeding brought under this chapter, in any receivership proceeding involving a receiver appointed in a judicial proceeding brought under this chapter, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under title 11. This subsection shall not apply to the disclosure of data or information obtained by the Commission from a foreign futures authority.

(c) Reports respecting conduct of boards of trade or transactions of violators; contents

The Commission may make or issue such reports as it deems necessary, or such opinions or orders as may be required under other provisions of law, relative to the conduct of any board of trade or to the transactions of any person found guilty of violating the provisions of this chapter or the rules, regulations, or orders of the Commission thereunder in proceedings brought under sections 8, 9 and 15 of this title. In any such report or opinion, the Commission may set forth the facts as to any actual transaction or any information referred to in subsection (b) of this section, if such facts or information have previously been disclosed publicly in connection with a congressional proceeding, or in an administrative or judicial proceeding brought under this chapter.

(d) Investigations respecting marketing conditions of commodities and commodity products and byproducts; reports

The Commission, upon its own initiative or in cooperation with existing governmental agencies, shall investigate the marketing conditions of commodities and commodity products and byproducts, including supply and demand for these commodities, cost to the consumer, and handling and transportation charges. It shall also compile and furnish to producers, consumers, and distributors, by means of regular or special reports, or by such other methods as it deems most effective, information respecting the commodity markets, together with information on supply, demand, prices, and other conditions in this and other countries that affect the markets.

(e) Names and addresses of traders of boards of trade previously disclosed; disclosure to Congress and agencies or departments of States or foreign governments or foreign futures authority

The Commission may disclose and make public, where such information has previously been disclosed publicly in accordance with the provisions of this section, the names and addresses of all traders on the boards of trade on the commodity markets with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of commodities purchased or sold by each such trader. Upon the request of any committee of either House of Congress, acting within the scope of its jurisdiction, the Commission shall furnish to such committee the names and addresses of all traders on such boards of trade with respect to whom the Com-

mission has information, and any other information in the possession of the Commission relating to the amount of any commodity purchased or sold by each such trader. Upon the request of any department or agency of the Government of the United States, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this chapter. However, any information furnished under this subsection to any Federal department or agency shall not be disclosed by such department or agency except in any action or proceeding under the laws of the United States to which it, the Commission, or the United States is a party. Upon the request of any department or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction, any foreign futures authority, or any department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, the Commission may furnish to such foreign futures authority, department or agency any information in the possession of the Commission obtained in connection with the administration of this chapter. Any information furnished to any department or agency of any State or political subdivision thereof shall not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under this chapter or the laws of such State or political subdivision to which such State or political subdivision or any department or agency thereof is a party. The Commission shall not furnish any information to a foreign futures authority or to a department or agency of a foreign government or political subdivision thereof unless the Commission is satisfied that the information will not be disclosed by such foreign futures authority, department or agency except in connection with an adjudicatory action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof, or foreign futures authority,¹ is a party.

(f) Compliance with subpoena after notice to informant; congressional subpoenas and requests for information excepted

The Commission shall disclose information in its possession pursuant to a subpoena or summons only if—

(1) a copy of the subpoena or summons has been mailed to the last known home or business address of the person who submitted the information that is the subject of the subpoena or summons, if the address is known to the Commission, or, if such mailing would be unduly burdensome, the Commission provides other appropriate notice of the subpoena or summons to such person, and

(2) at least fourteen days have expired from the date of such mailing of the subpoena or summons, or such other notice.

This subsection shall not apply to congressional subpoenas or congressional requests for information.

¹ So in original. The period probably should be a comma.

(g) Requests for information by State agencies or subdivisions; volunteering of information by Commission

The Commission shall provide any registration information maintained by the Commission on any registrant upon reasonable request made by any department or agency of any State or any political subdivision thereof. Whenever the Commission determines that such information may be appropriate for use by any department or agency of a State or political subdivision thereof, the Commission shall provide such information without request.

(h) Annual report to Congress

The Commission shall submit to Congress a written report within one hundred and twenty days after the end of each fiscal year detailing the operations of the Commission during such fiscal year. The Commission shall include in such report such information, data, and legislative recommendations as it deems advisable with respect to the administration of this chapter and its powers and functions under this chapter.

(i) Review and audits by Comptroller General

The Comptroller General of the United States shall conduct reviews and audits of the Commission and make reports thereon. For the purpose of conducting such reviews and audits, the Comptroller General shall be furnished such information regarding the powers, duties, organizations, transactions, operations, and activities of the Commission as the Comptroller General may require and the Comptroller General and the duly authorized representatives of the Comptroller General shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of the Commission, except that in reports the Comptroller General shall not include data and information that would separately disclose the business transactions of any person and trade secrets or names of customers, although such data shall be provided upon request by any committee of either House of Congress acting within the scope of its jurisdiction.

(Sept. 21, 1922, ch. 369, § 8, 42 Stat. 1003; June 15, 1936, ch. 545, § 2, 49 Stat. 1491; Feb. 19, 1968, Pub. L. 90-258, § 19(a), 82 Stat. 32; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), (e), 88 Stat. 1392; Sept. 30, 1978, Pub. L. 95-405, § 16, 92 Stat. 873; Jan. 11, 1983, Pub. L. 97-444, title II, § 222, 96 Stat. 2309; Oct. 28, 1992, Pub. L. 102-546, title II, § 205, title III, §§ 304, 305, title IV, § 402(7), 106 Stat. 3600, 3623, 3624.)

REFERENCES IN TEXT

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

CODIFICATION

Section is comprised of first par. of section 8 of act Sept. 21, 1922. Second, third, and fourth pars. of section 8 are classified to sections 12-1, 12-2, and 12-3 of this title, respectively.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-546, §§ 205, 304(1), designated existing provisions as par. (1), inserted provi-

sions at end relating to disclosure of information received from foreign futures authorities, and added par. (2).

Subsec. (b). Pub. L. 102-546, § 304(2), inserted at end "This subsection shall not apply to the disclosure of data or information obtained by the Commission from a foreign futures authority."

Subsec. (e). Pub. L. 102-546, § 305, inserted references to foreign futures authority in fifth and last sentences.

Subsec. (f). Pub. L. 102-546, § 402(7), substituted "subpoena" for "subpena" wherever appearing and "subpoenas" for "subpenas" in last sentence.

1983—Subsec. (a). Pub. L. 97-444, § 222(1), inserted proviso authorizing Commission to withhold from public disclosure any data or information concerning or obtained in connection with any pending investigation of any person.

Subsec. (b). Pub. L. 97-444, § 222(2), inserted references to receivership proceedings involving a receiver appointed in a judicial proceeding brought under this chapter and to bankruptcy proceedings in which the Commission has intervened or in which Commission has right to appear and be heard under title 11.

Subsec. (e). Pub. L. 97-444, § 222(3), struck out "of the Executive Branch" after "Upon the request of any department or agency" and inserted "Upon the request of any department or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction, or any department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this chapter. Any information furnished to any department or agency of any State or political subdivision thereof shall not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under this chapter or the laws of such State or political subdivision to which such State or political subdivision or any department or agency thereof is a party. The Commission shall not furnish any information to a department or agency of a foreign government or political subdivision thereof unless the Commission is satisfied that the information will not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof is a party."

Subsecs. (f), (g). Pub. L. 97-444, § 222(5), added subsecs. (f) and (g). Former subsecs. (f) and (g) were redesignated (h) and (i), respectively.

Subsecs. (h), (i). Pub. L. 97-444, § 222(4), redesignated former subsecs. (f) and (g) as (h) and (i), respectively.

1978—Pub. L. 95-405 consolidated under this section provisions formerly contained in this section and sections 12-1, 12-2, and 12-3 of this title, generally revised provisions thus consolidated to clarify and expand disclosure to public of traders and their positions on boards of trade, and divided provisions thus consolidated and revised into subsecs. (a) to (g).

1974—Pub. L. 93-463 substituted "Commission" for "Secretary of Agriculture", "it" for "he", "its" for "his", and "It" for "He".

1968—Pub. L. 90-258 authorized investigations to ascertain facts regarding operations of other persons subject to any provisions of this chapter.

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE OF 1936 AMENDMENT

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

CROSS REFERENCES

Publication of harmful acts notwithstanding the provisions of this section, see section 12a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6f, 12a, 20 of this title.

§§ 12-1 to 12-3. Omitted

CODIFICATION

Sections 12-1 to 12-3 comprised the second, third, and fourth pars., respectively, of section 8 of the Commodity Exchange Act, Sept. 21, 1922, ch. 369, § 8, 42 Stat. 1003. Such section 8 was amended generally by Pub. L. 95-405, § 16, Sept. 30, 1978, 92 Stat. 873, and is classified in its entirety to section 12 of this title.

Section 12-1, as added Dec. 19, 1947, ch. 523, 61 Stat. 941; amended Feb. 19, 1968, Pub. L. 90-258, § 19(b), 82 Stat. 32; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), (e), (f), 88 Stat. 1392, related to disclosure of names of traders on commodity markets by Commission. See section 12(e) of this title.

Section 12-2, as added Oct. 23, 1974, Pub. L. 93-463, title I, § 105, 88 Stat. 1392, required an annual report to Congress. See section 12(h) of this title.

Section 12-3, as added Oct. 23, 1974, Pub. L. 93-463, title I, § 105, 88 Stat. 1392, related to reviews and audits by Comptroller General. See section 12(i) of this title.

§ 12a. Registration of commodity dealers and associated persons; regulation of contract markets

The Commission is authorized—

(1) to register futures commission merchants, associated persons of futures commission merchants, introducing brokers, associated persons of introducing brokers, commodity trading advisors, associated persons of commodity trading advisors, commodity pool operators, associated persons of commodity pool operators, floor brokers, and floor traders upon application in accordance with rules and regulations and in the form and manner to be prescribed by the Commission, which may require the applicant, and such persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing, and in connection therewith to fix and establish from time to time reasonable fees and charges for registrations and renewals thereof: *Provided*, That notwithstanding any provision of this chapter, the Commission may grant a temporary license to any applicant for registration with the Commission pursuant to such rules, regulations, or orders as the Commis-

sion may adopt, except that the term of any such temporary license shall not exceed six months from the date of its issuance;

(2) upon notice, but without a hearing and pursuant to such rules, regulations, or orders as the Commission may adopt, to refuse to register, to register conditionally, or to suspend or place restrictions upon the registration of, any person and with such a hearing as may be appropriate to revoke the registration of any person—

(A) if a prior registration of such person in any capacity has been suspended (and the period of such suspension has not expired) or has been revoked;

(B) if registration of such person in any capacity has been refused under the provisions of paragraph (3) of this section within five years preceding the filing of the application for registration or at any time thereafter;

(C) if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction (except that registration may not be revoked solely on the basis of such temporary order, judgment, or decree), including an order entered pursuant to an agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, from (i) acting as a futures commission merchant, introducing broker, floor broker, floor trader, commodity trading advisor, commodity pool operator, associated person of any registrant under this chapter, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or affiliated person or employee of any of the foregoing or (ii) engaging in or continuing any activity where such activity involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, gambling, or any transaction in or advice concerning contracts of sale of a commodity for future delivery, concerning matters subject to Commission regulation under section 6c or 23 of this title, or concerning securities;

(D) if such person has been convicted within ten years preceding the filing of the application for registration or at any time thereafter of any felony that (i) involves any transactions or advice concerning any contract of sale of a commodity for future delivery, or any activity subject to Commission regulation under section 6c or 23 of this title, or concerning a security, (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, floor trader, commodity trading advisor, commodity pool operator, associated person of any registrant under this chapter, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the

foregoing, (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, or (iv) involves the violation of section 152, 1001, 1341, 1342, 1343, 1503, 1623, 1961, 1962, 1963, or 2314, or chapter 25, 47, 95, or 96 of title 18, or section 7201 or 7206 of title 26;

(E) if such person, within ten years preceding the filing of the application or at any time thereafter, has been found in a proceeding brought by the Commission or any Federal or State agency or other governmental body, or by agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, (i) to have violated any provision of this chapter, the Securities Act of 1933 [15 U.S.C. 77a et seq.], the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], the Public Utility Holding Company Act of 1935 [15 U.S.C. 79 et seq.], the Trust Indenture Act of 1939 [15 U.S.C. 77aaa et seq.], the Investment Advisers Act of 1940 [15 U.S.C. 80b-1 et seq.], the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.], the Securities Investors¹ Protection Act of 1970 [15 U.S.C. 78aaa et seq.], the Foreign Corrupt Practices Act of 1977, chapter 96 of title 18, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board where such violation involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

(F) if such person is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, denying, suspending, or revoking such person's membership in any contract market or registered futures association, or barring or suspending such person from being associated with a registrant under this chapter or with a member of a contract market or with a member of a registered futures association;

(G) if, as to any of the matters set forth in this paragraph and paragraph (3), such person willfully made any materially false or misleading statement or omitted to state any material fact in such person's application or any update thereto; or

(H) if refusal, suspension, or revocation of the registration of any principal of such person would be warranted because of a statutory disqualification listed in this paragraph:

Provided, That such person may appeal from a decision to refuse registration, condition registration, suspend, revoke or to place restrictions upon registration made pursuant to the

provisions of this paragraph in the manner provided in section 9 of this title; and

Provided, further, That for the purposes of paragraphs (2) and (3) of this section, "principal" shall mean, if the person is a partnership, any general partner or, if the person is a corporation, any officer, director, or beneficial owner of at least 10 per centum of the voting shares of the corporation, and any other person that the Commission by rule, regulation, or order determines has the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the activities of such person which are subject to regulation by the Commission;

(3) to refuse to register or to register conditionally any person, if it is found, after opportunity for hearing, that—

(A) such person has been found by the Commission or by any court of competent jurisdiction to have violated, or has consented to findings of a violation of, any provision of this chapter, or any rule, regulation, or order thereunder (other than a violation set forth in paragraph (2) of this section), or to have willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any such provision;

(B) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any provision of the Securities Act of 1933 [15 U.S.C. 77a et seq.], the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], the Public Utility Holding Company Act of 1935 [15 U.S.C. 79 et seq.], the Trust Indenture Act of 1939 [15 U.S.C. 77aaa et seq.], the Investment Advisers Act of 1940 [15 U.S.C. 80b-1 et seq.], the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.], the Securities Investors² Protection Act of 1970 [15 U.S.C. 78aaa et seq.], the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

(C) such person failed reasonably to supervise another person, who is subject to such person's supervision, with a view to preventing violations of this chapter, or of any of the statutes set forth in subparagraph (B) of this paragraph, or of any of the rules, regulations, or orders thereunder, and the person subject to supervision committed such a violation: *Provided*, That no person shall be deemed to have failed reasonably to supervise another person, within the meaning of this subparagraph if (i) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, inso-

¹ So in original. Probably should be "Investor".

² So in original. Probably should be "Investor".

far as practicable, any such violation by such other person and (ii) such person has reasonably discharged the duties and obligations incumbent upon that person, as supervisor, by reason of such procedures and system, without reasonable cause to believe that such procedures and system were not being complied with;

(D) such person pleaded guilty to or was convicted of a felony other than a felony of the type specified in paragraph (2)(D) of this section, or was convicted of a felony of the type specified in paragraph (2)(D) of this section more than ten years preceding the filing of the application;

(E) such person pleaded guilty to or was convicted of any misdemeanor which (i) involves any transaction or advice concerning any contract of sale of a commodity for future delivery or any activity subject to Commission regulation under section 6c or 23 of this title or concerning a security, (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, floor trader, commodity trading advisor, commodity pool operator, associated person of any registrant under this chapter, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing, (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, (iv) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25, 47, 95, or 96 of title 18, or section 7203, 7204, 7205, or 7207 of title 26;

(F) such person was debarred by any agency of the United States from contracting with the United States;

(G) such person willfully made any materially false or misleading statement or willfully omitted to state any material fact in such person's application or any update thereto, in any report required to be filed with the Commission by this chapter or the regulations thereunder, in any proceeding before the Commission or in any registration disqualification proceeding;

(H) such person has pleaded nolo contendere to criminal charges of felonious conduct, or has been convicted in a State court, in a United States military court, or in a foreign court of conduct which would constitute a felony under Federal law if the offense had been committed under Federal jurisdiction;

(I) in the case of an applicant for registration in any capacity for which there are minimum financial requirements prescribed under this chapter or under the rules or regulations of the Commission, such person has not established that such person meets such minimum financial requirements;

(J) such person is subject to an outstanding order denying, suspending, or expelling such person from membership in a contract

market, a registered futures association, any other self-regulatory organization, or any foreign regulatory body that the Commission recognizes as having a comparable regulatory program or barring or suspending such person from being associated with any member or members of such contract market, association, self-regulatory organization, or foreign regulatory body;

(K) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any statute or any rule, regulation, or order thereunder which involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling or (ii) to have willfully aided, abetted, counseled, commanded, induced or procured such violation by any other person;

(L) such person has associated with such person any other person and knows, or in the exercise of reasonable care should know, of facts regarding such other person that are set forth as statutory disqualifications in paragraph (2) of this section, unless such person has notified the Commission of such facts and the Commission has determined that such other person should be registered or temporarily licensed;

(M) there is other good cause; or

(N) any principal, as defined in paragraph (2) of this section, of such person has been or could be refused registration:

Provided, That pending final determination under this paragraph, registration shall not be granted: *Provided further*, That such person may appeal from a decision to refuse registration or to condition registration made pursuant to this paragraph in the manner provided in section 9 of this title;

(4) in accordance with the procedure provided for in section 9 of this title, to suspend, revoke, or place restrictions upon the registration of any person registered under this chapter if cause exists under paragraph (3) of this section which would warrant a refusal of registration of such person, and to suspend or revoke the registration of any futures commission merchant or introducing broker who shall knowingly accept any order for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market from any person if such person has been denied trading privileges on any contract market by order of the Commission under section 9 of this title and the period of denial specified in such order shall not have expired: *Provided*, That such person may appeal from a decision to suspend, revoke, or place restrictions upon registration made pursuant to this paragraph in the manner provided in section 9 of this title;

(5) to make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of this chapter;

(6) to communicate to the proper committee or officer of any contract market, registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(26)], notwithstanding the provisions of section 12 of this title, the full facts concerning any transaction or market operation, including the names of parties thereto, which in the judgment of the Commission disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers, consumers, or investors, or which is necessary or appropriate to effectuate the purposes of this chapter: *Provided*, That any information furnished by the Commission under this paragraph shall not be disclosed by such contract market, registered futures association, or self-regulatory organization except in any self-regulatory action or proceeding;

(7) to alter or supplement the rules of a contract market insofar as necessary or appropriate by rule or regulation or by order, if after making the appropriate request in writing to a contract market that such contract market effect on its own behalf specified changes in its rules and practices, and after appropriate notice and opportunity for hearing, the Commission determines that such contract market has not made the changes so required, and that such changes are necessary or appropriate for the protection of persons producing, handling, processing, or consuming any commodity traded for future delivery on such contract market, or the product or by-product thereof, or for the protection of traders or to insure fair dealing in commodities traded for future delivery on such contract market. Such rules, regulations, or orders may specify changes with respect to such matters as—

(A) terms or conditions in contracts of sale to be executed on or subject to the rules of such contract market;

(B) the form or manner of execution of purchases and sales for future delivery;

(C) other trading requirements, excepting the setting of levels of margin;

(D) safeguards with respect to the financial responsibility of members;

(E) the manner, method, and place of soliciting business, including the content of such solicitations; and

(F) the form and manner of handling, recording, and accounting for customers' orders, transactions, and accounts;

(8) to make and promulgate such rules and regulations with respect to those persons registered under this chapter, who are not members of a contract market, as in the judgment of the Commission are reasonably necessary to protect the public interest and promote just and equitable principles of trade, including but not limited to the manner, method, and place of soliciting business, including the content of such solicitation;

(9) to direct the contract market, whenever it has reason to believe that an emergency exists, to take such action as in the Commission's judgment is necessary to maintain or restore orderly trading in or liquidation of any

futures contract, including, but not limited to, the setting of temporary emergency margin levels on any futures contract, and the fixing of limits that may apply to a market position acquired in good faith prior to the effective date of the Commission's action. The term "emergency" as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act of the United States or a foreign government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity. Any action taken by the Commission under this paragraph shall be subject to review only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit. Such review shall be based upon an examination of all the information before the Commission at the time the determination was made. The court reviewing the Commission's action shall not enter a stay or order of mandamus unless it has determined, after notice and hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Nothing herein shall be deemed to limit the meaning or interpretation given by a contract market to the terms "market emergency", "emergency", or equivalent language in its own bylaws, rules, regulations, or resolutions;

(10) to authorize any person to perform any portion of the registration functions under this chapter, in accordance with rules, notwithstanding any other provision of law, adopted by such person and submitted to the Commission for approval or, if applicable, for review pursuant to section 21(j) of this title, and subject to the provisions of this chapter applicable to registrations granted by the Commission; and

(11)(A) by written notice served on the person and pursuant to such rules, regulations, and orders as the Commission may adopt, to suspend or modify the registration of any person registered under this chapter who is charged (in any information, indictment, or complaint authorized by a United States attorney or an appropriate official of any State) with the commission of or participation in a crime involving a violation of this chapter, or a violation of any other provision of Federal or State law that would reflect on the honesty or the fitness of the person to act as a fiduciary (including an offense specified in subparagraph (D) or (E) of paragraph (2)) that is punishable by imprisonment for a term exceeding one year, if the Commission determines that continued registration of the person may pose a threat to the public interest or may threaten to impair public confidence in any market regulated by the Commission.

(B) Prior to the suspension or modification of the registration of a person under this paragraph, the person shall be afforded an opportunity for a hearing at which the Commission shall have the burden of showing that the con-

tinued registration of the person does, or is likely to, pose a threat to the public interest or threaten to impair public confidence in any market regulated by the Commission.

(C) Any notice of suspension or modification issued under this paragraph shall remain in effect until such information, indictment, or complaint is disposed of or until terminated by the Commission.

(D) On disposition of such information, indictment, or complaint, the Commission may issue and serve on such person an order pursuant to paragraph (2) or (4) to suspend, restrict, or revoke the registration of such person.

(E) A finding of not guilty or other disposition of the charge shall not preclude the Commission from thereafter instituting any other proceedings under this chapter.

(F) A person aggrieved by an order issued under this paragraph may obtain review of such order in the same manner and on the same terms and conditions as are provided in section 8(b) of this title.

(Sept. 21, 1922, ch. 369, §8a, as added June 15, 1936, ch. 545, §10, 49 Stat. 1500; amended Aug. 5, 1955, ch. 574, 69 Stat. 535; Feb. 19, 1968, Pub. L. 90-258, §§20-23, 82 Stat. 32, 33; Oct. 23, 1974, Pub. L. 93-463, title I, §103(a), title II, §§204(c), 205(c), 213-215, 88 Stat. 1392, 1397, 1400, 1404; Sept. 30, 1978, Pub. L. 95-405, §17, 92 Stat. 874; Jan. 11, 1983, Pub. L. 97-444, title I, §104, title II, §§223-225, 96 Stat. 2297, 2310-2315; Oct. 28, 1992, Pub. L. 102-546, title II, §§207(b)(3), (4), 208, 209(b)(6), 227, title IV, §402(10), 106 Stat. 3604, 3607, 3618, 3625.)

REFERENCES IN TEXT

Section 9 of this title, referred to in pars. (2) to (4), was in the original "section 6(c) of this Act" meaning section 6(c) of act Sept. 21, 1922, ch. 369, which is classified to sections 9 and 15 of this title. See Codification note set out under section 8 of this title.

The Securities Act of 1933, referred to in pars. (2)(E) and (3)(B), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, as amended, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

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

The Public Utility Holding Company Act of 1935, referred to in pars. (2)(E) and (3)(B), is title I of act Aug. 26, 1935, ch. 687, 49 Stat. 838, as amended, which is classified generally to chapter 2C (§79 et seq.) of Title 15. For complete classification of this Act to the Code, see section 79 of Title 15 and Tables.

The Trust Indenture Act of 1939, referred to in pars. (2)(E) and (3)(B), is title III of act May 27, 1933, ch. 38, as added Aug. 3, 1939, ch. 411, 53 Stat. 1149, as amended, which is classified generally to subchapter III (§77aaa et seq.) of chapter 2A of Title 15. For complete classification of this Act to the Code, see section 77aaa of Title 15 and Tables.

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

The Investment Company Act of 1940, referred to in pars. (2)(E) and (3)(B), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified gener-

ally to subchapter I (§80a-1 et seq.) of chapter 2D of Title 15. For complete classification of this Act to the Code, see section 80a-51 of Title 15 and Tables.

The Securities Investor Protection Act of 1970, referred to in pars. (2)(E) and (3)(B), is Pub. L. 91-598, Dec. 30, 1970, 84 Stat. 1636, as amended, which is classified generally to chapter 2B-1 (§78aaa et seq.) of Title 15. For complete classification of this Act to the Code, see section 78aaa of Title 15 and Tables.

The Foreign Corrupt Practices Act of 1977, referred to in pars. (2)(E) and (3)(B), is title I of Pub. L. 95-213, Dec. 19, 1977, 91 Stat. 1494, as amended, which enacted sections 78dd-1 and 78dd-2 of Title 15, and amended sections 78m and 78ff of Title 15. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 78a of Title 15 and Tables.

AMENDMENTS

1992—Par. (1). Pub. L. 102-546, §207(b)(3), substituted "floor brokers, and floor traders" for "and floor brokers".

Par. (2). Pub. L. 102-546, §209(b)(6)(A), made technical amendment to reference to section 9 of this title in concluding provisions to reflect change in reference to corresponding section of original act.

Par. (2)(C)(i). Pub. L. 102-546, §207(b)(4), inserted "floor trader," after "floor broker,".

Par. (2)(C)(ii). Pub. L. 102-546, §208(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "engaging in or continuing any activity involving any transaction in or advice concerning contracts of sale of a commodity for future delivery, concerning matters subject to Commission regulation under section 6c or 23 of this title, or concerning securities".

Par. (2)(D)(ii). Pub. L. 102-546, §207(b)(4), inserted "floor trader," after "floor broker,".

Par. (2)(D)(iv). Pub. L. 102-546, §208(b), inserted references to sections 1001, 1503, 1623, 1961 to 1963, and 2314 of title 18 and sections 7201 and 7206 of title 26.

Par. (2)(E). Pub. L. 102-546, §208(c), substituted "in a proceeding brought" for "by any court of competent jurisdiction," and in cl. (i) inserted reference to chapter 96 of title 18.

Par. (2)(G). Pub. L. 102-546, §208(d), substituted "this paragraph and paragraph (3)" for "subparagraphs (A) through (F) of this paragraph", "materially false" for "material false", and "application or any update thereto" for "application".

Par. (3). Pub. L. 102-546, §209(b)(6)(B), made technical amendment to reference to section 9 of this title in concluding provisions to reflect change in reference to corresponding section of original act.

Par. (3)(D). Pub. L. 102-546, §208(e), inserted "pleaded guilty to or" after "person", substituted "section," for "section within ten years preceding the filing of the application or at any time thereafter," and "felony of the type specified in paragraph (2)(D) of this section more" for "felony, including a felony of the type specified in paragraph (2)(D) of this section, more".

Par. (3)(E). Pub. L. 102-546, §208(f)(1), (2), inserted "pleaded guilty to or" after "person" and struck out "within ten years preceding the filing of the application for registration or at any time thereafter" before "of any misdemeanor".

Par. (3)(E)(ii). Pub. L. 102-546, §207(b)(4), inserted "floor trader," after "floor broker,".

Par. (3)(E)(iv). Pub. L. 102-546, §208(f)(3), inserted reference to sections 7203 to 7205 and 7207 of title 26.

Par. (3)(G). Pub. L. 102-546, §208(g)(5), which directed the insertion of "or in any registration disqualification proceeding" after "Commission", was executed by making the insertion after "Commission" the second time it appeared to reflect the probable intent of Congress.

Pub. L. 102-546, §208(g)(1)-(4), substituted "materially false" for "material false", "application or any update thereto," for "application," and struck out "or" after "thereunder,".

Par. (3)(H). Pub. L. 102-546, §208(h), inserted "in a United States military court," after "State court".

Par. (3)(J). Pub. L. 102-546, §208(i), struck out “or” before “any other self-regulatory”, inserted “or any foreign regulatory body that the Commission recognizes as having a comparable regulatory program”, and substituted “association, self-regulatory organization, or foreign regulatory body” for “association, or self-regulatory organization”.

Par. (4). Pub. L. 102-546, §209(b)(6)(C), made technical amendment to references to section 9 of this title in concluding provisions to reflect change in references to corresponding section of original act.

Par. (5). Pub. L. 102-546, §402(10)(A), struck out “and” at end.

Par. (7). Pub. L. 102-546, §402(10)(B), substituted “matters as—” for “matters as:” in introductory provisions.

Par. (11). Pub. L. 102-546, §227, added par. (11).

1983—Par. (1). Pub. L. 97-444, §223, substituted authorization for registration of “associated persons of futures commission merchants” for “and persons associated therewith as described in section 6k of this title”; authorized registration of introducing brokers, associated persons of introducing brokers, associated persons of commodity trading advisors and associated persons of commodity pool operators, substituted “such persons” for “any persons” before “associated with the applicant”, and authorized establishment of registration and renewal fees and charges and granting of temporary licenses for terms not exceeding six months from date of issuance.

Par. (2). Pub. L. 97-444, §224(1), added par. (2) and struck out prior par. (2) which authorized Commission “to refuse to register any person—

“(A) if the prior registration of such person has been suspended (and the period of such suspension shall not have expired) or has been revoked;

“(B) if it is found, after opportunity for hearing, that the applicant is unfit to engage in the business for which the application for registration is made. (i) because such applicant, or, if the applicant is a partnership, any general partner, or, if the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, at any time engaged in any practice of the character prohibited by this chapter or was convicted of a felony in any State or Federal court, or was debarred by any agency of the United States from contracting with the United States, or the applicant willfully made any material false or misleading statement in his application or willfully omitted to state any material fact in connection with the application, or (ii) for other good cause shown; or

“(C) in the case of an applicant for registration as futures commission merchant, if it is found after opportunity for hearing that the applicant has not established that he meets the minimum financial requirements under section 6f of this title: *Provided*, That pending final determination under subparagraph (B) or (C), registration shall not be granted: *And provided further*, That the applicant may appeal from the refusal of registration under subparagraph (B) or (C) in the manner provided in section 9 of this title; and”.

Par. (3). Pub. L. 97-444, §224(3), added par. (3). Former par. (3) redesignated (4).

Par. (4). Pub. L. 97-444, §224(2), (4), struck out par. (4) provision for establishment of registration and renewal fees and charges, covered in par. (1), redesignated par. (3) as (4), and in redesignated par. (4), authorized placing of restrictions on registrations, suspension or revocation of registration of an introducing broker and appeals from registration decisions made pursuant to this paragraph as provided in section 9 of this title, and substituted “if cause exists under paragraph (3) of this section” for “if cause exists under paragraph (2)(B) or (C) of this section”.

Par. (6). Pub. L. 97-444, §104, authorized communication of full facts respecting transactions or market operations to registered futures associations and self-regulatory organizations, included concern for investors, provided for communications when necessary or appropriate to effectuate purposes of this chapter, and pro-

hibited disclosure of furnished information except in self-regulatory actions or proceedings.

Pars. (6) to (8). Pub. L. 97-444, §224(5), struck out “and” at end of pars. (6), (7), and (8).

Par. (9). Pub. L. 97-444, §225, authorized Commission to direct the contract market to take certain action, including, but not limited to, setting of temporary emergency margin levels on any futures contract, and fixing of limits that may apply to a market position acquired in good faith prior to the effective date of Commission’s action and inserted provisions respecting judicial review.

Par. (10). Pub. L. 97-444, §224(6), added par. (10).

1978—Par. (1). Pub. L. 95-405, §17(1), inserted “, which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing” after “by the Commission”.

Par. (6). Pub. L. 95-405, §17(2), struck out “and to publish” after “any contract market”.

1974—Pub. L. 93-463, §103(a), substituted “Commission” for “Secretary of Agriculture” in provisions preceding par. (1).

Par. (1). Pub. L. 93-463, §§103(a), 204(c), 205(c), substituted “Commission” for “Secretary of Agriculture”, inserted “and persons associated therewith as described in section 6k of this title,” after “futures commission merchants”, and inserted “commodity trading advisors, commodity pool operators” before “and floor brokers”.

Pars. (3), (5), (6). Pub. L. 93-463, §103(a), substituted “Commission” for “Secretary of Agriculture”.

Par. (7). Pub. L. 93-463, §213, amended par. (7) generally, substituting provisions covering the altering or supplementing of the rules of a contract market for provisions covering the disapproval of bylaws, rules, regulations, and resolutions made, issued, or proposed by a contract market.

Par. (8). Pub. L. 93-463, §214, added par. (8).

Par. (9). Pub. L. 93-463, §215, added par. (9).

1968—Par. (2). Pub. L. 90-258, §20, designated existing provisions as subpar. (A), substituted “if the prior registration of such person” for “if such person has violated any of the provisions of this chapter or any of the rules or regulations promulgated by the Secretary of Agriculture hereunder for which the registration of such person” and added subpars. (B) and (C).

Par. (3). Pub. L. 90-258, §21, authorized Secretary of Agriculture, in accordance with procedure provided for in section 9 of this title, to suspend or revoke the registration of any person registered under this chapter if cause exists under par. (2)(B) or (C) of this section which would warrant a refusal of registration of such person.

Par. (4). Pub. L. 90-258, §22, struck out authorization for establishment of fees for copies of registration certificates.

Par. (7). Pub. L. 90-258, §23, added par. (7).

1955—Par. (4). Act Aug. 5, 1955, authorized Secretary to fix and establish reasonable fees for registrations and renewals, and struck out provisions which set the fee for each registration and renewal at not more than \$10.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 207(b)(3), (4) of Pub. L. 102-546 effective 180 days after Oct. 28, 1992, with Commodity Futures Trading Commission to issue any regulations necessary to implement such amendment no later than 180 days after Oct. 28, 1992, see section 207(c) of Pub. L. 102-546, set out as a note under section 6e of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2a, 4a, 6f, 6k, 7a, 21 of this title.

§ 12b. Trading ban violations; prohibition

It shall be unlawful for any person, against whom there is outstanding any order of the Commission prohibiting him from trading on or subject to the rules of any contract market, to make or cause to be made in contravention of such order, any contract for future delivery of any commodity, on or subject to the rules of any contract market.

(Sept. 21, 1922, ch. 369, §8b, as added Feb. 19, 1968, Pub. L. 90-258, §24, 82 Stat. 33; amended Oct. 23, 1974, Pub. L. 93-463, title I, §103(a), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93-463 substituted “Commission” for “Secretary of Agriculture”.

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE

Section effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as an Effective Date of 1968 Amendment note under section 2 of this title.

§ 12c. Disciplinary actions**(a) Action taken; written notice of reasons for action**

(1) Any exchange or the Commission if the exchange fails to act, may suspend, expel, or otherwise discipline any person who is a member of that exchange, or deny any person access to the exchange. Any such action shall be taken solely in accordance with the rules of that exchange.

(2) Any suspension, expulsion, disciplinary, or access denial procedure established by an exchange rule shall provide for written notice to the Commission and to the person who is suspended, expelled, or disciplined, or denied access, within thirty days, which includes the reasons for the exchange action in the form and manner the Commission prescribes. An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action taken or the penalty im-

posed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined, or denied access, and to the Commission.

(b) Review by Commission

The Commission may, in its discretion and in accordance with such standards and procedures as it deems appropriate, review any decision by an exchange whereby a person is suspended, expelled, otherwise disciplined, or denied access to the exchange. In addition, the Commission may, in its discretion and upon application of any person who is adversely affected by any other exchange action, review such action.

(c) Affirmance, modification, set aside, or remand of action

The Commission may affirm, modify, set aside, or remand any exchange decision it reviews pursuant to subsection (b) of this section, after a determination on the record whether the action of the exchange was in accordance with the policies of this chapter. Subject to judicial review, any order of the Commission entered pursuant to subsection (b) of this section shall govern the exchange in its further treatment of the matter.

(d) Stay of action

The Commission, in its discretion, may order a stay of any action taken pursuant to subsection (a) of this section pending review thereof.

(e) Major disciplinary rule violations

(1) The Commission shall issue regulations requiring each contract market to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such contract market.

(2) The regulations issued by the Commission pursuant to this subsection shall prohibit, for a period of time to be determined by the Commission, any individual who is found to have committed any major violation from service on the governing board of any contract market or registered futures association, or on any disciplinary committee thereof.

(Sept. 21, 1922, ch. 369, §8c, as added Oct. 23, 1974, Pub. L. 93-463, title II, §216, 88 Stat. 1405; amended Sept. 30, 1978, Pub. L. 95-405, §18, 92 Stat. 874; Oct. 28, 1992, Pub. L. 102-546, title II, §206(a)(2), 106 Stat. 3602.)

AMENDMENTS

1992—Pub. L. 102-546 redesignated pars. (1) to (4) as subsecs. (a) to (d), respectively, in subsec. (a) redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, in subsec. (c) substituted references to subsection (b) for references to paragraph (2), in subsec. (d) substituted reference to subsection (a) for reference to paragraph (1), and added subsec. (e).

1978—Par. (1)(B). Pub. L. 95-405 substituted “An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action taken or the penalty imposed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined or denied access, and to the Commission” for “Otherwise the notice and reasons shall be kept confidential”.

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as an Effective Date of 1968 Amendment note under section 2 of this title.

§ 12d. Commission action for noncompliance with export sales reporting requirements

The Commission may, in accordance with the procedures provided for in this chapter, refuse to register, register conditionally, or suspend, place restrictions upon, or revoke the registration of, any person, and may bar for any period as it deems appropriate any person from using or participating in any manner in any market regulated by the Commission, if such person is subject to a final decision or order of any court of competent jurisdiction or agency of the United States finding such person to have knowingly violated any provision of the export sales reporting requirements of section 612c-3¹ of this title, or of any regulation issued thereunder.

(Sept. 21, 1922, ch. 369, § 8d, as added Jan. 11, 1983, Pub. L. 97-444, title II, § 226, 96 Stat. 2316.)

REFERENCES IN TEXT

Section 612c-3 of this title, referred to in text, was repealed by Pub. L. 101-624, title XV, § 1578, Nov. 28, 1990, 104 Stat. 3702.

EFFECTIVE DATE

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

§ 12e. Commission oversight; deficiency orders

(a) Assessments

At least once every two years, to the extent practicable, the Commission shall assess whether the trade monitoring system of each contract market satisfies section 7a(b) of this title.

(b) Deficiency orders

(1) Causes

The Commission may issue a proposed deficiency order in accordance with paragraph (2), or take such other administrative or enforcement action as the Commission determines is appropriate, if, based on its assessment or on other information, the Commission at any time has reason to believe that a contract market's trade monitoring system implemented pursuant to section 7a(b) of this title does not satisfy one or more of the requirements of such section.

(2) Contents

A proposed deficiency order issued under this subsection shall specify—

- (A) the deficiencies the Commission has reason to believe exist in the trade monitoring system of the contract market and a statement of reasons supporting the Commission's belief that those deficiencies exist;
- (B) the corrective action that the Commission believes that the contract market must take and an acceptable timetable for such corrective action; and
- (C) a date, not less than twenty days from the date of issuance of the proposed defi-

ciency order, when such deficiency order will become final, subject to subsection (d)¹ of this section.

(3) Remedies

On becoming final, the Commission deficiency order may—

(A) require the contract market to—

- (i) institute appropriate improvements in its trade monitoring system necessary to correct the deficiencies noted therein;
- (ii) satisfy stated objective performance criteria to correct such deficiencies;
- (iii) upgrade or reconfigure existing systems for collecting or processing relevant data on trading and trader or broker activity, including, where appropriate, the commitment of additional resources; or

(B) revoke any exemption of the contract market from the regulations prohibiting the privilege of dual trading under section 6j(a) of this title, if the deficiency noted in such deficiency order relates to—

- (i) the audit trail system the contract market is required to maintain under paragraph (2), (3), or (4) of section 7a(b) of this title; or
- (ii) the prevention, detection, or disciplining of violations attributable to such trading at such contract market, subject to the standards, exceptions, and duration provisions of section 6j(a) of this title; or

(C) take any combination of the actions described in subparagraphs (A) and (B).

(4) Removal

If the Commission finds, after notice and opportunity for a hearing on the record prior to such deficiency order becoming final, that a named officer, director, committee member, or employee of such contract market has willfully—

- (A) violated this chapter, the rules or regulations of the Commission thereunder, or the rules of such contract market;
- (B) abused the authority of such person; or
- (C) without reasonable justification or excuse, failed to enforce compliance with any provision of the rules of such contract market by any member or person associated with a member thereof,

the Commission may issue a deficiency order under this section to remove such officer, director, committee member, or employee.

(5) Designation as contract market

Notwithstanding section 8 of this title, during the period that a proposed or final deficiency order under this section is in effect, the Commission may refrain from approving any application for designation as a contract market made by the board of trade whose contract market is the subject of such deficiency order.

(6) Delegation

The Commission shall not delegate the authority to issue deficiency orders under this subsection.

¹ See References in Text note below.

¹ So in original. Probably should be subsection "(c)".

(c) Rescission, modification, or delay of deficiency orders

Before any proposed deficiency order issued by the Commission under subsection (b) of this section may become final, the Commission shall—

(1) provide the affected contract market with an opportunity for a hearing through submission of written data, views, or arguments and, under terms set by the Commission at the request of the contract market, through an oral presentation of views and comments to the Commission, in order to petition the Commission to rescind, modify, or delay such deficiency order; and

(2) rule on such petition, not less than twenty days before the deficiency order takes effect, making findings, as appropriate, as to whether—

(A) the deficiencies cited by the Commission have been corrected or are being corrected under an expeditious timetable acceptable to the Commission;

(B) the trade monitoring system of the contract market is deficient as noted in the deficiency order; or

(C) the timetable for corrective action by the contract market in the proposed deficiency order, and the particular corrective action proposed, is appropriate in light of the deficiencies noted and the purposes of this chapter.

(d) Penalties

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

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

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

(e) Judicial review**(1) Persons**

Any person, other than a contract market, aggrieved by a deficiency order issued under subsection (b)(4) of this section, may obtain review of such deficiency order when issued by the Commission under the terms and conditions in section 8(b) of this title.

(2) Contract markets

Any contract market that has petitioned the Commission to rescind, modify, or delay any proposed deficiency order issued under subsection (b) of this section may obtain judicial review of any final such deficiency order only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, under the standards applicable to rulemaking proceedings under section 553 of title 5.

(Sept. 21, 1922, ch. 369, §8e, as added Oct. 28, 1992, Pub. L. 102-546, title II, §202(a), 106 Stat. 3598.)

REFERENCES IN TEXT

Section 8 of this title, referred to in subsec. (b)(5), was in the original "section 6" meaning section 6 of act

Sept. 21, 1922, ch. 369, which is classified to sections 8, 9, 9a, 13b, and 15 of this title. See Codification note set out under section 8 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6j of this title.

§ 13. Violations generally; punishment; costs of prosecution**(a) Felonies generally**

It shall be a felony punishable by a fine of not more than \$1,000,000 (or \$500,000 in the case of a person who is an individual) or imprisonment for not more than five years, or both, together with the costs of prosecution, for:

(1) Any person registered or required to be registered under this chapter, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to such person's use or to the use of another, any money, securities, or property having a value in excess of \$100, which was received by such person or any employee or agent thereof to margin, guarantee, or secure the trades or contracts of any customer or accruing to such customer as a result of such trades or contracts or which otherwise was received from any customer, client, or pool participant in connection with the business of such person. The word "value" as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

(2) Any person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any contract market, or to corner or attempt to corner any such commodity or knowingly to deliver or cause to be delivered for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce, or knowingly to violate the provisions of section 6, section 6b, subsections (a) through (e) of subsection¹ 6c, section 6h, section 6o(1), or section 23 of this title.

(3) Any person knowingly to make, or cause to be made, any statement in any application, report, or document required to be filed under this chapter or any rule or regulation thereunder or any undertaking contained in a registration statement required under this chapter, or by any contract market or registered futures association in connection with an application for membership or participation therein or to become associated with a member thereof, which statement was false or misleading with respect to any material fact, or knowingly to omit any material fact required to be stated therein or necessary to make the statements therein not misleading.

(4) Any person willfully to falsify, conceal, or cover up by any trick, scheme, or artifice a material fact, make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document

¹ So in original. Probably should be "section".

knowing the same to contain any false, fictitious, or fraudulent statement or entry to a contract market, board of trade, or futures association designated or registered under this chapter acting in furtherance of its official duties under this chapter.

(5) Any person willfully to violate any other provision of this chapter, or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, but no person shall be subject to imprisonment under this paragraph for the violation of any rule or regulation if such person proves that he had no knowledge of such rule or regulation.

(b) Suspension of convicted felons

Any person convicted of a felony under this section shall be suspended from registration under this chapter and shall be denied registration or reregistration for five years or such longer period as the Commission may determine, and barred from using, or participating in any manner in, any market regulated by the Commission for five years or such longer period as the Commission shall determine, on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof.

(c) Transactions by Commissioners and Commission employees prohibited

It shall be a felony punishable by a fine of not more than \$500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly or indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", or any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, or for any such person to participate, directly or indirectly, in any investment transaction in an actual commodity if nonpublic information is used in the investment transaction, if the investment transaction is prohibited by rule or regulation of the Commission, or if the investment transaction is effected by means of any instrument regulated by the Commission. The foregoing prohibitions shall not apply to any transaction or class of transactions that the Commission, by rule or regulation, has determined would not be contrary to the public interest or otherwise inconsistent with the purposes of this subsection.

(d) Use of information by Commissioners and Commission employees prohibited

It shall be a felony punishable by a fine of not more than \$500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution—(1) for any Commissioner of the Commission or any employee or agent thereof who, by virtue of his employment or position, acquires information which may affect or tend to affect the price of any commodity futures or commodity and which information has not been made public to impart such information with intent to assist another person, directly or indirectly, to participate in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract; and (2) for any person to acquire such information from any Commissioner of the Commission or any employee or agent thereof and to use such information in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

(e) Redesignated (d)

(f) Insider trading prohibited

It shall be a felony for any person—

(1) who is an employee, member of the governing board, or member of any committee of a board of trade, contract market, or registered futures association, in violation of a regulation issued by the Commission, willfully and knowingly to trade for such person's own account, or for or on behalf of any other account, in contracts for future delivery or options thereon on the basis of, or willfully and knowingly to disclose for any purpose inconsistent with the performance of such person's official duties as an employee or member, any material nonpublic information obtained through special access related to the performance of such duties.²

² So in original. The period probably should be "; or".

(2) willfully and knowingly to trade for such person's own account, or for or on behalf of any other account, in contracts for future delivery or options thereon on the basis of any material nonpublic information that such person knows was obtained in violation of paragraph (1) from an employee, member of the governing board, or member of any committee of a board of trade, contract market, or registered futures association.

Such felony shall be punishable by a fine of not more than \$500,000, plus the amount of any profits realized from such trading or disclosure made in violation of this subsection, or imprisonment for not more than five years, or both, together with the costs of prosecution.

(Sept. 21, 1922, ch. 369, § 9, 42 Stat. 1003; June 15, 1936, ch. 545, §§ 2, 11, 49 Stat. 1491, 1501; Feb. 19, 1968, Pub. L. 90-258, § 25, 82 Stat. 33; Oct. 23, 1974, Pub. L. 93-463, title II, § 212(d), title IV, §§ 401, 409, 88 Stat. 1404, 1412, 1414; Sept. 30, 1978, Pub. L. 95-405, § 19, 92 Stat. 875; Jan. 11, 1983, Pub. L. 97-444, title II, § 227, 96 Stat. 2316; Nov. 10, 1986, Pub. L. 99-641, title I, §§ 105, 110(3), (4), 100 Stat. 3558, 3561; Oct. 28, 1992, Pub. L. 102-546, title II, §§ 212(a), 214(a), 106 Stat. 3608, 3610.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-546, § 212(a)(1)(A), (C), added subsec. (a) and struck out former subsec. (a) which related to penalty for embezzlement and larcenous actions.

Subsec. (b). Pub. L. 102-546, § 212(a)(1)(A), (C), added subsec. (b) and struck out former subsec. (b) which related to penalty for price manipulation, cornering, and fraudulent information.

Subsec. (c). Pub. L. 102-546, § 212(a)(1)(A), (B), (2), redesignated subsec. (d) as (c), substituted "\$500,000" for "\$100,000", and struck out former subsec. (c) which related to penalty for misdemeanors.

Subsecs. (d) to (f). Pub. L. 102-546, §§ 212(a)(1)(B), (3), 214(a), redesignated subsec. (e) as (d), substituted "\$500,000" for "\$100,000", and added subsec. (f).

1986—Subsec. (c). Pub. L. 99-641, § 110(3), substituted "6k," for "6k."

Subsec. (d). Pub. L. 99-641, § 110(4), substituted "advance guaranty" for "advance guarantee".

Pub. L. 99-641, § 105, inserted "if nonpublic information is used in the investment transaction, if the investment transaction is prohibited by rule or regulation of the Commission, or if the investment transaction is effected by means of any instrument regulated by the Commission" after "actual commodity", and substituted provisions which related to foregoing prohibitions not being applicable to transactions determined by Commission not contrary to public interest or inconsistent with this subsection for provisions which read as follows: "Such prohibition against any investment transaction in an actual commodity shall not apply to (1) a transaction in which such person buys an agricultural commodity or livestock for use in such person's own farming or ranching operations or sells an agricultural commodity which such person has produced in connection with such person's own farming or ranching operations nor to any transaction in which such person sells livestock owned by such person for at least three months, (2) a transaction entered into by the trustee of a trust established by such person over which such person exercises no control if such transaction is entered into solely to hedge against adverse price changes in connection with such farming or ranching operations or is a transaction for the lease of oil or gas or other mineral rights or interests owned by such person, or (3) a transaction in which such person buys or sells, directly or indirectly (except by means of

an instrument regulated by the Commission), a United States Government security, a certificate of deposit, or a similar financial instrument if no nonpublic information is used by such person in such transaction. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or any employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public."

1983—Subsec. (a). Pub. L. 97-444, § 227(1), expanded applicability to any person registered or required to be registered under this chapter and inserted provision suspending persons convicted under this subsec. from registration and denying reregistration for five years or longer as determined by the Commission, unless such suspension or denial is not required to protect the public interest.

Subsec. (b). Pub. L. 97-444, § 227(2), inserted "A person convicted of a felony under this subsection shall be suspended from any registration under this chapter, denied registration or reregistration for five years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for five years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof."

Subsec. (c). Pub. L. 97-444, § 227(3), inserted "A person convicted under this subsection of knowingly violating the provisions of section 6a of this title shall be suspended from any registration under this chapter, denied registration or reregistration for a period of two years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for two years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof."

Subsec. (d). Pub. L. 97-444, § 227(4), in amending subsec. (d) generally, added to range of felonious conduct, participation in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, and added to non-applicability of prohibition against any investment transaction in an actual commodity, a transaction entered into by the trustee of a trust established by such person over which such person exercises no control if such transaction is entered into solely to hedge against adverse price changes in connection with such farming or ranching operations or is a transaction for the lease of oil or gas or other mineral rights or interests owned by such person, or a transaction in which such person buys or sells, directly or indirectly (except by means of an instrument regulated by the Commission), a United States Government security, a certificate of deposit, or a similar financial instrument if no nonpublic information is used by such person in such transaction.

Subsec. (e). Pub. L. 97-444, § 227(5), inserted after words "decline guaranty'" each place they appear the following: " , or in any transaction for the delivery of

any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract”.

1978—Subsec. (a). Pub. L. 95-405, §19(1), substituted “\$500,000” for “\$100,000” and inserted provision relating to a fine of not more than \$100,000 plus costs of prosecution for a violation by a person who is an individual.

Subsec. (b). Pub. L. 95-405, §19(2), substituted “\$500,000” for “\$100,000” and inserted provisions making felonies the violation of sections 6, 6b, 6c(b) to (e), 6h, 6o(1) and 23 of this title, knowingly making any false or misleading statement of material fact, or omitting such fact in any application or report, and setting the fine for such felonies at not more than \$100,000 for a person who is an individual.

Subsec. (c). Pub. L. 95-405, §19(3), inserted references to subsecs. (d) and (e) of this section and substituted “sections 6a, 6c(a), 6d, 6e, 6i, 6k, 6m, 6o(2), or 12b of this title” for “sections 6 to 6e, 6h, 6i, 6k, 6m, 6o or 12b of this title”.

Subsecs. (d), (e). Pub. L. 95-405, §19(4), (5), substituted “\$100,000” for “\$10,000”.

1974—Subsecs. (a), (b). Pub. L. 93-463, §212(d)(1), (2), substituted “\$100,000” for “\$10,000”.

Subsec. (c). Pub. L. 93-463, §§212(d)(3), 409, substituted “\$100,000” for “\$10,000” and inserted reference to sections 6k, 6m, and 6o of this title.

Subsecs. (d), (e). Pub. L. 93-463, §401, added subsecs. (d) and (e).

1968—Subsec. (a). Pub. L. 90-258 added subsec. (a).

Subsec. (b). Pub. L. 90-258 incorporated existing offenses in provisions designated as subsec. (b), changed classification thereof from misdemeanors to felonies, and increased term of imprisonment from not more than one year to not more than five years.

Subsec. (c). Pub. L. 90-258 incorporated existing offenses in provisions designated as subsec. (c), and included penalty for violation of section 12b of this title.

1936—Act June 15, 1936, amended section generally and provided that price manipulations of commodities in interstate commerce was a violation.

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE OF 1936 AMENDMENT

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

REGULATIONS

Section 214(b) of Pub. L. 102-546 provided that: “The Commodity Futures Trading Commission shall issue regulations to implement the amendment made by subsection (a) [amending this section] not later than three hundred and sixty days after the date of enactment of this Act [Oct. 28, 1992].”

PENALTIES STUDY AND GUIDELINES

Section 225 of Pub. L. 102-546 provided that:

“(a) STUDY.—The Commodity Futures Trading Commission shall study the penalties the Commission imposes against persons found to have violated the Commodity Exchange Act (7 U.S.C. 1 et seq.) and the penalties imposed by contract markets and registered futures associations against persons found to have violated their respective rules established under such Act.

“(b) REPORT.—Not later than two years after the date of enactment of this Act [Oct. 28, 1992], the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study conducted under subsection (a). The report shall—

“(1) include an analysis of whether systematic differences exist among penalties imposed by various contract markets and registered futures associations for similar offenses, and, if so, the causes of such differences;

“(2) propose industry-wide guidelines or rules to make penalty levels among contract markets and registered futures associations consistent, including, if appropriate, minimum penalties or penalty ranges for various offenses; and

“(3) propose guidelines or rules to make Commission penalty levels consistent, including, if appropriate, minimum penalties or penalty ranges for various offenses.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6a, 13b of this title.

§ 13-1. Violations, prohibition against dealings in onion futures; punishment

(a) No contract for the sale of onions for future delivery shall be made on or subject to the rules of any board of trade in the United States. The terms used in this section shall have the same meaning as when used in this chapter.

(b) Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof be fined not more than \$5,000.

(Pub. L. 85-839, §1, Aug. 28, 1958, 72 Stat. 1013.)

CODIFICATION

Section was not enacted as part of the Commodity Exchange Act which comprises this chapter.

EFFECTIVE DATE

Section 2 of Pub. L. 85-839 provided that: “This Act [enacting this section] shall take effect thirty days after its enactment [Aug. 28, 1958].”

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 13a. Nonenforcement of rules of government or other violations; cease and desist orders; fines and penalties; imprisonment; misdemeanor; separate offenses

If any contract market is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in section 7 of this title, or if any contract market, or any director, officer, agent, or employee of any contract market otherwise is violating or has violated any of the provisions of this chapter or any of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing on the record and sub-

ject to appeal as in other cases provided for in section 8(b) of this title, make and enter an order directing that such contract market, director, officer, agent, or employee shall cease and desist from such violation, and assess a civil penalty of not more than \$500,000 for each such violation. If such contract market, director, officer, agent, or employee, after the entry of such a cease and desist order and the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such contract market, director, officer, agent, or employee shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500,000 or imprisoned for not less than six months nor more than one year, or both. Each day during which such failure or refusal to obey such cease and desist order continues shall be deemed a separate offense. If the offending contract market or other person upon whom such penalty is imposed, after the lapse of the period allowed for appeal or after the affirmance of such penalty, shall fail to pay such penalty, the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court. In determining the amount of the money penalty assessed under this section, the Commission shall consider the gravity of the offense, and in the case of a contract market shall further consider whether the amount of the penalty will materially impair the contract market's ability to carry on its operations and duties.

(Sept. 21, 1922, ch. 369, §6b, as added June 15, 1936, ch. 545, §9, 49 Stat. 1500; amended Feb. 19, 1968, Pub. L. 90-258, §18, 82 Stat. 31; Oct. 23, 1974, Pub. L. 93-463, title II, §212(b), 88 Stat. 1403; Sept. 30, 1978, Pub. L. 95-405, §14, 92 Stat. 872; Oct. 28, 1992, Pub. L. 102-546, title II, §§209(b)(5), 212(c), 106 Stat. 3607, 3609.)

AMENDMENTS

1992—Pub. L. 102-546 substituted “section 8(b) of this title” for “paragraph (a) of section 8 of this title”, substituted “\$500,000” for “\$100,000” in two places, and in last sentence struck out “the appropriateness of such penalty to the net worth of the offending person and” after “Commission shall consider”.

1978—Pub. L. 95-405 inserted “on the record” after “notice and hearing”.

1974—Pub. L. 93-463 inserted provision for assessment of a civil penalty of not more than \$100,000 for each violation, substituted “not more than \$100,000” for “not less than \$500 nor more than \$10,000” as permissible range of fines imposed, inserted provisions for enforcement of a penalty, and substituted “orders of the Commission” for “orders of the Secretary of Agriculture or the commission”.

1968—Pub. L. 90-258 amended section to clarify application only to boards of trade designated as contract markets, to include as grounds for cease and desist orders failure to enforce the market's rules of government made a condition of its designation and violation of rules or regulations of the commission or orders of the Secretary, and to authorize such orders in conjunction with a suspension or revocation of designation as a contract market rather than in lieu of suspension or revocation.

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 13a-1. Enjoining or restraining violations

(a) Action to enjoin or restrain violations

Whenever it shall appear to the Commission that any contract market or other person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule, regulation, or order thereunder, or is restraining trading in any commodity for future delivery, the Commission may bring an action in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such act or practice, or to enforce compliance with this chapter, or any rule, regulation or order thereunder, and said courts shall have jurisdiction to entertain such actions: *Provided*, That no restraining order (other than a restraining order which prohibits any person from destroying, altering or disposing of, or refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records or other documents or which prohibits any person from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property, and other than an order appointing a temporary receiver to administer such restraining order and to perform such other duties as the court may consider appropriate) or injunction for violation of the provisions of this chapter shall be issued ex parte by said court.

(b) Injunction or restraining order

Upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond.

(c) Writs or other orders

Upon application of the Commission, the district courts of the United States and the United States courts of any territory or other place subject to the jurisdiction of the United States shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding any person to comply with the provisions of this chapter or any rule, regulation, or order of the Commission thereunder, including the requirement that such person take such action as is necessary to remove the danger of violation of this chapter or any such rule, regulation, or order: *Provided*, That no such writ of mandamus, or order affording like relief, shall be issued ex parte.

(d) Civil penalties

(1) In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation a civil penalty in the amount of not more than the higher of \$100,000 or triple the monetary gain to the person for each violation.

(2) If a person on whom such a penalty is imposed fails to pay the penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover the penalty by action in the appropriate United States district court.

(e) Venue and process

Any action under this section may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or in the district where the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(f) Action by Attorney General

In lieu of bringing actions itself pursuant to this section, the Commission may request the Attorney General to bring the action.

(g) Notice to Attorney General of action brought by Commission

Where the Commission elects to bring the action, it shall inform the Attorney General of such suit and advise him of subsequent developments.

(Sept. 21, 1922, ch. 369, §6c, as added Oct. 23, 1974, Pub. L. 93-463, title II, §211, 88 Stat. 1402; amended Jan. 11, 1983, Pub. L. 97-444, title II, §220, 96 Stat. 2308; Nov. 10, 1986, Pub. L. 99-641, title I, §104, 100 Stat. 3557; Oct. 28, 1992, Pub. L. 102-546, title II, §221, 106 Stat. 3614.)

AMENDMENTS

1992—Pub. L. 102-546 designated first, second, and third sentences as subsecs. (a) to (c), respectively, added subsec. (d), and designated fourth, fifth, and sixth sentences as subsecs. (e) to (g), respectively.

1986—Pub. L. 99-641 inserted “, and other than an order appointing a temporary receiver to administer such restraining order and to perform such other duties as the court may consider appropriate”.

1983—Pub. L. 97-444 inserted “(other than a restraining order which prohibits any person from destroying, altering or disposing of, or refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records or other documents or which prohibits any person from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property)” after “*Provided*, That no restraining order”.

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE

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

FEDERAL RULES OF CIVIL PROCEDURE

Injunctions, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

Writ of mandamus abolished in United States district courts, but relief available by appropriate action or motion, see rule 81.

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 13a-2. Jurisdiction of States

(1) Whenever it shall appear to the attorney general of any State, the administrator of the securities laws of any State, or such other official as a State may designate, that the interests of the residents of that State have been, are being, or may be threatened or adversely affected because any person (other than a contract market, clearinghouse, floor broker, or floor trader) has engaged in, is engaging or is about to engage in, any act or practice constituting a violation of any provision of this chapter or any rule, regulation, or order of the Commission thereunder, the State may bring a suit in equity or an action at law on behalf of its residents to enjoin such act or practice, to enforce compliance with this chapter, or any rule, regulation, or order of the Commission thereunder, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia, shall have jurisdiction of all suits in equity and actions at law brought under this section to enforce any liability or duty created by this chapter or any rule, regulation, or order of the Commission thereunder, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this chapter or any rule, regulation, or order of the Commission thereunder, including the requirement that the defendant take such action as is necessary to remove the danger of violation of this chapter or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) Immediately upon instituting any such suit or action, the State shall serve written notice thereof upon the Commission and provide the Commission with a copy of its complaint, and the Commission shall have the right to (A) intervene in the suit or action and, upon doing so, shall be heard on all matters arising therein, and (B) file petitions for appeal.

(4) Any suit or action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(5) For purposes of bringing any suit or action under this section, nothing in this chapter shall prevent the attorney general, the administrator of the State securities laws, or other duly au-

thorized State officials from exercising the powers conferred on them by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(6) For purposes of this section, "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(7) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal antifraud statute of such State.

(8)(A) Nothing in this chapter shall prohibit an authorized State official from proceeding in a State court against any person registered under this chapter (other than a floor broker, floor trader, or registered futures association) for an alleged violation of any antifraud provision of this chapter or any antifraud rule, regulation, or order issued pursuant to the chapter.

(B) The State shall give the Commission prior written notice of its intent to proceed before instituting a proceeding in State court as described in this subsection and shall furnish the Commission with a copy of its complaint immediately upon instituting any such proceeding. The Commission shall have the right to (i) intervene in the proceeding and, upon doing so, shall be heard on all matters arising therein, and (ii) file a petition for appeal. The Commission or the defendant may remove such proceeding to the district court of the United States for the proper district by following the procedure for removal otherwise provided by law, except that the petition for removal shall be filed within sixty days after service of the summons and complaint upon the defendant. The Commission shall have the right to appear as *amicus curiae* in any such proceeding.

(Sept. 21, 1922, ch. 369, §6d, as added Sept. 30, 1978, Pub. L. 95-405, §15, 92 Stat. 872; amended Jan. 11, 1983, Pub. L. 97-444, title II, §221, 96 Stat. 2308; Oct. 28, 1992, Pub. L. 102-546, title II, §207(b)(1), (2), 106 Stat. 3604.)

AMENDMENTS

1992—Pars. (1), (8)(A). Pub. L. 102-546 inserted reference to floor trader.

1983—Par. (8). Pub. L. 97-444 added par. (8).

EFFECTIVE DATE OF 1992 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Injunctions, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

One form of action, see rule 2.

Rules as governing the procedure in all suits of a civil nature whether cognizable as cases at common law or in equity, see rule 1.

Writ of mandamus abolished in United States district courts, but relief available by appropriate action or motion, see rule 81.

§ 13b. Manipulations or other violations; cease and desist orders against persons other than contract markets; punishment; misdemeanor or felony; separate offenses

If any person (other than a contract market) is manipulating or attempting to manipulate or has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any contract markets, or otherwise is violating or has violated any of the provisions of this chapter or of the rules, regulations, or orders of the Commission or the commission¹ thereunder, the Commission may, upon notice and hearing, and subject to appeal as in other cases provided for in section 9 of this title, make and enter an order directing that such person shall cease and desist therefrom and, if such person thereafter and after the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such person shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than the higher of \$100,000 or triple the monetary gain to such person, or imprisoned for not less than six months nor more than one year, or both, except that if such failure or refusal to obey or comply with such order involves any offense within paragraph (a) or (b) of section 13 of this title, such person shall be guilty of a felony and, upon conviction thereof, shall be subject to the penalties of said paragraph (a) or (b): *Provided*, That any such cease and desist order against any respondent in any case of manipulation of, or attempt to manipulate, the price of any commodity shall be issued only in conjunction with an order issued against such respondent under section 9 of this title. Each day during which such failure or refusal to obey or comply with such order continues shall be deemed a separate offense.

(Sept. 21, 1922, ch. 369, §6(d), formerly §6(c), as added Feb. 19, 1968, Pub. L. 90-258, §17, 82 Stat. 31; amended Oct. 23, 1974, Pub. L. 93-463, title I, §103(a), (b), title II, §212(c), 88 Stat. 1392, 1404; renumbered §6(d) and amended Oct. 28, 1992, Pub. L. 102-546, title II, §§209(a)(1), (4), 212(b), 106 Stat. 3606, 3609.)

REFERENCES IN TEXT

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

CODIFICATION

Section is comprised of subsec. (d) of section 6 of act Sept. 21, 1922. Subsecs. (a) and (b) of section 6 are classified to section 8 of this title. Subsec. (c) of section 6 is

¹So in original. The words "or the commission" probably should not appear.

classified to sections 9 and 15 of this title. Subsecs. (e) and (f) of section 6 are classified to sections 9a and 9b of this title, respectively.

AMENDMENTS

1992—Pub. L. 102-546 made technical amendment to references to section 9 of this title to reflect change in reference to corresponding section of original act and substituted “the higher of \$100,000 or triple the monetary gain to such person” for “\$100,000”.

1974—Pub. L. 93-463, §§103(a), 212(c), substituted “Commission” for “Secretary” before “may” and substituted “not more than \$100,000” for “not less than \$500 nor more than \$10,000”.

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE

Section effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as an Effective Date of 1968 Amendment note under section 2 of this title.

§ 13c. Responsibility as principal; minor violations

(a) Any person who commits, or who willfully aids, abets, counsels, commands, induces, or procures the commission of, a violation of any of the provisions of this chapter, or any of the rules; regulations, or orders issued pursuant to this chapter, or who acts in combination or concert with any other person in any such violation, or who willfully causes an act to be done or omitted which if directly performed or omitted by him or another would be a violation of the provisions of this chapter or any of such rules, regulations, or orders may be held responsible for such violation as a principal.

(b) Any person who, directly or indirectly, controls any person who has violated any provision of this chapter or any of the rules, regulations, or orders issued pursuant to this chapter may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person. In such action, the Commission has the burden of proving that the controlling person did not act in good faith or knowingly induced, directly or indirectly, the act or acts constituting the violation.

(c) Nothing in this chapter shall be construed as requiring the Commission or the Commission¹ to report minor violations of this chapter for prosecution, whenever it appears that the public interest does not require such action.

(Sept. 21, 1922, ch. 369, §13, as added Feb. 19, 1968, Pub. L. 90-258, §26, 82 Stat. 34; amended Oct. 23, 1974, Pub. L. 93-463, title I, §103(a), (b), 88 Stat.

¹So in original. The words “or the Commission” probably should not appear.

1392; Jan. 11, 1983, Pub. L. 97-444, title II, §230, 96 Stat. 2319; Oct. 28, 1992, Pub. L. 102-546, title IV, §402(1)(D), (9)(C), 106 Stat. 3624, 3625.)

AMENDMENTS

1992—Subsec. (c). Pub. L. 102-546, §402(9)(C), which directed that “the Secretary of Agriculture or” be struck out, could not be executed because of amendment by Pub. L. 93-463, §103(a). See 1974 Amendment note below.

Pub. L. 102-546, §402(1)(D), substituted “Commission” for “commission” before “to report”.

1983—Subsec. (a). Pub. L. 97-444, §230(1), struck out “in administrative proceedings under this chapter” after “may be held responsible”.

Subsecs. (b), (c). Pub. L. 97-444, §230(2), (3), added subsec. (b) and redesignated former subsec. (b) as (c).

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE

Section effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as an Effective Date of 1968 Amendment note under section 2 of this title.

§ 14. Repealed. Pub. L. 99-641, title I, §110(5), Nov. 10, 1986, 100 Stat. 3561

Section, act Sept. 21, 1922, ch. 369, §11, 42 Stat. 1003, provided that violations of this chapter occurring before Nov. 1, 1922, should not be punishable.

§ 15. Enforcement powers of Commission

For the purpose of securing effective enforcement of the provisions of this chapter, for the purpose of any investigation or proceeding under this chapter, and for the purpose of any action taken under section 16(f) of this title, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission (except as provided in the third sentence of this section) may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States, any State, or any foreign country or jurisdiction at any designated place of hearing. A subpoena issued under this section may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Proce-

dures prescribe for service of process in a foreign country, except that a subpoena to be served on a person who is not to be found within the territorial jurisdiction of any court of the United States may be issued only on the prior approval of the Commission. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which the investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found.

(Sept. 21, 1922, ch. 369, § 6(c), formerly § 6(b), 42 Stat. 1002; June 15, 1936, ch. 545, § 8(e)–(g), 49 Stat. 1499; June 16, 1955, ch. 151, 69 Stat. 160; Oct. 15, 1970, Pub. L. 91–452, title II, § 202, 84 Stat. 928; Oct. 23, 1974, Pub. L. 93–463, title I, § 103(d), title IV, § 408(b), 88 Stat. 1392, 1414; Sept. 30, 1978, Pub. L. 95–405, § 13(3), 92 Stat. 871; Nov. 10, 1986, Pub. L. 99–641, title I, § 103, 100 Stat. 3557; renumbered § 6(c) and amended Oct. 28, 1992, Pub. L. 102–546, title II, § 209(a)(1), title III, § 301, title IV, § 402(7), 106 Stat. 3606, 3622, 3624.)

REFERENCES IN TEXT

This section, referred to in text, means section 6 of act Sept. 21, 1922, ch. 369, 42 Stat. 1001. For classification of section 6 to the Code, see Codification note below.

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Section is comprised of part of subsec. (c) of section 6 of act Sept. 21, 1922. A further provision of subsec. (c) is contained in section 9 of this title. This subsec. (c) [former par. (a)] prior to its incorporation into the Code contained a provision as to finality of judgments and review by the Supreme Court and is covered by section 1254 of Title 28, Judiciary and Judicial Procedure. Subsecs. (a) and (b) of section 6 are classified to section 8 of this title. Subsecs. (d), (e), and (f) of section 6 are classified to sections 13b, 9a, and 9b of this title, respectively.

AMENDMENTS

1992—Pub. L. 102–546 substituted “chapter,” for “chapter and” after “provisions of this”, “chapter, and for the purpose of any action taken under section 16(f) of this title, any” for “chapter, any”, and “subpoena” for “subpena” wherever appearing.

1986—Pub. L. 99–641 inserted “(except as provided in the third sentence of this section)”, substituted “, any State, or any foreign country or jurisdiction” for “or any State”, and inserted provisions which related to service of subpoena upon person not found within territorial jurisdiction of United States.

1978—Pub. L. 95–405 substituted provisions giving Commission or any Administrative Law Judge or other

officer designated by Commission independent authority to administer oaths and affirmations, to subpoena witnesses, and related actions for the purpose of conducting investigations and proceedings with regard to this chapter for provisions basing authority of Commission or any Administrative Law Judge with regard to investigations and proceedings under this chapter on the Interstate Commerce Act and inserted provisions authorizing Commission to invoke the aid of the courts in requiring attendance and testimony of witnesses and the production of books and other records.

1974—Pub. L. 93–463 struck out “the Secretary of Agriculture (or any person designated by him),” after “jurisdiction, and authority of” and substituted “Administrative Law Judge” for “referee”.

1970—Pub. L. 91–452 struck out references to sections 46–48 of title 49, and provisions relating to the immunity of witnesses.

1955—Act June 16, 1955, extended subpoena power to investigations.

1936—Act June 15, 1936, § 8(e), (f), substituted “sections 12 and 46–48 of title 49” for “section 12 of title 49”.

Act June 15, 1936, § 8(g), substituted “and” for “or” after “commission”.

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1936 AMENDMENT

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

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12 of this title.

§ 15a. Repealed. Pub. L. 95–405, § 24, Sept. 30, 1978, 92 Stat. 877

Section, Pub. L. 93–463, title II, § 217, Oct. 23, 1974, 88 Stat. 1405, related to leverage contracts for gold and silver. See section 23(b) of this title.

EFFECTIVE DATE OF REPEAL

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

§ 15b. Cotton futures contracts

(a) Short title

This section may be cited as the “United States Cotton Futures Act”.

(b) Repeal of tax on cotton futures

Subchapter D of chapter 39 of title 26 (relating to tax on cotton futures) is repealed.

(c) Definitions

For purposes of this section—

(1) Cotton futures contract

The term “cotton futures contract” means any contract of sale of cotton for future delivery made at, on, or in any exchange, board of trade, or similar institution or place of business which has been designated a “contract market” by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act [7 U.S.C. 1 et seq.] and the term “contract of sale” as so used shall be held to include sales, agreements of sale, and agreements to sell, except that any cotton futures contract that, by its terms, is settled in cash is excluded from the coverage of this paragraph and section.

(2) Future delivery

The term “future delivery” shall not include any cash sale of cotton for deferred shipment or delivery.

(3) Person

The term “person” includes an individual, trust, estate, partnership, association, company, or corporation.

(4) Secretary

The term “Secretary” means the Secretary of Agriculture of the United States.

(5) Standards

The term “standards” means the official cotton standards of the United States established by the Secretary pursuant to the United States Cotton Standards Act, as amended [7 U.S.C. 51 et seq.].

(d) Bona fide spot markets and commercial differences**(1) Definition**

For purposes of this section, the only markets which shall be considered bona fide spot markets shall be those which the Secretary shall, from time to time, after investigation, determine and designate to be such, and of which he shall give public notice.

(2) Determination

In determining, pursuant to the provisions of this section, what markets are bona fide spot markets, the Secretary is directed to consider only markets in which spot cotton is sold in such volume and under such conditions as customarily to reflect accurately the value of middling cotton and the differences between the prices or values of middling cotton and of other grades of cotton for which standards shall have been established by the Secretary; except that if there are not sufficient places, in the markets of which are made bona fide sales of spot cotton of grades for which standards are established by the Secretary, to enable him to designate at least five spot markets in accordance with subsection (f)(3) of this section, he shall, from data as to spot sales collected by him, make rules and regulations for determining the actual commercial differences in the value of spot cotton of the grades established by him as reflected by bona fide sales of spot cotton, of the same or dif-

ferent grades, in the market selected and designated by him, from time to time, for that purpose, and in that event differences in value of cotton of various grades involved in contracts made pursuant to subsection (f)(1) and (2) of this section shall be determined in compliance with such rules and regulations. It shall be the duty of any person engaged in the business of dealing in cotton, when requested by the Secretary or any agent acting under his instructions, to answer correctly to the best of his knowledge, under oath or otherwise, all questions touching his knowledge of the number of bales, the classification, the price or bona fide price offered, and other terms of purchase or sale, of any cotton involved in any transaction participated in by him, or to produce all books, letters, papers, or documents in his possession or under his control relating to such matter.

(3) Withholding information

Any person engaged in the business of dealing in cotton who shall, within a reasonable time prescribed by the Secretary or any agent acting under his instructions, willfully fail or refuse to answer questions or to produce books, letters, papers, or documents, as required under paragraph (2) of this subsection, or who shall willfully give any answer that is false or misleading, shall, upon conviction thereof, be fined not more than \$500.

(e) Form and validity of cotton futures contracts

Each cotton futures contract shall be a basis grade contract, or a tendered grade contract, or a specific grade contract as specified in subsections (f), (g), or (h) of this section and shall be in writing plainly stating, or evidenced by written memorandum showing, the terms of such contract, including the quantity of the cotton involved and the names and addresses of the seller and buyer in such contract, and shall be signed by the party to be charged, or by his agent in his behalf. No cotton futures contract which does not conform to such requirements shall be enforceable by, or on behalf of, any party to such contract or his privies.

(f) Basis grade contracts**(1) Conditions**

Each basis grade cotton futures contract shall comply with each of the following conditions:

(A) Conformity with regulations

Conform to the regulations made pursuant to this section.

(B) Specification of grade, price, and dates of sale and settlement

Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary, except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E), the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or

settled; except that middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

(C) Provision for delivery of standard grades only

Provide that the cotton dealt with therein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E) and no other grade or grades.

(D) Provision for settlement on basis of actual commercial differences

Provide that in case cotton of grade other than the basis grade be tendered or delivered in settlement of such contract, the differences above or below the contract price which the receiver shall pay for such grades other than the basis grade shall be the actual commercial differences, determined as hereinafter provided.

(E) Prohibition of delivery of inferior cotton

Provide that cotton that, because of the presence of extraneous matter of any character, or irregularities or defects, is reduced in value below that of low middling, or cotton that is below the grade of low middling, or, if tinged, cotton that is below the grade of strict middling, or, if yellow stained, cotton that is below the grade of good middling, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eighths of an inch in length of staple, or cotton of perished staple, or of immature staple, or cotton that is "gin cut" or reginned, or cotton that is "repacked" or "false packed" or "mixed packed" or "water packed", shall not be delivered on, under, or in settlement of such contract.

(F) Provisions for tender in full, notice of delivery date, and certificate of grade

Provide that all tenders of cotton under such contract shall be the full number of bales involved therein, except that such variations of the number of bales may be permitted as is necessary to bring the total weight of the cotton tendered within the provisions of the contract as to weight; that, on the fifth business day prior to delivery, the person making the tender shall give to the person receiving the same written notice of the date of delivery, and that, on or prior to the date so fixed for delivery, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a written notice or certificate stating the grade of each individual bale to be delivered and, by means of marks or numbers, identifying each bale with its grade.

(G) Provision for tender and settlement in accordance with Government classification

Provide that all tenders of cotton and settlements therefor under such contract shall

be in accordance with the classification thereof made under the regulations of the Secretary by such officer or officers of the Government as shall be designated for the purpose, and the costs of such classification shall be fixed, assessed, collected, and paid as provided in such regulations and shall be credited to the account referred to in section 55 of this title. The Secretary may provide by regulation conditions under which cotton samples submitted or used in the performance of services authorized by this act shall become the property of the United States and may be sold and the proceeds credited to the foregoing account: *Provided*, That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). The Secretary is authorized to prescribe regulations for carrying out the purposes of this subparagraph and the certificates of the officers of the Government as to the classification of any cotton for the purposes of this subparagraph shall be accepted in the courts of the United States in all suits between the parties to such contract, or their privies, as prima facie evidence of the true classification of the cotton involved.

(2) Incorporation of conditions in contracts

The provisions of paragraphs (1)(C), (D), (E), (F), and (G) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandums evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (f)."

(3) Delivery allowances

For the purpose of this subsection, the differences above or below the contract price which the receiver shall pay for cotton of grades above or below the basic¹ grade in the settlement of a contract of sale for the future delivery of cotton shall be determined by the actual commercial differences in value thereof upon the sixth business day prior to the day fixed, in accordance with paragraph (1)(F), for the delivery of cotton on the contract, established by the sale of spot cotton in the spot markets of not less than five places designated for the purpose from time to time by the Secretary, as such values were established by the sales of spot cotton, in such designated five or more markets. For purposes of this paragraph, such values in the such spot markets shall be based upon the standards for grades of cotton established by the Secretary. Whenever the value of one grade is to be determined from the sale or sales of spot cotton of another grade or grades, such value shall be fixed in accordance with rules and regulations which shall be prescribed for the purpose by the Secretary.

(g) Tendered grade contracts

(1) Conditions

Each tendered grade cotton future contract shall comply with each of the following conditions:

¹ So in original. Probably should be "basis".

(A) Compliance with subsection (f)

Comply with all the terms and conditions of subsection (f) of this section not inconsistent with this subsection; and

(B) Provision for contingent specific performance

Provide that, in case cotton of grade or grades other than the basis grade specified in the contract shall be tendered in performance of the contract, the parties to such contract may agree, at the time of the tender, as to the price of the grade or grades so tendered, and that if they shall not then agree as to such price, then, and in that event, the buyer of said contract shall have the right to demand the specific fulfillment of such contract by the actual delivery of cotton of the basis grade named therein and at the price specified for such basis grade in said contract.

(2) Incorporation of conditions in contract

Contracts made in compliance with this subsection shall be known as "subsection (g) Contracts". The provisions of this subsection shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (g)".

(3) Application of subsection

Nothing in this subsection shall be so construed as to authorize any contract in which, or in the settlement of or in respect to which, any device or arrangement whatever is resorted to, or any agreement is made, for the determination or adjustment of the price of the grade or grades tendered other than the basis grade specified in the contract by any "fixed difference" system, or by arbitration, or by any other method not provided for by this section.

(h) Specific grade contracts**(1) Conditions**

Each specific grade cotton futures contract shall comply with each of the following conditions:

(A) Conformity with rules and regulations

Conform to the rules and regulations made pursuant to this section.

(B) Specification of grade, price, dates of sale and delivery

Specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

(C) Prohibition of delivery of other than specified grade

Provide that cotton of or within the grade or of the type, or according to the sample or description, specified in the contract shall be delivered thereunder, and that no cotton which does not conform to the type, sample,

or description, or which is not of or within the grade specified in the contract shall be tendered or delivered thereunder.

(D) Provision for specific performance

Provide that the delivery of cotton under the contract shall not be effected by means of "setoff" or "ring" settlement, but only by the actual transfer of the specified cotton mentioned in the contract.

(2) Incorporation of conditions in contract

The provisions of paragraphs (1)(A), (C), and (D) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the document or memorandum evidencing the same, at or prior to the time the same is entered into, the words "Subject to United States Cotton Futures Act, subsection (h)".

(3) Application of subsection

This subsection shall not be construed to apply to any contract of sale made in compliance with subsection (f) or (g) of this section.

(i) Liability of principal for acts of agent

When construing and enforcing the provisions of this section, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation, as well as that of the person.

(j) Regulations

The Secretary is authorized to make such regulations with the force and effect of law as he determines may be necessary to carry out the provisions of this section and the powers vested in him by this section.

(k) Violations

Any person who knowingly violates any regulation made in pursuance of this section, shall, upon conviction thereof, be fined not less than \$100 nor more than \$500, for each violation thereof, in the discretion of the court, and, in case of natural persons, may, in addition be punished by imprisonment for not less than 30 days nor more than 90 days, for each violation, in the discretion of the court except that this subsection shall not apply to violations subject to subsection (d)(3) of this section.

(l) Applicability to contracts prior to effective date

The provisions of this section shall not apply to any cotton futures contract entered into prior to the effective date of this section or to any act or failure to act by any person prior to such effective date and all such prior contracts, acts or failure to act shall continue to be governed by the applicable provisions of the Internal Revenue Code of 1954² as in effect prior to the enactment of this section. All designations of bona fide spot markets and all rules and regulations issued by the Secretary pursuant to the applicable provisions of the Internal Revenue

² See References in Text note below.

Code of 1954² which were in effect on the effective date of this section, shall remain fully effective as designations and regulations under this section until superseded, amended, or terminated by the Secretary.

(m) Authorization

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 94-455, title XIX, §1952(a)-(m), Oct. 4, 1976, 90 Stat. 1841-1846; Pub. L. 97-35, title I, §156(c), Aug. 13, 1981, 95 Stat. 374; Pub. L. 102-237, title I, §123, Dec. 13, 1991, 105 Stat. 1844.)

REFERENCES IN TEXT

The Commodity Exchange Act, referred to in subsec. (c)(1), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, which is classified generally to chapter 1 (§1 et seq.) of this title. For complete classification of this Act to the Code, see section 1 of this title and Tables.

The United States Cotton Standards Act, as amended, referred to in subsec. (c)(5), is act Mar. 4, 1923, ch. 288, 42 Stat. 1517, as amended, which is classified generally to chapter 2 (§51 et seq.) of this title. For complete classification of this Act to the Code, see section 51 of this title and Tables.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (f)(1)(G), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The provisions of that Act relating to management and disposal of government property are classified to chapter 10 (§471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

The Internal Revenue Code of 1954, referred to in subsec. (l), was redesignated the Internal Revenue Code of 1986 by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, and is classified to Title 26, Internal Revenue Code.

CODIFICATION

Section was enacted as part of the Tax Reform Act of 1976, and not as part of the Commodity Exchange Act which comprises this chapter.

This section, referred to in subsec. (c)(1), was in the original a reference to this "Act", meaning the United States Cotton Futures Act, which comprises this section.

AMENDMENTS

1991—Subsec. (c)(1). Pub. L. 102-237 inserted before period at end "", except that any cotton futures contract that, by its terms, is settled in cash is excluded from the coverage of this paragraph and section".

1981—Subsec. (f)(1)(G). Pub. L. 97-35 inserted provisions relating to crediting to account referred to in section 55 of this title and provisions respecting cotton samples submitted or used becoming the property of the United States.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 156(e) of Pub. L. 97-35, set out as an Effective Date note under section 61a of this title.

EFFECTIVE DATE

Section 1952(o) of Pub. L. 94-455 provided that: "The provisions of this section [enacting this section, amending section 6808 of Title 26, Internal Revenue Code, and repealing sections 7233 and 7263, subchapter D of chapter 39, and subchapter E of chapter 76 of Title 26] shall take effect on the 90th day after the date of enactment of this Act [Oct. 4, 1976]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 55 of this title.

§ 16. Commission operations

(a) Cooperation with other agencies

The Commission may cooperate with any Department or agency of the Government, any State, territory, district, or possession, or department, agency, or political subdivision thereof, any foreign futures authority, any department or agency of a foreign government or political subdivision thereof, or any person.

(b) Employment of investigators, experts, Administrative Law Judges, consultants, clerks, and other personnel; contracts

(1) The Commission shall have the authority to employ such investigators, special experts, Administrative Law Judges, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

(2) The Commission may employ experts and consultants in accordance with section 3109 of title 5, and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5.

(3) The Commission shall also have authority to make and enter into contracts with respect to all matters which in the judgment of the Commission are necessary and appropriate to effectuate the purposes and provisions of this chapter, including, but not limited to, the rental of necessary space at the seat of Government and elsewhere.

(4) The Commission may request (in accordance with the procedures set forth in subchapter II of chapter 31 of title 5) and the Office of Personnel Management shall authorize pursuant to the request, eight positions in the Senior Executive Service in addition to the number of such positions authorized for the Commission on October 28, 1992.

(c) Expenses

All of the expenses of the Commissioners, including all necessary expenses for transportation incurred by them while on official business of the Commission, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this chapter—

- (1) \$53,000,000 for fiscal year 1993; and
- (2) \$60,000,000 for fiscal year 1994.

(e) Relation to other laws, departments, or agencies

Nothing in this chapter shall supersede or preempt—

(1) criminal prosecution under any Federal criminal statute;

(2) the application of any Federal or State statute, including any rule or regulation thereunder, to any transaction in or involving any commodity, product, right, service, or interest (A) that is not conducted on or subject to the rules of a contract market, or, in the case of any State or local law that prohibits or regulates gaming or the operation of "bucket shops" (other than antifraud provisions of gen-

eral applicability), that is not a transaction or class of transactions that has received or is covered by the terms of any exemption previously granted by the Commission under subsection (c) of section 6 of this title, or (B) (except as otherwise specified by the Commission by rule or regulation) that is not conducted on or subject to the rules of any board of trade, exchange, or market located outside the United States, its territories or possessions, or (C) that is not subject to regulation by the Commission under section 6c or 23 of this title; or

(3) the application of any Federal or State statute, including any rule or regulation thereunder, to any person required to be registered or designated under this chapter who shall fail or refuse to obtain such registration or designation.

The Commission may refer any transaction or matter subject to such other Federal or State statutes to any department or agency administering such statutes for such investigation, action, or proceedings as that department or agency shall deem appropriate.

(f) Investigative assistance to foreign futures authorities

(1) On request from a foreign futures authority, the Commission may, in its discretion, provide assistance in accordance with this section if the requesting authority states that the requesting authority is conducting an investigation which it deems necessary to determine whether any person has violated, is violating, or is about to violate any laws, rules or regulations relating to futures or options matters that the requesting authority administers or enforces. The Commission may conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance. Such assistance may be provided without regard to whether the facts stated in the request would also constitute a violation of the laws of the United States.

(2) In deciding whether to provide assistance under this subsection, the Commission shall consider whether—

(A) the requesting authority has agreed to provide reciprocal assistance to the Commission in futures and options matters; and

(B) compliance with the request would prejudice the public interest of the United States.

(3) Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign futures authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation, or in providing any other assistance to a foreign futures authority, pursuant to this section. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.

(g) Computerized futures trading

Consistent with its responsibilities under section 22 of this title, the Commission is directed to facilitate the development and operation of computerized trading as an adjunct to the open

outcry auction system. The Commission is further directed to cooperate with the Office of the United States Trade Representative, the Department of the Treasury, the Department of Commerce, and the Department of State in order to remove any trade barriers that may be imposed by a foreign nation on the international use of electronic trading systems.

(Sept. 21, 1922, ch. 369, §12, 42 Stat. 1003; Oct. 23, 1974, Pub. L. 93-463, title I, §101(b), 88 Stat. 1391; Sept. 30, 1978, Pub. L. 95-405, §20, 92 Stat. 875; Jan. 11, 1983, Pub. L. 97-444, title II, §§228, 229, 96 Stat. 2318; Nov. 10, 1986, Pub. L. 99-641, title I, §106, 100 Stat. 3558; Oct. 28, 1992, Pub. L. 102-546, title II, §§216, 220(a), title III, §§302, 303, title IV, §401, title V, §502(c), 106 Stat. 3611, 3614, 3622, 3624, 3631.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-546, §302, inserted “any foreign futures authority, any department or agency of a foreign government or political subdivision thereof,” after “thereof.”

Subsec. (b). Pub. L. 102-546, §216, designated first through third sentences as pars. (1) to (3), respectively, and added par. (4).

Subsec. (d). Pub. L. 102-546, §401, amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years during the period beginning October 1, 1986, and ending September 30, 1989.”

Subsec. (e)(2)(A). Pub. L. 102-546, §502(c), inserted “or, in the case of any State or local law that prohibits or regulates gaming or the operation of ‘bucket shops’ (other than antifraud provisions of general applicability), that is not a transaction or class of transactions that has received or is covered by the terms of any exemption previously granted by the Commission under subsection (c) of section 6 of this title,” after “market.”

Subsec. (f). Pub. L. 102-546, §303, added subsec. (f).

Subsec. (g). Pub. L. 102-546, §220(a), added subsec. (g).
1986—Subsec. (d). Pub. L. 99-641 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “There are authorized to be appropriated to carry out the provisions of this chapter such sums as may be required for each of the fiscal years during the period beginning October 1, 1982, and ending September 30, 1986.”

1983—Subsec. (d). Pub. L. 97-444, §228, substituted appropriation authorization for fiscal years during period beginning Oct. 1, 1982, and ending Sept. 30, 1986, for prior authorization for fiscal years during period beginning Oct. 1, 1978, and ending Sept. 30, 1982.

Subsec. (e). Pub. L. 97-444, §229, added subsec. (e).

1978—Subsec. (d). Pub. L. 95-405 substituted “for each of the fiscal years during the period beginning October 1, 1978, and ending September 30, 1982” for “for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, for the fiscal year ending June 30, 1977, and for the fiscal year ending June 30, 1978”.

1974—Pub. L. 93-463 designated existing unlettered provisions as subsections (a) to (d), substituted “Commission” for “Secretary of Agriculture”, inserted provisions authorizing the expenditure of funds for expenses upon the presentation of itemized vouchers therefor approved by the Commission, substituted provisions authorizing appropriations specifically for fiscal years ending June 30, 1975, 1976, 1977, and 1978, for provisions making a general authorization of appropriations without a fiscal year limitation, and inserted authorization to enter into contracts and compensate experts and consultants in accordance with section 3109 of title 5 at rates not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5.

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

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

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 15 of this title.

§ 16a. Service fees and National Futures Association study

(a) Development and implementation of plan for user fees; report to and approval by Congressional committees

Notwithstanding any other provision of law, the Commodity Futures Trading Commission may develop and implement a plan to charge and collect reasonable fees to cover the estimated cost of regulating transactions under the jurisdiction of the Commission. However, prior to implementing such a plan, the Commission shall report its intention to do so to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. The Commission shall include in its report the feasibility and desirability of collecting such fees. Any plan developed under this section shall not be implemented until approved by the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. Fees collected under any plan approved under this section shall be deposited in the Treasury of the United States as miscellaneous receipts.

(b) National Futures Association regulatory experience; report; contents

The Commodity Futures Trading Commission shall submit to Congress a report containing the results of a study of the regulatory experience of the National Futures Association for the period beginning January 1, 1983 and ending September 30, 1985. The report shall be submitted not later than January 1, 1986. The report shall include (but not to be limited to) the following—

(1) the extent to which the National Futures Association has fully implemented the program provided in the rules approved by the Commission under section 17(p) and (q) of the Commodity Exchange Act [7 U.S.C. 21(p), (q)] and the effectiveness of the operation of such program;

(2) the actual and projected cost savings to the Federal Government, if any, resulting

from operations of the National Futures Association;

(3) the actual and projected costs which the Commission and the public would have incurred if the Association had not undertaken self-regulatory responsibility for certain areas under the Commission's jurisdiction;

(4) problem areas, if any, encountered by the Association;

(5) the nature of the working relationship between the Association and the Commission;

(6) an assessment of the actual and projected efficiencies the Commission has achieved or expects to be achieved as a result of the continuing regulatory activities of the Association; and

(7) the immediate and projected capabilities of the Commission at the time of submission of the study to turn its attention to more immediate problems of regulation, as a result of the activities of the Association.

(c) Schedule of fees for services, activities and functions; notice and hearing; actual cost standard

Nothing in this section shall limit the authority of the Commission to promulgate, after notice and opportunity for hearing, a schedule of appropriate fees to be charged for services rendered and activities and functions performed by the Commission in conjunction with its administration and enforcement of the Commodity Exchange Act [7 U.S.C. 1 et seq.]: *Provided*, That the fees for any specified service or activity or function shall not exceed the actual cost thereof to the Commission.

(Pub. L. 95-405, § 26, Sept. 30, 1978, 92 Stat. 877; Pub. L. 97-444, title II, § 237, Jan. 11, 1983, 96 Stat. 2325.)

REFERENCES IN TEXT

The Commodity Exchange Act, referred to in subsec. (c), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, which is classified generally to chapter 1 (§ 1 et seq.) of this title. For complete classification of this Act to the Code, see section 1 of this title and Tables.

CODIFICATION

Section was enacted as part of the Futures Trading Act of 1978, and not as part of the Commodity Exchange Act which comprises this chapter.

AMENDMENTS

1983—Pub. L. 97-444 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

STUDY OF ASSESSMENTS ON TRANSACTIONS

Pub. L. 102-546, title II, § 218, Oct. 28, 1992, 106 Stat. 3612, provided that:

“(a) STUDY.—The Comptroller General of the United States shall conduct a study to determine whether—

“(1) it is feasible to fund some or all of the enforcement and market surveillance activities of the Com-

modity Futures Trading Commission, as required by the amendments to the Commodity Exchange Act made by the Futures Trading Practices Act of 1992 [see Short Title of 1992 Amendment note set out under section 1 of this title], through the imposition of an assessment on commodity futures and options transactions executed pursuant to the Commodity Exchange Act [7 U.S.C. 1 et seq.]; and

“(2) a program of assessment-based funding for some or all of such enforcement and market surveillance activities would better provide resources to the Commodity Futures Trading Commission to enable the Commission to—

“(A) protect the interests of market users (including hedgers and speculators), producers of commodities traded on the futures markets, and the general public; and

“(B) maintain and enhance the credibility of such futures and options markets.

“(b) REPORT.—Not later than one year after the date of enactment of this Act [Oct. 28, 1992], the Comptroller General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the Comptroller General’s determinations pursuant to subsection (a), together with any appropriate recommendations for the implementation of such a program of assessment-based funding for some or all of the Commodity Futures Trading Commission’s enforcement and market surveillance activities.”

§ 17. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Sept. 21, 1922, ch. 369, § 10, 42 Stat. 1003.)

§ 17a. Separability of 1936 amendment

If any provision of the act of June 15, 1936, ch. 545, 49 Stat. 1491, which amends this chapter, or the application thereof to any person or circumstances is held invalid, the provisions of the section of this chapter which is amended by such provision of said act shall apply to such person or circumstances. No proceeding shall be abated by reason of any amendment to this chapter made by said act but shall be disposed of pursuant to said act.

(June 15, 1936, ch. 545, § 12, 49 Stat. 1501.)

CODIFICATION

Section was not enacted as part of the Commodity Exchange Act which comprises this chapter.

EFFECTIVE DATE

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

§ 17b. Separability of 1968 amendment

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby, and the provisions of the section of this chapter which is amended by such provision of this Act shall apply to such person or circumstances. Pending proceedings shall not be abated by reason of any provision of this Act but shall

be disposed of pursuant to the provisions of this chapter, in effect prior to the effective date of this Act.

(Pub. L. 90-258, § 27, Feb. 19, 1968, 82 Stat. 34.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 90-258, Feb. 19, 1968, 82 Stat. 26. For complete classification of this Act to the Code, see Tables.

Effective date of this Act, referred to in text, as one hundred and twenty days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as an Effective Date of 1968 Amendment note under section 2 of this title.

CODIFICATION

Section was not enacted as part of the Commodity Exchange Act which comprises this chapter.

§ 18. Complaints against registered persons

(a) Petition for actual damages

(1) Any person complaining of any violation of any provision of this chapter, or any rule, regulation, or order issued pursuant to this chapter, by any person who is registered under this chapter may, at any time within two years after the cause of action accrues, apply to the Commission for an order awarding—

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

(B) in the case of any action arising from a willful and intentional violation in the execution of an order on the floor of a contract market, punitive or exemplary damages equal to no more than two times the amount of such actual damages. If an award of punitive or exemplary damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under sections 2, 2a, and 4 of this title for the floor broker’s violation, such futures commission merchant may be required to satisfy such award if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker’s violation.

(2)(A) An action may be brought under this subsection by any one or more persons described in this subsection for and in behalf of such person or persons and other persons similarly situated, if the Commission permits such actions pursuant to a final rule issued by the Commission.

(B) Not later than two hundred and seventy days after October 28, 1992, the Commission shall propose and publish for public comment such rules as are necessary to carry out subparagraph (A). In developing such rules, the Commission

shall consider the potential impact of such actions on resources available to the reparations system established under this chapter and the relative merits of bringing such actions in Federal court.

(b) Rules and regulations; control over right of appeal

The Commission may promulgate such rules, regulations, and orders as it deems necessary or appropriate for the efficient and expeditious administration of this section. Notwithstanding any other provision of law, such rules, regulations, and orders may prescribe, or otherwise condition, without limitation, the form, filing, and service of pleadings or orders, the nature and scope of discovery, counterclaims, motion practice (including the grounds for dismissal of any claim or counterclaim), hearings (including the waiver thereof, which may relate to the amount in controversy), rights of appeal, if any, and all other matters governing proceedings before the Commission under this section.

(c) Bond requirement when complainant is non-resident; waiver

In case a complaint is made by a nonresident of the United States, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim conditioned upon the payment of costs, including a reasonable attorney's fee for the respondent if the respondent shall prevail, and any reparation award that may be issued by the Commission against the complainant on any counterclaim by respondent: *Provided*, That the Commission shall have authority to waive the furnishing of a bond by a complainant who is a resident of a country which permits the filing of a complaint by a resident of the United States without the furnishing of a bond.

(d) Enforcement of reparation award

If any person against whom an award has been made does not pay the reparation award within the time specified in the Commission's order, the complainant, or any person for whose benefit such order was made, within three years of the date of the order, may file a certified copy of the order of the Commission, in the district court of the United States for the district in which he resides or in which is located the principal place of business of the respondent, for enforcement of such reparation award by appropriate orders. The orders, writs, and processes of such district court may in such case run, be served, and be returnable anywhere in the United States. The petitioner shall not be liable for costs in the district court, nor for costs at any subsequent state of the proceedings, unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit. Subject to the right of appeal under subsection (e) of this section, an order of the Commission awarding reparations shall be final and conclusive.

(e) Review

Any order of the Commission entered hereunder shall be reviewable on petition of any party aggrieved thereby, by the United States

Court of Appeals for any circuit in which a hearing was held, or if no hearing was held, any circuit in which the appellee is located, under the procedure provided in section 9 of this title. Such appeal shall not be effective unless within 30 days from and after the date of the reparation order the appellant also files with the clerk of the court a bond in double the amount of the reparation awarded against the appellant conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail. Such bond shall be in the form of cash, negotiable securities having a market value at least equivalent to the amount of bond prescribed, or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department of the United States. The appellee shall not be liable for costs in said court. If the appellee prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of his costs.

(f) Automatic bar from trading and suspension for noncompliance; effect of appeal

Unless the party against whom a reparation order has been issued shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for compliance with such order that either an appeal as herein authorized has been taken or payment of the full amount of the order (or any agreed settlement thereof) has been made, such party shall be prohibited automatically from trading on all contract markets and, if the party is registered with the Commission, such registration shall be suspended automatically at the expiration of such fifteen-day period until such party shows to the satisfaction of the Commission that payment of such amount with interest thereon to date of payment has been made: *Provided*, That if on appeal the appellee prevails or if the appeal is dismissed, the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty days from the date of judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction, the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.

(g) Effective date

The provisions of this section shall not become effective until fifteen months after October 23, 1974: *Provided*, That claims which arise within one year immediately prior to the effective date of this section may be heard by the Commission after such 15-month period.

(Sept. 21, 1922, ch. 369, §14, as added Oct. 23, 1974, Pub. L. 93-463, title I, §106, 88 Stat. 1393; amended Apr. 16, 1975, Pub. L. 94-16, §3, 89 Stat. 77; Sept. 30, 1978, Pub. L. 95-405, §21, 92 Stat. 875; Jan. 11, 1983, Pub. L. 97-444, title II, §231, 96 Stat. 2319; Oct. 28, 1992, Pub. L. 102-546, title II, §§209(b)(7), 222(b), 224, title IV, §402(11), 106 Stat. 3607, 3615, 3617, 3625.)

REFERENCES IN TEXT

Section 9 of this title, referred to in subsec. (e), was in the original "section 6(c) of this Act" meaning sec-

tion 6(c) of act Sept. 21, 1922, ch. 369, which is classified to sections 9 and 15 of this title. See Codification note set out under section 8 of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-546, § 224, designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Pub. L. 102-546, § 222(b), substituted “awarding—” and pars. (1) and (2) for “awarding actual damages proximately caused by such violation.”

Subsec. (e). Pub. L. 102-546, § 209(b)(7), made technical amendment to reference to section 9 of this title to reflect change in reference to corresponding section of original act.

Subsec. (g). Pub. L. 102-546, § 402(11), substituted “15-month” for second reference to “fifteen months”.

1983—Subsec. (a). Pub. L. 97-444, § 231(1), substituted provisions relating to complaints against violations by persons “registered under this chapter” for provisions relating to complaints against persons “registered or required to be registered under section 6d, 6e, 6j, or 6m of this title”, and substituted provisions for application to Commission for an award of actual damages caused by such violation, for provisions authorizing application to Commission by petition, and forwarding of complaint, if warranted, to respondent for satisfaction or answer.

Subsec. (b). Pub. L. 97-444, § 231(2), substituted provisions relating to promulgation by Commission of rules, regulations, and orders necessary or appropriate for administration of this section, including rules of practice and procedure governing proceedings before the Commission, for provisions relating to investigation and service of complaint by Commission, and hearing thereon before an Administrative Law Judge, except that where amount claimed as damages did not exceed \$5,000, hearing need not be held, and proofs could be supplied by deposition or verified statements of fact.

Subsec. (c). Pub. L. 97-444, § 231(3), (4), redesignated subsec. (d) as (c). Former subsec. (c), which provided that after opportunity for hearing on complaints where the damages claimed exceeded the sum of \$5,000 had been provided or waived and on complaints where damages claimed did not exceed the sum of \$5,000 not requiring hearing as provided herein, Commission would determine whether or not the respondent had violated any provision of this chapter or any rule, regulation, or order thereunder, was struck out.

Subsec. (d). Pub. L. 97-444, § 231(4), (5), redesignated subsec. (f) as (d) and substituted “subsection (e)” for “subsection (g)”. Former subsec. (d) was redesignated (c).

Subsec. (e). Pub. L. 97-444, § 231(3), (4), redesignated subsec. (g) as (e). Former subsec. (e), which provided that if, after a hearing on a complaint made by any person under subsection (a) of this section, or without hearing as provided in subsections (b) and (c) of this section, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Commission determined that the respondent had violated any provision of this chapter, or any rule, regulation, or order thereunder, the Commission would unless the offender had already made reparation to the person complaining, determine the amount of damage, if any, to which such person was entitled as a result of such violation and would make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order, and that if, after the respondent had filed his answer to the complaint, it appeared therein that the respondent had admitted liability for a portion of the amount claimed in the complaint as damages, the Commission under such rules and regulations as it would prescribe, unless the respondent had already made reparation to the person complaining, could issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving

the respondent's liability for the disputed amount for subsequent determination, with the remaining disputed amount to be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Commission with respect to the undisputed sum, was struck out.

Subsec. (f). Pub. L. 97-444, § 231(4), (6), redesignated subsec. (h) as (f), made certain grammatical changes, and inserted provision allowing party against whom a reparation order has been issued to show compliance by payment of the full amount of the order or any agreed settlement thereof.

Subsecs. (g) to (i). Pub. L. 97-444, § 231(4), redesignated subsecs. (g), (h), and (i), as (e), (f), and (g), respectively.

1978—Subsec. (a). Pub. L. 95-405, § 21(1), substituted “who is registered or required to be registered” for “registered”.

Subsecs. (b), (c). Pub. L. 95-405, § 21(2), (3), substituted “\$5,000” for “\$2,500” wherever appearing.

1975—Subsec. (i). Pub. L. 94-16 substituted “fifteen months” for “one year” in two places, and “one year” for “nine months”.

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6m, 25 of this title.

§ 19. Antitrust laws; anticompetitive means

The Commission shall take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this chapter, as well as the policies and purposes of this chapter, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 6(c) or 6c(b) of this title), or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 21 of this title.

(Sept. 21, 1922, ch. 369, § 15, as added Oct. 23, 1974, Pub. L. 93-463, title I, § 107, 88 Stat. 1395; amended Oct. 28, 1992, Pub. L. 102-546, title V, § 502(b), 106 Stat. 3631.)

REFERENCES IN TEXT

The antitrust laws, referred to in text, are classified generally to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

AMENDMENTS

1992—Pub. L. 102-546 substituted “regulation (including any exemption under section 6(c) or 6c(b) of this title)” for “regulation”.

EFFECTIVE DATE

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

§ 20. Market reports

(a) Information

The Commission may conduct regular investigations of the markets for goods, articles,

services, rights, and interests which are the subject of futures contracts, and furnish reports of the findings of these investigations to the public on a regular basis. These market reports shall, where appropriate, include information on the supply, demand, prices, and other conditions in the United States and other countries with respect to such goods, articles, services, rights, interests, and information respecting the futures markets.

(b) Avoidance of duplication

The Commission shall cooperate with the Department of Agriculture and any other Department or Federal agency which makes market investigations to avoid unnecessary duplication of information-gathering activities.

(c) Furnishing of information; confidentiality

The Department of Agriculture and any other Department or Federal agency which has market information sought by the Commission shall furnish it to the Commission upon the request of any authorized employee of the Commission. The Commission shall abide by any rules of confidentiality applying to such information.

(d) Disclosure of business transactions, market positions, trade secrets, or names of customers

The Commission shall not disclose in such reports data and information which would separately disclose the business transactions or market positions of any person and trade secrets or names of customers except as provided in section 12 of this title.

(Sept. 21, 1922, ch. 369, § 16, as added Oct. 23, 1974, Pub. L. 93-463, title IV, § 414, 88 Stat. 1414; amended Jan. 11, 1983, Pub. L. 97-444, title II, § 232, 96 Stat. 2320.)

AMENDMENTS

1983—Subsec. (d). Pub. L. 97-444 prohibited disclosure of market positions.

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE

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

STUDY OF TRADING IN CATTLE FUTURES CONTRACTS

Pub. L. 99-641, title I, § 111, Nov. 10, 1986, 100 Stat. 3561, provided that:

“(a) STUDY.—The Comptroller General of the United States shall conduct and complete a comprehensive study of the effect of trading in contracts for the future delivery of live cattle on the cash market price of live cattle, with particular emphasis on—

“(1) whether the reaction of the live cattle futures market to the results of the milk production termination program in March 1986, conducted under section 201(d)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(3)), was based on and accurately reflected the then prevailing conditions of supply and demand;

“(2) the effect of the trading in contracts for the future delivery of live cattle on—

“(i) the price relationship between feeder cattle and fed cattle;

“(ii) the price discovery process with respect to live cattle; and

“(iii) price competition within the cattle industry;

“(3) the effect of the use of packer contracts, as a means of obtaining slaughter cattle, on the increase in short hedging in contracts for the future delivery of live cattle and the effect of this increase in short hedging on prices in the futures and cash markets;

“(4) the effect on the ability of the cash markets to accurately reflect prevailing conditions of supply and demand if packer contracts become the prevalent method of marketing fed cattle;

“(5) whether the present delivery system for contracts for the future delivery of live cattle creates any bias (either upward or downward) in the cash price for cattle;

“(6) whether the present delivery system for contracts for the future delivery of live cattle creates price volatility during the delivery month; and

“(7) whether there are advantages or disadvantages to a cash settlement system in lieu of the present delivery system in the case of contracts for the future delivery of live cattle.

“(b) REPORTS.—

“(1) PRELIMINARY REPORT.—Not later than January 15, 1987, the Comptroller General shall submit a preliminary report on the results of the study required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

“(2) FINAL REPORT.—Not later than 1 year after the date of enactment of this Act [Nov. 10, 1986], the Comptroller General shall submit to such committees a detailed final report of the results of the study required under subsection (a).”

POTATO FUTURES STUDY; SUBMISSION OF REPORT TO CONGRESS

Pub. L. 95-405, § 27, Sept. 30, 1978, 92 Stat. 877, required, within one year of Oct. 1, 1978, Secretary of Agriculture to (1) conduct a comprehensive study of marketing of Irish potatoes and of making and trading of contracts of sale for future delivery of Irish potatoes, including rules and regulations pertaining to such trading issued by Commodity Futures Trading Commission or any contract market designated by Commission; and (2) submit to each House of Congress a detailed report on results of such study, and that report should also include any proposals Secretary may have concerning any legislation needed to implement such recommendations and concerning any modifications and rules and regulations needed to improve regulation of such contracts by Commission or any contract market designated by Commission.

§ 21. Registered futures associations

(a) Registration statement

Any association of persons may be registered with the Commission as a registered futures association pursuant to subsection (b) of this section, under the terms and conditions hereinafter provided in this section, by filing with the Commission for review and approval a registration statement in such form as the Commission may prescribe, setting forth the information, and accompanied by the documents, below specified:

(1) Data as to its organization, membership, and rules of procedure, and such other information as the Commission may by rules and regulations require as necessary or appropriate in the public interest; and

(2) Copies of its constitution, charter, or articles of incorporation or association, with all amendments thereto, and of its bylaws, and of any rules or instruments corresponding to the foregoing, whatever the name, hereinafter in

this section collectively referred to as the “rules of the association”.

(b) Standards for registration; Commission findings

An applicant association shall not be registered as a futures association unless the Commission finds, under standards established by the Commission, that—

(1) such association is in the public interest and that it will be able to comply with the provisions of this section and the rules and regulations thereunder and to carry out the purposes of this section;

(2) the rules of the association provide that any person registered under this chapter, contract market, or any other person designated pursuant to the rules of the Commission as eligible for membership may become a member of such association, except such as are excluded pursuant to paragraph (3) or (4) of this subsection, or a rule of the association permitted under this subparagraph. The rules of the association may restrict membership in such association on such specified basis relating to the type of business done by its members, or on such other specified and appropriate basis, as appears to the Commission to be necessary or appropriate in the public interest and to carry out the purpose of this section. Rules adopted by the association may provide that the association may, unless the Commission directs otherwise in cases in which the Commission finds it appropriate in the public interest so to direct, deny admission to, or refuse to continue in such association any person if (i) such person, whether prior or subsequent to becoming registered as such, or (ii) any person associated within the meaning of “associated person” as set forth in section 6k of this title, whether prior or subsequent to becoming so associated, has been and is suspended or expelled from a contract market or has been and is barred or suspended from being associated with all members of such contract market, for violation of any rule of such contract market;

(3) the rules of the association provide that, except with the approval or at the direction of the Commission in cases in which the Commission finds it appropriate in the public interest so to approve or direct, no person shall be admitted to or continued in membership in such association, if such person—

(A) has been and is suspended or expelled from a registered futures association or from a contract market or has been and is barred or suspended from being associated with all members of such association or from being associated with all members of such contract market, for violation of any rule of such association or contract market which prohibits any act or transaction constituting conduct inconsistent with just and equitable principles of trade, or requires any act the omission of which constitutes conduct inconsistent with just and equitable principles of trade;

(B) is subject to an order of the Commission denying, suspending, or revoking his registration pursuant to section 9 of this

title, or expelling or suspending him from membership in a registered futures association or a contract market, or barring or suspending him from being associated with a futures commission merchant;

(C) whether prior or subsequent to becoming a member, by his conduct while associated with a member, was a cause of any suspension, expulsion, or order of the character described in clause (A) or (B) which is in effect with respect to such member, and in entering such a suspension, expulsion, or order, the Commission or any such contract market or association shall have jurisdiction to determine whether or not any person was a cause thereof; or

(D) has associated with him any person who is known, or in the exercise of reasonable care should be known, to him to be a person who would be ineligible for admission to or continuance in membership under clause (A), (B), or (C) of this paragraph;

(4) the rules of the association provide that, except with the approval or at the direction of the Commission in cases in which the Commission finds it appropriate in the public interest so to approve or direct, no person shall become a member and no natural person shall become a person associated with a member, unless such person is qualified to become a member or a person associated with a member in conformity with specified and appropriate standards with respect to the training, experience, and such other qualifications of such person as the association finds necessary or desirable, and in the case of a member, the financial responsibility of such a member. For the purpose of defining such standards and the application thereof, such rules may—

(A) appropriately classify prospective members (taking into account relevant matters, including type or nature of business done) and persons proposed to be associated with members;

(B) specify that all or any portion of such standard shall be applicable to any such class;

(C) require persons in any such class to pass examinations prescribed in accordance with such rules;

(D) provide that persons in any such class other than prospective members and partners, officers and supervisory employees (which latter term may be defined by such rules and as so defined shall include branch managers of members) of members, may be qualified solely on the basis of compliance with specified standards of training and such other qualifications as the association finds appropriate;

(E) provide that applications to become a member or a person associated with a member shall set forth such facts as the association may prescribe as to the training, experience, and other qualifications (including, in the case of an applicant for membership, financial responsibility) of the applicant and that the association shall adopt procedures for verification of qualifications of the applicant, which may require the applicant to be fingerprinted and to submit, or cause to be

submitted, such fingerprints to the Attorney General for identification and appropriate processing. Notwithstanding any other provision of law, such an association may receive from the Attorney General all the results of such identification and processing; and

(F) require any class of persons associated with a member to be registered with the association in accordance with procedures specified by such rules (and any application or document supplemental thereto required by such rules of a person seeking to be registered with such association shall, for the purposes of section 9 of this title, be deemed an application required to be filed under this section);

(5) the rules of the association assure a fair representation of its members in the adoption of any rule of the association or amendment thereto, the selection of its officers and directors, and in all other phases of the administration of its affairs;

(6) the rules of the association provide for the equitable allocation of dues among its members, to defray reasonable expenses of administration;

(7) the rules of the association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, in general, to protect the public interest, and to remove impediments to and perfect the mechanism of free and open futures trading;

(8) the rules of the association provide that its members and persons associated with its members shall be appropriately disciplined, by expulsion, suspension, fine, censure, or being suspended or barred from being associated with all members, or any other fitting penalty, for any violation of its rules;

(9) the rules of the association provide a fair and orderly procedure with respect to the disciplining of members and persons associated with members and the denial of membership to any person seeking membership therein or the barring of any person from being associated with a member. In any proceeding to determine whether any member or other person shall be disciplined, such rules shall require that specific charges be brought; that such member or person shall be notified of, and be given an opportunity to defend against, such charges; that a record shall be kept; and that the determination shall include—

(A) a statement setting forth any act or practice in which such member or other person may be found to have engaged, or which such member or other person may be found to have omitted;

(B) a statement setting forth the specific rule or rules of the association of which any such act or practice, or omission to act, is deemed to be in violation;

(C) a statement whether the acts or practices prohibited by such rule or rules, or the omission of any act required thereby, are deemed to constitute conduct inconsistent with just and equitable principles of trade; and

(D) a statement setting forth the penalty imposed;¹

In any proceeding to determine whether a person shall be denied membership or whether any person shall be barred from being associated with a member, such rules shall provide that the person shall be notified of, and be given an opportunity to be heard upon, the specific grounds for denial or bar which are under consideration; that a record shall be kept; and that the determination shall set forth the specific grounds upon which the denial or bar is based;

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

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

(ii) where the violation is willful and intentional, for payment to the customer of punitive or exemplary damages, in addition to losses proximately caused by the violation, in an amount equal to no more than two times the amount of such losses. If punitive or exemplary damages are awarded against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of such order is held to be responsible under sections 2, 2a, and 4 of this title for the floor broker's violation, such futures commission merchant may be required to satisfy the award of punitive or exemplary damages if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation; and²

(11) such association provides for meaningful representation on the governing board of such association of a diversity of membership interests and provides that no less than 20 percent of the regular voting members of such board be comprised of qualified nonmembers or persons who are not regulated by such association.³

¹ So in original. The semicolon probably should be a period.

² So in original. The word "and" probably should not appear.

³ So in original. The period probably should be a semicolon.

(12)(A)⁴ such association provides on all major disciplinary committees for a diversity of membership sufficient to ensure fairness and to prevent special treatment or preference for any person in the conduct of disciplinary proceedings and the assessment of penalties.⁵

(13) A⁶ major disciplinary committee hearing a disciplinary matter shall include—

(A) qualified persons representing segments of the association membership other than that of the subject of the proceeding; and

(B) where appropriate to carry out the purposes of this paragraph, qualified persons who are not members of the association.

(c) Suspension of registration

The Commission may, after notice and opportunity for hearing, suspend the registration of any futures association if it finds that the rules thereof do not conform to the requirements of the Commission, and any such suspension shall remain in effect until the Commission issues an order determining that such rules have been modified to conform with such requirements.

(d) Fees and charges

In addition to the fees and charges authorized by section 12a(1) of this title, each person registered under this chapter, who is not a member of a futures association registered pursuant to this section, shall pay to the Commission such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed by the Commission because such person is not a member of a registered futures association. The Commission shall establish such additional fees and charges by rules and regulations.

(e) Registered persons not members of registered associations

Any person registered under this chapter, who is not a member of a futures association registered pursuant to this section, in addition to the other requirements and obligations of this chapter and the regulations thereunder shall be subject to such other rules and regulations as the Commission may find necessary to protect the public interest and promote just and equitable principles of trade.

(f) Denial of registration

Upon filing of an application for registration pursuant to subsection (a) of this section, the Commission may by order grant such registration if the requirements of this section are satisfied. If, after appropriate notice and opportunity for hearing, it appears to the Commission that any requirement of this section is not satisfied, the Commission shall by order deny such registration.

(g) Withdrawal from registration; notice of withdrawal

A registered futures association may, upon such reasonable notice as the Commission may deem necessary in the public interest, withdraw from registration by filing with the Commission

a written notice of withdrawal in such form as the Commission may by rules and regulations prescribe.

(h) Commission review of disciplinary actions taken by registered futures associations

(1) If any registered futures association takes any final disciplinary action against a member of the association or a person associated with a member, denies admission to any person seeking membership therein, or bars any person from being associated with a member, the association promptly shall give notice thereof to such member or person and file notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule or regulation, may prescribe as necessary or appropriate to carry out the purposes of this chapter.

(2) Any action with respect to which a registered futures association is required by paragraph (1) to file notice shall be subject to review by the Commission on its motion, or on application by any person aggrieved by the action. Such application shall be filed within 30 days after the date such notice is filed with the Commission and received by the aggrieved person, or within such longer period as the Commission may determine.

(3)(A) Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action unless the Commission otherwise orders, summarily or after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments).

(B) The Commission shall establish procedures for expedited consideration and determination of the question of a stay.

(i) Notice; hearing; findings; cancellation, reduction, or remission of penalties; review by court of appeals

(1) In a proceeding to review a final disciplinary action taken by a registered futures association against a member thereof or a person associated with a member, after appropriate notice and opportunity for a hearing (which hearing may consist solely of consideration of the record before the association and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the sanction imposed by the association)—

(A) if the Commission finds that—

(i) the member or person associated with a member has engaged in the acts or practices, or has omitted the acts, that the association has found the member or person to have engaged in or omitted;

(ii) the acts or practices, or omissions to act, are in violation of the rules of the association specified in the determination of the association; and

(iii) such rules are, and were applied in a manner, consistent with the purposes of this chapter,

the Commission, by order, shall so declare and, as appropriate, affirm the sanction imposed by the association, modify the sanction

⁴ So in original. No subpar. (B) has been enacted.

⁵ So in original. The period probably should be “; and”.

⁶ So in original. Probably should not be capitalized.

in accordance with paragraph (2), or remand the case to the association for further proceedings; or

(B) if the Commission does not make any such finding, the Commission, by order, shall set aside the sanction imposed by the association and, if appropriate, remand the case to the association for further proceedings.

(2) If, after a proceeding under paragraph (1), the Commission finds that any penalty imposed on a member or person associated with a member is excessive or oppressive, having due regard for the public interest, the Commission, by order, shall cancel, reduce, or require the remission of the penalty.

(3) In a proceeding to review the denial of membership in a registered futures association or the barring of any person from being associated with a member, after appropriate notice and opportunity for a hearing (which hearing may consist solely of consideration of the record before the association and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the action of the association)—

(A) if the Commission finds that—

(i) the specific grounds on which the denial or bar is based exist in fact;

(ii) the denial or bar is in accordance with the rules of the association; and

(iii) such rules are, and were applied in a manner, consistent with the purposes of this chapter,

the Commission, by order, shall so declare and, as appropriate, affirm or modify the action of the association, or remand the case to the association for further proceedings; or

(B) if the Commission does not make any such finding, the Commission, by order, shall set aside the action of the association and require the association to admit the applicant to membership or permit the person to be associated with a member, or, as appropriate, remand the case to the association for further proceedings.

(4) Any person aggrieved by a final order of the Commission entered under this subsection may file a petition for review with a United States court of appeals in the same manner as provided in section 9 of this title.

(j) Changes or additions to association rules

Every registered futures association shall file with the Commission in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, copies of any changes in or additions to the rules of the association, and such other information and documents as the Commission may require to keep current or to supplement the registration statement and documents filed pursuant to subsection (a) of this section. A registered futures association shall submit to the Commission any change in or addition to its rules and may make such rules effective ten days after receipt of such submission by the Commission unless, within the ten-day period, the registered futures association requests review and approval thereof by the Commission or the Commission notifies such reg-

istered futures association in writing of its determination to review such rules for approval. The Commission shall approve such rules if such rules are determined by the Commission to be consistent with the requirements of this section and not otherwise in violation of this chapter or the regulations issued pursuant to this chapter, and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be inconsistent with the requirements of this section or in violation of this chapter or the regulations issued pursuant to this chapter. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period of time as the registered futures association may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the registered futures association may agree to, such rule may be made effective by the registered futures association until such time as the Commission disapproves such rule in accordance with this subsection.

(k) Abrogation of association rules; requests to associations by Commission to alter or supplement rules

(1) The Commission is authorized by order to abrogate any rule of a registered futures association, if after appropriate notice and opportunity for hearing, it appears to the Commission that such abrogation is necessary or appropriate to assure fair dealing by the members of such association, to assure a fair representation of its members in the administration of its affairs or effectuate the purposes of this section.

(2) The Commission may in writing request any registered futures association to adopt any specified alteration or supplement to its rules with respect to any of the matters hereinafter enumerated. If such association fails to adopt such alteration or supplement within a reasonable time, the Commission is authorized by order to alter or supplement the rules of such association in the manner theretofore requested, or with such modifications of such alteration or supplement as it deems necessary if, after appropriate notice and opportunity for hearing, it appears to the Commission that such alteration or supplement is necessary or appropriate in the public interest or to effectuate the purposes of this section, with respect to—

(A) the basis for, and procedure in connection with, the denial of membership or the barring from being associated with a member or the disciplining of members or persons associated with members, or the qualifications required for members or natural persons associated with members or any class thereof;

(B) the method for adoption of any change in or addition to the rules of the association;

(C) the method of choosing officers and directors.

(l) Suspension and revocation of registration; expulsion of members; removal of association officers or directors

The Commission is authorized, if such action appears to it to be necessary or appropriate in

the public interest or to carry out the purposes of this section—

(1) after appropriate notice and opportunity for hearing, by order to suspend for a period not exceeding twelve months or to revoke the registration of a registered futures association, if the Commission finds that such association has violated any provisions of this chapter or any rule or regulation thereunder, or has failed to enforce compliance with its own rules, or has engaged in any other activity tending to defeat the purposes of this chapter;

(2) after appropriate notice and opportunity for hearing, by order to suspend for a period not exceeding twelve months or to expel from a registered futures association any member thereof, or to suspend for a period not exceeding twelve months or to bar any person from being associated with a member thereof, if the Commission finds that such member or person—

(A) has violated any provision of this chapter or any rule or regulation thereunder, or has effected any transaction for any other person who, he had reason to believe, was violating with respect to such transaction any provision of this chapter or any rule or regulation thereunder; or

(B) has willfully violated any provision of this chapter, or of any rule, regulation, or order thereunder, or has effected any transaction for any other person who, he had reason to believe, was willfully violating with respect to such transaction any provision of this chapter or rule, regulation, or order; and

(3) after appropriate notice and opportunity for hearing, by order to remove from office any officer or director of a registered futures association who, the Commission finds, has willfully failed to enforce the rules of the association, or has willfully abused his authority.

(m) Rules requiring membership in associations

Notwithstanding any other provision of law, the Commission may approve rules of futures associations that, directly or indirectly, require persons eligible for membership in such associations to become members of at least one such association, upon a determination by the Commission that such rules are necessary or appropriate to achieve the purposes and objectives of this chapter.

(n) Reports to Congress

The Commission shall include in its annual reports to Congress information concerning any futures associations registered pursuant to this section and the effectiveness of such associations in regulating the practices of the members.

(o) Delegation to futures associations of registrative functions; discretionary review by Commission; judicial appeal

(1) The Commission may require any futures association registered pursuant to this section to perform any portion of the registration functions under this chapter with respect to each member of the association other than a contract market and with respect to each associated per-

son of such member, in accordance with rules, notwithstanding any other provision of law, adopted by such futures association and submitted to the Commission pursuant to subsection (j) of this section, and subject to the provisions of this chapter applicable to registrations granted by the Commission.

(2) In performing any Commission registration function authorized by the Commission under section 12a(10) of this title, this section, or any other applicable provisions of this chapter, a futures association may issue orders (A) to refuse to register any person, (B) to register conditionally any person, (C) to suspend the registration of any person, (D) to place restrictions on the registration of any person, or (E) to revoke the registration of any person. If such an order is the final decision of the futures association, any person against whom the order has been issued may petition the Commission to review the decision. The Commission may on its own initiative or upon petition decline review or grant review and affirm, set aside, or modify such an order of the futures association; and the findings of the futures association as to the facts, if supported by the weight of the evidence, shall be conclusive. Unless the Commission grants review under this section of an order concerning registration issued by a futures association, the order of the futures association shall be considered to be an order issued by the Commission.

(3) Nothing in this section shall affect the Commission's authority to review the granting of a registration application by a registered futures association that is performing any Commission registration function authorized by the Commission under section 12a(10) of this title, this section, or any other applicable provision of this chapter.

(4) If a person against whom a futures association has issued a registration order under this subsection petitions the Commission to review that order and the Commission declines to take review, such person may file a petition for review with a United States court of appeals, in accordance with section 9 of this title.

(p) Establishment of rules for futures associations; approval by Commission

Notwithstanding any other provision of this section, each futures association registered under this section on January 11, 1983, shall adopt and submit for Commission approval not later than ninety days after such date, and each futures association that applies for registration after such date shall adopt and include with its application for registration, rules of the association that require the association to—

(1) establish training standards and proficiency testing for persons involved in the solicitation of transactions subject to the provisions of this chapter, supervisors of such persons, and all persons for which it has registration responsibilities, and a program to audit and enforce compliance with such standards;

(2) establish minimum capital, segregation, and other financial requirements applicable to its members for which such requirements are imposed by the Commission and implement a program to audit and enforce compliance with such requirements, except that such require-

ments may not be less stringent than those imposed on such firms by this chapter or by Commission regulation;

(3) establish minimum standards governing the sales practices of its members and persons associated therewith for transactions subject to the provisions of this chapter; and

(4) establish special supervisory guidelines to protect the public interest relating to the solicitation by telephone of new futures or options accounts and make such guidelines applicable to those members determined to require such guidelines in accordance with standards established by the Commission consistent with this chapter. Such guidelines may include a requirement that, with respect to a customer with no previous futures or commodity options trading experience, the member may not enter an order for the account of such customer for a period of three days following opening of the account and receipt of a signed acknowledgment by the customer of receipt of a risk disclosure statement.

(q) ⁷ Major disciplinary rule violations

(1) The Commission shall issue regulations requiring each registered futures association to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such registered futures association.

(2) The regulations issued by the Commission pursuant to this subsection shall prohibit, for a period of time to be determined by the Commission, any member of a registered futures association who is found to have committed any major violation from service on the governing board of any registered futures association or contract market, or on any disciplinary committee thereof.

(q) ⁷ Program for implementation of rules

Each futures association registered under this section shall develop a comprehensive program that fully implements the rules approved by the Commission under this section as soon as practicable but not later than September 30, 1985, in the case of any futures association registered on January 11, 1983, and not later than two and one-half years after the date of registration in the case of any other futures association registered under this section.

(Sept. 21, 1922, ch. 369, §17, as added Oct. 23, 1974, Pub. L. 93-463, title III, §301, 88 Stat. 1406; amended Sept. 30, 1978, Pub. L. 95-405, §22, 92 Stat. 876; Jan. 11, 1983, Pub. L. 97-444, title II, §§217(b), 233, 96 Stat. 2307, 2320; Nov. 10, 1986, Pub. L. 99-641, title I, §§107, 108, 110(6), (7), 100 Stat. 3558, 3559, 3561; Oct. 28, 1992, Pub. L. 102-546, title II, §§204(a), 206(b), 209(b)(8), 222(c), 228, title IV, §402(12), 106 Stat. 3600, 3602, 3607, 3616, 3619, 3625.)

REFERENCES IN TEXT

Section 9 of this title, referred to in subsecs. (b)(3)(B), (4)(F), (i)(4), and (o)(4), was in the original reference to section 6(c) of this Act, meaning section 6(c) of act Sept. 21, 1922, ch. 369, which is classified to sections 9 and 15 of this title. See Codification note set out under section 8 of this title.

⁷Two subsecs. (q) have been enacted.

AMENDMENTS

1992—Subsec. (a)(1), (2). Pub. L. 102-546, §402(12)(A), realigned margins.

Subsec. (b)(3). Pub. L. 102-546, §§206(b)(1)(A), (B), 209(b)(8)(A)(i), struck out “or” at end of subpar. (A), in subpar. (B) made technical amendment to reference to section 9 of this title to reflect change in reference to corresponding section of original act and struck out “or” at end, and in subpar. (D) substituted a semicolon for period at end.

Subsec. (b)(4). Pub. L. 102-546, §§206(b)(1)(B), (C), 209(b)(8)(A)(ii), substituted a semicolon for period at end of subpars. (A) to (D), in subpar. (E) substituted “; and” for period at end, and in subpar. (F) made technical amendment to reference to section 9 of this title to reflect change in reference to corresponding section of original act and substituted a semicolon for period at end.

Subsec. (b)(5) to (9). Pub. L. 102-546, §206(b)(1)(B), (C), substituted a semicolon for period at end of pars. (5) to (9) and subpars. (A), (B), and (D) of par. (9) and in par. (9)(C) substituted “; and” for period at end.

Subsec. (b)(10). Pub. L. 102-546, §§206(b)(1)(C), 222(c), substituted “(A)” for “(i)” and “voluntary, (B)” for “voluntary and (ii)”, inserted “, and” and subpar. (C) after “association”, and substituted “; and” for period at end.

Subsec. (b)(11) to (13). Pub. L. 102-546, §206(b)(1)(D), added pars. (11) to (13).

Subsec. (i)(4). Pub. L. 102-546, §228, which directed that “(other than a registered futures association),” be struck out, was executed by striking “(other than a registered futures association)” after “Any person” to reflect the probable intent of Congress.

Pub. L. 102-546, §209(b)(8)(B), made technical amendment to reference to section 9 of this title to reflect change in reference to corresponding section of original act.

Subsec. (l)(2)(B). Pub. L. 102-546, §402(12)(B), made technical amendment to reference to this chapter appearing after “violated any provision of” to reflect change in reference to corresponding provision of original act and substituted “; and” for period at end.

Subsec. (o)(4). Pub. L. 102-546, §209(b)(8)(C), made technical amendment to reference to section 9 of this title to reflect change in reference to corresponding section of original act.

Subsec. (p)(4). Pub. L. 102-546, §204(a), added par. (4).

Subsec. (q). Pub. L. 102-546, §206(b)(2), added subsec. (q) relating to major disciplinary rules violations.

1986—Subsec. (b)(2). Pub. L. 99-641, §110(6), substituted “within” for “with in” before “the meaning”.

Subsec. (h). Pub. L. 99-641, §107, amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “If any registered futures association takes any disciplinary action against any member thereof or any person associated with such a member or denies admission to any person seeking membership therein, or bars any person from being associated with a member, such action shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby filed within thirty days after such action has been taken or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall operate as a stay of such action until an order is issued upon such review pursuant to subsection (i) of this section unless the Commission otherwise orders, after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of affidavits and oral arguments).”

Subsec. (i). Pub. L. 99-641, §107, amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows:

“(1) In a proceeding to review disciplinary action taken by a registered futures association against a member thereof or a person associated with a member, if the Commission, after appropriate notice and oppor-

tunity for hearing, upon consideration of the record before the association and such other evidence as it may deem relevant—

“(A) finds that such member or person has engaged in such acts or practices, or has omitted such act, as the association has found him to have engaged in or omitted, and

“(B) determines that such acts or practices, or omission to act, are in violation of such rules of the association as have been designated in the determination of the association, the Commission shall by order dismiss the proceeding, unless it appears to the Commission that such action should be modified in accordance with paragraph (2) of this subsection. The Commission shall likewise determine whether the acts or practices prohibited, or the omission of any act required, by any such rule constitute conduct inconsistent with just and equitable principles of trade, and shall so declare. If it appears to the Commission that the evidence does not warrant the finding required in clause (A), or if the Commission determines that such acts or practices as are found to have been engaged in are not prohibited by the designated rule or rules of the association, or that such act as is found to have been omitted is not required by such designated rule or rules, the Commission shall by order set aside the action of the association.

“(2) If, after appropriate notice and opportunity for hearing, the Commission finds that any penalty imposed upon a member or person associated with a member is excessive or oppressive, having due regard to the public interest, the Commission shall by order cancel, reduce, or require the remission of such penalty.

“(3) In any proceeding to review the denial of membership in a registered futures association or the barring of any person from being associated with a member, if the Commission, after appropriate notice and hearing, and upon consideration of the record before the association and such other evidence as it may deem relevant, determines that the specific grounds on which such denial or bar is based exist in fact and are valid under this section, the Commission shall by order dismiss the proceeding; otherwise, the Commission shall by order set aside the action of the association and require it to admit the applicant to membership therein, or to permit such person to be associated with a member.”

Subsec. (j). Pub. L. 99-641, §108, struck out sentence which read as follows: “The Commission shall approve such rules within thirty days of their receipt if Commission approval is requested under this subsection or within thirty days after the Commission determines to review for approval any other rules unless the Commission notifies the registered futures association of its inability to complete such approval or review within such period of time.”

Subsec. (k)(1). Pub. L. 99-641, §110(7), substituted “section” for “title”.

1983—Subsec. (b)(4)(E). Pub. L. 97-444, §233(1), inserted “, which may require the applicant to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing. Notwithstanding any other provision of law, such an association may receive from the Attorney General all the results of such identification and processing” after “adopt procedures for verification of qualifications of the applicant”.

Subsec. (b)(10). Pub. L. 97-444, §217(b), required association rules to provide for “expeditious” procedure, redesignated cl. (iv) as (ii) and substituted “‘customer’ as used in this paragraph shall not include another member of the association” for “‘customer’ as used in this subsection shall not include a futures commission merchant or a floor broker”, and struck out clauses “(ii) the procedure shall not be applicable to any claim in excess of \$15,000, (iii) the procedure shall not result in any compulsory payment except as agreed upon between the parties.”

Subsec. (d). Pub. L. 97-444, §233(2), substituted “section 12a(1) of this title” for “section 12a(4) of this title”.

Subsec. (h). Pub. L. 97-444, §233(3), substituted “subsection (i) of this section” for “subsection (k) of this section”.

Subsec. (j). Pub. L. 97-444, §233(4), substituted “A registered futures association shall submit to the Commission any change in or addition to its rules and may make such rules effective ten days after receipt of such submission by the Commission unless, within the ten-day period, the registered futures association requests review and approval thereof by the Commission or the Commission notifies such registered futures association in writing of its determination to review such rules for approval. The Commission shall approve such rules within thirty days of their receipt if Commission approval is requested under this subsection or within thirty days after the Commission determines to review for approval any other rules unless the Commission notifies the registered futures association of its inability to complete such approval or review within such period of time. The Commission shall approve such rules if such rules are determined by the Commission to be consistent with the requirements of this section and not otherwise in violation of this chapter or the regulations issued pursuant to this chapter, and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be inconsistent with the requirements of this section or in violation of this chapter or the regulations issued pursuant to this chapter. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period of time as the registered futures association may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the registered futures association may agree to, such rule may be made effective by the registered futures association until such time as the Commission disapproves such rule in accordance with this subsection” for “Any change in or addition to the rules of a registered futures association shall be submitted to the Commission for approval and shall take effect upon the thirtieth day after such approval by the Commission, or upon such earlier date as the Commission may determine, unless the Commission shall enter an order disapproving such change or addition; and the Commission shall enter such an order unless such change or addition appears to the Commission to be consistent with the requirements of this section and the provisions of this chapter”.

Subsecs. (o) to (q). Pub. L. 97-444, §233(5), added subsecs. (o), (p), and (q).

1978—Subsec. (b)(3)(B). Pub. L. 95-405, §22(1), struck out “(7 U.S.C. 9)” after “section 9 of this title”.

Subsec. (b)(10). Pub. L. 95-405, §22(2), substituted “\$15,000” for “\$5,000”.

Subsec. (l)(1), (2)(A). Pub. L. 95-405, §22(3), substituted “chapter” for “section” wherever appearing.

Subsecs. (m), (n). Pub. L. 95-405, §22(4), added subsec. (m) and redesignated former subsec. (m) as (n).

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE

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

IMPLEMENTATION

Section 204(b) of Pub. L. 102-546 provided that: “The guidelines required under section 17(p)(4) of the Com-

modity Exchange Act [7 U.S.C. 21(p)(4)] (as added by subsection (a) of this section) shall be submitted by a futures association registered with the Commodity Futures Trading Commission on the date of enactment of this Act [Oct. 28, 1992] to the Commission for the approval of the Commission not later than one hundred and eighty days after the date of enactment of this Act."

STUDY ON COMPUTERIZED FUTURES TRADING

Pub. L. 102-546, title II, §220(b), (c), Oct. 28, 1992, 106 Stat. 3614, provided that:

"(b) STUDY.—The Commodity Futures Trading Commission shall conduct a study to assess—

"(1) the progress made under initiatives to conduct trading in futures and options subject to the jurisdiction of the Commission under the Commodity Exchange Act [7 U.S.C. 1 et seq.] through systems of computers or by other electronic means; and

"(2) whether the experience with such systems of trading indicates that they may be useful or effective to enhance access to the futures and options markets by potential market participants, improve the ability of the Commission to audit the activities of the futures and options markets, reduce the opportunity for trading abuses, and otherwise be in the public interest or raise other related issues.

"(c) REPORT.—Not later than two years after the date of enactment of this Act [Oct. 28, 1992], the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study conducted under subsection (a), together with any appropriate recommendations."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6p, 12a, 16a, 19, 25 of this title; title 15 section 78c.

§ 22. Research and information programs; reports to Congress

(a) The Commission shall establish and maintain, as part of its ongoing operations, research and information programs to (1) determine the feasibility of trading by computer, and the expanded use of modern information system technology, electronic data processing, and modern communication systems by commodity exchanges, boards of trade, and by the Commission itself for purposes of improving, strengthening, facilitating, or regulating futures trading operations; (2) assist in the development of educational and other informational materials regarding futures trading for dissemination and use among producers, market users, and the general public; and (3) carry out the general purposes of this chapter.

(b) The Commission shall include in its annual reports to Congress plans and findings with respect to implementing this section.

(Sept. 21, 1922, ch. 369, §18, as added Oct. 23, 1974, Pub. L. 93-463, title IV, §416, 88 Stat. 1415.)

EFFECTIVE DATE

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16 of this title.

§ 23. Standardized contracts for certain commodities

(a) Margin accounts or contracts and leverage accounts or contracts prohibited except as authorized

Except as authorized under subsection (b) of this section, no person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

(b) Permission to enter into contracts for delivery of silver or gold bullion, bulk silver or gold coins, or platinum; rules and regulations

(1) Subject to paragraph (2), no person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of silver bullion, gold bullion, bulk silver coins, bulk gold coins, or platinum under a standardized contract described in subsection (a) of this section, contrary to the terms of any rule, regulation, or order that the Commission shall prescribe, which may include terms designed to ensure the financial solvency of the transaction or prevent manipulation or fraud. Such rule, regulation, or order may be made only after notice and opportunity for hearing. The Commission may set different terms and conditions for transactions involving different commodities.

(2) No person may engage in any activity described in paragraph (1) who is not permitted to engage in such activity, by the rules, regulations, and orders of the Commission in effect on November 10, 1986, until the Commission permits such person to engage in such activity in accordance with regulations issued in accordance with subsection (c)(2) of this section.

(c) Survey of persons interested in engaging in transactions of silver and gold, etc.; assistance of futures association; regulations

(1)(A) Not later than 2 years after November 10, 1986, the Commission shall—

(i) with the assistance of a futures association registered under this chapter, conduct a survey concerning the persons interested in engaging in the business of offering to enter into, entering into, or confirming the execution of, the transactions described in subsection (b)(1) of this section; and

(ii) transmit a report of the results of the survey to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(B) Notwithstanding any other provision of law, for purposes of completing such report the Commission may direct, by rule, regulation, or order, a futures association registered under this chapter to render such assistance as the Commission shall specify.

(C) Such report shall include the findings and any recommendations of the Commission concerning—

(i) whether such transactions serve an economic purpose;

(ii) the most efficient manner, consistent with the public interest, to permit additional persons to engage in the business of offering to enter into, entering into, and confirming the execution of such transactions; and

(iii) the appropriate regulatory scheme to govern such transactions to ensure the financial solvency of such transactions and to prevent manipulation or fraud.

(2) The report shall also include Commission regulations governing such transactions. The regulations shall provide for permitting additional persons to engage in such transactions. The regulations shall become effective on the expiration of 90 calendar days on which either House of Congress is in session after the date of the transmittal of the report to Congress. The regulations—

(A) may authorize or require, notwithstanding any other provision of law, a futures association registered under this chapter to perform such responsibilities in connection with such transactions as the Commission may specify; and

(B) may require that permission for additional persons to engage in such business be given on a gradual basis, so as not to place an undue burden on the resources of the Commission.

(d) Savings provision

This section shall not affect any rights or obligations arising out of any transaction subject to this section, as in effect before November 10, 1986, that was entered into, or the execution of which was confirmed, before November 10, 1986.

(Sept. 21, 1922, ch. 369, §19, as added Sept. 30, 1978, Pub. L. 95-405, §23, 92 Stat. 876; amended Jan. 11, 1983, Pub. L. 97-444, title II, §234, 96 Stat. 2322; Nov. 10, 1986, Pub. L. 99-641, title I, §109, 100 Stat. 3560.)

PRIOR PROVISIONS

Provisions similar to those appearing in subsec. (b) were formerly contained in section 15a of this title.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-641 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "No person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity specifically set forth in section 2 of this title prior to October 23, 1974, under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract."

Subsec. (b). Pub. L. 99-641 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, under a standardized contract described in subsection (a) of this section, contrary to

any rule, regulation, or order of the Commission designed to ensure the financial solvency of the transaction or prevent manipulation or fraud: *Provided*, That such rule, regulation, or order may be made only after notice and opportunity for hearing."

Subsec. (c). Pub. L. 99-641 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The Commission shall regulate any transactions under a standardized contract described in subsection (a) of this section involving commodities described in subsection (b) of this section or any other commodities (except those commodities described in subsection (a) of this section) under such terms and conditions as the Commission shall prescribe by rule, regulation, or order made only after notice and opportunity for a hearing. The Commission may set different terms and conditions for such transactions involving different commodities. Notwithstanding any other provision of this section, the Commission may prohibit any transaction for the delivery of any commodity under a standardized contract described in subsection (a) of this section that is not permitted by the rules, regulations and orders of the Commission in effect on December 9, 1982, if the Commission determines that any such transactions would be contrary to the public interest."

Subsec. (d). Pub. L. 99-641, in amending section generally, added subsec. (d).

1983—Subsec. (c). Pub. L. 97-444, §234(1), substituted "shall regulate" for "may prohibit or regulate" and authorized Commission prohibition of transactions for delivery of commodities under a standardized contract that was not permitted by the rules, regulations and orders of the Commission in effect on Dec. 9, 1982, where transactions are determined to be contrary to the public interest.

Subsec. (d). Pub. L. 97-444, §234(2), struck out subsec. (d) which provided for regulation of transactions in accordance with applicable provisions of this chapter where Commission determined the transactions under subsecs. (b) and (c) of this section were contracts for future delivery within the meaning of this chapter.

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1a, 2, 12a, 13, 16, 25 of this title; title 11 section 761.

§ 24. Regulations respecting commodity broker debtors; definitions

(a) Notwithstanding title 11, the Commission may provide, with respect to a commodity broker that is a debtor under chapter 7 of title 11, by rule or regulation—

(1) that certain cash, securities, other property, or commodity contracts are to be included in or excluded from customer property or member property;

(2) that certain cash, securities, other property, or commodity contracts are to be specifically identifiable to a particular customer in a specific capacity;

(3) the method by which the business of such commodity broker is to be conducted or liquidated after the date of the filing of the petition under such chapter, including the payment and allocation of margin with respect to commodity contracts not specifically identifi-

able to a particular customer pending their orderly liquidation;

(4) any persons to which customer property and commodity contracts may be transferred under section 766 of title 11; and

(5) how the net equity of a customer is to be determined.

(b) As used in this section, the terms “commodity broker”, “commodity contract”, “customer”, “customer property”, “member property”, “net equity”, and “security” have the meanings assigned such terms for the purposes of subchapter IV of chapter 7 of title 11.

(Sept. 21, 1922, ch. 369, §20, formerly §19, as added Nov. 6, 1978, Pub. L. 95-598, title III, §302, 92 Stat. 2673; renumbered and amended July 27, 1982, Pub. L. 97-222, §20, 96 Stat. 241.)

AMENDMENTS

1982—Subsec. (a)(3). Pub. L. 97-222, §20(b), inserted “, including the payment and allocation of margin with respect to commodity contracts not specifically identifiable to a particular customer pending their orderly liquidation”.

EFFECTIVE DATE

Section effective Nov. 6, 1978, see section 402(d) of Pub. L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy.

§ 25. Private rights of action

(a) Actual damages; actionable transactions; exclusive remedy

(1) Any person (other than a contract market, clearing organization of a contract market, licensed board of trade, or registered futures association) who violates this chapter or who willfully aids, abets, counsels, induces, or procures the commission of a violation of this chapter shall be liable for actual damages resulting from one or more of the transactions referred to in subparagraphs (A) through (D) of this paragraph and caused by such violation to any other person—

(A) who received trading advice from such person for a fee;

(B) who made through such person any contract of sale of any commodity for future delivery (or option on such contract or any commodity); or who deposited with or paid to such person money, securities, or property (or incurred debt in lieu thereof) in connection with any order to make such contract;

(C) who purchased from or sold to such person or placed through such person an order for the purchase or sale of—

(i) an option subject to section 6c of this title (other than an option purchased or sold on a contract market or other board of trade);

(ii) a contract subject to section 23 of this title; or

(iii) an interest or participation in a commodity pool; or

(D) who purchased or sold a contract referred to in subparagraph (B) hereof if the violation constitutes a manipulation of the price of any such contract or the price of the commodity underlying such contract.

(2) Except as provided in subsection (b) of this section, the rights of action authorized by this

subsection and by sections 7a(11),¹ 18, and 21(b)(10) of this title shall be the exclusive remedies under this chapter available to any person who sustains loss as a result of any alleged violation of this chapter. Nothing in this subsection shall limit or abridge the rights of the parties to agree in advance of a dispute upon any forum for resolving claims under this section, including arbitration.

(3) In any action arising from a violation in the execution of an order on the floor of a contract market, the person referred to in paragraph (1) shall be liable for—

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

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

(b) Liabilities of organizations and individuals; bad faith requirement; exclusive remedy

(1)(A) A contract market or clearing organization of a contract market that fails to enforce any bylaw, rule, regulation, or resolution that it is required to enforce by section 7a(8)¹ and section 7a(9)¹ of this title, (B) a licensed board of trade that fails to enforce any bylaw, rule, regulation, or resolution that it is required to enforce by the Commission, or (C) any contract market, clearing organization of a contract market, or licensed board of trade that in enforcing any such bylaw, rule, regulation, or resolution violates this chapter or any Commission rule, regulation, or order, shall be liable for actual damages sustained by a person who engaged in any transaction on or subject to the rules of such contract market or licensed board of trade to the extent of such person's actual losses that resulted from such transaction and were caused by such failure to enforce or enforcement of such bylaws, rules, regulations, or resolutions.

(2) A registered futures association that fails to enforce any bylaw or rule that is required under section 21 of this title or in enforcing any such bylaw or rule violates this chapter or any

¹ See References in Text note below.

Commission rule, regulation, or order shall be liable for actual damages sustained by a person that engaged in any transaction specified in subsection (a) of this section to the extent of such person's actual losses that resulted from such transaction and were caused by such failure to enforce or enforcement of such bylaw or rule.

(3) Any individual who, in the capacity as an officer, director, governor, committee member, or employee of a contract market, clearing organization, licensed board of trade, or a registered futures association willfully aids, abets, counsels, induces, or procures any failure by any such entity to enforce (or any violation of the chapter in enforcing) any bylaw, rule, regulation, or resolution referred to in paragraph (1) or (2) of this subsection, shall be liable for actual damages sustained by a person who engaged in any transaction specified in subsection (a) of this section on, or subject to the rules of, such contract market, licensed board of trade or, in the case of an officer, director, governor, committee member, or employee of a registered futures association, any transaction specified in subsection (a) of this section, in either case to the extent of such person's actual losses that resulted from such transaction and were caused by such failure or violation.

(4) A person seeking to enforce liability under this section must establish that the contract market, licensed board of trade, clearing organization, registered futures association, officer, director, governor, committee member, or employee acted in bad faith in failing to take action or in taking such action as was taken, and that such failure or action caused the loss.

(5) The rights of action authorized by this subsection shall be the exclusive remedy under this chapter available to any person who sustains a loss as a result of (A) the alleged failure by a contract market, licensed board of trade, clearing organization, or registered futures association or by any officer, director, governor, committee member, or employee to enforce any bylaw, rule, regulation, or resolution referred to in paragraph (1) or (2) of this subsection, or (B) the taking of action in enforcing any bylaw, rule, regulation, or resolution referred to in this subsection that is alleged to have violated this chapter, or any Commission rule, regulation, or order.

(c) Jurisdiction; statute of limitations; venue; process

The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action shall be brought not later than two years after the date the cause of action arises. Any action brought under subsection (a) of this section may be brought in any judicial district wherein the defendant is found, resides, or transacts business, or in the judicial district wherein any act or transaction constituting the violation occurs. Process in such action may be served in any judicial district of which the defendant is an inhabitant or wherever the defendant may be found.

(d) Dates of application to actions

The provisions of this section shall become effective with respect to causes of action accruing on or after the date of enactment of the Futures

Trading Act of 1982 [January 11, 1983]: *Provided*, That the enactment of the Futures Trading Act of 1982 shall not affect any right of any parties which may exist with respect to causes of action accruing prior to such date.

(Sept. 21, 1922, ch. 369, § 22, as added Jan. 11, 1983, Pub. L. 97-444, title II, § 235, 96 Stat. 2322; amended Oct. 28, 1992, Pub. L. 102-546, title II, §§ 211, 222(d), title IV, § 402(14), 106 Stat. 3607, 3616, 3625.)

REFERENCES IN TEXT

Sections 7a(8), 7a(9), and 7a(11) of this title, referred to in subsecs. (a)(2) and (b)(1)(A), were redesignated sections 7a(a)(8), 7a(a)(9), and 7a(a)(11), respectively, by Pub. L. 102-546, title II, § 201(a)(1), Oct. 28, 1992, 106 Stat. 3595.

The Futures Trading Act of 1982, referred to in subsec. (d), is Pub. L. 97-444, Jan. 11, 1983, 96 Stat. 2294, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title of 1983 Amendment note set out under section 1 of this title and Tables.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102-546, § 402(14)(A), substituted "subparagraphs" for "clauses" in introductory provisions and "subparagraph" for "clause" in subpar. (D).

Subsec. (a)(2). Pub. L. 102-546, § 402(14)(B), made technical amendment to reference to section 21(b)(10) of this title to correct reference to corresponding section of original act.

Subsec. (a)(3). Pub. L. 102-546, § 222(d), added par. (3).

Subsec. (c). Pub. L. 102-546, § 211, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action must be brought within two years after the date the cause of action accrued."

EFFECTIVE DATE

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

§ 26. Repealed. Pub. L. 102-546, title IV, § 402(15), Oct. 28, 1992, 106 Stat. 3625

Section, act Sept. 21, 1922, ch. 369, § 23, as added Jan. 11, 1983, Pub. L. 97-444, title II, § 236, 96 Stat. 2324, provided for special studies to be conducted by Commission, Board of Governors of Federal Reserve System, and Securities and Exchange Commission.

EFFECTIVE DATE

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

CHAPTER 2—COTTON STANDARDS

- Sec. 51. Short title.
- 51a. Extension of classification facilities to cotton growers.
- 51a-1. Contracts with cooperatives furnishing classers; amount and type of payment.
- 51b. Licensing samplers; revocation and suspension of license.
- 52. Use of nonofficial standards prohibited; sales by sample excepted.
- 53. Licensing classifiers; revocation and suspension of license.
- 54. Classification by Department of Agriculture; certification thereof; effect of certificate; regulations for classification.
- 55. Fees and charges for cotton classing and related services; criteria; disposition of monies and samples.

- Sec.
56. Establishment of cotton standards; furnishing copies of established standards sold.
57. Disposition of proceeds of sale of cotton and of copies of standards.
57a. Agreements with cotton associations, etc., in foreign countries to establish cotton standards.
58. General inspection and sampling of cotton.
59. Offenses in relation to cotton standards.
60. Penalties for violations.
61. General regulations, investigations, tests, etc., by Secretary.
61a. Annual review meetings with cotton industry representatives; purposes, etc.
62. Definitions.
63. Liability of principal for act of agent.
64. Appropriation for expenses; appointment by Secretary of officers and agents; compensation.
65. Separability.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 15b, 61a of this title.

§ 51. Short title

This chapter shall be known by the short title of "United States Cotton Standards Act."

(Mar. 4, 1923, ch. 288, § 1, 42 Stat. 1517.)

EFFECTIVE DATE

Section 14 of act Mar. 4, 1923, provided: "That this Act [enacting this chapter] shall become effective on and after Aug. 1, 1923."

§ 51a. Extension of classification facilities to cotton growers

The Secretary of Agriculture is requested to extend to cotton growers facilities for the classification of cotton authorized in this chapter, with such supervision of licensed classifiers as he shall deem necessary under authority of the United States Cotton Futures Act.

(Mar. 4, 1933, ch. 284, § 1, 47 Stat. 1621.)

REFERENCES IN TEXT

The United States Cotton Futures Act, referred to in text, is part A of act Aug. 11, 1916, ch. 313, 39 Stat. 476, as amended, which was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. For complete classification of this Act to the Code prior to its repeal, see Tables.

CODIFICATION

This section was not enacted as part of the United States Cotton Standards Act which comprises this chapter.

§ 51a-1. Contracts with cooperatives furnishing classers; amount and type of payment

On and after July 5, 1952 the Secretary may contract with cooperatives furnishing classers and other facilities for classing cotton and may pay for such services in amount, some part of which may be in kind, not in excess of the value of the samples.

(July 5, 1952, ch. 574, title I, § 101, 66 Stat. 349.)

CODIFICATION

Section was enacted as part of the Department of Agriculture Appropriation Act, 1953, and not as part of the United States Cotton Standards Act which comprises this chapter.

§ 51b. Licensing samplers; revocation and suspension of license

Further to carry out the purposes of this chapter the Secretary of Agriculture is authorized to issue to any qualified person, upon presentation of satisfactory evidence of competency, a license to sample cotton. Any such license may be suspended or revoked by the Secretary of Agriculture whenever he is satisfied that such licensee is incompetent or has knowingly or carelessly sampled cotton improperly, or has violated any provision of this chapter or the regulations thereunder so far as the same may relate to him, or has used his license, or allowed it to be used, for any improper purpose. The Secretary of Agriculture may prescribe by regulation the conditions under which licenses may be issued hereunder, and may require any licensed sampler to give bond for the faithful performance of his duties and for the protection of persons affected thereby and may prescribe the conditions under which cotton shall be sampled by licensed samplers for the purpose of classification by officers of the Department of Agriculture, or by licensed cotton classifiers.

(Mar. 4, 1933, ch. 284, § 2, 47 Stat. 1621.)

CODIFICATION

This section was not enacted as part of the United States Cotton Standards Act which comprises this chapter.

§ 52. Use of nonofficial standards prohibited; sales by sample excepted

It shall be unlawful (a) in or in connection with any transaction or shipment in commerce made after August 1, 1923, or (b) in any publication of a price or quotation determined in or in connection with any transaction or shipment in commerce after August 1, 1923, or (c) in any classification for the purposes of or in connection with a transaction or shipment in commerce after August 1, 1923, for any person to indicate for any cotton a grade or other class which is of or within the official cotton standards of the United States then in effect under this chapter by a name, description, or designation, or any system of names, description, or designation not used in said standards: *Provided*, That nothing herein shall prevent a transaction otherwise lawful by actual sample or on the basis of a private type which is used in good faith and not in evasion of or substitution for said standards.

(Mar. 4, 1923, ch. 288, § 2, 42 Stat. 1517.)

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 60 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60 of this title.

§ 53. Licensing classifiers; revocation and suspension of license

The Secretary of Agriculture may, upon presentation of satisfactory evidence of competency, issue to any person a license to grade or otherwise classify cotton and to certificate the grade or other class thereof in accordance with the official cotton standards of the United States. Any

such license may be suspended or revoked by the Secretary of Agriculture whenever he is satisfied, after reasonable opportunity afforded to the licensee for a hearing, that such licensee is incompetent or has knowingly or carelessly classified cotton improperly, or has violated any provision of this chapter or the regulations thereunder so far as the same may relate to him, or has used his license or allowed it to be used for any improper purpose. Pending investigation the Secretary of Agriculture, whenever he deems necessary, may suspend a license temporarily without a hearing.

(Mar. 4, 1923, ch. 288, §3, 42 Stat. 1517.)

CROSS REFERENCES

Charges for licenses issued to classifiers of cotton under this section, see section 55 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 55 of this title.

§ 54. Classification by Department of Agriculture; certification thereof; effect of certificate; regulations for classification

Any person who has custody of or a financial interest in any cotton may submit the same or samples thereof, drawn in accordance with the regulations of the Secretary of Agriculture, to such officer or officers of the Department of Agriculture, as may be designated for the purpose pursuant to the regulations of the Secretary of Agriculture for a determination of the true classification of such cotton or samples, including the comparison thereof, if requested, with types or other samples submitted for the purpose. The final certificate of the Department of Agriculture showing such determination shall be binding on officers of the United States and shall be accepted in the courts of the United States as prima facie evidence of the true classification or comparison of such cotton or samples when involved in any transaction or shipment in commerce. The Secretary of Agriculture shall fix rules and regulations for submitting samples of cotton for classification providing that all samples shall be numbered so that no one interested in the transaction involved shall be known by any classifier engaged in the classification of such cotton samples.

(Mar. 4, 1923, ch. 288, §4, 42 Stat. 1517.)

CROSS REFERENCES

Charges for determinations made under this section, see section 55 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 55, 58 of this title.

§ 55. Fees and charges for cotton classing and related services; criteria; disposition of moneys and samples

(a) The Secretary of Agriculture shall cause to be collected such fees and charges for licenses issued to classifiers of cotton under section 53 of this title, for determinations made under section 54 of this title, and for the establishment of standards and sale of copies of standards under sections 56, 57, and 57a of this title, as will cover,

as nearly as practicable, and after taking into consideration net proceeds from any sale of samples, the costs incident to providing services and standards under such sections, including administrative and supervisory costs. The Secretary may provide by regulation conditions under which cotton samples submitted or used in the performance of services authorized by this chapter shall become the property of the United States and may be sold with the proceeds credited to the foregoing account: *Provided*, That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Any fees or charges, late payment penalties, or proceeds from the sales of samples collected under this subsection, and any interest earned through the investment of such funds shall be credited to the current appropriation account that incurs the costs of the services provided under this chapter, and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing services and standards under this chapter and section 15b of this title. Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

(b) The price established by the Secretary of Agriculture under the foregoing provisions of this section for practical forms representing the official cotton standards of the United States shall cover, as nearly as practicable, the estimated actual cost to the Department of Agriculture for developing and preparing such practical forms.

(Mar. 4, 1923, ch. 288, §5, 42 Stat. 1518; Aug. 13, 1981, Pub. L. 97-35, title I, §156(a), 95 Stat. 373; Oct. 24, 1988, Pub. L. 100-518, §4, 102 Stat. 2587.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The provisions of that Act relating to management and disposal of government property are classified to chapter 10 (§471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-518 included late payment penalties, proceeds, and interest within amounts to be credited to current appropriation account and remain available until expended, and authorized investment of such funds in certain interest-bearing accounts or debt instruments.

1981—Pub. L. 97-35 designated existing provisions as subsec. (a), substituted provisions requiring Secretary to cause to be collected fees and charges, for provisions authorizing Secretary to cause to be collected charges, and added subsec. (b).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 156(e) of Pub. L. 97-35, set out as an Effective Date note under section 61a of this title.

APPROPRIATION ACCOUNT

Effective July 1, 1935, the appropriation account for expenses provided for in this chapter was abolished by act June 26, 1934, ch. 756, §5, 48 Stat. 1228.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 15b of this title.

§ 56. Establishment of cotton standards; furnishing copies of established standards sold

The Secretary of Agriculture is authorized to establish from time to time standards for the classification of cotton by which its quality or value may be judged or determined for commercial purposes which shall be known as the official cotton standards of the United States. Any such standard or change or replacement thereof shall become effective only on and after a date specified in the order of the Secretary of Agriculture establishing the same, which date shall be not less than one year after the date of such order: *Provided*, That the official cotton standards established, effective August 1, 1923, under the United States Cotton Futures Act shall be at the same time the official cotton standards for the purpose of this chapter unless and until changed or replaced under this chapter. Whenever any standard or change or replacement thereof shall become effective under this chapter, it shall also, when so specified in the order of the Secretary of Agriculture, become effective for the purposes of the United States Cotton Futures Act and supersede any inconsistent standard established under said Act. Whenever the official cotton standards of the United States established under this chapter shall be represented by practical forms the Department of Agriculture shall furnish copies thereof, upon request, to any person, and the cost thereof, as determined by the Secretary of Agriculture, shall be paid by the person making the request. The Secretary of Agriculture may cause such copies to be certified under the seal of the Department of Agriculture and may attach such conditions to the purchase and use thereof, including provision for the inspection, condemnation, and exchange thereof by duly authorized representatives of the Department of Agriculture as he may find to be necessary to the proper application of the official cotton standards of the United States.

(Mar. 4, 1923, ch. 288, § 6(a), formerly § 6, 42 Stat. 1518; renumbered § 6(a), Sept. 21, 1944, ch. 412, § 401(b), 58 Stat. 738.)

REFERENCES IN TEXT

The United States Cotton Futures Act, referred to in text, is part A of act Aug. 11, 1916, ch. 313, 39 Stat. 476, as amended, which was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. For complete classification of this Act to the Code prior to its repeal, see Tables.

CODIFICATION

Section is composed of the first five sentences of subsec. (a) of section 6 of act Mar. 4, 1923, as renumbered by section 401(b), of act Sept. 21, 1944. Last sentence of subsec. (a) of section 6 is classified to section 57 of this title. Subsec. (b) of section 6 is classified to section 57a of this title.

CROSS REFERENCES

Disposition of proceeds of sale of cotton and of copies of standards, see section 57 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 55, 57 of this title.

§ 57. Disposition of proceeds of sale of cotton and of copies of standards

Any moneys received from or in connection with the sale of cotton purchased for the preparation of the copies mentioned in section 56 of this title and condemned as unsuitable for such use or with the sale of such copies may be expended for the purchase of other cotton for such use.

(Mar. 4, 1923, ch. 288, § 6(a), formerly § 6, 42 Stat. 1518; renumbered § 6(a), Sept. 21, 1944, ch. 412, § 401(b), 58 Stat. 738.)

CODIFICATION

Section is composed of the last sentence of subsec. (a) of section 6 of act Mar. 4, 1923, as renumbered by section 401(b) of act Sept. 21, 1944. First five sentences of subsec. (a) of section 6 is classified to section 56 of this title. Subsec. (b) of section 6 is classified to section 57a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 55 of this title.

§ 57a. Agreements with cotton associations, etc., in foreign countries to establish cotton standards

The Secretary of Agriculture is authorized to effectuate agreements with cotton associations, cotton exchanges, and other cotton organizations in foreign countries, for (1) the adoption, use, and observance of universal standards of cotton classification, (2) the arbitration or settlement of disputes with respect thereto, and (3) the preparation, distribution, inspection, and protection of the practical forms or copies thereof under such agreements.

(Mar. 4, 1923, ch. 288, § 6(b), as added Sept. 21, 1944, ch. 412, title IV, § 401(b), 58 Stat. 738.)

CODIFICATION

Section was enacted as subsec. (b) of section 6 of act Mar. 4, 1923, by act Sept. 21, 1944, § 401(b). Subsec. (a) of section 6 is classified to sections 56 and 57 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 55 of this title.

§ 58. General inspection and sampling of cotton

In order to carry out the provisions of this chapter, the Secretary of Agriculture is authorized to cause the inspection, including the sampling, of any cotton involved in any transaction or shipment in commerce, wherever such cotton may be found, or of any cotton with respect to which a determination of the true classification is requested under section 54 of this title.

(Mar. 4, 1923, ch. 288, § 7, 42 Stat. 1518.)

§ 59. Offenses in relation to cotton standards

It shall be unlawful for any person (a) with intent to deceive or defraud, to make, receive, use, or have in his possession any simulate or counterfeit practical form or copy of any standard or part thereof established under this chapter; or (b) without the written authority of the Secretary of Agriculture, to make, alter, tamper with, or in any respect change any practical form or copy of any standard established under

this chapter; or (c) to display or use any such practical form or copy after the Secretary of Agriculture shall have caused it to be condemned. (Mar. 4, 1923, ch. 288, §8, 42 Stat. 1519.)

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 60 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60 of this title.

§ 60. Penalties for violations

(a) Any person who shall knowingly violate any provision of sections 52 or 59 of this title, or (b) any person licensed under this chapter who, for the purposes of or in connection with any transaction or shipment in commerce, shall knowingly classify cotton improperly, or shall knowingly falsify or forge any certificate of classification, or shall accept money or other consideration, either directly or indirectly, for any neglect or improper performance of duty as such licensee, or (c) any person who shall knowingly influence improperly or attempt to influence improperly any person licensed under this chapter in the performance of his duties as such licensee relating to any transaction or shipment in commerce, or (d) any person who shall forcibly assault, resist, impede, or interfere with or influence improperly or attempt to influence improperly any person employed under this chapter in the performance of his duties, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be fined not exceeding \$1,000, or imprisoned not exceeding six months, or both, in the discretion of the court.

(Mar. 4, 1923, ch. 288, §9, 42 Stat. 1519.)

§ 61. General regulations, investigations, tests, etc., by Secretary

For the purposes of this chapter the Secretary of Agriculture shall cause to be promulgated such regulations, may cause such investigations, tests, demonstrations, and publications to be made, including the investigation and determination of some practical method whereby repeated and unnecessary sampling and classification of cotton may be avoided, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, as he shall find to be necessary.

(Mar. 4, 1923, ch. 288, §10, 42 Stat. 1519.)

§ 61a. Annual review meetings with cotton industry representatives; purposes, etc.

The Secretary of Agriculture shall hold annual meetings with representatives of the cotton industry to review (1) activities and operations under the Cotton Standards Act [7 U.S.C. 51 et seq.], and the Cotton Statistics and Estimates Act [7 U.S.C. 471 et seq.], (2) activities and operations relating to cotton under the United States Warehouse Act [7 U.S.C. 241 et seq.], and (3) the effect of such activities and operations on prices received by producers and sales to domestic and foreign users, for the purpose of improv-

ing procedures for financing and administering such activities and operations for the benefit of the industry and the Government. Notwithstanding any other provision of law, the Secretary shall take such action as may be necessary to insure that the universal cotton standards system and the licensing and inspection procedures for cotton warehouses are preserved and that the Government cotton classification system continues to operate so that the United States cotton crop is provided an official quality description.

(Pub. L. 97-35, title I, §156(d), Aug. 13, 1981, 95 Stat. 374.)

REFERENCES IN TEXT

The Cotton Standards Act, referred to in text, probably meaning the United States Cotton Standards Act, is act Mar. 4, 1923, ch. 288, 42 Stat. 1517, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see section 51 of this title and Tables.

The Cotton Statistics and Estimates Act, referred to in text, is act Mar. 3, 1927, ch. 337, 44 Stat. 1372, as amended, which is classified generally to chapter 19 (§471 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 471 of this title and Tables.

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

CODIFICATION

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1981, and not as part of the United States Cotton Standards Act which comprises this chapter.

EFFECTIVE DATE

Section 156(e) of Pub. L. 97-35 provided that: "The provisions of this section [enacting this section, amending sections 15b, 55, and 473a of this title, and enacting provision set out as a note under section 473a of this title] shall become effective October 1, 1981."

§ 62. Definitions

Wherever used in this chapter, (a) the word "person" imports the plural or the singular, as the case demands, and includes an individual, a partnership, a corporation, or two or more persons having a joint or common interest; (b) the word "commerce" means commerce between any State or the District of Columbia and any place outside thereof, or between points within the same State or the District of Columbia but through any place outside thereof, or within the District of Columbia; and (c) the word "cotton" means cotton of any variety produced within the continental United States, including linters.

(Mar. 4, 1923, ch. 288, §11, 42 Stat. 1519.)

CODIFICATION

Section is composed of the first sentence of section 11 of act Mar. 4, 1923. The remainder of section 11 is contained in section 63 of this title.

§ 63. Liability of principal for act of agent

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or

employed by any person, within the scope of his employment or office, shall in every case be deemed also the act, omission, or failure of such person as well as that of such agent, officer, or other person.

(Mar. 4, 1923, ch. 288, §11, 42 Stat. 1519.)

CODIFICATION

Section is composed of the second sentence of section 11 of act Mar. 4, 1923. The first sentence of section 11 is contained in section 62 of this title.

§ 64. Appropriation for expenses; appointment by Secretary of officers and agents; compensation

There are authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for carrying out the provisions of this chapter; and the Secretary of Agriculture is authorized, within the limits of such appropriations, to appoint, remove, and fix the compensations of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere.

(Mar. 4, 1923, ch. 288, §12, 42 Stat. 1519.)

§ 65. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

(Mar. 4, 1923, ch. 288, §13, 42 Stat. 1520.)

CHAPTER 3—GRAIN STANDARDS

Sec.	
71.	Short title.
72, 73.	Omitted.
74.	Congressional findings and declaration of policy.
75.	Definitions.
75a.	Repealed.
75b.	Committee on Grain Quality and Grain Quality Coordinator.
	(a) Establishment of Committee and Coordinator.
	(b) Duties.
	(c) Termination.
76.	Standards and procedures; establishment, amendment, and revocation.
	(a) Authority of Secretary.
	(b) Notice and opportunity for comment; standards regarding cleanliness of grain.
	(c) Grade determining factors related to physical soundness and purity; notice and opportunity for comment.
	(d) Moisture content criterion.
77.	Official inspection and weighing requirements; waiver; supervision by representatives of Secretary.
	(a) Official samples and certificates; waiver; excepted grains.
	(b) Supervision by representatives of Secretary.

Sec.	
	(c) Testing for aflatoxin contamination of corn shipped in foreign commerce.
78.	Use of official grade designations required; false or misleading grade designations for grain shipped out of the United States.
79.	Official inspection.
	(a) Grain required to be officially inspected.
	(b) Inspections made pursuant to request of interested persons.
	(c) Reinspections and appeals; cancellation of superseded certificates; sale of samples.
	(d) Official certificates as evidence.
	(e) Official inspection at export port locations; delegation of authority to State agencies.
	(f) Official inspections at other than export port locations; designation of agencies or persons to conduct official inspections.
	(g) Termination, renewal, amendment, cancellation, and revocation of designations of official agencies.
	(h) Official inspections at locations other than export port locations when designated official agencies are not available.
	(i) Official inspections in Canadian ports.
	(j) Fees; establishment, amount, payment, etc.
79a.	Weighing authority.
	(a) Official weighing in accordance with prescribed regulations.
	(b) Official weighing or supervision of weighing at grain elevators, warehouses, or other storage or handling facilities located other than at export elevators at export port locations.
	(c) Personnel performing official weighing or supervision of weighing at locations at which official inspection is provided.
	(d) Official weighing in Canadian ports.
	(e) Official weighing or supervision of weighing upon request of operators of grain elevators, warehouses, or other storage or handling facilities.
	(f) Demonstrated willingness of operators of grain elevators, warehouses, or other storage or handling facilities to meet equipment and personnel requirements.
	(g) Official certificates as evidence.
	(h) Weighing prohibited when not in accordance with prescribed procedures.
	(i) Unauthorized weighing prohibited.
	(j) Authority under United States Warehouse Act not limited.
	(k) Access to elevators, warehouses, or other storage or handling facilities.
	(l) Fees; establishment, amount, payment, etc.
79b.	Testing of equipment.
	(a) Random and periodic testing at least annually; fees.
	(b) Personnel to conduct testing.
	(c) Use of non-approved equipment prohibited.
79c.	Omitted.
79d.	Limitation on administrative and supervisory costs.
80 to 83.	Omitted.
84.	Licensing of inspectors.
	(a) Authorization.
	(b) Duration of licenses; suspension; reinstatement.

<p>Sec.</p> <p>(c) Examination of applicants; reexaminations.</p> <p>(d) Inspectors performing under contract not deemed Federal employees.</p> <p>(e) Hiring of official inspection personnel and supervisory personnel without regard to laws governing appointments to the competitive service.</p> <p>(f) Periodic rotation of personnel.</p> <p>(g) Recruitment, training, and supervision of personnel; work production standards; exemption for certain personnel.</p> <p>85. Suspension, revocation, and refusal to renew licenses; hearing; grounds; temporary suspension.</p> <p>86. Refusal of inspection and weighing services; civil penalties.</p> <p>(a) Grounds for refusal of services.</p> <p>(b) Persons responsibly connected with a business.</p> <p>(c) Civil penalties.</p> <p>(d) Opportunity for hearing; temporary refusal without hearing pending final determination.</p> <p>(e) Collection and disposition of civil penalties.</p> <p>87. Conflicts of interest.</p> <p>(a) Prohibition with respect to persons licensed or authorized by Secretary to perform official functions.</p> <p>(b) Prohibition with respect to personnel of official or State agencies and business or governmental entities related to such agencies; substantial stock holder; use of official inspection service; authority delegation; report to Congressional committees.</p> <p>(c) Official agencies or State agencies not prevented from engaging in business of weighing grain.</p> <p>87a. Records.</p> <p>(a) Samples of grain.</p> <p>(b) Period of maintenance.</p> <p>(c) Access to records; audits.</p> <p>(d) Maintenance of records by persons or entities receiving official inspection or weighing services; access to records and facilities.</p> <p>87b. Prohibited acts.</p> <p>87c. Criminal penalties.</p> <p>87d. Responsibility for acts of others.</p> <p>87e. General authorities.</p> <p>(a) Authority of Secretary.</p> <p>(b) Investigation of reports or complaints of discrepancies and abuses in official inspection or weighing of grain.</p> <p>(c) Monitoring of United States grain upon its entry into foreign nations.</p> <p>(d) Authority of Office of Investigation of Department of Agriculture.</p> <p>(e) Research program to develop methods of improving accuracy and uniformity in grading grain.</p> <p>(f) Adequate personnel to meet inspection and weighing requirements.</p> <p>(g) Testing of certain weighing equipment.</p> <p>(h) Testing of grain inspection instruments.</p> <p>(i) Additional for fee services.</p> <p>(j) Deposit of fees.</p> <p>(k) Official courtesies.</p> <p>87e-1. Purchase or lease of inspection equipment.</p> <p>87f. Enforcement provisions.</p> <p>(a) Subpena power.</p> <p>(b) Disobedience of subpena.</p> <p>(c) Court order requiring attendance and testimony of witnesses.</p>	<p>Sec.</p> <p>(d) Fees and mileage costs of witnesses.</p> <p>(e) Violation of subpena as misdemeanor.</p> <p>(f), (g) Repealed.</p> <p>(h) District court jurisdiction.</p> <p>87f-1. Registration requirements.</p> <p>(a) General requirement.</p> <p>(b) Required information.</p> <p>(c) Certificate of registration.</p> <p>(d) Suspension or registration of certificate of registration.</p> <p>(e) Fees.</p> <p>87f-2. Reporting requirements.</p> <p>(a) General requirements; annual report to Congressional committees.</p> <p>(b) Notification of Congressional committees of complaints regarding faulty grain deliveries and cancellation of export contracts.</p> <p>(c) Submission to Congressional committees of annual summary of complaints from foreign purchasers and prospective purchasers of grain.</p> <p>87g. Relation to State and local laws; separability.</p> <p>87h. Appropriations.</p> <p>87i. Omitted.</p> <p>87j. Advisory committee.</p> <p>(a) Establishment; number and terms of members.</p> <p>(b) Federal Advisory Committee Act as governing.</p> <p>(c) Clerical assistance and staff personnel.</p> <p>(d) Compensation and travel expenses.</p> <p>(e) Expiration of Secretary's authority.</p> <p>87k. Standardizing commercial inspections.</p> <p>(a) Testing equipment.</p> <p>(b) General inspection procedures.</p> <p>(c) Inspection services and information.</p> <p>(d) Standardized aflatoxin equipment and procedures.</p>
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 420 of this title.

§ 71. Short title

This chapter may be cited as the "United States Grain Standards Act."

(Aug. 11, 1916, ch. 313, pt. B, § 1, 39 Stat. 482; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 761.)

CODIFICATION

This chapter constitutes part B of "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1917, and for other purposes," approved Aug. 11, 1916. Part A of act of Aug. 11, 1916, containing the "United States Cotton Futures Act," was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. Part C of that act contained the "United States Warehouse Act," and is incorporated, as amended, as section 241 et seq. of this title.

Section is comprised of part of section 1 of part B of act Aug. 11, 1916. Other provisions contained in section 1 were classified to former sections 72 and 73 of this title.

AMENDMENTS

1968—Pub. L. 90-487 substituted "may be cited as" for "shall be known by the short title of".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-487 effective 180 days after Aug. 15, 1968, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-156, §1(a), Nov. 24, 1993, 107 Stat. 1525, provided that: "This Act [amending sections 75 to 77, 79 to

79b, 79d, 84 to 87e, 87f, 87f-1, 87h, 87j, and 87k of this title, enacting provisions set out as a note under section 75 of this title, and repealing provisions set out as a note under section 79 of this title] may be cited as the 'United States Grain Standards Act Amendments of 1993'."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-624, title XX, §2001, Nov. 28, 1990, 104 Stat. 3928, provided that: "This title [enacting sections 75b, 87k, 1427-1, 1593a, and 1622a of this title, amending sections 74, 76, 77, 87b, 1423, and 1445e of this title, and enacting provisions set out as a note under section 76 of this title] may be cited as the 'Grain Quality Incentives Act of 1990'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-518, §1, Oct. 24, 1988, 102 Stat. 2584, provided that: "This Act [enacting sections 79d and 87j of this title, amending sections 55, 79, 79a, and 87h of this title, and enacting provisions set out as notes under sections 79 and 1421 of this title] may be cited as the 'United States Grain Standards Act Amendments of 1988'."

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-641, title III, §301, Nov. 10, 1986, 100 Stat. 3564, provided that: "This title [amending sections 74 and 87b of this title and enacting provisions set out as notes under sections 76 and 87b of this title] may be cited as the 'Grain Quality Improvement Act of 1986'."

SHORT TITLE OF 1976 AMENDMENT

Section 1 of Pub. L. 94-582, Oct. 21, 1976, 90 Stat. 2867, provided: "That this Act [enacting sections 75a, 79a, 79b, 87e-1, 87f-1, and 87f-2 of this title, amending sections 74, 75, 76, 77, 78, 79, 84, 85, 86, 87, 87a, 87b, 87c, 87e, 87f, 87g, and 87h of this title, section 5316 of Title 5, Government Organization and Employees, and section 1114 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as notes under sections 74, 75a, 76, and 79 of this title] may be cited as the 'United States Grain Standards Act of 1976'."

§§ 72, 73. Omitted

CODIFICATION

Sections were omitted in the general reorganization of this chapter by Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 761.

Section 72, act Aug. 11, 1916, ch. 313, pt. B, §1 (part), 39 Stat. 482, defined the words "person" and "in interstate or foreign commerce". See section 75 of this title.

Section 73, act Aug. 11, 1916, ch. 313, pt. B, §1 (part), 39 Stat. 482, made associations, partnerships, and corporations liable for the acts of their agents within the scope of their employment or office. See section 87d of this title.

§ 74. Congressional findings and declaration of policy

(a) Grain is an essential source of the world's total supply of human food and animal feed and is merchandised in interstate and foreign commerce. It is declared to be the policy of the Congress, for the promotion and protection of such commerce in the interests of producers, merchandisers, warehousemen, processors, and consumers of grain, and the general welfare of the people of the United States, to provide for the establishment of official United States standards for grain, to promote the uniform application thereof by official inspection personnel, to provide for an official inspection system for grain, and to regulate the weighing and the certification of the weight of grain shipped in inter-

state or foreign commerce in the manner herein-after provided; with the objectives that grain may be marketed in an orderly and timely manner and that trading in grain may be facilitated. It is hereby found that all grain and other articles and transactions in grain regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce and that regulation thereof as provided in this chapter is necessary to prevent or eliminate burdens on such commerce and to regulate effectively such commerce.

(b) It is also declared to be the policy of Congress—

(1) to promote the marketing of grain of high quality to both domestic and foreign buyers;

(2) that the primary objective of the official United States standards for grain is to certify the quality of grain as accurately as practicable; and

(3) that official United States standards for grain shall—

(A) define uniform and accepted descriptive terms to facilitate trade in grain;

(B) provide information to aid in determining grain storability;

(C) offer users of such standards the best possible information from which to determine end-product yield and quality of grain;

(D) provide the framework necessary for markets to establish grain quality improvement incentives;

(E) reflect the economic value-based characteristics in the end uses of grain; and

(F) accommodate scientific advances in testing and new knowledge concerning factors related to, or highly correlated with, the end use performance of grain.

(Aug. 11, 1916, ch. 313, pt. B, §2, 39 Stat. 482; July 18, 1940, ch. 636, 54 Stat. 765; Aug. 15, 1968, Pub. L. 90-487, §1, 82 Stat. 761; Oct. 21, 1976, Pub. L. 94-582, §2, 90 Stat. 2867; Nov. 10, 1986, Pub. L. 99-641, title III, §302, 100 Stat. 3564; Nov. 28, 1990, Pub. L. 101-624, title XX, §2004, 104 Stat. 3929.)

AMENDMENTS

1990—Subsec. (b)(3)(E), (F). Pub. L. 101-624 added subpars. (E) and (F).

1986—Pub. L. 99-641 designated existing provisions as subsec. (a) and added subsec. (b).

1976—Pub. L. 94-582 expressed the policy of Congress to regulate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce and the finding of Congress of the necessity to regulate grain transactions to prevent or eliminate burdens on commerce and to regulate effectively such interstate or foreign commerce, and provided that the grain be marketed in a timely manner.

1968—Pub. L. 90-487 substituted a declaration of policy by the Congress for provisions authorizing promulgation and establishment of grain standards by Secretary of Agriculture.

1940—Act July 18, 1940, inserted "soybeans," after "flaxseed."

EFFECTIVE DATE OF 1976 AMENDMENT

Section 27 of Pub. L. 94-582, as amended by Pub. L. 95-113, title XVI, §§1602(d), 1605(b), 1607(b), 1608, Sept. 29, 1977, 91 Stat. 1025, 1030, 1031, provided that: "This Act [see Short Title of 1976 Amendment note set out under section 71 of this title] shall become effective thirty days after enactment hereof [Oct. 21, 1976]; and there-

after no State or other agency or person shall provide official inspection or official weighing or supervision of weighing under the United States Grain Standards Act as amended by this Act [this chapter], at an export port location without a delegation of authority or other authorization under such amended Act, and no agency or person shall provide official inspection service or official weighing or supervision of weighing under such amended Act in any other area without a designation or other authorization under such amended Act, except that any agency or person then providing such service in any area may continue to operate in that area without a delegation or designation or other authorization under such Act but shall be subject to all provisions of the United States Grain Standards Act and regulations thereunder in effect immediately prior to the effective date of this Act, until whichever of the following events occurs first:

“(1) a delegation or designation of such agency or person to perform such services is granted or denied by the Administrator of the Federal Grain Inspection Service pursuant to the United States Grain Standards Act, as amended by this Act; or

“(2) such agency or person, or two or more members or employees thereof, have been or are convicted of a violation of any provision of the United States Grain Standards Act in effect immediately prior to the effective date of this Act; or convicted of any offense proscribed by other Federal law involving the handling, weighing, or official inspection of grain: *Provided*, That the Administrator may allow such affected agency or person to continue to operate in that area if the Administrator determines that such continued operations are necessary or desirable in carrying out the requirements of this Act: *Provided further*, That the Administrator shall, within 30 days after making such determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate detailing the factual bases for such determination; or

“(3) with respect to export port locations, the expiration of a period determined by the Administrator of not more than eighteen months following the effective date hereof; or

“(4) with respect to any other area, the expiration of a period as determined by the Administrator of not more than two years following the effective date hereof:

Provided, That the Administrator is authorized and directed to cause official inspection and official weighing of grain pursuant to the provisions of the United States Grain Standards Act, as amended by this Act, to be performed by authorized employees of the United States Department of Agriculture or the Service, to begin at any time immediately thereafter the date of enactment of this Act [Oct. 21, 1976], at those export port locations and export elevators located at export port locations at which the Administrator determines that such performance by such authorized employees is necessary to effectuate the provisions of section 2 of the United States Grain Standards Act, as amended [this section].”

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 86, 87e, 87f-2, 87j of this title.

§ 75. Definitions

When used in this chapter, except where the context requires otherwise—

(a) the term “Secretary” means the Secretary of Agriculture of the United States or delegates of the Secretary;

(b) the term “Department of Agriculture” means the United States Department of Agriculture;

(c) the term “person” means any individual, partnership, corporation, association, or other business entity;

(d) the term “United States” means the States (including Puerto Rico) and the territories and possessions of the United States (including the District of Columbia);

(e) the term “State” means any one of the States (including Puerto Rico) or territories or possessions of the United States (including the District of Columbia);

(f) the term “interstate or foreign commerce” means commerce from any State to or through any other State, or to or through any foreign country;

(g) the term “grain” means corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under section 76 of this title;

(h) the term “export grain” means grain for shipment from the United States to any place outside thereof;

(i) the term “official inspection” means the determination (by original inspection, and when requested, reinspection and appeal inspection) and the certification, by official inspection personnel of the kind, class, quality, or condition of grain, under standards provided for in this chapter, or the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of such grain; or other facts relating to grain under other criteria approved by the Secretary under this chapter (the term “officially inspected” shall be construed accordingly);

(j) the term “official inspection personnel” means persons licensed or otherwise authorized by the Secretary pursuant to section 84 of this title to perform all or specified functions involved in official inspection, official weighing, or supervision of weighing, or in the supervision of official inspection, official weighing or supervision of weighing;

(k) the term “official mark” means any symbol prescribed by regulations of the Secretary to show the official determination of official inspection or official weighing;

(l) the term “official grade designation” means a numerical or sample grade designation, specified in the standards relating to kind, class, quality, and condition of grain, provided for in this chapter;

(m) the term “official agency” means any State or local governmental agency, or any person, designated by the Secretary pursuant to subsection (f) of section 79 of this title for the conduct of official inspection (other than appeal inspection), or subsection (c) of section 79a of this title for the conduct of official weighing or supervision of weighing (other than appeal weighing);

(n) the terms “official certificate” and “official form” mean, respectively, a certificate or other form prescribed by regulations of the Secretary under this chapter;

(o) the term “official sample” means a sample obtained from a lot of grain by, and sub-

mitted for official inspection by, official inspection personnel (the term “official sampling” shall be construed accordingly);

(p) the term “submitted sample” means a sample submitted by or for an interested person for official inspection, other than an official sample;

(q) the term “lot” means a specific quantity of grain identified as such;

(r) the term “interested person” means any person having a contract or other financial interest in grain as the owner, seller, purchaser, warehouseman, or carrier, or otherwise;

(s) the verb “ship” with respect to grain means transfer physical possession of the grain to another person for the purpose of transportation by any means of conveyance, or transport one’s own grain by any means of conveyance;

(t) the terms “false”, “incorrect”, and “misleading” mean, respectively, false, incorrect, and misleading in any particular;

(u) the term “deceptive loading, handling, weighing, or sampling” means any manner of loading, handling, weighing, or sampling that deceives or tends to deceive official inspection personnel, as specified by regulations of the Secretary under this chapter;

(v) the term “export elevator” means any grain elevator, warehouse, or other storage or handling facility in the United States as determined by the Secretary, from which grain is shipped from the United States to an area outside thereof;

(w) the term “export port location” means a commonly recognized port of export in the United States or Canada, as determined by the Secretary, from which grain produced in the United States is shipped to any place outside the United States;

(x) the term “official weighing” means the determination and certification by official inspection personnel of the quantity of a lot of grain under standards provided for in this chapter, based on the actual performance of weighing or the physical supervision thereof, including the physical inspection and testing for accuracy of the weights and scales and the physical inspection of the premises at which the weighing is performed and the monitoring of the discharge of grain into the elevator or conveyance (the terms “officially weigh” and “officially weighed” shall be construed accordingly);

(y) the term “supervision of weighing” means such supervision by official inspection personnel of the grain-weighing process as is determined by the Secretary to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set forth the weight of the grain and such physical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance; and

(z) the term “intracompany shipment” means the shipment, within the United States, of grain lots between facilities owned or controlled by the person owning the grain. The

shipment of grain owned by a cooperative, from a facility owned by that cooperative, to an export facility which it jointly owns with other cooperatives, qualifies as an intracompany shipment.

(Aug. 11, 1916, ch. 313, pt. B, § 3, 39 Stat. 483; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 761; Oct. 21, 1976, Pub. L. 94-582, § 3, 90 Stat. 2867; Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1604(a), 1606(a), 91 Stat. 1026, 1030; Oct. 13, 1980, Pub. L. 96-437, § 1, 94 Stat. 1870; Dec. 13, 1991, Pub. L. 102-237, title X, § 1007(1), 105 Stat. 1897; Nov. 24, 1993, Pub. L. 103-156, § 12(a), 107 Stat. 1528; Oct. 13, 1994, Pub. L. 103-354, title II, § 293(a)(1), (7), 108 Stat. 3237.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing in subsecs. (i) to (k), (m), (n), (u) to (w), and (y), redesignated subsec. (bb) as (z), and struck out former subsecs. (z) and (aa) which read as follows:

“(z) the term ‘Administrator’ means the Administrator of the Federal Grain Inspection Service or delegates of the Administrator;

“(aa) the term ‘Service’ means the Federal Grain Inspection Service; and”.

1993—Pub. L. 103-156, § 12(a), which directed amendment of “Section 3”, without specifying the name of the Act being amended, was executed to this section, which is section 3 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, § 12(a)(1), substituted “delegates of the Secretary” for “his delegates”.

Subsec. (z). Pub. L. 103-156, § 12(a)(2), substituted “delegates of the Administrator” for “his delegates”.

1991—Subsecs. (i) to (k), (u) to (x), (z), (aa). Pub. L. 102-237 substituted “the” for “The” before “term”.

1980—Subsec. (bb). Pub. L. 96-437 added subsec. (bb).

1977—Subsec. (g). Pub. L. 95-113, § 1604(a)(1), substituted “sorghum” for “grain sorghum”.

Subsec. (i). Pub. L. 95-113, § 1606(a), struck out reference to the determination of the quantity of sacks of grain upon the request of the interested party applying for inspection.

Subsec. (m). Pub. L. 95-113, § 1604(a)(2), substituted “or subsection (c) of section 79a of this title for the conduct of official weighing or supervision of weighing (other than appeal weighing)” for “or subsection (b) of section 79a of this title for the conduct of supervision of weighing”.

Subsec. (x). Pub. L. 95-113, § 1604(a)(3), substituted “under standards provided for in this chapter” for “under standards provided in this chapter”.

Subsec. (y). Pub. L. 95-113, § 1604(a)(4), substituted “such supervision by official inspection personnel of the grain-weighing process as is determined by the Administrator to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set forth the weight of the grain and such physical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance” for “the supervision of the weighing process and of the certification of the weight of grain, and the physical inspection of the premises at which the weighing is performed to assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance represented on the weight certificate or other document”.

1976—Subsec. (i). Pub. L. 94-582, § 3(a), substituted “Administrator” for “Secretary”, and expanded definition of “official inspection” to include determination “(by original inspection, and when requested, reinspection and appeal inspection)” and determination and certification of the condition of vessels and other carriers or receptacles for the transportation of grain inso-

far as it may affect the quality or condition of the grain.

Subsec. (j). Pub. L. 94-582, §3(b), in redefining “official inspection personnel”, substituted provision declaring term to mean “persons licensed or otherwise authorized by the Administrator pursuant to section 84 of this title to perform all or specified functions involved in official inspection, official weighing, or supervision of weighing, or in the supervision of official inspection, official weighing or supervision of weighing” for “employees of State or other governmental agencies or commercial agencies or other persons who are licensed to perform all or specified functions involved in official inspection under this chapter; employees of the Department of Agriculture who are authorized to supervise official inspection and to conduct appeal inspection or initial inspection of United States grain in Canadian ports”.

Subsec. (k). Pub. L. 94-582, §3(c), substituted “Administrator” for “Secretary” and “official inspection or official weighing” for “an official inspection”.

Subsec. (l). Pub. L. 94-582, §3(d), substituted “standards relating to kind, class, quality, and condition of grain,” for “standards”.

Subsec. (m). Pub. L. 94-582, §3(e), substituted definition of “official agency” meaning “any State or local governmental agency, or any person, designated by the Administrator pursuant to subsection (f) of section 79 of this title for the conduct of official inspection (other than appeal inspection), or subsection (b) of section 79a of this title for the conduct of supervision of weighing” for definition of “official inspection agency” meaning “the agency or person located at an inspection point designated by the Secretary for the conduct of official inspection under this chapter”.

Subsec. (n). Pub. L. 94-582, §3(f), substituted “Administrator” for “Secretary”.

Subsec. (u). Pub. L. 94-582, §3(g), included within term defined and its definition the concept of “weighing” and substituted “Administrator” for “Secretary”.

Subsecs. (v) to (aa). Pub. L. 94-582, §3(h), added subsecs. (v) to (aa).

1968—Pub. L. 90-487 substituted provisions defining terms used in the chapter for provisions that the standards fixed and established by the Secretary of Agriculture be known as the official grain standards of the United States.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 16 of Pub. L. 103-156 provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act [amending this section and sections 75a to 77, 79 to 79b, 79d, 84 to 87e, 87f, 87f-1, 87h, 87j, and 87k of this title and repealing provisions set out as a note under section 79 of this title] shall take effect on the date of the enactment of this Act [Nov. 24, 1993].

“(b) SPECIAL EFFECTIVE DATE FOR CERTAIN PROVISIONS.—The amendments made by sections 2, 3, and 13(a) [amending sections 79d and 87h of this title and repealing provisions set out as a note under section 79 of this title] shall take effect as of September 30, 1993.”

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.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

§ 75a. Repealed. Pub. L. 103-354, title II, § 293(a)(2), Oct. 13, 1994, 108 Stat. 3237

Section, act Aug. 11, 1916, ch. 313, pt. B, §3A, as added Oct. 21, 1976, Pub. L. 94-582, §4, 90 Stat. 2868; amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §1604(b), 91 Stat. 1026; Nov. 24, 1993, Pub. L. 103-156, §15, 107 Stat. 1530, established Federal Grain Inspection Service in Department of Agriculture and provided for cost containment plan to make the Service more efficient.

§ 75b. Committee on Grain Quality and Grain Quality Coordinator

(a) Establishment of Committee and Coordinator

(1) Committee

The Secretary of Agriculture (hereafter referred to in this title¹ as the “Secretary”) shall establish, within the Department of Agriculture, a Committee on Grain Quality (hereafter referred to in this section as the “Committee”).

(2) Coordinator

The Committee established under paragraph (1) shall be chaired by an individual, appointed by the Secretary, who shall serve as the Grain Quality Coordinator (hereafter referred to in this title¹ as the “Coordinator”) and, in consultation with the Committee, carry out the duties described in subsection (b) of this section.

(b) Duties

The Coordinator shall be responsible for—

(1) assembling and evaluating, in a systematic manner, concerns and problems with the quality of United States grain, expressed by foreign and domestic buyers and end-users;

(2) developing and implementing a coordinated effort to inform and educate foreign buyers concerning the proper specifications of grain purchase contracts to obtain the quality of grain they desire;

(3) reviewing the programs and activities of the Department of Agriculture with respect to United States grain to determine whether the activities are consistent with the provisions of this title¹ (and other provisions of law) as such provisions relate to grain quality and grain quality competitiveness;

(4) serving as the Federal Government coordinator with respect to grain quality and grain quality competitiveness; and

(5) investigating and communicating, through the Secretary, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning—

(A) actions undertaken by the Department of Agriculture—

(i) to improve the quality of United States grain; and

(ii) that are inconsistent with the goal of improving grain quality;

(B) conditions in the production and marketing sectors that discourage improvements in grain quality;

(C) interrelationships of rules and actions taken by the Federal Grain Inspection Serv-

¹ See References in Text note below.

ice, other agencies of the Department of Agriculture, Food and Drug Administration, Environmental Protection Agency, and other Federal agencies, relating to grain production, handling, storage, transportation, and processing as such actions affect the wholesomeness and performance of grain;

(D) recommendations for legislative or regulatory changes that would address grain quality issues;

(E) progress made and benefits expected from the international harmonization of sanitary and phytosanitary requirements affecting grain;

(F) potential opportunities and benefits from the international harmonization of grain grades and standards;

(G) alternative forms of financial and technical assistance available and needed by producers and elevator operators to acquire and properly utilize grain cleaning, drying, and storage equipment; and

(H) progress on requirements of other sections of this title.²

(c) Termination

This section shall terminate on January 1, 2001.

(Pub. L. 101-624, title XX, § 2002, Nov. 28, 1990, 104 Stat. 3928.)

REFERENCES IN TEXT

This title, referred to in subsecs. (a) and (b)(3), (5)(H), is title XX of Pub. L. 101-624, Nov. 28, 1990, 104 Stat. 3928, known as the Grain Quality Incentives Act of 1990. For complete classification of title XX to the Code, see Short Title of 1990 Amendment note set out under section 71 of this title and Tables.

CODIFICATION

Section was enacted as part of the Grain Quality Incentives Act of 1990, and not as part of the United States Grain Standards Act which comprises this chapter.

§ 76. Standards and procedures; establishment, amendment, and revocation

(a) Authority of Secretary

The Secretary is authorized to investigate the handling, weighing, grading, and transportation of grain and to fix and establish (1) standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and such other grains as in the judgment of the Secretary the usages of the trade may warrant and permit, and (2) standards or procedures for accurate weighing and weight certification and controls, including safeguards over equipment calibration and maintenance, for grain shipped in interstate or foreign commerce; and the Secretary is authorized to amend or revoke such standards or procedures whenever the necessities of the trade may require.

(b) Notice and opportunity for comment; standards regarding cleanliness of grain

(1) Before establishing, amending, or revoking any standards under this chapter, the Secretary shall publish notice of the proposals and give in-

terested persons opportunity to submit data, views, and arguments thereon and, upon request, an opportunity to present data, views, and arguments orally in an informal manner. No standards established or amendments or revocations of standards under this chapter shall become effective less than one calendar year after promulgation thereof, unless in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner.

(2)(A)(i) If the Secretary determines that the establishment or amendment of standards regarding cleanliness conditions of wheat, corn, barley, sorghum and soybeans that meet the requirements for grade number 3 or better (as set forth in subparagraph (B)) would—

(I) enhance the competitiveness of exports of wheat, corn, barley, sorghum and soybeans from the United States with wheat, corn, barley, sorghum and soybean exports marketed by other major exporters;

(II) result in the maintenance or expansion of the United States export market share for wheat, corn, barley, sorghum and soybeans;

(III) result in the maintenance or increase of United States producer income; and

(IV) be in the interest of United States agriculture, taking into consideration technical constraints, economic benefits and costs to producers and industry, price competitiveness, and importer needs;

the Secretary shall establish or amend the standards to include economically and commercially practical levels of cleanliness for wheat, corn, barley, sorghum and soybeans.

(ii) The Secretary shall make a finding under this subsection for grain of the type described in clause (i) as soon as practicable after November 28, 1990.

(B)(i) In establishing requirements for cleanliness characteristics, the Secretary shall—

(I) consider technical constraints, economic benefits and costs to producers and industry, the price competitiveness of United States agricultural production, and levels of cleanliness met by major competing nations that export wheat, corn, barley, sorghum and soybeans;

(II) promulgate regulations after providing for notice and an opportunity for public comment; and

(III) phase in any requirements for cleanliness characteristics by incrementally decreasing the levels of the objectionable material permitted in shipments of grade number 3 or better wheat, corn, barley, sorghum and soybeans.

(ii) Following the phase-in period referred to in clause (i)(III), subsequent revision of cleanliness requirements shall be conducted consistent with the schedule of the Secretary for reviewing grain standards.

(C) If the Secretary determines to establish requirements for cleanliness characteristics under this section, the Secretary shall ensure that such requirements are fully implemented not later than 6 years after November 28, 1990.

(c) Grade determining factors related to physical soundness and purity; notice and opportunity for comment

(1) In establishing standards under subsection (a) of this section for each grain for which offi-

² See References in Text note below.

cial grades are established, the Secretary shall establish for each such grain official grade-determining factors and factor limits that reflect the levels of soundness and purity that are consistent with end-use performance goals of the major foreign and domestic users of each such grain. Such factors and factor limits for grades number 3 and better shall provide users of such standards the best possible information from which to determine end-use product quality. The Secretary shall establish factors and factor limits that will provide that grain meeting the requirements for grades number 3 and better will perform in accordance with general trade expectations for the predominant uses of such grain.

(2) In establishing factors and factor limits under paragraph (1), the Secretary shall provide for notice and an opportunity for public comment prior to making changes in the grade-determining factors and factor limits that shall be applicable under this section to grain that is officially graded.

(d) Moisture content criterion

If the Government of any country requests that moisture content remain a criterion in the official grade designations of grain, such criterion shall be included in determining the official grade designation of grain shipped to such country.

(Aug. 11, 1916, ch. 313, pt. B, § 4, 39 Stat. 483; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 762; Oct. 21, 1976, Pub. L. 94-582, § 5, 90 Stat. 2869; Sept. 29, 1977, Pub. L. 95-113, title XVI, § 1604(c), 91 Stat. 1027; Dec. 23, 1985, Pub. L. 99-198, title XVI, § 1671, 99 Stat. 1632; Nov. 28, 1990, Pub. L. 101-624, title XX, §§ 2005, 2006, 104 Stat. 3930; Nov. 24, 1993, Pub. L. 103-156, § 12(b), 107 Stat. 1528; Oct. 13, 1994, Pub. L. 103-354, title II, § 293(a)(7), 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a) to (c). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Subsec. (a)(1). Pub. L. 103-156, which directed amendment of “Section 4(a)(1)” by substituting “the judgment of the Administrator” for “his judgment”, without specifying the name of the Act being amended, was executed to this section, which is section 4 of the United States Grain Standards Act, to reflect the probable intent of Congress.

1990—Subsec. (b). Pub. L. 101-624, § 2005, designated existing provisions as par. (1) and added par. (2).

Subsecs. (c), (d). Pub. L. 101-624, § 2006, added subsec. (c) and redesignated former subsec. (c) as (d).

1985—Subsec. (c). Pub. L. 99-198 added subsec. (c).

1977—Subsec. (a). Pub. L. 95-113 substituted “sorghum” for “grain sorghum”, “standards or procedures” for “standards”, “weight certification and controls” for “weight certification procedures and controls”, and “calibration and maintenance, for grain” for “calibration and maintenance for grain”.

1976—Subsec. (a). Pub. L. 94-582, § 5(a), authorized weighing of grain, designated existing provisions as cl. (1), inserted cl. (2), and reenacted provision for amendment or revocation of standards.

Subsec. (b). Pub. L. 94-582, § 5(b), substituted “Administrator” for “Secretary” in two places.

1968—Pub. L. 90-487 substituted provisions authorizing Secretary to establish, amend, and revoke standards for provisions making the use of official standards compulsory, setting out exceptions, and providing for the right of appeal.

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.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

BENEFITS AND COSTS ASSOCIATED WITH IMPROVED GRAIN QUALITY

Section 2003 of title XX of Pub. L. 101-624 provided that: “The Administrator of the Federal Grain Inspection Service shall estimate the economic impact, including the benefits and costs and the distribution of such benefits and costs, of any major changes necessary to carry out the amendments made under this title to sections 4 and 13 of the United States Grain Standards Act (7 U.S.C. 76 and 87b) prior to making such changes.”

REVISION OF GRAIN INSPECTION PROCEDURES TO REFLECT LEVELS OF INSECT INFESTATION

Pub. L. 99-641, title III, § 304, Nov. 10, 1986, 100 Stat. 3565, provided that: “Not later than 6 months after the date of enactment of this Act [Nov. 10, 1986], the Administrator of the Federal Grain Inspection Service shall issue a final rule that revises grain inspection procedures and standards established under the United States Grain Standards Act (7 U.S.C. 71 et seq.) to more accurately reflect levels of insect infestation.”

STUDY OF UNIFORM END-USE VALUE TESTS FOR GRAIN

Pub. L. 99-641, title III, § 307, Nov. 10, 1986, 100 Stat. 3566, provided that:

“(a) STUDY.—The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to conduct a study of the need for and availability of uniform end-use value tests for grain. The study shall include the following:

“(1) A survey of domestic and foreign buyers of grain to identify the information about grain characteristics that would be most useful to such buyers. The survey shall take into account those factors that buyers specify in contracts, test for, measure, or would measure if tests were available, including—

“(A) the starch, oil, and protein content, breakage susceptibility, and individual kernel moisture of corn;

“(B) the baking characteristics, protein content, gluten content and quality, and milling hardness of wheat; and

“(C) the protein, oil, and free-fatty-acid content of soybeans.

“(2) A review of the development and availability of tests for the characteristics identified in the survey conducted under paragraph (1), including an evaluation of the costs of providing such tests.

“(b) END-USE TESTS.—

“(1) ONGOING REVIEW.—The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to maintain an ongoing review to determine the end-use tests that are of economic value to buyers, and the availability and costs of such tests.

“(2) REVISION OF PROCEDURES.—The Administrator of the Federal Grain Inspection Service, to the extent practicable, shall revise official grain inspection and certification procedures to include within official inspection (as defined in section 3(i) of the United States Grain Standards Act (7 U.S.C. 75(i))) those tests that are identified under the study conducted under subsection (a) as useful, available, and economically feasible.

“(c) REPORTS.—

“(1) STUDY AND REVISION OF PROCEDURES.—Not later than 1 year after the date of enactment of this Act

[Nov. 10, 1986], the Administrator of the Federal Grain Inspection Service shall submit a report to Congress setting forth the results of the study conducted under subsection (a) and actions taken under subsection (b)(2).

“(2) ONGOING REVIEW.—The Administrator shall report yearly to Congress on the ongoing review conducted under subsection (b)(1).”

NEW GRAIN CLASSIFICATIONS

Section 1672 of Pub. L. 99-198 provided that:

“(a) The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to cooperate in developing new means of establishing grain classifications taking into account characteristics other than those visually evident.

“(b) The Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, semiannually, with the first report due not later than December 31, 1985, on the status of cooperative efforts required under subsection (a), as such efforts relate to more accurately classifying types of wheat and other grains currently in use.”

INVESTIGATION AND STUDY REGARDING ADEQUACY OF GRAIN STANDARDS; CHANGES IN STANDARDS; REPORT TO CONGRESS BY OCTOBER 21, 1978

Section 24 of Pub. L. 94-582 provided for an investigation and study to be made by the Administrator of the Federal Grain Inspection Service regarding the adequacy of the grain standards established under this chapter in relation to the needs and concerns of domestic and foreign grain buyers, with the Administrator to seek the advice of or employ the services of representatives of the grain industry, land grant colleges and other members of the public, the study to address specifically, without being limited to determining (A) if standards may be developed that would reduce grading errors and remove, where possible, subjective human judgment from grading by increased utilization of mechanical, electrical, and chemical means of grading, (B) whether grain should be subclassed according to color or other factor not affecting the quality of the grain, (C) whether the protein factor should be included in the standards, and (D) whether broken grain should be grouped together with foreign material, and the Administrator, as a result of such study, to make necessary changes in the grain standards in accordance with section 75a of this title, and to submit a report to Congress setting forth the findings of the study and actions taken as a result thereof not later than two years after Oct. 21, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 77, 78, 79, 79a of this title.

§ 77. Official inspection and weighing requirements; waiver; supervision by representatives of Secretary

(a) Official samples and certificates; waiver; excepted grains

Whenever standards or procedures are effective under section 76 of this title for any grain—

(1) no person shall ship from the United States to any place outside thereof any lot of such grain, unless such lot is officially weighed and officially inspected (on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States) in accordance with such standards or procedures, and unless a valid of-

ficial certificate showing the official grade designation and certified weight of the lot of grain has been provided by official inspection personnel and is promptly furnished by the shipper, or the agent of the shipper, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided*, That the Secretary may waive the foregoing requirement in emergency or other circumstances which would not impair the objectives of this chapter: *Provided further*, That the Secretary shall waive the requirement for official inspection whenever the parties to a contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Secretary prior to shipment;

(2) except as the Secretary may provide in emergency or other circumstances which would not impair the objectives of this chapter, all other grain transferred out of and all grain transferred into an export elevator at an export port location shall be officially weighed in accordance with such standards or procedure: *Provided*, That, unless the shipper or receiver requests that the grain be officially weighed, intracompany shipments of grain into an export elevator by any mode of transportation, grain transferred into an export elevator by transportation modes other than barge, and grain transferred out of an export elevator to destinations within the United States shall not be officially weighed; and

(3) except as otherwise authorized by the Secretary, whenever a lot of grain is both officially inspected and officially weighed while being transferred into or out of a grain elevator, warehouse, or other storage or handling facility, an official certificate shall be issued showing both the official grade designation and the certified weight of the lot of grain.

(b) Supervision by representatives of Secretary

All official inspection and official weighing, whether performed by authorized employees of the Secretary or any other person licensed under section 84 of this title, shall be supervised by representatives of the Secretary, in accordance with such regulations as the Secretary may provide.

(c) Testing for aflatoxin contamination of corn shipped in foreign commerce

The Secretary is authorized and directed to require that all corn exported from the United States be tested to ascertain whether it exceeds acceptable levels of aflatoxin contamination, unless the contract for export between the buyer and seller stipulates that aflatoxin testing shall not be conducted.

(Aug. 11, 1916, ch. 313, pt. B, § 5, 39 Stat. 483; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 763; Oct. 21, 1976, Pub. L. 94-582, § 6, 90 Stat. 2869; Sept. 29, 1977, Pub. L. 95-113, title XVI, § 1606(b), 91 Stat. 1030; Oct. 13, 1980, Pub. L. 96-437, § 2, 94 Stat. 1870; Nov. 28, 1990, Pub. L. 101-624, title XX, § 2007, 104 Stat. 3931; Nov. 24, 1993, Pub. L. 103-156, § 12(c),

107 Stat. 1528; Oct. 13, 1994, Pub. L. 103-354, title II, § 293(a)(3), (7), 108 Stat. 3237.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “employees of the Secretary” for “Service employees” in subsec. (b) and “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-156, § 12(c), which directed amendment of “Section 5”, without specifying the name of the Act being amended, was executed to this section, which is section 5 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a)(1). Pub. L. 103-156, § 12(c)(1), substituted “the agent of the shipper” for “his agent”.

Subsec. (b). Pub. L. 103-156, § 12(c)(2), substituted “regulations as the Administrator” for “regulations as he”.

1990—Subsec. (c). Pub. L. 101-624 added subsec. (c).

1980—Subsec. (a)(2). Pub. L. 96-437 inserted proviso that, unless the shipper or receiver requests that the grain be officially weighed, intracompany shipments of grain into an export elevator by any mode of transportation, grain transferred into an export elevator by transportation modes other than barge, and grain transferred out of an export elevator to destinations within the United States shall not be officially weighed.

1977—Subsec. (a). Pub. L. 95-113 substituted “standards or procedures” for “standards” wherever appearing.

1976—Subsec. (a). Pub. L. 94-582 designated existing provisions as par. (1) of subsec. (a); struck out “that is sold, offered for sale, or consigned for sale by grade” after “any lot of such grain”; inserted official weighing requirement; substituted “officially inspected (on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States)” for “officially inspected in accordance with such standards on the basis of official samples taken after final elevation as the grain is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States”; required the certificate to show the certified weight of the lot of grain provided by official inspection personnel; substituted provision for waiver by the Administrator of requirement for official inspection certificate in emergency or other circumstances which would not impair the objectives of this chapter for provision for waiver by the Secretary of any requirement of this section with respect to shipments from or to any area or any other class of shipments when in his judgment it is impracticable to provide official inspection with respect to such shipments; inserted provision for waiver by Administrator of requirement for official inspection whenever the parties to a contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Administrator prior to shipment; and added pars. (2) and (3) of subsec. (a).

Subsec. (b). Pub. L. 94-582 added subsec. (b).

1968—Pub. L. 90-487 substituted provisions requiring an official inspection for export grains but authorizing the waiver of such requirements when official inspection is impracticable for provisions prohibiting misrepresentation respecting grade shipped or delivered for shipment, allowing reexamination, requiring hearing in the event of a false or misleading description, and allowing publication of findings.

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.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 87b of this title.

§ 78. Use of official grade designations required; false or misleading grade designations for grain shipped out of the United States

(a) Whenever standards relating to kind, class, quality, or condition of grain are effective under section 76 of this title for any grain no person shall in any sale, offer for sale, or consignment for sale, which involves the shipment of such grain in interstate or foreign commerce, describe such grain as being of any grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, other than by an official grade designation, with or without additional information as to specified factors: *Provided*, That the description of such grain by any proprietary brand name or trademark that does not resemble an official grade designation, or with respect to interstate commerce, by the use of one or more grade factor designations set forth in the official United States standards for grain, or by other criteria shall not be deemed to be a description of grain as being of any grade.

(b) No person shall, in any sale, offer for sale, or consignment for sale, of any grain which involves the shipment of such grain from the United States to any place outside thereof, knowingly describe such grain by any official grade designation, or other description, which is false or misleading.

(Aug. 11, 1916, ch. 313, pt. B, § 6, 39 Stat. 484; July 11, 1958, Pub. L. 85-509, 72 Stat. 352; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 763; Oct. 21, 1976, Pub. L. 94-582, § 7, 90 Stat. 2870; Sept. 29, 1977, Pub. L. 95-113, title XVI, § 1606(c), 91 Stat. 1030.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted “criteria” for “factor information”.

1976—Subsec. (a). Pub. L. 94-582 substituted “standards relating to kind, class, quality, or condition of grain” for “standards”.

1968—Pub. L. 90-487 substituted provisions requiring the use of official grade designations and prohibiting the use of false or misleading description of grain shipped out of the United States, for provisions allowing the appeal to the Secretary from official grading, authorizing the payment of additional fees for employees required in making appeal inspections, and making the findings prima facie evidence of the grain’s true grade.

1958—Pub. L. 85-509 authorized payment of employees assigned to perform appeal inspection for all overtime, night, or holiday work, and permitted acceptance of reimbursement for any sums paid for such work.

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.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 2 of Pub. L. 90-487 provided that: "This Act [amending this section and sections 71, 74, 75, 76, 77, 79, 84, 85, 86, and 87 of this title and enacting sections 87a to 87h of this title] shall become effective one hundred and eighty days after enactment hereof [Aug. 15, 1968], except that the repeal of the mandatory inspection provisions with respect to grain shipped or delivered for shipment in interstate commerce shall become effective thirty days after enactment hereof, and the provisions of sections 6(a) and 13(a)(5) of the United States Grain Standards Act, as amended by this Act [subsec. (a) of this section and section 87b(a)(5) of this title] shall then become effective with respect to such grain."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 87b of this title.

§ 79. Official inspection**(a) Grain required to be officially inspected**

The Secretary is authorized to cause official inspection under the standards provided for in section 76 of this title to be made of all grain required to be officially inspected as provided in section 77 of this title, in accordance with such regulations as the Secretary may prescribe.

(b) Inspections made pursuant to request of interested persons

The Secretary is further authorized, upon request of any interested person, and under such regulations as the Secretary may prescribe, to cause official inspection to be made with respect to any grain whether by official sample, submitted sample, or otherwise within the United States under standards provided for in section 76 of this title, or, upon request of the interested person, under other criteria approved by the Secretary for determining the kind, class, quality, or condition of grain, or other facts relating to grain, whenever in the judgment of the Secretary providing such service will effectuate any of the objectives stated in section 74 of this title.

(c) Reinspections and appeals; cancellation of superseded certificates; sale of samples

The regulations prescribed by the Secretary under this chapter shall include provisions for reinspections and appeal inspections; cancellation and surrender of certificates superseded by reinspections and appeal inspections; and the use of standard forms for official certificates. The Secretary may provide by regulation that samples obtained by or for employees of the Secretary for purposes of official inspection shall become the property of the United States, and such samples may be disposed of without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 471 et seq.].

(d) Official certificates as evidence

Official certificates setting out the results of official inspection issued and not canceled under this chapter shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

(e) Official inspection at export port locations; delegation of authority to State agencies

(1) Except as otherwise provided in paragraph (2) of this subsection, the Secretary shall cause official inspection at export port locations, for all grain required or authorized to be inspected by this chapter, to be performed by official inspection personnel employed by the Secretary or other persons under contract with the Secretary as provided in section 84 of this title.

(2) If the Secretary determines, pursuant to paragraph (3) of this subsection, that a State agency is qualified to perform official inspection, meets the criteria in subsection (f)(1)(A) of this section, and (A) was performing official inspection at an export port location under this chapter on July 1, 1976, or (B)(i) performed official inspection at an export port location at any time prior to July 1, 1976, (ii) was designated under subsection (f) of this section on December 22, 1982, to perform official inspections at locations other than export port locations, and (iii) operates in a State from which total annual exports of grain do not exceed, as determined by the Secretary, 5 per centum of the total amount of grain exported from the United States annually, the Secretary may delegate authority to the State agency to perform all or specified functions involved in official inspection (other than appeal inspection) at export port locations within the State, including export port locations which may in the future be established, subject to such rules, regulations, instructions, and oversight as the Secretary may prescribe, and any such official inspection shall continue to be the direct responsibility of the Secretary. Any such delegation may be revoked by the Secretary, at the discretion of the Secretary, at any time upon notice to the State agency without opportunity for a hearing.

(3) Prior to delegating authority to a State agency for the performance of official inspection at export port locations pursuant to paragraph (2) of this subsection, the Secretary shall (A) conduct an investigation to determine whether such agency is qualified, and (B) make findings based on such investigation. In conducting the investigation, the Secretary shall consult with, and review the available files of the Department of Justice, the Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture), and the General Accounting Office.

(4) The Secretary may provide that grain loaded at an interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States shall be inspected in the manner provided in this subsection or subsection (f) of this section, as the Secretary determines will best meet the objectives of this chapter.

(f) Official inspections at other than export port locations; designation of agencies or persons to conduct official inspections

(1) With respect to official inspections other than at export port locations, the Secretary is authorized, upon application by any State or

local governmental agency, or any person, to designate such agency or person as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection) at locations where the Secretary determines official inspection is needed, if—

(A) the agency or person shows to the satisfaction of the Secretary that such agency or person—

(i) has adequate facilities and qualified personnel for the performance of such official inspection functions;

(ii) will provide for the periodic rotation of official inspection personnel among the grain elevators, warehouses, or other storage or handling facilities at which the State or person provides official inspection, as is necessary to preserve the integrity of the official inspection service;

(iii) will meet training requirements and personnel standards established by the Secretary under section 84(g) of this title;

(iv) will otherwise conduct such training and provide such supervision of its personnel as are necessary to assure that they will provide official inspection in accordance with this chapter and the regulations and instructions thereunder;

(v) will not charge official inspection fees that are discriminatory or unreasonable;

(vi) if a State or local governmental agency, will not use any moneys collected pursuant to the charging of fees for any purpose other than the maintenance of the official inspection operation of the State or local governmental agency;

(vii) and any related entities do not have a conflict of interest prohibited by section 87 of this title;

(viii) will maintain complete and accurate records of its organization, staffing, official activities, and fiscal operations, and such other records as the Secretary may require by regulation;

(ix) if a State or local governmental agency, will employ personnel on the basis of job qualifications rather than political affiliations;

(x) will comply with all provisions of this chapter and the regulations and instructions thereunder; and

(xi) meets other criteria established in regulations issued under this chapter relating to official functions under this chapter; and

(B) the Secretary determines that the applicant is better able than any other applicant to provide official inspection service.

(2) Not more than one official agency or State delegated authority pursuant to subsection (e)(2) of this section for carrying out the inspection provisions of this chapter shall be operative at one time for any geographic area as determined by the Secretary to effectuate the objectives stated in section 74 of this title, except that the Secretary may conduct pilot programs to allow more than 1 official agency to carry out inspections within a single geographical area without undermining the policy stated in section 74 of this title.

(3) Except as authorized by the Secretary, no official agency or State delegated authority pursuant to subsection (e)(2) of this section shall officially inspect under this chapter any official or other sample drawn from a lot of grain and submitted for inspection unless such lot of grain is physically located within the geographic area assigned to the agency by the Secretary at the time such sample is drawn.

(4) No State or local governmental agency or person shall provide any official inspection for the purposes of this chapter except pursuant to an unsuspended and unrevoked delegation of authority or designation by the Secretary, as provided in this section, or as provided in section 84(a) of this title.

(g) Termination, renewal, amendment, cancellation, and revocation of designations of official agencies

(1) Designations of official agencies shall terminate at such time as specified by the Secretary but not later than triennially and may be renewed in accordance with the criteria and procedure prescribed in subsection (f) of this section.

(2) A designation of an official agency may be amended at any time upon application by the official agency if the Secretary determines that the amendment will be consistent with the provisions and objectives of this chapter; and a designation will be cancelled upon request by the official agency with ninety days written notice to the Secretary. A fee as prescribed by regulations of the Secretary shall be paid by the official agency to the Secretary for each such amendment, to cover the costs incurred by the Secretary in connection therewith, and it shall be deposited in the fund created in subsection (j) of this section.

(3) The Secretary may revoke a designation of an official agency whenever, after opportunity for hearing is afforded the agency, the Secretary determines that the agency has failed to meet one or more of the criteria specified in subsection (f) of this section or the regulations under this chapter for the performance of official functions, or otherwise has not complied with any provision of this chapter or any regulation prescribed or instruction issued to such agency under this chapter, or has been convicted of any violation of other Federal law involving the handling or official inspection of grain: *Provided*, That the Secretary may, without first affording the official agency an opportunity for a hearing, suspend any designation pending final determination of the proceeding whenever the Secretary has reason to believe there is cause for revocation of the designation and considers such action to be in the best interest of the official inspection system under this chapter. The Secretary shall afford any such agency an opportunity for a hearing within thirty days after temporarily suspending such designation.

(h) Official inspections at locations other than export port locations when designated official agencies are not available

If the Secretary determines that official inspection by an official agency designated under subsection (f) of this section is not available on a regular basis at any location (other than at an

export port location) where the Secretary determines such inspection is needed to effectuate the objectives stated in section 74 of this title, and that no official agency within reasonable proximity to such location is willing to provide or has or can acquire adequate personnel and facilities for providing such service on an interim basis, official inspection shall be provided by authorized employees of the Secretary, and other persons licensed by the Secretary to perform official inspection functions, as provided in section 84 of this title, until such time as the service can be provided on a regular basis by an official agency.

(i) Official inspections in Canadian ports

The Secretary is authorized to cause official inspection under this chapter to be made, as provided in subsection (a) of section 77 of this title, in Canadian ports of United States export grain transshipped through Canadian ports, and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such inspection. All or specified functions of such inspections shall be performed by official inspection personnel employed by the Secretary or, except for appeals, by persons operating under a contract with the Secretary or as otherwise provided by agreement with the Canadian Government.

(j) Fees; establishment, amount, payment, etc.

(1) The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Secretary incident to the performance of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Secretary incident to its¹ performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and supervisory costs related to such official inspection of grain. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Secretary incident to providing services under this chapter.

(2) Each designated official agency and each State agency to which authority has been delegated under subsection (e) of this section shall pay to the Secretary fees in such amount as the Secretary determines fair and reasonable and as will cover the estimated costs incurred by the Secretary relating to supervision of official agency personnel and supervision by the Secretary of the Secretary's field office personnel, except costs incurred under paragraph (3) of subsection (g) of this section and sections 85, 86, and 87c of this title. The fees shall be payable after the services are performed at such times as specified by the Secretary and shall be deposited in the fund created in paragraph (1) of this sub-

section. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Secretary, of the fee currently due plus interest and any further expenses incurred by the Secretary because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary and adjusted to the nearest one-eighth of 1 per centum.

(3) Any sums collected or received by the Secretary under this chapter and deposited to the fund created in paragraph (1) of this subsection and any late payment penalties collected by the Secretary and credited to such fund may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. The interest earned on such sums and any late payment penalties collected by the Secretary shall be credited to the fund and shall be available without fiscal year limitation for the expenses of the Secretary incident to providing services under this chapter.

(4) The duties imposed by paragraph (2) on designated official agencies and State agencies described in such paragraph and the investment authority provided by paragraph (3) shall expire on September 30, 2000. After that date, the fees established by the Secretary pursuant to paragraph (1) shall not cover administrative and supervisory costs related to the official inspection of grain.

(Aug. 11, 1916, ch. 313, pt. B, § 7, 39 Stat. 484; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 763; Oct. 21, 1976, Pub. L. 94-582, § 8(a), 90 Stat. 2870; Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1602(a), 1604(d), 1606(d), 91 Stat. 1025, 1027, 1030; Aug. 13, 1981, Pub. L. 97-35, title I, § 155(1), 95 Stat. 371; Dec. 22, 1981, Pub. L. 97-98, title IX, § 1113(a), 95 Stat. 1268; Oct. 11, 1984, Pub. L. 98-469, § 2(1), 98 Stat. 1831; Oct. 24, 1988, Pub. L. 100-518, § 2(1), 102 Stat. 2584; Nov. 24, 1993, Pub. L. 103-156, §§ 4(a), 5(a), 12(d), 14(a), 107 Stat. 1525, 1526, 1528, 1529; Oct. 13, 1994, Pub. L. 103-354, title II, § 293(a)(4), (7), (8), 108 Stat. 3237.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, as amended, referred to in subsec. (c), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The provisions of that act relating to management and disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

CODIFICATION

Section as originally enacted was composed of part of section 7 of part B of act Aug. 11, 1916. Other provisions of section 7 were classified to former sections 80 to 83 of this title.

AMENDMENTS

1994—Pub. L. 103-354 substituted “supervision by the Secretary of the Secretary's field office personnel” for

¹ So in original. Probably should be “the Secretary's”.

“supervision of Service personnel of its field office personnel” in first sentence of subsec. (j)(2) and substituted “Secretary” for “Administrator” and “Service” wherever appearing.

1993—Pub. L. 103-156, §12(d), which directed amendment of “Section 7”, without specifying the name of the Act being amended, was executed to this section, which is section 7 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, §12(d)(1), substituted “regulations as the Administrator” for “regulations as he”.

Subsec. (b). Pub. L. 103-156, §12(d)(2), substituted “regulations as the Administrator” for “regulations as he” and “the judgment of the Administrator” for “his judgment”.

Subsec. (e)(2). Pub. L. 103-156, §12(d)(3), substituted “oversight as the Administrator” for “oversight as he” and “the discretion of the Administrator” for “his discretion”.

Subsec. (f)(1)(A)(vi). Pub. L. 103-156, §4(a)(1), substituted “of the State” for “or other agricultural programs operated by the State”.

Subsec. (f)(2). Pub. L. 103-156, §5(a), inserted before period at end “, except that the Administrator may conduct pilot programs to allow more than 1 official agency to carry out inspections within a single geographical area without undermining the policy stated in section 74 of this title”.

Subsec. (i). Pub. L. 103-156, §4(a)(2), inserted before period at end “or as otherwise provided by agreement with the Canadian Government”.

Subsec. (j)(4). Pub. L. 103-156, §14(a), added par. (4).

1988—Subsec. (j). Pub. L. 100-518 reenacted subsec. (j) without change.

1984—Subsec. (j)(3). Pub. L. 98-469 temporarily added par. (3). See Effective and Termination Dates of 1984 Amendment note below.

1981—Subsec. (e)(2). Pub. L. 97-98 inserted provision authorizing the Administrator to delegate authority to perform grain inspection functions at export port locations to any State agency that performed official inspection at an export port location at any time prior to July 1, 1976, was designated under subsec. (f) of this section on Dec. 22, 1981, to perform inspections at locations other than export port locations, and operates in a State from which the total annual exports of grain do not exceed 5 per centum of the total amount of grain exported from the United States.

Subsec. (j). Pub. L. 97-35 temporarily designated existing provisions as par. (1), made changes in nomenclature and provided for inclusion, rather than exclusion, of administrative and supervisory costs, and added par. (2). See Effective and Termination Dates of 1981 Amendments note below.

1977—Subsec. (b). Pub. L. 95-113, §1606(d), struck out reference to a determination of the quantity of sacks of grain.

Subsec. (e). Pub. L. 95-113, §1604(d)(1), designated as par. (4) provisions, formerly forming a part of par. (2), authorizing the Administrator to provide that grain loaded at an interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States be inspected in the manner provided in this subsection or subsec. (f) of this section, as the Administrator determines best meets the objectives of this chapter.

Subsec. (f)(2). Pub. L. 95-113, §1604(d)(2), substituted “official agency or State delegated authority pursuant to subsection (e)(2) of this section for carrying out the inspection provisions of this chapter” for “official agency for carrying out the provisions of this chapter”, struck out “, but this paragraph shall not be applicable to prevent any inspection agency from operating in any area in which it was operative on August 15, 1968” after “section 74 of this title”, and redesignated other existing provisions as pars. (3) and (4).

Subsec. (f)(3). Pub. L. 95-113, §1604(d)(2)(B), (C), redesignated a portion of existing par. (2) as (3) and substituted “Except as authorized by the Administrator, no” for “No”.

Subsec. (f)(4). Pub. L. 95-113, §1604(d)(2)(D), redesignated a portion of existing par. (2) as (4).

Subsec. (g)(1). Pub. L. 95-113, §1604(d)(3), substituted “prescribed in subsection (f)” for “prescribed in subsections (e) and (f)”.

Subsec. (i). Pub. L. 95-113, §1604(d)(4), inserted provision that all or specified functions of the inspections be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

Subsec. (j). Pub. L. 95-113, §1602(a), revised provisions relating to fees so as to remove requirement that field supervision of inspection be supported by fees.

1976—Subsec. (a). Pub. L. 94-582, §8(a)(1), substituted “Administrator” for “Secretary”.

Subsec. (b). Pub. L. 94-582, §8(a)(1), (2), substituted “Administrator” for “Secretary” in two places and struck out from first sentence “or with respect to United States grain in Canadian ports” after “within the United States”.

Subsec. (c). Pub. L. 94-582, §8(a)(1), (3), substituted “Administrator” for “Secretary” in two places; and substituted “Service” for “Department of Agriculture” and “cancellation and surrender” for “cancellation” and required regulation provision for use of standard forms for official certificates, respectively.

Subsec. (d). Pub. L. 94-582, §8(a)(4), substituted “Official certificates setting out the results of official inspection” for “Certificates”.

Subsec. (e). Pub. L. 94-582, §8(a)(5), added subsec. (e) and struck out former subsec. (e) which authorized charging and collection of reasonable fees to cover cost of official inspection and to cover costs of Department of Agriculture incident to performance of appeal and Canadian port inspection services for which fees are collected, including supervisory and administrative costs, and for deposit of fees and proceeds from sale of samples obtained for purposes of official inspection which become property of the United States into a fund to be available without fiscal year limitation for expenses of the Department of Agriculture incident to providing official inspection services. Fee provisions are now covered in subsec. (j)(2) of this section.

Subsec. (f). Pub. L. 94-582, §8(a)(5), added par. (1) and second and third sentences of par. (2), and designated existing provisions as par. (2), substituting “one official agency for carrying out the provisions of this chapter shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 74 of this title” for “one inspection agency for carrying out the provisions of this section shall be operative at one time for any one city, town, or other area”.

Subsecs. (g) to (j). Pub. L. 94-582, §8(a)(5), added subsecs. (g) to (j).

1968—Pub. L. 90-487 substituted provisions covering the authority and funding of official inspections for provisions covering the licensing of inspectors and the utilization by the Secretary of Agriculture of State inspectors.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

That part of section 2 of Pub. L. 100-518 which provided that the amendment made by Pub. L. 100-518 was effective for period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed by Pub. L. 103-156, §§13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530, eff. Sept. 30, 1993.

EFFECTIVE AND TERMINATION DATES OF 1984 AMENDMENT

Section 2 of Pub. L. 98-469 provided that the amendment made by Pub. L. 98-469 is effective for period beginning Oct. 11, 1984, and ending Sept. 30, 1988.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENTS

Section 1113(b) of Pub. L. 97-98 provided that: “The provisions of this section [amending this section] shall

become effective one hundred and eighty days after enactment of this Act [Dec. 22, 1981].”

Section 155 of Pub. L. 97-35, as amended by Pub. L. 98-469, §1, Oct. 11, 1984, 98 Stat. 1831, provided that the amendment made by Pub. L. 97-35 is effective for period beginning Oct. 1, 1981, and ending Sept. 30, 1988.

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.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

INVESTIGATIONS AND STUDIES OF GRAIN INSPECTION AND WEIGHING IN INTERIOR OF UNITED STATES; COMPLETION OF STUDIES AND SUBMISSION OF REPORTS BY MAY 20, 1979, AND NOV. 20, 1979, RESPECTIVELY

Section 8(b) of Pub. L. 94-582, as amended by Pub. L. 95-113, title XVI, §§1605(a), 1607(a), Sept. 29, 1977, 91 Stat. 1029, 1031, provided that:

“(1) In order to provide information for use by the Congress in evaluating the needs of the grain inspection and weighing system at points in the United States other than at export port locations; the Administrator of the Federal Grain Inspection Service, the Director of the Office of Investigation of the United States Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture), and the Comptroller General of the United States shall severally conduct investigations into and study grain inspection and weighing in the interior of the United States. The studies shall address, but are not limited to, the tasks of (A) determining the reliability and effectiveness of present official inspection and weighing procedures in the interior of the United States, and (B) evaluating the operating procedures and management practices of agencies providing grain inspection and weighing services in the interior of the United States, as they relate to the integrity and accuracy of the services.

“(2) The Director of the Office of Investigation specifically is directed to study the extent of any irregularities or problem areas under the present inspection and weighing systems and conflicts of interest rules and develop factual summaries of evidence disclosed in the Director's investigations into violations of the United States Grain Standards Act [this chapter], the grain weighing provisions of the United States Warehouse Act [section 241 et seq. of this title], and related provisions of title 18 of the United States Code: *Provided*, That the Director shall not submit such summary with respect to any criminal investigation which is pending at the time the report is due.

“(3) The Administrator of the Federal Grain Inspection Service shall make findings with respect to present grain inspection and weighing agencies at each inland terminal marketing area of the United States at which over fifty million bushels of grain are inspected in an average year, such findings to include (A) results of interviews with shippers who ship grain to and consignees who receive grain from such terminal marketing areas, and (B) a thorough analysis of inspection and weighing error rates of such agencies (which may include the application of statistical tolerances for expected variations), based on existing documentation and the sampling during the investigation of a representative number of randomly selected lots of grain shipped to and from such terminal marketing areas.

“(4) The Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service shall complete their investigations and study and shall submit their reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Comptroller General not later than thirty months after the effective date of this Act [see Effective Date of 1976 Amendment note set out under section 74 of this title].

“(5) The Comptroller General, in making his investigations and study, shall (A) assess the present grain inspection and weighing system in the interior of the United States, and (B) evaluate the reports submitted under this subsection by the Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service. The Comptroller General shall submit a report setting forth the findings of such study and evaluation and his recommendations for changes in the United States Grain Standards Act [this chapter] to such Committees not later than three years after the effective date of this Act [see Effective Date of 1976 Amendment note set out under section 74 of this title].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 79a, 79b, 84, 87b, 87e, 87f-1, 87h of this title.

§ 79a. Weighing authority

(a) Official weighing in accordance with prescribed regulations

The Secretary shall cause official weighing under standards or procedures provided for in section 76 of this title to be made of all grain required to be officially weighed as provided in section 77 of this title, in accordance with such regulations as the Secretary may prescribe.

(b) Official weighing or supervision of weighing at grain elevators, warehouses, or other storage or handling facilities located other than at export elevators at export port locations

The Secretary is authorized to cause official weighing or supervision of weighing under standards or procedures provided in section 76 of this title to be performed at any grain elevator, warehouse, or other storage or handling facility located other than at export elevators at export port locations at which official inspection is provided pursuant to the provisions of this chapter, in such manner as the Secretary deems appropriate and under such regulations as the Secretary may provide.

(c) Personnel performing official weighing or supervision of weighing at locations at which official inspection is provided

(1) With respect to official weighing or supervision of weighing for locations at which official inspection is provided by the Secretary, the Secretary shall cause such official weighing or supervision of weighing to be performed by official inspection personnel employed by the Secretary.

(2) With respect to official weighing or supervision of weighing for any location at which official inspection is provided other than by the Secretary, the Secretary is authorized, with respect to export port locations, to delegate authority to perform official weighing or supervision of weighing to the State agency providing official inspection service at such location, and with respect to any other location, to designate the agency or person providing official inspec-

tion service at such location to perform official weighing or supervision of weighing, if such agency or person qualifies for a delegation of authority or designation under section 79 of this title, except that where the term “official inspection” is used in such section it shall be deemed to refer to “official weighing” or “supervision of weighing” under this section. If such agency or person is not available to perform such weighing services, or the Secretary determines that such agency or person is not qualified to perform such weighing services, then (A) at export port locations official weighing or supervision of weighing shall be performed by official inspection personnel employed by the Secretary, and (B) at any other location, the Secretary is authorized to cause official weighing or supervision of weighing to be performed by official inspection personnel employed by the Secretary or designate any State or local governmental agency, or any person to perform official weighing or supervision of weighing, if such agency or person meets the same criteria that agencies must meet to be designated to perform official inspection as set out in section 79 of this title, except that where the term “official inspection” is used in such section it shall be deemed to refer to “official weighing” or “supervision of weighing” under this section. Delegations and designations made pursuant to this subsection shall be subject to the same provisions for delegations and designations set forth in subsection (g) of section 79 of this title.

(d) Official weighing in Canadian ports

The Secretary is authorized to cause official weighing under this chapter to be made, as provided in subsection (a) of section 77 of this title, in Canadian ports of United States export grain transshipped through Canada; and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such official weighing. All or specified functions of such weighing shall be performed by official inspection personnel employed by the Secretary or, except for appeals, by persons operating under a contract with the Secretary or as otherwise provided by agreement with the Canadian Government.

(e) Official weighing or supervision of weighing upon request of operators of grain elevators, warehouses, or other storage or handling facilities

The Secretary is further authorized to cause official weighing or supervision of weighing under standards or procedures provided for in section 76 of this title to be made at grain elevators, warehouses, or other storage or handling facilities not subject to subsection (a) or (b) of this section, upon request of the operator of such grain elevator, warehouse, or other storage or handling facility and in accordance with such regulations as the Secretary may prescribe.

(f) Demonstrated willingness of operators of grain elevators, warehouses, or other storage or handling facilities to meet equipment and personnel requirements

No official weighing or supervision of weighing shall be provided for the purposes of this chapter at any grain elevator, warehouse, or other stor-

age or handling facility until such time as the operator of the facility has demonstrated to the satisfaction of the Secretary that the operator (1) has and will maintain, in good order, suitable grain-handling equipment and accurate scales for all weighing of grain at the facility, in accordance with the regulations of the Secretary; (2) will permit only competent persons with a reputation for honesty and integrity and who are approved by the Secretary to operate the scales and to handle grain in connection with weighing of the grain, in accordance with this chapter; (3) when weighing is to be done by persons other than official inspection personnel, will require such persons to operate the scales in accordance with the regulations of the Secretary and to require that each lot of grain for delivery from any railroad car, truck, barge, vessel, or other means of conveyance at the facility is entirely removed from such means of conveyance and delivered to the scales without avoidable waste or loss, and each lot of grain weighed at the elevator for shipment from the facility is entirely delivered to the means of conveyance for which intended, and without avoidable waste or loss, in accordance with the regulations of the Secretary; (4) will provide all assistance needed by the Secretary for making any inspection or examination and carrying out other functions at the facility pursuant to this chapter; and (5) will comply with all other requirements of this chapter and the regulations hereunder.

(g) Official certificates as evidence

Official certificates setting out the results of official weighing or supervision of weighing, issued and not cancelled under this chapter, shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

(h) Weighing prohibited when not in accordance with prescribed procedures

No State or local governmental agency or person shall weigh or state in any document the weight of grain determined at a location where official weighing is required to be performed as provided for in this section except in accordance with the procedures prescribed pursuant to this section.

(i) Unauthorized weighing prohibited

No State or local governmental agency or person other than an authorized employee of the Secretary shall perform official weighing or supervision of weighing for the purposes of this chapter except in accordance with the provisions of an unsuspended and unrevoked delegation of authority or designation by the Secretary as provided in this section or as otherwise provided in section 79(i) of this title and subsection (d) of this section. Not more than one official agency or State delegated authority pursuant to subsection (c)(2) of this section for carrying out the weighing provisions of this chapter shall be operative at one time for any geographic area as determined by the Secretary to effectuate the objectives stated in section 74 of this title, except that the Secretary may conduct pilot programs to allow more than 1 official agency to carry out the weighing provisions

within a single geographic area without undermining the policy stated in section 74 of this title.

(j) Authority under United States Warehouse Act not limited

The provisions of this section shall not limit any authority vested in the Secretary under the United States Warehouse Act (39 Stat. 486, as amended; 7 U.S.C. 241 et seq.).

(k) Access to elevators, warehouses, or their storage or handling facilities

The representatives of the Secretary shall be afforded access to any elevator, warehouse, or other storage or handling facility from which grain is delivered for shipment in interstate or foreign commerce or to which grain is delivered from shipment in interstate or foreign commerce and all facilities therein for weighing grain.

(l) Fees; establishment, amount, payment, etc.

(1) The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees to cover the estimated costs to the Secretary incident to the performance of the functions provided for under this section except as otherwise provided in paragraph (2) of this subsection. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Secretary incident to performance of its¹ functions related to weighing, including administrative and supervisory costs directly related thereto. Such fees shall be deposited into the fund created in section 79(j) of this title.

(2) Each agency to which authority has been delegated under this section and each agency or other person which has been designated to perform functions related to weighing under this section shall pay to the Secretary fees in such amount as the Secretary determines fair and reasonable and as will cover the costs incurred by the Secretary relating to supervision of the agency personnel and supervision by the Secretary of the Secretary's field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under sections 79(g)(3), 85, 86, and 87c of this title. The fees shall be payable after the services are performed at such times as specified by the Secretary and shall be deposited in the fund created in section 79(j) of this title. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Secretary, of the fee currently due plus interest and any further expenses incurred by the Secretary because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.

(3) The authority provided to the Secretary by paragraph (1) and the duties imposed by para-

graph (2) on agencies and other persons described in such paragraph shall expire on September 30, 2000. After that date, the Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees to cover the estimated costs of official weighing and supervision of weighing except when the official weighing or supervision of weighing is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Secretary incident to its¹ performance of official weighing and supervision of weighing services in the United States and on United States grain in Canadian ports, excluding administrative and supervisory costs. The fees authorized by this paragraph shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Secretary incident to providing services under this chapter.

(Aug. 11, 1916, ch. 313, pt. B, §7A, as added Oct. 21, 1976, Pub. L. 94-582, §9, 90 Stat. 2875; amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§1602(b), 1604(e), 1606(e), 91 Stat. 1025, 1027, 1030; Aug. 13, 1981, Pub. L. 97-35, title I, §155(2), 95 Stat. 371; Oct. 24, 1988, Pub. L. 100-518, §2(2), 102 Stat. 2585; Nov. 24, 1993, Pub. L. 103-156, §§4(b), 5(b), 12(e), 14(b), 107 Stat. 1526, 1528, 1530; Oct. 13, 1994, Pub. L. 103-354, title II, §293(a)(4), (7), (8), 108 Stat. 3237.)

REFERENCES IN TEXT

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

AMENDMENTS

1994—Pub. L. 103-354 substituted "supervision by the Secretary of the Secretary's field office personnel" for "supervision by Service personnel of its field office personnel" in first sentence of subsec. (l)(2) and substituted "Secretary" for "Administrator" and "Service" wherever appearing in subsecs. (a) to (f) and (i) to (l).

1993—Subsec. (c)(2). Pub. L. 103-156, §4(b)(1), in second sentence, substituted "official weighing" or "supervision of weighing" for "supervision of weighing".

Subsec. (d). Pub. L. 103-156, §4(b)(2), inserted before period at end of second sentence "or as otherwise provided by agreement with the Canadian Government".

Subsec. (e). Pub. L. 103-156, §12(e), which directed amendment of "Section 7A(e)" by substituting "regulations as the Administrator" for "regulations as he", without specifying the name of the Act being amended, was executed to this section, which is section 7A of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (i). Pub. L. 103-156, §§4(b)(3), 5(b), inserted before period at end of first sentence "or as otherwise provided in section 79(i) of this title and subsection (d) of this section" and inserted before period at end of second sentence "except that the Administrator may conduct pilot programs to allow more than 1 official agency to carry out the weighing provisions within a single geographic area without undermining the policy stated in section 74 of this title".

Subsec. (l)(3). Pub. L. 103-156, §14(b), added par. (3).

1988—Subsec. (l). Pub. L. 100-518 amended subsec. (l) generally, substituting "cover the costs of the Service" for "cover the costs of the service" in par. (1).

1981—Subsec. (l). Pub. L. 97-35 temporarily designated existing provisions as par. (1), made changes in nomen-

¹ So in original. Probably should be "the Secretary's".

clature, provided for inclusion, rather than exclusion, of administrative and supervisory costs, and struck out provisions respecting availability of deposited funds, and added par. (2). See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (a). Pub. L. 95-113, §1606(e), substituted “standards or procedures” for “standards”.

Subsec. (b). Pub. L. 95-113, §§1604(e)(1), 1606(e), substituted “The Administrator is authorized to cause official weighing or supervision of weighing under standards or procedures” for “The Administrator is authorized to cause supervision of weighing under standards” and “other than at export elevators at export port locations” for “other than at export port locations”.

Subsec. (c)(2). Pub. L. 95-113, §1604(e)(2), made technical amendments to conform par. (2) to increased authority granted in subsec. (b) to cause official weighing as well as supervision of weighing at interior inspection points and corrected a typographical error in which “number” had been erroneously used for “under” in text as originally enacted by Pub. L. 94-582.

Subsec. (d). Pub. L. 95-113, §1604(e)(3), inserted requirement that all or specified functions of Canadian weighing be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

Subsec. (e). Pub. L. 95-113, §§1604(e)(4), 1606(e), substituted “under standards or procedures provided” for “under standards provided” and struck out provisions which had required that the weighing service not be provided for periods of less than a year, that the fees therefor be set separately from the fees provided for in subsec. (l), and that they be reasonable, nondiscriminatory, and equal, as nearly as possible, to the cost of providing the service.

Subsec. (f)(2). Pub. L. 95-113, §1604(e)(5)(A), substituted “permit only competent persons with a reputation for honesty and integrity and who are approved by the Administrator” for “employ only competent persons with a reputation for honesty and integrity”.

Subsec. (f)(3). Pub. L. 95-113, §1604(e)(5)(B), substituted “when weighing is to be done by persons other than official inspection personnel, will require such persons to operate the scales” for “when weighing is to be done by employees of the facility, will require employees to operate the scales”.

Subsec. (g). Pub. L. 95-113, §1604(e)(6), substituted “official weighing or supervision of weighing” for “official weighing”.

Subsec. (i). Pub. L. 95-113, §1604(e)(7), (8), substituted “No State or local governmental agency” for “No State” and inserted provision that not more than one official agency or State delegated authority pursuant to subsection (c)(2) of this section for carrying out the weighing provisions of this chapter be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 74 of this title.

Subsec. (l). Pub. L. 95-113, §1602(b), revised provisions relating to fees so as to remove requirement that field supervision of weighing be supported by fees.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

That part of section 2 of Pub. L. 100-518 which provided that the amendment made by Pub. L. 100-518 was effective for period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed by Pub. L. 103-156, §§13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530, eff. Sept. 30, 1993.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 155 of Pub. L. 97-35, as amended by Pub. L. 98-469, §1, Oct. 11, 1984, 98 Stat. 1831, provided that the amendment made by Pub. L. 97-35 is effective for period beginning Oct. 1, 1981, and ending Sept. 30, 1988.

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.

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note set out under section 74 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 84, 87, 87b, 87e, 87h of this title.

§ 79b. Testing of equipment

(a) Random and periodic testing at least annually; fees

The Secretary shall provide for the testing of all equipment used in the sampling, grading, inspection, and weighing for the purpose of official inspection, official weighing, or supervision of weighing of grain located at all grain elevators, warehouses, or other storage or handling facilities at which official inspection or weighing services are provided under this chapter, to be made on a random and periodic basis, but at least annually and under such regulations as the Secretary may prescribe, as the Secretary deems necessary to assure the accuracy and integrity of such equipment. Such regulations shall provide for the charging and collection of reasonable fees to cover the estimated costs to the Secretary incident to the performance of such testing by employees of the Secretary. Such fees shall be deposited into the fund created by section 79(j) of this title.

(b) Personnel to conduct testing

The Secretary is authorized to cause such testing provided for in subsection (a) of this section to be performed (1) by personnel employed by the Secretary, or (2) by States, political subdivisions thereof, or persons under the supervision of the Secretary, under such regulations as the Secretary may prescribe.

(c) Use of non-approved equipment prohibited

Notwithstanding any other provision of law, no person shall use for the purposes of this chapter any such equipment not approved by the Secretary.

(Aug. 11, 1916, ch. 313, pt. B, §7B, as added Oct. 21, 1976, Pub. L. 94-582, §9, 90 Stat. 2877; amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §1604(f), 91 Stat. 1028; Nov. 24, 1993, Pub. L. 103-156, §12(f), 107 Stat. 1528; Oct. 13, 1994, Pub. L. 103-354, title II, §293(a)(7), (8), 108 Stat. 3237.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” and “Service” wherever appearing.

1993—Subsec. (a). Pub. L. 103-156, which directed amendment of “Section 7B(a)” by substituting “as the Administrator deems necessary” for “as he deems necessary”, without specifying the name of the Act being amended, was executed to this section, which is section 7B of the United States Grain Standards Act, to reflect the probable intent of Congress.

1977—Subsec. (a). Pub. L. 95-113, §1604(f)(1), (2), substituted “and weighing for the purpose of official inspection, official weighing, or supervision of weighing of grain located at all grain elevators” for “and weighing of grain located at all grain elevators” and inserted provisions that regulations provide for the charging and collection of reasonable fees to cover the estimated costs to the Service incident to the performance of testing by employees of the Service and that the fees be deposited into the fund created by section 79(j) of this title.

Subsec. (c). Pub. L. 95-113, §1604(f)(3), substituted “shall use for the purposes of this chapter” for “shall use”.

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.

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note set out under section 74 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 87b, 87e, 87h of this title.

§ 79c. Omitted

CODIFICATION

Section, act Aug. 11, 1916, ch. 313, pt. B, §7C, as added Aug. 13, 1981, Pub. L. 97-35, title I, §155(3), 95 Stat. 372; amended Oct. 11, 1984, Pub. L. 98-469, §2(2), 98 Stat. 1831, which limited the total administrative and supervisory costs which could be incurred under this chapter for fiscal years 1982 through 1988, was effective for the period Oct. 1, 1981, through Sept. 30, 1988, pursuant to section 155 of Pub. L. 97-35, as amended. See section 79d of this title.

§ 79d. Limitation on administrative and supervisory costs

The total administrative and supervisory costs which may be incurred under this chapter for services performed (excluding standardization, compliance, and foreign monitoring activities) for each of the fiscal years 1989 through 2000 shall not exceed 40 per centum of the total costs for such activities carried out by the Secretary for such year.

(Aug. 11, 1916, ch. 313, pt. B, §7D, as added Oct. 24, 1988, Pub. L. 100-518, §2(3), 102 Stat. 2585; amended Nov. 24, 1993, Pub. L. 103-156, §2, 107 Stat. 1525; Oct. 13, 1994, Pub. L. 103-354, title II, §293(a)(8), 108 Stat. 3237.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Service”.

1993—Pub. L. 103-156 substituted “services performed” for “inspection and weighing” and “2000” for “1993”.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-156 effective as of Sept. 30, 1993, see section 16(b) of Pub. L. 103-156, set out as a note under section 75 of this title.

EFFECTIVE AND TERMINATION DATES

That part of section 2 of Pub. L. 100-518 which provided that section was effective for the period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed by Pub. L. 103-156, §§13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530, eff. Sept. 30, 1993.

§§ 80 to 83. Omitted

CODIFICATION

Sections were omitted in the general reorganization of this chapter by Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 761.

Section 80, act Aug. 11, 1916, ch. 313, pt. B, §7 (part), 39 Stat. 484, provided for revocation and suspension of licenses issued by the Secretary of Agriculture. See section 85 of this title.

Section 81, act Aug. 11, 1916, ch. 313, pt. B, §7 (part), 39 Stat. 484, prohibited the existence of an interest, financial or otherwise, direct or indirect, on the part of inspectors in grain elevators or warehouses or in the merchandising of grain. See section 87 of this title.

Section 82, act Aug. 11, 1916, ch. 313, pt. B, §7 (part), 39 Stat. 484, required maintenance of records and reports by inspectors. See section 87a of this title.

Section 83, act Aug. 11, 1916, ch. 313, pt. B, §7 (part), 39 Stat. 484, called for a semiannual report by the Secretary of Agriculture on the delivery of grain in the nation.

§ 84. Licensing of inspectors

(a) Authorization

The Secretary is authorized (1) to issue a license to any individual upon presentation to the Secretary of satisfactory evidence that such individual is competent, and is employed (or is supervised under a contractual arrangement) by an official agency or a State agency delegated authority under section 79 or 79a of this title, to perform all or specified functions involved in original inspection or reinspection functions involved in official inspection, or in the official weighing or the supervision of weighing, other than appeal weighing, of grain in the United States; (2) to authorize any competent employee of the Secretary to (A) perform all or specified original inspection, reinspection, or appeal inspection functions involved in official inspection of grain in the United States, or of United States grain in Canadian ports, (B) perform official weighing or supervision of weighing (including appeal weighing) of grain in the United States, or of United States grain in Canadian ports, (C) supervise the official inspection, official weighing, or supervision of weighing of grain in the United States and of United States grain in Canadian ports or the testing of equipment, and (D) perform monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this chapter; (3) to contract with any person or governmental agency to perform specified sampling, laboratory testing, and similar technical functions and to license competent persons to perform such functions pursuant to such contract; and (4) to contract with any competent person for the performance of monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this chapter. Except as otherwise provided in sections 79(i) and 79a(d) of this title, no person shall perform any official inspection or weighing function for purposes of this chapter unless such person holds an unsuspended and unrevoked license or authorization from the Secretary under this chapter.

(b) Duration of licenses; suspension; reinstatement

All classes of licenses issued under this chapter shall terminate triennially on a date or dates to be fixed by regulation of the Secretary: *Provided*, That any license shall be suspended automatically when the licensee ceases to be employed by an official agency or by a State agency under a delegation of authority pursuant to this chapter or to operate under the terms of a contract for the conduct of any functions under this chapter: *Provided further*, That sub-

ject to subsection (c) of this section such license shall be reinstated if the licensee is employed by an official agency or by a State agency under a delegation of authority pursuant to this chapter or resumes operation under such a contract within one year of the suspension date and the license has not expired in the interim.

(c) Examination of applicants; reexaminations

The Secretary may require such examinations and reexaminations as the Secretary may deem warranted to determine the competence of any applicants for licenses, licensees, or employees of the Secretary, to perform any official inspection or weighing function under this chapter.

(d) Inspectors performing under contract not deemed Federal employees

Persons employed or supervised under a contractual arrangement by an official agency (including persons employed or supervised under a contractual arrangement by a State agency under a delegation of authority pursuant to this chapter) and persons performing official inspection functions under contract with the Secretary shall not, unless otherwise employed by the Federal Government, be determined to be employees of the Federal Government of the United States: *Provided*, That such persons shall be considered in the performance of any official inspection, official weighing, or supervision of weighing function as prescribed by this chapter or by the rules and regulations of the Secretary, as persons acting for or on behalf of the United States, for the purpose of determining the application of section 201 of title 18, to such persons and as employees of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of title 18.

(e) Hiring of official inspection personnel and supervisory personnel without regard to laws governing appointments to the competitive service

The Secretary may hire (without regard to the provisions of title 5 governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on October 21, 1976) to perform functions of official inspection under this chapter and as personnel to perform supervisory weighing or official weighing functions any individual who, on October 21, 1976, was performing similar functions: *Provided*, That the Secretary determines that such individual is of good moral character and is technically and professionally qualified for the duties to which the individual will be assigned. The Secretary may compensate such personnel at any rate within the appropriate grade of the General Schedule as the Secretary deems necessary without regard to section 5333 of title 5.

(f) Periodic rotation of personnel

The Secretary shall provide for the periodic rotation of supervisory personnel and official inspection personnel employed by the Secretary as the Secretary deems necessary to preserve the integrity of the official inspection and weighing system provided by this chapter.

(g) Recruitment, training, and supervision of personnel; work production standards; exemption for certain personnel

The Secretary shall develop and effectuate standards for the recruiting, training, and supervising of official inspection personnel and appropriate work production standards for such personnel, which shall be applicable to the Secretary, all State agencies under delegation of authority pursuant to this chapter, and all official agencies and all persons licensed or authorized to perform functions under this chapter: *Provided*, That persons licensed or authorized on October 21, 1976, to perform any official function under this chapter, shall be exempted from the uniform recruiting and training provisions of this subsection and regulations or standards issued pursuant thereto if the Secretary determines that such persons are technically and professionally qualified for the duties to which they will be assigned and they agree to complete whatever additional training the Secretary deems necessary.

(Aug. 11, 1916, ch. 313, pt. B, § 8, 39 Stat. 485; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 764; Oct. 21, 1976, Pub. L. 94-582, § 10, 90 Stat. 2877; Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1604(g), 1606(f), 91 Stat. 1028, 1030; Nov. 24, 1993, Pub. L. 103-156, §§ 6, 12(g), 107 Stat. 1526, 1528; Oct. 13, 1994, Pub. L. 103-354, title II, § 293(a)(7), (8), 108 Stat. 3237.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (e), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (e), is set out under section 5332 of Title 5.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” and “Service” wherever appearing.

1993—Pub. L. 103-156, § 12(g), which directed amendment of “Section 8”, without specifying the name of the Act being amended, was executed to this section, which is section 8 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, §§ 6(1), 12(g)(1), in cl. (1), substituted “presentation to the Administrator” for “presentation to him” and inserted “(or is supervised under a contractual arrangement)” after “and is employed”, and in second sentence, substituted “Except as otherwise provided in sections 79(i) and 79a(d) of this title, no person” for “No person”.

Subsec. (b). Pub. L. 103-156, § 6(2), substituted “under the terms of a contract for the conduct of any functions” for “independently under the terms of a contract for the conduct of any functions involved in official inspection”.

Subsec. (c). Pub. L. 103-156, § 12(g)(2), substituted “the Administrator” for “he”.

Subsec. (d). Pub. L. 103-156, § 6(3), inserted “or supervised under a contractual arrangement” after “Persons employed” and after “including persons employed”.

Subsec. (f). Pub. L. 103-156, § 12(g)(2), substituted “the Administrator” for “he”.

1977—Subsec. (a)(1). Pub. L. 95-113, § 1604(g)(1)(A), substituted “weighing, other than appeal weighing, of grain” for “weighing of grain”.

Subsec. (a)(2)(B). Pub. L. 95-113, § 1604(g)(1)(B), substituted “weighing (including appeal weighing) of grain in the United States, or of United States grain in Canadian ports” for “weighing of grain”.

Subsec. (a)(3). Pub. L. 95-113, § 1604(g)(1)(C), substituted “any person or governmental agency specified

sampling, laboratory testing, and similar technical functions” for “any person to perform specified sampling and laboratory testing”.

Subsec. (e). Pub. L. 95-113, §1604(g)(2), inserted provisions authorizing the Administrator to compensate the personnel at any rate within the appropriate grade of the General Schedule as the Administrator deems necessary without regard to section 5333 of title 5.

Subsec. (f). Pub. L. 95-113, §1606(f), substituted “official inspection and weighing system” for “official inspection system”.

1976—Subsec. (a). Pub. L. 94-582 substituted “Administrator” for “Secretary” in two places; designated existing provisions as item (1) and substituted “official agency or a State agency delegated authority under section 79 or 79a of this title, to perform all or specified functions involved in original inspection or reinspection functions involved in official inspection, or in the official weighing or the supervision of weighing of grain in the United States” for “official inspection agency to perform all or specified functions involved in official inspection”; substituted provisions designated as item (2) for “to authorize any competent employee of the Department of Agriculture to perform all or specified functions involved in supervisory or appeal inspection or initial inspection of United States grain in Canadian ports”; inserted items (3) and (4); struck out authorization to license any competent individual to perform specified functions involved in official inspection under a contract with the Department of Agriculture; and conditioned performance of any official weighing function on the holding of a license or authorization.

Subsec. (b). Pub. L. 94-582 substituted “Administrator” for “Secretary”, “official agency” for “official inspection agency” in two places, and “subsection (c)” for “paragraph (c)”, and inserted provision respecting employment of licensee by a State agency under a delegation of authority pursuant to this chapter in two places.

Subsec. (c). Pub. L. 94-582 substituted “Administrator” for “Secretary” and “Service” for “Department of Agriculture” and included performance of weighing function.

Subsec. (d). Pub. L. 94-582 substituted “official agency (including persons employed by a State agency under a delegation of authority pursuant to this chapter)” for “official inspection agency” and “contract with the Service” for “contracts with the Department of Agriculture” and inserted provision respecting status as persons acting for or on behalf of the United States in application of sections 118, 201, and 1114 of Title 18.

Subsecs. (e) to (g). Pub. L. 94-582 added subsecs. (e) to (g).

1968—Pub. L. 90-487 substituted provisions for the licensing and examination and reexamination of inspectors for provisions authorizing the Secretary of Agriculture to promulgate rules and regulations.

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.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 77, 79, 87b of this title.

§ 85. Suspension, revocation, and refusal to renew licenses; hearing; grounds; temporary suspension

The Secretary may refuse to renew, or may suspend or revoke, any license issued under this chapter whenever, after the licensee has been afforded an opportunity for a hearing, the Secretary shall determine that such licensee is incompetent, or has inspected or weighed or supervised the weighing of grain for purposes of this chapter, by any standard or criteria other than as provided for in this chapter, or has issued, or caused the issuance of, any false or incorrect official certificate or other official form, or has knowingly or carelessly inspected or weighed or supervised the weighing of grain improperly under this chapter, or has accepted any money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or has used the license or allowed it to be used for any improper purpose, or has otherwise violated any provision of this chapter or of the regulations prescribed or instructions issued to the licensee by the Secretary under this chapter. The Secretary may, without first affording the licensee an opportunity for a hearing, suspend any license temporarily pending final determination whenever the Secretary deems such action to be in the best interests of the official inspection system under this chapter. The Secretary may summarily revoke any license whenever the licensee has been convicted of any offense prohibited by section 87b of this title or convicted of any offense proscribed by title 18, with respect to performance of functions under this chapter.

(Aug. 11, 1916, ch. 313, pt. B, § 9, 39 Stat. 485; Aug. 1, 1956, ch. 812, 70 Stat. 780; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 765; Oct. 21, 1976, Pub. L. 94-582, § 11, 90 Stat. 2879; Nov. 24, 1993, Pub. L. 103-156, § 12(h), 107 Stat. 1528; Oct. 13, 1994, Pub. L. 103-354, title II, § 293(a)(7), 108 Stat. 3237.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-156, which directed amendment of “Section 9” by substituting “or has used the license” for “or has used his license” and “instructions issued to the licensee” for “instructions issued to him”, without specifying the name of the Act being amended, was executed to this section, which is section 9 of the United States Grain Standards Act, to reflect the probable intent of Congress.

1976—Pub. L. 94-582 substituted “Administrator” for “Secretary” wherever appearing and “inspected or weighed or supervised the weighing of” for “inspected” in two places and authorized summary revocation of licenses based on conviction of prescribed offenses.

1968—Pub. L. 90-487 substituted provisions authorizing the suspension, revocation, and refusal of renewal of licenses by the Secretary, for provisions setting out the penalties for violations of this chapter.

1956—Act Aug. 1, 1956, provided penalties for persons who knowingly sample grain improperly and for persons who knowingly or willfully cause or attempt to cause the issuance of a false grade certificate by deceptive loading, handling, or sampling of grain, or any other means.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 87e of this title.

§ 86. Refusal of inspection and weighing services; civil penalties

(a) Grounds for refusal of services

The Secretary may (for such period, or indefinitely, as the Secretary deems necessary to effectuate the purposes of this chapter) refuse to provide official inspection or the services related to weighing otherwise available under this chapter with respect to any grain offered for such services, or owned, wholly or in part, by any person if the Secretary determines (1) that the individual (or in case such person is a partnership, any general partner; or in case such person is a corporation, any officer, director, or holder or owner of more than 10 per centum of the voting stock; or in case such person is an unincorporated association or other business entity, any officer or director thereof; or in case of any such business entity, any individual who is otherwise responsibly connected with the business) has knowingly committed any violation of section 87b of this title, or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain, or that official inspection or the services related to weighing have been refused for any of the above-specified causes (for a period which has not expired) to such person, or any other person conducting a business with which the former was, at the time such cause existed, or is responsibly connected; and (2) that providing such service with respect to such grain would be inimical to the integrity of the service.

(b) Persons responsibly connected with a business

For purposes of subsection (a) of this section, a person shall be deemed to be responsibly connected with a business if the person was or is a partner, officer, director, or holder or owner of 10 per centum or more of its voting stock, or an employee in a managerial or executive capacity.

(c) Civil penalties

In addition to, or in lieu of, penalties provided under section 87c of this title, or in addition to, or in lieu of, refusal of official inspection or services related to weighing in accordance with this section, the Secretary may assess against any person who has knowingly committed any violation of section 87b of this title or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain a civil penalty not to exceed \$75,000 for each such violation as the Secretary determines is appropriate to effectuate the objectives stated in section 74 of this title.

(d) Opportunity for hearing; temporary refusal without hearing pending final determination

Before official inspection or services related to weighing is refused to any person or a civil penalty is assessed against any person under this

section, such person shall be afforded opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5: *Provided*, That the Secretary may, without first affording the person a hearing, refuse official inspection or services related to weighing temporarily pending final determination whenever the Secretary has reason to believe there is cause for refusal of inspection or services related to weighing and considered such action to be in the best interest of the official inspection system under this chapter. The Secretary shall afford such person an opportunity for a hearing within seven days after temporarily refusing official inspection or services related to weighing; and such hearing and ancillary procedures related thereto shall be conducted in an expedited manner.

(e) Collection and disposition of civil penalties

Moneys received in payment of such civil penalties shall be deposited in the general fund of the United States Treasury. Upon any failure to pay the penalties assessed under this section, the Secretary may request the Attorney General of the United States to institute a civil action to collect the penalties in the appropriate court identified in subsection (h) of section 87f of this title for the jurisdiction in which the respondent is found or resides or transacts business, and such court shall have jurisdiction to hear and decide any such action.

(Aug. 11, 1916, ch. 313, pt. B, §10, 39 Stat. 485; Aug. 15, 1968, Pub. L. 90-487, §1, 82 Stat. 765; Oct. 21, 1976, Pub. L. 94-582, §12, 90 Stat. 2879; Nov. 24, 1993, Pub. L. 103-156, §12(i), 107 Stat. 1528; Oct. 13, 1994, Pub. L. 103-354, title II, §293(a)(7), 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a), (c) to (e). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-156, §12(i), which directed amendment of “Section 10”, without specifying the name of the Act being amended, was executed to this section, which is section 10 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, §12(i)(1), substituted “the Administrator” for “he” in two places.

Subsec. (b). Pub. L. 103-156, §12(i)(2), substituted “the person” for “he”.

1976—Subsec. (a). Pub. L. 94-582 substituted “Administrator” for “Secretary”, “grain offered for such services” for “grain offered for inspection”, “has knowingly committed any violation of section 87b of this title or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain, or that official inspection or the services related to weighing have been refused” for “has been convicted of any violation of section 87b of this title, or that official inspection has been refused”, and “integrity of the service” for “integrity of the official inspection service”, and authorized refusal of provision of services relating to weighing.

Subsec. (c). Pub. L. 94-582 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 94-582 redesignated provisions of former subsec. (c) as (d), inserted “or services related to weighing” before “is refused”, inserted “or a civil penalty is assessed against any person under this section” after “to any person”, provided for the hearing under sections 554, 556, and 557 of title 5, and inserted provisions relating to temporary refusal without hearing pending final determination.

Subsec. (e). Pub. L. 94-582 added subsec. (e).

1968—Pub. L. 90-487 substituted provisions authorizing the Secretary to refuse official inspection and affording an opportunity for a hearing in such a case, for provisions setting the penalty for interference with the execution of official duties.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 87c of this title.

§ 87. Conflicts of interest

(a) Prohibition with respect to persons licensed or authorized by Secretary to perform official functions

No person licensed or authorized by the Secretary to perform any official function under this chapter, or employed by the Secretary in otherwise carrying out any of the provisions of this chapter, shall, during the term of such license, authorization, or employment, (a) be financially interested (directly or otherwise) in any business entity owning or operating any grain elevator or warehouse or engaged in the merchandising of grain, or (b) be in the employment of, or accept gratuities from, any such entity, or (c) be engaged in any other kind of activity specified by regulation of the Secretary as involving a conflict of interest: *Provided, however*, That the Secretary may license qualified employees of any grain elevators or warehouses to perform official sampling functions, under such conditions as the Secretary may by regulation prescribe, and the Secretary may by regulation provide such other exceptions to the restrictions of this section as the Secretary determines are consistent with the purposes of this chapter.

(b) Prohibition with respect to personnel of official or State agencies and business or governmental entities related to such agencies; substantial stockholder; use of official inspection service; authority delegation; report to Congressional committees

(1) No official agency or a State agency delegated authority under this chapter, or any member, director, officer, or employee thereof, and no business or governmental entity related to any such agency, shall be employed in or otherwise engaged in, or directly or indirectly have any stock or other financial interest in, any business involving the commercial transportation, storage, merchandising, or other commercial handling of grain, or the use of official inspection service (except that in the case of a producer such use shall not be prohibited for grain in which the producer does not have an interest); and no business or governmental entity conducting any such business, or any member, director, officer, or employee thereof, and no other business or governmental entity related to any such entity, shall operate or be employed by

or directly or indirectly have any stock or other financial interest in, any official agency or a State agency delegated inspection authority. Further, no substantial stockholder in any incorporated official agency shall be employed in or otherwise engaged in, or be a substantial stockholder in any corporation conducting any such business, or directly or indirectly have any other kind of financial interest in any such business; and no substantial stockholder in any corporation conducting such a business shall operate or be employed by or be a substantial stockholder in, or directly or indirectly have any other kind of financial interest in, any official agency.

(2) A substantial stockholder of a corporation shall be any person holding 2 per centum or more, or one hundred shares or more, of the voting stock of the corporation, whichever is the lesser interest. Any entity shall be considered to be related to another entity if it owns or controls, or is owned or controlled by, such other entity, or both entities are owned or controlled by another entity.

(3) Each State agency delegated official weighing authority under section 79a of this title and each State or local agency or other person designated by the Secretary under such section to perform official weighing or supervision of weighing shall be subject to the provisions of subsection (b) of this section. The term "use of official inspection service" shall be deemed to refer to the use of the services provided under such a delegation or designation.

(4) If a State or local governmental agency is delegated authority to perform official inspection or official weighing or supervision of weighing, or a State or local governmental agency is designated as an official agency, the Secretary shall specify the officials and other personnel thereof to which the conflict of interest provisions of this subsection (b) apply.

(5) Notwithstanding the foregoing provisions of this subsection, the Secretary may delegate authority to a State agency or designate a governmental agency, board of trade, chamber of commerce, or grain exchange to perform official inspection or perform official weighing or supervision of weighing except that for purposes of supervision of weighing only, the Secretary may also designate any other person, if the Secretary determines that any conflict of interest which may exist between the agency or person or any member, director, officer, employee, or stockholder thereof and any business involving the transportation, storage, merchandising, or other handling of grain or use of official inspection or weighing service is not such as to jeopardize the integrity or the effective and objective operation of the functions performed by such agency. Whenever the Secretary makes such a determination and makes a delegation or designation to an agency that has a conflict of interest otherwise prohibited by this subsection, the Secretary shall, within thirty days after making such a determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, detailing the factual bases for such determination.

(c) Official agencies or State agencies not prevented from engaging in business of weighing grain

The provisions of this section shall not prevent an official agency or State agency delegated authority under this chapter from engaging in the business of weighing grain.

(Aug. 11, 1916, ch. 313, pt. B, §11, 39 Stat. 485; Aug. 15, 1968, Pub. L. 90-487, §1, 82 Stat. 766; Oct. 21, 1976, Pub. L. 94-582, §13, 90 Stat. 2880; Sept. 29, 1977, Pub. L. 95-113, title XVI, §§1604(h), 1606(g), 91 Stat. 1028, 1030; Nov. 24, 1993, Pub. L. 103-156, §12(j), 107 Stat. 1529; Oct. 13, 1994, Pub. L. 103-354, title II, §293(a)(7), 108 Stat. 3237; Nov. 2, 1994, Pub. L. 103-437, §4(a)(1), 108 Stat. 4581.)

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (b)(5). Pub. L. 103-437 substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry”.

1993—Pub. L. 103-156, §12(j), which directed amendment of “Section 11”, without specifying the name of the Act being amended, was executed to this section, which is section 11 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, §12(j)(1), substituted “the Administrator” for “he” before “determines”.

Subsec. (b)(1). Pub. L. 103-156, §12(j)(2)(A), substituted “the producer” for “he”.

Subsec. (b)(5). Pub. L. 103-156, §12(j)(2)(B), substituted “the Administrator” for “he” in two places.

1977—Subsec. (b)(3). Pub. L. 95-113, §1604(h)(1), substituted “to perform official weighing or supervision of weighing” for “to perform supervision of weighing”.

Subsec. (b)(4). Pub. L. 95-113, §1606(g), substituted “official weighing or supervision of weighing” for “official weighing”.

Subsec. (b)(5). Pub. L. 95-113, §1604(h)(2), substituted “to perform official inspection or perform official weighing or supervision of weighing except that” for “to perform official inspection or perform supervision of weighing except that” and “member, director, officer” for “member, officer”.

Subsec. (c). Pub. L. 95-113, §1604(h)(3), inserted “or State agency delegated authority under this chapter” after “official agency”.

1976—Subsec. (a). Pub. L. 94-582, §13(a)-(c), substituted “Administrator” for “Secretary” wherever appearing and “perform any official function” for “perform any official inspection function”, and designated first paragraph provisions, as amended, as subsec. (a), respectively.

Subsecs. (b), (c). Pub. L. 94-582, §13(c), added subsecs. (b) and (c).

1968—Pub. L. 90-487 substituted provisions prohibiting a conflict of interest on the part of inspectors who are interested financially in a grain elevator or in grain merchandising, for provisions covering the separability of provisions of this chapter.

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.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 87b of this title.

§ 87a. Records

(a) Samples of grain

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter shall maintain such samples of officially inspected grain and such other records as the Secretary may by regulation prescribe for the purpose of administration and enforcement of this chapter.

(b) Period of maintenance

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter required to maintain records under this section shall keep such records for a period of five years after the inspection, weighing, or transaction, which is the subject of the record, occurred: *Provided*, That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Secretary, after consultation with the grain trade and taking into account the needs and circumstances of local markets, shall prescribe; and in specific cases other records may be required by the Secretary to be maintained for not more than three years in addition to the five-year period whenever in the judgment of the Secretary the retention of such records for the longer period is necessary for the effective administration and enforcement of this chapter.

(c) Access to records; audits

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter required to maintain records under this section shall permit any authorized representative of the Secretary or the Comptroller General of the United States to have access to, and to copy, such records at all reasonable times. The Secretary shall, from time to time, perform audits of official agencies and State agencies delegated authority of this chapter in such manner and at such periodic intervals as the Secretary deems appropriate.

(d) Maintenance of records by persons or entities receiving official inspection or weighing services; access to records and facilities

Every State, political subdivision thereof, or person who is the owner or operator of a commercial grain elevator, warehouse, or other storage or handling facility or is engaged in the merchandising of grain other than as a producer, and who, at any time, has obtained or obtains official inspection or weighing services shall maintain such complete and accurate records for such period of time as the Secretary may, by regulation, prescribe for the purpose of the administration and enforcement of this chapter, and permit any authorized representa-

tive of the Secretary, at all reasonable times, to have access to, and to copy, such records and to have access to any grain elevator, warehouse, or other storage or handling facility used by such persons for handling of grain.

(Aug. 11, 1916, ch. 313, pt. B, §12, as added Aug. 15, 1968, Pub. L. 90-487, §1, 82 Stat. 766; amended Oct. 21, 1976, Pub. L. 94-582, §14, 90 Stat. 2882; Sept. 29, 1977, Pub. L. 95-113, title XVI, §§1601, 1604(i), 91 Stat. 1024, 1029; Nov. 24, 1993, Pub. L. 103-156, §12(k), 107 Stat. 1529; Oct. 13, 1994, Pub. L. 103-354, title II, §293(a)(5)-(7), 108 Stat. 3237.)

PRIOR PROVISIONS

A prior section 12 of act Aug. 11, 1916, ch. 313, pt. B, 39 Stat. 485, which appropriated a sum of \$250,000 for expenses of carrying into effect this chapter, was not classified to the Code.

AMENDMENTS

1994—Pub. L. 103-354 struck out “or Administrator” after “representative of the Secretary” in subsec. (c), struck out “or the Administrator” after “representative of the Secretary” in subsec. (d), and substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-156, §12(k), which directed amendment of “Section 12”, without specifying the name of the Act being amended, was executed to this section, which is section 12 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 103-156, §12(k)(1), substituted “the judgment of the Administrator” for “his judgment”.

Subsec. (c). Pub. L. 103-156, §12(k)(2), substituted “the Administrator” for “he”.

1977—Subsecs. (a), (b). Pub. L. 95-113, §1604(i)(1), inserted “, every State agency delegated authority under this chapter,” after “official agency”.

Subsec. (c). Pub. L. 95-113, §1604(i)(1), (2), inserted “, every State delegated authority under this chapter,” after “official agency” and corrected a typographical error in Pub. L. 94-582 under which “delegate authority of this chapter” had been erroneously used instead of “delegated authority under this chapter”.

Subsec. (d). Pub. L. 95-113, §1601, substituted “shall maintain such complete and accurate records for such period of time as the Administrator may, by regulation, prescribe for the purpose of the administration and enforcement of this chapter” for “shall, within the five-year period thereafter, maintain complete and accurate records of purchases, sales, transportation, storage, weighing, handling, treating, cleaning, drying, blending, and other processing, and official inspection and official weighing of grain.”

1976—Subsec. (a). Pub. L. 94-582 substituted “official agency” for “official inspection agency” and “Administrator” for “Secretary” and inserted reference to licensed performance of official weighing or supervision of weighing function.

Subsec. (b). Pub. L. 94-582 substituted “Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter” for “Every official inspection agency” and “Administrator” for “Secretary” in two places, increased from two to five years the period of time for keeping the records, and inserted provision for keeping the records after the weighing.

Subsec. (c). Pub. L. 94-582 substituted “Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter” for “Every official inspection agency”, provided for access to and the copying of records by any authorized representative of the Administrator or the Comptroller General, and required Administrator audits of official agencies and State agencies delegate authority.

Subsec. (d). Pub. L. 94-582 added subsec. (d).

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.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

MAINTENANCE OF RECORDS NOT INVOLVING OFFICIAL INSPECTION OR OFFICIAL WEIGHING

Pub. L. 103-111, title I, Oct. 21, 1993, 107 Stat. 1055, provided in part: “That hereafter, none of the funds available to the Federal Grain Inspection Service may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 [see Short Title of 1976 Amendment note set out under section 71 of this title] other than those necessary to fulfill the purposes of such Act.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-341, title I, Aug. 14, 1992, 106 Stat. 883.

Pub. L. 102-142, title I, Oct. 28, 1991, 105 Stat. 887.

Pub. L. 101-506, title I, Nov. 5, 1990, 104 Stat. 1324.

Pub. L. 101-161, title I, Nov. 21, 1989, 103 Stat. 960.

Pub. L. 100-460, title I, Oct. 1, 1988, 102 Stat. 2238.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 87b of this title.

§ 87b. Prohibited acts

(a) No person shall—

(1) knowingly falsely make, issue, alter, forge, or counterfeit any official certificate or other official form or official mark;

(2) knowingly utter, publish, or use as true any falsely made, issued, altered, forged, or counterfeited official certificate or other official form or official mark, or knowingly possess, without promptly notifying the Secretary or the representative of the Secretary, or fail to surrender to such a representative upon demand, any falsely made, issued, altered, forged, or counterfeited official certificate or other official form, or any device for making any official mark or simulation thereof, or knowingly possess any grain in a container bearing any falsely made, issued, altered, forged, or counterfeited official mark without promptly giving such notice;

(3) knowingly cause or attempt (whether successfully or not) to cause the issuance of a false or incorrect official certificate or other official form by any means, including but not limited to deceptive loading, handling, weighing, or sampling of grain, or submitting grain for official inspection or official weighing or supervision of weighing knowing that it has been deceptively loaded, handled, weighed, or sampled, without disclosing such knowledge to the official inspection personnel before official sampling or official weighing or supervision of weighing;

(4) alter any official sample of grain in any manner or, knowing that an official sample

has been altered, thereafter represent it as an official sample;

(5) knowingly use any official grade designation or official mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container or officially weighed, respectively, and the grain was found to qualify for such designation or mark;

(6) knowingly make any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, or condition, or that particular facts have been established with respect to grain by official inspection under this chapter, or that any weighing service under this chapter has been performed with respect to grain;

(7) improperly influence, or attempt to improperly influence, any official inspection personnel or personnel of agencies delegated authority or of agencies or other persons designated under this chapter or any officer or employee of the Department of Agriculture with respect to the performance of the duties of the officer, employee, or other person under this chapter;

(8) forcibly assault, resist, oppose, impede, intimidate, or interfere with any official inspection personnel or personnel of agencies delegated authority or of agencies or other persons designated under this chapter or any officer or employee of the Department of Agriculture in, or on account of, the performance of the duties of the officer, employee, or other person under this chapter;

(9) falsely represent that the person is licensed or authorized to perform an official inspection or official weighing or supervision of weighing function under this chapter;

(10) use any false or misleading means in connection with the making or filing of an application for official inspection or official weighing or supervision of weighing;

(11) violate section 77, 78, 79, 79a, 79b, 84, 87, 87a, 87e, or 87f-1 of this title;

(12) knowingly engage in falsely stating or falsifying the weight of any grain shipped in interstate or foreign commerce by any means, including, but not limited to, the use of inaccurate, faulty, or defective weighing equipment; or

(13) knowingly prevent or impede any buyer or seller of grain or other person having a financial interest in grain, or the authorized agent of any such person, from observing the loading of the grain inspected under this chapter and the weighing, sampling, and inspection of such grain under conditions prescribed by the Secretary.

(b) No person licensed or authorized to perform any function under this chapter shall—

(1) commit any offense prohibited by subsection (a) of this section;

(2) knowingly perform improperly any official sampling or other official inspection or weighing function under this chapter;

(3) knowingly execute or issue any false or incorrect official certificate or other official form; or

(4) accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty.

(c) An offense shall be deemed to have been committed knowingly under this chapter if it resulted from gross negligence or was committed with knowledge of the pertinent facts.

(d)(1) Subject to paragraphs (2) and (3), to ensure the quality of grain marketed in or exported from the United States—

(A) no dockage or foreign material, as defined by the Secretary, once removed from grain shall be recombined with any grain; and

(B) no dockage or foreign material of any origin may be added to any grain.

(2) Nothing in paragraph (1) shall be construed to prohibit—

(A) the treatment of grain to suppress, destroy, or prevent insects and fungi injurious to stored grain;

(B) the marketing, domestically or for export, of dockage or foreign material removed from grain if such dockage or foreign material is marketed—

(i) separately and uncombined with any such whole grain;

(ii) in pelletized form; or

(iii) as a part of a processed ration for livestock, poultry, or fish;

(C) the blending of grain with similar grain of a different quality to adjust the quality of the resulting mixture;

(D) the recombination of broken corn or broken kernels, as defined by the Secretary, with grain of the type from which the broken corn or broken kernels were derived;

(E) effective for the period ending December 31, 1987, the recombination of dockage or foreign material, except dust, removed at an export loading facility from grain destined for shipment as a cargo under one export official certificate of inspection if—

(i) the recombination occurs during the loading of the cargo;

(ii) the purpose is to ensure uniformity of dockage or foreign material throughout that specific cargo; and

(iii) the separation and recombination are conducted in accordance with regulations issued by the Secretary; or

(F) the addition to grain of a dust suppressant, or the addition of confetti or any other similar material that serves the same purpose in a quantity necessary to facilitate identification of ownership or origin of a particular lot of grain.

(3)(A) The Secretary may, by regulation, exempt from paragraph (1) the last handling of grain in the final sale and shipment of such grain to a domestic user or processor if such exemption is determined by the Secretary to be in the best economic interest of producers, grain merchants, the industry involved, and the public.

(B) Grain sold under an exemption authorized by this paragraph shall be consumed or processed into one or more products by the purchaser, but may not be resold into commercial channels for such grain or blended with other

grain for resale. Neither products nor byproducts derived therefrom (except vegetable oils as defined by the Secretary and used as a dust suppressant) shall be blended with or added to grain in commercial channels.

(e)(1) The Secretary may prohibit the contamination of sound and pure grain as a result of the introduction of—

(A) nongrain substances;

(B) grain unfit for ordinary commercial purposes; or

(C) grain that exceeds action limits established by the Food and Drug Administration or grain having residues that exceed the tolerance levels established by the Environmental Protection Agency.

(2) No prohibition imposed under this section shall be construed to restrict the marketing of any grain so long as the grade or condition of the grain is properly identified.

(3) Prior to taking action under this subsection, the Secretary shall promulgate regulations after providing for notice and an opportunity for public comment, that identify and define actions and conditions that are subject to prohibition.

(4) In no case shall the Secretary prohibit the blending of an entire grade of grain.

(5) In implementing paragraph (1)(C), the Secretary shall report any prohibitions to other appropriate public health agencies.

(Aug. 11, 1916, ch. 313, pt. B, §13, as added Aug. 15, 1968, Pub. L. 90-487, §1, 82 Stat. 766; amended Oct. 21, 1976, Pub. L. 94-582, §15, 90 Stat. 2883; Sept. 29, 1977, Pub. L. 95-113, title XVI, §§1604(j), 1606(h), 91 Stat. 1029, 1030; Nov. 10, 1986, Pub. L. 99-641, title III, §303(a), 100 Stat. 3564; Nov. 28, 1990, Pub. L. 101-624, title XX, §2008, 104 Stat. 3931; Nov. 24, 1993, Pub. L. 103-156, §§7, 12(l), 107 Stat. 1526, 1529; Oct. 13, 1994, Pub. L. 103-354, title II, §293(a)(7), 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a)(2), (13), (d)(2)(D), (E)(iii), (e)(1), (3) to (5). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-156, §12(l), which directed amendment of “Section 13”, without specifying the name of the Act being amended, was executed to this section, which is section 13 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 103-156, §12(l)(1), substituted “the representative of the Administrator” for “his representative”.

Subsec. (a)(7), (8). Pub. L. 103-156, §12(l)(2), substituted “the duties of the officer, employee, or other person” for “his duties”.

Subsec. (a)(9). Pub. L. 103-156, §12(l)(3), substituted “the person” for “he”.

Subsec. (a)(11). Pub. L. 103-156, §7, amended par. (11) generally. Prior to amendment, par. (11) read as follows: “violate any provision of section 77; 78; 79(f)(2), (3), or (4); 79a; 79b(c); 84; 87; 87a; or 87f-1 of this title;”.

1990—Subsec. (e). Pub. L. 101-624 added subsec. (e).

1986—Subsec. (d). Pub. L. 99-641 added subsec. (d).

1977—Subsec. (a)(6). Pub. L. 95-113, §§1604(j)(1), 1606(h), substituted “or condition” for “condition, or quantity” and inserted “, or that any weighing service under this chapter has been performed with respect to grain” after “official inspection under this chapter”.

Subsec. (a)(11). Pub. L. 95-113, §1604(j)(2), inserted references to sections 79(f)(3) and (4) and 87f-1 of this title.

Subsec. (a)(12). Pub. L. 95-113, §1604(j)(3), substituted “weighing equipment” for “testing equipment”.

Subsec. (a)(13). Pub. L. 95-113, §1604(j)(4), substituted “financial interest in grain” for “financial interest in the grain” and “loading of the grain” for “loading of grain”.

1976—Subsec. (a)(1). Pub. L. 94-582, §15(a)(1), substituted “official mark” for “official inspection mark”.

Subsec. (a)(2). Pub. L. 94-582, §15(a)(2), substituted “official mark” for “official inspection mark” in three places, “official certificate” for “official inspection certificate” and “Administrator” for “Secretary”.

Subsec. (a)(3). Pub. L. 94-582, §15(a)(2), prohibited deceptive weighing of grain or submitting grain for official weighing or supervision of weighing knowing it has been deceptively weighed without disclosure before official weighing or supervision of weighing.

Subsec. (a)(5). Pub. L. 94-582, §15(a)(3), substituted “official mark” for “official inspection mark” and inserted “or officially weighed, respectively,” after “such container”.

Subsecs. (a)(7), (8). Pub. L. 94-582, §15(a)(4), inserted “or personnel of agencies delegated authority or of agencies or other persons designated under this chapter” after “personnel”.

Subsec. (a)(9). Pub. L. 94-582, §15(a)(5), inserted “or official weighing or supervision of weighing” after “official inspection”.

Subsec. (a)(10). Pub. L. 94-582, §15(a)(5), (6), inserted “or official weighing or supervision of weighing” after “official inspection” and struck out “or” at end.

Subsec. (a)(11). Pub. L. 94-582, §15(a)(5), inserted after “sections 77, 78,” references to “79(f)(2), 79a, 79b(c)”.

Subsecs. (a)(12), (13). Pub. L. 94-582, §15(a)(6), added pars. (12) and (13).

Subsec. (b)(2). Pub. L. 94-582, §15(b), substituted “inspection or weighing function” for “inspection function”.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 303(b) of Pub. L. 99-641 provided that: “The amendments made by this section [amending this section] shall become effective on May 1, 1987.”

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.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

BENEFITS AND COSTS ASSOCIATED WITH IMPROVED GRAIN QUALITY

Administrator of Federal Grain Inspection Service to estimate economic impact, including benefits and costs and distribution of such benefits and costs, of any major changes necessary to carry out amendments to this section by title XX of Pub. L. 101-624 prior to making such changes, see section 2003 of Pub. L. 101-624, set out as a note under section 76 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 87c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 85, 86, 87c of this title.

§ 87c. Criminal penalties

(a) Any person who commits any offense prohibited by section 87b of this title (except an of-

fense prohibited by paragraphs (a)(7), (a)(8), and (b)(4) in which case the person shall be subject to the general penal statutes in title 18 relating to crimes and offenses against the United States) shall be guilty of a felony and shall, on conviction thereof, be subject to imprisonment for not more than five years, or a fine of not more than \$20,000, or both such imprisonment and fine.

(b) Nothing in this chapter shall be construed as requiring the Secretary to report minor violations of this chapter for criminal prosecution whenever the Secretary believes that the public interest will be adequately served by a suitable written notice or warning, or to report any violation of this chapter for prosecution when the Secretary believes that institution of a proceeding under section 86 of this title will obtain compliance with this chapter and the Secretary institutes such a proceeding.

(c) Any officer or employee of the Department of Agriculture assigned to perform weighing functions under this chapter shall be considered as an employee of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of Title 18.

(Aug. 11, 1916, ch. 313, pt. B, §14, as added Aug. 15, 1968, Pub. L. 90-487, §1, 82 Stat. 767; amended Oct. 21, 1976, Pub. L. 94-582, §17, 90 Stat. 2884; Nov. 24, 1993, Pub. L. 103-156, §§8, 12(m), 107 Stat. 1527, 1529; Oct. 13, 1994, Pub. L. 103-354, title II, §293(a)(7), 108 Stat. 3237.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-156, §12(m), which directed amendment of “Section 14”, without specifying the name of the Act being amended, was executed to this section, which is section 14 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, §§8, 12(m)(1), substituted “the person” for “he”, and struck out “shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than twelve months, or a fine of not more than \$10,000, or both such imprisonment and fine; but, for each subsequent offense subject to this subsection, such person” before “shall be guilty of a felony”.

Subsec. (b). Pub. L. 103-156, §12(m)(2), substituted “the Administrator” for “he” in three places.

1976—Subsec. (a). Pub. L. 94-582 inserted “(except an offense prohibited by paragraphs (a)(7), (a)(8), and (b)(4) in which case he shall be subject to the general penal statutes in Title 18 relating to crimes and offenses against the United States)”, increased the punishment for misdemeanors from six months to twelve months and the fine from \$3,000 to \$10,000, and denominated subsequent offenses as felonies, substituting “but, for each subsequent offense subject to this subsection, such person shall be guilty of a felony and shall, on conviction thereof, be subject to imprisonment for not more than five years, or a fine of not more than \$20,000, or both such imprisonment and fine” for “but if such offense is committed after one conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than one year, or a fine of not more than \$5,000, or both such imprisonment and fine”.

Subsec. (b). Pub. L. 94-582 substituted “Administrator” for “Secretary” and inserted provision that nothing in this chapter shall be construed as requiring the Administrator to report any violation of this chapter for prosecution when he believes that institution of

a proceeding under section 86 of this title will obtain compliance with this chapter and he institutes such a proceeding.

Subsec. (c). Pub. L. 94-582 added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 86 of this title.

§ 87d. Responsibility for acts of others

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of the employment or office of the official, agent, or other person shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.

(Aug. 11, 1916, ch. 313, pt. B, §15, as added Aug. 15, 1968, Pub. L. 90-487, §1, 82 Stat. 768; amended Nov. 24, 1993, Pub. L. 103-156, §12(n), 107 Stat. 1529.)

AMENDMENTS

1993—Pub. L. 103-156, which directed amendment of “Section 15” by substituting “the employment or office of the official, agent, or other person” for “his employment or office”, without specifying the name of the Act being amended, was executed to this section, which is section 15 of the United States Grain Standards Act, to reflect the probable intent of Congress.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

§ 87e. General authorities

(a) Authority of Secretary

The Secretary is authorized to conduct such investigations; hold such hearings; require such reports from any official agency, any State agency delegated authority under this chapter, licensee, or other person; and prescribe such rules, regulations, and instructions, as the Secretary deems necessary to effectuate the purposes or provisions of this chapter. Such regulations may require, as a condition for official inspection or official weighing or supervision of weighing, among other things, (1) that there be installed specified sampling, handling, weighing, and monitoring equipment in grain elevators, warehouses, and other grain storage or handling facilities, (2) that approval of the Secretary be obtained as to the condition of vessels and other carriers or receptacles for the transporting or storing of grain, and (3) that persons having a financial interest in the grain which is to be inspected (or their agents) shall be afforded an opportunity to observe the weighing, loading, and

official inspection thereof, under conditions prescribed by the Secretary. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this chapter shall be determined by tests made in accordance with such procedures as the Secretary may adopt to effectuate the objectives of this chapter, if the relevant facts are determinable by such tests. Proceedings under section 85 of this title for refusal to renew, or for suspension or revocation of, a license shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5.

(b) Investigation of reports or complaints of discrepancies and abuses in official inspection or weighing of grain

The Secretary is authorized to investigate reports or complaints of discrepancies and abuses in the official inspection and weighing of grain under this chapter. The Secretary shall prescribe by regulation procedures for (1) promptly investigating (A) complaints of foreign grain purchasers regarding the official inspection or official weighing of grain shipped from the United States, (B) the cancellation of contracts for the export sale of grain required to be inspected or weighed under this chapter, and (C) any complaint regarding the operation or administration of this chapter or any official transaction with which this chapter is concerned; and (2) taking appropriate action on the basis of the findings of any investigation of such complaints.

(c) Monitoring of United States grain upon its entry into foreign nations

The Secretary is authorized to cause official inspection personnel to monitor in foreign nations which are substantial importers of grain from the United States, grain imported from the United States upon its entry into the foreign nation, to determine whether such grain is of a comparable kind, class, quality, and condition after considering the handling methods and conveyance utilized at the time of loading, and the same quantity that it was certified to be upon official inspection and official weighing in the United States.

(d) Authority of Office of Investigation of Department of Agriculture

The Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture) shall conduct such investigations regarding the operation or administration of this chapter or any official transaction with which this chapter is concerned, as the Director thereof deems necessary to assure the integrity of official inspection and weighing under this chapter.

(e) Research program to develop methods of improving accuracy and uniformity in grading grain

The Secretary is authorized to conduct, in cooperation with other agencies within the De-

partment of Agriculture, a continuing research program for the purpose of developing methods to improve accuracy and uniformity in grading grain.

(f) Adequate personnel to meet inspection and weighing requirements

To assure the normal movement of grain at all inspection points in a timely manner consistent with the policy expressed in section 74 of this title, the Secretary shall, notwithstanding any other provision of law, provide adequate personnel to meet the inspection and weighing requirements of this chapter.

(g) Testing of certain weighing equipment

(1) Subject to paragraph (2), the Secretary may provide for the testing of weighing equipment used for purposes other than weighing grain. The testing shall be performed—

(A) in accordance with such regulations as the Secretary may prescribe; and

(B) for a reasonable fee established by regulation or contractual agreement and sufficient to cover, as nearly as practicable, the estimated costs of the testing performed.

(2) Testing performed under paragraph (1) may not conflict with or impede the objectives specified in section 74 of this title.

(h) Testing of grain inspection instruments

(1) Subject to paragraph (2), the Secretary may provide for the testing of grain inspection instruments used for commercial inspection. The testing shall be performed—

(A) in accordance with such regulations as the Secretary may prescribe; and

(B) for a reasonable fee established by regulation or contractual agreement and sufficient to cover, as nearly as practicable, the estimated costs of the testing performed.

(2) Testing performed under paragraph (1) may not conflict with or impede the objectives specified in section 74 of this title.

(i) Additional for fee services

(1) In accordance with such regulations as the Secretary may provide, the Secretary may perform such other services as the Secretary considers to be appropriate.

(2) In addition to the fees authorized by sections 79, 79a, 79b, and 87f-1 of this title, and this section, the Secretary shall collect reasonable fees to cover the estimated costs of services performed under paragraph (1) other than standardization and foreign monitoring activities.

(3) To the extent practicable, the fees collected under paragraph (2), together with any proceeds from the sale of any samples, shall cover the costs, including administrative and supervisory costs, of services performed under paragraph (1).

(j) Deposit of fees

Fees collected under subsections (g), (h), and (i) of this section shall be deposited into the fund created under section 79(j) of this title.

(k) Official courtesies

The Secretary may extend appropriate courtesies to official representatives of foreign countries in order to establish and maintain rela-

tionships to carry out the policy stated in section 74 of this title. No gift offered or accepted pursuant to this subsection shall exceed \$20 in value.

(Aug. 11, 1916, ch. 313, pt. B, §16, as added Aug. 15, 1968, Pub. L. 90-487, §1, 82 Stat. 768; amended Oct. 21, 1976, Pub. L. 94-582, §18, 90 Stat. 2884; Sept. 29, 1977, Pub. L. 95-113, title XVI, §§1604(k), 1606(i), 91 Stat. 1029, 1030; Dec. 13, 1991, Pub. L. 102-237, title X, §1007(2), 105 Stat. 1897; Nov. 24, 1993, Pub. L. 103-156, §9, 107 Stat. 1527; Oct. 13, 1994, Pub. L. 103-354, title II, §293(a)(7), 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a) to (c), (e) to (i), (k). Pub. L. 103-354 substituted "Secretary" for "Administrator" wherever appearing.

1993—Subsec. (b). Pub. L. 103-156, §9(1), struck out at end "The Administrator shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at the end of every three-month period with respect to investigative action taken on complaints, during the immediately preceding three-month period."

Subsecs. (g) to (k). Pub. L. 103-156, §9(2), added subsecs. (g) to (k).

1991—Subsec. (a). Pub. L. 102-237 substituted "Administrator" for "Administrtror" at end of second sentence.

1977—Subsec. (a). Pub. L. 95-113, §1604(k)(1), rearranged existing provisions and inserted references to the installation of handling and weighing equipment and to warehouses and other grain storage or handling facilities.

Subsec. (b). Pub. L. 95-113, §1606(i), substituted "Committee on Agriculture, Nutrition, and Forestry" for "Committee on Agriculture and Forestry".

Subsec. (f). Pub. L. 95-113, §1604(k)(2), struck out "additional" before "inspection and weighing requirements".

1976—Subsec. (a). Pub. L. 94-582 substituted authorizations of "Administrator" for authorizations of "Secretary", "official agency" for "official inspection agency", and "other person" for "any person" respecting reporting requirement, required reports from State agencies delegated authority under this chapter and from licensees, inserted items (1) to (3) relating to conditions for official inspection, authorized issuance of instructions, and struck out reference to section 86 of this title, including proceedings for refusal of official inspection service not required by section 77 of this title, as not being subject to administrative procedure provisions.

Subsecs. (b) to (f). Pub. L. 94-582 added subsecs. (b) to (f).

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.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

TEMPORARY EXERCISE BY SECRETARY OF AGRICULTURE OF POWERS, DUTIES, AND AUTHORIZATIONS OF ADMINISTRATOR PENDING APPOINTMENT OF ADMINISTRATOR

Powers, duties, and authorizations of the Administrator of the Federal Grain Inspection Service to be ex-

ercised by the Secretary of Agriculture pending the appointment of the Administrator, see section 25 of Pub. L. 94-582, set out as a note under section 75a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 87b, 87h of this title.

§ 87e-1. Purchase or lease of inspection equipment

Notwithstanding the provisions of section 5 of title 41 and section 490 of title 40, the Administrator of the Federal Grain Inspection Service is authorized to negotiate for and purchase or lease, from any person licensed or designated (on October 21, 1976) to perform official inspection functions under this chapter, at fair market value, any facilities or equipment which the Administrator determines to be necessary for the conduct of official inspection.

(Pub. L. 94-582, §23, Oct. 21, 1976, 90 Stat. 2888.)

CODIFICATION

Section was not enacted as part of the United States Grain Standards Act which comprises this chapter.

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note set out under section 74 of this title.

§ 87f. Enforcement provisions

(a) Subpena power

For the purposes of this chapter, the Secretary shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person with respect to whom such authority is exercised; and the Secretary shall have power to require by subpena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation by the Secretary, and may administer oaths and affirmations, examine witnesses, and receive evidence.

(b) Disobedience of subpena

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpena the Secretary may invoke the aid of any court designated in subsection (h) of this section in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(c) Court order requiring attendance and testimony of witnesses

Any such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Secretary or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) Fees and mileage costs of witnesses

Witnesses summoned before the Secretary shall be paid the same fees and mileage that are

paid witnesses in the courts of the United States, and witnesses from whom depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(e) Violation of subpoena as misdemeanor

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in the power of the person to do so, in obedience to the subpoena or lawful requirement of the Secretary, shall be guilty of a misdemeanor, and upon conviction thereof be subject to imprisonment for not more than 1 year or a fine of not more than \$10,000 or both the imprisonment and fine.

(f) Repealed. Pub. L. 91-452, title II, § 203, Oct. 15, 1970, 84 Stat. 928

(g) Repealed. Pub. L. 94-582, § 19(d), Oct. 21, 1976, 90 Stat. 2886

(h) District court jurisdiction

The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions of the United States shall have jurisdiction in cases arising under this chapter.

(Aug. 11, 1916, ch. 313, pt. B, § 17, as added Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 768; amended Oct. 15, 1970, Pub. L. 91-452, title II, § 203, 84 Stat. 928; Oct. 21, 1976, Pub. L. 94-582, § 19, 90 Stat. 2885; Nov. 24, 1993, Pub. L. 103-156, §§ 10, 12(o), 107 Stat. 1528, 1529; Oct. 13, 1994, Pub. L. 103-354, title II, § 293(a)(7), 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a) to (e). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Subsec. (e). Pub. L. 103-156, § 12(o), which directed amendment of “Section 17(e)” by substituting “the power of the person” for “his power”, without specifying the name of the Act being amended, was executed to this section, which is section 17 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Pub. L. 103-156, § 10, substituted “imprisonment for not more than 1 year or a fine of not more than \$10,000 or both the imprisonment and fine” for “the penalties set forth in subsection (a) of section 87c of this title”.

1976—Subsec. (a). Pub. L. 94-582, § 19(a), (b), substituted “Administrator” for “Secretary” in two places and inserted “by the Administrator” after “under investigation”, respectively.

Subsecs. (b) to (d). Pub. L. 94-582, § 19(a), substituted “Administrator” for “Secretary” in subsecs. (b) to (d).

Subsec. (e). Pub. L. 94-582, § 19(a), (c), substituted “Administrator” for “Secretary” and inserted “subsection (a) of” before “section 87c of this title”.

Subsec. (g). Pub. L. 94-582, § 19(d), struck out subsec. (g) which made unlawful disclosure of information by an officer or employee of the Department of Agriculture a misdemeanor, subject to the penalties set forth in section 87c of this title.

1970—Subsec. (f). Pub. L. 91-452 struck out subsec. (f) which related to the immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-452, and amendment not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 86 of this title.

§ 87f-1. Registration requirements

(a) General requirement

The Secretary shall provide, by regulation, for the registration of all persons engaged in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting of grain for sale in foreign commerce. This section shall not apply to—

(1) any person who only incidentally or occasionally buys for sale, or handles, weighs, or transports grain for sale and is not engaged in the regular business of buying grain for sale, or handling, weighing, or transporting grain for sale;

(2) any producer of grain who only incidentally or occasionally sells or transports grain which the producer has purchased;

(3) any person who transports grain for hire and does not own a financial interest in such grain; or

(4) any person who buys grain for feeding or processing and not for the purpose of reselling and only incidentally or occasionally sells such grain as grain.

(b) Required information

(1) All persons required to register under this chapter shall submit the following information to the Secretary:

(A) the name and principal address of the business,

(B) the names of all directors of such business,

(C) the names of the principal officers of such business,

(D) the names of all persons in a control relationship with respect to such business,

(E) a list of locations where the business conducts substantial operations, and

(F) such other information as the Secretary deems necessary to carry out the purposes of this chapter.

Persons required to register under this section shall also submit to the Secretary the information specified in clauses (A) through (F) of this paragraph with respect to any business engaged

in the business of buying grain for sale in interstate commerce, and in the business of handling, weighing, or transporting of grain for sale in interstate commerce, if, with respect to such business, the person otherwise required to register under this section is in a control relationship.

(2) For the purposes of this section, a person shall be deemed to be in a "control relationship" with respect to a business required to register under subsection (a) of this section and with respect to applicable interstate businesses if—

(A) such person has an ownership interest of 10 per centum or more in such business, or

(B) a business or group of business entities, with respect to which such person is in a control relationship, has an ownership interest of 10 per centum or more in such business.

(3) For purposes of clauses (A) and (B) of paragraph (2) of this subsection, a person shall be considered to own the ownership interest which is owned by his or her spouse, minor children, and relatives living in the same household.

(c) Certificate of registration

The Secretary shall issue a certificate of registration to persons who comply with the provisions of this section. The certificate of registration issued in accordance with this section shall be renewed annually. If there has been any change in the information required under subsection (b) of this section, the person holding such certificate shall, within thirty days of the discovery of such change, notify the Secretary of such change. No person shall engage in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting of grain in foreign commerce unless the person has registered with the Secretary as required by this chapter and has an unsuspended and unrevoked certificate of registration.

(d) Suspension or registration of certificate of registration

The Secretary may suspend or revoke any certificate of registration issued under this section whenever, after the person holding such certificate has been afforded an opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5, the Secretary shall determine that such person has violated any provision of this chapter or of the regulations promulgated thereunder, or has been convicted of any violation involving the handling, weighing, or inspection of grain under title 18.

(e) Fees

The Secretary shall charge and collect fees from any person registered under this section. The amount of such fees shall be determined on the basis of the costs of the Secretary in administering the registration required by this section. Such fees shall be deposited in, and used as part of, the fund described in section 79(j) of this title.

(Aug. 11, 1916, ch. 313, pt. B, §17A, as added Oct. 21, 1976, Pub. L. 94-582, §22, 90 Stat. 2886; amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §1604(I), 91 Stat. 1029; Nov. 24, 1993, Pub. L.

103-156, §12(p), 107 Stat. 1529; Oct. 13, 1994, Pub. L. 103-354, title II, §293(a)(7), 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a), (b)(1), (c) to (e). Pub. L. 103-354 substituted "Secretary" for "Administrator" wherever appearing.

1993—Pub. L. 103-156, §12(p), which directed amendment of "Section 17A", without specifying the name of the Act being amended, was executed to this section, which is section 17A of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 103-156, §12(p)(1), substituted "the producer" for "he".

Subsec. (c). Pub. L. 103-156, §12(p)(2), substituted "the person" for "he" in last sentence.

1977—Subsec. (b)(1). Pub. L. 95-113 substituted "All persons required to register" for "All persons registered" in provisions preceding subpar. (A).

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.

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note set out under section 74 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 87b, 87e, 87h of this title.

§ 87f-2. Reporting requirements

(a) General requirements; annual report to Congressional committees

On December 1 of each year, the Secretary shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding the effectiveness of the official inspection and weighing system under this chapter for the prior fiscal year, with recommendations for any legislative changes necessary to accomplish the objectives stated in section 74 of this title.

(b) Notification of Congressional committees of complaints regarding faulty grain deliveries and cancellation of export contracts

The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate (1) of any complaint regarding faulty grain delivery made to the Department of Agriculture by a foreign purchaser of United States grain, within thirty days after a determination by the Secretary that there is reasonable cause to believe that the grain delivery was in fact faulty, and (2) notwithstanding the provisions of section 612c-3¹ of this title, within thirty days after receipt by the Secretary or the Secretary² of notice of the cancellation of any contract for the export of more than one hundred thousand metric tons of grain.

¹ See References in Text note below.

² So in original. The words "or the Secretary" probably should not appear.

(c) Submission to Congressional committees of annual summary of complaints from foreign purchasers and prospective purchasers of grain

On December 1 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a summary of all other complaints received by the Department of Agriculture during the prior fiscal year from foreign purchasers and prospective purchasers of United States grain and other foreign purchasers interested in the trade of grain, and the resolution thereof: *Provided*, That the summary shall not include a complaint unless reasonable cause exists to believe that the complaint is valid, as determined by the Secretary.

(Aug. 11, 1916, ch. 313, pt. B, §17B, as added Oct. 21, 1976, Pub. L. 94-582, §22, 90 Stat. 2888; amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§1604(m), 1606(i), (j), 91 Stat. 1029, 1030; Dec. 13, 1991, Pub. L. 102-237, title X, §1007(3), 105 Stat. 1897; Oct. 13, 1994, Pub. L. 103-354, title II, §293(a)(7), 108 Stat. 3237.)

REFERENCES IN TEXT

Section 612c-3 of this title, referred to in subsec. (b), was repealed by Pub. L. 101-624, title XV, §1578, Nov. 28, 1990, 104 Stat. 3702.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1991—Subsec. (a). Pub. L. 102-237 substituted “On December 1 of each year, the” for “The” and “Committee on Agriculture” for “committee on Agriculture” before “of the House” and struck out “one year after the effective date of the United States Grain Standards Act of 1976 setting forth the actions taken by him in implementing the provisions of that Act; and, on December 1 of each year thereafter, the Administrator shall report to such committees” before “regarding”.

1977—Subsec. (a). Pub. L. 95-113, §1606(i), (j), substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry” and “inspection and weighing” for “inspection”.

Subsec. (b). Pub. L. 95-113, §§1604(m), 1606(i), substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry” in provisions preceding cl. (1) and, in cl. (2) substituted “notwithstanding the provisions of section 612c-3 of this title, within thirty days after receipt by the Administrator or the Secretary of notice of the cancellation” for “within thirty days after receipt by the Administrator or the Secretary of the cancellation”.

Subsec. (c). Pub. L. 95-113, §1606(i), substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry”.

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.

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note set out under section 74 of this title.

§ 87g. Relation to State and local laws; separability

(a) No State or subdivision thereof may require the inspection or description in accord-

ance with any standards of kind, class, quality, condition, or other characteristics of grain as a condition of shipment, or sale, of such grain in interstate or foreign commerce, or require any license for, or impose any other restrictions upon the performance of any official inspection or weighing function under this chapter by official inspection personnel. Otherwise nothing in this chapter shall invalidate any law or other provision of any State or subdivision thereof in the absence of a conflict with this chapter.

(b) If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Aug. 11, 1916, ch. 313, pt. B, §18, as added Aug. 15, 1968, Pub. L. 90-487, §1, 82 Stat. 769; amended Oct. 21, 1976, Pub. L. 94-582, §20, 90 Stat. 2886.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-582 substituted in first sentence “official inspection or weighing function” for “official inspection function”.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

§ 87h. Appropriations

There are hereby authorized to be appropriated such sums as are necessary for standardization and compliance activities, monitoring in foreign ports grain officially inspected and weighed under this chapter, and any other expenses necessary to carry out the provisions of this chapter for each of the fiscal years 1988 through 2000, to the extent that financing is not obtained from fees and sales of samples as provided for in sections 79, 79a, 79b, 87e, and 87f-1 of this title.

(Aug. 11, 1916, ch. 313, pt. B, §19, as added Aug. 15, 1968, Pub. L. 90-487, §1, 82 Stat. 769; amended Oct. 21, 1976, Pub. L. 94-582, §21, 90 Stat. 2886; Sept. 29, 1977, Pub. L. 95-113, title XVI, §§1602(c), 1604(n), 91 Stat. 1025, 1029; Aug. 13, 1981, Pub. L. 97-35, title I, §155(4), 95 Stat. 372; Oct. 11, 1984, Pub. L. 98-469, §2(3), 98 Stat. 1832; Oct. 24, 1988, Pub. L. 100-518, §2(4), 102 Stat. 2586; Nov. 24, 1993, Pub. L. 103-156, §3, 107 Stat. 1525.)

AMENDMENTS

1993—Pub. L. 103-156 substituted “1988 through 2000” for “during the period beginning October 1, 1988, and ending September 30, 1993” and inserted references to sections 79b and 87e of this title.

1988—Pub. L. 100-518 amended section generally, substituting “1988” for “1981” and “1993” for “1984”.

1984—Pub. L. 98-469 temporarily substituted “September 30, 1988” for “September 30, 1984”. See Effective and Termination Dates of 1984 Amendment note below.

1981—Pub. L. 97-35 temporarily amended section, substantially revising enumerated activities for which appropriations are authorized and limiting such authorization for each of the fiscal years during the period be-

ginning Oct. 1, 1981, and ending Sept. 30, 1984. See Effective and Termination Dates of 1981 Amendment note below.

1977—Pub. L. 95-113 substituted “Federal administrative and supervisory costs related to the official inspection or the provision of weighing services for grain” for “those Federal administrative and supervisory costs incurred within the Service’s Washington office or not directly related to the official inspection or the provision of weighing services for grain” and renumbered this section as section 19 of the United States Grain Standards Act, thereby correcting an error in the 1976 amendment of this section by Pub. L. 94-582 under which this section had inadvertently been renumbered from section 19 of the United States Grain Standards Act to section 21 thereof.

1976—Pub. L. 94-582 enumerated specific items for which appropriations are authorized and provided for financing obtained from fees and sales of samples as provided in sections 79a and 87f-1 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-156 effective as of Sept. 30, 1993, see section 16(b) of Pub. L. 103-156, set out as a note under section 75 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

That part of section 2 of Pub. L. 100-518 which provided that amendment made by Pub. L. 100-518 was effective for the period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed, effective Sept. 30, 1993, by Pub. L. 103-156, §§13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530.

EFFECTIVE AND TERMINATION DATES OF 1984 AMENDMENT

Section 2 of Pub. L. 98-469 provided that the amendment made by Pub. L. 98-469 is effective for period beginning Oct. 11, 1984, and ending Sept. 30, 1988.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 155 of Pub. L. 97-35, as amended by Pub. L. 98-469, §1, Oct. 11, 1984, 98 Stat. 1831, provided that the amendment made by Pub. L. 97-35 is effective for period beginning Oct. 1, 1981, and ending Sept. 30, 1988.

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.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

§ 87i. Omitted

CODIFICATION

Section, act Aug. 11, 1916, ch. 313, pt. B, §20, as added Aug. 13, 1981, Pub. L. 97-35, title I, §155(5), 95 Stat. 372, which established an advisory committee, was effective for the period Oct. 1, 1981, through Sept. 30, 1988, pursuant to section 155 of Pub. L. 97-35, as amended. See section 87j of this title.

§ 87j. Advisory committee

(a) Establishment; number and terms of members

Not later than ninety days after October 24, 1988, the Secretary shall establish an advisory

committee to provide advice to the Secretary with respect to implementation of this chapter consistent with the declarations of policy in section 74 of this title. The advisory committee shall consist of fifteen members, appointed by the Secretary, who represent the interests of all segments of the grain producing, processing, storing, merchandising, consuming, and exporting industries, including grain inspection and weighing agencies and scientists with expertise in research related to the policies established in section 74 of this title. Members of the advisory committee shall be appointed to three-year terms, except that of the initial fifteen members of the advisory committee first appointed following the enactment of this section, five shall be appointed for terms of one year and five shall be appointed for terms of two years. No member of the advisory committee may serve successive terms.

(b) Federal Advisory Committee Act as governing

The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act [5 U.S.C. App.].

(c) Clerical assistance and staff personnel

The Secretary shall provide the advisory committee with necessary clerical assistance and staff personnel.

(d) Compensation and travel expenses

Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this chapter, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5.

(e) Expiration of Secretary’s authority

The authority provided to the Secretary for the establishment and maintenance of an advisory committee under this section shall expire on September 30, 2000.

(Aug. 11, 1916, ch. 313, pt. B, §21, as added Oct. 24, 1988, Pub. L. 100-518, §2(5), 102 Stat. 2586; amended Nov. 24, 1993, Pub. L. 103-156, §§13(b)(1), 14(c), 107 Stat. 1529, 1530; Oct. 13, 1994, Pub. L. 103-354, title II, §293(a)(7), 108 Stat. 3237.)

REFERENCES IN TEXT

The enactment of this section, referred to in subsec. (a), means Oct. 24, 1988, the date of enactment of Pub. L. 100-518.

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1994—Subsecs. (a), (c). Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1993—Subsec. (a). Pub. L. 103-156, §13(b)(1), struck out “(1)” before “Not later than” and struck out par. (2) which read as follows: “To ensure a smooth transition, the advisory committee established under section 87i of this title (as in effect prior to October 1, 1988) shall continue in existence until all members of the advisory committee established under this section are appointed; and the Secretary may appoint members of the

advisory committee established under section 87i of this title to serve on the advisory committee established under this section, without regard to the time of service of such members on the advisory committee established under section 87i of this title.”

Subsec. (e). Pub. L. 103-156, §14(c), added subsec. (e).

EFFECTIVE AND TERMINATION DATES

That part of section 2 of Pub. L. 100-518 which provided that section was effective for period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed, effective Sept. 30, 1993, by Pub. L. 103-156, §§13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530.

§ 87k. Standardizing commercial inspections

(a) Testing equipment

To promote greater uniformity in commercial grain inspection results, the Secretary may work in conjunction with the National Institute for Standards and Technology, the National Conference on Weights and Measures, or other appropriate governmental, scientific, or technical organizations to—

- (1) identify inspection instruments requiring standardization under subsection (b) of this section;
- (2) establish performance criteria for commercial grain inspection instruments;
- (3) develop a national program to approve grain inspection instruments for commercial inspection; and
- (4) develop standard reference materials or other means necessary for calibration or testing of approved instruments.

(b) General inspection procedures

To ensure that producers are treated uniformly in delivering grain, the Secretary shall develop practical and cost-effective procedures for conducting commercial inspections of grain with respect to the application of quality factors, that result in premiums and discounts. The procedures shall be made available to country elevators and others making first-point-of-delivery inspections.

(c) Inspection services and information

To encourage the use of equipment and procedures developed in accordance with subsections (a) and (b) of this section, the Secretary shall provide for official inspection services by the Secretary, States, and official inspection agencies and provide information on the proper use of sampling and inspection equipment, application of the grain standards, and availability of official inspection services, including appeals under this chapter.

(d) Standardized aflatoxin equipment and procedures

The Secretary shall—

- (1) establish uniform standards for testing equipment; and
- (2) establish uniform testing procedures and sampling techniques;

that may be used by processors, refiners, operators of grain elevators and terminals, and others to accurately detect the level of aflatoxin contamination of corn in the United States.

(Aug. 11, 1916, ch. 313, pt. B, §22, as added Nov. 28, 1990, Pub. L. 101-624, title XX, §2009, 104 Stat. 3931; amended Nov. 24, 1993, Pub. L. 103-156, §§11,

13(b)(2), 107 Stat. 1528, 1529; Oct. 13, 1994, Pub. L. 103-354, title II, §293(a)(7), (8), 108 Stat. 3237.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original “this Act” and was translated as reading “this part”, meaning part B of act Aug. 11, 1916, known as the United States Grain Standards Act, to reflect the probable intent of Congress.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing and “Secretary” for “Service” in subsec. (c).

1993—Subsec. (a). Pub. L. 103-156, §11, substituted “, the National Conference on Weights and Measures, or other appropriate governmental, scientific, or technical organizations” for “and the National Conference on Weights and Measures” in introductory provisions.

Subsec. (c). Pub. L. 103-156, §13(b)(2), substituted “subsections (a) and (b)” for “subsection (a) and (b)”.

CHAPTER 4—NAVAL STORES

Sec.	
91.	Short title.
92.	Definitions.
93.	Establishment of official naval stores standards.
94.	Supplying duplicates of standards; examination, etc., of naval stores and certification thereof.
95.	Prohibition of acts deemed injurious to commerce in naval stores.
96.	Punishment for violation of prohibition.
97.	Purchase and analysis by Secretary of samples of spirits of turpentine to detect violations; reports to Department of Justice; publication of results of analysis, etc.
98.	Fees and charges for naval stores inspection and related services; establishment; collection, etc.; authorization of appropriations; administrative expenses.
99.	Separability.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Mar. 12, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

The Secretary and Department of Health, Education, and Welfare was redesignated the Secretary and Department of Health and Human Services by section 3508 of Title 20, Education.

The Food and Drug Administration in the Department of Agriculture and its functions, except those functions relating to the administration of the Naval Stores Act, this chapter, were transferred to the Federal Security Agency by 1940 Reorg. Plan No. IV, §12, set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 608c of this title.

§ 91. Short title

For convenience of reference, this chapter may be designated and cited as “The Naval Stores Act.”

(Mar. 3, 1923, ch. 217, § 1, 42 Stat. 1435.)

EFFECTIVE DATE

Section 10 of act Mar. 3, 1923, provided: “That this Act [enacting this chapter] shall become effective at

the expiration of ninety days next after the date of its approval [Mar. 23, 1923].”

CROSS REFERENCES

Orders regulating handling of naval stores, see section 608c of this title.

§ 92. Definitions

When used in this chapter—

(a) “Naval stores” means spirits of turpentine and rosin.

(b) “Spirits of turpentine” includes gum spirits of turpentine and wood turpentine.

(c) “Gum spirits of turpentine” means spirits of turpentine made from gum (oleoresin) from a living tree.

(d) “Wood turpentine” includes steam distilled wood turpentine and destructively distilled wood turpentine.

(e) “Steam distilled wood turpentine” means wood turpentine distilled with steam from the oleoresin within or extracted from the wood.

(f) “Destructively distilled wood turpentine” means wood turpentine obtained in the destructive distillation of the wood.

(g) “Rosin” includes gum rosin and wood rosin.

(h) “Gum rosin” means rosin remaining after the distillation of gum spirits of turpentine.

(i) “Wood rosin” means rosin remaining after the distillation of steam distilled wood turpentine.

(j) “Package” means any container of naval stores, and includes barrel, tank, tank car, or other receptacle.

(k) “Person” includes partnerships, associations, and corporations, as well as individuals.

(l) The term “commerce” means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession or the District of Columbia.

(Mar. 3, 1923, ch. 217, § 2, 42 Stat. 1435.)

CROSS REFERENCES

Standards for naval stores until otherwise prescribed as provided in this chapter, kinds of spirits of turpentine defined in subdivisions (c), (e), and (f) of this section as, see section 93 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 93 of this title; title 12 section 1141j.

§ 93. Establishment of official naval stores standards

For the purposes of this chapter the kinds of spirits of turpentine defined in subdivisions (c), (e), and (f) of section 92 of this title and the rosin types heretofore prepared and recommended under existing laws, by or under authority of the Secretary of Agriculture, are made the standards for naval stores until otherwise prescribed as hereinafter provided. The Secretary of Agriculture is authorized to establish and promulgate standards for naval stores for which no standards are herein provided, after at least three months’ notice of the proposed

standard shall have been given to the trade, so far as practicable, and due hearings or reasonable opportunities to be heard shall have been afforded those favoring or opposing the same. No such standard shall become effective until after three months from the date of the promulgation thereof. Any standard made by this chapter or established and promulgated by the Secretary of Agriculture in accordance therewith may be modified by said Secretary whenever, for reasons and causes deemed by him sufficient, the interests of the trade shall so require, after at least six months’ notice of the proposed modifications shall have been given to the trade, so far as practicable, and due hearings or reasonable opportunities to be heard shall have been afforded those favoring or opposing the same; and no such modification so made shall become effective until after six months from the date when made.

The various grades of rosin, from highest to lowest, shall be designated, unless and until changed, as hereinbefore provided, by the following letters, respectively: X, WW, WG, N, M, K, I, H, G, F, E, D, and B, together with the designation “gum rosin” or “wood rosin”, as the case may be.

The standards herein made and authorized to be made shall be known as the “Official Naval Stores Standards of the United States,” and may be referred to by the abbreviated expression “United States Standards”, and shall be the standards by which all naval stores in commerce shall be graded and described.

(Mar. 3, 1923, ch. 217, § 3, 42 Stat. 1435.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 98 of this title.

§ 94. Supplying duplicates of standards; examination, etc., of naval stores and certification thereof

The Secretary of Agriculture shall provide, if practicable, any interested persons with duplicates of the official naval stores standards of the United States upon request accompanied by tender of satisfactory security for the return thereof, under such regulations as he may prescribe. The Secretary of Agriculture shall examine, if practicable, upon request of any interested person, any naval stores and shall analyze, classify, or grade the same under such regulations as he may prescribe. He shall furnish a certificate showing the analysis, classification, or grade of such naval stores, which certificate shall be prima facie evidence of the analysis, classification, or grade of such naval stores and of the contents of any package from which the same may have been taken, as well as of the correctness of such analysis, classification, or grade and shall be admissible as such in any court.

(Mar. 3, 1923, ch. 217, § 4, 42 Stat. 1436; Aug. 13, 1981, Pub. L. 97-35, title I, § 159(a)(1), 95 Stat. 376.)

AMENDMENTS

1981—Pub. L. 97-35 struck out “on tender of the cost thereof as required by him,” after “grade the same”.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 159(b) of Pub. L. 97-35 provided that: “The provisions of this section [amending this section and

section 98 of this title] shall become effective October 1, 1981”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 98 of this title.

§ 95. Prohibition of acts deemed injurious to commerce in naval stores

The following acts are hereby declared injurious to commerce in naval stores and are hereby prohibited and made unlawful:

(a) The sale in commerce of any naval stores, or of anything offered as such, except under or by reference to United States standards.

(b) The sale of any naval stores under or by reference to United States standards which is other than what it is represented to be.

(c) The use in commerce of the word “turpentine” or the word “rosin,” singly or with any other word or words, or of any compound, derivative, or imitation of either such word, or of any misleading word, or of any word, combination of words, letter, or combination of letters, provided herein or by the Secretary of Agriculture to be used to designate naval stores of any kind or grade, in selling, offering for sale, advertising, or shipping anything other than naval stores of the United States standards.

(d) The use in commerce of any false, misleading, or deceitful means or practice in the sale of naval stores or of anything offered as such.

(Mar. 3, 1923, ch. 217, § 5, 42 Stat. 1436.)

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 96 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 96 of this title.

§ 96. Punishment for violation of prohibition

Any person willfully violating any provision of section 95 of this title shall, on conviction, be punished for each offense by a fine not exceeding \$5,000 or by imprisonment for not exceeding one year, or both.

(Mar. 3, 1923, ch. 217, § 6, 42 Stat. 1436.)

§ 97. Purchase and analysis by Secretary of samples of spirits of turpentine to detect violations; reports to Department of Justice; publication of results of analysis, etc.

The Secretary of Agriculture is hereby authorized to purchase from time to time in open market samples of spirits of turpentine and of anything offered for sale as such for the purpose of analysis, classification, or grading and of detecting any violation of this chapter. He shall report to the Department of Justice for appropriate action any violation of this chapter coming to his knowledge. He is also authorized to publish from time to time results of any analysis, classification, or grading of spirits of turpentine and of anything offered for sale as such made by him under any provision of this chapter.

(Mar. 3, 1923, ch. 217, § 7, 42 Stat. 1436.)

§ 98. Fees and charges for naval stores inspection and related services; establishment, collection, etc.; authorization of appropriations; administrative expenses

(a) The Secretary of Agriculture shall fix and cause to be collected fees and charges for the establishment of standards under section 93 of this title and for examinations, analyses, classifications, and other services under section 94 of this title which shall cover, as nearly as practicable, the costs of providing such services and standards as the Secretary shall deem necessary, including administrative and supervisory costs. Such fees and charges, when collected, shall be credited to the current appropriation account that incurs such costs and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to providing such services and standards under this chapter. Fees and charges shall be assessed and collected from processors and warehousemen of naval stores, and inspection and related services shall be suspended or denied to any such processor or warehouseman upon failure to timely pay the fees and charges assessed.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the enforcement and administration of this chapter.

(Mar. 3, 1923, ch. 217, § 8, 42 Stat. 1436; Aug. 13, 1981, Pub. L. 97-35, title I, § 159(a)(2), 95 Stat. 376.)

AMENDMENTS

1981—Pub. L. 97-35 added subsec. (a). Former unlettered provisions were designated subsec. (b) and, as so designated, struck out authorization of the Secretary to employ personnel and make administrative expenditures.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 159(b) of Pub. L. 97-35, set out as a note under section 94 of this title.

§ 99. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provisions to other persons and circumstances shall not be affected thereby.

(Mar. 3, 1923, ch. 217, § 9, 42 Stat. 1437.)

CHAPTER 5—IMPORTATION OF ADULTERATED SEEDS

§§ 111 to 116. Repealed. Aug. 9, 1939, ch. 615, § 419, 53 Stat. 1290

Sections, act Aug. 24, 1912, ch. 382, §§ 1-6, 37 Stat. 506, related to regulation of foreign commerce by prohibiting admission into United States of adulterated grain and seeds. See section 1551 et seq. of this title.

Section 111 amended by acts Aug. 11, 1916, ch. 313, 39 Stat. 453; Apr. 26, 1926, ch. 186, § 1, 44 Stat. 325.

Section 113 amended by act Aug. 11, 1916, ch. 313, 39 Stat. 453.

Sections 115 and 116 amended by act Apr. 26, 1926, ch. 186, § 2, 44 Stat. 325.

EFFECTIVE DATE OF REPEAL; EXCEPTIONS

Repeal effective on the one hundred and eightieth day after Aug. 9, 1939, except that notices with respect to

imported alfalfa and red clover seed promulgated by the Secretary of Agriculture under authority of former sections 111 to 116 of this title, which were in effect Aug. 9, 1939, remained in full force and effect as if promulgated under sections 1551 to 1610 of this title.

CHAPTER 6—INSECTICIDES AND ENVIRONMENTAL PESTICIDE CONTROL

SUBCHAPTER I—INSECTICIDES

Sec. 121 to 134. Repealed.

SUBCHAPTER II—ENVIRONMENTAL PESTICIDE CONTROL

135 to 135k. Omitted.

- 136. Definitions.
 - (a) Active ingredient.
 - (b) Administrator.
 - (c) Adulterated.
 - (d) Animal.
 - (e) Certified applicator, etc.
 - (f) Defoliant.
 - (g) Desiccant.
 - (h) Device.
 - (i) District court.
 - (j) Environment.
 - (k) Fungus.
 - (l) Imminent hazard.
 - (m) Inert ingredient.
 - (n) Ingredient statement.
 - (o) Insect.
 - (p) Label and labeling.
 - (q) Misbranded.
 - (r) Nematode.
 - (s) Person.
 - (t) Pest.
 - (u) Pesticide.
 - (v) Plant regulator.
 - (w) Producer and produce.
 - (x) Protect health and the environment.
 - (y) Registrant.
 - (z) Registration.
 - (aa) State.
 - (bb) Unreasonable adverse effects on the environment.
 - (cc) Weed.
 - (dd) Establishment.
 - (ee) To use any registered pesticide in a manner inconsistent with its labeling.
 - (ff) Outstanding data requirement.
 - (gg) To distribute or sell.
- 136a. Registration of pesticides.
 - (a) Requirement of registration.
 - (b) Exemptions.
 - (c) Procedure for registration.
 - (d) Classification of pesticides.
 - (e) Products with same formulation and claims.
 - (f) Miscellaneous.
- 136a-1. Reregistration of registered pesticides.
 - (a) General rule.
 - (b) Reregistration phases.
 - (c) Phase one.
 - (d) Phase two.
 - (e) Phase three.
 - (f) Phase four.
 - (g) Phase five.
 - (h) Compensation of data submitter.
 - (i) Fees.
 - (j) Exemption of certain registrants.
 - (k) Reregistration and expedited processing fund.
 - (l) Judicial review.
- 136b. Transferred.
- 136c. Experimental use permits.
 - (a) Issuance.
 - (b) Temporary tolerance level.

- Sec.
 - (c) Use under permit.
 - (d) Studies.
 - (e) Revocation.
 - (f) State issuance of permits.
 - (g) Exemption for agricultural research agencies.
- 136d. Administrative review; suspension.
 - (a) Cancellation after five years.
 - (b) Cancellation and change in classification.
 - (c) Suspension.
 - (d) Public hearings and scientific review.
 - (e) Conditional registration.
 - (f) General provisions.
 - (g) Notice for stored pesticides with canceled or suspended registrations.
 - (h) Judicial review.
- 136e. Registration of establishments.
 - (a) Requirement.
 - (b) Registration.
 - (c) Information required.
 - (d) Confidential records and information.
- 136f. Books and records.
 - (a) Requirements.
 - (b) Inspection.
- 136g. Inspection of establishments, etc.
 - (a) In general.
 - (b) Warrants.
 - (c) Enforcement.
- 136h. Protection of trade secrets and other information.
 - (a) In general.
 - (b) Disclosure.
 - (c) Disputes.
 - (d) Limitations.
 - (e) Disclosure to contractors.
 - (f) Penalty for disclosure by Federal employees.
 - (g) Disclosure to foreign and multinational pesticide producers.
- 136i. Use of restricted use pesticides; applicators.
 - (a) Certification procedure.
 - (b) State plans.
 - (c) Instruction in integrated pest management techniques.
 - (d) In general.
 - (e) Separate standards.
- 136i-1. Pesticide recordkeeping.
 - (a) Requirements.
 - (b) Access.
 - (c) Health care personnel.
 - (d) Penalty.
 - (e) Federal or State provisions.
 - (f) Surveys and reports.
 - (g) Regulations.
- 136j. Unlawful acts.
 - (a) In general.
 - (b) Exemptions.
- 136k. Stop sale, use, removal, and seizure.
 - (a) Stop sale, etc., orders.
 - (b) Seizure.
 - (c) Disposition after condemnation.
 - (d) Court costs, etc.
- 136l. Penalties.
 - (a) Civil penalties.
 - (b) Criminal penalties.
- 136m. Indemnities.
 - (a) General indemnification.
 - (b) Indemnification of end users, dealers, and distributors.
 - (c) Amount of payment.
- 136n. Administrative procedure; judicial review.
 - (a) District court review.
 - (b) Review by court of appeals.
 - (c) Jurisdiction of district courts.
 - (d) Notice of judgments.
- 136o. Imports and exports.
 - (a) Pesticides and devices intended for export.

- Sec. (b) Cancellation notices furnished to foreign governments.
 (c) Importation of pesticides and devices.
 (d) Cooperation in international efforts.
 (e) Regulations.
- 136p. Exemption of Federal and State agencies.
- 136q. Storage, disposal, transportation, and recall.
 (a) Storage, disposal, and transportation.
 (b) Recalls.
 (c) Storage costs.
 (d) Administration of storage, disposal, transportation, and recall programs.
 (e) Container design.
 (f) Pesticide residue removal.
 (g) Pesticide container study.
 (h) Relationship to Solid Waste Disposal Act.
- 136r. Research and monitoring.
 (a) Research.
 (b) National monitoring plan.
 (c) Monitoring.
- 136s. Solicitation of comments; notice of public hearings.
 (a) Secretary of Agriculture.
 (b) Views.
 (c) Notice.
- 136t. Delegation and cooperation.
 (a) Delegation.
 (b) Cooperation.
- 136u. State cooperation, aid, and training.
 (a) Cooperative agreements.
 (b) Contracts for training.
 (c) Information and education.
- 136v. Authority of States.
 (a) In general.
 (b) Uniformity.
 (c) Additional uses.
- 136w. Authority of Administrator.
 (a) In general.
 (b) Exemption of pesticides.
 (c) Other authority.
 (d) Scientific advisory panel.
 (e) Peer review.
- 136w-1. State primary enforcement responsibility.
 (a) In general.
 (b) Special rules.
 (c) Administrator.
- 136w-2. Failure by the State to assure enforcement of State pesticide use regulations.
 (a) Referral.
 (b) Notice.
 (c) Construction.
- 136w-3. Identification of pests; cooperation with Department of Agriculture's program.
 (a) In general.
 (b) Pest control availability.
 (c) Integrated pest management.
- 136w-4. Annual report.
- 136x. Severability.
- 136y. Authorization of appropriations.

SUBCHAPTER I—INSECTICIDES

§§ 121 to 134. Repealed. June 25, 1947, ch. 125, § 16, 61 Stat. 172

Sections, act Apr. 26, 1910, ch. 191, 36 Stat. 335, formerly known as "The Insecticides Act", are covered by subchapter II of this chapter.

EFFECTIVE DATE OF REPEAL; SAVINGS PROVISIONS

Section 16 of act June 25, 1947, repealed this subchapter effective one year after June 25, 1947, and further provided that this subchapter should be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceeding with respect to any violations, liabilities incurred, or appeals taken prior to such date of repeal or to sales, shipments, or

deliveries of insecticides and fungicides exempted by the Secretary.

SUBCHAPTER II—ENVIRONMENTAL PESTICIDE CONTROL

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 150dd, 4501, 511r, 5506, 5882, 6502, 6519 of this title; title 15 sections 1261, 1277, 1459, 2052, 2602; title 21 sections 321, 346a, 1401; title 42 sections 300g-1, 6905, 7412, 9603, 9604, 9607.

§§ 135 to 135k. Omitted

CODIFICATION

Sections 135 to 135k, acts June 25, 1947, ch. 125, §§ 2-13, 61 Stat. 163-172; Aug. 7, 1959, Pub. L. 86-139, § 2, 73 Stat. 286; May 12, 1964, Pub. L. 88-305, §§ 1-6, 78 Stat. 190-193; Oct. 15, 1970, Pub. L. 91-452, title II, § 204, 84 Stat. 928; Dec. 30, 1970, Pub. L. 91-601, § 6(b), formerly § 7(b), 84 Stat. 1673, renumbered, Aug. 13, 1981, Pub. L. 97-35, title XII, § 1205(c), 95 Stat. 716, which related to economic poison control, were superseded by the amendments made to act June 25, 1947, by Pub. L. 92-516, Oct. 21, 1972, 86 Stat. 975. See section 4 of Pub. L. 92-516, set out as a note under section 136 of this title. The provisions of act June 25, 1947, as amended by Pub. L. 92-516, are set out in section 136 et seq. of this title.

Section 135 provided definitions for the purposes of this subchapter.

Section 135a related to prohibited acts.

Section 135b related to registration of economic poisons.

Section 135c related to access, inspection, and use in criminal prosecutions of books and records.

Section 135d related to rules and regulations, examination of economic poisons or devices, notification to violators, certification to United States attorney, duty of attorney, and publication of judgments.

Section 135e related to exemptions from penalties.

Section 135f provided for penalties.

Section 135g related to seizure, disposal, and award of costs against claimant.

Section 135h related to refusal of admission of imports.

Section 135i related to delegation of duties.

Section 135j related to authorization of appropriations and expenditure of funds.

Section 135k related to cooperation between departments and agencies.

§ 136. Definitions

For purposes of this subchapter—

(a) Active ingredient

The term "active ingredient" means—

(1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate any pest;

(2) in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof;

(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(b) Administrator

The term "Administrator" means the Administrator of the Environmental Protection Agency.

(c) Adulterated

The term “adulterated” applies to any pesticide if—

- (1) its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold;
- (2) any substance has been substituted wholly or in part for the pesticide; or
- (3) any valuable constituent of the pesticide has been wholly or in part abstracted.

(d) Animal

The term “animal” means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

(e) Certified applicator, etc.**(1) Certified applicator**

The term “certified applicator” means any individual who is certified under section 136i of this title as authorized to use or supervise the use of any pesticide which is classified for restricted use. Any applicator who holds or applies registered pesticides, or uses dilutions of registered pesticides consistent with subsection (ee) of this section, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides under this subchapter.

(2) Private applicator

The term “private applicator” means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by the applicator or the applicator’s employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

(3) Commercial applicator

The term “commercial applicator” means an applicator (whether or not the applicator is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph (2).

(4) Under the direct supervision of a certified applicator

Unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

(f) Defoliant

The term “defoliant” means any substance of mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(g) Desiccant

The term “desiccant” means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(h) Device

The term “device” means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.

(i) District court

The term “district court” means a United States district court, the District Court of Guam, the District Court of the Virgin Islands, and the highest court of American Samoa.

(j) Environment

The term “environment” includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

(k) Fungus

The term “fungus” means any non-chlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.

(l) Imminent hazard

The term “imminent hazard” means a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered or threatened by the Secretary pursuant to the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.].

(m) Inert ingredient

The term “inert ingredient” means an ingredient which is not active.

(n) Ingredient statement

The term “ingredient statement” means a statement which contains—

- (1) the name and percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide; and
- (2) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elementary arsenic.

(o) Insect

The term “insect” means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(p) Label and labeling**(1) Label**

The term “label” means the written, printed, or graphic matter on, or attached to, the

pesticide or device or any of its containers or wrappers.

(2) Labeling

The term "labeling" means all labels and all other written, printed, or graphic matter—

(A) accompanying the pesticide or device at any time; or

(B) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health and Human Services, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

(q) Misbranded

(1) A pesticide is misbranded if—

(A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(B) it is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to section 136w(c)(3) of this title;

(C) it is an imitation of, or is offered for sale under the name of, another pesticide;

(D) its label does not bear the registration number assigned under section 136e of this title to each establishment in which it was produced;

(E) any word, statement, or other information required by or under authority of this subchapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(F) the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under section 136a(d) of this title, are adequate to protect health and the environment;

(G) the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 136a(d) of this title, is adequate to protect health and the environment; or

(H) in the case of a pesticide not registered in accordance with section 136a of this title and intended for export, the label does not contain, in words prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) as to render it likely to be noted by the ordinary individual under customary conditions of purchase and use, the following: "Not Registered for Use in the United States of America".

(2) A pesticide is misbranded if—

(A) the label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper of the retail package, if there be one, through which the ingredient statement on the immediate container cannot be clearly read) which is presented or displayed under customary conditions or purchase, except that a pesticide is not misbranded under this subparagraph if—

(i) The size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and

(ii) the ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the Administrator;

(B) the labeling does not contain a statement of the use classification under which the product is registered;

(C) there is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing—

(i) the name and address of the producer, registrant, or person for whom produced;

(ii) the name, brand, or trademark under which the pesticide is sold;

(iii) the net weight or measure of the content, except that the Administrator may permit reasonable variations; and

(iv) when required by regulation of the Administrator to effectuate the purposes of this subchapter, the registration number assigned to the pesticide under this subchapter, and the use classification; and

(D) the pesticide contains any substance or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by this subchapter—

(i) the skull and crossbones;

(ii) the word "poison" prominently in red on a background of distinctly contrasting color; and

(iii) a statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

(r) Nematode

The term "nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

(s) Person

The term "person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

(t) Pest

The term “pest” means (1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section 136w(c)(1) of this title.

(u) Pesticide

The term “pesticide” means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, except that the term “pesticide” shall not include any article that is a “new animal drug” within the meaning of section 321(w)¹ of title 21, that has been determined by the Secretary of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed within the meaning of section 321(x)¹ of title 21 bearing or containing a new animal drug.

(v) Plant regulator

The term “plant regulator” means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. Also, the term “plant regulator” shall not be required to include any of such of those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health, and propagation of plants, and as are not for pest destruction and are nontoxic, nonpoisonous in the undiluted packaged concentration.

(w) Producer and produce

The term “producer” means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device or active ingredient used in producing a pesticide. The term “produce” means to manufacture, prepare, compound, propagate, or process any pesticide or device or active ingredient used in producing a pesticide. The dilution by individuals of formulated pesticides for their own use and according to the directions on registered labels shall not of itself result in such individuals being included in the definition of “producer” for the purposes of this subchapter.

(x) Protect health and the environment

The terms “protect health and the environment” and “protection of health and the environment” mean protection against any unreasonable adverse effects on the environment.

(y) Registrant

The term “registrant” means a person who has registered any pesticide pursuant to the provisions of this subchapter.

(z) Registration

The term “registration” includes reregistration.

(aa) State

The term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(bb) Unreasonable adverse effects on the environment

The term “unreasonable adverse effects on the environment” means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(cc) Weed

The term “weed” means any plant which grows where not wanted.

(dd) Establishment

The term “establishment” means any place where a pesticide or device or active ingredient used in producing a pesticide is produced, or held, for distribution or sale.

(ee) To use any registered pesticide in a manner inconsistent with its labeling

The term “to use any registered pesticide in a manner inconsistent with its labeling” means to use any registered pesticide in a manner not permitted by the labeling, except that the term shall not include (1) applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency, (2) applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless the Administrator has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling after the Administrator has determined that the use of the pesticide against other pests would cause an unreasonable adverse effect on the environment, (3) employing any method of application not prohibited by the labeling unless the labeling specifically states that the product may be applied only by the methods specified on the labeling, (4) mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling, (5) any use of a pesticide in conformance with section 136c, 136p, or 136v of this title, or (6) any use of a pesticide in a manner that the Administrator determines to be consistent with the purposes of this subchapter. After March 31, 1979, the term shall not include the use of a pesticide for agricultural or forestry purposes at a dilution less than label dosage unless before or after that date the Administrator issues a regulation or advisory opinion consistent with the study provided for in section 27(b) of the Federal Pesticide Act of 1978, which regulation or advisory opinion specifically requires the use of definite amounts of dilution.

(ff) Outstanding data requirement**(1) In general**

The term “outstanding data requirement” means a requirement for any study, informa-

¹ See References in Text note below.

tion, or data that is necessary to make a determination under section 136a(c)(5) of this title and which study, information, or data—

(A) has not been submitted to the Administrator; or

(B) if submitted to the Administrator, the Administrator has determined must be re-submitted because it is not valid, complete, or adequate to make a determination under section 136a(c)(5) of this title and the regulations and guidelines issued under such section.

(2) Factors

In making a determination under paragraph (1)(B) respecting a study, the Administrator shall examine, at a minimum, relevant protocols, documentation of the conduct and analysis of the study, and the results of the study to determine whether the study and the results of the study fulfill the data requirement for which the study was submitted to the Administrator.

(gg) To distribute or sell

The term “to distribute or sell” means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. The term does not include the holding or application of registered pesticides or use dilutions thereof by any applicator who provides a service of controlling pests without delivering any unapplied pesticide to any person so served.

(June 25, 1947, ch. 125, §2, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 975; amended Dec. 28, 1973, Pub. L. 93-205, §13(f), 87 Stat. 903; Nov. 28, 1975, Pub. L. 94-140, §9, 89 Stat. 754; Sept. 30, 1978, Pub. L. 95-396, §1, 92 Stat. 819; Oct. 25, 1988, Pub. L. 100-532, title I, §101, title VI, §601(a), title VIII, §801(a), 102 Stat. 2655, 2677, 2679; Dec. 13, 1991, Pub. L. 102-237, title X, §1006(a)(1), (2), (b)(3)(A), (B), 105 Stat. 1894, 1895.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (l), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

Section 321 of title 21, referred to in subsec. (u), was subsequently amended, and subssecs. (w) and (x) of section 321 no longer define the terms “new animal drug” and “animal feed”, respectively. However, such terms are defined elsewhere in that section.

Section 27(b) of Federal Pesticide Act of 1978, referred to in subsec. (ee), is section 27(b) of Pub. L. 95-396, Sept. 30, 1978, 92 Stat. 841, which is set out as a note under section 136w-4 of this title.

PRIOR PROVISIONS

A prior section 2 of act June 25, 1947, was classified to section 135 of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

AMENDMENTS

1991—Subsec. (e)(1). Pub. L. 102-237, §1006(a)(1), substituted “section 136i” for “section 136b” and “uses dilutions” for “use dilutions” and made technical amendment to reference to subsection (ee) of this section involving corresponding provision of original act.

Subsec. (e)(2). Pub. L. 102-237, §1006(b)(3)(A), substituted “the applicator or the applicator’s” for “him or his”.

Subsec. (e)(3). Pub. L. 102-237, §1006(b)(3)(B), substituted “the applicator” for “he”.

Subsec. (q)(2)(A)(i). Pub. L. 102-237, §1006(a)(2), substituted “size or form” for “size of form”.

1988—Subsec. (c). Pub. L. 100-532, §801(a)(1), substituted “if—” for “if:”.

Subsec. (p)(2)(B). Pub. L. 100-532, §801(a)(2), substituted “Health and Human Services” for “Health, Education, and Welfare”.

Subsec. (q)(2)(A). Pub. L. 100-532, §801(a)(3), substituted “if—” for “if:”.

Subsec. (q)(2)(C)(iii). Pub. L. 100-532, §801(a)(4), substituted “, except that” for “: *Provided, That*”.

Subsec. (u). Pub. L. 100-532, §801(a)(5), substituted “, except that” for “: *Provided, That*”, struck out “(1)(a)” after “include any article” and “or (b)” after “section 321(w) of title 21,”, and substituted “Health and Human Services” for “Health, Education, and Welfare”, “or that is” for “or (2) that is”, and “a new animal drug” for “an article covered by clause (1) of this proviso”.

Subsec. (ee). Pub. L. 100-532, §§601(a)(1), 801(a)(6), substituted “, except that” for “: *Provided, That*”, inserted “unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency” and “unless the labeling specifically states that the product may be applied only by the methods specified on the labeling”, substituted “labeling, (4) mixing” for “labeling, or (4) mixing”, “, (5)” for “: *Provided further, That* the term also shall not include”, “or (6) any use” for “or any use”, and “. After” for “: *And provided further, That* after”.

Subsec. (ff). Pub. L. 100-532, §101, added subsec. (ff).

Subsec. (gg). Pub. L. 100-532, §601(a)(2), added subsec. (gg).

1978—Subsec. (e)(1). Pub. L. 95-396, §1(1), inserted provision deeming an applicator not a seller or distributor of pesticides when providing a service of controlling pests.

Subsec. (e)(3). Pub. L. 95-396, §1(2), substituted “an applicator” for “a certified applicator”.

Subsec. (q)(1)(H). Pub. L. 95-396, §1(3), added subpar. (H).

Subsec. (w). Pub. L. 95-396, §1(4), (5), amended definition of “producer” and “produce” to include reference to active ingredient used in producing a pesticide and inserted provision that an individual did not become a producer when there was dilution of a pesticide for personal use according to directions on registered labels.

Subsec. (dd). Pub. L. 95-396, §1(6), inserted “or active ingredient used in producing a pesticide”.

Subsec. (ee). Pub. L. 95-396, §1(7), added subsec. (ee).

1975—Subsec. (u). Pub. L. 94-140 inserted proviso which excluded from term “pesticide” any article designated as “new animal drug” and any article denominated as animal feed.

1973—Subsec. (l). Pub. L. 93-205 substituted “or threatened by the Secretary pursuant to the Endangered Species Act of 1973” for “by the Secretary of the Interior under Public Law 91-135”.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 901 of Pub. L. 100-532 provided that: “Except as otherwise provided in this Act, the amendments made by this Act [see Short Title of 1988 Amendment note below] shall take effect on the expiration of 60 days after the date of enactment of this Act [Oct. 25, 1988].”

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-205 effective Dec. 28, 1973, see section 16 of Pub. L. 93-205, set out as an Effective Date note under section 1531 of Title 16, Conservation.

EFFECTIVE DATE

Section 4 of Pub. L. 92-516, as amended by Pub. L. 94-140, §4, Nov. 28, 1975, 89 Stat. 752; Pub. L. 95-396, §28, Sept. 30, 1978, 92 Stat. 842, provided that:

“(a) Except as otherwise provided in the Federal Insecticide, Fungicide, and Rodenticide Act [this sub-

chapter], as amended by this Act and as otherwise provided by this section, the amendments made by this Act [see Short Title note set out below] shall take effect at the close of the date of the enactment of this Act [Oct. 21, 1972], provided if regulations are necessary for the implementation of any provision that becomes effective on the date of enactment, such regulations shall be promulgated and shall become effective within 90 days from the date of enactment of this Act.

“(b) The provisions of the Federal Insecticide, Fungicide, and Rodenticide Act [this subchapter] and the regulations thereunder as such existed prior to the enactment of this Act shall remain in effect until superseded by the amendments made by this Act and regulations thereunder.

“(c)(1) Two years after the enactment of this Act the Administrator shall have promulgated regulations providing for the registration and classification of pesticides under the provisions of this Act and thereafter shall register all new applications under such provisions.

“(2) Any requirements that a pesticide be registered for use only by a certified applicator shall not be effective until five years from the date of enactment of this Act.

“(3) A period of five years from date of enactment shall be provided for certification of applicators.

“(A) One year after the enactment of this Act the Administrator shall have prescribed the standards for the certification of applicators.

“(B) Each State desiring to certify applicators shall submit a State plan to the Administrator for the purpose provided by section 4(b).

“(C) As promptly as possible but in no event more than one year after submission of a State plan, the Administrator shall approve the State plan or disapprove it and indicate the reasons for disapproval. Consideration of plans resubmitted by States shall be expedited.

“(4) One year after the enactment of this Act the Administrator shall have promulgated and shall make effective regulations relating to the registration of establishments, permits for experimental use, and the keeping of books and records under the provisions of this Act.

“(d) No person shall be subject to any criminal or civil penalty imposed by the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by this Act, for any act (or failure to act) occurring before the expiration of 60 days after the Administrator has published effective regulations in the Federal Register and taken such other action as may be necessary to permit compliance with the provisions under which the penalty is to be imposed.

“(e) For purposes of determining any criminal or civil penalty or liability to any third person in respect of any act or omission occurring before the expiration of the periods referred to in this section, the Federal Insecticide, Fungicide, and Rodenticide Act shall be treated as continuing in effect as if this Act had not been enacted.”

SHORT TITLE OF 1988 AMENDMENT

Section 1(a) of Pub. L. 100-532 provided that: “This Act [enacting section 136a-1 of this title, amending this section and sections 136a to 136d, 136f to 136q, 136s, 136v to 136w-2, and 136y of this title, and enacting provisions set out as notes under this section and sections 136m and 136y of this title] may be cited as the ‘Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988.’”

SHORT TITLE OF 1978 AMENDMENT

Section 29 of Pub. L. 95-396 provided that: “This Act [enacting sections 136w-1 to 136w-4 of this title, amending this section and sections 136a to 136f, 136h, 136j, 136l, 136o, 136q, 136r, 136u to 136w, 136x, and 136y of this title, enacting provisions set out as notes under sections 136a, 136o, and 136w-4 of this title, and amending provi-

sions set out as a note under this section] may be cited as the ‘Federal Pesticide Act of 1978.’”

SHORT TITLE

Section 1 of Pub. L. 92-516 provided: “That this Act [amending this subchapter generally, enacting notes set out under this section, and amending sections 1261 and 1471 of Title 15, Commerce and Trade, and sections 321 and 346a of Title 21, Foods and Drugs] may be cited as the ‘Federal Environmental Pesticide Control Act of 1972.’”

Section 1(a) of act June 25, 1947, as added by Pub. L. 92-516, §2, provided that: “This Act [enacting this subchapter] may be cited as the ‘Federal Insecticide, Fungicide, and Rodenticide Act.’”

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136o, 136w, 136w-1, 138, 5882 of this title.

§ 136a. Registration of pesticides

(a) Requirement of registration

Except as provided by this subchapter, no person in any State may distribute or sell to any person any pesticide that is not registered under this subchapter. To the extent necessary to prevent unreasonable adverse effects on the environment, the Administrator may by regulation limit the distribution, sale, or use in any State of any pesticide that is not registered under this subchapter and that is not the subject of an experimental use permit under section 136c of this title or an emergency exemption under section 136p of this title.

(b) Exemptions

A pesticide which is not registered with the Administrator may be transferred if—

(1) the transfer is from one registered establishment to another registered establishment operated by the same producer solely for packaging at the second establishment or for use as a constituent part of another pesticide produced at the second establishment; or

(2) the transfer is pursuant to and in accordance with the requirements of an experimental use permit.

(c) Procedure for registration

(1) Statement required

Each applicant for registration of a pesticide shall file with the Administrator a statement which includes—

(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

(B) the name of the pesticide;

(C) a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for its use;

(D) the complete formula of the pesticide;
 (E) a request that the pesticide be classified for general use or for restricted use, or for both; and

(F) except as otherwise provided in paragraph (2)(D), if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data that appear in the public literature or that previously had been submitted to the Administrator and that the Administrator may consider in accordance with the following provisions:

(i) With respect to pesticides containing active ingredients that are initially registered under this subchapter after September 30, 1978, data submitted to support the application for the original registration of the pesticide, or an application for an amendment adding any new use to the registration and that pertains solely to such new use, shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application by another person during a period of ten years following the date the Administrator first registers the pesticide, except that such permission shall not be required in the case of defensive data.

(ii) Except as otherwise provided in clause (i), with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for re-registration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of an application by any other person (hereinafter in this subparagraph referred to as the "applicant") within the fifteen-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of ninety days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitra-

tor and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the original data submitter shall forfeit the right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this subchapter, if the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the Administrator shall deny the application or cancel the registration of the pesticide in support of which the data were used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, by certified mail, notice of intent to take action and allow fifteen days from the date of delivery of the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Registration action by the Administrator shall not be delayed pending the fixing of compensation.

(iii) After expiration of any period of exclusive use and any period for which compensation is required for the use of an item of data under clauses (i) and (ii), the Administrator may consider such item of data in support of an application by any other applicant without the permission of the original data submitter and without an offer having been received to compensate the original data submitter for the use of such item of data.

(2) Data in support of registration

(A) The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide and shall revise such guide-

lines from time to time. If thereafter the Administrator requires any additional kind of information under subparagraph (B) of this paragraph, the Administrator shall permit sufficient time for applicants to obtain such additional information. The Administrator, in establishing standards for data requirements for the registration of pesticides with respect to minor uses, shall make such standards commensurate with the anticipated extent of use, pattern of use, and the level and degree of potential exposure of man and the environment to the pesticide. The Administrator shall not require a person to submit, in relation to a registration or reregistration of a pesticide for minor agricultural use under this subchapter, any field residue data from a geographic area where the pesticide will not be registered for such use. In the development of these standards, the Administrator shall consider the economic factors of potential national volume of use, extent of distribution, and the impact of the cost of meeting the requirements on the incentives for any potential registrant to undertake the development of the required data. Except as provided by section 136h of this title, within 30 days after the Administrator registers a pesticide under this subchapter the Administrator shall make available to the public the data called for in the registration statement together with such other scientific information as the Administrator deems relevant to the Administrator's decision.

(B)(i) If the Administrator determines that additional data are required to maintain in effect an existing registration of a pesticide, the Administrator shall notify all existing registrants of the pesticide to which the determination relates and provide a list of such registrants to any interested person.

(ii) Each registrant of such pesticide shall provide evidence within ninety days after receipt of notification that it is taking appropriate steps to secure the additional data that are required. Two or more registrants may agree to develop jointly, or to share in the cost of developing, such data if they agree and advise the Administrator of their intent within ninety days after notification. Any registrant who agrees to share in the cost of producing the data shall be entitled to examine and rely upon such data in support of maintenance of such registration. The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by clause (iv) if a registrant fails to comply with this clause.

(iii) If, at the end of sixty days after advising the Administrator of their agreement to develop jointly, or share in the cost of developing, data, the registrants have not further agreed on the terms of the data development arrangement or on a procedure for reaching such agreement, any of such registrants may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings,

and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. All parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by clause (iv) if a registrant fails to comply with this clause.

(iv) Notwithstanding any other provision of this subchapter, if the Administrator determines that a registrant, within the time required by the Administrator, has failed to take appropriate steps to secure the data required under this subparagraph, to participate in a procedure for reaching agreement concerning a joint data development arrangement under this subparagraph or in an arbitration proceeding as required by this subparagraph, or to comply with the terms of an agreement or arbitration decision concerning a joint data development arrangement under this subparagraph, the Administrator may issue a notice of intent to suspend such registrant's registration of the pesticide for which additional data is required. The Administrator may include in the notice of intent to suspend such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Any suspension proposed under this subparagraph shall become final and effective at the end of thirty days from receipt by the registrant of the notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice or the registrant has satisfied the Administrator that the registrant has complied fully with the requirements that served as a basis for the notice of intent to suspend. If a hearing is requested, a hearing shall be conducted under section 136d(d) of this title. The only matters for resolution at that hearing shall be whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend the registration of the pesticide for which additional data is required, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this subchapter. If a hearing is held, a decision after completion of such hearing shall be final. Notwithstanding any other provision of this subchapter, a hearing shall be held and a determination made within seventy-five days after receipt of a request for such hearing. Any registration suspended under this subparagraph shall be reinstated by the Administrator if the Administrator determines that the registrant has complied fully with the requirements that served as a basis for the suspension of the registration.

(v) Any data submitted under this subparagraph shall be subject to the provisions of

paragraph (1)(D). Whenever such data are submitted jointly by two or more registrants, an agent shall be agreed on at the time of the joint submission to handle any subsequent data compensation matters for the joint submitters of such data.

(C) Within nine months after September 30, 1978, the Administrator shall, by regulation, prescribe simplified procedures for the registration of pesticides, which shall include the provisions of subparagraph (D) of this paragraph.

(D) EXEMPTION.—No applicant for registration of a pesticide who proposes to purchase a registered pesticide from another producer in order to formulate such purchased pesticide into the pesticide that is the subject of the application shall be required to—

- (i) submit or cite data pertaining to such purchased product; or
- (ii) offer to pay reasonable compensation otherwise required by paragraph (1)(D) of this subsection for the use of any such data.

(3) Application

(A) The Administrator shall review the data after receipt of the application and shall, as expeditiously as possible, either register the pesticide in accordance with paragraph (5), or notify the applicant of the Administrator's determination that it does not comply with the provisions of the subchapter in accordance with paragraph (6).

(B)(i) The Administrator shall, as expeditiously as possible, review and act on any application received by the Administrator that—

(I) proposes the initial or amended registration of an end-use pesticide that, if registered as proposed, would be identical or substantially similar in composition and labeling to a currently-registered pesticide identified in the application, or that would differ in composition and labeling from such currently-registered pesticide only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment; or

(II) proposes an amendment to the registration of a registered pesticide that does not require scientific review of data.

(ii) In expediting the review of an application for an action described in clause (i), the Administrator shall—

(I) within 45 days after receiving the application, notify the registrant whether or not the application is complete and, if the application is found to be incomplete, reject the application;

(II) within 90 days after receiving a complete application, notify the registrant if the application has been granted or denied; and

(III) if the application is denied, notify the registrant in writing of the specific reasons for the denial of the application.

(4) Notice of application

The Administrator shall publish in the Federal Register, promptly after receipt of the statement and other data required pursuant to paragraphs (1) and (2), a notice of each application for registration of any pesticide if it con-

tains any new active ingredient or if it would entail a changed use pattern. The notice shall provide for a period of 30 days in which any Federal agency or any other interested person may comment.

(5) Approval of registration

The Administrator shall register a pesticide if the Administrator determines that, when considered with any restrictions imposed under subsection (d) of this section—

(A) its composition is such as to warrant the proposed claims for it;

(B) its labeling and other material required to be submitted comply with the requirements of this subchapter;

(C) it will perform its intended function without unreasonable adverse effects on the environment; and

(D) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

The Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where two pesticides meet the requirements of this paragraph, one should not be registered in preference to the other. In considering an application for the registration of a pesticide, the Administrator may waive data requirements pertaining to efficacy, in which event the Administrator may register the pesticide without determining that the pesticide's composition is such as to warrant proposed claims of efficacy. If a pesticide is found to be efficacious by any State under section 136v(c) of this title, a presumption is established that the Administrator shall waive data requirements pertaining to efficacy for use of the pesticide in such State.

(6) Denial of registration

If the Administrator determines that the requirements of paragraph (5) for registration are not satisfied, the Administrator shall notify the applicant for registration of the Administrator's determination and of the Administrator's reasons (including the factual basis) therefor, and that, unless the applicant corrects the conditions and notifies the Administrator thereof during the 30-day period beginning with the day after the date on which the applicant receives the notice, the Administrator may refuse to register the pesticide. Whenever the Administrator refuses to register a pesticide, the Administrator shall notify the applicant of the Administrator's decision and of the Administrator's reasons (including the factual basis) therefor. The Administrator shall promptly publish in the Federal Register notice of such denial of registration and the reasons therefor. Upon such notification, the applicant for registration or other interested person with the concurrence of the applicant shall have the same remedies as provided for in section 136d of this title.

(7) Registration under special circumstances

Notwithstanding the provisions of paragraph (5)—

(A) The Administrator may conditionally register or amend the registration of a pes-

ticide if the Administrator determines that (i) the pesticide and proposed use are identical or substantially similar to any currently registered pesticide and use thereof, or differ only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment, and (ii) approving the registration or amendment in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. An applicant seeking conditional registration or amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under paragraph (5). If the applicant is unable to submit an item of data because it has not yet been generated, the Administrator may register or amend the registration of the pesticide under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this subchapter.

(B) The Administrator may conditionally amend the registration of a pesticide to permit additional uses of such pesticide notwithstanding that data concerning the pesticide may be insufficient to support an unconditional amendment, if the Administrator determines that (i) the applicant has submitted satisfactory data pertaining to the proposed additional use, and (ii) amending the registration in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. Notwithstanding the foregoing provisions of this subparagraph, no registration of a pesticide may be amended to permit an additional use of such pesticide if the Administrator has issued a notice stating that such pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure enumerated in regulations issued under this subchapter, and during the pendency of any risk-benefit evaluation initiated by such notice, if (I) the additional use of such pesticide involves a major food or feed crop, or (II) the additional use of such pesticide involves a minor food or feed crop and the Administrator determines, with the concurrence of the Secretary of Agriculture, there is available an effective alternative pesticide that does not meet or exceed such risk criteria. An applicant seeking amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under paragraph (5). If the applicant is unable to submit an item of data (other than data pertaining to the proposed additional use) because it has not yet been generated, the Administrator may amend the registration under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this subchapter.

(C) The Administrator may conditionally register a pesticide containing an active ingredient not contained in any currently registered pesticide for a period reasonably sufficient for the generation and submission of required data (which are lacking because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirement) on the condition that by the end of such period the Administrator receives such data and the data do not meet or exceed risk criteria enumerated in regulations issued under this subchapter, and on such other conditions as the Administrator may prescribe. A conditional registration under this subparagraph shall be granted only if the Administrator determines that use of the pesticide during such period will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

(8) Interim administrative review

Notwithstanding any other provision of this subchapter, the Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses prior to initiating a formal action to cancel, suspend, or deny registration of such pesticide, required under this subchapter, unless such interim administrative process is based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment. Notice of the definition of the terms "validated test" and "other significant evidence" as used herein shall be published by the Administrator in the Federal Register.

(d) Classification of pesticides

(1) Classification for general use, restricted use, or both

(A) As a part of the registration of a pesticide the Administrator shall classify it as being for general use or for restricted use. If the Administrator determines that some of the uses for which the pesticide is registered should be for general use and that other uses for which it is registered should be for restricted use, the Administrator shall classify it for both general use and restricted use. Pesticide uses may be classified by regulation on the initial classification, and registered pesticides may be classified prior to reregistration. If some of the uses of the pesticide are classified for general use, and other uses are classified for restricted use, the directions relating to its general uses shall be clearly separated and distinguished from those directions relating to its restricted uses. The Administrator may require that its packaging and labeling for restricted uses shall be clearly distinguishable from its packaging and labeling for general uses.

(B) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance

with a widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment, the Administrator will classify the pesticide, or the particular use or uses of the pesticide to which the determination applies, for general use.

(C) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a widespread and commonly recognized practice, may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator, the Administrator shall classify the pesticide, or the particular use or uses to which the determination applies, for restricted use:

(i) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that the acute dermal or inhalation toxicity of the pesticide presents a hazard to the applicator or other persons, the pesticide shall be applied for any use to which the restricted classification applies only by or under the direct supervision of a certified applicator.

(ii) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause unreasonable adverse effects on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified applicator, or subject to such other restrictions as the Administrator may provide by regulation. Any such regulation shall be reviewable in the appropriate court of appeals upon petition of a person adversely affected filed within 60 days of the publication of the regulation in final form.

(2) Change in classification

If the Administrator determines that a change in the classification of any use of a pesticide from general use to restricted use is necessary to prevent unreasonable adverse effects on the environment, the Administrator shall notify the registrant of such pesticide of such determination at least forty-five days before making the change and shall publish the proposed change in the Federal Register. The registrant, or other interested person with the concurrence of the registrant, may seek relief from such determination under section 136d(b) of this title.

(3) Change in classification from restricted use to general use

The registrant of any pesticide with one or more uses classified for restricted use may petition the Administrator to change any such classification from restricted to general use. Such petition shall set out the basis for the registrant's position that restricted use classification is unnecessary because classification of the pesticide for general use would not

cause unreasonable adverse effects on the environment. The Administrator, within sixty days after receiving such petition, shall notify the registrant whether the petition has been granted or denied. Any denial shall contain an explanation therefor and any such denial shall be subject to judicial review under section 136n of this title.

(e) Products with same formulation and claims

Products which have the same formulation, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same pesticide may be registered as a single pesticide; and additional names and labels shall be added to the registration by supplemental statements.

(f) Miscellaneous

(1) Effect of change of labeling or formulation

If the labeling or formulation for a pesticide is changed, the registration shall be amended to reflect such change if the Administrator determines that the change will not violate any provision of this subchapter.

(2) Registration not a defense

In no event shall registration of an article be construed as a defense for the commission of any offense under this subchapter. As long as no cancellation proceedings are in effect registration of a pesticide shall be prima facie evidence that the pesticide, its labeling and packaging comply with the registration provisions of the subchapter.

(3) Authority to consult other Federal agencies

In connection with consideration of any registration or application for registration under this section, the Administrator may consult with any other Federal agency.

(June 25, 1947, ch. 125, §3, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 979; amended Nov. 28, 1975, Pub. L. 94-140, §12, 89 Stat. 755; Sept. 30, 1978, Pub. L. 95-396, §§2(a), 3-8, 92 Stat. 820, 824-827; Oct. 25, 1988, Pub. L. 100-532, title I, §102(b), 103, title VI, §601(b)(1), title VIII, §801(b), 102 Stat. 2667, 2677, 2680; Nov. 28, 1990, Pub. L. 101-624, title XIV, §1492, 104 Stat. 3628; Dec. 13, 1991, Pub. L. 102-237, title X, §1006(a)(3), (b)(1), (2), (c), 105 Stat. 1894-1896.)

PRIOR PROVISIONS

A prior section 3 of act June 25, 1947, was classified to section 135a of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

AMENDMENTS

1991—Subsec. (c)(1)(D). Pub. L. 102-237, §1006(a)(3)(B), (C), added subpar. (D) and redesignated former subpar. (D) as (F).

Subsec. (c)(1)(E). Pub. L. 102-237, §1006(a)(3)(A), (C), added subpar. (E) and struck out former subpar. (E) which read as follows: "the complete formula of the pesticide; and".

Subsec. (c)(1)(F). Pub. L. 102-237, §1006(a)(3)(A), (B), (D), redesignated former subpar. (D) as (F), in cl. (i) substituted "With" for "with" and a period for semicolon at end, in cl. (ii) substituted "Except" for "except" and a period for semicolon at end, in cl. (iii) substituted "After" for "after" and a period for semicolon at end, and struck out former subpar. (F) which read as

follows: "a request that the pesticide be classified for general use, for restricted use, or for both."

Subsec. (c)(2)(A). Pub. L. 102-237, §1006(b)(1), (2), substituted "the Administrator" for "he" before "requires", "shall permit", "shall make", and "deems", and substituted "the Administrator's" for "his".

Subsec. (c)(2)(D). Pub. L. 102-237, §1006(c), clarified amendment made by Pub. L. 100-532, §102(b)(2)(A). See 1988 Amendment note below.

Subsec. (c)(3)(A). Pub. L. 102-237, §1006(b)(2), substituted "the Administrator's" for "his".

Subsec. (c)(5). Pub. L. 102-237, §1006(b)(1), substituted "the Administrator" for "he" before "determines".

Subsec. (c)(6). Pub. L. 102-237, §1006(b)(1), (2), substituted "the Administrator" for "he" before "shall notify" in two places and "the Administrator's" for "his" in four places.

Subsec. (d)(1). Pub. L. 102-237, §1006(b)(1), substituted "the Administrator" for "he" before "shall classify it for both" in subpar. (A), before "will classify" in subpar. (B), and before "shall classify" in subpar. (C).

Subsec. (d)(2). Pub. L. 102-237, §1006(b)(1), substituted "the Administrator" for "he" before "shall notify".

1990—Subsec. (c)(2)(A). Pub. L. 101-624 inserted after third sentence "The Administrator shall not require a person to submit, in relation to a registration or reregistration of a pesticide for minor agricultural use under this subchapter, any field residue data from a geographic area where the pesticide will not be registered for such use."

1988—Subsec. (a). Pub. L. 100-532, §601(b)(1), substituted "Requirement of registration" for "Requirement" in heading and amended text generally. Prior to amendment, text read as follows: "Except as otherwise provided by this subchapter, no person in any State may distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person any pesticide which is not registered with the Administrator."

Subsec. (c)(1)(D). Pub. L. 100-532, §801(b)(1)-(4), in introductory provisions, substituted "paragraph (2)(D)" for "subsection (c)(2)(D) of this section", in cl. (i), substituted "(i) with" for "(i) With" and ", except that" for "Provided, That", in cl. (ii), substituted "clause (i)" for "subparagraph (D)(i) of this paragraph", and in cl. (iii), substituted "clauses (i) and (ii)" for "subparagraphs (D)(i) and (D)(ii) of this paragraph".

Subsec. (c)(2)(A). Pub. L. 100-532, §801(b)(5)(A), (B), substituted "(2) Data in support of registration.—

"(A) The" for "(2)(A) Data in support of registration.—The", and directed that subpar. (A) be aligned with left margin of subsec. (d)(1)(A) of this section.

Subsec. (c)(2)(B). Pub. L. 100-532, §§102(b)(1), 801(b)(5)(C)-(F), substituted "(B)(i) If" for "(B) Additional data to support existing registration.—(i) If", directed that cls. (i) to (v) be aligned with left margin of subpar. (A), in cls. (ii) and (iii), inserted "The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by clause (iv) if a registrant fails to comply with this clause.", in cl. (iv), substituted "title. The only" for "title: *Provided*, that the only", and in cl. (v), substituted "paragraph (1)(D)" for "subsection (c)(1)(D) of this section".

Subsec. (c)(2)(C). Pub. L. 100-532, §801(b)(5)(G), (H), struck out "Simplified procedures" after "(C)" and directed that text be aligned with left margin of subpar. (A).

Subsec. (c)(2)(D). Pub. L. 100-532, §102(b)(2)(A), and Pub. L. 102-237, §1006(c), substituted "the pesticide that is the subject of the application" for "an end-use product".

Subsec. (c)(2)(D)(i). Pub. L. 100-532, §102(b)(2)(B), struck out "the safety of" after "data pertaining to".

Subsec. (c)(3). Pub. L. 100-532, §103, substituted "(A) The Administrator" for "The Administrator" and added subpar. (B).

Subsec. (c)(7). Pub. L. 100-532, §801(b)(6), in introductory provisions, substituted "paragraph (5)" for "sub-

section (c)(5) of this section", in subpars. (A) and (B), substituted "paragraph (5). If" for "subsection (c)(5) of this section: *Provided*, That, if", and in subpar. (C), substituted "prescribe. A" for "prescribe: *Provided*, that a".

Subsec. (d)(1)(A). Pub. L. 100-532, §801(b)(7), substituted "restricted use. If" for "restricted use, provided that if" and "restricted uses. The Administrator" for "restricted uses: *Provided, however*, That the Administrator".

Subsec. (f)(2). Pub. L. 100-532, §801(b)(8), substituted "this subchapter. As" for "this subchapter: *Provided*, That as".

Subsec. (g). Pub. L. 100-532, §801(b)(9), struck out subsec. (g) which read as follows: "The Administrator shall accomplish the reregistration of all pesticides in the most expeditious manner practicable: *Provided*, That, to the extent appropriate, any pesticide that results in a postharvest residue in or on food or feed crops shall be given priority in the reregistration process."

1978—Subsec. (c)(1)(D). Pub. L. 95-396, §2(a)(1), added subpar. (D), and struck out provisions which required the applicant for registration of a pesticide to file with the Administrator a statement containing "if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, except that data submitted on or after January 1, 1970, in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration unless such other applicant shall have first offered to pay reasonable compensation for producing the test data to be relied upon and such data is not protected from disclosure by section 136h(b) of this title. This provision with regard to compensation for producing the test data to be relied upon shall apply with respect to all applications for registration or reregistration submitted on or after October 21, 1972. If the parties cannot agree on the amount and method of payment, the Administrator shall make such determination and may fix such other terms and conditions as may be reasonable under the circumstances. The Administrator's determination shall be made on the record after notice and opportunity for hearing. If either party does not agree with said determination, he may, within thirty days, take an appeal to the Federal district court for the district in which he resides with respect to either the amount of the payment or the terms of payment, or both. Registration shall not be delayed pending the determination of reasonable compensation between the applicants, by the Administrator or by the court."

Subsec. (c)(2). Pub. L. 95-396, §§2(a)(2)(A)-(D), 3, 4, designated existing provisions as subpar. (A), inserted in second sentence "under subparagraph (B) of this paragraph" after "kind of information", struck out from introductory text of third sentence "subsection (c)(1)(D) of this section and" after "Except as provided by", and inserted provisions relating to establishment of standards for data requirements for registration of pesticides with respect to minor uses and consideration of economic factors in development of standards and cost of development, and added subpars. (B) to (D).

Subsec. (c)(5). Pub. L. 95-396, §5, provided for waiver of data requirements pertaining to efficacy.

Subsec. (c)(7), (8). Pub. L. 95-396, §6, added pars. (7) and (8).

Subsec. (d)(1)(A). Pub. L. 95-396, §7(1), authorized classification of pesticide uses by regulation on the initial classification and registered pesticides prior to reregistration.

Subsec. (d)(2). Pub. L. 95-396, §7(2), substituted "forty-five days" for "30 days".

Subsec. (d)(3). Pub. L. 95-396, §7(3), added par. (3).

Subsec. (g). Pub. L. 95-396, §8, added subsec. (g).

1975—Subsec. (c)(1)(D). Pub. L. 94-140 inserted exception relating to test data submitted on or after January 1, 1970, in support of application, inserted provision that compensation for producing test data shall apply to all applications submitted on or after October 21,

1972, and provision relating to delay of registration pending determination of reasonable compensation, struck out requirement that payment determined by court not be less than amount determined by Administrator, and substituted "If either party" for "If the owner of the test data".

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2(b) of Pub. L. 95-396 provided that: "The amendment to section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act [subsec. (c)(1)(D) of this section] made by [subsec. (a)(1) of] this section shall apply with respect to all applications for registration approved after the date of enactment of this Act [Sept. 30, 1978]."

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

BIOLOGICAL PESTICIDE HANDLING STUDY

Section 1498 of Pub. L. 101-624 provided that:

"(a) STUDY.—Not later than September 30, 1992, the National Academy of Sciences shall conduct a study of the biological control programs and registration procedures utilized by the Food and Drug Administration, the Animal and Plant Health Inspection Service, and the Environmental Protection Agency.

"(b) DEVELOPMENT OF PROCEDURES.—Not later than 1 year after the completion of the study under subsection (a), the agencies and offices described in such subsection shall develop and implement a common process for reviewing and approving biological control applications that are submitted to such agencies and offices that shall be based on the study conducted under such subsection and the recommendation of the National Academy of Sciences, and other public comment."

EDUCATION, STUDY, AND REPORT

Pub. L. 100-478, title I, §1010, Oct. 7, 1988, 102 Stat. 2313, provided that:

"(a) EDUCATION.—The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior, promptly upon enactment of this Act [Oct. 7, 1988], shall conduct a program to inform and educate fully persons engaged in agricultural food and fiber commodity production of any proposed pesticide labeling program or requirements that may be imposed by the Administrator in compliance with the Endangered Species Act (16 U.S.C. 1531 et seq.). The Administrator also shall provide the public with notice of, and opportunity for comment on, the elements of any such program and requirements based on compliance with the Endangered Species Act, including (but not limited to) an identification of any pesticides affected by the program; an explanation of the restriction or prohibition on the user or applicator of any such pesticide; an identification of those geographic areas affected by any pesticide restriction or prohibition; an identification of the effects of any restricted or prohibited pesticide on endangered or threatened species; and an identification of the endangered or threatened species along with a general description of the geographic areas in which such species are located wherein the application of a pesticide will be restricted, prohibited, or its use otherwise limited, unless the Secretary of the Interior determines that the disclosure of such information may create a substantial risk of harm to such species or its habitat.

"(b) STUDY.—The Administrator of the Environmental Protection Agency, jointly with the Secretary of Agriculture and the Secretary of the Interior, shall conduct a study to identify reasonable and prudent

means available to the Administrator to implement the endangered species pesticides labeling program which would comply with the Endangered Species Act of 1973, as amended, and which would allow persons to continue production of agricultural food and fiber commodities. Such study shall include investigation by the Administrator of the best available methods to develop maps and the best available alternatives to mapping as means of identifying those circumstances in which use of pesticides may be restricted; identification of alternatives to prohibitions on pesticide use, including, but not limited to, alternative pesticides and application methods and other agricultural practices which can be used in lieu of any pesticides whose use may be restricted by the labeling program; examination of methods to improve coordination among the Environmental Protection Agency, Department of Agriculture, and Department of the Interior in administration of the labeling program; and analysis of the means of implementing the endangered species pesticides labeling program or alternatives to such a program, if any, to promote the conservation of endangered or threatened species and to minimize the impacts to persons engaged in agricultural food and fiber commodity production and other affected pesticide users and applicators.

"(c) REPORT.—The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior shall submit a report within one year of the date of enactment of this Act [Oct. 7, 1988], presenting the results of the study conducted pursuant to subsection (b) of this section to the Committee on Merchant Marine and Fisheries and the Committee on Agriculture of the United States House of Representatives, and the Committee on Environment and Public Works and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136a-1, 136c, 136d, 136h, 136i-1, 136j, 136k, 136l, 136m, 136o, 136q, 136v, 136w-4 of this title.

§ 136a-1. Reregistration of registered pesticides

(a) General rule

The Administrator shall reregister, in accordance with this section, each registered pesticide containing any active ingredient contained in any pesticide first registered before November 1, 1984, except for any pesticide as to which the Administrator has determined, after November 1, 1984, and before the effective date of this section, that—

- (1) there are no outstanding data requirements; and
- (2) the requirements of section 136a(c)(5) of this title have been satisfied.

(b) Reregistration phases

Reregistrations of pesticides under this section shall be carried out in the following phases:

- (1) The first phase shall include the listing under subsection (c) of this section of the active ingredients of the pesticides that will be reregistered.
- (2) The second phase shall include the submission to the Administrator under subsection (d) of this section of notices by registrants respecting their intention to seek reregistration, identification by registrants of missing and inadequate data for such pesticides, and commitments by registrants to replace such missing or inadequate data within the applicable time period.
- (3) The third phase shall include submission to the Administrator by registrants of the in-

formation required under subsection (e) of this section.

(4) The fourth phase shall include an independent, initial review by the Administrator under subsection (f) of this section of submissions under phases two and three, identification of outstanding data requirements, and the issuance, as necessary, of requests for additional data.

(5) The fifth phase shall include the review by the Administrator under subsection (g) of this section of data submitted for reregistration and appropriate regulatory action by the Administrator.

(c) Phase one

(1) Priority for reregistration

For purposes of the reregistration of the pesticides described in subsection (a) of this section, the Administrator shall list the active ingredients of pesticides and shall give priority to, among others, active ingredients (other than active ingredients for which registration standards have been issued before the effective date of this section) that—

(A) are in use on or in food or feed and may result in postharvest residues;

(B) may result in residues of potential toxicological concern in potable ground water, edible fish, or shellfish;

(C) have been determined by the Administrator before the effective date of this section to have significant outstanding data requirements; or

(D) are used on crops, including in greenhouses and nurseries, where worker exposure is most likely to occur.

(2) Reregistration lists

For purposes of reregistration under this section, the Administrator shall by order—

(A) not later than 70 days after the effective date of this section, list pesticide active ingredients for which registration standards have been issued before such effective date;

(B) not later than 4 months after such effective date, list the first 150 pesticide active ingredients, as determined under paragraph (1);

(C) not later than 7 months after such effective date, list the second 150 pesticide active ingredients, as determined under paragraph (1); and

(D) not later than 10 months after such effective date, list the remainder of the pesticide active ingredients, as determined under paragraph (1).

Each list shall be published in the Federal Register.

(3) Judicial review

The content of a list issued by the Administrator under paragraph (2) shall not be subject to judicial review.

(4) Notice to registrants

On the publication of a list of pesticide active ingredients under paragraph (2), the Administrator shall send by certified mail to the registrants of the pesticides containing such active ingredients a notice of the time by which the registrants are to notify the Admin-

istrator under subsection (d) of this section whether the registrants intend to seek or not to seek reregistration of such pesticides.

(d) Phase two

(1) In general

The registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section shall submit to the Administrator, within the time period prescribed by paragraph (4), the notice described in paragraph (2) and any information, commitment, or offer described in paragraph (3).

(2) Notice of intent to seek or not to seek reregistration

(A) The registrant of a pesticide containing an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section shall notify the Administrator by certified mail whether the registrant intends to seek or does not intend to seek reregistration of the pesticide.

(B) If a registrant submits a notice under subparagraph (A) of an intention not to seek reregistration of a pesticide, the Administrator shall publish a notice in the Federal Register stating that such a notice has been submitted.

(3) Missing or inadequate data

Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section and for which the registrant submitted a notice under paragraph (2) of an intention to seek reregistration of such pesticide shall submit to the Administrator—

(A) in accordance with regulations issued by the Administrator under section 136a of this title, an identification of—

(i) all data that are required by regulation to support the registration of the pesticide with respect to such active ingredient;

(ii) data that were submitted by the registrant previously in support of the registration of the pesticide that are inadequate to meet such regulations; and

(iii) data identified under clause (i) that have not been submitted to the Administrator; and

(B) either—

(i) a commitment to replace the data identified under subparagraph (A)(ii) and submit the data identified under subparagraph (A)(iii) within the applicable time period prescribed by paragraph (4)(B); or

(ii) an offer to share in the cost to be incurred by a person who has made a commitment under clause (i) to replace or submit the data and an offer to submit to arbitration as described by section 136a(c)(2)(B) of this title with regard to such cost sharing.

For purposes of a submission by a registrant under subparagraph (A)(ii), data are inadequate if the data are derived from a study with respect to which the registrant is unable to make the certification prescribed by sub-

section (e)(1)(G) of this section that the registrant possesses or has access to the raw data used in or generated by such study. For purposes of a submission by a registrant under such subparagraph, data shall be considered to be inadequate if the data are derived from a study submitted before January 1, 1970, unless it is demonstrated to the satisfaction of the Administrator that such data should be considered to support the registration of the pesticide that is to be reregistered.

(4) Time periods

(A) A submission under paragraph (2) or (3) shall be made—

(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B) of this section, not later than 3 months after the date of publication of the listing of such active ingredient;

(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C) of this section, not later than 3 months after the date of publication of the listing of such active ingredient; and

(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D) of this section, not later than 3 months after the date of publication of the listing of such active ingredient.

On application, the Administrator may extend a time period prescribed by this subparagraph if the Administrator determines that factors beyond the control of the registrant prevent the registrant from complying with such period.

(B) A registrant shall submit data in accordance with a commitment entered into under paragraph (3)(B) within a reasonable period of time, as determined by the Administrator, but not more than 48 months after the date the registrant submitted the commitment. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

(5) Cancellation and removal

(A) If the registrant of a pesticide does not submit a notice under paragraph (2) or (3) within the time prescribed by paragraph (4)(A), the Administrator shall issue a notice of intent to cancel the registration of such registrant for such pesticide and shall publish the notice in the Federal Register and allow 60 days for the submission of comments on the notice. On expiration of such 60 days, the Administrator, by order and without a hearing, may cancel the registration or take such other action, including extension of applicable time periods, as may be necessary to enable reregistration of such pesticide by another person.

(B)(i) If—

(I) no registrant of a pesticide containing an active ingredient listed under subsection (c)(2) of this section notifies the Administrator under paragraph (2) that the registrant intends to seek reregistration of any pesticide containing that active ingredient;

(II) no such registrant complies with paragraph (3)(A); or

(III) no such registrant makes a commitment under paragraph (3)(B) to replace or submit all data described in clauses (ii) and (iii) of paragraph (3)(A);

the Administrator shall publish in the Federal Register a notice of intent to remove the active ingredient from the list established under subsection (c)(2) of this section and a notice of intent to cancel the registrations of all pesticides containing such active ingredient and shall provide 60 days for comment on such notice.

(ii) After the 60-day period has expired, the Administrator, by order, may cancel any such registration without hearing, except that the Administrator shall not cancel a registration under this subparagraph if—

(I) during the comment period a person acquires the rights of the registrant in that registration;

(II) during the comment period that person furnishes a notice of intent to reregister the pesticide in accordance with paragraph (2); and

(III) not later than 120 days after the publication of the notice under this subparagraph, that person has complied with paragraph (3) and the fee prescribed by subsection (i)(1) of this section has been paid.

(6) Suspensions and penalties

The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 136a(c)(2)(B)(iv) of this title if the Administrator determines that (A) progress is insufficient to ensure the submission of the data required for such pesticide under a commitment made under paragraph (3)(B) within the time period prescribed by paragraph (4)(B) or (B) the registrant has not submitted such data to the Administrator within such time period.

(e) Phase three

(1) Information about studies

Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section who has submitted a notice under subsection (d)(2) of this section of an intent to seek the reregistration of such pesticide shall submit, in accordance with the guidelines issued under paragraph (4), to the Administrator—

(A) a summary of each study concerning the active ingredient previously submitted by the registrant in support of the registration of a pesticide containing such active ingredient and considered by the registrant to be adequate to meet the requirements of section 136a of this title and the regulations issued under such section;

(B) a summary of each study concerning the active ingredient previously submitted by the registrant in support of the registration of a pesticide containing such active ingredient that may not comply with the requirements of section 136a of this title and

the regulations issued under such section but which the registrant asserts should be deemed to comply with such requirements and regulations;

(C) a reformat of the data from each study summarized under subparagraph (A) or (B) by the registrant concerning chronic dosing, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, teratogenicity, or residue chemistry of the active ingredient that were submitted to the Administrator before January 1, 1982;

(D) where data described in subparagraph (C) are not required for the active ingredient by regulations issued under section 136a of this title, a reformat of acute and sub-chronic dosing data submitted by the registrant to the Administrator before January 1, 1982, that the registrant considers to be adequate to meet the requirements of section 136a of this title and the regulations issued under such section;

(E) an identification of data that are required to be submitted to the Administrator under section 136d(a)(2) of this title, indicating an adverse effect of the pesticide;

(F) an identification of any other information available that in the view of the registrant supports the registration;

(G) a certification that the registrant or the Administrator possesses or has access to the raw data used in or generated by the studies that the registrant summarized under subparagraph (A) or (B);

(H) either—

(i) a commitment to submit data to fill each outstanding data requirement identified by the registrant; or

(ii) an offer to share in the cost of developing such data to be incurred by a person who has made a commitment under clause (i) to submit such data, and an offer to submit to arbitration as described by section 136a(c)(2)(B) of this title with regard to such cost sharing; and

(I) evidence of compliance with section 136a(c)(1)(D)(ii)¹ of this title and regulations issued thereunder with regard to previously submitted data as if the registrant were now seeking the original registration of the pesticide.

A registrant who submits a certification under subparagraph (G) that is false shall be considered to have violated this subchapter and shall be subject to the penalties prescribed by section 136l of this title.

(2) Time periods

(A) The information required by paragraph (1) shall be submitted to the Administrator—

(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B) of this section, not later than 12 months after the date of publication of the listing of such active ingredient;

(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C) of this section, not later than 12

months after the date of publication of the listing of such active ingredient; and

(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D) of this section, not later than 12 months after the date of publication of the listing of such active ingredient.

(B) A registrant shall submit data in accordance with a commitment entered into under paragraph (1)(H) within a reasonable period of time, as determined by the Administrator, but not more than 48 months after the date the registrant submitted the commitment under such paragraph. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

(3) Cancellation

(A) If the registrant of a pesticide fails to submit the information required by paragraph (1) within the time prescribed by paragraph (2), the Administrator, by order and without hearing, shall cancel the registration of such pesticide.

(B)(i) If the registrant of a pesticide submits the information required by paragraph (1) within the time prescribed by paragraph (2) and such information does not conform to the guidelines for submissions established by the Administrator, the Administrator shall determine whether the registrant made a good faith attempt to conform its submission to such guidelines.

(ii) If the Administrator determines that the registrant made a good faith attempt to conform its submission to such guidelines, the Administrator shall provide the registrant a reasonable period of time to make any necessary changes or corrections.

(iii)(I) If the Administrator determines that the registrant did not make a good faith attempt to conform its submission to such guidelines, the Administrator may issue a notice of intent to cancel the registration. Such a notice shall be sent to the registrant by certified mail.

(II) The registration shall be canceled without a hearing or further notice at the end of 30 days after receipt by the registrant of the notice unless during that time a request for a hearing is made by the registrant.

(III) If a hearing is requested, a hearing shall be conducted under section 136d(d) of this title, except that the only matter for resolution at the hearing shall be whether the registrant made a good faith attempt to conform its submission to such guidelines. The hearing shall be held and a determination made within 75 days after receipt of a request for hearing.

(4) Guidelines

(A) Not later than 1 year after the effective date of this section, the Administrator, by order, shall issue guidelines to be followed by registrants in—

- (i) summarizing studies;
- (ii) reformatting studies;

¹ See References in Text note below.

(iii) identifying adverse information; and
 (iv) identifying studies that have been submitted previously that may not meet the requirements of section 136a of this title or regulations issued under such section,

under paragraph (1).

(B) Guidelines issued under subparagraph (A) shall not be subject to judicial review.

(5) Monitoring

The Administrator shall monitor the progress of registrants in acquiring and submitting the data required under paragraph (1).

(f) Phase four

(1) Independent review and identification of outstanding data requirements

(A) The Administrator shall review the submissions of all registrants of pesticides containing a particular active ingredient under subsections (d)(3) and (e)(1) of this section to determine if such submissions identified all the data that are missing or inadequate for such active ingredient. To assist the review of the Administrator under this subparagraph, the Administrator may require a registrant seeking reregistration to submit complete copies of studies summarized under subsection (e)(1) of this section.

(B) The Administrator shall independently identify and publish in the Federal Register the outstanding data requirements for each active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section and that is contained in a pesticide to be reregistered under this section. The Administrator, at the same time, shall issue a notice under section 136a(c)(2)(B) of this title for the submission of the additional data that are required to meet such requirements.

(2) Time periods

(A) The Administrator shall take the action required by paragraph (1)—

(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B) of this section, not later than 18 months after the date of the listing of such active ingredient;

(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C) of this section, not later than 24 months after the date of the listing of such active ingredient; and

(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D) of this section, not later than 33 months after the date of the listing of such active ingredient.

(B) If the Administrator issues a notice to a registrant under paragraph (1)(B) for the submission of additional data, the registrant shall submit such data within a reasonable period of time, as determined by the Administrator, but not to exceed 48 months after the issuance of such notice. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

(3) Suspensions and penalties

The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 136a(c)(2)(B)(iv) of this title if the Administrator determines that (A) tests necessary to fill an outstanding data requirement for such pesticide have not been initiated within 1 year after the issuance of a notice under paragraph (1)(B), or (B) progress is insufficient to ensure submission of the data referred to in clause (A) within the time period prescribed by paragraph (2)(B) or the required data have not been submitted to the Administrator within such time period.

(g) Phase five

(1) Data review

The Administrator shall conduct a thorough examination of all data submitted under this section concerning an active ingredient listed under subsection (c)(2) of this section and of all other available data found by the Administrator to be relevant.

(2) Reregistration and other actions

(A) Within 1 year after the submission of all data concerning an active ingredient of a pesticide under subsection (f) of this section, the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration. For extraordinary circumstances, the Administrator may extend such period for not more than 1 additional year.

(B) Before reregistering a pesticide, the Administrator shall obtain any needed product-specific data regarding the pesticide by use of section 136a(c)(2)(B) of this title and shall review such data within 90 days after its submission. The Administrator shall require that data under this subparagraph be submitted to the Administrator not later than 8 months after a determination of eligibility under subparagraph (A) has been made for each active ingredient of the pesticide, unless the Administrator determines that a longer period is required for the generation of the data.

(C) After conducting the review required by paragraph (1) for each active ingredient of a pesticide and the review required by subparagraph (B) of this paragraph, the Administrator shall determine whether to reregister a pesticide by determining whether such pesticide meets the requirements of section 136a(c)(5) of this title. If the Administrator determines that a pesticide is eligible to be reregistered, the Administrator shall reregister such pesticide within 6 months after the submission of the data concerning such pesticide under subparagraph (B).

(D) If after conducting a review under paragraph (1) or subparagraph (B) of this paragraph the Administrator determines that a pesticide should not be reregistered, the Administrator shall take appropriate regulatory action.

(h) Compensation of data submitter

If data that are submitted by a registrant under subsection (d), (e), (f), or (g) of this section are used to support the application of an-

other person under section 136a of this title, the registrant who submitted such data shall be entitled to compensation for the use of such data as prescribed by section 136a(c)(1)(D)² of this title. In determining the amount of such compensation, the fees paid by the registrant under this section shall be taken into account.

(i) Fees

(1) Initial fee for food or feed use pesticide active ingredients

The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of \$50,000 on submission of information under paragraphs (2) and (3) of subsection (d) of this section for such ingredient.

(2) Final fee for food or feed use pesticide active ingredients

(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of \$100,000—

(i) on submission of information for such ingredient under subsection (e)(1) of this section if data are reformatted under subsection (e)(1)(C) of this section; or

(ii) on submission of data for such ingredient under subsection (e)(2)(B) of this section if data are not reformatted under subsection (e)(1)(C) of this section.

(B) The registrants of pesticides that contain an active ingredient that is listed under subsection (c)(2)(A) of this section and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of \$150,000 at such time as the Administrator shall prescribe.

(3) Fees for other pesticide active ingredients

(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section and that is not an active ingredient of any pesticide registered for a major food or feed use shall collectively pay fees in amounts determined by the Administrator. Such fees may not be less than one-half of, nor greater than, the fees required by paragraphs (1) and (2). A registrant shall pay such fees at the times corresponding to the times fees prescribed by paragraphs (1) and (2) are to be paid.

(B) The registrants of pesticides that contain an active ingredient that is listed under subsection (c)(2)(A) of this section and that is not an active ingredient of any pesticide that is registered for a major food or feed use shall collectively pay a fee of not more than \$100,000 and not less than \$50,000 at such time as the Administrator shall prescribe.

(4) Reduction or waiver of fees for minor use and other pesticides

(A) An active ingredient that is contained only in pesticides that are registered solely for agricultural or nonagricultural minor uses, or a pesticide the value or volume of use of which is small, shall be exempt from the fees prescribed by paragraph (3).

(B) An antimicrobial active ingredient, the production level of which does not exceed 1,000,000 pounds per year, shall be exempt from the fees prescribed by paragraph (3). For purposes of this subparagraph, the term “antimicrobial active ingredient” means any active ingredient that is contained only in pesticides that are not registered for any food or feed use and that are—

(i) sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surface or in water or air;

(ii) bacteriostats intended to inhibit the growth of bacteria in the presence of moisture;

(iii) disinfectants intended to destroy or irreversibly inactivate bacteria, fungi, or viruses on surfaces or inanimate objects;

(iv) sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores on inanimate surfaces; or

(v) fungicides or fungistats.

(C)(i) Notwithstanding any other provision of this subsection, in the case of a small business registrant of a pesticide, the registrant shall pay a fee for the reregistration of each active ingredient of the pesticide that does not exceed an amount determined in accordance with this subparagraph.

(ii) If during the 3-year period prior to reregistration the average annual gross revenue of the registrant from pesticides containing such active ingredient is—

(I) less than \$5,000,000, the registrant shall pay 0.5 percent of such revenue;

(II) \$5,000,000 or more but less than \$10,000,000, the registrant shall pay 1 percent of such revenue; or

(III) \$10,000,000 or more, the registrant shall pay 1.5 percent of such revenue, but not more than \$150,000.

(iii) For the purpose of this subparagraph, a small business registrant is a corporation, partnership, or unincorporated business that—

(I) has 150 or fewer employees; and

(II) during the 3-year period prior to reregistration, had an average annual gross revenue from chemicals that did not exceed \$40,000,000.

(5) Maintenance fee

(A) Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by January 15 of each year of—

(i) \$650 for the first registration; and

(ii) \$1,300 for each additional registration, except that no fee shall be charged for more than 200 registrations held by any registrant.

(B) In the case of a pesticide that is registered for a minor agricultural use, the Ad-

² See References in Text note below.

ministrator may reduce or waive the payment of the fee imposed under this paragraph if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.

(C) The amount of each fee prescribed under subparagraph (A) shall be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of \$14,000,000 each fiscal year.

(D) The maximum annual fee payable under this paragraph by—

- (i) a registrant holding not more than 50 pesticide registrations shall be \$55,000; and
- (ii) a registrant holding over 50 registrations shall be \$95,000.

(E)(i) For a small business, the maximum annual fee payable under this paragraph by—

- (I) a registrant holding not more than 50 pesticide registrations shall be \$38,500; and
- (II) a registrant holding over 50 pesticide registrations shall be \$66,500.

(ii) For purposes of clause (i), the term "small business" means a corporation, partnership, or unincorporated business that—

- (I) has 150 or fewer employees; and
- (II) during the 3-year period prior to the most recent maintenance fee billing cycle, had an average annual gross revenue from chemicals that did not exceed \$40,000,000.

(F) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

(G) The authority provided under this paragraph shall terminate on September 30, 1997.

(6) Other fees

During the period beginning on October 25, 1988, and ending on September 30, 1997, the Administrator may not levy any other fees for the registration of a pesticide under this chapter except as provided in paragraphs (1) through (5).

(7) Apportionment

(A) If two or more registrants are required to pay any fee prescribed by paragraph (1), (2), or (3) with respect to a particular active ingredient, the fees for such active ingredient shall be apportioned among such registrants on the basis of the market share in United States sales of the active ingredient for the 3 calendar years preceding the date of payment of such fee, except that—

- (i) small business registrants that produce the active ingredient shall pay fees in accordance with paragraph (4)(C); and
- (ii) registrants who have no market share but who choose to reregister a pesticide containing such active ingredient shall pay the lesser of—
 - (I) 15 percent of the reregistration fee; or
 - (II) a proportionate amount of such fee based on the lowest percentage market share held by any registrant active in the marketplace.

In no event shall registrants who have no market share but who choose to reregister a

pesticide containing such active ingredient collectively pay more than 25 percent of the total active ingredient reregistration fee.

(B) The Administrator, by order, may require any registrant to submit such reports as the Administrator determines to be necessary to allow the Administrator to determine and apportion fees under this subsection or to determine the registrant's eligibility for a reduction or waiver of a fee.

(C) If any such report is not submitted by a registrant after receiving notice of such report requirement, or if any fee prescribed by this subsection (other than paragraph (5)) for an active ingredient is not paid by a registrant to the Administrator by the time prescribed under this subsection, the Administrator, by order and without hearing, may cancel each registration held by such registrant of a pesticide containing the active ingredient with respect to which the fee is imposed. The Administrator shall reapportion the fee among the remaining registrants and notify the registrants that the registrants are required to pay to the Administrator any unpaid balance of the fee within 30 days after receipt of such notice.

(j) Exemption of certain registrants

The requirements of subsections (d), (e), (f), and (i) of this section (other than subsection (i)(5) of this section) regarding data concerning an active ingredient and fees for review of such data shall not apply to any person who is the registrant of a pesticide to the extent that, under section 136a(c)(2)(D) of this title, the person would not be required to submit or cite such data to obtain an initial registration of such pesticide.

(k) Reregistration and expedited processing fund

(1) Establishment

There shall be established in the Treasury of the United States a reregistration and expedited processing fund.

(2) Source and use

All fees collected by the Administrator under subsection (i) of this section shall be deposited into the fund and shall be available to the Administrator, without fiscal year limitation, to carry out reregistration and expedited processing of similar applications.

(3) Expedited processing of similar applications

(A) The Administrator shall use for each of the fiscal years 1992, 1993, and 1994, 1/7th of the maintenance fees collected, up to \$2 million each year to obtain sufficient personnel and resources to assure the expedited processing and review of any application that—

- (i) proposes the initial or amended registration of an end-use pesticide that, if registered as proposed, would be identical or substantially similar in composition and labeling to a currently-registered pesticide identified in the application, or that would differ in composition and labeling from any such currently-registered pesticide only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment; or

(ii) proposes an amendment to the registration of a registered pesticide that does not require scientific review of data.

(B) Any amounts made available under subparagraph (A) shall be used to obtain sufficient personnel and resources to carry out the activities described in such subparagraph that are in addition to the personnel and resources available to carry out such activities on October 25, 1988.

(4) Unused funds

Money in the fund not currently needed to carry out this section shall be—

- (A) maintained on hand or on deposit;
- (B) invested in obligations of the United States or guaranteed thereby; or
- (C) invested in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

(5) Accounting

The Administrator shall—

- (A) provide an annual accounting of the fees collected and disbursed from the fund; and
- (B) take all steps necessary to ensure that expenditures from such fund are used only to carry out this section.

(I) Judicial review

Any failure of the Administrator to take any action required by this section shall be subject to judicial review under the procedures prescribed by section 136n(b) of this title.

(June 25, 1947, ch. 125, § 4, formerly § 3A, as added and renumbered § 4, Oct. 25, 1988, Pub. L. 100-532, title I, § 102(a), title VIII, § 801(q)(2)(A), 102 Stat. 2655, 2683; amended Nov. 28, 1990, Pub. L. 101-624, title XIV, § 1493, 104 Stat. 3628; Dec. 13, 1991, Pub. L. 102-237, title X, § 1006(a)(4), (e), (f), 105 Stat. 1895-1897.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsecs. (a), (c)(1), (2), and (e)(4)(A), is 60 days after Oct. 25, 1988. See Effective Date note below.

Section 136a(c)(1)(D) of this title, referred to in subsecs. (e)(1)(I) and (h), was redesignated section 136a(c)(1)(F) of this title by Pub. L. 102-237, title X, § 1006(a)(3)(B), Dec. 13, 1991, 105 Stat. 1894.

PRIOR PROVISIONS

A prior section 4 of act June 25, 1947, which was classified to section 136b of this title was transferred to section 11(a)-(c) of act June 25, 1947, which is classified to section 136i(a)-(c) of this title.

Another prior section 4 of act June 25, 1947, was classified to section 135b of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

AMENDMENTS

1991—Subsec. (f)(3). Pub. L. 102-237, § 1006(a)(4), realigned margin.

Subsec. (i)(5). Pub. L. 102-237, § 1006(e), amended par. (5) generally, substituting, in subpar. (A), provisions relating to January 15 for provisions relating to March 1, in subpar. (A)(i), provisions relating to fee of \$650 for first registration for provisions relating to fee of \$425 for each registration for registrants holding not more than 50 registrations, and in subpar. (A)(ii), provisions relating to fee of \$1,300 for each additional registration up to 200 registrations, with no fee thereafter, for provisions relating to fee of \$425 for each registration up

to 50, \$100 for each registration over 50, with no fee after 200 registrations, redesignating provisions formerly set out in subpar. (A), following cl. (ii), as subpar. (B), and substituting provisions relating to fee under this par. for provisions relating to fee under this subpar., redesignating former subpar. (B) as (C), striking former subpar. (C), which set maximum annual fee for registrants under subpar. (A)(i) at \$20,000, and for registrants under subpar. (A)(ii) at \$35,000, adding subpars. (D) and (E), and redesignating former subpars. (D) and (E) as (F) and (G), respectively.

Subsec. (k)(3)(A). Pub. L. 102-237, § 1006(f), substituted “for each of the fiscal years 1992, 1993, and 1994, 1/4th of the maintenance fees collected, up to \$2 million each year” for “each fiscal year not more than \$2,000,000 of the amounts in the fund”.

1990—Subsec. (i)(5)(A). Pub. L. 101-624 inserted sentence at end relating to reduction or waiver of fee where pesticide is registered for minor agricultural use.

EFFECTIVE DATE

Section effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as an Effective Date of 1988 Amendment note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136d, 136j of this title.

§ 136b. Transferred

CODIFICATION

Section, act June 25, 1947, ch. 125, § 4, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 983; amended Nov. 28, 1975, Pub. L. 94-140, §§ 5, 11, 89 Stat. 753, 754; Sept. 30, 1978, Pub. L. 95-396, § 9, 92 Stat. 827; Oct. 25, 1988, Pub. L. 100-532, title VIII, § 801(c), (q)(1)(A), (B), 102 Stat. 2681, 2683, which related to use of restricted use pesticides and certification of applicators, was transferred to subsecs. (a) to (c) of section 11 of act June 25, 1947, by section 801(q)(1)(A) of Pub. L. 100-532 and is classified to section 136i(a) to (c) of this title.

§ 136c. Experimental use permits

(a) Issuance

Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator shall review the application. After completion of the review, but not later than one hundred and twenty days after receipt of the application and all required supporting data, the Administrator shall either issue the permit or notify the applicant of the Administrator's determination not to issue the permit and the reasons therefor. The applicant may correct the application or request a waiver of the conditions for such permit within thirty days of receipt by the applicant of such notification. The Administrator may issue an experimental use permit only if the Administrator determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 136a of this title. An application for an experimental use permit may be filed at any time.

(b) Temporary tolerance level

If the Administrator determines that the use of a pesticide may reasonably be expected to result in any residue on or in food or feed, the Administrator may establish a temporary tolerance level for the residue of the pesticide before issuing the experimental use permit.

(c) Use under permit

Use of a pesticide under an experimental use permit shall be under the supervision of the Ad-

ministrator, and shall be subject to such terms and conditions and be for such period of time as the Administrator may prescribe in the permit.

(d) Studies

When any experimental use permit is issued for a pesticide containing any chemical or combination of chemicals which has not been included in any previously registered pesticide, the Administrator may specify that studies be conducted to detect whether the use of the pesticide under the permit may cause unreasonable adverse effects on the environment. All results of such studies shall be reported to the Administrator before such pesticide may be registered under section 136a of this title.

(e) Revocation

The Administrator may revoke any experimental use permit, at any time, if the Administrator finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

(f) State issuance of permits

Notwithstanding the foregoing provisions of this section, the Administrator shall, under such terms and conditions as the Administrator may by regulations prescribe, authorize any State to issue an experimental use permit for a pesticide. All provisions of section 136i of this title relating to State plans shall apply with equal force to a State plan for the issuance of experimental use permits under this section.

(g) Exemption for agricultural research agencies

Notwithstanding the foregoing provisions of this section, the Administrator may issue an experimental use permit for a pesticide to any public or private agricultural research agency or educational institution which applies for such permit. Each permit shall not exceed more than a one-year period or such other specific time as the Administrator may prescribe. Such permit shall be issued under such terms and conditions restricting the use of the pesticide as the Administrator may require. Such pesticide may be used only by such research agency or educational institution for purposes of experimentation.

(June 25, 1947, ch. 125, § 5, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 983; amended Nov. 28, 1975, Pub. L. 94-140, § 10, 89 Stat. 754; Sept. 30, 1978, Pub. L. 95-396, § 10, 92 Stat. 828; Oct. 25, 1988, Pub. L. 100-532, title VIII, § 801(d), (q)(1)(D), 102 Stat. 2681, 2683; Dec. 13, 1991, Pub. L. 102-237, title X, § 1006(b)(1), 105 Stat. 1895.)

PRIOR PROVISIONS

A prior section 5 of act June 25, 1947, was classified to section 135c of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

AMENDMENTS

1991—Subsecs. (b), (e), (f). Pub. L. 102-237 substituted “the Administrator” for “he” before “may” in subsec. (b), before “finds” in subsec. (e), and before “may” in subsec. (f).

1988—Subsec. (f). Pub. L. 100-532, § 801(q)(1)(D), substituted “136i” for “136b”.

Subsec. (g). Pub. L. 100-532, § 801(d), substituted “require. Such pesticide” for “require: *Provided*, That such pesticide”.

1978—Subsec. (a). Pub. L. 95-396, § 10(1), provided for review of application, issuance or nonissuance of experimental use permit within prescribed period including reasons for denial, correction of application, and waiver of conditions and substituted provision for filing an application for experimental use permit at any time for prior provision for filing at the time of or before or after an application for registration is filed.

Subsec. (f). Pub. L. 95-396, § 10(2), substituted in first sentence “shall” for “may” where first appearing.

1975—Subsec. (g). Pub. L. 94-140 added subsec. (g).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136a, 136j of this title.

§ 136d. Administrative review; suspension

(a) Cancellation after five years

(1) Procedure

The Administrator shall cancel the registration of any pesticide at the end of the five-year period which begins on the date of its registration (or at the end of any five year period thereafter) unless the registrant, or other interested person with the concurrence of the registrant, before the end of such period, requests in accordance with regulations prescribed by the Administrator that the registration be continued in effect. The Administrator may permit the continued sale and use of existing stocks of a pesticide whose registration is canceled under this subsection or subsection (b) of this section to such extent, under such conditions, and for such uses as the Administrator may specify if the Administrator determines that such sale or use is not inconsistent with the purposes of this subchapter and will not have unreasonable adverse effects on the environment. The Administrator shall publish in the Federal Register, at least 30 days prior to the expiration of such five-year period, notice that the registration will be canceled if the registrant or other interested person with the concurrence of the registrant does not request that the registration be continued in effect.

(2) Information

If at any time after the registration of a pesticide the registrant has additional factual information regarding unreasonable adverse effects on the environment of the pesticide, the registrant shall submit such information to the Administrator.

(b) Cancellation and change in classification

If it appears to the Administrator that a pesticide or its labeling or other material required to be submitted does not comply with the provisions of this subchapter or, when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment, the Administrator may issue a notice of the Administrator's intent either—

(1) to cancel its registration or to change its classification together with the reasons (including the factual basis) for the Administrator's action, or

(2) to hold a hearing to determine whether or not its registration should be canceled or its classification changed.

Such notice shall be sent to the registrant and made public. In determining whether to issue any such notice, the Administrator shall include among those factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy. At least 60 days prior to sending such notice to the registrant or making public such notice, whichever occurs first, the Administrator shall provide the Secretary of Agriculture with a copy of such notice and an analysis of such impact on the agricultural economy. If the Secretary comments in writing to the Administrator regarding the notice and analysis within 30 days after receiving them, the Administrator shall publish in the Federal Register (with the notice) the comments of the Secretary and the response of the Administrator with regard to the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the notice and analysis within 30 days after receiving them, the Administrator may notify the registrant and make public the notice at any time after such 30-day period notwithstanding the foregoing 60-day time requirement. The time requirements imposed by the preceding 3 sentences may be waived or modified to the extent agreed upon by the Administrator and the Secretary. Notwithstanding any other provision of this subsection and section 136w(d) of this title, in the event that the Administrator determines that suspension of a pesticide registration is necessary to prevent an imminent hazard to human health, then upon such a finding the Administrator may waive the requirement of notice and consultation with the Secretary of Agriculture pursuant to this subsection and of submission to the Scientific Advisory Panel pursuant to section 136w(d) of this title and proceed in accordance with subsection (c) of this section. The proposed action shall become final and effective at the end of 30 days from receipt by the registrant, or publication, of a notice issued under paragraph (1), whichever occurs later, unless within that time either (i) the registrant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the notice. In the event a hearing is held pursuant to such a request or to the Administrator's determination under paragraph (2), a decision pertaining to registration or classification issued after completion of such hearing shall be final. In taking any final action under this subsection, the Administrator shall consider restricting a pesticide's use or uses as an alternative to cancellation and shall fully explain the reasons for these restrictions, and shall include among those factors to be taken into account the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and the Administrator shall

publish in the Federal Register an analysis of such impact.

(c) Suspension

(1) Order

If the Administrator determines that action is necessary to prevent an imminent hazard during the time required for cancellation or change in classification proceedings, the Administrator may, by order, suspend the registration of the pesticide immediately. No order of suspension may be issued unless the Administrator has issued or at the same time issues notice of the Administrator's intention to cancel the registration or change the classification of the pesticide. Except as provided in paragraph (3), the Administrator shall notify the registrant prior to issuing any suspension order. Such notice shall include findings pertaining to the question of "imminent hazard". The registrant shall then have an opportunity, in accordance with the provisions of paragraph (2), for an expedited hearing before the Administrator on the question of whether an imminent hazard exists.

(2) Expedite hearing

If no request for a hearing is submitted to the Administrator within five days of the registrant's receipt of the notification provided for by paragraph (1), the suspension order may be issued and shall take effect and shall not be reviewable by a court. If a hearing is requested, it shall commence within five days of the receipt of the request for such hearing unless the registrant and the Administrator agree that it shall commence at a later time. The hearing shall be held in accordance with the provisions of subchapter II of chapter 5 of title 5, except that the presiding officer need not be a certified administrative law judge. The presiding officer shall have ten days from the conclusion of the presentation of evidence to submit recommended findings and conclusions to the Administrator, who shall then have seven days to render a final order on the issue of suspension.

(3) Emergency order

Whenever the Administrator determines that an emergency exists that does not permit the Administrator to hold a hearing before suspending, the Administrator may issue a suspension order in advance of notification to the registrant. In that case, paragraph (2) shall apply except that (A) the order of suspension shall be in effect pending the expeditious completion of the remedies provided by that paragraph and the issuance of a final order on suspension, and (B) no party other than the registrant and the Administrator shall participate except that any person adversely affected may file briefs within the time allotted by the Agency's rules. Any person so filing briefs shall be considered a party to such proceeding for the purposes of section 136n(b) of this title.

(4) Judicial review

A final order on the question of suspension following a hearing shall be reviewable in accordance with section 136n of this title, not-

withstanding the fact that any related cancellation proceedings have not been completed. Any order of suspension entered prior to a hearing before the Administrator shall be subject to immediate review in an action by the registrant or other interested person with the concurrence of the registrant in an appropriate district court, solely to determine whether the order of suspension was arbitrary, capricious or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law. The effect of any order of the court will be only to stay the effectiveness of the suspension order, pending the Administrator's final decision with respect to cancellation or change in classification. This action may be maintained simultaneously with any administrative review proceedings under this section. The commencement of proceedings under this paragraph shall not operate as a stay of order, unless ordered by the court.

(d) Public hearings and scientific review

In the event a hearing is requested pursuant to subsection (b) of this section or determined upon by the Administrator pursuant to subsection (b) of this section, such hearing shall be held after due notice for the purpose of receiving evidence relevant and material to the issues raised by the objections filed by the applicant or other interested parties, or to the issues stated by the Administrator, if the hearing is called by the Administrator rather than by the filing of objections. Upon a showing of relevance and reasonable scope of evidence sought by any party to a public hearing, the Hearing Examiner shall issue a subpoena to compel testimony or production of documents from any person. The Hearing Examiner shall be guided by the principles of the Federal Rules of Civil Procedure in making any order for the protection of the witness or the content of documents produced and shall order the payment of reasonable fees and expenses as a condition to requiring testimony of the witness. On contest, the subpoena may be enforced by an appropriate United States district court in accordance with the principles stated herein. Upon the request of any party to a public hearing and when in the Hearing Examiner's judgment it is necessary or desirable, the Hearing Examiner shall at any time before the hearing record is closed refer to a Committee of the National Academy of Sciences the relevant questions of scientific fact involved in the public hearing. No member of any committee of the National Academy of Sciences established to carry out the functions of this section shall have a financial or other conflict of interest with respect to any matter considered by such committee. The Committee of the National Academy of Sciences shall report in writing to the Hearing Examiner within 60 days after such referral on these questions of scientific fact. The report shall be made public and shall be considered as part of the hearing record. The Administrator shall enter into appropriate arrangements with the National Academy of Sciences to assure an objective and competent scientific review of the questions presented to Committees of the Academy and to provide such other scientific advi-

sory services as may be required by the Administrator for carrying out the purposes of this subchapter. As soon as practicable after completion of the hearing (including the report of the Academy) but not later than 90 days thereafter, the Administrator shall evaluate the data and reports before the Administrator and issue an order either revoking the Administrator's notice of intention issued pursuant to this section, or shall issue an order either canceling the registration, changing the classification, denying the registration, or requiring modification of the labeling or packaging of the article. Such order shall be based only on substantial evidence of record of such hearing and shall set forth detailed findings of fact upon which the order is based.

(e) Conditional registration

(1) The Administrator shall issue a notice of intent to cancel a registration issued under section 136a(c)(7) of this title if (A) the Administrator, at any time during the period provided for satisfaction of any condition imposed, determines that the registrant has failed to initiate and pursue appropriate action toward fulfilling any condition imposed, or (B) at the end of the period provided for satisfaction of any condition imposed, that condition has not been met. The Administrator may permit the continued sale and use of existing stocks of a pesticide whose conditional registration has been canceled under this subsection to such extent, under such conditions, and for such uses as the Administrator may specify if the Administrator determines that such sale or use is not inconsistent with the purposes of this subchapter and will not have unreasonable adverse effects on the environment.

(2) A cancellation proposed under this subsection shall become final and effective at the end of thirty days from receipt by the registrant of the notice of intent to cancel unless during that time a request for hearing is made by a person adversely affected by the notice. If a hearing is requested, a hearing shall be conducted under subsection (d) of this section. The only matters for resolution at that hearing shall be whether the registrant has initiated and pursued appropriate action to comply with the condition or conditions within the time provided or whether the condition or conditions have been satisfied within the time provided, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this subchapter. A decision after completion of such hearing shall be final. Notwithstanding any other provision of this section, a hearing shall be held and a determination made within seventy-five days after receipt of a request for such hearing.

(f) General provisions

(1) Voluntary cancellation

(A) A registrant may, at any time, request that a pesticide registration of the registrant be canceled or amended to terminate one or more pesticide uses.

(B) Before acting on a request under subparagraph (A), the Administrator shall publish in the Federal Register a notice of the receipt

of the request and provide for a 30-day period in which the public may comment.

(C) In the case of a pesticide that is registered for a minor agricultural use, if the Administrator determines that the cancellation or termination of uses would adversely affect the availability of the pesticide for use, the Administrator—

(i) shall publish in the Federal Register a notice of the receipt of the request and make reasonable efforts to inform persons who so use the pesticide of the request; and

(ii) may not approve or reject the request until the termination of the 90-day period beginning on the date of publication of the notice in the Federal Register, except that the Administrator may waive the 90-day period upon the request of the registrant or if the Administrator determines that the continued use of the pesticide would pose an unreasonable adverse effect on the environment.

(D) Subject to paragraph (3)(B), after complying with this paragraph, the Administrator may approve or deny the request.

(2) Publication of notice

A notice of denial of registration, intent to cancel, suspension, or intent to suspend issued under this subchapter or a notice issued under subsection (c)(4) or (d)(5)(A) of section 136a-1 of this title shall be published in the Federal Register and shall be sent by certified mail, return receipt requested, to the registrant's or applicant's address of record on file with the Administrator. If the mailed notice is returned to the Administrator as undeliverable at that address, if delivery is refused, or if the Administrator otherwise is unable to accomplish delivery of the notice to the registrant or applicant after making reasonable efforts to do so, the notice shall be deemed to have been received by the registrant or applicant on the date the notice was published in the Federal Register.

(3) Transfer of registration of pesticides registered for minor agricultural uses

In the case of a pesticide that is registered for a minor agricultural use:

(A) During the 90-day period referred to in paragraph (1)(C)(ii), the registrant of the pesticide may notify the Administrator of an agreement between the registrant and a person or persons (including persons who so use the pesticide) to transfer the registration of the pesticide, in lieu of canceling or amending the registration to terminate the use.

(B) An application for transfer of registration, in conformance with any regulations the Administrator may adopt with respect to the transfer of the pesticide registrations, must be submitted to the Administrator within 30 days of the date of notification provided pursuant to subparagraph (A). If such an application is submitted, the Administrator shall approve the transfer and shall not approve the request for voluntary cancellation or amendment to terminate use unless the Administrator determines that

the continued use of the pesticide would cause an unreasonable adverse effect on the environment.

(C) If the Administrator approves the transfer and the registrant transfers the registration of the pesticide, the Administrator shall not cancel or amend the registration to delete the use or rescind the transfer of the registration, during the 180-day period beginning on the date of the approval of the transfer unless the Administrator determines that the continued use of the pesticide would cause an unreasonable adverse effect on the environment.

(D) The new registrant of the pesticide shall assume the outstanding data and other requirements for the pesticide that are pending at the time of the transfer.

(g) Notice for stored pesticides with canceled or suspended registrations

(1) In general

Any producer or exporter of pesticides, registrant of a pesticide, applicant for registration of a pesticide, applicant for or holder of an experimental use permit, commercial applicator, or any person who distributes or sells any pesticide, who possesses any pesticide which has had its registration canceled or suspended under this section shall notify the Administrator and appropriate State and local officials of—

(A) such possession,

(B) the quantity of such pesticide such person possesses, and

(C) the place at which such pesticide is stored.

(2) Copies

The Administrator shall transmit a copy of each notice submitted under this subsection to the regional office of the Environmental Protection Agency which has jurisdiction over the place of pesticide storage identified in the notice.

(h) Judicial review

Final orders of the Administrator under this section shall be subject to judicial review pursuant to section 136n of this title.

(June 25, 1947, ch. 125, § 6, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 984; amended Nov. 28, 1975, Pub. L. 94-140, § 1, 89 Stat. 751; Mar. 27, 1978, Pub. L. 95-251, § 2(a)(2), 92 Stat. 183; Sept. 30, 1978, Pub. L. 95-396, §§ 11, 12, 92 Stat. 828; Nov. 8, 1984, Pub. L. 98-620, title IV, § 402(4)(A), 98 Stat. 3357; Oct. 25, 1988, Pub. L. 100-532, title II, § 201, title IV, § 404, title VIII, § 801(e), (q)(2)(B), 102 Stat. 2668, 2673, 2681, 2683; Nov. 28, 1990, Pub. L. 101-624, title XIV, § 1494, 104 Stat. 3628; Dec. 13, 1991, Pub. L. 102-237, title X, § 1006(a)(5), (b)(1), (2), (3)(C)-(E), 105 Stat. 1895, 1896.)

CODIFICATION

“Subchapter II of chapter 5 of title 5”, referred to in subsec. (c)(2), was in the original “subchapter II of Title 5”, and was editorially changed to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 6 of act June 25, 1947, was classified to section 135d of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102-237, §1006(b)(1), substituted “the Administrator” for “he” before “may specify” and before “determines”.

Subsec. (a)(2). Pub. L. 102-237, §1006(b)(3)(C), substituted “the registrant” for “he” before “shall”.

Subsec. (b). Pub. L. 102-237, §1006(b)(1), (2), substituted “the Administrator’s” for “his” in introductory provisions and par. (1), and “the Administrator” for “he” before “shall publish” in last sentence.

Subsec. (c)(1). Pub. L. 102-237, §1006(b)(1), (2), substituted “the Administrator” for “he” before “may” and “the Administrator’s” for “his” before “intention”.

Subsec. (c)(3). Pub. L. 102-237, §1006(b)(1), (3)(D), substituted “the Administrator” for “he” before “may” and “the Administrator” for “him” after “permit”.

Subsec. (d). Pub. L. 102-237, §1006(b)(2), (3)(E), in penultimate sentence substituted “the Administrator’s” for “his” and “the Administrator” for “him” before “and issue”.

Subsec. (f)(3)(B). Pub. L. 102-237, §1006(a)(5), substituted “adverse effect” for “adverse affect”.

1990—Subsec. (f)(1). Pub. L. 101-624, §1494(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “A registrant at any time may request that any of its pesticide registrations be canceled or be amended to delete one or more uses. Before acting on such request, the Administrator shall publish in the Federal Register a notice of the receipt of the request. Thereafter, the Administrator may approve such a request.”

Subsec. (f)(3). Pub. L. 101-624, §1494(2), added par. (3). 1988—Subsec. (a)(1). Pub. L. 100-532, §801(e)(1), substituted “effect. The Administrator” for “effect: *Provided*, That the Administrator”.

Subsec. (c). Pub. L. 100-532, §801(e)(2)–(4), in par. (1) directed that undesignated paragraph beginning “Except as provided” be run into sentence ending “of the pesticide.” and substituted “before the Administrator” for “before the Agency”, in par. (2) substituted “submitted to the Administrator” for “submitted to the Agency” and “and the Administrator” for “and the Agency”, and in par. (3) substituted “(A)” for “(i)”, “and the Administrator” for “and the Agency”, and “(B)” for “(ii)”.

Subsec. (e). Pub. L. 100-532, §801(e)(5), (6), in par. (1), substituted “met. The Administrator” for “met: *Provided*, That the Administrator”, and in par. (2), substituted “section. The only” for “section: *Provided*, That the only”.

Subsec. (f). Pub. L. 100-532, §201, added subsec. (f). Former subsec. (f) redesignated (h).

Subsec. (f)(2). Pub. L. 100-532, §801(q)(2)(B), made a technical amendment to the reference to section 136a-1 of this title to reflect the renumbering of the corresponding section of the original act.

Subsec. (g). Pub. L. 100-532, §404, added subsec. (g).

Subsec. (h). Pub. L. 100-532, §201, redesignated former subsec. (f) as (h).

1984—Subsec. (c)(4). Pub. L. 98-620 struck out provisions requiring petitions to review orders on the issue of suspension to be advanced on the docket of the court of appeals.

1978—Subsec. (b). Pub. L. 95-396, §11, required the Administrator, in taking any final action under subsec. (b), to consider restricting a pesticide’s use or uses as an alternative to cancellation and to fully explain the reasons for the restrictions.

Subsec. (c)(2). Pub. L. 95-251 substituted “administrative law judge” for “hearing examiner”.

Subsecs. (e), (f). Pub. L. 95-396, §12, added subsec. (e) and redesignated former subsec. (e) as (f).

1975—Subsec. (b). Pub. L. 94-140 established criteria which Administrator must use in determining the issuance of a suspension of registration notice and the time periods relating to such notice, set forth required procedures to be followed by Administrator prior to publication of such notice, required procedures when the

Secretary elects to comment or fails to comment on suspension notice, waiver or modification of time periods in specified required procedures, required procedures for waiver of notice and consent by Secretary for suspension of registration, and established criteria for Secretary taking any final action.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

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.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a-1, 136m, 136o, 136w of this title.

§ 136e. Registration of establishments

(a) Requirement

No person shall produce any pesticide subject to this subchapter or active ingredient used in producing a pesticide subject to this subchapter in any State unless the establishment in which it is produced is registered with the Administrator. The application for registration of any establishment shall include the name and address of the establishment and of the producer who operates such establishment.

(b) Registration

Whenever the Administrator receives an application under subsection (a) of this section, the Administrator shall register the establishment and assign it an establishment number.

(c) Information required

(1) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after it is registered of the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides—

(A) which the producer is currently producing;

(B) which the producer has produced during the past year; and

(C) which the producer has sold or distributed during the past year.

The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe.

(2) Any such producer shall, upon the request of the Administrator for the purpose of issuing a stop sale order pursuant to section 136k of this title, inform the Administrator of the name and address of any recipient of any pesticide produced in any registered establishment which the producer operates.

(d) Confidential records and information

Any information submitted to the Administrator pursuant to subsection (c) of this section

other than the names of the pesticides or active ingredients used in producing pesticides produced, sold, or distributed at an establishment shall be considered confidential and shall be subject to the provisions of section 136h of this title.

(June 25, 1947, ch. 125, § 7, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 987; amended Sept. 30, 1978, Pub. L. 95-396, § 13, 92 Stat. 829; Dec. 13, 1991, Pub. L. 102-237, title X, § 1006(b)(1), (3)(F), (G), 105 Stat. 1895, 1896.)

PRIOR PROVISIONS

A prior section 7 of act June 25, 1947, was classified to section 135e of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

AMENDMENTS

1991—Subsec. (b). Pub. L. 102-237, § 1006(b)(1), substituted “the Administrator” for “he” before “shall”.

Subsec. (c)(1)(A) to (C). Pub. L. 102-237, § 1006(b)(3)(F), substituted “the producer” for “he”.

Subsec. (c)(2). Pub. L. 102-237, § 1006(b)(3)(G), substituted “the Administrator” for “him” after “inform” and “the producer” for “he”.

1978—Subsec. (a). Pub. L. 95-396, § 13(1), made requirement of registration applicable to production of active ingredient used in producing a pesticide subject to this subchapter.

Subsec. (c)(1). Pub. L. 95-396, § 13(2), required information pertaining to types and amounts of active ingredients used in producing pesticides where applicable.

Subsec. (d). Pub. L. 95-396, § 13(3), considered names of pesticides or active ingredients used in producing pesticides produced, sold, or distributed at an establishment as not being confidential information.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136j, 136o, 136w of this title.

§ 136f. Books and records

(a) Requirements

The Administrator may prescribe regulations requiring producers, registrants, and applicants for registration to maintain such records with respect to their operations and the pesticides and devices produced as the Administrator determines are necessary for the effective enforcement of this subchapter and to make the records available for inspection and copying in the same manner as provided in subsection (b) of this section. No records required under this subsection shall extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

(b) Inspection

For the purposes of enforcing the provisions of this subchapter, any producer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery any pesticide or device subject to this subchapter, shall, upon request of any officer or employee of the Environmental Protection Agency or of any State or political subdivision, duly designated

by the Administrator, furnish or permit such person at all reasonable times to have access to, and to copy: (1) all records showing the delivery, movement, or holding of such pesticide or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; or (2) in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device. Any inspection referred to in this subsection shall not extend to financial data, sales data other than shipment data, pricing data, personnel data; and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed). Before undertaking an inspection under this subsection, the officer or employee must present to the owner, operator, or agent in charge of the establishment or other place where pesticides or devices are held for distribution or sale, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness.

(June 25, 1947, ch. 125, § 8, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 987; amended Sept. 30, 1978, Pub. L. 95-396, § 14, 92 Stat. 829; Oct. 25, 1988, Pub. L. 100-532, title III, § 301, 102 Stat. 2668; Dec. 13, 1991, Pub. L. 102-237, title X, § 1006(b)(1), 105 Stat. 1895.)

PRIOR PROVISIONS

A prior section 8 of act June 25, 1947, was classified to section 135f of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237 substituted “the Administrator” for “he” before “determines”.

1988—Subsec. (a). Pub. L. 100-532 inserted “, registrants, and applicants for registration” after “requiring producers” and “and to make the records available for inspection and copying in the same manner as provided in subsection (b) of this section” before period at end of first sentence.

1978—Subsec. (b). Pub. L. 95-396 required, in connection with inspection of records and information, the presentation of credentials, written statement as to the reason for inspection, including statement of suspected violation, or an alternative but sufficient reason, and commencement and completion of inspection with reasonable promptness.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136g, 136j, 136o, 136w-1 of this title.

§ 136g. Inspection of establishments, etc.**(a) In general**

(1) For purposes of enforcing the provisions of this subchapter, officers or employees of the Environmental Protection Agency or of any State duly designated by the Administrator are authorized to enter at reasonable times (A) any establishment or other place where pesticides or devices are held for distribution or sale for the purpose of inspecting and obtaining samples of any pesticides or devices, packaged, labeled, and released for shipment, and samples of any containers or labeling for such pesticides or devices, or (B) any place where there is being held any pesticide the registration of which has been suspended or canceled for the purpose of determining compliance with section 136q of this title.

(2) Before undertaking such inspection, the officers or employees must present to the owner, operator, or agent in charge of the establishment or other place where pesticides or devices are held for distribution or sale, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, the officer or employee shall give to the owner, operator, or agent in charge a receipt describing the samples obtained and, if requested, a portion of each such sample equal in volume or weight to the portion retained. If an analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

(b) Warrants

For purposes of enforcing the provisions of this subchapter and upon a showing to an officer or court of competent jurisdiction that there is reason to believe that the provisions of this subchapter have been violated, officers or employees duly designated by the Administrator are empowered to obtain and to execute warrants authorizing—

(1) entry, inspection, and copying of records for purposes of this section or section 136f of this title;

(2) inspection and reproduction of all records showing the quantity, date of shipment, and the name of consignor and consignee of any pesticide or device found in the establishment which is adulterated, misbranded, not registered (in the case of a pesticide) or otherwise in violation of this subchapter and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device; and

(3) the seizure of any pesticide or device which is in violation of this subchapter.

(c) Enforcement**(1) Certification of facts to Attorney General**

The examination of pesticides or devices shall be made in the Environmental Protec-

tion Agency or elsewhere as the Administrator may designate for the purpose of determining from such examinations whether they comply with the requirements of this subchapter. If it shall appear from any such examination that they fail to comply with the requirements of this subchapter, the Administrator shall cause notice to be given to the person against whom criminal or civil proceedings are contemplated. Any person so notified shall be given an opportunity to present the person's views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Administrator it appears that the provisions of this subchapter have been violated by such person, then the Administrator shall certify the facts to the Attorney General, with a copy of the results of the analysis or the examination of such pesticide for the institution of a criminal proceeding pursuant to section 136l(b) of this title or a civil proceeding under section 136l(a) of this title, when the Administrator determines that such action will be sufficient to effectuate the purposes of this subchapter.

(2) Notice not required

The notice of contemplated proceedings and opportunity to present views set forth in this subsection are not prerequisites to the institution of any proceeding by the Attorney General.

(3) Warning notices

Nothing in this subchapter shall be construed as requiring the Administrator to institute proceedings for prosecution of minor violations of this subchapter whenever the Administrator believes that the public interest will be adequately served by a suitable written notice of warning.

(June 25, 1947, ch. 125, §9, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 988; amended Oct. 25, 1988, Pub. L. 100-532, title III, §302, 102 Stat. 2669; Dec. 13, 1991, Pub. L. 102-237, title X, §1006(b)(1), (3)(H), (I), 105 Stat. 1895, 1896.)

PRIOR PROVISIONS

A prior section 9 of act June 25, 1947, was classified to section 135g of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

AMENDMENTS

1991—Subsec. (a)(2). Pub. L. 102-237, §1006(b)(3)(H), substituted “the officer or employee” for “he” before “shall” in fourth sentence.

Subsec. (c)(1). Pub. L. 102-237, §1006(b)(3)(I), substituted “the person’s” for “his” in third sentence.

Subsec. (c)(3). Pub. L. 102-237, §1006(b)(1), substituted “the Administrator” for “he” before “believes”.

1988—Subsec. (a). Pub. L. 100-532, §302(a), substituted “(1) For purposes of” for “For purposes of”, inserted “of the Environmental Protection Agency or of any State”, substituted “at reasonable times (A)” for “at reasonable times”, added cl. (B), and substituted “(2) Before” for “Before”.

Subsec. (b)(1). Pub. L. 100-532, §302(b), amended par. (1) generally, substituting “entry, inspection, and copying of records for purposes of this section or section 136f of this title” for “entry for the purpose of this section”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136w-1 of this title.

§ 136h. Protection of trade secrets and other information

(a) In general

In submitting data required by this subchapter, the applicant may (1) clearly mark any portions thereof which in the applicant's opinion are trade secrets or commercial or financial information and (2) submit such market material separately from other material required to be submitted under this subchapter.

(b) Disclosure

Notwithstanding any other provision of this subchapter and subject to the limitations in subsections (d) and (e) of this section, the Administrator shall not make public information which in the Administrator's judgment contains or relates to trade secrets or commercial or financial information obtained from a person and privileged or confidential, except that, when necessary to carry out the provisions of this subchapter, information relating to formulas of products acquired by authorization of this subchapter may be revealed to any Federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the Administrator.

(c) Disputes

If the Administrator proposes to release for inspection information which the applicant or registrant believes to be protected from disclosure under subsection (b) of this section, the Administrator shall notify the applicant or registrant, in writing, by certified mail. The Administrator shall not thereafter make available for inspection such data until thirty days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may institute an action in an appropriate district court for a declaratory judgment as to whether such information is subject to protection under subsection (b) of this section.

(d) Limitations

(1) All information concerning the objectives, methodology, results, or significance of any test or experiment performed on or with a registered or previously registered pesticide or its separate ingredients, impurities, or degradation products, and any information concerning the effects of such pesticide on any organism or the behavior of such pesticide in the environment, including, but not limited to, data on safety to fish and wildlife, humans and other mammals, plants, animals, and soil, and studies on persistence, translocation and fate in the environment, and metabolism, shall be available for disclosure to the public. The use of such data for any registration purpose shall be governed by section 136a of this title. This paragraph does not authorize the disclosure of any information that—

(A) discloses manufacturing or quality control processes,

(B) discloses the details of any methods for testing, detecting, or measuring the quantity of any deliberately added inert ingredient of a pesticide, or

(C) discloses the identity or percentage quantity of any deliberately added inert ingredient of a pesticide,

unless the Administrator has first determined that disclosure is necessary to protect against an unreasonable risk of injury to health or the environment.

(2) Information concerning production, distribution, sale, or inventories of a pesticide that is otherwise entitled to confidential treatment under subsection (b) of this section may be publicly disclosed in connection with a public proceeding to determine whether a pesticide, or any ingredient of a pesticide, causes unreasonable adverse effects on health or the environment, if the Administrator determines that such disclosure is necessary in the public interest.

(3) If the Administrator proposes to disclose information described in clause (A), (B), or (C) of paragraph (1) or in paragraph (2) of this subsection, the Administrator shall notify by certified mail the submitter of such information of the intent to release such information. The Administrator may not release such information, without the submitter's consent, until thirty days after the submitter has been furnished such notice. Where the Administrator finds that disclosure of information described in clause (A), (B), or (C) of paragraph (1) of this subsection is necessary to avoid or lessen an imminent and substantial risk of injury to the public health, the Administrator may set such shorter period of notice (but not less than ten days) and such method of notice as the Administrator finds appropriate. During such period the data submitter may institute an action in an appropriate district court to enjoin or limit the proposed disclosure. The court may enjoin disclosure, or limit the disclosure or the parties to whom disclosure shall be made, to the extent that—

(A) in the case of information described in clause (A), (B), or (C) of paragraph (1) of this subsection, the proposed disclosure is not required to protect against an unreasonable risk of injury to health or the environment; or

(B) in the case of information described in paragraph (2) of this subsection, the public interest in availability of the information in the public proceeding does not outweigh the interests in preserving the confidentiality of the information.

(e) Disclosure to contractors

Information otherwise protected from disclosure to the public under subsection (b) of this section may be disclosed to contractors with the United States and employees of such contractors if, in the opinion of the Administrator, such disclosure is necessary for the satisfactory performance by the contractor of a contract with the United States for the performance of work in connection with this subchapter and under such conditions as the Administrator may specify. The Administrator shall require as a condition to the disclosure of information under this subsection that the person receiving it take such security precautions respecting the infor-

mation as the Administrator shall by regulation prescribe.

(f) Penalty for disclosure by Federal employees

(1) Any officer or employee of the United States or former officer or employee of the United States who, by virtue of such employment or official position, has obtained possession of, or has access to, material the disclosure of which is prohibited by subsection (b) of this section, and who, knowing that disclosure of such material is prohibited by such subsection, willfully discloses the material in any manner to any person not entitled to receive it, shall be fined not more than \$10,000 or imprisoned for not more than one year, or both. Section 1905 of title 18 shall not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this subchapter. Nothing in this subchapter shall preempt any civil remedy under State or Federal law for wrongful disclosure of trade secrets.

(2) For the purposes of this section, any contractor with the United States who is furnished information as authorized by subsection (e) of this section, or any employee of any such contractor, shall be considered to be an employee of the United States.

(g) Disclosure to foreign and multinational pesticide producers

(1) The Administrator shall not knowingly disclose information submitted by an applicant or registrant under this subchapter to any employee or agent of any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in addition to the United States or to any other person who intends to deliver such data to such foreign or multinational business or entity unless the applicant or registrant has consented to such disclosure. The Administrator shall require an affirmation from any person who intends to inspect data that such person does not seek access to the data for purposes of delivering it or offering it for sale to any such business or entity or its agents or employees and will not purposefully deliver or negligently cause the data to be delivered to such business or entity or its agents or employees. Notwithstanding any other provision of this subsection, the Administrator may disclose information to any person in connection with a public proceeding under law or regulation, subject to restrictions on the availability of information contained elsewhere in this subchapter, which information is relevant to a determination by the Administrator with respect to whether a pesticide, or any ingredient of a pesticide, causes unreasonable adverse effects on health or the environment.

(2) The Administrator shall maintain records of the names of persons to whom data are disclosed under this subsection and the persons or organizations they represent and shall inform the applicant or registrant of the names and affiliations of such persons.

(3) Section 1001 of title 18 shall apply to any affirmation made under paragraph (1) of this subsection.

(June 25, 1947, ch. 125, §10, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 989; amended Sept. 30,

1978, Pub. L. 95-396, §15, 92 Stat. 829; Nov. 8, 1984, Pub. L. 98-620, title IV, §402(4)(B), 98 Stat. 3357; Oct. 25, 1988, Pub. L. 100-532, title VIII, §801(f), 102 Stat. 2682; Dec. 13, 1991, Pub. L. 102-237, title X, §1006(b)(1), (2), (3)(J), 105 Stat. 1895, 1896.)

PRIOR PROVISIONS

A prior section 10 of act June 25, 1947, was classified to section 135h of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237, §1006(b)(3)(J), substituted “the applicant’s” for “his”.

Subsec. (b). Pub. L. 102-237, §1006(b)(2), substituted “the Administrator’s” for “his”.

Subsec. (c). Pub. L. 102-237, §1006(b)(1), substituted “the Administrator” for “he” before “shall notify”.

1988—Subsec. (d). Pub. L. 100-532 in par. (1), substituted “public. The use” for “public: *Provided*, That the use” and “title. This paragraph” for “title: *Provided further*, That this paragraph”, and in par. (3), “notice. Where” for “notice: *Provided*, That where”.

1984—Subsec. (d)(3). Pub. L. 98-620 struck out provisions requiring the court to give expedited consideration to actions involving injunctions or limitations of proposed disclosure.

1978—Subsec. (b). Pub. L. 95-396, §15(1), made disclosure of information by the Administrator subject to the limitations of subsecs. (d) and (e) of this section.

Subsecs. (d) to (g). Pub. L. 95-396, §15(2), added subsecs. (d) to (g).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

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.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a, 136e of this title.

§ 136i. Use of restricted use pesticides; applicators

(a) Certification procedure

(1) Federal certification

In any State for which a State plan for applicator certification has not been approved by the Administrator, the Administrator, in consultation with the Governor of such State, shall conduct a program for the certification of applicators of pesticides. Such program shall conform to the requirements imposed upon the States under the provisions of subsection (a)(2) of this section and shall not require private applicators to take any examination to establish competency in the use of pesticides. Prior to the implementation of the program, the Administrator shall publish in the Federal Register for review and comment a summary of the Federal plan for applicator certification and shall make generally available within the State copies of the plan. The Administrator shall hold public hearings at

one or more locations within the State if so requested by the Governor of such State during the thirty days following publication of the Federal Register notice inviting comment on the Federal plan. The hearings shall be held within thirty days following receipt of the request from the Governor. In any State in which the Administrator conducts a certification program, the Administrator may require any person engaging in the commercial application, sale, offering for sale, holding for sale, or distribution of any pesticide one or more uses of which have been classified for restricted use to maintain such records and submit such reports concerning the commercial application, sale, or distribution of such pesticide as the Administrator may by regulation prescribe. Subject to paragraph (2), the Administrator shall prescribe standards for the certification of applicators of pesticides. Such standards shall provide that to be certified, an individual must be determined to be competent with respect to the use and handling of the pesticides, or to the use and handling of the pesticide or class of pesticides covered by such individual's certification. The certification standard for a private applicator shall, under a State plan submitted for approval, be deemed fulfilled by the applicator completing a certification form. The Administrator shall further assure that such form contains adequate information and affirmations to carry out the intent of this subchapter, and may include in the form an affirmation that the private applicator has completed a training program approved by the Administrator so long as the program does not require the private applicator to take, pursuant to a requirement prescribed by the Administrator, any examination to establish competency in the use of the pesticide. The Administrator may require any pesticide dealer participating in a certification program to be licensed under a State licensing program approved by the Administrator.

(2) State certification

If any State, at any time, desires to certify applicators of pesticides, the Governor of such State shall submit a State plan for such purpose. The Administrator shall approve the plan submitted by any State, or any modification thereof, if such plan in the Administrator's judgment—

(A) designates a State agency as the agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances that such agency has or will have the legal authority and qualified personnel necessary to carry out the plan;

(C) gives satisfactory assurances that the State will devote adequate funds to the administration of the plan;

(D) provides that the State agency will make such reports to the Administrator in such form and containing such information as the Administrator may from time to time require; and

(E) contains satisfactory assurances that State standards for the certification of ap-

plicators of pesticides conform with those standards prescribed by the Administrator under paragraph (1).

Any State certification program under this section shall be maintained in accordance with the State plan approved under this section.

(b) State plans

If the Administrator rejects a plan submitted under subsection (a)(2) of this section, the Administrator shall afford the State submitting the plan due notice and opportunity for hearing before so doing. If the Administrator approves a plan submitted under subsection (a)(2) of this section, then such State shall certify applicators of pesticides with respect to such State. Whenever the Administrator determines that a State is not administering the certification program in accordance with the plan approved under this section, the Administrator shall so notify the State and provide for a hearing at the request of the State, and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such plan.

(c) Instruction in integrated pest management techniques

Standards prescribed by the Administrator for the certification of applicators of pesticides under subsection (a) of this section, and State plans submitted to the Administrator under subsection (a) of this section, shall include provisions for making instructional materials concerning integrated pest management techniques available to individuals at their request in accordance with the provisions of section 136u(c) of this title, but such plans may not require that any individual receive instruction concerning such techniques or to be shown to be competent with respect to the use of such techniques. The Administrator and States implementing such plans shall provide that all interested individuals are notified on the availability of such instructional materials.

(d) In general

No regulations prescribed by the Administrator for carrying out the provisions of this subchapter shall require any private applicator to maintain any records or file any reports or other documents.

(e) Separate standards

When establishing or approving standards for licensing or certification, the Administrator shall establish separate standards for commercial and private applicators.

(June 25, 1947, ch. 125, §11, formerly §§4, 11, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 983, 989; amended Nov. 28, 1975, Pub. L. 94-140, §§5, 11, 89 Stat. 753, 754; Sept. 30, 1978, Pub. L. 95-396, §9, 92 Stat. 827; Oct. 25, 1988, Pub. L. 100-532, title VIII, §801(c), (q)(1)(A)-(C), 102 Stat. 2681, 2683; Dec. 13, 1991, Pub. L. 102-237, title X, §1006(a)(6), (b)(1), (2), (3)(K), 105 Stat. 1895, 1896.)

CODIFICATION

Pub. L. 100-532, §801(q)(1)(A), transferred subsecs. (a) to (c) of section 4 of act June 25, 1947, which was classified to section 136b of this title, to subsecs. (a) to (c) of this section.

PRIOR PROVISIONS

A prior section 11 of act June 25, 1947, was classified to section 135i of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

AMENDMENTS

1991—Pub. L. 102-237, §1006(a)(6)(A), substituted “applicators” for “applicators” in section catchline.

Subsec. (a)(1). Pub. L. 102-237, §1006(b)(3)(K), substituted “the applicator” for “his” in ninth sentence and “the Administrator” for “him” before period at end.

Subsec. (a)(2). Pub. L. 102-237, §1006(b)(2), substituted “the Administrator’s” for “his” in introductory provisions.

Subsec. (b). Pub. L. 102-237, §1006(a)(6)(B), (b)(1), substituted “subsection (a)(2) of this section” for “this paragraph” in two places and “the Administrator” for “he” before “shall afford” and before “shall so notify”.

Subsec. (c). Pub. L. 102-237, §1006(a)(6)(C), substituted “subsection (a)” for “subsections (a) and (b)” after “Administrator under”.

1988—Pub. L. 100-532, §801(q)(1)(A), (C), substituted section catchline for one which read: “Standards applicable to pesticide applicators”, redesignated subsecs. (a) and (b) as (d) and (e), respectively, and transferred subsecs. (a) to (c) of section 136b of this title to subsecs. (a) to (c), respectively, of this section.

Subsec. (a)(1). Pub. L. 100-532, §801(c), substituted “pesticides. Such program” for “pesticides: *Provided*. That such program” and “certification. The certification” for “certification: *Provided, however*. That the certification”.

1978—Subsec. (a)(1). Pub. L. 95-396 required that, in any State without a State plan for applicator certification approved by the Administrator, the Administrator, in consultation with the Governor of the State, shall conduct a program for the certification of applicators of pesticides under a Federal plan for applicator certification, and also that in such a State records be maintained and reports submitted by persons engaged in commercial application, sale or distribution of pesticides classified for restricted use.

1975—Subsec. (a)(1). Pub. L. 94-140, §5, inserted proviso relating to Administrator’s powers and duties with respect to the certification forms and requirement for pesticide dealers participating in certification program.

Subsec. (c). Pub. L. 94-140, §11, added subsec. (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136c, 136j, 136q, 136w-1 of this title.

§ 136i-1. Pesticide recordkeeping

(a) Requirements

(1) The Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency, shall require certified applicators of restricted use pesticides (of the type described under section 136a(d)(1)(C) of this title) to maintain records comparable to records maintained by commercial applicators of pesticides in each State. If there is no State requirement for the maintenance of records, such applicator shall maintain records that contain the product name, amount, approximate

date of application, and location of application of each such pesticide used for a 2-year period after such use.

(2) Within 30 days of a pesticide application, a commercial certified applicator shall provide a copy of records maintained under paragraph (1) to the person for whom such application was provided.

(b) Access

Records maintained under subsection (a) of this section shall be made available to any Federal or State agency that deals with pesticide use or any health or environmental issue related to the use of pesticides, on the request of such agency. Each such Federal agency shall conduct surveys and record the data from individual applicators to facilitate statistical analysis for environmental and agronomic purposes, but in no case may a government agency release data, including the location from which the data was derived, that would directly or indirectly reveal the identity of individual producers. In the case of Federal agencies, such access to records maintained under subsection (a) of this section shall be through the Secretary of Agriculture, or the Secretary’s designee. State agency requests for access to records maintained under subsection (a) of this section shall be through the lead State agency so designated by the State.

(c) Health care personnel

When a health professional determines that pesticide information maintained under this section is necessary to provide medical treatment or first aid to an individual who may have been exposed to pesticides for which the information is maintained, upon request persons required to maintain records under subsection (a) of this section shall promptly provide record and available label information to that health professional. In the case of an emergency, such record information shall be provided immediately.

(d) Penalty

The Secretary of Agriculture shall be responsible for the enforcement of subsections (a), (b), and (c) of this section. A violation of such subsection shall—

(1) in the case of the first offense, be subject to a fine of not more than \$500; and

(2) in the case of subsequent offenses, be subject to a fine of not less than \$1,000 for each violation, except that the penalty shall be less than \$1,000 if the Secretary determines that the person made a good faith effort to comply with such subsection.

(e) Federal or State provisions

The requirements of this section shall not affect provisions of other Federal or State laws.

(f) Surveys and reports

The Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall survey the records maintained under subsection (a) of this section to develop and maintain a data base that is sufficient to enable the Secretary and the Administrator to publish annual comprehensive reports concerning agricultural and nonagricultural pesticide use. The Secretary and Administrator shall enter into a

memorandum of understanding to define their respective responsibilities under this subsection in order to avoid duplication of effort. Such reports shall be transmitted to Congress not later than April 1 of each year.

(g) Regulations

The Secretary of Agriculture and the Administrator of the Environmental Protection Agency shall promulgate regulations on their respective areas of responsibility implementing this section within 180 days after November 28, 1990.

(Pub. L. 101-624, title XIV, §1491, Nov. 28, 1990, 104 Stat. 3627; Pub. L. 102-237, title X, §1006(d), Dec. 13, 1991, 105 Stat. 1896.)

CODIFICATION

Section was enacted as part of the Conservation Program Improvements Act, and also as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Federal Insecticide, Fungicide, and Rodenticide Act which comprises this subchapter.

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102-237, §1006(d)(1), inserted closing parenthesis after “section 136a(d)(1)(C) of this title”.

Subsec. (d)(1). Pub. L. 102-237, §1006(d)(2), inserted “of” after “fine”.

§ 136j. Unlawful acts

(a) In general

(1) Except as provided by subsection (b) of this section, it shall be unlawful for any person in any State to distribute or sell to any person—

(A) any pesticide that is not registered under section 136a of this title or whose registration has been canceled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this subchapter;

(B) any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under section 136a of this title;

(C) any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under section 136a of this title;

(D) any pesticide which has not been colored or discolored pursuant to the provisions of section 136w(c)(5) of this title;

(E) any pesticide which is adulterated or misbranded; or

(F) any device which is misbranded.

(2) It shall be unlawful for any person—

(A) to detach, alter, deface, or destroy, in whole or in part, any labeling required under this subchapter;

(B) to refuse to—

(i) prepare, maintain, or submit any records required by or under section 136c, 136e, 136f, 136i, or 136q of this title;

(ii) submit any reports required by or under section 136c, 136d, 136e, 136f, 136i, or 136q of this title; or

(iii) allow any entry, inspection, copying of records, or sampling authorized by this subchapter;

(C) to give a guaranty or undertaking provided for in subsection (b) of this section which is false in any particular, except that a person who receives and relies upon a guaranty authorized under subsection (b) of this section may give a guaranty to the same effect, which guaranty shall contain, in addition to the person's own name and address, the name and address of the person residing in the United States from whom the person received the guaranty or undertaking;

(D) to use for the person's own advantage or to reveal, other than to the Administrator, or officials or employees of the Environmental Protection Agency or other Federal executive agencies, or to the courts, or to physicians, pharmacists, and other qualified persons, needing such information for the performance of their duties, in accordance with such directions as the Administrator may prescribe, any information acquired by authority of this subchapter which is confidential under this subchapter;

(E) who is a registrant, wholesaler, dealer, retailer, or other distributor to advertise a product registered under this subchapter for restricted use without giving the classification of the product assigned to it under section 136a of this title;

(F) to distribute or sell, or to make available for use, or to use, any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 136a(d) of this title and any regulations thereunder, except that it shall not be unlawful to sell, under regulations issued by the Administrator, a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator;

(G) to use any registered pesticide in a manner inconsistent with its labeling;

(H) to use any pesticide which is under an experimental use permit contrary to the provisions of such permit;

(I) to violate any order issued under section 136k of this title;

(J) to violate any suspension order issued under section 136a(c)(2)(B), 136a-1, or 136d of this title;

(K) to violate any cancellation order issued under this subchapter or to fail to submit a notice in accordance with section 136d(g) of this title;

(L) who is a producer to violate any of the provisions of section 136e of this title;

(M) to knowingly falsify all or part of any application for registration, application for experimental use permit, any information submitted to the Administrator pursuant to section 136e of this title, any records required to be maintained pursuant to this subchapter, any report filed under this subchapter, or any information marked as confidential and submitted to the Administrator under any provision of this subchapter;

(N) who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by this subchapter;

(O) to add any substance to, or take any substance from, any pesticide in a manner that may defeat the purpose of this subchapter;

(P) to use any pesticide in tests on human beings unless such human beings (i) are fully informed of the nature and purposes of the test and of any physical and mental health consequences which are reasonably foreseeable therefrom, and (ii) freely volunteer to participate in the test;

(Q) to falsify all or part of any information relating to the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof), including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion or opinion formed, submitted to the Administrator, or that the person knows will be furnished to the Administrator or will become a part of any records required to be maintained by this subchapter;

(R) to submit to the Administrator data known to be false in support of a registration; or

(S) to violate any regulation issued under section 136a(a) or 136q of this title.

(b) Exemptions

The penalties provided for a violation of paragraph (1) of subsection (a) of this section shall not apply to—

(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom the person purchased or received in good faith the pesticide in the same unbroken package, to the effect that the pesticide was lawfully registered at the time of sale and delivery to the person, and that it complies with the other requirements of this subchapter, and in such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of this subchapter;

(2) any carrier while lawfully shipping, transporting, or delivering for shipment any pesticide or device, if such carrier upon request of any officer or employee duly designated by the Administrator shall permit such officer or employee to copy all of its records concerning such pesticide or device;

(3) any public official while engaged in the performance of the official duties of the public official;

(4) any person using or possessing any pesticide as provided by an experimental use permit in effect with respect to such pesticide and such use or possession; or

(5) any person who ships a substance or mixture of substances being put through tests in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties and from which the user does not expect to receive any benefit in pest control from its use.

(June 25, 1947, ch. 125, §12, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 989; amended Sept. 30, 1978, Pub. L. 95-396, §16, 92 Stat. 832; Oct. 25, 1988, Pub. L. 100-532, title VI, §§601(b)(2), 603, title VIII, §801(g), (q)(2)(B), 102 Stat. 2677, 2678, 2682, 2683; Dec. 13, 1991, Pub. L. 102-237, title X, §1006(a)(7), (b)(3)(L)-(O), 105 Stat. 1895, 1896.)

PRIOR PROVISIONS

A prior section 12 of act June 25, 1947, was classified to section 135j of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

AMENDMENTS

1991—Subsec. (a)(2)(C). Pub. L. 102-237, §1006(b)(3)(L), substituted “the person’s” for “his” and “the person” for “he” before “received”.

Subsec. (a)(2)(D). Pub. L. 102-237, §1006(b)(3)(M), substituted “the person’s” for “his”.

Subsec. (a)(2)(F). Pub. L. 102-237, §1006(a)(7)(A), substituted “thereunder, except that it” for “thereunder. It”.

Subsec. (a)(2)(O). Pub. L. 102-237, §1006(a)(7)(B), struck out “or” after semicolon at end.

Subsec. (a)(2)(P). Pub. L. 102-237, §1006(a)(7)(C), substituted a semicolon for period at end.

Subsec. (b)(1). Pub. L. 102-237, §1006(b)(3)(N), substituted “the person” for “he” after “from whom” and for “him” after “delivery to”.

Subsec. (b)(3). Pub. L. 102-237, §1006(b)(3)(O), substituted “the official duties of the public official” for “his official duties”.

1988—Subsec. (a)(1). Pub. L. 100-532, §601(b)(2)(A), in introductory provisions, substituted “distribute or sell to any person” for “distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person”.

Subsec. (a)(1)(A). Pub. L. 100-532, §603(1), added subpar. (A) and struck out former subpar. (A) which read as follows: “any pesticide which is not registered under section 136a of this title, except as provided by section 136d(a)(1) of this title;”.

Subsec. (a)(2)(B). Pub. L. 100-532, §603(2)(A), added subpar. (B) and struck out former subpar. (B) which read as follows: “to refuse to keep any records required pursuant to section 136f of this title, or to refuse to allow inspection of any records or establishment pursuant to section 136f or 136g of this title, or to refuse to allow an officer or employee of the Environmental Protection Agency to take a sample of any pesticide pursuant to section 136g of this title;”.

Subsec. (a)(2)(F). Pub. L. 100-532, §§601(b)(2)(B), 801(g), substituted “to distribute or sell, or to make” for “to make” and “thereunder, It” for “thereunder: *Provided*, That it”.

Subsec. (a)(2)(J). Pub. L. 100-532, §801(q)(2)(B), made a technical amendment to the reference to section 136a-1 of this title to reflect the renumbering of the corresponding section of the original act.

Pub. L. 100-532, §603(2)(B), added subpar. (J) and struck out former subpar. (J) which read as follows: “to violate any suspension order issued under section 136d of this title;”.

Subsec. (a)(2)(K). Pub. L. 100-532, §603(2)(B), added subpar. (K) and struck out former subpar. (K) which read as follows: “to violate any cancellation of registration of a pesticide under section 136d of this title, except as provided by section 136d(a)(1) of this title;”.

Subsec. (a)(2)(M). Pub. L. 100-532, §603(2)(C), substituted “this subchapter” for “section 136f of this title”.

Subsec. (a)(2)(Q), (R), (S). Pub. L. 100-532, §603(2)(D), added subpars. (Q), (R), and (S).

1978—Subsec. (a)(2)(F). Pub. L. 95-396 inserted proviso exempting from prohibition the sale, under regulations issued by the Administrator, of a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136k. Stop sale, use, removal, and seizure**(a) Stop sale, etc., orders**

Whenever any pesticide or device is found by the Administrator in any State and there is reason to believe on the basis of inspection or tests that such pesticide or device is in violation of any of the provisions of this subchapter, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration of the pesticide has been canceled by a final order or has been suspended, the Administrator may issue a written or printed “stop sale, use, or removal” order to any person who owns, controls, or has custody of such pesticide or device, and after receipt of such order no person shall sell, use, or remove the pesticide or device described in the order except in accordance with the provisions of the order.

(b) Seizure

Any pesticide or device that is being transported or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in any State, or that is imported from a foreign country, shall be liable to be proceeded against in any district court in the district where it is found and seized for confiscation by a process in rem for condemnation if—

(1) in the case of a pesticide—

(A) it is adulterated or misbranded;

(B) it is not registered pursuant to the provisions of section 136a of this title;

(C) its labeling fails to bear the information required by this subchapter;

(D) it is not colored or discolored and such coloring or discoloring is required under this subchapter; or

(E) any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration;

(2) in the case of a device, it is misbranded;

OR

(3) in the case of a pesticide or device, when used in accordance with the requirements imposed under this subchapter and as directed by the labeling, it nevertheless causes unreasonable adverse effects on the environment.

In the case of a plant regulator, defoliant, or desiccant, used in accordance with the label claims and recommendations, physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when such effects are the purpose for which the plant regulator, defoliant, or desiccant was applied.

(c) Disposition after condemnation

If the pesticide or device is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs, shall be paid into the Treasury of the United States, but the pesticide or device shall not be sold contrary to the provisions of this subchapter or the laws of the jurisdiction in which it is sold. On payment of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned that the

pesticide or device shall not be sold or otherwise disposed of contrary to the provisions of the subchapter or the laws of any jurisdiction in which sold, the court may direct that such pesticide or device be delivered to the owner thereof. The proceedings of such condemnation cases shall conform, as near as may be to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(d) Court costs, etc.

When a decree of condemnation is entered against the pesticide or device, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device.

(June 25, 1947, ch. 125, §13, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 991; amended Oct. 25, 1988, Pub. L. 100-532, title VIII, §801(h), 102 Stat. 2682.)

PRIOR PROVISIONS

A prior section 13 of act June 25, 1947, was classified to section 135k of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-532, §801(h)(1), directed that sentence beginning “In the case of” be moved from par. (3) and become a full measure sentence after par. (3).

Subsec. (c). Pub. L. 100-532, §801(h)(2), substituted “sold. On” for “sold: *Provided*, That upon”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136e, 136j, 136q of this title.

§ 136l. Penalties**(a) Civil penalties****(1) In general**

Any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this subchapter may be assessed a civil penalty by the Administrator of not more than \$5,000 for each offense.

(2) Private applicator

Any private applicator or other person not included in paragraph (1) who violates any provision of this subchapter subsequent to receiving a written warning from the Administrator or following a citation for a prior violation, may be assessed a civil penalty by the Administrator of not more than \$1,000 for each offense, except that any applicator not included under paragraph (1) of this subsection who holds or applies registered pesticides, or uses dilutions of registered pesticides, only to provide a service of controlling pests without

delivering any unapplied pesticide to any person so served, and who violates any provision of this subchapter may be assessed a civil penalty by the Administrator of not more than \$500 for the first offense nor more than \$1,000 for each subsequent offense.

(3) Hearing

No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged.

(4) Determination of penalty

In determining the amount of the penalty, the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Whenever the Administrator finds that the violation occurred despite the exercise of due care or did not cause significant harm to health or the environment, the Administrator may issue a warning in lieu of assessing a penalty.

(5) References to Attorney General

In case of inability to collect such civil penalty or failure of any person to pay all, or such portion of such civil penalty as the Administrator may determine, the Administrator shall refer the matter to the Attorney General, who shall recover such amount by action in the appropriate United States district court.

(b) Criminal penalties

(1) In general

(A) Any registrant, applicant for a registration, or producer who knowingly violates any provision of this subchapter shall be fined not more than \$50,000 or imprisoned for not more than 1 year, or both.

(B) Any commercial applicator of a restricted use pesticide, or any other person not described in subparagraph (A) who distributes or sells pesticides or devices, who knowingly violates any provision of this subchapter shall be fined not more than \$25,000 or imprisoned for not more than 1 year, or both.

(2) Private applicator

Any private applicator or other person not included in paragraph (1) who knowingly violates any provision of this subchapter shall be guilty of a misdemeanor and shall on conviction be fined not more than \$1,000, or imprisoned for not more than 30 days, or both.

(3) Disclosure of information

Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 136a of this title, shall be fined not more than \$10,000, or imprisoned for not more than three years, or both.

(4) Acts of officers, agents, etc.

When construing and enforcing the provisions of this subchapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omis-

sion, or failure of such person as well as that of the person employed.

(June 25, 1947, ch. 125, § 14, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 992; amended Sept. 30, 1978, Pub. L. 95-396, § 17, 92 Stat. 832; Oct. 25, 1988, Pub. L. 100-532, title VI, § 604, 102 Stat. 2678; Dec. 13, 1991, Pub. L. 102-237, title X, § 1006(a)(8), 105 Stat. 1895.)

AMENDMENTS

1991—Subsec. (a)(2). Pub. L. 102-237 substituted “, except that” for “: *Provided*, That” and “uses” for “use”.

1988—Subsec. (b)(1). Pub. L. 100-532 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of this subchapter shall be guilty of a misdemeanor and shall on conviction be fined not more than \$25,000, or imprisoned for not more than one year, or both.”

1978—Subsec. (a)(2). Pub. L. 95-396, § 17(1), authorized assessment of a civil penalty of not more than \$500 for a first offense and not more than \$1,000 for each subsequent offense against any applicator providing a service of controlling pests for violations of this subchapter.

Subsec. (a)(3). Pub. L. 95-396, § 17(2), struck out provision respecting certain considerations when determining amount of penalty, now covered in par. (4).

Subsec. (a)(4). Pub. L. 95-396, § 17(4), reenacted second sentence of par. (3) as par. (4) and authorized Administrator to issue a warning in lieu of assessing a penalty. Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 95-396, § 17(3), redesignated former par. (4) as (5).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a-1, 136g, 136q of this title.

§ 136m. Indemnities

(a) General indemnification

(1) In general

Except as otherwise provided in this section, if—

(A) the Administrator notifies a registrant under section 136d(c)(1) of this title that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 136d(c)(3) of this title has been issued;

(B) the registration in question is suspended under section 136d(c) of this title, and thereafter is canceled under section 136d(b), 136d(d), or 136d(f) of this title; and

(C) any person who owned any quantity of the pesticide immediately before the notice to the registrant under subparagraph (A) suffered losses by reason of suspension or cancellation of the registration;

the Administrator shall make an indemnity payment to the person.

(2) Exception

Paragraph (1) shall not apply if the Administrator finds that the person—

(A) had knowledge of facts that, in themselves, would have shown that the pesticide did not meet the requirements of section 136a(c)(5) of this title for registration; and

(B) continued thereafter to produce the pesticide without giving timely notice of such facts to the Administrator.

(3) Report

If the Administrator takes an action under paragraph (1) that requires the payment of indemnification, the Administrator shall report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate on—

(A) the action taken that requires the payment of indemnification;

(B) the reasons for taking the action;

(C) the estimated cost of the payment; and

(D) a request for the appropriation of funds for the payment.

(4) Appropriation

The Administrator may not make a payment of indemnification under paragraph (1) unless a specific line item appropriation of funds has been made in advance for the payment.

(b) Indemnification of end users, dealers, and distributors

(1) End users

If—

(A) the Administrator notifies a registrant under section 136d(c)(1) of this title that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 136d(c)(3) of this title has been issued;

(B) the registration in question is suspended under section 136d(c) of this title, and thereafter is canceled under section 136d(b), 136d(d), or 136d(f) of this title; and

(C) any person who, immediately before the notice to the registrant under subparagraph (A), owned any quantity of the pesticide for purposes of applying or using the pesticide as an end user, rather than for purposes of distributing or selling it or further processing it for distribution or sale, suffered a loss by reason of the suspension or cancellation of the pesticide;

the person shall be entitled to an indemnity payment under this subsection for such quantity of the pesticide.

(2) Dealers and distributors

(A) Any registrant, wholesaler, dealer, or other distributor (hereinafter in this paragraph referred to as a “seller”) of a registered pesticide who distributes or sells the pesticide directly to any person not described as an end user in paragraph (1)(C) shall, with respect to any quantity of the pesticide that such person cannot use or resell as a result of the suspension or cancellation of the pesticide, reimburse such person for the cost of first acquiring the pesticide from the seller (other than the cost of transportation, if any), unless the seller provided to the person at the time of distribution or sale a notice, in writing, that

the pesticide is not subject to reimbursement by the seller.

(B) If—

(i) the Administrator notifies a registrant under section 136d(c)(1) of this title that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 136d(c)(3) of this title has been issued;

(ii) the registration in question is suspended under section 136d(c) of this title, and thereafter is canceled under section 136d(b), 136d(d), or 136d(f) of this title;

(iii) any person who, immediately before the notice to the registrant under clause (i)—

(I) had not been notified in writing by the seller, as provided under subparagraph (A), that any quantity of the pesticide owned by such person is not subject to reimbursement by the seller in the event of suspension or cancellation of the pesticide; and

(II) owned any quantity of the pesticide for purposes of—

(aa) distributing or selling it; or

(bb) further processing it for distribution or sale directly to an end user;

suffered a loss by reason of the suspension or cancellation of the pesticide; and

(iv) the Administrator determines on the basis of a claim of loss submitted to the Administrator by the person, that the seller—

(I) did not provide the notice specified in subparagraph (A) to such person; and

(II) is and will continue to be unable to provide reimbursement to such person, as provided under subparagraph (A), for the loss referred to in clause (iii), as a result of the insolvency or bankruptcy of the seller and the seller's resulting inability to provide such reimbursement;

the person shall be entitled to an indemnity payment under this subsection for such quantity of the pesticide.

(C) If an indemnity payment is made by the United States under this paragraph, the United States shall be subrogated to any right that would otherwise be held under this paragraph by a seller who is unable to make a reimbursement in accordance with this paragraph with regard to reimbursements that otherwise would have been made by the seller.

(3) Source

Any payment required to be made under paragraph (1) or (2) shall be made from the appropriation provided under section 1304 of title 31.

(4) Administrative settlement

An administrative settlement of a claim for such indemnity may be made in accordance with the third paragraph of section 2414 of title 28 and shall be regarded as if it were made under that section for purposes of section 1304 of title 31.

(c) Amount of payment

(1) In general

The amount of an indemnity payment under subsection (a) or (b) of this section to any per-

son shall be determined on the basis of the cost of the pesticide owned by the person (other than the cost of transportation, if any) immediately before the issuance of the notice to the registrant referred to in subsection (a)(1)(A), (b)(1)(A), or (b)(2)(B)(i) of this section, except that in no event shall an indemnity payment to any person exceed the fair market value of the pesticide owned by the person immediately before the issuance of the notice.

(2) Special rule

Notwithstanding any other provision of this subchapter, the Administrator may provide a reasonable time for use or other disposal of the pesticide. In determining the quantity of any pesticide for which indemnity shall be paid under this section, proper adjustment shall be made for any pesticide used or otherwise disposed of by the owner.

(June 25, 1947, ch. 125, § 15, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 993; amended Oct. 25, 1988, Pub. L. 100-532, title V, § 501(a), 102 Stat. 2674.)

AMENDMENTS

1988—Pub. L. 100-532 amended section generally, in subsec. (a), substituting provisions relating to general indemnification for provisions relating to requirements for payment, adding subsec. (b), and redesignating provisions of former subsec. (b), with further amendment, as subsec. (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Section 501(a) of Pub. L. 100-532 provided that amendment made by Pub. L. 100-532 is effective 180 days after Oct. 25, 1988.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

INTERIM PAYMENTS

Section 501(b) of Pub. L. 100-532 provided that:

“(1) SOURCE.—Any obligation of the Administrator to pay an indemnity arising under section 15 [this section], as it existed prior to the effective date of the amendment made by this section [see Effective Date of 1988 Amendment note above], shall be made from the appropriation provided under section 1304 of title 31, United States Code.

“(2) ADMINISTRATIVE SETTLEMENT.—An administrative settlement of a claim for such indemnity may be made in accordance with the third paragraph of section 2414 of title 28, United States Code, and shall be regarded as if it were made under that section for purposes of section 1304 of title 31, United States Code.”

§ 136n. Administrative procedure; judicial review

(a) District court review

Except as otherwise provided in this subchapter, the refusal of the Administrator to cancel or suspend a registration or to change a classification not following a hearing and other final actions of the Administrator not committed to the discretion of the Administrator by law are judicially reviewable by the district courts of the United States.

(b) Review by court of appeals

In the case of actual controversy as to the validity of any order issued by the Administrator

following a public hearing, any person who will be adversely affected by such order and who had been a party to the proceedings may obtain judicial review by filing in the United States court of appeals for the circuit wherein such person resides or has a place of business, within 60 days after the entry of such order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or any officer designated by the Administrator for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which the Administrator based the Administrator's order, as provided in section 2112 of title 28. Upon the filing of such petition the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The court shall consider all evidence of record. The order of the Administrator shall be sustained if it is supported by substantial evidence when considered on the record as a whole. The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order.

(c) Jurisdiction of district courts

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this subchapter.

(d) Notice of judgments

The Administrator shall, by publication in such manner as the Administrator may prescribe, give notice of all judgments entered in actions instituted under the authority of this subchapter.

(June 25, 1947, ch. 125, § 16, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 994; amended Nov. 8, 1984, Pub. L. 98-620, title IV, § 402(4)(C), 98 Stat. 3357; Oct. 25, 1988, Pub. L. 100-532, title VIII, § 801(i), 102 Stat. 2682; Dec. 13, 1991, Pub. L. 102-237, title X, § 1006(b)(1), (2), (3)(P), 105 Stat. 1895, 1896.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102-237, § 1006(b)(1), (2), (3)(P), substituted “the Administrator” for “he” before “based”, “the Administrator’s” for “his”, and “the Administrator” for “him” after “designated by”.

Subsec. (d). Pub. L. 102-237, § 1006(b)(1), substituted “the Administrator” for “he” before “may”.

1988—Subsec. (a). Pub. L. 100-532 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Except as is otherwise provided in this subchapter, Agency refusals to cancel or suspend registrations or change classifications not following a hearing and other final Agency actions not committed to Agency discretion by law are judicially reviewable in the district courts.”

1984—Subsec. (b). Pub. L. 98-620 struck out provisions requiring the court to advance on the docket and expedite the disposition of all cases filed pursuant to this section.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

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.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a, 136a-1, 136d, 136q of this title.

§ 136o. Imports and exports**(a) Pesticides and devices intended for export**

Notwithstanding any other provision of this subchapter, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be deemed in violation of this subchapter—

(1) when prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to sections 136(p), (q)(1)(A), (C), (D), (E), (G), and (H), 136(q)(2)(A), (B), (C)(i) and (iii), and (D), 136e, and 136f of this title; and

(2) in the case of any pesticide other than a pesticide registered under section 136a or sold under section 136d(a)(1) of this title, if, prior to export, the foreign purchaser has signed a statement acknowledging that the purchaser understands that such pesticide is not registered for use in the United States and cannot be sold in the United States under this subchapter.

A copy of that statement shall be transmitted to an appropriate official of the government of the importing country.

(b) Cancellation notices furnished to foreign governments

Whenever a registration, or a cancellation or suspension of the registration of a pesticide becomes effective, or ceases to be effective, the Administrator shall transmit through the State Department notification thereof to the governments of other countries and to appropriate international agencies. Such notification shall, upon request, include all information related to the cancellation or suspension of the registration of the pesticide and information concerning other pesticides that are registered under section 136a of this title and that could be used in lieu of such pesticide.

(c) Importation of pesticides and devices

The Secretary of the Treasury shall notify the Administrator of the arrival of pesticides and devices and shall deliver to the Administrator, upon the Administrator's request, samples of pesticides or devices which are being imported into the United States, giving notice to the owner or consignee, who may appear before the

Administrator and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violated the provisions set forth in this subchapter, or is otherwise injurious to health or the environment, the pesticide or device may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any pesticide or device refused delivery which shall not be exported by the consignee within 90 days from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe. The Secretary of the Treasury may deliver to the consignee such pesticide or device pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such pesticide or device, together with the duty thereon, and on refusal to return such pesticide or device for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on pesticides or devices which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(d) Cooperation in international efforts

The Administrator shall, in cooperation with the Department of State and any other appropriate Federal agency, participate and cooperate in any international efforts to develop improved pesticide research and regulations.

(e) Regulations

The Secretary of the Treasury, in consultation with the Administrator, shall prescribe regulations for the enforcement of subsection (c) of this section.

(June 25, 1947, ch. 125, §17, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 995; amended Sept. 30, 1978, Pub. L. 95-396, §18(a), 92 Stat. 833; Oct. 25, 1988, Pub. L. 100-532, title VIII, §801(j), 102 Stat. 2682; Dec. 13, 1991, Pub. L. 102-237, title X, §1006(a)(9), (b)(2), 105 Stat. 1895.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237, §1006(a)(9), removed last sentence from par. (2) and placed it as a full measure sentence under par. (2).

Subsec. (c). Pub. L. 102-237, §1006(b)(2), substituted “the Administrator’s” for “his”.

1988—Subsec. (c). Pub. L. 100-532 substituted “prescribe. The Secretary” for “prescribe: *Provided*, That the Secretary” and “bond. All” for “bond: *And provided further*, That all”.

1978—Subsec. (a). Pub. L. 95-396, §18(a)(1), amended subsec. (a) generally.

Subsec. (b). Pub. L. 95-396, §18(a)(2), inserted sentence at end relating to information to be included in notification.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 18(b) of Pub. L. 95-396 provided that: “The amendment made by subsection (a)(1) of this section

[amending this section] shall become effective one hundred and eighty days after the date of enactment of this Act [Sept. 30, 1978].”

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136p. Exemption of Federal and State agencies

The Administrator may, at the Administrator's discretion, exempt any Federal or State agency from any provision of this subchapter if the Administrator determines that emergency conditions exist which require such exemption. The Administrator, in determining whether or not such emergency conditions exist, shall consult with the Secretary of Agriculture and the Governor of any State concerned if they request such determination.

(June 25, 1947, ch. 125, § 18, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 995; amended Nov. 28, 1975, Pub. L. 94-140, § 8, 89 Stat. 754; Oct. 25, 1988, Pub. L. 100-532, title VIII, § 801(k), 102 Stat. 2682; Dec. 13, 1991, Pub. L. 102-237, title X, § 1006(b)(1), (2), 105 Stat. 1895.)

AMENDMENTS

1991—Pub. L. 102-237 substituted “the Administrator” for “he” before “determines” and “the Administrator’s” for “his”.

1988—Pub. L. 100-532 substituted “and” for “or” in section catchline, and directed that sentence beginning “The Administrator, in” be run in after first sentence beginning “The Administrator may”.

1975—Pub. L. 94-140 inserted provision requiring Administrator to consult with Secretary of Agriculture and Governor of State concerned in determining whether an emergency situation exists.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136a of this title.

§ 136q. Storage, disposal, transportation, and recall

(a) Storage, disposal, and transportation

(1) Data requirements and registration of pesticides

The Administrator may require under section 136a or 136d of this title that—

(A) the registrant or applicant for registration of a pesticide submit or cite data or information regarding methods for the safe storage and disposal of excess quantities of the pesticide to support the registration or continued registration of a pesticide;

(B) the labeling of a pesticide contain requirements and procedures for the transportation, storage, and disposal of the pesticide, any container of the pesticide, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide; and

(C) the registrant of a pesticide provide evidence of sufficient financial and other resources to carry out a recall plan under subsection (b) of this section, and provide for the disposition of the pesticide, in the event of suspension and cancellation of the pesticide.

(2) Pesticides

The Administrator may by regulation, or as part of an order issued under section 136d of this title or an amendment to such an order—

(A) issue requirements and procedures to be followed by any person who stores or transports a pesticide the registration of which has been suspended or canceled;

(B) issue requirements and procedures to be followed by any person who disposes of stocks of a pesticide the registration of which has been suspended; and

(C) issue requirements and procedures for the disposal of any pesticide the registration of which has been canceled.

(3) Containers, rinsates, and other materials

The Administrator may by regulation, or as part of an order issued under section 136d of this title or an amendment to such an order—

(A) issue requirements and procedures to be followed by any person who stores or transports any container of a pesticide the registration of which has been suspended or canceled, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide;

(B) issue requirements and procedures to be followed by any person who disposes of stocks of any container of a pesticide the registration of which has been suspended, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide; and

(C) issue requirements and procedures for the disposal of any container of a pesticide the registration of which has been canceled, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide.

(b) Recalls

(1) In general

If the registration of a pesticide has been suspended and canceled under section 136d of this title, and if the Administrator finds that recall of the pesticide is necessary to protect health or the environment, the Administrator shall order a recall of the pesticide in accordance with this subsection.

(2) Voluntary recall

If, after determining under paragraph (1) that a recall is necessary, the Administrator finds that voluntary recall by the registrant and others in the chain of distribution may be as safe and effective as a mandatory recall, the Administrator shall request the registrant of the pesticide to submit, within 60 days of the request, a plan for the voluntary recall of the pesticide. If such a plan is requested and submitted, the Administrator shall approve

the plan and order the registrant to conduct the recall in accordance with the plan unless the Administrator determines, after an informal hearing, that the plan is inadequate to protect health or the environment.

(3) Mandatory recall

If, after determining under paragraph (1) that a recall is necessary, the Administrator does not request the submission of a plan under paragraph (2) or finds such a plan to be inadequate, the Administrator shall issue a regulation that prescribes a plan for the recall of the pesticide. A regulation issued under this paragraph may apply to any person who is or was a registrant, distributor, or seller of the pesticide, or any successor in interest to such a person.

(4) Recall procedure

A regulation issued under this subsection may require any person that is subject to the regulation to—

(A) arrange to make available one or more storage facilities to receive and store the pesticide to which the recall program applies, and inform the Administrator of the location of each such facility;

(B) accept and store at such a facility those existing stocks of such pesticide that are tendered by any other person who obtained the pesticide directly or indirectly from the person that is subject to such regulation;

(C) on the request of a person making such a tender, provide for proper transportation of the pesticide to a storage facility; and

(D) take such reasonable steps as the regulation may prescribe to inform persons who may be holders of the pesticide of the terms of the recall regulation and how those persons may tender the pesticide and arrange for transportation of the pesticide to a storage facility.

(5) Contents of recall plan

A recall plan established under this subsection shall include—

(A) the level in the distribution chain to which the recall is to extend, and a schedule for recall; and

(B) the means to be used to verify the effectiveness of the recall.

(6) Requirements or procedures

No requirement or procedure imposed in accordance with paragraph (2) of subsection (a) of this section may require the recall of existing stocks of the pesticide except as provided by this subsection.

(c) Storage costs

(1) Submission of plan

A registrant who wishes to become eligible for reimbursement of storage costs incurred as a result of a recall prescribed under subsection (b) of this section for a pesticide whose registration has been suspended and canceled shall, as soon as practicable after the suspension of the registration of the pesticide, submit to the Administrator a plan for the storage and disposal of the pesticide that meets

criteria established by the Administrator by regulation.

(2) Reimbursement

Within a reasonable period of time after such storage costs are incurred and paid by the registrant, the Administrator shall reimburse the registrant, on request, for—

(A) none of the costs incurred by the registrant before the date of submission of the plan referred to in paragraph (1) to the Administrator;

(B) 100 percent of the costs incurred by the registrant after the date of submission of the plan to the Administrator or the date of cancellation of the registration of the pesticide, whichever is later, but before the approval of the plan by the Administrator;

(C) 50 percent of the costs incurred by the registrant during the 1-year period beginning on the date of the approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later;

(D) none of the costs incurred by the registrant during the 3-year period beginning on the 366th day following approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later; and

(E) 25 percent of the costs incurred by the registrant during the period beginning on the first day of the 5th year following the date of the approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later, and ending on the date that a disposal permit for the pesticide is issued by a State or an alternative plan for disposal of the pesticide in accordance with applicable law has been developed.

(d) Administration of storage, disposal, transportation, and recall programs

(1) Voluntary agreements

Nothing in this section shall be construed as preventing or making unlawful any agreement between a seller and a buyer of any pesticide or other substance regarding the ultimate allocation of the costs of storage, transportation, or disposal of a pesticide.

(2) Rule and regulation review

Section 136w(a)(4) of this title shall not apply to any regulation issued under subsection (a)(2) or (b) of this section.

(3) Limitations

No registrant shall be responsible under this section for a pesticide the registration of which is held by another person. No distributor or seller shall be responsible under this section for a pesticide that the distributor or seller did not hold or sell.

(4) Seizure and penalties

If the Administrator finds that a person who is subject to a regulation or order under subsection (a)(2) or (b) of this section has failed substantially to comply with that regulation or order, the Administrator may take action under section 136k or 136l of this title or ob-

tain injunctive relief under section 136n(c) of this title against such person or any successor in interest of any such person.

(e) Container design

(1) Procedures

(A) Not later than 3 years after the effective date of this subsection, the Administrator shall, in consultation with the heads of other interested Federal agencies, promulgate regulations for the design of pesticide containers that will promote the safe storage and disposal of pesticides.

(B) The regulations shall ensure, to the fullest extent practicable, that the containers—

- (i) accommodate procedures used for the removal of pesticides from the containers and the rinsing of the containers;
- (ii) facilitate the safe use of the containers, including elimination of splash and leakage of pesticides from the containers;
- (iii) facilitate the safe disposal of the containers; and
- (iv) facilitate the safe refill and reuse of the containers.

(2) Compliance

The Administrator shall require compliance with the regulations referred to in paragraph (1) not later than 5 years after the effective date of this subsection.

(f) Pesticide residue removal

(1) Procedures

(A) Not later than 3 years after the effective date of this subsection, the Administrator shall, in consultation with the heads of other interested Federal agencies, promulgate regulations prescribing procedures and standards for the removal of pesticides from containers prior to disposal.

(B) The regulations may—

- (i) specify, for each major type of pesticide container, procedures and standards providing for, at a minimum, triple rinsing or the equivalent degree of pesticide removal;
- (ii) specify procedures that can be implemented promptly and easily in various circumstances and conditions;
- (iii) provide for reuse, whenever practicable, or disposal of rinse water and residue; and
- (iv) be coordinated with requirements for the rinsing of containers imposed under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(C) The Administrator may, at the discretion of the Administrator, exempt products intended solely for household use from the requirements of this subsection.

(2) Compliance

Effective beginning 5 years after the effective date of this subsection, a State may not exercise primary enforcement responsibility under section 136w-1 of this title, or certify an applicator under section 136i of this title, unless the Administrator determines that the State is carrying out an adequate program to ensure compliance with this subsection.

(3) Solid Waste Disposal Act

Nothing in this subsection shall affect the authorities or requirements concerning pes-

ticide containers under the Solid Waste Disposal Act (42 U.S.C. 6901).

(g) Pesticide container study

(1) Study

(A) The Administrator shall conduct a study of options to encourage or require—

- (i) the return, refill, and reuse of pesticide containers;
- (ii) the development and use of pesticide formulations that facilitate the removal of pesticide residues from containers; and
- (iii) the use of bulk storage facilities to reduce the number of pesticide containers requiring disposal.

(B) In conducting the study, the Administrator shall—

- (i) consult with the heads of other interested Federal agencies, State agencies, industry groups, and environmental organizations; and
- (ii) assess the feasibility, costs, and environmental benefits of encouraging or requiring various measures or actions.

(2) Report

Not later than 2 years after the effective date of this subsection, the Administrator shall submit to Congress a report describing the results of the study required under paragraph (1).

(h) Relationship to Solid Waste Disposal Act

Nothing in this section shall diminish the authorities or requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(June 25, 1947, ch. 125, § 19, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 995; amended Sept. 30, 1978, Pub. L. 95-396, § 19, 92 Stat. 833; Oct. 25, 1988, Pub. L. 100-532, title IV, §§ 401-403, title VIII, § 801(q)(1)(D), 102 Stat. 2669, 2672, 2683.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsecs. (e), (f)(1)(A), (2), and (g)(2), is 60 days after Oct. 25, 1988, the effective date of Pub. L. 100-532. See Effective Date of 1988 Amendment note below.

The Solid Waste Disposal Act, referred to in subsecs. (f)(1)(B)(iv), (3) and (h), is title II of Pub. L. 89-272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

AMENDMENTS

1988—Pub. L. 100-532, § 401, amended section generally, in subsec. (a) substituting provisions which related to storage, disposal, and transportation, for provisions which directed Secretary to establish procedures for disposal or storage, in subsec. (b) substituting provisions which related to recalls, for provisions which directed Administrator to provide advice to Secretary of Transportation, in subsec. (c) substituting provisions which related to storage costs, for provisions which related to disposal of unused quantities, and adding subsec. (d).

Subsec. (a)(3). Pub. L. 100-532, § 402, added par. (3).

Subsecs. (e), (f). Pub. L. 100-532, § 403, added subsecs. (e) and (f).

Subsec. (f)(2). Pub. L. 100-532, § 801(q)(1)(D), substituted “136i” for “136b”.

Subsecs. (g), (h). Pub. L. 100-532, § 403, added subsecs. (g) and (h).

1978—Subsec. (c). Pub. L. 95-396 added subsec. (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136g, 136j of this title.

§ 136r. Research and monitoring

(a) Research

The Administrator shall undertake research including research by grant or contract with other Federal agencies, universities, or others as may be necessary to carry out the purposes of this subchapter, and the Administrator shall conduct research into integrated pest management in coordination with the Secretary of Agriculture. The Administrator shall also take care to ensure that such research does not duplicate research being undertaken by any other Federal agency.

(b) National monitoring plan

The Administrator shall formulate and periodically revise, in cooperation with other Federal, State, or local agencies, a national plan for monitoring pesticides.

(c) Monitoring

The Administrator shall undertake such monitoring activities, including, but not limited to monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this subchapter and of the national pesticide monitoring plan. The Administrator shall establish procedures for the monitoring of man and animals and their environment for incidental¹ pesticide exposure, including, but not limited to, the quantification of incidental human and environmental pesticide pollution and the secular trends thereof, and identification of the sources of contamination and their relationship to human and environmental effects. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.

(June 25, 1947, ch. 125, §20, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 996; amended Sept. 30, 1978, Pub. L. 95-396, §20, 92 Stat. 834; Dec. 13, 1991, Pub. L. 102-237, title X, §1006(a)(10), (b)(1), 105 Stat. 1895.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237 substituted “ensure” for “insure” and “the Administrator” for “he” before “shall conduct”.

1978—Subsec. (a). Pub. L. 95-396, §20(1), substituted in first sentence “shall conduct research into integrated pest management in coordination with the Secretary of Agriculture” for “shall give priority to research to develop biologically integrated alternatives for pest control”.

Subsec. (c). Pub. L. 95-396, §20(2), inserted provision requiring establishment of monitoring procedures and

the carrying out of the activities in cooperation with other Federal, State, and local agencies.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5881 of this title.

§ 136s. Solicitation of comments; notice of public hearings

(a) Secretary of Agriculture

The Administrator, before publishing regulations under this subchapter, shall solicit the views of the Secretary of Agriculture in accordance with the procedure described in section 136w(a) of this title.

(b) Views

In addition to any other authority relating to public hearings and solicitation of views, in connection with the suspension or cancellation of a pesticide registration or any other actions authorized under this subchapter, the Administrator may, at the Administrator’s discretion, solicit the views of all interested persons, either orally or in writing, and seek such advice from scientists, farmers, farm organizations, and other qualified persons as the Administrator deems proper.

(c) Notice

In connection with all public hearings under this subchapter the Administrator shall publish timely notice of such hearings in the Federal Register.

(June 25, 1947, ch. 125, §21, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 996; amended Nov. 28, 1975, Pub. L. 94-140, §2(b), 89 Stat. 752; Oct. 25, 1988, Pub. L. 100-532, title VIII, §801(l), 102 Stat. 2682; Dec. 13, 1991, Pub. L. 102-237, title X, §1006(b)(1), (2), 105 Stat. 1895.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102-237 substituted “the Administrator” for “he” before “deems” and “the Administrator’s” for “his”.

1988—Pub. L. 100-532, §801(l), inserted headings for subsecs. (a) to (c).

1975—Subsec. (a). Pub. L. 94-140 inserted “in accordance with the procedure described in section 136w(a) of this title” after “Secretary of Agriculture”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136t. Delegation and cooperation

(a) Delegation

All authority vested in the Administrator by virtue of the provisions of this subchapter may with like force and effect be executed by such employees of the Environmental Protection Agency as the Administrator may designate for the purpose.

(b) Cooperation

The Administrator shall cooperate with Department of Agriculture, any other Federal

¹ So in original. Probably should be “incidental”.

agency, and any appropriate agency of any State or any political subdivision thereof, in carrying out the provisions of this subchapter, and in securing uniformity of regulations.

(June 25, 1947, ch. 125, §22, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 996.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136u. State cooperation, aid, and training

(a) Cooperative agreements

The Administrator may enter into cooperative agreements with States and Indian tribes—

(1) to delegate to any State or Indian tribe the authority to cooperate in the enforcement of this subchapter through the use of its personnel or facilities, to train personnel of the State or Indian tribe to cooperate in the enforcement of this subchapter, and to assist States and Indian tribes in implementing cooperative enforcement programs through grants-in-aid; and

(2) to assist States in developing and administering State programs, and Indian tribes that enter into cooperative agreements, to train and certify applicators consistent with the standards the Administrator prescribes.

Effective with the fiscal year beginning October 1, 1978, there are authorized to be appropriated annually such funds as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed to under such cooperative agreements, of conducting training and certification programs during such fiscal year. If funds sufficient to pay 50 percent of the costs for any year are not appropriated, the share of each State and Indian tribe shall be reduced in a like proportion in allocating available funds.

(b) Contracts for training

In addition, the Administrator may enter into contracts with Federal, State, or Indian tribal agencies for the purpose of encouraging the training of certified applicators.

(c) Information and education

The Administrator shall, in cooperation with the Secretary of Agriculture, use the services of the cooperative State extension services to inform and educate pesticide users about accepted uses and other regulations made under this subchapter.

(June 25, 1947, ch. 125, §23, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 996; amended Sept. 30, 1978, Pub. L. 95-396, §21, 92 Stat. 834.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-396 extended provisions to Indian tribes, authorized annual appropriation of funds for training and certification programs, and required proportionate reduction of shares in the allocation of available funds when appropriations do not cover 50 percent of the annual costs.

Subsec. (b). Pub. L. 95-396 authorized contracts with Indian tribal agencies.

Subsec. (c). Pub. L. 95-396 substituted “shall” for “may”, substituted “use” for “utilize”, and “to inform

and educate pesticide users about accepted uses and other regulations” for “for informing farmers of accepted uses and other regulations”.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136i, 136w-1 of this title.

§ 136v. Authority of States

(a) In general

A State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this subchapter.

(b) Uniformity

Such State shall not impose or continue in effect any requirements for labeling or packaging in addition to or different from those required under this subchapter.

(c) Additional uses

(1) A State may provide registration for additional uses of federally registered pesticides formulated for distribution and use within that State to meet special local needs in accord with the purposes of this subchapter and if registration for such use has not previously been denied, disapproved, or canceled by the Administrator. Such registration shall be deemed registration under section 136a of this title for all purposes of this subchapter, but shall authorize distribution and use only within such State.

(2) A registration issued by a State under this subsection shall not be effective for more than ninety days if disapproved by the Administrator within that period. Prior to disapproval, the Administrator shall, except as provided in paragraph (3) of this subsection, advise the State of the Administrator’s intention to disapprove and the reasons therefor, and provide the State time to respond. The Administrator shall not prohibit or disapprove a registration issued by a State under this subsection (A) on the basis of lack of essentiality of a pesticide or (B) except as provided in paragraph (3) of this subsection, if its composition and use patterns are similar to those of a federally registered pesticide.

(3) In no instance may a State issue a registration for a food or feed use unless there exists a tolerance or exemption under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] that permits the residues of the pesticides on the food or feed. If the Administrator determines that a registration issued by a State is inconsistent with the Federal Food, Drug, and Cosmetic Act, or the use of, a pesticide under a registration issued by a State constitutes an imminent hazard, the Administrator may immediately disapprove the registration.

(4) If the Administrator finds, in accordance with standards set forth in regulations issued under section 136w of this title, that a State is not capable of exercising adequate controls to assure that State registration under this section will be in accord with the purposes of this subchapter or has failed to exercise adequate con-

trols, the Administrator may suspend the authority of the State to register pesticides until such time as the Administrator is satisfied that the State can and will exercise adequate controls. Prior to any such suspension, the Administrator shall advise the State of the Administrator's intention to suspend and the reasons therefor and provide the State time to respond.

(June 25, 1947, ch. 125, §24, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 997; amended Sept. 30, 1978, Pub. L. 95-396, §22, 92 Stat. 835; Oct. 25, 1988, Pub. L. 100-532, title VIII, §801(m), 102 Stat. 2682.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (c)(3), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

AMENDMENTS

1988—Pub. L. 100-532, §801(m), inserted headings for subsecs. (a) to (c) and realigned margins of pars. (1) to (4) of subsec. (c).

1978—Subsec. (a). Pub. L. 95-396 inserted "federally registered" before "pesticide or device".

Subsec. (b). Pub. L. 95-396 substituted "labeling or packaging" and "required under" for "labeling and packaging" and "required pursuant to", respectively.

Subsec. (c)(1). Pub. L. 95-396 incorporated existing text in provisions designated par. (1) and substituted "registration for additional uses of federally registered pesticides" for "registration for pesticides".

Subsec. (c)(2). Pub. L. 95-396 incorporated existing text in provisions designated par. (2), conditioned disapproval of registration on communication of intention to disapprove and reasons for disapproval and provision for time to respond, and restricted authority of Administrator to prohibit or disapprove a State registration.

Subsec. (c)(3). Pub. L. 95-396 added par. (3).

Subsec. (c)(4). Pub. L. 95-396 incorporated existing text in provisions designated par. (4) and authorized suspension of registration authority of the State based on findings of inability or failure to exercise adequate controls following an indication of intention to suspend and reasons for the suspension and provision for time to respond.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136a of this title.

§ 136w. Authority of Administrator

(a) In general

(1) Regulations

The Administrator is authorized, in accordance with the procedure described in paragraph (2), to prescribe regulations to carry out the provisions of this subchapter. Such regulations shall take into account the difference in concept and usage between various classes of pesticides and differences in environmental risk and the appropriate data for evaluating

such risk between agricultural and non-agricultural pesticides.

(2) Procedure

(A) Proposed regulations

At least 60 days prior to signing any proposed regulation for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such regulation within 30 days after receiving it, the Administrator shall publish in the Federal Register (with the proposed regulation) the comments of the Secretary and the response of the Administrator with regard to the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 30 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register any time after such 30-day period notwithstanding the foregoing 60-day time requirement.

(B) Final regulations

At least 30 days prior to signing any regulation in final form for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such final regulation within 15 days after receiving it, the Administrator shall publish in the Federal Register (with the final regulation) the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 15 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register at any time after such 15-day period notwithstanding the foregoing 30-day time requirement. In taking any final action under this subsection, the Administrator shall include among those factors to be taken into account the effect of the regulation on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and the Administrator shall publish in the Federal Register an analysis of such effect.

(C) Time requirements

The time requirements imposed by subparagraphs (A) and (B) may be waived or modified to the extent agreed upon by the Administrator and the Secretary.

(D) Publication in the Federal Register

The Administrator shall, simultaneously with any notification to the Secretary of Agriculture under this paragraph prior to the issuance of any proposed or final regulation, publish such notification in the Federal Register.

(3) Congressional committees

At such time as the Administrator is required under paragraph (2) of this subsection

to provide the Secretary of Agriculture with a copy of proposed regulations and a copy of the final form of regulations, the Administrator shall also furnish a copy of such regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(4) Congressional review of regulations

Simultaneously with the promulgation of any rule or regulation under this subchapter, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. The rule or regulation shall not become effective until the passage of 60 calendar days after the rule or regulation is so transmitted.

(b) Exemption of pesticides

The Administrator may exempt from the requirements of this subchapter by regulation any pesticide which the Administrator determines either (1) to be adequately regulated by another Federal agency, or (2) to be of a character which is unnecessary to be subject to this subchapter in order to carry out the purposes of this subchapter.

(c) Other authority

The Administrator, after notice and opportunity for hearing, is authorized—

(1) to declare a pest any form of plant or animal life (other than man and other than bacteria, virus, and other micro-organisms or in living man or other living animals) which is injurious to health or the environment;

(2) to determine any pesticide which contains any substance or substances in quantities highly toxic to man;

(3) to establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act (Public Law 91-601) [15 U.S.C. 1471 et seq.]) with respect to the package, container, or wrapping in which a pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by this subchapter as well as to accomplish the other purposes of this subchapter;

(4) to specify those classes of devices which shall be subject to any provision of section 136(q)(1) or section 136e of this title upon the Administrator's determination that application of such provision is necessary to effectuate the purposes of this subchapter;

(5) to prescribe regulations requiring any pesticide to be colored or discolored if the Administrator determines that such requirement is feasible and is necessary for the protection of health and the environment; and

(6) to determine and establish suitable names to be used in the ingredient statement.

(d) Scientific advisory panel

The Administrator shall submit to an advisory panel for comment as to the impact on health and the environment of the action proposed in notices of intent issued under section 136d(b) of this title and of the proposed and final form of regulations issued under subsection (a) of this

section within the same time periods as provided for the comments of the Secretary of Agriculture under such section 136d(b) and subsection (a) of this section. The time requirements for notices of intent and proposed and final forms of regulation may not be modified or waived unless in addition to meeting the requirements of section 136d(b) of this title or subsection (a) of this section, as applicable, the advisory panel has failed to comment on the proposed action within the prescribed time period or has agreed to the modification or waiver. The Administrator shall also solicit from the advisory panel comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of scientific analyses made by personnel of the Environmental Protection Agency that lead to decisions by the Administrator in carrying out the provisions of this subchapter. The comments, evaluations, and recommendations of the advisory panel submitted under this subsection and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections. The chairman of the advisory panel, after consultation with the Administrator, may create temporary subpanels on specific projects to assist the full advisory panel in expediting and preparing its evaluations, comments, and recommendations. The subpanels may be composed of scientists other than members of the advisory panel, as deemed necessary for the purpose of evaluating scientific studies relied upon by the Administrator with respect to proposed action. Such additional scientists shall be selected by the advisory panel. The panel referred to in this subsection shall consist of 7 members appointed by the Administrator from a list of 12 nominees, 6 nominated by the National Institutes of Health and 6 by the National Science Foundation, utilizing a system of staggered terms of appointment. Members of the panel shall be selected on the basis of their professional qualifications to assess the effects of the impact of pesticides on health and the environment. To the extent feasible to insure multidisciplinary representation, the panel membership shall include representation from the disciplines of toxicology, pathology, environmental biology, and related sciences. If a vacancy occurs on the panel due to expiration of a term, resignation, or any other reason, each replacement shall be selected by the Administrator from a group of 4 nominees, 2 submitted by each of the nominating entities named in this subsection. The Administrator may extend the term of a panel member until the new member is appointed to fill the vacancy. If a vacancy occurs due to resignation, or reason other than expiration of a term, the Administrator shall appoint a member to serve during the unexpired term utilizing the nomination process set forth in this subsection. Should the list of nominees provided under this subsection be unsatisfactory, the Administrator may request an additional set of nominees from the nominating entities. The Administrator may request such information from the nominees to the advisory panel as the Administrator deems necessary, and the Administrator shall publish

in the Federal Register the name, address, and professional affiliations of each nominee. Each member of the panel shall receive per diem compensation at a rate not in excess of that fixed for GS-18 of the General Schedule as may be determined by the Administrator, except that any such member who holds another office or position under the Federal Government the compensation for which exceeds such rate may elect to receive compensation at the rate provided for such other office or position in lieu of the compensation provided by this subsection. In order to assure the objectivity of the advisory panel, the Administrator shall promulgate regulations regarding conflicts of interest with respect to the members of the panel. The advisory panel established under this section shall be permanent. In performing the functions assigned by this subchapter, the panel shall consult and coordinate its activities with the Science Advisory Board established under the Environmental Research, Development, and Demonstration Authorization Act of 1978 [42 U.S.C. 4365]. Whenever the Administrator exercises authority under section 136d(c) of this title to immediately suspend the registration of any pesticide to prevent an imminent hazard, the Administrator shall promptly submit to the advisory panel for comment, as to the impact on health and the environment, the action taken to suspend the registration of such pesticide.

(e) Peer review

The Administrator shall, by written procedures, provide for peer review with respect to the design, protocols, and conduct of major scientific studies conducted under this subchapter by the Environmental Protection Agency or by any other Federal agency, any State or political subdivision thereof, or any institution or individual under grant, contract, or cooperative agreement from or with the Environmental Protection Agency. In such procedures, the Administrator shall also provide for peer review, using the advisory panel established under subsection (d) of this section or appropriate experts appointed by the Administrator from a current list of nominees maintained by such panel, with respect to the results of any such scientific studies relied upon by the Administrator with respect to actions the Administrator may take relating to the change in classification, suspension, or cancellation of a pesticide. Whenever the Administrator determines that circumstances do not permit the peer review of the results of any such scientific study prior to the Administrator's exercising authority under section 136d(c) of this title to immediately suspend the registration of any pesticide to prevent an imminent hazard, the Administrator shall promptly thereafter provide for the conduct of peer review as provided in this sentence. The evaluations and relevant documentation constituting the peer review that relate to the proposed scientific studies and the results of the completed scientific studies shall be included in the submission for comment forwarded by the Administrator to the advisory panel as provided in subsection (d) of this section. As used in this subsection, the term "peer review" shall mean an independent evaluation by scientific experts,

either within or outside the Environmental Protection Agency, in the appropriate disciplines.

(June 25, 1947, ch. 125, § 25, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 997; amended Nov. 28, 1975, Pub. L. 94-140, §§ 2(a), 6, 7, 89 Stat. 751, 753; Sept. 30, 1978, Pub. L. 95-396, § 23, 92 Stat. 836; Dec. 17, 1980, Pub. L. 96-539, §§ 1, 2(a), 4, 94 Stat. 3194, 3195; Dec. 2, 1983, Pub. L. 98-201, § 1, 97 Stat. 1379; Nov. 8, 1984, Pub. L. 98-620, title IV, § 402(4)(D), 98 Stat. 3357; June 27, 1988, Pub. L. 100-352, § 6(i), 102 Stat. 664; Oct. 25, 1988, Pub. L. 100-532, title VI, §§ 602, 605, title VIII, § 801(n), 102 Stat. 2678, 2679, 2683; Dec. 13, 1991, Pub. L. 102-237, title X, § 1006(b)(1), (2), 105 Stat. 1895.)

REFERENCES IN TEXT

The Poison Prevention Packaging Act, referred to in subsec. (c)(3), is Pub. L. 91-601, Dec. 30, 1970, 84 Stat. 1670, as amended, which is classified principally to chapter 39A (§1471 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1471 of Title 15, and Tables.

References in subsec. (c)(4) to "section 136(q)(1)" was, in the original, a reference to "paragraph 2(q)(1)" and has been editorially translated as "section 136(q)(1)" as the probable intent of Congress.

The Environmental Research, Development, and Demonstration Authorization Act of 1978, referred to in subsec. (d), is Pub. L. 95-155, Nov. 8, 1977, 91 Stat. 1257, as amended. Provisions of the Act establishing the Science Advisory Board are classified to section 4365 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1991—Subsec. (a)(3). Pub. L. 102-237, § 1006(b)(1), substituted "the Administrator" for "he" before "shall".

Subsec. (b). Pub. L. 102-237, § 1006(b)(1), substituted "the Administrator" for "he" before "determines".

Subsec. (c)(4). Pub. L. 102-237, § 1006(b)(2), substituted "the Administrator's" for "his".

Subsec. (c)(5). Pub. L. 102-237, § 1006(b)(1), substituted "the Administrator" for "he" before "determines".

Subsec. (d). Pub. L. 102-237, § 1006(b)(1), substituted "the Administrator" for "he" before "deems necessary" and before "shall publish".

1988—Subsec. (a). Pub. L. 100-532, § 801(n)(1), amended heading and directed that pars. (1) to (3) be aligned at left margin with subsec. (c)(1), and that subpars. (A) to (D) of par. (2) be indented, and in par. (3) substituted "Committee on Agriculture, Nutrition, and Forestry" for "Committee on Agriculture and Forestry".

Subsec. (a)(4). Pub. L. 100-532, § 605, amended par. (4) generally, substituting single unlettered par. (4) for former subpars. (A) to (E).

Pub. L. 100-352, in subpar. (E), struck out "(i)" before "Any interested" and struck out cl. (ii) which provided that notwithstanding any other provision of law, any decision on a matter certified under cl. (i) of this subparagraph be reviewable by appeal directly to the Supreme Court of the United States, with such appeal to be brought not later than 20 days after the decision of the court of appeals.

Subsec. (d). Pub. L. 100-532, § 602, substituted "section shall be permanent" for "subsection shall terminate September 30, 1987".

Subsec. (e). Pub. L. 100-532, § 801(n)(2), substituted "pesticide. Whenever" for "pesticide: *Provided*, That whenever".

1984—Subsec. (a)(4)(E)(iii). Pub. L. 98-620 struck out cl. (iii) requiring the court of appeals and the Supreme Court to advance on the docket and expedite the disposition of any matter certified under cl. (i) of this subparagraph.

1983—Subsec. (d). Pub. L. 98-201 in fourth sentence, inserted "under this subsection" after "submitted"; in

eighth sentence, provided for utilization of a system of staggered terms of appointment and substituted “7” and “6” for “seven” and “six”, respectively, and inserted ninth through fourteenth sentences respecting basis for selection of members, multidisciplinary representation, appointments to fill vacancies, extension of term pending filling of vacancies, appointment for unexpired term, and request for additional set of nominees from nominating entities; and in present eighteenth, formerly twelfth sentence, extended termination date to Sept. 30, 1987, from Sept. 30, 1981.

1980—Subsec. (a)(4). Pub. L. 96-539, § 4, added par. (4). Subsec. (d). Pub. L. 96-539, § 1, inserted provisions relating to composition of subpanels and submissions to advisory panels respecting registration suspensions.

Subsec. (e). Pub. L. 96-539, § 2(a), added subsec. (e). 1978—Subsec. (a)(1). Pub. L. 95-396, § 23(1), required regulations to take into account differences in environmental risk and appropriate data for evaluating such risk between agricultural and nonagricultural pesticides.

Subsec. (a)(2)(B). Pub. L. 95-396, § 23(2), required the Administrator, before taking any final action, to consider certain factors bearing on the agricultural economy and to publish an analysis of the effect in the Federal Register.

Subsec. (d). Pub. L. 95-396, § 23(3), (4), required the Administrator to solicit operating guidelines from the scientific advisory panel to improve scientific analyses made by personnel of the Environmental Protection Agency that lead to decisions by the Administrator in carrying out this subchapter; extended requirement of publication in the Federal Register to evaluations and recommendations of the advisory panel; authorized creation of temporary subpanels on specific projects to assist in accelerating the work of the advisory panel; set forth Sept. 30, 1981, as the termination date of the advisory panel; and required the panel to consult and coordinate its activities with the Science Advisory Board established under section 4365 of title 42.

1975—Subsec. (a)(1). Pub. L. 94-140, § 2(a)(1), (2), redesignated existing provision as subsec. (a)(1) and inserted “, in accordance with the procedure described in paragraph (2),” after “is authorized”.

Subsec. (a)(2). Pub. L. 94-140, § 2(a)(3), added par. (2). Subsec. (a)(3). Pub. L. 94-140, § 6, added par. (3). Subsec. (d). Pub. L. 94-140, § 7, added subsec. (d).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

Amendment by Pub. L. 100-352 effective ninety days after June 27, 1988, except that such amendment not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered before such effective date, see section 7 of Pub. L. 100-352, set out as a note under section 1254 of Title 28, Judiciary and Judicial Procedure.

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.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 2(b) of Pub. L. 96-539 provided that: “The provisions of this section [amending this section] shall become effective upon publication in the Federal Register of final procedures for peer review as provided in this section, but in no event shall such provisions become effective later than one year after the date of enactment of this Act [Dec. 17, 1980].”

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

USER FEES

Pub. L. 101-508, title I, § 1204(e), Nov. 5, 1990, 104 Stat. 1388-11, provided that: “Notwithstanding any provision of the Omnibus Budget Reconciliation Act of 1990 [Pub. L. 101-508, see Tables for classification], nothing in this title or the other provisions of this Act shall be construed to require or authorize the Administrator of the Environmental Protection Agency to assess or collect any fees or charges for services and activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136d, 136j, 136q, 136s, 136v of this title; title 42 section 4365.

§ 136w-1. State primary enforcement responsibility

(a) In general

For the purposes of this subchapter, a State shall have primary enforcement responsibility for pesticide use violations during any period for which the Administrator determines that such State—

- (1) has adopted adequate pesticide use laws and regulations, except that the Administrator may not require a State to have pesticide use laws that are more stringent than this subchapter;
- (2) has adopted and is implementing adequate procedures for the enforcement of such State laws and regulations; and
- (3) will keep such records and make such reports showing compliance with paragraphs (1) and (2) of this subsection as the Administrator may require by regulation.

(b) Special rules

Notwithstanding the provisions of subsection (a) of this section, any State that enters into a cooperative agreement with the Administrator under section 136u of this title for the enforcement of pesticide use restrictions shall have the primary enforcement responsibility for pesticide use violations. Any State that has a plan approved by the Administrator in accordance with the requirements of section 136i of this title that the Administrator determines meets the criteria set out in subsection (a) of this section shall have the primary enforcement responsibility for pesticide use violations. The Administrator shall make such determinations with respect to State plans under section 136i of this title in effect on September 30, 1978, not later than six months after that date.

(c) Administrator

The Administrator shall have primary enforcement responsibility for those States that do not have primary enforcement responsibility under this subchapter. Notwithstanding the provisions of section 136(e)(1) of this title, during any period when the Administrator has such en-

forcement responsibility, section 136f(b) of this title shall apply to the books and records of commercial applicators and to any applicator who holds or applies pesticides, or uses dilutions of pesticides, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served, and section 136g(a) of this title shall apply to the establishment or other place where pesticides or devices are held for application by such persons with respect to pesticides or devices held for such application.

(June 25, 1947, ch. 125, §26, as added Sept. 30, 1978, Pub. L. 95-396, §24(2), 92 Stat. 836; amended Oct. 25, 1988, Pub. L. 100-532, title VIII, §801(o), (q)(1)(D), 102 Stat. 2683; Dec. 13, 1991, Pub. L. 102-237, title X, §1006(a)(11), 105 Stat. 1895.)

AMENDMENTS

1991—Subsec. (c). Pub. L. 102-237 substituted “uses” for “use”.

1988—Subsec. (a). Pub. L. 100-532, §801(o)(1), (2), inserted heading and substituted “regulations. The Administrator” for “regulations; *Provided*, That the Administrator” in par. (1).

Subsec. (b). Pub. L. 100-532, §801(o)(3), (q)(1)(D), inserted heading and substituted “136i” for “136b” in two places.

Subsec. (c). Pub. L. 100-532, §801(o)(4), inserted heading.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136q, 136w-2 of this title.

§ 136w-2. Failure by the State to assure enforcement of State pesticide use regulations

(a) Referral

Upon receipt of any complaint or other information alleging or indicating a significant violation of the pesticide use provisions of this subchapter, the Administrator shall refer the matter to the appropriate State officials for their investigation of the matter consistent with the requirements of this subchapter. If, within thirty days, the State has not commenced appropriate enforcement action, the Administrator may act upon the complaint or information to the extent authorized under this subchapter.

(b) Notice

Whenever the Administrator determines that a State having primary enforcement responsibility for pesticide use violations is not carrying out (or cannot carry out due to the lack of adequate legal authority) such responsibility, the Administrator shall notify the State. Such notice shall specify those aspects of the administration of the State program that are determined to be inadequate. The State shall have ninety days after receipt of the notice to correct any deficiencies. If after that time the Administrator determines that the State program remains inadequate, the Administrator may rescind, in whole or in part, the State's primary enforcement responsibility for pesticide use violations.

(c) Construction

Neither section 136w-1 of this title nor this section shall limit the authority of the Administrator to enforce this subchapter, where the Administrator determines that emergency conditions exist that require immediate action on the part of the Administrator and the State authority is unwilling or unable adequately to respond to the emergency.

(June 25, 1947, ch. 125, §27, as added Sept. 30, 1978, Pub. L. 95-396, §24(2), 92 Stat. 837; amended Oct. 25, 1988, Pub. L. 100-532, title VIII, §801(p), 102 Stat. 2683.)

AMENDMENTS

1988—Pub. L. 100-532 inserted headings for subsecs. (a) to (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100-532, set out as a note under section 136 of this title.

§ 136w-3. Identification of pests; cooperation with Department of Agriculture's program

(a) In general

The Administrator, in coordination with the Secretary of Agriculture, shall identify those pests that must be brought under control. The Administrator shall also coordinate and cooperate with the Secretary of Agriculture's research and implementation programs to develop and improve the safe use and effectiveness of chemical, biological, and alternative methods to combat and control pests that reduce the quality and economical production and distribution of agricultural products to domestic and foreign consumers.

(b) Pest control availability

(1) In general

The Administrator, in cooperation with the Secretary of Agriculture, shall identify—

- (A) available methods of pest control by crop or animal;
- (B) minor pest control problems, both in minor crops and minor or localized problems in major crops; and
- (C) factors limiting the availability of specific pest control methods, such as resistance to control methods and regulatory actions limiting the availability of control methods.

(2) Report

The Secretary of Agriculture shall, not later than 180 days after November 28, 1990, and annually thereafter, prepare a report and send the report to the Administrator. The report shall—

- (A) contain the information described in paragraph (1) and the information required by section 5882 of this title;
- (B) identify the crucial pest control needs where a shortage of control methods is indicated by the information described in paragraph (1); and
- (C) describe in detail research and extension efforts designed to address the needs identified in subparagraph (B).

(c) Integrated pest management

The Administrator, in cooperation with the Secretary of Agriculture, shall develop approaches to the control of pests based on integrated pest management that respond to the needs of producers, with a special emphasis on minor pests.

(June 25, 1947, ch. 125, §28, as added Sept. 30, 1978, Pub. L. 95-396, §24(2), 92 Stat. 838; amended Nov. 28, 1990, Pub. L. 101-624, title XIV, §1495, 104 Stat. 3629.)

AMENDMENTS

1990—Pub. L. 101-624 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

§ 136w-4. Annual report

The Administrator shall submit an annual report to Congress before February 16 of each year and the first report shall be due February 15, 1979. The report shall include the total number of applications for conditional registration under sections 136a(c)(7)(B) and 136a(c)(7)(C) of this title that were filed during the immediately preceding fiscal year, and, with respect to those applications approved, the Administrator shall report the Administrator's findings in each case, the conditions imposed and any modification of such conditions in each case, and the quantities produced of such pesticides.

(June 25, 1947, ch. 125, §29, as added Sept. 30, 1978, Pub. L. 95-396, §24(2), 92 Stat. 838.)

STUDIES; REPORTS AND RECOMMENDATIONS TO CONGRESSIONAL COMMITTEES

Section 27 of Pub. L. 96-396 required the Administrator of the Environmental Protection Agency to report to the Senate Committee on Agriculture, Nutrition, and Forestry and to the House Committee on Agriculture not later than 9 months after Sept. 30, 1978 in respect to fee collection from pesticide registrants, not later than 6 months after Sept. 30, 1978 in respect to pesticide uses, and not later than 9 months after Sept. 30, 1978 in respect to problems of minor uses of pesticides not specifically permitted by labeling.

§ 136x. Severability

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter are severable.

(June 25, 1947, ch. 125, §30, formerly §26, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 998; renumbered Sept. 30, 1978, Pub. L. 95-396, §24(1), 92 Stat. 836.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136y. Authorization of appropriations

There is authorized to be appropriated to carry out this subchapter (other than section 136u(a) of this title)—

- (1) \$83,000,000 for fiscal year 1989, of which not more than \$13,735,500 shall be available for research under this subchapter;

(2) \$95,000,000 for fiscal year 1990, of which not more than \$14,343,600 shall be available for research under this subchapter; and

(3) \$95,000,000 for fiscal year 1991, of which not more than \$14,978,200 shall be available for research under this subchapter.

(June 25, 1947, ch. 125, §31, formerly §27, as added Oct. 21, 1972, Pub. L. 92-516, §2, 86 Stat. 998; amended July 2, 1975, Pub. L. 94-51, 89 Stat. 257; Oct. 10, 1975, Pub. L. 94-109, 89 Stat. 571; Nov. 28, 1975, Pub. L. 94-140, §3, 89 Stat. 752; renumbered and amended Sept. 30, 1978, Pub. L. 95-396, §§24(1), 25, 92 Stat. 836, 838; Dec. 17, 1980, Pub. L. 96-539, §3, 94 Stat. 3195; Dec. 2, 1983, Pub. L. 98-201, §2, 97 Stat. 1380; Dec. 23, 1985, Pub. L. 99-198, title XVII, §1768, 99 Stat. 1656; Oct. 25, 1988, Pub. L. 100-532, title VII, §701, 102 Stat. 2679.)

CODIFICATION

Another section 1768 of Pub. L. 99-198 enacted sections 154a and 159 and amended sections 151, 154, and 157 of Title 21, Food and Drugs.

AMENDMENTS

1988—Pub. L. 100-532 amended section generally. Prior to amendment, section read as follows: "There is authorized to be appropriated to carry out this subchapter for the period beginning October 1, 1985, and ending September 30, 1986, \$68,604,200 of which not more than \$11,993,100 shall be available for research under this subchapter."

1985—Pub. L. 99-198 substituted provisions authorizing appropriations of \$68,604,200 for fiscal year 1986 of which not more than \$11,993,100 shall be available for research for former provisions which had authorized appropriations for fiscal years 1973 through 1984.

1983—Pub. L. 98-201 authorized necessary appropriations for period beginning Oct. 1, 1983, and ending Sept. 30, 1984, not in excess of \$64,200,000.

1980—Pub. L. 96-539 inserted provisions authorizing appropriations for period beginning Oct. 1, 1979, and ending Sept. 30, 1980, and for period beginning Oct. 1, 1980, and ending Sept. 30, 1981.

1978—Pub. L. 95-396, §25, substituted appropriations authorization of \$46,636,000 for period beginning Oct. 1, 1976, and ending Sept. 30, 1977, for prior authorization of \$23,600,000 for period beginning Oct. 1, 1976, and ending Mar. 31, 1977, and authorized appropriations of \$54,500,000 for period beginning Oct. 1, 1977, and ending Sept. 30, 1978, and such sums as may be necessary, limited to \$70,000,000, for period beginning Oct. 1, 1978, and ending Sept. 30, 1979.

1975—Pub. L. 94-140 authorized appropriation of \$47,868,000 to carry out provisions of this subchapter for period beginning Oct. 1, 1975, and ending Sept. 30, 1976, and \$23,600,000 for period beginning Oct. 1, 1976, and ending Mar. 31, 1977.

Pub. L. 94-109 inserted provisions authorizing appropriation of \$5,983,500 for period beginning Oct. 1, 1975 and ending Nov. 15, 1975.

Pub. L. 94-51 authorized appropriation of \$11,967,000 to carry out provisions of this subchapter for period beginning July 1, 1975, and ending Sept. 30, 1975.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 701 of Pub. L. 100-532 provided that amendment made by Pub. L. 100-532 is effective Oct. 1, 1988.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

CHAPTER 6A—NATIONAL LABORATORY ACCREDITATION

Sec.
138. Definitions.

- Sec.
 138a. National Laboratory Accreditation Program.
 (a) Establishment of Program.
 (b) Standards.
 (c) Accrediting bodies.
 (d) Requirements.
 (e) Exceptions.
 138b. Accreditation.
 (a) In general.
 (b) Requirements for accreditation.
 (c) Failure to meet accreditation standards.
 (d) Limited accreditation.
 138c. Samples.
 (a) Performance evaluation samples.
 (b) Results of testing.
 (c) Review of accreditation.
 138d. Application.
 (a) Contents of application.
 (b) Restrictions on submission of application.
 138e. Reporting.
 (a) In general.
 (b) Timing of report.
 (c) Guidelines.
 138f. Fees.
 (a) In general.
 (b) Amount of fee.
 (c) Reimbursement of expenses.
 (d) Adjustment of fees.
 (e) Appropriations prerequisite.
 (f) Authorization of appropriations.
 138g. Public disclosure.
 138h. Regulations.
 138i. Effect of other laws.

§ 138. Definitions

As used in this chapter:

(1) Agricultural product

The term “agricultural product” means any fresh fruit or vegetable or any commodity or product derived from livestock or fowl, that is marketed in the United States for human consumption.

(2) Certificate

The term “certificate” means a certificate of accreditation issued under this chapter.

(3) Laboratory

The term “laboratory” means any facility or vehicle that is owned by an individual or a public or private entity and is equipped and operated for the purpose of carrying out pesticide residue analysis on agricultural products for commercial purposes.

(4) Pesticide

The term “pesticide” means any substance that alone, in chemical combination, or in any formulation with one or more substances, is defined as a pesticide in section 136(u) of this title.

(5) Secretary

The term “Secretary” means the Secretary of Agriculture.

(Pub. L. 101-624, title XIII, §1321, Nov. 28, 1990, 104 Stat. 3562.)

§ 138a. National Laboratory Accreditation Program

(a) Establishment of Program

The Secretary shall administer a National Laboratory Accreditation Program under which

laboratories that request accreditation and conduct residue testing of agricultural products, or that make claims to the public or buyers of agricultural products concerning chemical residue levels on agricultural products, shall be determined to meet certain minimum quality and reliability standards.

(b) Standards

The Secretary of Health and Human Services, after consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall establish, through regulations, standards for the National Laboratory Accreditation program¹ that shall include—

- (1) standards applicable to laboratories;
- (2) qualifications for directors and other personnel; and
- (3) standards and procedures for quality assurance programs.

(c) Accrediting bodies

The Secretary of Health and Human Services shall approve State agencies or private, non-profit entities as accrediting bodies to act on behalf of such Secretary in implementing the certification and quality assurance programs in accordance with the requirements of this section. In making such approvals the Secretary of Health and Human Services shall—

- (1) oversee and review the performance of any accrediting body acting on behalf of the Secretary to ensure that such accrediting body is in compliance with the requirements of the certification program under this section; and
- (2) have the right to obtain from an accrediting body acting on behalf of the Secretary and from any laboratory that may be certified by such a body all records and materials that may be necessary for the oversight and review required by paragraph (1).

(d) Requirements

To be accredited under this chapter, a laboratory shall—

- (1) prepare and submit an application for accreditation to the Secretary; and
- (2) comply with such terms and conditions as are determined necessary by the Secretary and the Secretary of Health and Human Services.

(e) Exceptions

This chapter shall not apply to—

- (1) a laboratory operated by a government agency;
- (2) a laboratory operated by a corporation that only performs analysis of residues on agricultural products for such corporation or any wholly owned subsidiary of such corporation and does not make claims to the public or buyers based on such analysis;
- (3) a laboratory operated by a partnership that only performs analysis of residues on agricultural products for the partners of such partnership and does not make claims to the public or buyers based on such analysis; or
- (4) a laboratory not operated for commercial purposes that performs pesticide chemical res-

¹ So in original. Probably should be capitalized.

idue analysis on agricultural products for research or quality control for the internal use of a person who is initiating the analysis.

(Pub. L. 101-624, title XIII, §1322, Nov. 28, 1990, 104 Stat. 3562.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 138b, 138c of this title.

§ 138b. Accreditation

(a) In general

The Secretary shall issue certificates of accreditation to laboratories that meet the requirements of this chapter, as determined by the Secretary.

(b) Requirements for accreditation

To receive accreditation under this chapter, a laboratory shall prepare and submit an application for accreditation to the Secretary and shall complete such required tests, and meet such standards as established under section 138a of this title.

(c) Failure to meet accreditation standards

The Secretary shall deny an application for accreditation or shall revoke any existing accreditation with respect to any laboratory that fails to meet the requirements for accreditation under this chapter.

(d) Limited accreditation

The Secretary may issue certificates of accreditation to laboratories that are limited to specific fields of testing.

(Pub. L. 101-624, title XIII, §1323, Nov. 28, 1990, 104 Stat. 3563.)

§ 138c. Samples

(a) Performance evaluation samples

(1) Provided by Secretary

The Secretary shall ensure that performance evaluation samples are provided to any laboratory that has applied for accreditation under this chapter.

(2) Analysis by laboratory

A laboratory described in paragraph (1) shall analyze such performance evaluation samples and submit the results of such analysis to the Secretary, as provided for in section 138a of this title.

(3) Testing methods

Samples shall be tested by the laboratory according to methods specifically approved for such purpose by alternate methods of demonstrated adequacy or equivalence, as determined in regulations established under this chapter.

(b) Results of testing

(1) Submission of results

The laboratory shall submit the results of the tests conducted under subsection (a) of this section to the Secretary on forms provided by the Secretary, on or before the date determined by the Secretary.

(2) Evaluation of tests

The Secretary shall evaluate the results of such tests achieved by the laboratory and

shall determine whether such laboratory is capable of undertaking an accurate analysis of chemical residues in agricultural products.

(c) Review of accreditation

The Secretary shall ensure that performance evaluation samples for analysis are provided to laboratories accredited under this chapter not less than two times a year.

(Pub. L. 101-624, title XIII, §1324, Nov. 28, 1990, 104 Stat. 3564.)

§ 138d. Application

(a) Contents of application

An application for accreditation under this chapter shall be prepared and submitted to the Secretary and shall include—

- (1) the name and address of the laboratory;
- (2) the name and address of the owners and managers of such laboratory;
- (3) a statement concerning the type of analysis the laboratory intends to conduct;
- (4) a brief history of the laboratory and its previous operations; and
- (5) such other information as may be required by the Secretary.

(b) Restrictions on submission of application

A laboratory that has been denied, or has lost, accreditation under this chapter shall not reapply for accreditation until the expiration of at least 6 months after such denial or loss of accreditation. Corrective actions taken by the laboratory to address deficiencies upon which the denial or loss of accreditation was based must accompany the reapplication.

(Pub. L. 101-624, title XIII, §1325, Nov. 28, 1990, 104 Stat. 3564.)

§ 138e. Reporting

(a) In general

Each laboratory or individual that performs, brokers, or otherwise arranges for the performance of a pesticide chemical analysis of food shall prepare and submit a report, simultaneously to the Secretary, the Secretary of Health and Human Services, and to the owner of such food, that shall contain any finding of pesticide chemical residues in such food—

- (1) for which no chemical residue tolerance or exemption has been established;
- (2) that is in excess of residue tolerances; or
- (3) for which the chemical residue tolerance has been revoked or the chemical residue is otherwise not permitted by the Environmental Protection Agency.

(b) Timing of report

A laboratory shall submit the report required under subsection (a) of this section to the Secretary, the Secretary of Health and Human Services, and the owner of such food as soon as practicable after the completion of the analysis of such food.

(c) Guidelines

The Secretary shall adopt standardized reporting guidelines to be applied to laboratories under this section and shall provide such guidelines to laboratories accredited under this chap-

ter, as well as other sources of information regarding applicable pesticide chemical tolerances.

(Pub. L. 101-624, title XIII, §1326, Nov. 28, 1990, 104 Stat. 3565.)

§ 138f. Fees

(a) In general

At the time that an application for accreditation is received by the Secretary and annually thereafter, a laboratory seeking accreditation by the Secretary under the authority of this chapter, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) shall pay to the Secretary a nonrefundable accreditation fee. All fees collected by the Secretary shall be credited to the account from which the expenses of the laboratory accreditation program are paid and, subject to subsection (e) of this section, shall be available immediately and remain available until expended to pay the expenses of the laboratory accreditation program.

(b) Amount of fee

The fee required under this section shall be established by the Secretary in an amount that will offset the cost of the laboratory accreditation programs administered by the Secretary under the statutory authorities set forth in subsection (a) of this section.

(c) Reimbursement of expenses

Each laboratory that is accredited under a statutory authority set forth in subsection (a) of this section or that has applied for accreditation under such authority shall reimburse the Secretary for reasonable travel and other expenses necessary to perform onsite inspections of the laboratory.

(d) Adjustment of fees

The Secretary may, on an annual basis, adjust the fees imposed under this section as necessary to support the full costs of the laboratory accreditation programs carried out under the statutory authorities set forth in subsection (a) of this section.

(e) Appropriations prerequisite

No fees collected under this section may be used to offset the cost of laboratory accreditation without appropriations made under subsection (f) of this section.

(f) Authorization of appropriations

There are authorized to be appropriated each fiscal year such sums as may be necessary for laboratory accreditation services under this section.

(Pub. L. 101-624, title XIII, §1327, Nov. 28, 1990, 104 Stat. 3565; Pub. L. 102-237, title X, §1017, Dec. 13, 1991, 105 Stat. 1904.)

REFERENCES IN TEXT

The Federal Meat Inspection Act, referred to in subsec. (a), is titles I to IV of act Mar. 4, 1907, ch. 2907, as added Dec. 15, 1967, Pub. L. 90-201, 81 Stat. 584, and amended, which are classified generally to subchapters I to IV (§601 et seq.) of chapter 12 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 21 and Tables.

The Poultry Products Inspection Act, referred to in subsec. (a), is Pub. L. 85-172, Aug. 28, 1957, 71 Stat. 441, as amended, which is classified generally to chapter 10 (§451 et seq.) of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 451 of Title 21 and Tables.

AMENDMENTS

1991—Pub. L. 102-237 amended section generally, in subsec. (a), inserting provisions relating to Federal Meat Inspection Act and Poultry Products Inspection Act and provisions relating to crediting and availability of fees, in subsec. (b), substituting provisions relating to fee under this section for provisions relating to fee under subsec. (a) of this section, and provisions relating to laboratory accreditation programs administered by Secretary under statutory authorities set forth in subsec. (a) of this section for provisions relating to program established under this chapter, in subsec. (c), substituting provisions relating to statutory authority set forth in subsec. (a) of this section for provisions relating to this chapter, in subsec. (d), substituting provisions relating to laboratory accreditation programs under statutory authority set forth in subsec. (a) of this section for provisions relating to program established under this chapter, and adding subsecs. (e) and (f).

§ 138g. Public disclosure

The results of the evaluations of laboratories conducted by the Secretary under this chapter shall be made available to the Secretary of Health and Human Services and to the public on request.

(Pub. L. 101-624, title XIII, §1328, Nov. 28, 1990, 104 Stat. 3565.)

§ 138h. Regulations

The Secretary shall promulgate regulations to carry out this chapter.

(Pub. L. 101-624, title XIII, §1329, Nov. 28, 1990, 104 Stat. 3565.)

§ 138i. Effect of other laws

Nothing in this chapter shall alter the authority of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(Pub. L. 101-624, title XIII, §1330, Nov. 28, 1990, 104 Stat. 3565.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in text, is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

CHAPTER 7—INSECT PESTS GENERALLY

Sec.

141 to 147. Repealed or Omitted.

147a. Control and eradication of plant pests.

(a) Authority of Secretary of Agriculture.

(b) Intergovernmental cooperation.

(c) Cooperating foreign agency.

(d) Definitions.

(e) Rules and regulations.

(f) Authorization of appropriations; fees, late payment penalties, and accrued interest.

147b. Emergency transfer of funds by Secretary of Agriculture.

- Sec.
148. Control of insect pests and plant diseases.
148a. Availability of appropriated money for general administration; personnel; field work, etc.
148b. Repealed.
148c. Control of insect pests and plant diseases; cooperation of States.
148d. Restrictions on appropriations.
148e. Authorization of appropriations.
148f. Control of grasshoppers and Mormon Crickets on Federal lands.
 (a) Authority of Secretary of Agriculture.
 (b) Funds for lands subject to jurisdiction of Federal Government or Federal lands subject to jurisdiction of Secretary of the Interior; prompt requests for transferred funds and for replenishing appropriations.
 (c) Exhaustion of contingency grasshopper emergency funds before availability of transferred funds for control of outbreaks on Federal lands subject to jurisdiction of Secretary of the Interior.
 (d) Time for treatment of lands dependent on determination of economic damage.
 (e) Amount of payments for costs of control on Federal, State, and private lands; interrelated participation efforts.
 (f) Funding of personnel training program.
149. Regulation, cleaning, etc., of vehicles and materials entering from Mexico.
 (a) Administration by Secretary; fees.
 (b) Penalties.

MEDITERRANEAN FRUIT FLY INVESTIGATION BOARD

Act May 23, 1938, ch. 260, 52 Stat. 436, which created the Board for investigative purposes expired by its own terms on Mar. 15, 1939.

TICK ERADICATION ON SEMINOLE RESERVATION IN FLORIDA

Act July 22, 1942, ch. 516, 56 Stat. 675, which provided in part for the eradication of ticks on the Seminole Reservation, was a provision of the Department of Agriculture Appropriation Act, 1943, and expired on June 30, 1943.

§§ 141 to 144. Repealed. Pub. L. 85-36, title I, § 111, May 23, 1957, 71 Stat. 35

Sections were from act Mar. 3, 1905, ch. 1501, §§1-4, 33 Stat. 1269. See chapter 7B of this title.

Section 141 prohibited transportation or removal of insect pests.

Section 142 related to punishment for mailing parcels, etc., containing insect pests.

Section 143 related to regulations for mailing, transportation, etc., of insect pests for scientific purposes.

Section 144, amended Sept. 3, 1954, ch. 1263, §16, 68 Stat. 1232, related to punishment for unlawful transportation or removal of insect pests.

CONTINUATION OF PROVISIONS

Sections amended or repealed by Pub. L. 85-36 to continue in force as to rights, liabilities and violations that occurred before May 23, 1957, and findings, regulations, other orders, permits and certificates issued before May 23, 1957, as remaining in effect until modified, see section 111 of Pub. L. 85-36 set out as a note under section 147a of this title.

§ 145. Repealed. Pub. L. 94-231, § 2, Mar. 15, 1976, 90 Stat. 216

Section, act Oct. 6, 1917, ch. 79, §1, 40 Stat. 374, provided for cooperation with Mexico and adjacent States

in extermination of pink bollworm infestations in Mexico and related operations.

§§ 146, 147. Omitted

CODIFICATION

Section 146, act Feb. 9, 1927, ch. 90, 44 Stat. 1065, authorized an appropriation of \$10,000,000 to eradicate or control European corn borer.

Section 147, act May 24, 1928, ch. 734, 45 Stat. 734, authorized an additional appropriation of \$7,000,000 to eradicate or control European corn borer.

§ 147a. Control and eradication of plant pests

(a) Authority of Secretary of Agriculture

The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers' associations and similar organizations, and individuals, is authorized to carry out operations or measures to detect, eradicate, suppress, control, or to prevent or retard the spread of plant pests.

(b) Intergovernmental cooperation

The Secretary of Agriculture is further authorized to cooperate with the governments of foreign countries, or the local authorities thereof, and with foreign or international organizations or associations, in carrying out necessary surveys and control operations in those countries in connection with the detection, eradication, suppression, control, and prevention or retardation of the spread of plant pests.

(c) Cooperating foreign agency

In performing the operations or measures herein authorized, the cooperating foreign country, State, or local agency shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the foreign country or State other than those owned or controlled by the Federal Government and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

(d) Definitions

As used in this section—

(1) "plant pest" means any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants;

(2) "living stage" includes the egg, pupal, and larval stages as well as any other living stage; and

(3) "State" includes the District of Columbia and the territories and possessions of the United States.

(e) Rules and regulations

The Secretary of Agriculture is authorized to promulgate such rules and regulations and use such means as he may deem necessary to provide for the inspection of plants and plant products offered for export or transiting the United States and to certify to shippers and interested

parties as to the freedom of such products from plant pests according to the phytosanitary requirements of the foreign countries to which such products may be exported, or to the freedom from exposure to plant pests while in transit through the United States.

(f) Authorization of appropriations; fees, late payment penalties, and accrued interest

(1) Notwithstanding paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Unless otherwise specifically authorized or provided for in appropriations Acts, no part of such sums shall be used to pay the cost or value of property injured or destroyed.

(2) The Secretary of Agriculture is authorized to prescribe and collect fees to recover the costs of providing for the inspection of plants and plant products offered for export or transiting the United States and certifying to shippers and interested parties as to the freedom of such plants and plant products from plant pests according to the phytosanitary requirements of the foreign countries to which such plants and plant products may be exported, or to the freedom from exposure to plant pests while in transit through the United States. Any person for whom such an activity is performed shall be liable for payment of fees assessed. Upon failure to pay such fees when due, the Secretary of Agriculture shall assess a late payment penalty, and such overdue fees shall accrue interest, as required by section 3717 of title 31. All fees, late payment penalties, and accrued interest collected shall be credited to such accounts that incur the costs and shall remain available until expended without fiscal year limitation. The Secretary of Agriculture shall have a lien for the fees, any late payment penalty, and any accrued interest assessed against the plant or plant product for which services have been provided. In the case of any person who fails to make payment when due, the Secretary of Agriculture shall also have a lien against any plant or plant product thereafter attempted to be exported by such person. The Secretary of Agriculture may, in case of nonpayment of the fees, late payment penalty, or accrued interest, after giving reasonable notice of default to the person liable for payment of such assessments, sell at public sale after reasonable public notice, or otherwise dispose of, any such plant or plant product upon which the Secretary of Agriculture has a lien pursuant to this section. If the sale proceeds exceed the fees due, any late payment penalty assessed, any accrued interest and the expenses of the sale, the excess shall be paid, in accordance with regulations of the Secretary of Agriculture, to the owner of the plant or plant product sold upon the owner making application therefore with proof of ownership, within six months after such sale, and otherwise the excess shall be credited to accounts that incur the costs and shall remain available until expended. The Secretary of Agriculture shall, pursuant to regulations as prescribed by the Secretary of Agriculture, suspend performance of services to persons who have failed to pay such fees, late payment penalty and accrued interest.

(Sept. 21, 1944, ch. 412, title I, § 102, 58 Stat. 735; June 17, 1949, ch. 220, 63 Stat. 200; May 23, 1957,

Pub. L. 85-36, title II, § 201, 71 Stat. 35; Mar. 15, 1976, Pub. L. 94-231, § 1, 90 Stat. 215; Nov. 28, 1990, Pub. L. 101-624, title XXV, §§ 2504, 2509(b), 104 Stat. 4068, 4070.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-624, § 2504, substituted “foreign countries” for “all countries of the Western Hemisphere” and inserted “foreign or” before “international”.

Subsec. (f). Pub. L. 101-624, § 2509(b), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “There are hereby authorized to be appropriated such sums as the Congress may annually determine to be necessary to enable the Secretary of Agriculture to carry out the provisions of this section. Unless otherwise specifically authorized, or provided for in appropriations, no part of such sums shall be used to pay the cost or value of property injured or destroyed.”

1976—Subsecs. (a) to (d). Pub. L. 94-231 redesignated existing provisions of subsec. (a) as subsecs. (a) to (d) and broadened Secretary’s authority to control and eradicate plant pests and animal diseases, extended Secretary’s authority to cooperate with foreign governments, and inserted definitions for “plant pest” and “living stage”. Former subsecs. (b) and (c) redesignated (e) and (f), respectively.

Subsec. (e). Pub. L. 94-231 redesignated subsec. (b) as (e) and made discretionary the Secretary’s authority to provide phytosanitary inspection and certification service for domestic plants and plant products offered for export or transit in the United States.

Subsec. (f). Pub. L. 94-231 redesignated subsec. (c) as (f) and substituted provisions authorizing appropriations on a Congressional finding of necessity made “annually” for provisions authorizing appropriations on a Congressional finding of necessity made “from time to time”.

1957—Subsec. (a). Pub. L. 85-36 inserted “insect pests, plant diseases, and nematodes, such as imported fire ant, soybean cyst nematode, witchweed, spotted alfalfa aphid,” after “or to prevent or retard the spread of”.

1949—Subsec. (a). Act June 17, 1949, authorized the Secretary to carry out operations to combat the citrus blackfly, white-fringed beetle, and the Hall scale.

CONTINUATION OF PROVISIONS

Pub. L. 85-36, title I, § 111, May 23, 1957, 71 Stat. 35, provided in part that: “All Acts amended or repealed hereby [sections 141 to 144, 147a, 149, and 441 of this title] shall be deemed to continue in full force and effect for the purpose of sustaining any action or other proceeding with respect to any right that accrued, liability that was incurred, or violation that occurred prior to the effective date of this Act [May 23, 1957]. Nothing contained in this Act [enacting chapter 7B of this title, amending sections 147a and 149 of this title, and repealing sections 141 to 144, and 441 of this title] shall affect the validity of any findings, regulations, or other orders, permits, or certificates, which were issued under any of the Acts cited in this section [sections 141 to 144, and 441 of this title] prior to the effective date of this Act [May 23, 1957] and which are in effect on said date, but such findings, regulations, other orders, permits, and certificates shall remain in effect unless and until modified in accordance with this Act [enacting chapter 7B of this title, amending sections 147a and 149 of this title, and repealing sections 141 to 144, and 441 of this title].”

For disposition of remainder of section 111, see note set out under section 150ii of this title.

CROSS REFERENCES

Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; assistance of State agencies to Secretary of Agriculture; coordination of administration of Federal and State laws; Federal admin-

istrative jurisdiction and other provisions respecting cooperation unaffected, see section 450 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 147b of this title; title 21 section 129.

§ 147b. Emergency transfer of funds by Secretary of Agriculture

The Secretary of Agriculture may, in connection with emergencies which threaten any segment of the agricultural production industry of this country, transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture such sums as the Secretary may deem necessary, to be available only in such emergencies for the arrest and eradication of plant pests or contagious or infectious diseases of animals or poultry, and for expenses in accordance with section 147a of this title and section 114b of title 21.

(Pub. L. 97-46, § 1, Sept. 25, 1981, 95 Stat. 953.)

EFFECTIVE DATE

Section 2 of Pub. L. 97-46 provided that: "The provisions of this Act [this section] shall become effective upon enactment [Sept. 25, 1981]."

§ 148. Control of insect pests and plant diseases

The Secretary of Agriculture, in cooperation with authorities of the States concerned, organizations, or individuals, is authorized and directed to apply such methods for the control of incipient or emergency outbreaks of insect pests or plant diseases, including grasshoppers, Mormon crickets, and chinch bugs as may be necessary. The Secretary of Agriculture is further authorized to cooperate with the Governments of Canada or Mexico or local Canadian or Mexican authorities in carrying out in such countries necessary operations or measures to control incipient or emergency outbreaks of insect pests or plant diseases, when such operations or measures are necessary to protect the agriculture of the United States. In performing the operations or measures authorized under sections 148 to 148e of this title, the cooperating foreign country, State, or local agency shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the foreign country or State other than those owned or controlled by the Federal Government and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

(Apr. 6, 1937, ch. 69, 50 Stat. 57; May 9, 1938, ch. 192, 52 Stat. 344; Aug. 13, 1954, ch. 731, 68 Stat. 717.)

AMENDMENTS

1954—Act Aug. 13, 1954, extended provisions to include cooperation with the Governments of Canada or Mexico or local Canadian or Mexican authorities.

1938—Act May 9, 1938, incorporated part of introductory clause of original section in first sentence and struck out remainder of such section consisting of the other parts of introductory clause relating to personnel and appropriations (see sections 148a and 148e of this title), the appropriation provisions of second clause (see section 148e of this title), provisions of first proviso relating to general administration, field work, etc. (see

section 148a of this title) and provisions of second proviso restricting the uses of appropriations (see section 148d of this title).

SHORT TITLE

Act Apr. 6, 1937, ch. 69, 50 Stat. 57, as amended, which is classified to sections 148 to 148e of this title, is popularly known as the "Insect Control Act".

CROSS REFERENCES

Authorization of appropriation, see section 148e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148c, 148e of this title; title 41 section 6b.

§ 148a. Availability of appropriated money for general administration; personnel; field work, etc.

Any sums which may be appropriated for such purpose shall be available for expenditure for the employment of persons and means in the District of Columbia and elsewhere, printing, rent outside the District of Columbia, general administration and supervision, surveys, and the purchase, transportation, and application of poison bait or materials and equipment for control of insect pests or plant diseases, including grasshoppers, Mormon crickets, and chinch bugs, and for the preparation of such poison bait or materials for application, and such other expenses as may be necessary.

(Apr. 6, 1937, ch. 69, § 2, as added May 9, 1938, ch. 192, 52 Stat. 344.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148, 148c, 148e of this title; title 41 section 6b.

§ 148b. Repealed. Oct. 10, 1940, ch. 851, § 4, 54 Stat. 1111

Section, act Apr. 6, 1937, ch. 69, § 3, as added May 9, 1938, ch. 192, 52 Stat. 344, related to procurement of materials and equipment for the control of insect pests and plant diseases. See section 6b(a) of Title 41, Public Contracts.

§ 148c. Control of insect pests and plant diseases; cooperation of States

In the discretion of the Secretary of Agriculture, no part of any sums appropriated to carry out the purposes of sections 148 to 148e of this title shall be expended for the control of incipient or emergency outbreaks of insect pests or plant diseases in any State until the State concerned has provided the organization or materials and supplies necessary for cooperation with the Federal Government.

(Apr. 6, 1937, ch. 69, § 4, as added May 9, 1938, ch. 192, 52 Stat. 344.)

CROSS REFERENCES

Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; assistance of State agencies to Secretary of Agriculture; coordination of administration of Federal and State laws; Federal administrative jurisdiction and other provisions respecting cooperation unaffected, see section 450 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148, 148e of this title; title 41 section 6b.

§ 148d. Restrictions on appropriations

No part of the sums hereinafter authorized to be appropriated shall be used to pay the cost or value of farm animals, farm crops, or other property injured or destroyed.

(Apr. 6, 1937, ch. 69, § 5, as added May 9, 1938, ch. 192, 52 Stat. 344.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148, 148c, 148e of this title; title 41 section 6b.

§ 148e. Authorization of appropriations

There are authorized to be appropriated annually such sums as may be necessary to carry out the provisions of sections 148 to 148e of this title.

(Apr. 6, 1937, ch. 69, § 6, as added May 9, 1938, ch. 192, 52 Stat. 344.)

ADDITIONAL APPROPRIATIONS

Additional appropriations for purposes of this section were made as follows: Act Mar. 2, 1938, ch. 39, § 1, 52 Stat. 83—\$2,000,000; Joint Res. June 13, 1939, ch. 207, 53 Stat. 821—\$1,750,000.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148, 148c of this title; title 41 section 6b.

§ 148f. Control of grasshoppers and Mormon Crickets on Federal lands**(a) Authority of Secretary of Agriculture**

The Secretary of Agriculture shall carry out a program to control grasshoppers and Mormon Crickets on all Federal lands.

(b) Funds for lands subject to jurisdiction of Federal Government or Federal lands subject to jurisdiction of Secretary of the Interior; prompt requests for transferred funds and for replenishing appropriations

(1) Subject to paragraph (2), the Secretary of Agriculture shall expend or transfer, and upon request, the Secretary of the Interior shall transfer to the Secretary of Agriculture, from any no-year appropriations, funds for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on lands under the jurisdiction of the Federal Government.

(2)(A) Appropriated funds made available to the Secretary of the Interior shall be available for the payment of obligations incurred on Federal lands subject to the jurisdiction of the Secretary of the Interior.

(B) Funds transferred pursuant to this paragraph shall be requested as promptly as possible by the Secretary of Agriculture.

(C) Funds transferred pursuant to this section shall be replenished by supplemental or regular appropriations which shall be requested as promptly as possible.

(c) Exhaustion of contingency grasshopper emergency funds before availability of transferred funds for control of outbreaks on Federal lands subject to jurisdiction of Secretary of the Interior

(1) Except as provided in paragraph (2), from any funds made available to the Department of

the Interior until expended, moneys shall be made available for the transfer by the Secretary of the Interior to the Secretary of Agriculture for the prevention, suppression, and control of grasshoppers and Mormon Cricket outbreaks on Federal lands under the jurisdiction of the Secretary of the Interior.

(2) No funds shall be made available under this authority, until contingency funds specifically available to the Animal and Plant Health Inspection Service for grasshopper emergencies have been exhausted.

(d) Time for treatment of lands dependent on determination of economic damage

On request of the administering agency or the Department of Agriculture of an affected State, the Secretary of Agriculture shall immediately treat Federal, State, or private lands that are infested by grasshoppers or Mormon Crickets at levels of economic infestation, unless the Secretary determines that delaying treatment will optimize biological control and not cause greater economic damage to adjacent landowners.

(e) Amount of payments for costs of control on Federal, State, and private lands; inter-related participation efforts

The Secretary of Agriculture shall—

(1) pay out of appropriated funds made available to the Secretary or transferred to the Secretary by the Secretary of the Interior—100 percent of the cost of grasshopper or Mormon Cricket control on Federal lands;

(2) pay out of appropriated funds made available to the Secretary—

(A) 50 percent of the cost of such control on State lands; and

(B) 33.3 percent of the cost of such control on private rangelands; and

(3) participate in prevention, control, or suppression programs for grasshoppers and Mormon Crickets in conjunction with other Federal, State and private prevention, control or suppression efforts.

(f) Funding of personnel training program

From appropriated funds made available or transferred by the Secretary of the Interior to the Secretary of Agriculture for such purposes, the Secretary of Agriculture shall provide adequate funding for a program to train personnel to effectively accomplish the objective of this section.

(Pub. L. 99-198, title XVII, §1773, Dec. 23, 1985, 99 Stat. 1658.)

§ 149. Regulation, cleaning, etc., of vehicles and materials entering from Mexico**(a) Administration by Secretary; fees**

To prevent the introduction of insect pests and plant diseases the Secretary of Agriculture is authorized and directed to promulgate such rules and regulations as he may deem necessary to regulate the entry into the United States of railway cars and other vehicles and freight, express, baggage, and other materials which may carry such pests and to provide for the inspection, cleaning, and, when necessary, disinfection of such vehicles and materials; to carry out the

activities required to accomplish this purpose, the Secretary of Agriculture shall use such means as he may deem necessary, including construction and repair of buildings, plants, and equipment for fumigation and disinfection or cleaning of vehicles and materials; the cleaning and disinfection of vehicles or materials necessary to accomplish the purpose shall be carried out by or under the direction of authorized inspectors of the Department of Agriculture, and the Secretary of Agriculture shall make and collect such charge as will cover, as nearly as may be, the average cost of materials, facilities, and special labor used in performing such disinfection, and fees so collected shall be covered into the Treasury of the United States as miscellaneous receipts.

(b) Penalties

(1) Any person who knowingly violates any rule or regulation promulgated under subsection (a) of this section shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$5,000, by imprisonment not exceeding one year, or both.

(2) Any person who violates any such rule or regulation may be assessed a civil penalty by the Secretary of Agriculture not exceeding \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28. The validity of such order may not be reviewed in an action to collect such civil penalty.

(Jan. 31, 1942, ch. 31, 56 Stat. 40; May 23, 1957, Pub. L. 85-36, title I, §110, 71 Stat. 34; Jan. 12, 1983, Pub. L. 97-461, §3, 96 Stat. 2524; Dec. 8, 1994, Pub. L. 103-465, title IV, §431(b), 108 Stat. 4967.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-465 struck out “from Mexico” after “regulate the entry into the United States”.

1983—Pub. L. 97-461 designated existing provisions as subsec. (a) and added subsec. (b).

1957—Pub. L. 85-36 substituted “or” for “and” before “under the direction of authorized inspectors”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

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.

DISPOSITION OF MONEYS

Department of Agriculture Appropriation Acts, July 12, 1943, ch. 215, 57 Stat. 408; June 28, 1944, ch. 296, 58 Stat. 440, provided that any moneys received in payment of charges shall be covered into the Treasury as miscellaneous receipts.

CONTINUATION OF PROVISIONS

Sections amended or repealed by Pub. L. 85-36 to continue in force as to rights, liabilities and violations

that occurred before May 23, 1957, and findings, regulations, other orders, permits and certificates issued before May 23, 1957, as remaining in effect until modified, see section 111 of Pub. L. 85-36, set out as a note under section 147a of this title.

CHAPTER 7A—GOLDEN NEMATODE

Sec.	
150.	Governmental policy for protection of potatoes and tomatoes from golden nematode.
150a.	Duty of Secretary of Agriculture.
150b.	Inspections; quarantines; restrictions; crop destruction; compensation of growers.
150c.	Expenditure of funds; discretion of Secretary.
150d.	State legislative action authorizing restrictions on or destruction of crops.
150e.	Computation of compensation paid growers; method; finality of determination.
150f.	Expenses; employment of personnel; printing and binding; purchase of passenger-carrying vehicles.
150g.	Chapter as supplemental legislation.

§ 150. Governmental policy for protection of potatoes and tomatoes from golden nematode

To protect potato and tomato production in the United States from the destructive pest known as the golden nematode which subsists on the roots of potatoes and tomatoes, causes marked reduction in yield, persists in the soil for many years in an inactive state in the absence of preferred hosts, and becomes active and destructive when potatoes or tomatoes are again planted, it is the policy of the Government of the United States, independently or in cooperation with State and local governmental agencies, and other public and private organizations, associations, and individuals, to eradicate, suppress, control, and prevent the spread of, this pest.

(June 15, 1948, ch. 471, §1, 62 Stat. 442.)

SHORT TITLE

Section 9 of act June 15, 1948, provided that: “This Act [enacting this chapter] may be cited as the ‘Golden Nematode Act.’”

CROSS REFERENCES

Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; assistance of State agencies to Secretary of Agriculture; coordination of administration of Federal and State laws; Federal administrative jurisdiction and other provisions respecting cooperation unaffected, see section 450 of this title.

§ 150a. Duty of Secretary of Agriculture

The Secretary of Agriculture either independently or in cooperation with public or private agencies is authorized to carry out operations or measures to eradicate, suppress, control, or prevent the spread of, the golden nematode.

(June 15, 1948, ch. 471, §2, 62 Stat. 443.)

§ 150b. Inspections; quarantines; restrictions; crop destruction; compensation of growers

The activities contemplated by this chapter include cooperation with States and other agencies in making inspections, applying suppressive measures, enforcing quarantines, enforcing restrictions on the planting of potatoes and toma-

atoes, destroying potatoes and tomatoes growing in soil found infested or exposed to infestation with the golden nematode, and compensating growers in areas infected, or exposed to infestation, with the golden nematode for not planting potatoes or tomatoes or for losses resulting from destruction for the purposes of this chapter of potatoes or tomatoes.

(June 15, 1948, ch. 471, § 3, 62 Stat. 443.)

§ 150c. Expenditure of funds; discretion of Secretary

In the discretion of the Secretary of Agriculture no part of any sums appropriated to carry out the purposes of this chapter shall be expended with respect to any area infested with the golden nematode or exposed to such infestation until the appropriate cooperating agency or agencies have presented evidence satisfactory to the Secretary of Agriculture that they will provide funds, materials, means, and State and local authority necessary for the cooperating agency or agencies to carry out effectively that part of the cooperative program the Secretary of Agriculture may require from the cooperating agency or agencies.

(June 15, 1948, ch. 471, § 4, 62 Stat. 443.)

§ 150d. State legislative action authorizing restrictions on or destruction of crops

The Secretary of Agriculture shall not undertake any program involving mandatory restrictions on the planting of potatoes or tomatoes, or mandatory destruction of potatoes or tomatoes unless the State concerned shall have enacted legislation authorizing such restrictions or destruction.

(June 15, 1948, ch. 471, § 5, 62 Stat. 443.)

§ 150e. Computation of compensation paid growers; method; finality of determination

The amount of compensation to be paid by the Federal Government and any cooperating agency, and the method of computation thereof, shall be determined by the Secretary of Agriculture or the agent or agents designated by him, in cooperation with the responsible officials of the agency concerned and in a manner to assure that necessary records are preserved to show full compliance with the provisions of this chapter and regulations promulgated in accordance therewith. No payment shall be made to any grower except after compliance in good faith with regulations concerning the golden nematode promulgated by the Secretary of Agriculture and the responsible official of the cooperating agency. The determination by the Secretary of Agriculture, or his authorized agent, of the amount of compensation to be provided by the Federal Government for any grower shall be final.

(June 15, 1948, ch. 471, § 6, 62 Stat. 443.)

§ 150f. Expenses; employment of personnel; printing and binding; purchase of passenger-carrying vehicles

To carry out the purposes of this chapter the Secretary of Agriculture is authorized to incur

all necessary expenses, including the employment of persons in the District of Columbia and elsewhere, printing and binding, and the purchase of passenger-carrying vehicles.

(June 15, 1948, ch. 471, § 7, 62 Stat. 443.)

§ 150g. Chapter as supplemental legislation

The provisions of this chapter are intended to supplement, and shall not be construed as limiting or repealing existing legislation.

(June 15, 1948, ch. 471, § 8, 62 Stat. 443.)

CHAPTER 7B—PLANT PESTS

Sec.	
150aa.	Definitions.
150bb.	Movement of pests prohibited. <ul style="list-style-type: none"> (a) In general. (b) Regulations.
150cc.	Mailing of pests; opening of mail; exception.
150dd.	Emergency measures by Secretary. <ul style="list-style-type: none"> (a) Remedial measures or disposal by Secretary. (b) Additional remedial measures; payment of compensation; authorization of appropriations. (c) Ordering treatment or disposal by owner; procedure. (d) Other adequate action to prevent dissemination. (e) Compensation of owner for unauthorized disposal.
150ee.	Regulations and conditions.
150ff.	Inspections and seizures; warrants.
150gg.	Violations. <ul style="list-style-type: none"> (a) Criminal penalties. (b) Civil penalty.
150hh.	Separability.
150ii.	Authority as additional.
150jj.	Plant Quarantine Act unaffected.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2811 of this title; title 18 section 42.

§ 150aa. Definitions

As used in this chapter, except where the context otherwise requires:

(a) "Secretary" means the Secretary of Agriculture of the United States or any other person to whom authority may be delegated to act in his stead.

(b) "Properly identified employee of the Department of Agriculture" means an employee of that Department authorized to enforce the provisions of the Plant Quarantine Act [7 U.S.C. 151 et seq.], and wearing a suitable badge for identification, or otherwise properly identified.

(c) "Plant pest" means any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

(d) "Living stage" includes the egg, pupal, and larval stages as well as any other living stage.

(e) "United States" means any of the States, Territories, or Districts (including possessions and the District of Columbia) of the United States.

(f) “Interstate” means from one State, Territory, or District (including possessions and the District of Columbia) of the United States into or through any other such State, Territory, or District.

(g) “Move” means ship, deposit for transmission in the mail, otherwise offer for shipment, offer for entry, import, receive for transportation, carry, or otherwise transport, or move, or allow to be moved, by mail or otherwise.

(h) “Plant Quarantine Act” means the Act of August 20, 1912 (37 Stat. 315), as from time to time amended.

(i) “Mexican Border Act” means the Act of January 31, 1942 (56 Stat. 40), as from time to time amended.

(Pub. L. 85–36, title I, §102, May 23, 1957, 71 Stat. 31.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 85–36, May 23, 1957, 71 Stat. 31, as amended, which enacted this chapter, amended sections 147a and 149 of this title, repealed sections 141 to 144 and 441 of this title, and enacted provisions set out as a note under section 147a of this title. For complete classification of this Act to the Code, see Tables.

The Plant Quarantine Act, referred to in subsecs. (b) and (h), is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which is classified generally to chapter 8 (§151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 151 of this title and Tables.

The Mexican Border Act, referred to in subsec. (i), is act Jan. 31, 1942, ch. 31, 56 Stat. 40, as amended, which is classified to section 149 of this title.

SHORT TITLE

Section 101 of Pub. L. 85–36 provided that: “This title [enacting this chapter and provisions set out as a note under section 147a of this title, amending section 149 of this title and repealing sections 141 to 144 and 441 of this title] may be cited as the ‘Federal Plant Pest Act’.”

§ 150bb. Movement of pests prohibited

(a) In general

No person shall import or enter any plant pest into the United States, or move any plant pest interstate, or accept delivery of any plant pest moving from any foreign country into or through the United States, or interstate, unless the movement is made in accordance with such regulations as the Secretary may promulgate to prevent the dissemination into the United States, or interstate, of plant pests.

(b) Regulations

The regulations promulgated by the Secretary to implement subsection (a) of this section may include regulations requiring that a plant pest moving into or through the United States, or interstate—

(1) be accompanied by a permit issued by the Secretary prior to the movement of the plant pest; or

(2) be accompanied by a certificate of inspection issued, in a manner and form required by the Secretary, by appropriate officials of the country or State from which the plant pest is to be moved.

(Pub. L. 85–36, title I, §103, May 23, 1957, 71 Stat. 32; Pub. L. 97–461, §1(a), Jan. 12, 1983, 96 Stat.

2523; Pub. L. 100–449, title III, §301(f)(1), Sept. 28, 1988, 102 Stat. 1868; Pub. L. 103–465, title IV, §431(c)(1), Dec. 8, 1994, 108 Stat. 4967.)

AMENDMENTS

1994—Pub. L. 103–465 amended section generally, substituting present provisions for former subsecs. (a) to (c) which prohibited movement of plant pests into or through United States unless permitted by Secretary, provided for conditions for granting or refusing permits for such movement, and provided for movement of plant pests from Canada into or through United States only in accordance with such regulations as Secretary may promulgate.

1988—Subsec. (a). Pub. L. 100–449, §301(f)(1)(A), substituted “Except as provided in subsection (c) of this section, no person shall” for “No person shall”.

Subsec. (c). Pub. L. 100–449, §301(f)(1)(B), added subsec. (c).

1983—Subsec. (a). Pub. L. 97–461 struck out “knowingly” wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 150gg of this title; title 39 section 3015.

§ 150cc. Mailing of pests; opening of mail; exception

(a) Any letter, parcel, box, or other package containing any plant pest, whether sealed as letter-rate postal matter or not, is nonmailable, and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, unless it is mailed in conformance with such regulations as the Secretary may promulgate to prevent the dissemination into the United States, or interstate, of plant pests.

(b) Nothing in this chapter shall authorize any person to open any letter or other sealed matter except in accordance with the postal laws and regulations.

(c) The prohibitions of this chapter shall not apply to any employee of the United States in the performance of his duties in handling mail.

(Pub. L. 85–36, title I, §104, May 23, 1957, 71 Stat. 32; Pub. L. 100–449, title III, §301(f)(2), Sept. 28, 1988, 102 Stat. 1869; Pub. L. 103–465, title IV, §431(c)(2), Dec. 8, 1994, 108 Stat. 4967.)

REFERENCES IN TEXT

In the original, “this chapter” was “this Act”. See note set out under section 150aa of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–465, §431(c)(2)(A), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Except as provided in sub-

section (b) of this section, any letter, parcel, box, or other package containing any plant pest, whether sealed as letter-rate postal matter or not, is declared to be nonmailable, and will not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, except when accompanied by a copy of a permit issued under this chapter.”

Subsecs. (b) to (d). Pub. L. 103-465, §431(c)(2)(B), (C), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: “Any letter, parcel, box, or other package from Canada containing any plant pest, whether sealed as letter-rate postal matter or not, is declared to be nonmailable, and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, except in accordance with such regulations as the Secretary may promulgate under this section to prevent the dissemination into the United States of plant pests.”

1988—Subsec. (a). Pub. L. 100-449, §301(f)(2)(A), substituted “Except as provided in subsection (b) of this section, any letter” for “Any letter”.

Subsecs. (b) to (d). Pub. L. 100-449, §301(f)(2)(B), (C), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3015.

§ 150dd. Emergency measures by Secretary

(a) Remedial measures or disposal by Secretary

Except as provided in subsection (c) of this section, the Secretary may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States, or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest, or which has moved into the United States, or interstate, and which he has reason to believe was infested or infected by or contained any such plant pest at the time of such movement; and any plant pest, product, article, or means of conveyance which is moving into or through the United States, or interstate, or has moved into the United States, or interstate, in violation of this chapter or any regulation thereunder: *Provided*, That this subsection shall not authorize such action with respect to any product, article, means of conveyance, or plant pest subject, at the time of the proposed

action, to disposal under the Plant Quarantine Act [7 U.S.C. 151 et seq.].

(b) Additional remedial measures; payment of compensation; authorization of appropriations

(1) Whereas, the existence of a plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States on any premises in the United States would constitute a threat to crops, other plant life, and plant products of the Nation and thereby seriously burden interstate or foreign commerce, whenever the Secretary determines that an extraordinary emergency exists because of the presence of such plant pest on any premises in the United States, and that the presence of such plant pest anywhere in the United States threatens the crops, other plant life, or plant products of the United States, the Secretary may (A) seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as the Secretary deems appropriate, any product or article of any character whatsoever, or means of conveyance which the Secretary has reason to believe is infested or infected by or contains any such plant pest; (B) quarantine, treat, or apply other remedial measures to, in such manner as the Secretary deems appropriate, any premises, including articles on such premises which the Secretary has reason to believe are infested or infected by any such plant pest: *Provided*, That any action taken under clauses (A) and (B) shall be consistent with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.]: *Provided further*, That such action may be taken under this subsection only if the Secretary finds after review of measures taken by the State or other jurisdiction and after consultation with the Governor that the measures being taken are inadequate. Before any action is taken in any State or other jurisdiction under this subsection, the Secretary shall notify the Governor of the State or other jurisdiction, shall issue a public announcement and shall file a statement for publication in the Federal Register of the action the Secretary intends to take together with the findings and reasons therefor: *Provided*, That if it is not possible to make such a filing with the Federal Register prior to taking action, the filing shall be made within a reasonable time, not to exceed five business days, after commencement of the action. If the Secretary wishes to change any action previously taken under this subsection, the Secretary shall follow the procedure set forth in the preceding sentence. The cost of any action taken by the Secretary under this subsection shall be at the expense of the United States.

(2) The Secretary may pay compensation to producers and other persons for economic losses incurred by them as a result of the quarantine, destruction, or other action taken under the authority of paragraph (1) of this subsection. The determination by the Secretary of the amount of any compensation to be paid under this subsection shall be final.

(3) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(c) Ordering treatment or disposal by owner; procedure

Except as provided in subsection (c) of this section, the Secretary may order the owner of any product, article, means of conveyance, or plant pest subject to disposal under subsection (a) of this section, or his agent, to treat, apply other remedial measures to, destroy, or make other disposal of such product, article, means of conveyance, or plant pest, without cost to the Federal Government and in such manner as the Secretary deems appropriate. The Secretary may apply to the United States district court, or to the United States court of any Territory or possession, for the judicial district in which such person resides or transacts business or in which the product, article, means of conveyance, or plant pest is found, for enforcement of such order by injunction, mandatory or otherwise. Process in any such case may be served in any judicial district wherein the defendant resides or transacts business or may be found, and subpoena for witnesses who are required to attend a court in any judicial district in such a case may run into any other judicial district.

(d) Other adequate action to prevent dissemination

No product, article, means of conveyance, or plant pest shall be destroyed, exported, or returned to shipping point of origin, or ordered to be destroyed, exported, or so returned under this section, unless in the opinion of the Secretary there is no less drastic action which would be adequate to prevent the dissemination of plant pests new to or not theretofore known to be widely prevalent or distributed within and throughout the United States.

(e) Compensation of owner for unauthorized disposal

The owner of any product, article, means of conveyance, or plant pest destroyed, or otherwise disposed of by the Secretary under this section, may bring an action against the United States in the United States District Court for the District of Columbia, within one year after such destruction or disposal, and recover just compensation for such destruction or disposal of such product, article, means of conveyance, or plant pest (not including compensation for loss due to delays incident to determining eligibility for movement into or through the United States or for interstate movement) if the owner establishes that neither this section nor the Plant Quarantine Act [7 U.S.C. 151 et seq.] authorized such destruction or disposal. Any judgment rendered in favor of such owner shall be paid out of the money in the Treasury appropriated for plant disease and pest control activities of the Department of Agriculture.

(Pub. L. 85-36, title I, §105, May 23, 1957, 71 Stat. 32; Pub. L. 97-98, title XI, §1119(1), Dec. 22, 1981, 95 Stat. 1272.)

REFERENCES IN TEXT

In the original, "this chapter" was "this Act". See note set out under section 150aa of this title.

The Plant Quarantine Act, referred to in subssecs. (a) and (d), is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which is classified generally to chapter 8

(§151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 151 of this title and Tables.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (b), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92-516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§136 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables.

AMENDMENTS

1981—Subsecs. (b) to (e). Pub. L. 97-98 added subsec. (b) and redesignated former subssecs. (b) to (d) as (c) to (e), respectively.

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.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 150ee. Regulations and conditions

The Secretary may promulgate such regulations requiring inspection of products and articles of any character whatsoever and means of conveyance, specified in the regulations, as a condition of their movement into or through the United States, or interstate, and imposing other conditions upon such movement, as he deems necessary to prevent the dissemination into the United States, or interstate, of plant pests, in any situation in which such regulations are not authorized under the Plant Quarantine Act [7 U.S.C. 151 et seq.].

(Pub. L. 85-36, title I, §106, May 23, 1957, 71 Stat. 33.)

REFERENCES IN TEXT

The Plant Quarantine Act, referred to in text, is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which is classified generally to chapter 8 (§151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 151 of this title and Tables.

§ 150ff. Inspections and seizures; warrants

Any properly identified employee of the Department of Agriculture shall have authority to stop and inspect, without a warrant, any persons or means of conveyance moving into the United States, and any plant pests and any products and articles of any character whatsoever carried thereby, to determine whether such persons or means of conveyance are carrying any plant pest contrary to this chapter and whether any such means of conveyance, products, or articles are infested or infected by or contain any plant pest or are moving in violation of any regulation under this chapter; to stop and inspect, without a warrant, any persons or means of conveyance moving interstate, and any plant pests and any products and articles of any character whatsoever carried thereby, upon probable cause to believe that such means of conveyance, products, or articles are infested or infected by or contain any plant pest or are moving subject to any regulation under this chapter, or that such persons or means of conveyance are carrying

any plant pest subject to this chapter; to stop and inspect without a warrant any person or means of conveyance moving intrastate upon probable cause to believe that the person or conveyance is carrying any product or article subject to treatment or disposal under the provisions of this chapter or the regulations issued thereunder; and to enter, with a warrant, any premises in the United States, other than places which may be entered under section 167 of this title, to make any inspections and seizures necessary under this chapter. Any judge of the United States or of a court of record of any State, Territory or possession, or a United States magistrate judge, may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause to believe that there are on certain premises any products, articles, means of conveyance, or plant pests regulated or subject to disposal under this chapter, issue warrants for the entry of such premises to make any inspections or seizures under this chapter. Such warrants may be executed by any authorized employee of the Department of Agriculture.

(Pub. L. 85-36, title I, §107, May 23, 1957, 71 Stat. 34; Pub. L. 90-578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 97-98, title XI, §1119(2), Dec. 22, 1981, 95 Stat. 1273; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

REFERENCES IN TEXT

In the original, "this chapter" was "this Act". See note set out under section 150aa of this title.

AMENDMENTS

1981—Pub. L. 97-98 inserted "to stop and inspect without a warrant any person or means of conveyance moving intrastate upon probable cause to believe that the person or conveyance is carrying any product or article subject to treatment or disposal under the provisions of this Act or the regulations issued thereunder;" after "subject to this chapter;".

CHANGE OF NAME

"United States magistrate judge" substituted for "United States magistrate" in text pursuant to section 631 of Title 28, Judiciary and Judicial Procedure. Previously, "United States magistrate" substituted for "United States commissioner" pursuant to Pub. L. 90-578. See chapter 43 (§631 et seq.) of Title 28.

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.

§ 150gg. Violations**(a) Criminal penalties**

Any person who—

(1) knowingly violates section 150bb of this title or any regulation promulgated under this chapter;

(2) knowingly forges or counterfeits any permit or other document provided for by this chapter or by any such regulation; or

(3) knowingly and without the authority of the Secretary, uses, alters, or defaces any such permit or document;

shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$5,000, by imprisonment not exceeding one year, or both.

(b) Civil penalty

Any person who—

(1) violates section 150bb of this title or any regulation promulgated under this chapter;

(2) forges or counterfeits any permit or other document provided for by this chapter or by any such regulation; or

(3) without the authority of the Secretary, uses, alters, or defaces any such permit or document;

may be assessed a civil penalty by the Secretary not exceeding \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28. The validity of such order may not be reviewed in an action to collect such civil penalty.

(Pub. L. 85-36, title I, §108, May 23, 1957, 71 Stat. 34; Pub. L. 97-461, §1(b), Jan. 12, 1983, 96 Stat. 2523.)

REFERENCES IN TEXT

In the original, "this chapter" was "this Act". See note set out under section 150aa of this title.

AMENDMENTS

1983—Pub. L. 97-461 designated existing provisions as subsec. (a), divided existing provisions among pars. (1) through (3), substituted "\$5,000" for "\$500", and added subsec. (b).

§ 150hh. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 85-36, title I, §109, May 23, 1957, 71 Stat. 34.)

REFERENCES IN TEXT

In the original, "this chapter" was "this Act". See note set out under section 150aa of this title.

§ 150ii. Authority as additional

The authority conferred by this chapter shall be in addition to authority conferred by other statutes not specifically repealed hereby.

(Pub. L. 85-36, title I, §111, May 23, 1957, 71 Stat. 34.)

REFERENCES IN TEXT

In the original, "this chapter" was "this Act". See note set out under section 150aa of this title.

CODIFICATION

Section constitutes first sentence of section 111 of Pub. L. 85-36. Second sentence of section 111 is classified as section 150jj of this title. Third sentence of section 111 repealed sections 141 to 144, and 441 of this title. Remainder of section 111 is set out as a note under section 147a of this title.

§ 150jj. Plant Quarantine Act unaffected

Nothing in this chapter shall amend or repeal any of the provisions of the Plant Quarantine Act [7 U.S.C. 151 et seq.].

(Pub. L. 85-36, title I, §111, May 23, 1957, 71 Stat. 35.)

REFERENCES IN TEXT

In the original, “this chapter” was “this Act”. See note set out under section 150aa of this title.

The Plant Quarantine Act, referred to in text, is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which is classified generally to chapter 8 (§151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 151 of this title and Tables.

CODIFICATION

Section constitutes second sentence of section 111 of Pub. L. 85-36. For disposition of remainder of section 111, see Codification note set out under section 150ii of this title.

CHAPTER 8—NURSERY STOCK AND OTHER PLANTS AND PLANT PRODUCTS

- Sec.
151. “Person” defined.
152. “Nursery stock” defined.
153. Liability of principal for act of agent.
154. Importation of nursery stock.
(a) In general.
(b) Regulations.
155. Importation for scientific purposes permitted.
156. Notification of arrival at port of entry; forwarding without notification forbidden; inspection before shipment.
157. Marking packages, etc., for entry.
158. Marking packages, etc., for interstate shipment; inspection.
159. Regulations by Secretary restricting importation of plants, etc., other than “nursery stock”.
160. Regulations by Secretary restricting importation from insect-infested locality; when quarantine effective.
161. Interstate quarantine; shipments or removals from quarantined localities forbidden; regulations by Secretary for shipment, etc., from quarantined localities; promulgation.
161a. Omitted.
162. Rules and regulations.
163. Violations; forgery, alterations, etc., of certificates; punishment; civil penalty.
164. Duty of United States attorneys to prosecute.
164a. Enforcement of quarantine against nursery stock and plant products; search and seizure.
165, 165a. Repealed or Omitted.
166. State terminal inspection; transmission of mailed packages for State inspection; non-mailable matter; punishment for violations; rules and regulations by United States Postal Service.
167. Rules governing District of Columbia.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 150aa, 150dd, 150ee, 150jj, and 2811 of this title; title 39 sections 3014, 3015.

§ 151. “Person” defined

The word “person” as used in this chapter shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations.

(Aug. 20, 1912, ch. 308, § 11, 37 Stat. 319.)

CODIFICATION

Section is comprised of a part of section 11 of act Aug. 20, 1912. Other provisions of section 11 are classified to section 153 of this title.

EFFECTIVE DATE

Section 14 of act Aug. 20, 1912, provided: “That this Act [enacting this chapter] shall become and be effec-

tive from and after the first day of October, nineteen hundred and twelve, except as herein otherwise provided.”

SHORT TITLE

Act Aug. 20, 1912, as amended, which is classified to this chapter is popularly known as the “Nursery Stock Quarantine Act” and the “Plant Quarantine Act”.

CROSS REFERENCES

Words denoting number, etc., see section 1 of Title 1, General Provisions.

§ 152. “Nursery stock” defined

For the purpose of this chapter the term “nursery stock” shall include all field-grown florists’ stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots.

(Aug. 20, 1912, ch. 308, § 6, 37 Stat. 317.)

CROSS REFERENCES

Regulations restricting importation of plants, etc., other than nursery stock, see section 159 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title; title 39 section 3014.

§ 153. Liability of principal for act of agent

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association as well as that of the person.

(Aug. 20, 1912, ch. 308, § 11, 37 Stat. 319.)

CODIFICATION

Section is composed of part of section 11 of act Aug. 20, 1912. Other provisions of section 11 are classified to section 151 of this title.

§ 154. Importation of nursery stock

(a) In general

No person shall—

(1) import or enter into the United States any nursery stock; or

(2) accept delivery of any nursery stock moving from any foreign country into or through the United States;

unless the movement is made in accordance with such regulations as the Secretary of Agriculture may promulgate to prevent dissemination into the United States of plant pests, plant diseases, or insect pests.

(b) Regulations

The regulations promulgated by the Secretary of Agriculture to implement subsection (a) of this section may include regulations requiring that nursery stock moving into or through the United States—

(1) be accompanied by a permit issued by the Secretary of Agriculture prior to the movement of the nursery stock;

(2) be accompanied by a certificate of inspection issued, in a manner and form required by the Secretary of Agriculture, by appropriate officials of the country or State from which the nursery stock is to be moved;

(3) be grown under postentry quarantine conditions by or under the supervision of the Secretary of Agriculture for the purposes of determining whether the nursery stock may be infested with plant pests or insect pests, or infested with plant diseases, not discernible by port-of-entry inspection; and

(4) if the nursery stock is found to be infested with plant pests or insect pests or infested with plant diseases, be subject to remedial measures the Secretary of Agriculture determines to be necessary to prevent the spread of plant pests, insect pests, or plant diseases.

(Aug. 20, 1912, ch. 308, §1, 37 Stat. 315; July 31, 1947, ch. 405, 61 Stat. 680; Sept. 28, 1988, Pub. L. 100-449, title III, §301(f)(3)(A), 102 Stat. 1869; Dec. 8, 1994, Pub. L. 103-465, title IV, §431(d)(1), 108 Stat. 4967.)

AMENDMENTS

1994—Pub. L. 103-465 amended section generally, substituting present provisions for provisions outlining general restrictions on importation of nursery stock into the United States along with exceptions to such restrictions.

1988—Pub. L. 100-449 struck out “*Provided*” the first place it appeared and inserted in lieu thereof “*Provided*, That the Secretary of Agriculture may waive the permit requirement for nursery stock imported or offered for entry from Canada: *Provided further*”.

1947—Act July 31, 1947, inserted last proviso.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of Title 19, Customs Duties.

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.

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title.

§ 155. Importation for scientific purposes permitted

Any class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs,

seeds, or other plant products of which the importation may be forbidden from any country or locality under the provisions of section 160 of this title may be imported for experimental or scientific purposes by the Department of Agriculture upon such conditions and under such regulations as the said Secretary of Agriculture may prescribe.

(Mar. 4, 1913, ch. 145, §1 [part], 37 Stat. 854.)

CODIFICATION

Section was enacted as part of the Agricultural Appropriation Act, 1914, and not as part of the “Plant Quarantine Act” which comprises this chapter.

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.

§ 156. Notification of arrival at port of entry; forwarding without notification forbidden; inspection before shipment

It shall be the duty of the Secretary of the Treasury promptly to notify the Secretary of Agriculture of the arrival of any nursery stock at port of entry. The person receiving such stock at port of entry shall, immediately upon entry and before such stock is delivered for shipment or removed from the port of entry, advise the Secretary of Agriculture or, at his direction, the proper State, Territorial, or District official of the State or Territory or the District to which such nursery stock is destined, or both, as the Secretary of Agriculture may elect, of the name and address of the consignee, the nature and quantity of the stock it is proposed to ship, and the country and locality where the same was grown. No person shall ship or offer for shipment from one State or Territory or District of the United States into any other State or Territory or District, any nursery stock imported into the United States without notifying the Secretary of Agriculture or, at his direction, the proper State, Territorial, or District official of the State or Territory or District to which such nursery stock is destined, or both, as the Secretary of Agriculture may elect, immediately upon the delivery of the said stock for shipment, of the name and address of the consignee, of the nature and quantity of stock it is proposed to ship, and the country and locality where the same was grown, unless and until such imported stock has been inspected by the proper official of a State, Territory, or District of the United States. This section does not apply to nursery stock that is imported or entered from a country or a region of a country that the Secretary of Agriculture designates, pursuant to procedures set forth in such regulations as the Secretary may promulgate, as exempt from the requirements of this section.

(Aug. 20, 1912, ch. 308, §2, 37 Stat. 316; Sept. 28, 1988, Pub. L. 100-449, title III, §301(f)(3)(B), 102 Stat. 1869; Dec. 8, 1994, Pub. L. 103-465, title IV, §431(d)(2), 108 Stat. 4968.)

AMENDMENTS

1994—Pub. L. 103-465 amended last sentence generally. Prior to amendment, last sentence read as follows:

“This section shall not apply to nursery stock that arrives from, or is imported from, Canada.”

1988—Pub. L. 100-449 inserted at end “This section shall not apply to nursery stock that arrives from, or is imported from, Canada.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of Title 19, Customs Duties.

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title.

§ 157. Marking packages, etc., for entry

No person shall import or offer for entry into the United States any nursery stock unless the case, box, package, crate, bale, or bundle thereof shall be plainly and correctly marked to show the general nature and quantity of the contents, the country and locality where the same was grown, the name and address of the shipper, owner, or person shipping or forwarding the same, and the name and address of the consignee.

(Aug. 20, 1912, ch. 308, § 3, 37 Stat. 316.)

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.

Prohibition against mailing packages into a state maintaining terminal inspection without marking the contents on the outside, see section 166 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title.

§ 158. Marking packages, etc., for interstate shipment; inspection

No person shall ship or deliver for shipment from one State or Territory or District of the United States into any other State or Territory or District any such imported nursery stock the case, box, package, crate, bale, or bundle whereof is not plainly marked so as to show the general nature and quantity of the contents, the name and address of the consignee, and the country and locality where such stock was grown, unless and until such imported stock has been inspected by the proper official of a State, Territory, or District of the United States.

(Aug. 20, 1912, ch. 308, § 4, 37 Stat. 316.)

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.

Prohibition against mailing packages into a State maintaining terminal inspection without marking the contents on the outside, see section 166 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title.

§ 159. Regulations by Secretary restricting importation of plants, etc., other than “nursery stock”

Whenever the Secretary of Agriculture shall determine that the unrestricted importation of any plants, fruits, vegetables, roots, bulbs, seeds, or other plant products not included by the term “nursery stock” as defined in section 152 of this title may result in the entry into the United States or any of its Territories or Districts of injurious plant diseases or insect pests he shall promulgate his determination, specifying the class of plants and plant products the importation of which shall be restricted and the country and locality where they are grown, and thereafter, and until such promulgation is withdrawn, such plants and plant products imported or offered for import into the United States or any of its Territories or Districts shall be subject to all the provisions of sections 154 and 156 to 158 of this title.

(Aug. 20, 1912, ch. 308, § 5, 37 Stat. 316; Jan. 8, 1983, Pub. L. 97-432, § 1(1), 96 Stat. 2276.)

AMENDMENTS

1983—Pub. L. 97-432 struck out provision directing the Secretary to hold a hearing before promulgating a determination under this section.

§ 160. Regulations by Secretary restricting importation from insect-infested locality; when quarantine effective

Whenever, in order to prevent the introduction into the United States of any tree, plant, or fruit disease or of any injurious insect, new to or not theretofore widely prevalent or distributed within and throughout the United States, the Secretary of Agriculture shall determine that it is necessary to forbid the importation into the United States of any class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products from a country or locality where such disease or insect infestation exists, he shall promulgate such determination, specifying the country and locality and the class of nursery stock or other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products which, in his opinion, should be excluded. Following the promulgation of such determination by the Secretary of Agriculture, and until the withdrawal of the said promulgation by him, the importation of the class of nursery stock or of other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products specified in the said promulgation from the country and locality therein named, regardless of the use for which the same is intended, is hereby prohibited; and until the withdrawal of the said promulgation by the Secretary of Agriculture, and notwithstanding that such class of nursery stock, or other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products be accompanied by a certificate of inspection from the country of importation, no person shall import or offer for entry into the United States from any country or locality specified in such promulgation, any of the

class of nursery stock or of other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products named therein, regardless of the use for which the same is intended: *Provided*, That the quarantine provisions of this section, as applying to the white-pine blister rust, potato wart, and the Mediterranean fruit fly, shall become and be effective on August 20, 1912.

(Aug. 20, 1912, ch. 308, § 7, 37 Stat. 317; Jan. 8, 1983, Pub. L. 97-432, § 1(2), 96 Stat. 2276.)

AMENDMENTS

1983—Pub. L. 97-432 struck out provision directing Secretary to hold a hearing before promulgating a determination of necessity of forbidding importation.

EFFECTIVE DATE

Section effective Oct. 1, 1912, see note set out under section 151 of this title.

CROSS REFERENCES

Importation for scientific purposes permitted, see section 155 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 155 of this title.

§ 161. Interstate quarantine; shipments or removals from quarantined localities forbidden; regulations by Secretary for shipment, etc., from quarantined localities; promulgation

The Secretary of Agriculture is authorized and directed to quarantine any State, Territory, or District of the United States, or any portion thereof, when he shall determine that such quarantine is necessary to prevent the spread of a dangerous plant disease or insect infestation, new to or not theretofore widely prevalent or distributed within and throughout the United States. No person shall ship or offer for shipment to any common carrier nor shall any common carrier receive for transportation or transport, nor shall any person carry or transport from any quarantined State or Territory or District of the United States, or from any quarantined portion thereof, into or through any other State or Territory or District, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine except as hereinafter provided. It shall be unlawful to move, or allow to be moved, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine hereinbefore provided, and regardless of the use for which the same is intended, from any quarantined State or Territory or District of the United States or quarantined portion thereof, into or through any other State or Territory or District, in manner or method or under conditions other than those prescribed by the Secretary of Agriculture. It shall be the duty of the Secretary of Agriculture, when the public inter-

ests will permit, to make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, and method and manner of delivery and shipment of the class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine hereinbefore provided, and regardless of the use for which the same is intended, from a quarantined State or Territory or District of the United States, or quarantined portion thereof, into or through any other State or Territory or District: *Provided*, That until the Secretary of Agriculture shall have made a determination that such a quarantine is necessary and has duly established the same with reference to any dangerous plant disease or insect infestation, as hereinabove provided, nothing in this chapter shall be construed to prevent any State, Territory, Insular Possession, or District from promulgating, enacting, and enforcing any quarantine, prohibiting or restricting the transportation of any class of nursery stock, plant, fruit, seed, or other product or article subject to the restrictions of this section, into or through such State, Territory, District, or portion thereof, from any other State, Territory, District, or portion thereof, when it shall be found, by the State, Territory, or District promulgating or enacting the same, that such dangerous plant disease or insect infestation exists in such other State, Territory, District, or portion thereof: *Provided further*, That the Secretary of Agriculture is authorized, whenever he deems such action advisable and necessary to carry out the purposes of this chapter, to cooperate with any State, Territory, or District, in connection with any quarantine, enacted or promulgated by such State, Territory, or District, as specified in the preceding proviso: *Provided further*, That any nursery stock, plant, fruit, seed, or other product or article, subject to the restrictions of this section, a quarantine with respect to which shall have been established by the Secretary of Agriculture under the provisions of this chapter shall, when transported to, into, or through any State, Territory, or District, in violation of such quarantine, be subject to the operation and effect of the laws of such State, Territory, or District, enacted in the exercise of its police powers, to the same extent and in the same manner as though such nursery stock, plant, fruit, seed, or other product or article had been produced in such State, Territory, or District, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

(Aug. 20, 1912, ch. 308, § 8, 37 Stat. 318; Mar. 4, 1917, ch. 179, 39 Stat. 1165; Apr. 13, 1926, ch. 135, 44 Stat. 250; Oct. 10, 1978, Pub. L. 95-439, § 4, 92 Stat. 1062; Jan. 8, 1983, Pub. L. 97-432, § 1(3), 96 Stat. 2276.)

AMENDMENTS

1983—Pub. L. 97-432 struck out provision directing Secretary to hold a hearing before promulgating a determination of necessity to quarantine.

1978—Pub. L. 95-439 struck out provisions requiring the Secretary of Agriculture to give notice of the es-

establishment of a quarantine to common carriers doing business in or through the quarantined area, to publish notice of the establishment of the quarantine in newspapers in the quarantined area, and to give notice of the rules and regulations provided for in this section for the notice of establishment of quarantine.

1926—Act Apr. 13, 1926, inserted last three provisos.

1917—Act Mar. 4, 1917, substituted “that such quarantine is necessary to prevent the spread of” for “the fact that,” in first sentence, inserted “or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infection” after the first three references to “seeds, or other plant products,” and inserted “when the public interest will permit” after “That it shall be the duty of the Secretary of Agriculture”.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3014.

§ 161a. Omitted

CODIFICATION

Section was from the Department of Agriculture Appropriation Act, 1945, act June 28, 1944, ch. 296, 58 Stat. 440, related to disposition of moneys from inspection and certification of domestic plants and plant products for export, and was not repeated in subsequent appropriation acts.

Similar provisions were contained in prior appropriation acts as follows:

July 12, 1943, ch. 215, 57 Stat. 408.

July 22, 1942, ch. 516, 56 Stat. 686.

§ 162. Rules and regulations

The Secretary of Agriculture shall make and promulgate such rules and regulations as may be necessary for carrying out the purposes of this chapter.

(Aug. 20, 1912, ch. 308, § 9, 37 Stat. 318.)

§ 163. Violations; forgery, alterations, etc., of certificates; punishment; civil penalty

Any person who knowingly violates any provision of this chapter or any rule or regulation promulgated by the Secretary of Agriculture under this chapter, or who knowingly forges or counterfeits any certificate provided for in this chapter or in any such rule or regulation, or who, knowingly and without the authority of the Secretary, uses, alters, defaces, or destroys any such certificate shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding \$5,000, by imprisonment not exceeding one year, or both. Any person who violates any such provision, rule, or regulation, or who forges or counterfeits any such certificate, or who, without the authority of the Secretary, uses, alters, defaces, or destroys any such certificate, may be assessed a civil penalty by the Secretary not exceeding \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28. The valid-

ity of such order may not be reviewed in an action to collect such civil penalty.

(Aug. 20, 1912, ch. 308, § 10, 37 Stat. 318; Jan. 12, 1983, Pub. L. 97-461, § 2, 96 Stat. 2523.)

CODIFICATION

Section is composed of part of section 10 of act Aug. 20, 1912. Other provisions of section 10 are classified to sections 164 and 164a of this title. Section is also set out in D.C. Code, § 6-1105.

AMENDMENTS

1983—Pub. L. 97-461 added the element of knowledge to the definition of all violations, added use and the lack of authority from the Secretary to the definition of the group of violations including alteration, defacement or destruction of certificates, substituted criminal penalties of a fine not exceeding \$5,000 or a year's imprisonment or both for a fine of \$500 or a year's imprisonment or both in the discretion of the court, inserted provisions relating to civil penalties, and struck out provision that no common carrier would be deemed to have violated sections 152, 154, 156 to 161, and 162 of this title on proof that such carrier did not knowingly receive for transportation or transport nursery stock or other plants or plant products as such in the United States.

CROSS REFERENCES

District of Columbia, violation of rules and regulations, see section 167 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 167 of this title.

§ 164. Duty of United States attorneys to prosecute

It shall be the duty of the United States attorneys diligently to prosecute any violations of this chapter which are brought to their attention by the Secretary of Agriculture or which come to their notice by other means.

(Aug. 20, 1912, ch. 308, § 10, 37 Stat. 318.)

CODIFICATION

Section is composed of part of section 10 of act Aug. 20, 1912. Other provisions of section 10 are classified to sections 163 and 164a of this title. Section is also set out in D.C. Code, § 6-1105.

§ 164a. Enforcement of quarantine against nursery stock and plant products; search and seizure

Any employee of the Department of Agriculture, authorized by the Secretary of Agriculture to enforce the provisions of this chapter and furnished with and wearing a suitable badge for identification, who has probable cause to believe that any person coming into the United States, or any vehicle, receptacle, boat, ship, or vessel, coming from any country or countries or moving interstate, possesses, carries, or contains any nursery stock, plants, plant products, or other articles the entry or movement of which in interstate or foreign commerce is prohibited or restricted by the provisions of this chapter, or by any quarantine or order of the Secretary of Agriculture issued or promulgated pursuant thereto, shall have power to stop and, without warrant, to inspect, search, and examine such person, vehicle, receptacle, boat, ship, or vessel, and to seize, destroy, or otherwise dis-

pose of, such nursery stock, plants, plant products, or other articles found to be moving or to have been moved in interstate commerce or to have been brought into the United States in violation of this chapter, or of such quarantine or order.

(Aug. 20, 1912, ch. 308, § 10, as added May 1, 1928, ch. 462, 45 Stat. 468.)

CODIFICATION

Section is composed of part of section 10 of act Aug. 20, 1912. Other provisions of section 10 are classified to sections 163 and 164 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.

§ 165. Repealed. Pub. L. 88-448, title IV, § 402(a)(13), Aug. 19, 1964, 78 Stat. 493

Section, act Aug. 20, 1912, ch. 308, § 12, 37 Stat. 319, related to appointment of members of a Federal Horticultural Board from among employees of Department of Agriculture.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins later than ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88-448.

§ 165a. Omitted

CODIFICATION

Section, act May 16, 1928, ch. 572, 45 Stat. 565, provided that the functions of the Federal Horticultural Board should devolve upon and be exercised by the Plant Quarantine and Control Administration. Said act also created an Advisory Federal Plant Quarantine Board which was abolished by act Mar. 3, 1933, ch. 203, 47 Stat. 1463. Appropriations to enable the Secretary of Agriculture to carry into effect the provisions of this chapter, which in prior appropriation acts had been made to the Plant Quarantine and Control Administration, were made to the Bureau of Plant Quarantine by the appropriation act of July 7, 1932, ch. 443, 47 Stat. 640, and to the Bureau of Entomology and Plant Quarantine by the appropriation act of Mar. 26, 1934, ch. 89, 48 Stat. 486, and subsequent appropriation acts.

§ 166. State terminal inspection; transmission of mailed packages for State inspection; non-mailable matter; punishment for violations; rules and regulations by United States Postal Service

When any State shall provide for terminal inspection of plants and plant products, and shall establish and maintain, at the sole expense of the State, such inspection at one or more places therein, the proper officials of said State may submit to the Secretary of Agriculture a list of plants and plant products and the plant pests transmitted thereby, that in the opinion of said officials should be subject to terminal inspection in order to prevent the introduction or dissemination in said State of pests injurious to agriculture. Upon his approval of said list, in whole or in part, the Secretary of Agriculture shall transmit the same to the United States Postal Service, and thereafter all packages containing any plants or plant products named in

said approved lists shall, upon payment of postage therefor, be forwarded by the postmaster at the destination of said package to the proper State official at the nearest place where inspection is maintained. If the plants or plant products (including seed) are found upon inspection to be free from injurious pests and not in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests, or if infected shall be disinfected by said official, they shall upon payment of postage therefor be returned to the postmaster at the place of inspection to be forward¹ to the person to whom they are addressed; but if found to be infected with injurious pests and incapable of satisfactory disinfection or in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests, the State inspector shall so notify the postmaster at the place of inspection who shall promptly notify the sender of said plants or plant products that they will be returned to him upon his request and at his expense, or in default of such request that they will be turned over to the State authorities for destruction.

It shall be unlawful for any person, firm, or corporation to deposit in the United States mails any package containing any plant or plant product addressed to any place within a State maintaining inspection thereof, as herein defined, without plainly marking the package so that its contents may be readily ascertained by an inspection of the outside thereof. Whoever shall fail to so mark said packages shall be punished by a fine of not more than \$100.

The United States Postal Service is authorized and directed to make all needful rules and regulations for carrying out the purposes hereof.

(Mar. 4, 1915, ch. 144, 38 Stat. 1113; June 4, 1936, ch. 495, 49 Stat. 1461; Aug. 12, 1970, Pub. L. 91-375, § 4(a), 84 Stat. 773.)

CODIFICATION

Section was enacted as part of the Agricultural Appropriation Act, 1916, and not as part of the "Plant Quarantine Act" which comprises this chapter.

AMENDMENTS

1936—Act June 4, 1936, amended last sentence of first par. by changing introductory word "plant" to "plants", inserting "(including seed)", "and not in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests", "or in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests," and striking out the comma after "place of inspection".

SHORT TITLE

This section is popularly known as the "Terminal Inspection Act."

TRANSFER OF FUNCTIONS

In first and third pars., "United States Postal Service" substituted for "Postmaster General" pursuant to

¹ So in original.

Pub. L. 91-375, §4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service, which abolished office of Postmaster General of Post Office Department and transferred its functions to United States Postal Service.

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.

§ 167. Rules governing District of Columbia

Prohibition against shipment generally.—In order further to control and eradicate and to prevent the dissemination of dangerous plant diseases and insect infections and infestations no plant or plant products for or capable of propagation, including nursery stock, hereinafter referred to as plants and plant products, shall be moved or allowed to be moved, shipped, transported, or carried by any means whatever into or out of the District of Columbia, except in compliance with such rules and regulations as shall be prescribed by the Secretary of Agriculture as hereinafter provided.

Eradication by owner.—Whenever the Secretary of Agriculture, after investigation, shall determine that any plants and plant products in the District of Columbia are infested or infected with insect pests and diseases and that any place, articles, and substances used or connected therewith are so infested or infected, written notice thereof shall be given by him to the owner or person in possession or control thereof, and such owner or person shall forthwith control or eradicate and prevent the dissemination of such insect pest or disease and shall remove, cut, or destroy such infested and infected plants, plant products, and articles and substances used or connected therewith, which are declared to be nuisances, within the time and in the manner required in said notice or by the rules and regulations of the Secretary of Agriculture.

Eradication by Secretary of Agriculture.—Whenever such owner or person cannot be found, or shall fail, neglect, or refuse to comply with the foregoing provisions of this section, the Secretary of Agriculture is authorized and required to control and eradicate and prevent dissemination of such insect pest or disease and to remove, cut, or destroy infested or infected plants and plant products and articles and substances used or connected therewith, and the United States shall have an action of debt against such owner or persons for expenses incurred by the Secretary of Agriculture in that behalf.

Inspection.—Employees of the Bureau of Entomology and Plant Quarantine are authorized and required to inspect places, plants, and plant products and articles and substances used or connected therewith whenever the Secretary of Agriculture shall determine that such inspections are necessary for the purposes of this section.

Entry upon premises; opening packages; destruction of plants, etc.—For the purpose of carrying out the provisions and requirements of this section and of the rules and regulations of the Secretary of Agriculture made hereunder, and the notices given pursuant thereto, employees of the Bureau of Entomology and Plant Quarantine shall have power with a warrant to

enter into or upon any place and open any bundle, package, or other container of plants or plant products whenever they shall have cause to believe that infections or infestations of plant pests and diseases exist therein or thereon, and when such infections or infestations are found to exist, after notice by the Secretary of Agriculture to the owner or person in possession or control thereof and an opportunity by said owner or person to be heard, to destroy the infected or infested plants or plant products contained therein.

Search warrants.—The Superior Court of the District of Columbia shall have power, upon information supported by oath or affirmation showing probable cause for believing that there exists in any place, bundle, package, or other container in the District of Columbia any plant or plant product which is infected or infested with plant pests or disease, to issue warrants for the search for and seizure of all such plants and plant products.

Rules and regulations.—It shall be the duty of the Secretary of Agriculture, and he is required, from time to time, to make and promulgate such rules and regulations as shall be necessary to carry out the purposes of this section, and any person who shall move or allow to be moved, or shall ship, transport, or carry, by any means whatever, any plant or plant products from or into the District of Columbia, except in compliance with the rules and regulations prescribed under this section, shall be punished, as is provided in section 163 of this title.

(Aug. 20, 1912, ch. 308, §15, as added May 31, 1920, ch. 217, 41 Stat. 726; amended May 16, 1928, ch. 572, 45 Stat. 565; July 7, 1932, ch. 443, 47 Stat. 640; Mar. 26, 1934, ch. 89, 48 Stat. 486; Apr. 1, 1942, ch. 207, §§1, 4, 56 Stat. 190, 192; July 8, 1963, Pub. L. 88-60, §§1, 7, 77 Stat. 77, 78; July 29, 1970, Pub. L. 91-358, title I, §155(a), 84 Stat. 570.)

CODIFICATION

Section is also set out in D.C. Code, §6-1104.

CHANGE OF NAME

In penultimate par., "Superior Court of the District of Columbia" substituted for "District of Columbia Court of General Sessions" on authority of Pub. L. 91-358.

"District of Columbia Court of General Sessions" was the designation given to the "Municipal Court for the District of Columbia" by Pub. L. 88-60, §§1, 7, July 8, 1963, 77 Stat. 77, 78, which provided that, eff. Jan. 1, 1963, whenever reference is made in any Act of Congress to the "Municipal Court for the District of Columbia", such reference shall be held to be a reference to the "District of Columbia Court of General Sessions."

Police Court of District of Columbia and Municipal Court of District of Columbia consolidated into a single court known as "The Municipal Court for the District of Columbia" and powers and jurisdiction of such courts transferred thereto by act Apr. 1, 1942, ch. 207, §§1, 4, 56 Stat. 190, 192.

TRANSFER OF FUNCTIONS

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

Functions of Bureau of Entomology and Plant Quarantine transferred to Secretary of Agriculture by 1947

Reorg. Plan No. 1, §301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952, set out in the Appendix to Title 5, Government Organization and Employees.

“Bureau of Entomology and Plant Quarantine” substituted in text for “Federal Horticultural Board” by acts May 16, 1928, July 7, 1932, and Mar. 26, 1934. See note under section 165a of this title.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 150ff of this title.

CHAPTER 8A—RUBBER AND OTHER CRITICAL AGRICULTURAL MATERIALS

SUBCHAPTER I—GENERAL PROVISIONS

- Sec.
171. Program for development of guayule and other rubber-bearing plants.
172. Authorization of Secretary to appoint employees; delegation of powers; cooperation with other agencies; allotment of funds; leases of facilities and disposal of water.
173. Authorization of appropriations.
174. Omitted.
175. Lease or sublease of unsuitable lands; disposal of water supply.
176. Sale of guayule shrub to Reconstruction Finance Corporation.

SUBCHAPTER II—CRITICAL AGRICULTURAL MATERIALS

177. Congressional findings and declaration of policy.
- 178a. Definitions.
- 178b. Joint Commission on Research and Development of Critical Agricultural Materials.
- (a) Establishment; function.
- (b) Membership.
- (c) Chairman.
- (d) Delegation of responsibilities to Joint Commission; transfer and use of appropriated funds.
- (e) Duties.
- (f) Administrative support services.
- (g) Report to Congress.
- (h) Advice of scientific, engineering and business communities.
- 178c. Research and development program by Secretary of Agriculture.
- (a) Designation of Department as lead agency.
- (b) Scope of program.
- (c) Office of Critical Agricultural Materials.
- (d) Authority of Secretary in carrying out demonstration project.
- 178d. Research and development program by Secretary of Commerce.
- 178e. Cooperative projects with Mexico, Australia, and Israel.
- 178f. Assistance from States and public agencies; contracts and agreements.
- 178g. Powers of Secretary of Agriculture.
- 178h. Powers of Secretary of Commerce.
- 178i. Coordination of activities with Federal agencies.
- 178j. Laws governing inventions under this subchapter.
- 178k. Disposition of byproducts and strategic and industrially important products.
- 178l. Rules and regulations.
- 178m. Report to President and Congress.
- 178n. Administration and funding.
- (a) Authorization of appropriations to Secretary of Agriculture.

Sec.

- (b) Administration and management.
- (c) Contract authority as limited by amounts provided in appropriations acts.
- (d) Activities limited to critical materials other than native latex after fiscal 1988.

SUBCHAPTER I—GENERAL PROVISIONS

§ 171. Program for development of guayule and other rubber-bearing plants

The Secretary of Agriculture (hereinafter called the “Secretary”) is authorized—

(1) To acquire by purchase, license, or other agreement, the right to operate under processes or patents relating to the growing and harvesting of guayule or the extraction of rubber therefrom, and such properties, processes, records, and data as are necessary to such operation, including but not limited to any such rights owned or controlled by the Intercontinental Rubber Company, or any of its subsidiaries, and all equipment, materials, structures, factories, real property, seed, seedlings, growing shrub, and other facilities, patents and processes of the Intercontinental Rubber Company, or any of its subsidiaries, located in California, and for such rights, properties, and facilities of the Intercontinental Rubber Company or any of its subsidiaries, the Secretary is authorized to pay not to exceed \$2,000,000;

(2) To plant, or contract for the planting of, not in excess of five hundred thousand acres of guayule in areas in the Western Hemisphere where the best growth and yields may be expected in order to maintain a nucleus planting of guayule to serve as a domestic source of crude rubber as well as of planting material for use in further expanding guayule planting to meet emergency needs of the United States for crude rubber; to establish and maintain nurseries to provide seedlings for field plants; and to purchase necessary equipment, facilities, land for nurseries and administrative sites and water rights;

(3) To acquire by lease, or other agreement, for not exceeding ten years, rights to land for the purpose of making plantings of guayule; to acquire water rights; to erect necessary buildings on leased land where suitable land cannot be purchased; to make surveys, directly or through appropriate Government agencies, of areas in the Western Hemisphere where guayule might be grown; and to establish and maintain records indicating areas to which guayule cultivation could be extended for emergency production;

(4) To construct or operate, or to contract for the operation of, factories for the extraction of rubber from guayule, and from *Chrysothamnus*, commonly known as rabbit brush; to purchase guayule shrub; and to purchase, operate, and maintain equipment for the harvesting, storing, transporting, and complete processing of guayule, and *Chrysothamnus*, commonly known as rabbit brush, and to purchase land as sites for processing plants;

(5) To conduct studies, in which he may cooperate with any other public or private agency, designed to increase the yield of guayule

by breeding to by selection, and to improve planting methods; to make surveys of areas suitable for cultivating guayule; to make experimental plantings; and to conduct agronomic tests;

(6) To conduct tests, in which he may cooperate with any other public or private agency, to determine the qualities of rubber obtained from guayule and to determine the most favorable methods of compounding and using guayule in rubber manufacturing processes;

(7) To improve methods of processing guayule shrubs and rubber and to obtain and hold patents on such new processes;

(8) To sell guayule or rubber processed from guayule and to use funds so obtained in replanting and maintaining an area not in excess of five hundred thousand acres of guayule inside the Western Hemisphere; and

(9) To exercise with respect to rubber-bearing plants other than guayule the same powers as are granted in the foregoing provisions of this section with respect to guayule.

(Mar. 5, 1942, ch. 140, § 1, 56 Stat. 126; Oct. 20, 1942, ch. 617, §§ 1-4, 56 Stat. 796, 797.)

AMENDMENTS

1942—Par. (2). Act Oct. 20, 1942, § 1, increased acreage from 75,000 to 500,000 and inserted reference to land for administrative sites and water rights.

Par. (3). Act Oct. 20, 1942, § 2, inserted "to acquire water rights; to erect necessary buildings on leased land where suitable land cannot be purchased;"

Par. (4). Act Oct. 20, 1942, § 3, inserted "to purchase guayule shrub;"

Par. (8). Act Oct. 20, 1942, § 4, substituted "not in excess of five hundred" for "of seventy-five".

ADDITIONAL ACREAGE AUTHORIZED

Act Oct. 26, 1942, ch. 629, title II, 56 Stat. 1002, provided that: "The Secretary of Agriculture, in connection with the appropriations herein and heretofore made for such project, is authorized to plant, or contract for the planting of, not to exceed twenty-five thousand acres of guayule in areas in the Western Hemisphere in addition to the acreage permitted under the provisions of paragraph (1), section 1 of the act of March 5, 1942 (Public Law 473) [par. (1) of this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 172, 173, 175 of this title.

§ 172. Authorization of Secretary to appoint employees; delegation of powers; cooperation with other agencies; allotment of funds; leases of facilities and disposal of water

(a) The Secretary is authorized to appoint such employees, including citizens of other countries, as may be necessary for carrying out the provisions of sections 171 to 173 of this title. Such appointments may be made without regard to the provisions of the civil-service laws. (Sections 321, 322, 324, and 325a of title 40 shall not apply to any nursery, planting, cultivating or harvesting operations conducted pursuant to sections 171 to 173 of this title.) All appointments so made by the Secretary shall be made only on the basis of merit and efficiency.

(b) The Secretary may delegate any of the powers and duties conferred on him by sections 171 to 173 of this title to any agency or bureau of the Department of Agriculture.

(c) The Secretary, with the consent of any board, commission, independent establishment, corporation, or executive department of the Government, including any field service thereof, may avail himself of the use of information, services, facilities, officers and employees thereof, in carrying out the provisions of sections 171 to 173 of this title.

(d) The Secretary may allot to bureaus and offices of the Department of Agriculture, or may transfer to such other agencies of the State and Federal Governments as may be requested by him to assist in carrying out sections 171 to 173 of this title, any funds made available to him under said sections.

(e) In carrying out the provisions of sections 171 to 173 of this title the Secretary shall have all of the authority conferred upon him by section 502 of title 16.

(f) The Secretary may lease at reasonable rentals structures erected by the Government with essential facilities for such periods as such structures and facilities are not required for the purposes of sections 171 to 173 of this title; and any part of land or structures with essential facilities acquired by lease, deed, or other agreement pursuant to said sections, which are not required or suitable for the purposes of said sections during the period the United States is entitled to possession thereof may be leased or subleased at a reasonable rental; and any surplus water controlled by the United States on land owned or leased by the United States for the purposes of said sections may be disposed of at reasonable rates.

(Mar. 5, 1942, ch. 140, § 2, 56 Stat. 127; Oct. 20, 1942, ch. 617, §§ 5-7, 56 Stat. 797.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

Sections 321, 322, 324, and 325a of title 40, referred to in subsec. (a), were repealed by Pub. L. 87-581, title II, § 203, Aug. 13, 1962, 76 Stat. 360. See sections 328, 330, and 332 of Title 40, Public Buildings, Property, and Works.

CODIFICATION

In the second sentence of subsec. (a), the words "and the compensation of the persons so appointed may be fixed without regard to the provisions of the Classification Act of 1923, as amended" were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exceptions contained in this subsection because of section 1106(b) which provided that the application of the 1949 Act of any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Act Sept. 6, 1966, Pub. L. 89-554, § 8(a), 80 Stat. 632 (of which section 1 revised and enacted Title 5, U.S.C., into law). Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

AMENDMENTS

1942—Subsec. (a). Act Oct. 20, 1942, §§ 5, 7, substituted "other countries" for "countries in the Western Hemi-

sphere" and inserted sentence relating to inapplicability of certain sections of title 40.

Subsecs. (e), (f). Act Oct. 20, 1942, §6, added subsecs. (e) and (f).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 175 of this title.

§ 173. Authorization of appropriations

There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of sections 171 to 173 of this title. Any amounts so appropriated, and any funds received by the Secretary under said sections, shall remain permanently available for the purposes of said sections without regard to the provisions of any other laws relating to the availability and disposition of appropriated funds and the disposition of funds collected by officers or agencies of the United States.

(Mar. 5, 1942, ch. 140, §3, 56 Stat. 128.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 172, 175 of this title.

§ 174. Omitted

CODIFICATION

Section was from the Department of Agriculture Appropriation Act, 1946, act July 5, 1945, ch. 271, title I, 59 Stat. 423, provided for the disposition of proceeds from the sale of guayule and other rubber-bearing plants, and was not repeated in subsequent appropriation acts.

Similar provisions were contained in prior appropriation acts as follows:

May 5, 1945, ch. 109, 59 Stat. 152.

June 28, 1944, ch. 296, 58 Stat. 447.

July 12, 1943, ch. 215, 57 Stat. 415.

July 2, 1942, ch. 476, title I, 56 Stat. 597.

Apr. 28, 1942, ch. 247, title III, 56 Stat. 240.

§ 175. Lease or sublease of unsuitable lands; disposal of water supply

Subject to conditions prescribed by the Secretary of Agriculture, any part of the land acquired by lease, deed, or other agreement pursuant to sections 171 to 173 of this title, which is not required or suitable for the purposes of said sections may be leased or subleased at a reasonable rental during the period the United States is entitled to possession thereof; and any surplus water supplies controlled by the United States on such land may be disposed of at reasonable rates.

(July 2, 1942, ch. 476, title I, 56 Stat. 597.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 172, 173 of this title.

§ 176. Sale of guayule shrub to Reconstruction Finance Corporation

Guayule shrub may be sold to the Reconstruction Finance Corporation at a price reflecting

the net realization from the sale of the rubber recovered from such shrub in mills operated by said Corporation after deducting the cost of milling and amortization of the cost of mills constructed for the purpose by said Corporation.

(June 30, 1945, ch. 215, §1, 59 Stat. 310; July 5, 1945, ch. 271, title I, 59 Stat. 423.)

TRANSFER OF FUNCTIONS

Rubber Reserve Company dissolved and functions transferred to Reconstruction Finance Corporation by Joint Res. June 30, 1945, eff. July 1, 1945.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 649, set out as a note under section 601 of Title 15, Commerce and Trade, abolished Reconstruction Finance Corporation.

SUBCHAPTER II—CRITICAL AGRICULTURAL MATERIALS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3311 of this title.

§ 178. Congressional findings and declaration of policy

(a)(1) Congress recognizes that natural latex rubber is a commodity of vital importance to the economy, the defense, and the general well-being of the Nation. The United States is totally dependent upon foreign sources for its supplies of natural (Hevea) latex, which total about one million tons per year. Synthetic rubber, manufactured from petroleum feedstocks, cannot be substituted for natural rubber.

(2) Congress further recognizes that certain plant species of the genus *Parthenium* (Guayule), native to Texas and the Republic of Mexico, as well as other plants, are known to contain commercial quantities of extractable rubber. During World War II, through research carried out by the Secretary of Agriculture in the Emergency Rubber Project, the United States demonstrated that *Parthenium* latex is a promising and realistic substitute for Hevea latex.

(3) Congress further recognizes that additional research and development are needed, especially into methods for increasing latex yields, before commercialization of native *Parthenium* latex or other hydrocarbon-containing plants by private industry is feasible.

(4) Congress further recognizes that the development of a domestic natural rubber industry, based on *Parthenium* and other hydrocarbon-containing plants, would not only relieve the Nation's dependence upon foreign latex sources but also convey substantial economic benefits to people living in arid and semiarid regions of the United States. Such an industry would comprise the agricultural production of the hydrocarbon-containing plants and the development of commercial processing and manufacturing facilities to extract the latex and other products.

(5) Congress further recognizes that ongoing research into the development and commercialization of native latex has been conducted by the Department of Agriculture, the Department of Commerce, the National Science Foundation, and other public as well as private and indus-

trial research groups, and that these research efforts should be continued and expanded.

(b) In addition, Congress recognizes that the development of a domestic industry or industries for the production and manufacture from native agricultural crops of products other than rubber which are of strategic and industrial importance but for which the Nation is now dependent upon foreign sources, would benefit the economy, the defense, and the general well-being of the Nation, and that additional research efforts in this area should be undertaken or continued and expanded.

(c) It is therefore the policy of the United States to provide for the development and demonstration of economically feasible means of culturing and manufacturing Parthenium and other hydrocarbon-containing plants, along with other native agricultural crops, for the production of critical agricultural materials to benefit the Nation and promote economic development.

(Pub. L. 95-592, § 2, Nov. 4, 1978, 92 Stat. 2529; Pub. L. 98-284, § 2, May 16, 1984, 98 Stat. 181.)

AMENDMENTS

1984—Subsec. (a)(1). Pub. L. 98-284, § 2(1), redesignated existing provisions of subsec. (a) as par. (1).

Subsec. (a)(2) to (4). Pub. L. 98-284, § 2(2), redesignated subsecs. (b), (c), and (d) as pars. (2), (3), and (4), respectively, of subsec. (a).

Subsec. (a)(5). Pub. L. 98-284, § 2(2), (3), redesignated subsec. (e) as par. (5) of subsec. (a), and in par. (5), as so redesignated, substituted "development and commercialization of native latex has been conducted by the Department of Agriculture, the Department of Commerce, the National Science Foundation, and other public as well as private and industrial research groups," for "commercialization of native latex has been conducted by the Department of Agriculture and by the Department of Commerce through the regional commissions".

Subsec. (b). Pub. L. 98-284, § 2(4), added subsec. (b). Former subsec. (b) redesignated (a)(2).

Subsec. (c). Pub. L. 98-284, § 2(4), added subsec. (c). Former subsec. (c) redesignated (a)(3).

Subsecs. (d) and (e). Pub. L. 98-284, § 2(2), redesignated subsecs. (d) and (e) as (a)(4) and (a)(5), respectively.

Subsec. (f). Pub. L. 98-284, § 2(4), struck out subsec. (f) which provided: "It is the policy of the Congress, therefore, to provide for the development and demonstration of economically feasible means of culturing and manufacturing Parthenium and other hydrocarbon-containing plants for the extraction of natural rubber and other products to benefit the Nation and promote economic development". See subsec. (c).

SHORT TITLE

Section 1 of Pub. L. 95-592, as amended by Pub. L. 98-284, § 1, May 16, 1984, 98 Stat. 181, provided: "That this Act [enacting this subchapter and amending section 1314f of this title] may be cited as the 'Critical Agricultural Materials Act'." As originally enacted Pub. L. 95-592 had been cited as the "Native Latex Commercialization and Economic Development Act of 1978".

§ 178a. Definitions

As used in this subchapter—

(a) The term "State" means each of the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) The term "Secretaries" means the Secretary of Agriculture and/or the Secretary of Commerce acting each separately or jointly.

(c) The term "commercialization" means the stage in the development or advancement of a

technology at which point private enterprise is willing to invest in a full-scale production facility.

(d) The term "native" means hydrocarbon-containing plants and other agricultural crops of strategic and industrial importance which may be cultured in North America, especially plants which are members of the genus *Parthenium* known as Guayule.

(Pub. L. 95-592, § 3, Nov. 4, 1978, 92 Stat. 2529; Pub. L. 98-284, § 3, May 16, 1984, 98 Stat. 181.)

AMENDMENTS

1984—Subsec. (d). Pub. L. 98-284, § 3(a), inserted "and other agricultural crops of strategic and industrial importance" and "plants which are".

Subsec. (e). Pub. L. 98-284, § 3(b), struck out subsec. (e) which defined "Regional Commissions" as the Regional Action Planning Commissions established pursuant to title V of the Public Works and Economic Development Act of 1965.

§ 178b. Joint Commission on Research and Development of Critical Agricultural Materials

(a) Establishment; function

There is established a Joint Commission on Research and Development of Critical Agricultural Materials, hereinafter referred to as the Joint Commission. The function of the Joint Commission shall be to assist the Secretaries in carrying out the purposes of this subchapter.

(b) Membership

The Joint Commission shall consist of the following members: Three individuals designated by the Secretary of Agriculture from among the staff of the Department of Agriculture; three individuals designated by the Secretary of Commerce from among the staff of the Department of Commerce; a representative of the Bureau of Indian Affairs of the Department of the Interior; a representative of the National Science Foundation; a representative of the Department of State; a representative of the Department of Defense; and a representative of the Federal Emergency Management Agency. Each of the members of the Joint Commission shall be an individual who, on behalf of the Department or agency which such individual represents, is engaged in the support of research, development, demonstration, and commercialization activities involving native latex and the production of other critical agricultural materials from native agricultural crops.

(c) Chairman

The Joint Commission shall be headed by a Chairman who shall be selected by the Secretary of Agriculture from among the three individuals designated by the Secretary as members under subsection (b) of this section.

(d) Delegation of responsibilities to Joint Commission; transfer and use of appropriated funds

The Secretaries may delegate to the Joint Commission one or more of their responsibilities under this subchapter, and transfer to the Joint Commission funds appropriated to carry out the purposes of this subchapter as they deem appropriate to achieve the purposes of this subchapter, and the Joint Commission is authorized

to carry out such functions and expend such funds to achieve the purposes of the subchapter.

(e) Duties

The Joint Commission shall—

(1) develop a plan establishing goals, time-tables, and tasks to be undertaken in carrying out the purposes of this subchapter;

(2) establish broad policy for implementing the plan carrying out the purposes of this subchapter;

(3) establish criteria for evaluating and awarding contracts for research, development, and demonstration projects; and

(4) review and advise the Secretaries with respect to grants, contracts, and other project expenditures.

(f) Administrative support services

The Secretaries are authorized to provide without reimbursement such administrative support services, including the detail of staff personnel not to exceed a total of five persons from each Department, as the Joint Commission may need to carry out its functions.

(g) Report to Congress

One year after November 4, 1978, and each year thereafter, the Joint Commission shall provide to the Congress a report on the implementation of the subchapter. Such report shall (1) recommend specific directions for further research, development, and other work, and (2) recommend funding levels for various elements of the overall project.

(h) Advice of scientific, engineering and business communities

To the maximum extent possible, the Secretaries and the Joint Commission shall seek the advice of the scientific, engineering and business communities with respect to the activities carried out under this subchapter. The Secretaries and the Commission shall specifically seek the advice of persons with expertise in appropriate fields of agricultural research in land grant colleges and other universities, in State agricultural experiment stations, and in other appropriate organizations; and, persons with expertise in manufacturing and commerce involving rubber and other critical agricultural materials in private enterprise and other appropriate organizations.

(Pub. L. 95-592, §4, Nov. 4, 1978, 92 Stat. 2530; Pub. L. 98-284, §4, May 16, 1984, 98 Stat. 181.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-284, §4(a), substituted “Research and Development of Critical Agricultural Materials” for “Guayule Research and Commercialization”.

Subsec. (b). Pub. L. 98-284, §4(b), struck out provision mandating that two of the designees of the Secretary of Commerce be Federal Cochairmen of Regional Commissions engaged in the support of native latex research, development, demonstration, or commercialization activities, inserted provisions for the appointment of a representative of the Department of State, a representative of the Department of Defense, and a representative of the Federal Emergency Management Agency, and inserted provisions that each of the members of the Joint Commission be an individual who, on behalf of the Department or agency which such individual represents, is engaged in the support of research, develop-

ment, demonstration, and commercialization activities involving native latex and the production of other critical agricultural materials from native agricultural crops.

Subsec. (c). Pub. L. 98-284, §4(c), substituted “The Joint Commission shall be headed by a Chairman who shall be selected by the Secretary of Agriculture from among the three individuals designated by the Secretary as members under subsection (b) of this section” for “The Joint Commission shall be headed by a Chairman. The Secretary of Agriculture shall designate one of the two members from his Department to serve as Joint Commission Chairman during the first two-year period following November 4, 1978, and the Secretary of Commerce shall designate one of the two members from his Department as Joint Commission Chairman during the second two-year period following November 4, 1978. And the same process of designating Joint Commission Chairmen shall be followed in ensuing years”.

Subsec. (h). Pub. L. 98-284, §4(d), substituted “manufacturing and commerce involving rubber and other critical agricultural materials” for “rubber manufacturing and commerce”.

§ 178c. Research and development program by Secretary of Agriculture

(a) Designation of Department as lead agency

The Department of Agriculture shall be the lead agency in carrying out this subchapter.

(b) Scope of program

The Secretary of Agriculture shall conduct, sponsor, promote, and coordinate basic and applied research, technology development, and technology transfer leading to effective and economical methods for large-scale culturing of plantations and the extraction of latex from *Parthenium* or other hydrocarbon-containing plants, and for the development of other critical agricultural materials from native agricultural crops having strategic and industrial importance. Such research shall include, but not be limited to—

(1) carrying out extensive seed collections from wild plants in Texas, Mexico, and other areas and borrowing or purchasing seeds from other sources;

(2) developing a stockpile of *Parthenium* seeds, such stockpile to be appropriately classified and stored at a suitable facility;

(3) accelerating present plant breeding, genetics, and selection programs for the purpose of improving and increasing latex yields, expanding insect and disease resistance, broadening the ranges of drought and cold resistance of the *Parthenium* plant, and providing a system of regional research trials for enhancing and increasing the supply of foundation seed for certified seed production;

(4) establishing a system of large-scale experimental plantings (aggregating ten thousand acres or more) to provide shrub for feedstock to process in the developmental rubber processing facility described in paragraph (7);

(5) carrying out specific studies on the effects of irrigation on plant growth and latex yield and survival potential;

(6) developing equipment needed to carry out nursery operations, planting, cultivating, harvesting, transporting the crop, and other necessary agricultural activities;

(7) accelerating the refinement of present extraction and processing technologies and fu-

ture extraction technologies, including the development and construction of a developmental rubber processing facility for the extraction and production of test quantities of guayule natural rubber;

(8) establishing and maintaining a bank of all pertinent research data on native latex including extant United States Government publications and records from the emergency rubber project. Such data shall be made available to other Federal and State agencies and private persons who are interested or involved in native latex research, development, or manufacture; and

(9) studying the economic feasibility of developing other native agricultural crops (in addition to Parthenium and other hydrocarbon-containing plants) that would supply critical agricultural materials for strategic and industrial purposes, carrying out demonstration projects to promote the development or commercialization of such crops (including projects designed to expand domestic or foreign markets for such crops), and, to the extent appropriate, carrying out research activities with respect to such crops in the manner specified in paragraphs (1) through (8).

(c) Office of Critical Agricultural Materials

The Secretary of Agriculture shall establish within the Department of Agriculture an Office of Critical Agricultural Materials, as a central location where such Department can address research and development with respect to agricultural crops that have the potential of producing critical materials for strategic and industrial purposes.

(d) Authority of Secretary in carrying out demonstration project

Notwithstanding any other provision of law, in carrying out a demonstration project referred to in subsection (b)(9) of this section, the Secretary may—

(1) enter into a contract or cooperative agreement with, or provide a grant to, any person, or public or private agency or organization, to participate in, carry out, support, or stimulate such project;

(2) make available for purposes of clause (1) agricultural commodities or the products thereof acquired by the Commodity Credit Corporation under price support operations conducted by the Corporation; or

(3) use any funds appropriated pursuant to section 178n(a) of this title, or any funds provided by any person, or public or private agency or organization, to carry out such project or reimburse the Commodity Credit Corporation for agricultural commodities or products that are utilized in connection with such project.

(Pub. L. 95-592, § 5, Nov. 4, 1978, 92 Stat. 2531; Pub. L. 98-284, § 5, May 16, 1984, 98 Stat. 182; Pub. L. 99-198, title XIV, § 1439, Dec. 23, 1985, 99 Stat. 1559; Pub. L. 102-237, title X, § 1005(1), Dec. 13, 1991, 105 Stat. 1894.)

AMENDMENTS

1991—Subsec. (b)(9). Pub. L. 102-237 substituted “industrial purposes,” for “industrial purposes,”.

1985—Subsec. (b)(9). Pub. L. 99-198, § 1439(a), extended research program to carrying out demonstration projects to promote the development or commercialization of native agricultural crops, including projects designed to expand domestic or foreign markets for such crops.

Subsec. (d). Pub. L. 99-198, § 1439(b), added subsec. (d). 1984—Subsec. (a). Pub. L. 98-284, § 5(1), added subsec. (a).

Subsec. (b). Pub. L. 98-284, § 5(1), designated existing provisions as subsec. (b) and in first sentence of subsec. (b) as so designated inserted provision relating to development of other critical agricultural materials from native agricultural crops having strategic and industrial importance.

Subsec. (b)(1), (2). Pub. L. 98-284, § 5(2), redesignated cls. (a) and (b) as pars. (1) and (2) of subsec. (b).

Subsec. (b)(3). Pub. L. 98-284, § 5(2), (3), redesignated cl. (c) as par. (3) of subsec. (b) and substituted “accelerating present plant breeding, genetics, and selection programs for the purpose of improving and increasing latex yields, expanding insect and disease resistance, broadening the ranges of drought and cold resistance of the Parthenium plant, and providing a system of regional research trials for enhancing and increasing the supply of foundation seed for certified seed production” for “carrying out breeding and selection programs for the purpose of improving latex yields, expanding insect and disease resistance, and broadening the ranges of drought and cold tolerance of the Parthenium plant”.

Subsec. (b)(4). Pub. L. 98-284, § 5(2), (4), redesignated cl. (d) as par. (4) of subsec. (b) and substituted “establishing a system of large-scale experimental plantings (aggregating ten thousand acres or more) to provide shrub for feedstock to process in the developmental rubber processing facility described in paragraph (7)” for “establishing a system of experimental plantings in arid and semiarid regions of the United States having suitable climatic and soil conditions for the culture of Parthenium”.

Subsec. (b)(5), (6). Pub. L. 98-284, § 5(2), redesignated cls. (e) and (f) as pars. (5) and (6), respectively, of subsec. (b).

Subsec. (b)(7). Pub. L. 98-284, § 5(2), (5), redesignated cl. (g) as par. (7) of subsec. (b) and substituted “accelerating the refinement of present extraction and processing technologies and future extraction technologies, including the development and construction of a developmental rubber processing facility for the extraction and production of test quantities of guayule natural rubber;” for “further refining present extraction technologies and future extraction technologies, including technologies which utilize solar energy; and”.

Subsec. (b)(8). Pub. L. 98-284, § 5(2), redesignated cl. (h) as par. (8) of subsec. (b).

Subsec. (b)(9). Pub. L. 98-284, § 5(7), added par. (9).

Subsec. (c). Pub. L. 98-284, § 5(8), added subsec. (c).

§ 178d. Research and development program by Secretary of Commerce

The Secretary of Commerce is authorized and directed to initiate and carry out research, technology development, technology transfer, and demonstration projects to test and demonstrate the economic feasibility of the manufacture and commercialization of natural rubber from Parthenium or other hydrocarbon-containing plants or the manufacture and commercialization of other critical agricultural materials from native agricultural crops having strategic and industrial importance. Such research shall include but not be limited to—

(a) conducting research and development on extraction and processing techniques;

(b) economic analysis of the production of native latex, including usable byproducts;

(c) studying the environmental, social, and economic impacts of the commercial development of native latex;

(d) evaluating the commercial marketability of Parthenium and rubber derived from other hydrocarbon-containing plants;

(e) further refining present extraction and manufacturing technologies and future extraction and manufacturing technologies, including technologies which utilize solar energy;

(f) developing pertinent material and records on manufacturing of natural rubber which shall be available to other Federal and State agencies and private persons who are interested in or involved in natural rubber development, or manufacture; and

(g) to the extent appropriate, carrying out research activities with respect to native agricultural crops (other than Parthenium and other hydrocarbon-containing plants) that would supply critical agricultural materials for strategic and industrial purposes, in the manner specified in clauses (a) through (f).

(Pub. L. 95-592, §6, Nov. 4, 1978, 92 Stat. 2531; Pub. L. 98-284, §6, May 16, 1984, 98 Stat. 183.)

AMENDMENTS

1984—Pub. L. 98-284, §6(1), (2), inserted in provisions preceding cl. (a) reference to the manufacture and commercialization of other critical agricultural materials from native agricultural crops having strategic and industrial importance, and struck out “may be carried out through the Regional Commissions or otherwise and” after “Such research”.

Cl. (g). Pub. L. 98-284, §6(5), added cl. (g).

§ 178e. Cooperative projects with Mexico, Australia, and Israel

The Secretaries, in consultation with the Secretary of State, are authorized and encouraged to enter into cooperative projects with the Government of Mexico, the Government of Australia, and the Government of Israel in order to accomplish appropriate aspects of the research and development provided for in this subchapter. Such cooperative projects should include, but not be limited to, projects to determine the economic feasibility of extraction and processing of latex and other critical agricultural materials produced in the United States.

(Pub. L. 95-592, §7, Nov. 4, 1978, 92 Stat. 2532; Pub. L. 98-284, §7, May 16, 1984, 98 Stat. 183.)

AMENDMENTS

1984—Pub. L. 98-284 inserted “, the Government of Australia, and the Government of Israel”, and substituted “extraction and processing of latex and other critical agricultural materials produced in the United States” for “latex extraction and processing”.

§ 178f. Assistance from States and public agencies; contracts and agreements

The Secretaries are authorized to accept financial or other assistance from any State or public agency to aid in carrying out the provisions of this subchapter and to enter into contracts with respect to such assistance and to enter into agreements with any State or public agency for the purpose of demonstrating, transferring, or applying results of research or methods of economic development relating to native latex or to other critical agricultural materials.

(Pub. L. 95-592, §8, Nov. 4, 1978, 92 Stat. 2532; Pub. L. 98-284, §8, May 16, 1984, 98 Stat. 183.)

AMENDMENTS

1984—Pub. L. 98-284 inserted “or to other critical agricultural materials”.

§ 178g. Powers of Secretary of Agriculture

In carrying out the provisions of this subchapter, the Secretary of Agriculture is authorized to—

(a) make grants to States, education institutions, scientific organizations, and Indian tribes as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 25 U.S.C. 450), and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of biologists, agronomists, foresters, geneticists, chemists, engineers, economists, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal and State scientific laboratories;

(d) establish and operate necessary facilities and plantations to carry out the continuous research, testing, development, and programing necessary to effectuate the purposes of this subchapter;

(e) acquire secret processes, technical data, inventions, patent applications, patents, licenses, land and interest in land (including water rights), facilities, and other property or rights by purchase, license, lease, or donation;

(f) assemble and maintain pertinent and current literature and publications, patents and licenses, land and interests in land;

(g) cause onsite inspections to be made of promising projects, domestic or foreign, and, in the case of projects located in the United States, cooperate and participate in their development when the Secretary determines that the purpose of this subchapter will be served thereby;

(h) foster and participate in regional, national, and international conferences relating to native latex culture or the culture of other native agricultural crops which could supply critical agricultural materials;

(i) coordinate, correlate, and publish information with a view to advancing the development of native latex technology or the technology of other native agricultural crops which could supply critical agricultural materials; and

(j) cooperate with other Federal departments and agencies, with State and local departments, agencies, and instrumentalities, and with interested persons, firms, institutions, and organizations.

(Pub. L. 95-592, §9, Nov. 4, 1978, 92 Stat. 2532; Pub. L. 98-284, §9, May 16, 1984, 98 Stat. 183.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act (Public Law 93-638, 25 U.S.C. 450), as amended, referred to in cl. (a), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

AMENDMENTS

1984—Cl. (h). Pub. L. 98-284, §9(1), inserted “or the culture of other native agricultural crops which could supply critical agricultural materials”.

Cl. (i). Pub. L. 98-284, §9(2), inserted “or the technology of other native agricultural crops which could supply critical agricultural materials”.

§ 178h. Powers of Secretary of Commerce

In carrying out the provisions of this subchapter, the Secretary of Commerce is authorized to—

(a) make grants to States, education institutions, scientific organizations, and Indian tribes as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 25 U.S.C. 450), and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of biologists, agronomists, foresters, geneticists, engineers, economists, and other personnel having expertise in native agricultural crops which could supply critical agricultural materials by contract or otherwise;

(c) utilize the facilities of Federal and State institutions and other scientific laboratories;

(d) establish and operate necessary facilities and pilot plants to carry out the continuous research, testing, development, and programming necessary to effectuate the purposes of this section;

(e) acquire secret processes, technical data, invention, patent applications, patents, licenses, land and interests in land (including water rights), plants and facilities, and other property or rights by purchase, license, lease, or donation; and

(f) foster and participate in regional, national, and international conferences relating to the activities authorized by this subchapter.

(Pub. L. 95-592, §10, Nov. 4, 1978, 92 Stat. 2533; Pub. L. 98-284, §10, May 16, 1984, 98 Stat. 184.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act (Public Law 93-638, 25 U.S.C. 450), as amended, referred to in cl. (a), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

AMENDMENTS

1984—Pub. L. 98-284, §10(1), (2), in provisions preceding cl. (a) substituted “this subchapter” for “this section” and struck out “, acting through the Regional Commissions or otherwise,” after “the Secretary of Commerce”.

Cl. (b). Pub. L. 98-284, §10(3), inserted “having expertise in native agricultural crops which could supply critical agricultural materials”.

Cl. (f). Pub. L. 98-284, §10(4), substituted “the activities authorized by this subchapter” for “natural rubber manufacture”.

§ 178i. Coordination of activities with Federal agencies

In carrying out the provisions of this subchapter, the Secretaries and the Joint Commis-

sion shall cooperate with each other in the conduct of their activities under this subchapter, and shall ensure that their activities under this subchapter are closely coordinated with the activities of other Federal agencies such as the Department of the Interior, National Science Foundation, Bureau of Indian Affairs, Department of Energy, Department of State, Department of Defense, Treasury Department, Federal Emergency Management Agency, and others, in order to prevent duplication of effort, ensure compatibility with ongoing programs and policies, and to fully exploit the opportunities inherent in the culture and manufacture of native latex.

(Pub. L. 95-592, §11, Nov. 4, 1978, 92 Stat. 2533; Pub. L. 98-284, §11, May 16, 1984, 98 Stat. 184; Pub. L. 102-237, title X, §1005(2), Dec. 13, 1991, 105 Stat. 1894.)

AMENDMENTS

1991—Pub. L. 102-237 substituted “ensure” for “insure” in two places.

1984—Pub. L. 98-284 substituted “shall cooperate with each other in the conduct of their activities under this subchapter, and shall insure that their activities under this subchapter are closely coordinated with the activities of other Federal agencies” for “shall insure that their activities are closely coordinated with the activities of other Federal agencies” and “Federal Emergency Management Agency, and others,” for “Federal Preparedness Agency, and others”, and inserted “Department of State,”.

§ 178j. Laws governing inventions under this subchapter

Relative to the definitions of, title to, and licensing of inventions made or conceived in the course of or under any contract or grant pursuant to this subchapter, and notwithstanding any other provisions of law, the provisions of sections 5908 and 5909 of title 42 shall govern.

(Pub. L. 95-592, §12, Nov. 4, 1978, 92 Stat. 2533.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 35 section 210.

§ 178k. Disposition of byproducts and strategic and industrially important products

The Secretaries may dispose of any latex, resin, wax, pulp, and any other byproducts, as well as products, other than rubber, developed from agricultural crops which are of strategic and industrial importance, resulting from operations under this subchapter. Dispositions under this section may include sales of the materials involved to other Federal departments and agencies for testing purposes. All moneys received from dispositions under this section shall be paid into the Treasury as miscellaneous receipts.

(Pub. L. 95-592, §13, Nov. 4, 1978, 92 Stat. 2533; Pub. L. 98-284, §12, May 16, 1984, 98 Stat. 184.)

AMENDMENTS

1984—Pub. L. 98-284, substituted “The Secretaries” for “The Secretary of Agriculture and the Secretary of Commerce”, and inserted “, as well as products, other than rubber, developed from agricultural crops which are of strategic and industrial importance,” and “Dispositions under this section may include sales of the

materials involved to other Federal departments and agencies for testing purposes.”

§ 178f. Rules and regulations

The Secretaries may issue rules and regulations necessary to effectuate the purposes of this subchapter.

(Pub. L. 95-592, §14, Nov. 4, 1978, 92 Stat. 2533; Pub. L. 98-284, §13, May 16, 1984, 98 Stat. 184.)

AMENDMENTS

1984—Pub. L. 98-284 substituted “The Secretaries” for “The Secretary of Agriculture and the Secretary of Commerce”.

§ 178m. Report to President and Congress

The Secretaries shall submit to the President and the Congress, no later than December 31, 1980, and each year thereafter through 1987, a report on the status of the research, development, and other work underway under this subchapter. Such report shall (1) recommend specific directions for further research, development and other work, and (2) recommend funding levels for various elements of the overall project.

(Pub. L. 95-592, §15, Nov. 4, 1978, 92 Stat. 2533; Pub. L. 98-284, §14, May 16, 1984, 98 Stat. 184.)

AMENDMENTS

1984—Pub. L. 98-284 substituted “The Secretaries” for “The Secretary of Agriculture and the Secretary of Commerce” and “1987” for “1982”.

§ 178n. Administration and funding

(a) Authorization of appropriations to Secretary of Agriculture

There are authorized to be appropriated to the Secretary of Agriculture such sums as are necessary to carry out this subchapter in each of the fiscal years 1991 through 1995.

(b) Administration and management

No more than 3 per centum of funds authorized under subsection (a) of this section shall be available for administration and management of the program.

(c) Contract authority as limited by amounts provided in appropriations acts

Notwithstanding any other provision of this subchapter the authority to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

(d) Activities limited to critical materials other than native latex after fiscal 1988

Notwithstanding any other provision of this subchapter, the Secretaries and the Joint Commission shall limit their activities under this subchapter to critical agricultural materials other than native latex after the close of the fiscal year ending September 30, 1988.

(Pub. L. 95-592, §16, Nov. 4, 1978, 92 Stat. 2534; Pub. L. 98-284, §15, May 16, 1984, 98 Stat. 184; Pub. L. 101-624, title XVI, §1601(e), Nov. 28, 1990, 104 Stat. 3704.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-624, §1601(e)(1), added subsec. (a) and struck out former subsec. (a) which read

as follows: “There is authorized to be appropriated to the Secretary of Agriculture \$2,500,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981, \$5,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, \$5,000,000 for the fiscal year ending September 30, 1984, \$5,500,000 for the fiscal year ending September 30, 1985, \$6,500,000 for the fiscal year ending September 30, 1986, \$7,500,000 for the fiscal year ending September 30, 1987, and \$8,000,000 for the fiscal year ending September 30, 1988, to carry out the purposes of this subchapter. Funds appropriated under this paragraph shall be available for obligation until the last day of the fiscal year after the year for which such funds are authorized.”

Subsec. (b). Pub. L. 101-624, §1601(e)(2)-(4), redesignated subsec. (c) as (b) and substituted “subsection (a)” for “subsections (a) and (b)”, and struck out former subsec. (b) which read as follows: “There is authorized to be appropriated to the Secretary of Commerce \$2,500,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981, \$5,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, \$2,500,000 for the fiscal year ending September 30, 1984, \$3,000,000 for the fiscal year ending September 30, 1985, \$3,500,000 for the fiscal year ending September 30, 1986, \$4,000,000 for the fiscal year ending September 30, 1987, and \$4,500,000 for the fiscal year ending September 30, 1988, to carry out the purposes of this subchapter. Funds appropriated under this paragraph shall be available for obligation until the last day of the fiscal year after the year for which such funds are authorized.”

Subsecs. (c) to (e). Pub. L. 101-624, §1601(e)(4), redesignated subsecs. (c) to (e) as (b) to (d), respectively.

1984—Subsec. (a). Pub. L. 98-284, §15(a), inserted “\$5,000,000 for the fiscal year ending September 30, 1984, \$5,500,000 for the fiscal year ending September 30, 1985, \$6,500,000 for the fiscal year ending September 30, 1986, \$7,500,000 for the fiscal year ending September 30, 1987, and \$8,000,000 for the fiscal year ending September 30, 1988,” and struck out “and” after “1981.”.

Subsec. (b). Pub. L. 98-284, §15(b), inserted “\$2,500,000 for the fiscal year ending September 30, 1984, \$3,000,000 for the fiscal year ending September 30, 1985, \$3,500,000 for the fiscal year ending September 30, 1986, \$4,000,000 for the fiscal year ending September 30, 1987, and \$4,500,000 for the fiscal year ending September 30, 1988,” and struck out “and” after “1981.”.

Subsec. (e). Pub. L. 98-284, §15(c), added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 178c of this title.

CHAPTER 9—PACKERS AND STOCKYARDS

SUBCHAPTER I—GENERAL DEFINITIONS

Sec.	
181.	Short title.
182.	Definitions.
183.	When transaction deemed in commerce; “State” defined.

SUBCHAPTER II—PACKERS GENERALLY

191.	“Packer” defined.
192.	Unlawful practices enumerated.
193.	Procedure before Secretary for violations. <ol style="list-style-type: none"> (a) Complaint; hearing; intervention. (b) Report and order; penalty. (c) Amendment of report or order. (d) Service of process.
194.	Conclusiveness of order; appeal and review. <ol style="list-style-type: none"> (a) Filing of petition; bond. (b) Filing of record by Secretary. (c) Temporary injunction. (d) Evidence. (e) Action by court. (f) Additional evidence. (g) Injunction. (h) Finality.

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| <p>Sec.
195. Punishment for violation of order.
196. Statutory trust established; livestock.
 (a) Protection of public interest from inadequate financing arrangements.
 (b) Livestock, inventories, receivables and proceeds held by packer in trust for benefit of unpaid cash sellers; time limitations; exempt packers; effect of dishonored instruments; preservation of trust benefits by seller.
 (c) Definition of cash sale.
197. Statutory trust established; poultry.
 (a) Protection of public interest from inadequate financing arrangements.
 (b) Poultry, inventories, receivables and proceeds held by dealer in trust for benefit of unpaid cash sellers or poultry growers.
 (c) Effect of dishonored instruments.
 (d) Preservation of trust benefit by seller or poultry grower.
 (e) Definition of cash sale.</p> <p>SUBCHAPTER III—STOCKYARDS AND STOCKYARD DEALERS</p> <p>201. “Stockyard owner”; “stockyard services”; “market agency”; “dealer”; defined.
202. “Stockyard” defined; determination by Secretary as to particular yard.
203. Activity as stockyard dealer or market agency; benefits to business and welfare of stockyard; registration; penalty for failure to register.
204. Bond and suspension of registrants.
205. General duty as to services; revocation of registration.
206. Rates and charges generally; discrimination.
207. Schedule of rates.
 (a) Filing; public inspection.
 (b) Detail required; form.
 (c) Changes.
 (d) Rejection by Secretary.
 (e) Determination of lawfulness; hearing; suspension.
 (f) Suspension of operations; compliance.
 (g) Penalty.
 (h) Intentional violations; penalty.
208. Unreasonable or discriminatory practices generally; rights of stockyard owner of management and regulation.
209. Liability to individuals for violations; enforcement generally.
210. Proceedings before Secretary for violations.
 (a) Complaint; response; satisfaction or investigation.
 (b) Complaints forwarded by agencies of a State or Territory.
 (c) Inquiries instituted by Secretary.
 (d) Damage to complainant not required.
 (e) Award and payment of damages.
 (f) Enforcement of orders.
211. Order of Secretary as to charges or practices; prescribing rates and practices generally.
212. Prescribing rates and practices to prevent discrimination between intrastate and interstate commerce.
213. Prevention of unfair, discriminatory, or deceptive practices.
214. Effective date of orders.
215. Failure to obey orders; punishment.
216. Proceedings to enforce orders; injunction.
217. Proceedings for suspension of orders.
217a. Fees for inspection of brands or marks.
 (a) Authorization by Secretary; registration as market agency.
 (b) Applicability of section.
 (c) Collection and payment of charges.
 (d) Revocation of authorization or registration.</p> | <p>Sec.
SUBCHAPTER IV—LIVE POULTRY DEALERS AND HANDLERS</p> <p>218 to 218d. Repealed.</p> <p>SUBCHAPTER V—GENERAL PROVISIONS</p> <p>221. Accounts and records of business; punishment for failure to keep.
222. Federal Trade Commission powers adopted for enforcement of chapter.
223. Responsibility of principal for act or omission of agent.
224. Attorney General to institute court proceedings for enforcement.
225. Laws unaffected.
226. Powers of Interstate Commerce Commission unaffected.
227. Powers of Federal Trade Commission and Secretary of Agriculture.
 (a) Omitted.
 (b) Jurisdiction of Federal Trade Commission.
 (c) Limitation of Federal Trade Commission jurisdiction.
 (d) Jurisdiction of Secretary of Agriculture except for poultry products.
 (e) Jurisdiction of Secretary of Agriculture regarding poultry products.
 (f) Information to be included in annual reports.
228. Authority of Secretary.
 (a) Rules, regulations, and expenditures; appropriations.
 (b) Deductions from proceeds for financing promotional, educational, and research activities.
 (c) Budget estimate; testimony of Secretary before Congressional committees.
 (d) Development and promulgation of rules governing hearings.
 (e) Definitions.
228a. Authority of Secretary to request temporary injunction or restraining order.
228b. Prompt payment for purchase of livestock.
 (a) Full amount of purchase price required; methods of payment.
 (b) Waiver of prompt payment by written agreement; disclosure requirements.
 (c) Delay in payment or attempt to delay deemed unfair practice.
228b-1. Final date for making payment to cash seller or poultry grower.
 (a) Delivery of full amount due.
 (b) Delay or attempt to delay collection of funds as “unfair practice”.
 (c) Definition of cash sale.
228b-2. Violations by live poultry dealers.
 (a) Written complaint by Secretary; hearing; intervention; amended complaint.
 (b) Report on findings of fact by Secretary; cease and desist order; assessment of civil penalty; action by Attorney General upon live poultry dealer’s failure to pay penalty.
 (c) Amendment or setting aside of report or order.
 (d) Service of complaints, orders, and other processes.
228b-3. Judicial review of order regarding live poultry dealer.
 (a) Finality of order unless appeal to court of appeals; time limit; bond.
 (b) Notification of appeal to Secretary; filing of record with court.
 (c) Issuance of temporary injunction.
 (d) Evidence in record as evidence in case; expedited proceedings.</p> |
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Sec.

- (e) Action by court.
 - (f) Taking of additional evidence; modified or additional findings by Secretary.
 - (g) Affirmance or modification of order as injunction.
 - (h) Exclusive jurisdiction of court of appeals; finality of decree; appeal to Supreme Court; stay of decree.
- 228b-4. Violation of final order by live poultry dealer; penalty.
- 228c. Federal preemption of State and local requirements.
229. Separability.

SUBCHAPTER VI—CHARGE FOR INSPECTION

231. Omitted.

TRANSFER OF FUNCTIONS

Functions of Bureau of Animal Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat 952. See note set out under section 391 of this title.

By order of Secretary of Agriculture, Packers and Stockyards Administration abolished on July 1, 1927, and enforcement of Packers and Stockyards Act of 1921, which is classified to this chapter, was put under control of chief of Bureau of Animal Industry.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 11 section 525; title 15 sections 45, 1607, 1681s, 1691c, 1692j; title 28 section 2342.

SUBCHAPTER I—GENERAL DEFINITIONS

§ 181. Short title

This chapter may be cited as the “Packers and Stockyards Act, 1921.”

(Aug. 15, 1921, ch. 64, title I, § 1, 42 Stat. 159.)

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100-173, § 1, Nov. 23, 1987, 101 Stat. 917, provided that: “This Act [enacting sections 197 and 228b-1 to 228b-4 of this title, amending sections 182, 192, 209, 221, 223, 227, and 228a of this title, repealing sections 218 to 218d of this title, and enacting provisions set out as notes under sections 182 and 227 of this title] may be cited as the ‘Poultry Producers Financial Protection Act of 1987.’”

§ 182. Definitions

When used in this chapter—

- (1) The term “person” includes individuals, partnerships, corporations, and associations;
- (2) The term “Secretary” means the Secretary of Agriculture;
- (3) The term “meat food products” means all products and byproducts of the slaughtering and meat-packing industry—if edible;
- (4) The term “livestock” means cattle, sheep, swine, horses, mules, or goats—whether live or dead;
- (5) The term “livestock products” means all products and byproducts (other than meats and meat food products) of the slaughtering and meat-packing industry derived in whole or in part from livestock;
- (6) The term “poultry” means chickens, turkeys, ducks, geese, and other domestic fowl;
- (7) The term “poultry product” means any product or byproduct of the business of slaughtering poultry and processing poultry after slaughter;

(8) The term “poultry grower” means any person engaged in the business of raising and caring for live poultry for slaughter by another, whether the poultry is owned by such person or by another, but not an employee of the owner of such poultry;

(9) The term “poultry growing arrangement” means any growout contract, marketing agreement, or other arrangement under which a poultry grower raises and cares for live poultry for delivery, in accord with another’s instructions, for slaughter;

(10) The term “live poultry dealer” means any person engaged in the business of obtaining live poultry by purchase or under a poultry growing arrangement for the purpose of either slaughtering it or selling it for slaughter by another, if poultry is obtained by such person in commerce, or if poultry obtained by such person is sold or shipped in commerce, or if poultry products from poultry obtained by such person are sold or shipped in commerce; and

(11) The term “commerce” means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia.

(Aug. 15, 1921, ch. 64, title I, § 2(a), 42 Stat. 159; Sept. 13, 1976, Pub. L. 94-410, § 3(c), 90 Stat. 1249; Nov. 23, 1987, Pub. L. 100-173, § 2, 101 Stat. 917.)

CODIFICATION

Section is composed of subsec. (a) of section 2 of act Aug. 15, 1921. Subsec. (b) of section 2 is classified to section 183 of this title.

AMENDMENTS

1987—Pars. (6) to (11). Pub. L. 100-173 added pars. (6) to (10) and redesignated former par. (6) as (11).

1976—Pars. (4), (5). Pub. L. 94-410 substituted “live-stock” for “live stock” in par. (4) and for “live-stock” in par. (5).

EFFECTIVE DATE OF 1987 AMENDMENT

Section 12 of Pub. L. 100-173 provided that: “This Act and the amendments made by this Act [enacting sections 197 and 228b-1 to 228b-4 of this title, amending this section and sections 192, 209, 221, 223, 227, and 228a of this title, repealing sections 218 to 218d of this title, and enacting provisions set out as notes under sections 181 and 227 of this title] shall take effect 90 days after the date of the enactment of this Act [Nov. 23, 1987].”

SAVINGS PROVISION

Section 10 of Pub. L. 94-410 provided that: “Pending proceedings shall not be abated by reason of any provision of this Act [enacting sections 196 and 228a to 228c of this title and amending this section and sections 183, 191-193, 201, 204, 207, 209, 210, 212, 213, 228, and 229 of this title], but shall be disposed of pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended [this chapter], and the Act of July 12, 1943 [section 204 of this title], in effect immediately prior to the effective date of this Act [Sept. 13, 1976].”

CROSS REFERENCES

Dealer, see section 201 of this title.
 Definition of commerce as not limited by definition of transaction in commerce, see section 183 of this title.
 Market agency, see section 201 of this title.

Packer, see section 191 of this title.
 Stockyard, see section 202 of this title.
 Stockyard owner, see section 201 of this title.
 Stockyard services, see section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 183 of this title; title 31 section 3903.

§ 183. When transaction deemed in commerce; “State” defined

For the purpose of this chapter (but not in anywise limiting the definition in section 182 of this title) a transaction in respect to any article shall be considered to be in commerce if such article is part of that current of commerce usual in the livestock and meat-packing industries, whereby livestock, meats, meat food products, livestock products, dairy products, poultry, poultry products, or eggs, are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for slaughter of livestock within the State and the shipment outside the State of the products resulting from such slaughter. Articles normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter. For the purpose of this section the word “State” includes Territory, the District of Columbia, possession of the United States, and foreign nation.

(Aug. 15, 1921, ch. 64, title I, §2(b), 42 Stat. 160; Sept. 13, 1976, Pub. L. 94-410, §3(c), 90 Stat. 1249.)

CODIFICATION

Section is composed of subsec. (b) of section 2 of act Aug. 15, 1921. Subsec. (a) of section 2 is classified to section 182 of this title.

AMENDMENTS

1976—Pub. L. 94-410 substituted “livestock” for “live stock” and “live-stock” wherever appearing.

SUBCHAPTER II—PACKERS GENERALLY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 204 of this title.

§ 191. “Packer” defined

When used in this chapter the term “packer” means any person engaged in the business (a) of buying livestock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce.

(Aug. 15, 1921, ch. 64, title II, §201, 42 Stat. 160; Sept. 13, 1976, Pub. L. 94-410, §2, 90 Stat. 1249.)

AMENDMENTS

1976—Pub. L. 94-410 substituted definition of “packer” for former definition which included provisions dealing with direct or indirect control of specified businesses through stock ownership or otherwise.

§ 192. Unlawful practices enumerated

It shall be unlawful for any packer with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, or for any live poultry dealer with respect to live poultry, to:

(a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device; or
 (b) Make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

(c) Sell or otherwise transfer to or for any other packer or any live poultry dealer, or buy or otherwise receive from or for any other packer or any live poultry dealer, any article for the purpose or with the effect of apportioning the supply between any such persons, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly; or

(d) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(e) Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(f) Conspire, combine, agree, or arrange with any other person (1) to apportion territory for carrying on business, or (2) to apportion purchases or sales of any article, or (3) to manipulate or control prices; or

(g) Conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivisions (a), (b), (c), (d), or (e) of this section.

(Aug. 15, 1921, ch. 64, title II, §202, 42 Stat. 161; Aug. 15, 1921, ch. 64, title V, §503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649; Sept. 2, 1958, Pub. L. 85-909, §1(1), 72 Stat. 1749; Sept. 13, 1976, Pub. L. 94-410, §3(a), 90 Stat. 1249; Nov. 23, 1987, Pub. L. 100-173, §3, 101 Stat. 917; Dec. 13, 1991, Pub. L. 102-237, title X, §1008(1), 105 Stat. 1898.)

AMENDMENTS

1991—Subsec. (c). Pub. L. 102-237 substituted a comma for period after second reference to “dealer”.

1987—Pub. L. 100-173, §3(1), substituted “for any packer with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, or for any live poultry dealer with respect to live poultry, to” for “with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry, or poultry products for any packer or any live poultry dealer or handler to” in introductory provisions.

Par. (c). Pub. L. 100-173, §3(2), struck out reference to poultry handlers wherever appearing and substituted “such persons” for “such packers”.

1976—Pub. L. 94-410 struck out “in commerce” wherever appearing.

1958—Pub. L. 85-909 inserted “with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry, or poultry products” after “unlawful”.

1935—Act Aug. 15, 1921, title V, § 503, as added Aug. 14, 1935, inserted “or any live poultry dealer or handler” after “packer” wherever appearing.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as a note under section 182 of this title.

§ 193. Procedure before Secretary for violations

(a) Complaint; hearing; intervention

Whenever the Secretary has reason to believe that any packer has violated or is violating any provision of this subchapter, he shall cause a complaint in writing to be served upon the packer, stating his charges in that respect, and requiring the packer to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the packer a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may on application be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing the Secretary may amend the complaint; but in case of any amendment adding new charges the hearing shall, on the request of the packer, be adjourned for a period not exceeding fifteen days.

(b) Report and order; penalty

If, after such hearing, the Secretary finds that the packer has violated or is violating any provisions of this subchapter covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the packer an order requiring such packer to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture. The Secretary may also assess a civil penalty of not more than \$10,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General who may recover such penalty by an action in the appropriate district court of the United States.

(c) Amendment of report or order

Until the record in such hearing has been filed in a court of appeals of the United States, as provided in section 194 of this title, the Secretary at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the packer to be heard, may amend or set aside the report or order, in whole or in part.

(d) Service of process

Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 45 of title 15.

(Aug. 15, 1921, ch. 64, title II, § 203, 42 Stat. 161; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85-791, § 6(a), 72 Stat. 944; Sept. 13, 1976, Pub. L. 94-410, § 3(b), 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-410 inserted provisions dealing with authority of Secretary to assess a civil penalty for violations and, upon failure to pay, procedure for recovery of such penalty.

1958—Subsec. (c). Pub. L. 85-791 struck out “a transcript of” after “until”.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted “court of appeals” for “circuit court of appeals”.

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.

CROSS REFERENCES

Enforcement by Secretary of Agriculture under this chapter, with respect to activities subject to this chapter, of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, see section 1607 of Title 15.

Enforcement of orders by district courts, see section 2351 of Title 28, Judiciary and Judicial Procedure.

Finality of orders under this section, see section 194 of this title.

Punishment for violation of order, see section 195 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 194, 195, 204 of this title; title 28 section 2351.

§ 194. Conclusiveness of order; appeal and review

(a) Filing of petition; bond

An order made under section 193 of this title shall be final and conclusive unless within thirty days after service the packer appeals to the court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such packer will pay the costs of the proceedings if the court so directs.

(b) Filing of record by Secretary

The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28. If before such record is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(c) Temporary injunction

At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, restraining, to the extent it deems proper, the packer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

(d) Evidence

The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case.

(e) Action by court

The court may affirm, modify, or set aside the order of the Secretary.

(f) Additional evidence

If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modifications or setting aside of his order, with the return of such additional evidence.

(g) Injunction

If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the packer, and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

(h) Finality

The court of appeals shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, if such writ is duly applied for within sixty days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction unless so ordered by the Supreme Court.

(Aug. 15, 1921, ch. 64, title II, §204, 42 Stat. 162; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85-791, §6(b), (c), 72 Stat. 944; Nov. 8, 1984, Pub. L. 98-620, title IV, §402(5), 98 Stat. 3357.)

CODIFICATION

Former subsec. (i), which extended the former term "circuit court of appeals", in case the principal place of business of the packer is in the District of Columbia, to the United States Court of Appeals for the District of Columbia, for the purposes of sections 191 to 195 of this title, was omitted from the Code as obsolete. The District of Columbia is a judicial circuit under sections 41 and 43 of Title 28, Judiciary and Judicial Procedure. See, also, Change of Name note below.

AMENDMENTS

1984—Subsec. (d). Pub. L. 98-620 struck out provisions requiring proceedings in such cases in the court of appeals to be made a preferred cause and expedited in every way.

1958—Subsec. (b). Pub. L. 85-791 §6(b), substituted "thereupon file in the court" for "forthwith prepare, certify, and file in the court a full and accurate transcript of", and "as provided in section 2112 of Title 28" for "including the complaint, the evidence, and the report and order" in first sentence, and "record" for "transcript" in second sentence.

Subsec. (c). Pub. L. 85-791, §6(b), substituted "petition" for "transcript".

Subsec. (d). Pub. L. 85-791, §6(b), struck out "duly certified" after "admitted".

Subsec. (h). Pub. L. 85-791, §6(c), substituted "jurisdiction, which upon the finding of the record with it shall be exclusive," for "exclusive jurisdiction," and section "1254" for "347".

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended May 24, 1949, substituted "court of appeals" for "circuit court of appeals", wherever appearing.

Act of June 7, 1934, provided that Court of Appeals in District of Columbia, should hereafter be known as the United States Court of Appeals for the District of Columbia.

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.

CROSS REFERENCES

Amending or setting aside report or order affecting packer prior to filing of transcript of record in court of appeals, see section 193 of this title.

Federal meat inspection labeling, marking, and container requirements, provisions of section as applicable to appeals, see section 606 of Title 21, Food and Drugs.

Injunction by courts of appeals restraining orders, see section 2349 of Title 28, Judiciary and Judicial Procedure.

Review of cases in courts of appeals by the Supreme Court, see section 1254 of Title 28.

Review of orders by court of appeals, see section 2341 et seq. of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 193, 195 of this title; title 21 sections 457, 467, 607, 1036, 1047.

§ 195. Punishment for violation of order

Any packer, or any officer, director, agent, or employee of a packer, who fails to obey any order of the Secretary issued under the provisions of section 193 of this title, or such order as modified—

(1) After the expiration of the time allowed for filing a petition in the court of appeals to set aside or modify such order, if no such petition has been filed within such time; or

(2) After the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) After such order, or such order as modified, has been sustained by the courts as provided in section 194 of this title; shall on conviction be fined not less than \$500 nor more than \$10,000, or imprisoned for not less than

six months nor more than five years, or both. Each day during which such failure continues shall be deemed a separate offense.

(Aug. 15, 1921, ch. 64, title II, §205, 42 Stat. 163; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107.)

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals", wherever appearing in this section.

§ 196. Statutory trust established; livestock

(a) Protection of public interest from inadequate financing arrangements

It is hereby found that a burden on and obstruction to commerce in livestock is caused by financing arrangements under which packers encumber, give lenders security interest in, or place liens on, livestock purchased by packers in cash sales, or on inventories of or receivables or proceeds from meat, meat food products, or livestock products therefrom, when payment is not made for the livestock and that such arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in livestock and protect the public interest.

(b) Livestock, inventories, receivables and proceeds held by packer in trust for benefit of unpaid cash sellers; time limitations; exempt packers; effect of dishonored instruments; preservation of trust benefits by seller

All livestock purchased by a packer in cash sales, and all inventories of, or receivables or proceeds from meat, meat food products, or livestock products derived therefrom, shall be held by such packer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers: *Provided*, That any packer whose average annual purchases do not exceed \$500,000 will be exempt from the provisions of this section. Payment shall not be considered to have been made if the seller receives a payment instrument which is dishonored: *Provided*, That the unpaid seller shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within thirty days of the final date for making a payment under section 228b of this title, or within fifteen business days after the seller has received notice that the payment instrument promptly presented for payment has been dishonored, the seller has not preserved his trust under this subsection. The trust shall be preserved by giving written notice to the packer and by filing such notice with the Secretary.

(c) Definition of cash sale

For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

(Aug. 15, 1921, ch. 64, title II, §206, as added Sept. 13, 1976, Pub. L. 94-410, §8, 90 Stat. 1251.)

§ 197. Statutory trust established; poultry

(a) Protection of public interest from inadequate financing arrangements

It is hereby found that a burden on and obstruction to commerce in poultry is caused by

financing arrangements under which live poultry dealers encumber, give lenders security interest in, or place liens on, poultry obtained by such persons by purchase in cash sales or by poultry growing arrangements, or on inventories of or receivables or proceeds from such poultry or poultry products therefrom, when payment is not made for the poultry and that such financing arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in poultry and protect the public interest.

(b) Poultry, inventories, receivables and proceeds held by dealer in trust for benefit of unpaid cash sellers or poultry growers

All poultry obtained by a live poultry dealer, by purchase in cash sales or by poultry growing arrangement, and all inventories of, or receivables or proceeds from such poultry or poultry products derived therefrom, shall be held by such live poultry dealer in trust for the benefit of all unpaid cash sellers or poultry growers of such poultry, until full payment has been received by such unpaid cash sellers or poultry growers, unless such live poultry dealer does not have average annual sales of live poultry, or average annual value of live poultry obtained by purchase or by poultry growing arrangement, in excess of \$100,000.

(c) Effect of dishonored instruments

Payment shall not be considered to have been made if the cash seller or poultry grower receives a payment instrument which is dishonored.

(d) Preservation of trust benefit by seller or poultry grower

The unpaid cash seller or poultry grower shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within 30 days of the final date for making payment under section 228b-1 of this title, or within 15 business days after the seller or poultry grower has received notice that the payment instrument promptly presented for payment has been dishonored, the seller or poultry grower has not preserved his trust under this section. The trust shall be preserved by giving written notice to the live poultry dealer and by filing such notice with the Secretary.

(e) Definition of cash sale

For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

(Aug. 15, 1921, ch. 64, title II, §207, as added Nov. 23, 1987, Pub. L. 100-173, §4, 101 Stat. 918.)

EFFECTIVE DATE

Section effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as an Effective Date of 1987 Amendment note under section 182 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 227, 228b-2 of this title.

SUBCHAPTER III—STOCKYARDS AND STOCKYARD DEALERS

§ 201. "Stockyard owner"; "stockyard services"; "market agency"; "dealer"; defined

When used in this chapter—

(a) The term “stockyard owner” means any person engaged in the business of conducting or operating a stockyard;

(b) The term “stockyard services” means services or facilities furnished at a stockyard in connection with the receiving, buying, or selling on a commission basis or otherwise, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling in commerce, or livestock;

(c) The term “market agency” means any person engaged in the business of (1) buying or selling in commerce livestock on a commission basis or (2) furnishing stockyard services; and

(d) The term “dealer” means any person, not a market agency, engaged in the business of buying or selling in commerce livestock, either on his own account or as the employee or agent of the vendor or purchaser.

(Aug. 15, 1921, ch. 64, title III, §301, 42 Stat. 163; Sept. 2, 1958, Pub. L. 85-909, §2(1), 72 Stat. 1750; Sept. 13, 1976, Pub. L. 94-410, §3(c), 90 Stat. 1249.)

AMENDMENTS

1976—Subsecs. (b) to (d). Pub. L. 94-410 substituted “livestock” for “live stock”.

1958—Subsecs. (c), (d). Pub. L. 85-909 struck out “at a stockyard” after “livestock”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 203 of this title.

§ 202. “Stockyard” defined; determination by Secretary as to particular yard

(a) When used in this subchapter the term “stockyard” means any place, establishment, or facility commonly known as stockyards, conducted, operated, or managed for profit or non-profit as a public market for livestock producers, feeders, market agencies, and buyers, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this subchapter until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition.

(Aug. 15, 1921, ch. 64, title III, §302, 42 Stat. 163; Sept. 2, 1958, Pub. L. 85-909, §2(2), 72 Stat. 1750; July 31, 1968, Pub. L. 90-446, §1(a), 82 Stat. 474.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-446 substituted “operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers” for “or operated for compensation or profit as a public market”.

1958—Subsec. (a). Pub. L. 85-909 struck out “Said sections shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of

runs, alleys, or passage ways, is less than twenty thousand square feet.”

TRANSPORTATION OF LIVESTOCK

Section 2(2) of Pub. L. 85-909 provided in part: “That nothing herein [this section] shall be deemed as a definition of the term ‘public stockyards’ as used in section 15(5) of the Interstate Commerce Act [49 U.S.C. 10748].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 203, 207 of this title.

§ 203. Activity as stockyard dealer or market agency; benefits to business and welfare of stockyard; registration; penalty for failure to register

After the expiration of thirty days after the Secretary has given public notice that any stockyard is within the definition of section 202 of this title, by posting copies of such notice in the stockyard, no person shall carry on the business of a market agency or dealer at such stockyard unless (1) the stockyard owner has determined that his services will be beneficial to the business and welfare of said stockyard, its patrons, and customers, which determination shall be made on a basis which is not unreasonable or unjustly discriminatory, and has given written authorization to such person, and (2) he has registered with the Secretary, under such rules and regulations as the Secretary may prescribe, his name and address, the character of business in which he is engaged, and the kinds of stockyards services, if any, which he furnishes at such stockyard. Every other person operating as a market agency or dealer as defined in section 201 of this title may be required to register in such manner as the Secretary may prescribe. Whoever violates the provisions of this section shall be liable to a penalty of not more than \$500 for each such offense and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(Aug. 15, 1921, ch. 64, title III, §303, 42 Stat. 163; Sept. 2, 1958, Pub. L. 85-909, §2(3), 72 Stat. 1750; July 31, 1968, Pub. L. 90-446, §1(b), 82 Stat. 474.)

AMENDMENTS

1968—Pub. L. 90-446 designated existing provisions as cl. (2) and added cl. (1).

1958—Pub. L. 85-909 inserted “Every other person operating as a market agency or dealer as defined in section 201 of this title may be required to register in such manner as the Secretary may prescribe.”

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Jurisdiction of district of action for penalty, see section 1355 of Title 28, Judiciary and Judicial Procedure.

§ 204. Bond and suspension of registrants

On and after July 12, 1943, the Secretary may require reasonable bonds from every market agency (as defined in this subchapter), every packer (as defined in subchapter II of this chapter) in connection with its livestock purchasing operations (except that those packers whose av-

erage annual purchases do not exceed \$500,000 will be exempt from the provisions of this paragraph), and every other person operating as a dealer (as defined in this subchapter) under such rules and regulations as he may prescribe, to secure the performance of their obligations, and whenever, after due notice and hearing, the Secretary finds any registrant is insolvent or has violated any provisions of this chapter he may issue an order suspending such registrant for a reasonable specified period. Such order of suspension shall take effect within not less than five days, unless suspended or modified or set aside by the Secretary or a court of competent jurisdiction. If the Secretary finds any packer is insolvent, he may after notice and hearing issue an order under the provisions of section 193 of this title requiring such packer to cease and desist from purchasing livestock while insolvent, or while insolvent purchasing livestock except under such conditions as the Secretary may prescribe to effectuate the purposes of this chapter.

(July 12, 1943, ch. 215, 57 Stat. 422; Sept. 13, 1976, Pub. L. 94-410, §§ 1, 4, 90 Stat. 1249.)

CODIFICATION

Section was enacted as part of the Department of Agriculture Appropriation Act, 1944, act July 12, 1943, and not as part of the Packers and Stockyards Act which comprises this chapter.

AMENDMENTS

1976—Pub. L. 94-410 inserted provisions exempting market agencies and packers whose average annual purchases do not exceed \$500,000 from bonding requirement and authorizing Secretary, after notice and hearing, to issue cease and desist orders to insolvent packers prohibiting the purchase of livestock except under conditions prescribed by Secretary, respectively.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

July 22, 1942, ch. 516, 56 Stat. 689.
 July 1, 1941, ch. 267, 55 Stat. 432.
 June 25, 1940, ch. 421, 54 Stat. 557.
 June 30, 1939, ch. 253, title I, 53 Stat. 970.
 June 16, 1938, ch. 464, title I, 52 Stat. 721.
 June 29, 1937, ch. 404, 50 Stat. 406.
 June 4, 1936, ch. 489, 49 Stat. 1432.
 May 17, 1935, ch. 131, title I, 49 Stat. 257.
 Mar. 26, 1934, ch. 89, 48 Stat. 477.
 Mar. 3, 1933, ch. 203, 47 Stat. 1441.
 July 7, 1932, ch. 443, 47 Stat. 620.
 Feb. 23, 1931, ch. 278, 46 Stat. 1252.
 May 27, 1930, ch. 341, 46 Stat. 402.
 Feb. 16, 1929, ch. 227, 45 Stat. 1198.
 May 16, 1928, ch. 572, 45 Stat. 547.
 Jan. 18, 1927, ch. 39, 44 Stat. 1002.
 May 11, 1926, ch. 286, 44 Stat. 527.
 Feb. 10, 1925, ch. 200, 43 Stat. 851.
 June 5, 1924, ch. 266, 43 Stat. 460.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 228c of this title; title 11 section 525.

§ 205. General duty as to services; revocation of registration

All stockyard services furnished pursuant to reasonable request made to a stockyard owner or market agency at such stockyard shall be reasonable and nondiscriminatory and stockyard services which are furnished shall not be

refused on any basis that is unreasonable or unjustly discriminatory: *Provided*, That in any State where the weighing of livestock at a stockyard is conducted by a duly authorized department or agency of the State, the Secretary, upon application of such department or agency, may register it as a market agency for the weighing of livestock received in such stockyard, and upon such registration such department or agency and the members thereof shall be amenable to all the requirements of this chapter, and upon failure of such department or agency or the members thereof to comply with the orders of the Secretary under this chapter he is authorized to revoke the registration of such department or agency and to enforce such revocation as provided in section 216 of this title.

(Aug. 15, 1921, ch. 64, title III, §304, 42 Stat. 164; May 5, 1926, ch. 240, 44 Stat. 397; July 31, 1968, Pub. L. 90-446, §1(c), 82 Stat. 474.)

AMENDMENTS

1968—Pub. L. 90-446 inserted provision requiring that stockyard services which are furnished not be refused on any basis that is unreasonable or unjustly discriminatory.

1926—Act May 5, 1926, inserted proviso.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 211 of this title.

§ 206. Rates and charges generally; discrimination

All rates or charges made for any stockyard services furnished at a stockyard by a stockyard owner or market agency shall be just, reasonable, and nondiscriminatory, and any unjust, unreasonable, or discriminatory rate or charge is prohibited and declared to be unlawful: *Provided*, That rates and charges based upon percentages of the gross sales prices of livestock shall not be prohibited merely because they are based upon such percentages rather than on a per head basis.

(Aug. 15, 1921, ch. 64, title III, §305, 42 Stat. 164; Oct. 2, 1978, Pub. L. 95-409, §1(a), 92 Stat. 886.)

AMENDMENTS

1978—Pub. L. 95-409 inserted proviso that rates and charges based upon percentages of gross sales of livestock shall not be prohibited merely because based on such percentages rather than on a per head basis.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 211 of this title.

§ 207. Schedule of rates

(a) Filing; public inspection

Within sixty days after the Secretary has given public notice that a stockyard is within the definition of section 202 of this title, by posting copies of such notice in the stockyard, the stockyard owner and every market agency at such stockyard shall file with the Secretary, and print and keep open to public inspection at the stockyard, schedules showing all rates and charges for the stockyard services furnished by such person at such stockyard. If a market agency commences business at the stockyard after

the expiration of such sixty days such schedules must be filed before any stockyard services are furnished.

(b) Detail required; form

Such schedules shall plainly state all such rates and charges in such detail as the Secretary may require, and shall also state any rules or regulations which in any manner change, affect, or determine any part or the aggregate of such rates or charges, or the value of the stockyard services furnished. The Secretary may determine and prescribe the form and manner in which such schedules shall be prepared, arranged, and posted, and may from time to time make such changes in respect thereto as may be found expedient.

(c) Changes

No changes shall be made in the rates or charges so filed and published, except after ten days' notice to the Secretary and to the public filed and published as aforesaid, which shall plainly state the changes proposed to be made and the time such changes will go into effect; but the Secretary may, for good cause shown, allow changes on less than ten days' notice, or modify the requirements of this section in respect to publishing, posting, and filing of schedules, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

(d) Rejection by Secretary

The Secretary may reject and refuse to file any schedule tendered for filing which does not provide and give lawful notice of its effective date, and any schedule so rejected by the Secretary shall be void and its use shall be unlawful.

(e) Determination of lawfulness; hearing; suspension

Whenever there is filed with the Secretary any schedule, stating a new rate or charge, or a new regulation or practice affecting any rate or charge, the Secretary may either upon complaint or upon his own initiative without complaint, at once, and if he so orders without answer or other formal pleading by the person filing such schedule, but upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, charge, regulation, or practice, and pending such hearing and decision thereon the Secretary, upon filing with such schedule and delivering to the person filing it a statement in writing of his reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, regulation, or practice, but not for a longer period than thirty days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, regulation, or practice goes into effect, the Secretary may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing cannot be concluded within the period of suspension the Secretary may extend the time of suspension for a further period not exceeding thirty days, and if the proceeding has not been concluded and an order made at the expiration of such thirty

days, the proposed change of rate, charge, regulation, or practice shall go into effect at the end of such period.

(f) Suspension of operations; compliance

After the expiration of the sixty days referred to in subsection (a) of this section, no person shall carry on the business of a stockyard owner or market agency unless the rates and charges for the stockyard services furnished at the stockyard have been filed and published in accordance with this section and the orders of the Secretary made thereunder; nor charge, demand, or collect a greater or less or different compensation for such services than the rates and charges specified in the schedules filed and in effect at the time; nor refund or remit in any manner any portion of the rates or charges so specified (but this shall not prohibit a cooperative association of producers from bona fide returning to its members, on a patronage basis, its excess earnings on their livestock, subject to such regulations as the Secretary may prescribe); nor extend to any person at such stockyard any stockyard services except such as are specified in such schedules.

(g) Penalty

Whoever fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall be liable to a penalty of not more than \$500 for each such offense, and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(h) Intentional violations; penalty

Whoever willfully fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall on conviction be fined not more than \$1,000, or imprisoned not more than one year, or both.

(Aug. 15, 1921, ch. 64, title III, §306, 42 Stat. 164; Sept. 13, 1976, Pub. L. 94-410, §3(c), 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-410 substituted "live-stock" for "live stock" after "earnings on their".

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

Jurisdiction of district court of action for penalty, see section 1355 of Title 28, Judiciary and Judicial Procedure.

§ 208. Unreasonable or discriminatory practices generally; rights of stockyard owner of management and regulation

(a) It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services, and every unjust, unreasonable, or discriminatory regulation or practice is prohibited and declared to be unlawful.

(b) It shall be the responsibility and right of every stockyard owner to manage and regulate his stockyard in a just, reasonable, and non-discriminatory manner, to prescribe rules and regulations and to require those persons engaging in or attempting to engage in the purchase, sale, or solicitation of livestock at such stockyard to conduct their operations in a manner which will foster, preserve, or insure an efficient, competitive public market. Such rules and regulations shall not prevent a registered market agency or dealer from rendering service on other markets or in occasional and incidental off-market transactions.

(Aug. 15, 1921, ch. 64, title III, §307, 42 Stat. 165; July 31, 1968, Pub. L. 90-446, §1(d), 82 Stat. 475.)

AMENDMENTS

1968—Pub. L. 90-446 designated existing provisions as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 211 of this title.

§ 209. Liability to individuals for violations; enforcement generally

(a) If any person subject to this chapter violates any of the provisions of this chapter, or of any order of the Secretary under this chapter, relating to the purchase, sale, or handling of livestock, the purchase or sale of poultry, or relating to any poultry growing arrangement, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.

(b) Such liability may be enforced either (1) by complaint to the Secretary as provided in section 210 of this title, or (2) by suit in any district court of the United States of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies.

(Aug. 15, 1921, ch. 64, title III, §308, 42 Stat. 165; Sept. 13, 1976, Pub. L. 94-410, §6, 90 Stat. 1250; Nov. 23, 1987, Pub. L. 100-173, §5, 101 Stat. 918.)

AMENDMENTS

1987—Subsec. (a). Pub. L. 100-173 inserted “the purchase or sale of poultry, or relating to any poultry growing arrangement,” after “livestock.”

1976—Subsec. (a). Pub. L. 94-410 struck out references to violations of specific sections and added packers to categories of regulated persons against whom private action could be brought for violation of chapter.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as a note under section 182 of this title.

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

§ 210. Proceedings before Secretary for violations

(a) Complaint; response; satisfaction or investigation

Any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this

section referred to as the “defendant”) in violation of the provisions of this subchapter, or of an order of the Secretary made under this subchapter, may, at any time within ninety days after the cause of action accrues, apply to the Secretary by petition which shall briefly state the facts, whereupon the complaint thus made shall be forwarded by the Secretary to the defendant, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be specified by the Secretary. If the defendant within the time specified makes reparation for the injury alleged to be done he shall be relieved of liability to the complainant only for the particular violation thus complained of. If the defendant does not satisfy the complaint within the time specified, or there appears to be any reasonable ground for investigating the complaint, it shall be the duty of the Secretary to investigate the matters complained of in such manner and by such means as he deems proper.

(b) Complaints forwarded by agencies of a State or Territory

The Secretary, at the request of the livestock commissioner, board of agriculture, or other agency of a State or Territory, having jurisdiction over stockyards in such State or Territory, shall investigate any complaint forwarded by such agency in like manner and with the same authority and powers as in the case of a complaint made under subsection (a) of this section.

(c) Inquiries instituted by Secretary

The Secretary may at any time institute an inquiry on his own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made to or before the Secretary, by any provision of this subchapter, or concerning which any question may arise under any of the provisions of this subchapter, or relating to the enforcement of any of the provisions of this subchapter. The Secretary shall have the same power and authority to proceed with any inquiry instituted upon his own motion as though he had been appealed to by petition, including the power to make and enforce any order or orders in the case or relating to the matter or thing concerning which the inquiry is had, except orders for the payment of money.

(d) Damage to complainant not required

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

(e) Award and payment of damages

If after hearing on a complaint the Secretary determines that the complainant is entitled to an award of damages, the Secretary shall make an order directing the defendant to pay to the complainant the sum to which he is entitled on or before a day named.

(f) Enforcement of orders

If the defendant does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may within one year of the date of the order file in the district court of the United States for the district in which he resides or in which is lo-

cated the principal place of business of the defendant or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages, and the order of the Secretary in the premises. Such suit in the district court shall proceed in all respects like other civil suits for damages except that the findings and orders of the Secretary shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the suit.

(Aug. 15, 1921, ch. 64, title III, §309, 42 Stat. 165; Sept. 13, 1976, Pub. L. 94-410, §3(c), 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-410 substituted "live-stock" for "live-stock" after "request of the".

FEDERAL RULES OF CIVIL PROCEDURE

Costs, see rule 54, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under subsec. (e) of this section and section 217a of this title, see section 2342 of Title 28, Judiciary and Judicial Procedure.

Enforcement by Secretary of Agriculture under this chapter, with respect to activities subject to this chapter, of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, see section 1607 of Title 15.

Enforcement of liability to individuals for violations, by complaint to Secretary as provided in this section, see section 209 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 209, 211 of this title; title 28 section 2342.

§ 211. Order of Secretary as to charges or practices; prescribing rates and practices generally

Whenever after full hearing upon a complaint made as provided in section 210 of this title, or after full hearing under an order for investigation and hearing made by the Secretary on his own initiative, either in extension of any pending complaint or without any complaint whatever, the Secretary is of the opinion that any rate, charge, regulation, or practice of a stockyard owner or market agency, for or in connection with the furnishing of stockyard services, is or will be violative of section 205, 206, or 208 of this title, the Secretary—

(a) May in accordance with the standard set forth in section 206 of this title determine and prescribe what will be the rate or charge, or rates or charges, to be thereafter in such case observed as the maximum or minimum or both to be charged, and what regulation or practice is or will be just, reasonable, and nondiscriminatory to be thereafter followed: *Provided*, That the Secretary shall prescribe the rate or charge, or rates or charges, on a percentage or per head basis at the election of the stockyard owner or

market agency, or on any other basis elected by the stockyard owner or market agency unless the Secretary finds such other basis to be violative of section 206 of this title; and

(b) May make an order that such owner or operator (1) shall cease and desist from such violation to the extent to which the Secretary finds that it does or will exist; (2) shall not thereafter publish, demand, or collect any rate or charge for the furnishing of stockyard services other than the rate or charge or rates or charges so prescribed; and (3) shall conform to and observe the regulation or practice so prescribed.

(Aug. 15, 1921, ch. 64, title III, §310, 42 Stat. 166; Aug. 10, 1939, ch. 663, 53 Stat. 1351; Oct. 2, 1978, Pub. L. 95-409, §1(b), 92 Stat. 886.)

AMENDMENTS

1978—Pub. L. 95-409, §1(b)(1), in provision preceding subsec. (a), substituted "violative of section 205, 206 or 208 of this title" for "unjust, unreasonable, or discriminatory".

Subsec. (a). Pub. L. 95-409, §1(b)(2), substituted "May in accordance with the standard set forth in section 206 of this title determine and prescribe what will be the rate" for "May determine and prescribe what will be the just and reasonable rate", and "as the maximum or minimum or both" for "as both the maximum and minimum", and inserted proviso relating to prescription by the Secretary of rates or charges on a percentage or per head basis at the election of the owner or agency or any other basis unless violative of section 206 of this title.

Subsec. (b). Pub. L. 95-409, §1(b)(3), substituted "other than the rate or charge or rates or charges" for "more or less than the rate or charge".

1939—Subsec. (a). Act Aug. 10, 1939, substituted "as both" for "or the".

Subsec. (b)(2). Act Aug. 10, 1939, substituted "more or less than the rate or charge so prescribed" for "other than the rate or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 215 of this title.

§ 212. Prescribing rates and practices to prevent discrimination between intrastate and interstate commerce

Whenever in any investigation under the provisions of this subchapter, or in any investigation instituted by petition of the stockyard owner, market agency, or dealer concerned, which petition is authorized to be filed, the Secretary after full hearing finds that any rate, charge, regulation, or practice of any stockyard owner, market agency, or dealer, for or in connection with the buying or selling on a commission basis or otherwise, receiving, marketing, feeding, holding, delivery, shipment, weighing, or handling, not in commerce, of livestock, causes any undue or unreasonable advantage, prejudice, or preference as between persons or localities in intrastate commerce in livestock on the one hand and interstate or foreign commerce in livestock on the other hand, or any undue, unjust, or unreasonable discrimination against interstate or foreign commerce in livestock, which is hereby forbidden and declared to be unlawful, the Secretary shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in his judg-

ment, will remove such advantage, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners, market agencies, or dealers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

(Aug. 15, 1921, ch. 64, title III, §311, 42 Stat. 167; Sept. 2, 1958, Pub. L. 85-909, §2(4), 72 Stat. 1750; Sept. 13, 1976, Pub. L. 94-410, §3(c), 90 Stat. 1249.)

AMENDMENTS

1976—Pub. L. 94-410 substituted “livestock” for “live stock” wherever appearing.

1958—Pub. L. 85-909 substituted “stockyard owner, market agency, or dealer” for “stockyard owner or market agency” wherever occurring, and “stockyard owners, market agencies, or dealers” for “stockyard owners or market agencies”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 215 of this title.

§ 213. Prevention of unfair, discriminatory, or deceptive practices

(a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with determining whether persons should be authorized to operate at the stockyards, or with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing, or handling of livestock.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subsection (a) of this section, the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist. The Secretary may also assess a civil penalty of not more than \$10,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General who may recover such penalty by an action in the appropriate district court of the United States.

(Aug. 15, 1921, ch. 64, title III, §312, 42 Stat. 167; Sept. 2, 1958, Pub. L. 85-909, §2(5), 72 Stat. 1750; July 31, 1968, Pub. L. 90-446, §1(e), 82 Stat. 475; Sept. 13, 1976, Pub. L. 94-410, §3, 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-410, §3(a), (c), struck out “in commerce” after “or handling” and substituted “livestock” for “live stock”.

Subsec. (b). Pub. L. 94-410, §3(b), inserted provisions dealing with authority of Secretary to assess a civil

penalty for violations and, upon failure to pay, procedure for recovery of such penalty.

1968—Subsec. (a). Pub. L. 90-446 inserted “determining whether persons should be authorized to operate at stockyards, or with” after “in connection with”.

1958—Subsec. (a). Pub. L. 85-909 struck out “at a stockyard” after “in commerce”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 215 of this title.

§ 214. Effective date of orders

Except as otherwise provided in this chapter all orders of the Secretary under this subchapter, other than orders for the payment of money, shall take effect within such reasonable time, not less than five days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, according as is prescribed in the order, unless such order is suspended or modified or set aside by the Secretary or is suspended or set aside by a court of competent jurisdiction.

(Aug. 15, 1921, ch. 64, title III, §313, 42 Stat. 167.)

§ 215. Failure to obey orders; punishment

(a) Any stockyard owner, market agency, or dealer who knowingly fails to obey any order made under the provisions of sections 211, 212, or 213 of this title shall forfeit to the United States the sum of \$500 for each offense. Each distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture shall be recoverable in a civil suit in the name of the United States.

(b) It shall be the duty of the various United States attorneys, under the direction of the Attorney General, to prosecute for the recovery of forfeitures. The costs and expense of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

(Aug. 15, 1921, ch. 64, title III, §314, 42 Stat. 167; June 25, 1948, ch. 646, §1, 62 Stat. 909.)

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted “United States attorneys” for “district attorneys” in subsec. (a). See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

CROSS REFERENCES

Jurisdiction of district courts of actions for recovery of forfeitures, see section 1355 of Title 28, Judiciary and Judicial Procedure.

§ 216. Proceedings to enforce orders; injunction

If any stockyard owner, market agency, or dealer fails to obey any order of the Secretary other than for the payment of money while the same is in effect, the Secretary, or any party injured thereby, or the United States by its Attorney General, may apply to the district court for the district in which such person has his principal place of business for the enforcement of such order. If after hearing the court determines that the order was lawfully made and duly served and that such person is in disobedience of the same, the court shall enforce obedience to

such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such person, his officers, agents, or representatives from further disobedience of such order or to enjoin upon him or them obedience to the same.

(Aug. 15, 1921, ch. 64, title III, §315, 42 Stat. 167.)

FEDERAL RULES OF CIVIL PROCEDURE

Injunctions, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Enforcement and review of Interstate Commerce Commission orders, see section 2321 et seq. of Title 28, Judiciary and Judicial Procedure.

Revocation of registration as market agency of department or agency of the State, enforcement as provided in this section, see section 205 of this title.

§ 217. Proceedings for suspension of orders

For the purposes of this subchapter, the provisions of all laws relating to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this subchapter, and to any person subject to the provisions of this subchapter.

(Aug. 15, 1921, ch. 64, title III, §316, 42 Stat. 168.)

FEDERAL RULES OF CIVIL PROCEDURE

Process, stay of proceedings to enforce judgment, and injunctions, see rules 4, 62, 65, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Exclusive jurisdiction of courts of appeals to enjoin and set aside final orders of Secretary of Agriculture under this chapter, see section 2342 of Title 28, Judiciary and Judicial Procedure.

Jurisdiction of district courts to enjoin and set aside orders of Interstate Commerce Commission, see section 1336 of Title 28.

Procedure for enforcement and review of orders of Interstate Commerce Commission, see section 2321 et seq. of Title 28.

§ 217a. Fees for inspection of brands or marks

(a) Authorization by Secretary; registration as market agency

The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this chapter, by any department or agency of any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such au-

thorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the proposed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.

(b) Applicability of section

The provisions of this subchapter, relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.

(c) Collection and payment of charges

Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.

(d) Revocation of authorization or registration

The Secretary may, if he deems it to be in the public interest, suspend, and after hearing, revoke any authorization and registration issued under the provisions of this section or any similar authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review.

(Aug. 15, 1921, ch. 64, title III, §317, as added June 19, 1942, ch. 421, 56 Stat. 372.)

PRIOR PROVISIONS

Former provisions relating to fees for inspection of brands appearing upon livestock were contained in section 231 of this title.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under section 210(e) of this title and this section, see section 2342 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 2342.

SUBCHAPTER IV—LIVE POULTRY DEALERS AND HANDLERS

§§ 218 to 218d. Repealed. Pub. L. 100-173, § 10, Nov. 23, 1987, 101 Stat. 922

Section 218, act Aug. 15, 1921, ch. 64, title V, §501, as added Aug. 14, 1935, ch. 532, 49 Stat. 648, stated necessity

to curb unfair, deceptive, and fraudulent practices relating to live poultry.

Section 218a, act Aug. 15, 1921, ch. 64, title V, §502, as added Aug. 14, 1935, ch. 532, 49 Stat. 648, authorized Secretary to designate cities and markets where unfair practices exist, to require licensing, and to prescribe information to be contained in application license, and authorized penalty for dealing without license.

Section 218b, act Aug. 15, 1921, ch. 64, title V, §503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649, defined "live poultry dealer".

Section 218c, act Aug. 15, 1921, ch. 64, title V, §504, as added Aug. 14, 1935, ch. 532, 49 Stat. 649, related to application of other provisions of this chapter to this subchapter and posting of rates, charges, and rentals in licensee's place of business.

Section 218d, act Aug. 15, 1921, ch. 64, title V, §505, as added Aug. 14, 1935, ch. 532, 49 Stat. 649, related to suspension and revocation of licenses.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as an Effective Date of 1987 Amendment note under section 182 of this title.

SUBCHAPTER V—GENERAL PROVISIONS

§ 221. Accounts and records of business; punishment for failure to keep

Every packer, any live poultry dealer, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. Whenever the Secretary finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept, and thereafter any such person who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary shall upon conviction be fined not more than \$5,000, or imprisoned not more than three years, or both.

(Aug. 15, 1921, ch. 64, title IV, §401, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, §503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649; Nov. 23, 1987, Pub. L. 100-173, §6, 101 Stat. 918.)

AMENDMENTS

1987—Pub. L. 100-173 substituted " , any live poultry dealer," for "or any live poultry dealer or handler,".

1935—Act Aug. 15, 1921, title V, §503, as added Aug. 14, 1935, inserted "or any live poultry dealer or handler" after "packer" wherever appearing.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as a note under section 182 of this title.

LIENS OR SECURITY INTERESTS AGAINST LIVESTOCK; INTERAGENCY TASK FORCE TO RECOMMEND METHOD OF PROVIDING INFORMATION TO PURCHASERS; REPORT TO CONGRESS

Pub. L. 95-409, §2, Oct. 2, 1978, 92 Stat. 887, required the Secretary of Agriculture to appoint a task force to recommend methods of providing information to purchasers of livestock concerning the existence of a lien or security interest against livestock and to submit a report to Congress not later than Feb. 1, 1979.

§ 222. Federal Trade Commission powers adopted for enforcement of chapter

For the efficient execution of the provisions of this chapter, and in order to provide information for the use of Congress, the provisions (including penalties) of sections 46 and 48 to 50 of title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this chapter and to any person subject to the provisions of this chapter, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this chapter in any part of the United States.

(Aug. 15, 1921, ch. 64, title IV, §402, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, §503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

AMENDMENTS

1935—Act Aug. 15, 1921, §503, as added Aug. 14, 1935, purported to insert "or any live poultry dealer or handler" after "packer" but word "packer" does not appear in this section.

TRANSFER OF FUNCTIONS

Executive and administrative functions of Federal Trade Commission, with certain reservations, transferred to Chairman of such Commission by 1950 Reorg. Plan No. 8, §1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoena and application of Rules of Civil Procedure, see rules 45 and 81, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 223. Responsibility of principal for act or omission of agent

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any packer, any live poultry dealer, stockyard owner, market agency, or dealer, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such packer, any live poultry dealer, stockyard owner, market agency, or dealer, as well as that of such agent, officer, or other person.

(Aug. 15, 1921, ch. 64, title IV, §403, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, §503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649; amended Nov. 23, 1987, Pub. L. 100-173, §6, 101 Stat. 918.)

AMENDMENTS

1987—Pub. L. 100-173 substituted " , any live poultry dealer," for "or any live poultry dealer or handler," in two places.

1935—Act Aug. 15, 1921, title V, §503, as added Aug. 14, 1935, inserted "or any live poultry dealer or handler" after "packer" wherever appearing.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as a note under section 182 of this title.

§ 224. Attorney General to institute court proceedings for enforcement

The Secretary may report any violation of this chapter to the Attorney General of the

United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

(Aug. 15, 1921, ch. 64, title IV, § 404, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

AMENDMENTS

1935—Act Aug. 15, 1921, title V, § 503, as added Aug. 14, 1935, purported to insert “or any live poultry dealer or handler” after “packer” but word “packer” does not appear in this section.

CROSS REFERENCES

Enforcement by Secretary of Agriculture under this chapter, with respect to activities subject to this chapter, of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, see section 1607 of Title 15.

§ 225. Laws unaffected

Nothing contained in this chapter, except as otherwise provided herein, shall be construed—

(a) To prevent or interfere with the enforcement of, or the procedure under, the provisions of the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” approved July 2, 1890, the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,” approved October 15, 1914, the Interstate Commerce Act as amended, the Act entitled “An Act to promote export trade, and for other purposes,” approved April 10, 1918 [15 U.S.C. 61 et seq.] or sections 73 to 77, inclusive, of the Act of August 27, 1894, entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes,” as amended by the Act entitled “An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled ‘An Act to reduce taxation, to provide revenue for the Government, and for other purposes.’” approved February 12, 1913, or

(b) To alter, modify, or repeal such Acts or any part or parts thereof, or

(c) To prevent or interfere with any investigation, proceeding, or prosecution begun and pending on August 15, 1921.

(Aug. 15, 1921, ch. 64, title IV, § 405, 42 Stat. 168.)

REFERENCES IN TEXT

The Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies”, approved July 2, 1890, referred to in subsec. (a), means act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which enacted sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes”, approved October 15, 1914, referred to in subsec. (a), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of the Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Interstate Commerce Act, referred to in subsec. (a), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended,

which was classified to chapters 1 (§1 et seq.), 8 (§301 et seq.), 12 (§901 et seq.), 13 (§1001 et seq.), and 19 (1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95-473, §4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

The Act entitled “An Act to promote export trade and for other purposes”, approved April 10, 1918, referred to in subsec. (a), means act Apr. 10, 1918, ch. 50, 40 Stat. 516, known as the Webb-Pomerene Act, which is classified generally to subchapter II (§61 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 66 of Title 15 and Tables.

Sections 73 to 77, inclusive, of the Act of August 27, 1894, entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes”, referred to in subsec. (a), are sections 73 to 77 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, as amended, and are known as the Wilson Tariff Act. Sections 73 to 76 enacted sections 8 to 11 of Title 15. Section 77 was not classified to the Code. For complete classification of this Act to the Code, see Short Title note set out under section 8 of Title 15 and Tables.

The Act entitled “An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled, ‘An Act to reduce taxation, to provide revenue for the Government, and for other purposes.’” approved February 12, 1913, referred to in subsec. (a), is act Feb. 12, 1913, ch. 40, 37 Stat. 667, which is classified to sections 8 and 11 of Title 15.

§ 226. Powers of Interstate Commerce Commission unaffected

Nothing in this chapter shall affect the power or jurisdiction of the Interstate Commerce Commission, nor confer upon the Secretary concurrent power or jurisdiction over any matter within the power or jurisdiction of such commission.

(Aug. 15, 1921, ch. 64, title IV, §406(a), 42 Stat. 169.)

CODIFICATION

Section is comprised of subsec. (a) of section 406, of act Aug. 15, 1921. Subsecs. (b) to (e) of section 406, as amended, are classified to section 227 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 sections 1607, 1681s, 1691c, 1692l.

§ 227. Powers of Federal Trade Commission and Secretary of Agriculture

(a) Omitted

(b) Jurisdiction of Federal Trade Commission

The Federal Trade Commission shall have power and jurisdiction over any matter involving meat, meat food products, livestock products in unmanufactured form, or poultry products, which by this chapter is made subject to the power or jurisdiction of the Secretary, as follows:

(1) When the Secretary in the exercise of his duties requests of the Commission that it make investigations and reports in any case.

(2) In any investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission, arising out of acts or transactions involving meat, meat food products, or livestock products in

unmanufactured form, if the Commission determines that effective exercise of its power or jurisdiction with respect to retail sales of any such commodities is or will be impaired by the absence of power or jurisdiction over all acts or transactions involving such commodities in such investigation or proceeding. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Commissioner shall notify the Secretary of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with regard to acts or transactions (other than retail sales) involving such commodities if the Secretary within ten days from the date of receipt of the notice notifies the Commission that there is pending in his Department an investigation of, or proceeding for the prevention of, an alleged violation of this chapter involving the same subject matter.

(3) Over all transactions in commerce in margarine, oleomargarine, or poultry products and over retail sales of meat, meat food products and livestock products in unmanufactured form.

(c) Limitation of Federal Trade Commission jurisdiction

The Federal Trade Commission shall have no power or jurisdiction over any matter which by this chapter is made subject to the jurisdiction of the Secretary, except as provided in subsection (b) of this section.

(d) Jurisdiction of Secretary of Agriculture except for poultry products

The Secretary of Agriculture shall exercise power or jurisdiction over oleomargarine or retail sales of meat, meat food products, or livestock products in unmanufactured form only when he determines, in any investigation of, or any proceeding for the prevention of, an alleged violation of this chapter, that such action is necessary to avoid impairment of his power or jurisdiction over acts or transactions involving livestock, meat, meat food products, livestock products in unmanufactured form, or poultry other than retail sales thereof. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Secretary shall notify the Federal Trade Commission of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with respect to acts or transactions involving oleomargarine or retail sales of meat, meat food products, or livestock products in unmanufactured form if the Commission within 10 days from the date of receipt of such notice notifies the Secretary that there is pending in the Commission an investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission involving the same subject matter.

(e) Jurisdiction of Secretary of Agriculture regarding poultry products

The Secretary of Agriculture shall exercise jurisdiction over poultry products only in a proceeding brought under section 197 of this title or section 228b-1 of this title when such action is

necessary to avoid impairment of his jurisdiction.

(f) Information to be included in annual reports

The Secretary of Agriculture and the Federal Trade Commission shall include in their respective annual reports information with respect to the administration of subsections (b), (d), and (e) of this section.

(Aug. 15, 1921, ch. 64, title IV, §406, 42 Stat. 169; Sept. 2, 1958, Pub. L. 85-909, §1(2), 72 Stat. 1749; Nov. 23, 1987, Pub. L. 100-173, §7, 101 Stat. 919; Dec. 13, 1991, Pub. L. 102-237, title X, §1008(2), 105 Stat. 1898.)

CODIFICATION

Subsection (a) of section 406 is classified to section 226 of this title.

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102-237 struck out comma after “unmanufactured form.”

1987—Subsec. (b)(2). Pub. L. 100-173, §7(1)(A)(ii), which directed insertion of “or” before “livestock products in unmanufactured form.” was executed by making insertion before “livestock products in unmanufactured form,” as the probable intent of Congress.

Pub. L. 100-173, §7(1)(A)(i), struck out “or poultry products” after “in unmanufactured form.”

Subsec. (b)(3). Pub. L. 100-173, §7(1)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “Over all transactions in commerce in margarine or oleomargarine and over retail sales of meat, meat food products, livestock products in unmanufactured form, and poultry products.”

Subsec. (d). Pub. L. 100-173, §7(2), amended subsec. (d) generally, striking out reference to poultry products in two places and substituting “10 days” for “ten days”.

Subsec. (e). Pub. L. 100-173, §7(3), (4), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 100-173, §7(3), (5), redesignated former subsec. (e) as (f) and substituted “subsections (b), (d), and (e)” for “subsections (b) and (d)”.

1958—Pub. L. 85-909 substituted subsections. (b) to (e) for former provisions providing that Federal Trade Commission shall have no power or jurisdiction over matters within jurisdiction of Secretary of Agriculture except when Secretary requests Commission to make investigations and reports in any case, which were incorporated in subsections. (b)(1) and (c).

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as a note under section 182 of this title.

TRANSFER OF FUNCTIONS

Executive and administrative functions of Federal Trade Commission, with certain reservations, transferred to Chairman of such Commission by 1950 Reorg. Plan No. 8, §1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

CONSTRUCTION OF 1987 AMENDMENTS

Section 11 of Pub. L. 100-173 provided that:

“(a) GENERAL RULE.—The amendments made by this Act [see Short Title of 1987 Amendment note set out under section 181 of this title] to the Packers and Stockyards Act, 1921 [7 U.S.C. 181 et seq.], shall not be construed to limit or otherwise affect the power or jurisdiction of the Federal Trade Commission under the Federal Trade Commission Act [15 U.S.C. 41 et seq.] to prevent the use of—

“(1) unfair methods of competition in or affecting commerce, and

“(2) unfair and deceptive acts or practices in or affecting commerce,

involving poultry products.

“(b) SECRETARY’S AUTHORITY.—Subsection (a) shall not be construed to limit or otherwise affect the authority of the Secretary of Agriculture under section 406(e), as amended, of the Packers and Stockyards Act, 1921 [7 U.S.C. 227(e)].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 sections 45, 1607, 1681s, 1691c, 1692l.

§ 228. Authority of Secretary

(a) Rules, regulations, and expenditures; appropriations

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress, and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose.

(b) Deductions from proceeds for financing promotional, educational, and research activities

Notwithstanding any other provision of law, the authority of the Secretary under this chapter shall not apply to deductions made from sales proceeds for the purpose of financing promotion and research activities, including educational activities relating to livestock, meat, and other products covered by the chapter.

(c) Budget estimate; testimony of Secretary before Congressional committees

On or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purposes authorized in this chapter.

(d) Development and promulgation of rules governing hearings

The Secretary shall, not later than sixty days after September 13, 1976, prescribe and implement rules to assure that any hearing from which any order may issue under this chapter or any hearing the expenses of which are paid from funds authorized to be appropriated under this chapter shall—

(1) if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit;

(2) if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or

(3) if such hearing concerns a single State or the residents thereof, be held within such State.

(e) Definitions

For the purposes of subsection (d) of this section—

(1) the term “unit of local government” means a county, municipality, town, township, village, or other unit of general government below the State level; and

(2) the term “geographic area within a State” means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(Aug. 15, 1921, ch. 64, title IV, §407, 42 Stat. 169; Sept. 2, 1958, Pub. L. 85-909, §4, 72 Stat. 1750; July 8, 1963, Pub. L. 88-61, 77 Stat. 79; Sept. 13, 1976, Pub. L. 94-410, §11, 90 Stat. 1252; Oct. 13, 1994, Pub. L. 103-354, title II, §293(b), 108 Stat. 3237; Nov. 2, 1994, Pub. L. 103-437, §4(a)(2), 108 Stat. 4581.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-354, §293(b)(1), (2), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “The Secretary shall maintain within the Department of Agriculture a separate enforcement unit to administer and enforce subchapter II of this chapter.”

Subsec. (c). Pub. L. 103-437, which directed the amendment of subsec. (d) by substituting “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry”, was executed by making the amendment to subsec. (c) to reflect the probable intent of Congress and the intervening redesignation of subsec. (d) as (c) by Pub. L. 103-354. See below.

Pub. L. 103-354, §293(b)(2), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsecs. (d) to (f). Pub. L. 103-354, §293(b)(2), (3), redesignated subsecs. (d) to (f) as (c) to (e), respectively, and in subsec. (e) substituted “subsection (d)” for “subsection (e)”.

1976—Subsecs. (d) to (f). Pub. L. 94-410 added subsecs. (d) to (f).

1963—Subsec. (c). Pub. L. 88-61 added subsec. (c).

1958—Pub. L. 85-909 designated existing provisions as subsec. (a) and added subsec. (b).

§ 228a. Authority of Secretary to request temporary injunction or restraining order

Whenever the Secretary has reason to believe that any person subject to this chapter (a) with respect to any transactions subject to this chapter, has failed to pay or is unable to pay for livestock, meats, meat food products, or livestock products in unmanufactured form, or live poultry, or has failed to pay any poultry grower what is due on account of poultry obtained under a poultry growing arrangement, or has failed to remit to the person entitled thereto the net proceeds from the sale of any such commodity sold on a commission basis; or (b) has operated while insolvent, or otherwise in violation of this chapter in a manner which may reasonably be expected to cause irreparable damage to another person; or (c) does not have the required

bond; and that it would be in the public interest to enjoin such person from operating subject to this chapter or enjoin him from operating subject to this chapter except under such conditions as would protect vendors or consignors of such commodities or other affected persons, until a complaint under this chapter is issued and dismissed by the Secretary or until an order to cease and desist made thereon by the Secretary has become final and effective within the meaning of this chapter or is set aside on appellate review of the Secretary's order, the Secretary may notify the Attorney General, who may apply to the United States district court for the district in which such person has his principal place of business or in which he resides for a temporary injunction or restraining order. When needed to effectuate the purposes of this section, the court shall, upon a proper showing, issue a temporary injunction or restraining order, without bond. Attorneys employed by the Secretary of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action seeking such a temporary restraining order or injunction.

(Aug. 15, 1921, ch. 64, title IV, §408, as added Sept. 13, 1976, Pub. L. 94-410, §5, 90 Stat. 1250; amended Nov. 23, 1987, Pub. L. 100-173, §8, 101 Stat. 919.)

CODIFICATION

A prior section 228a, act Sept. 21, 1944, ch. 412, title I, §101(c), 58 Stat. 734, which related to inspections of livestock, hides, animal products, etc., was transferred to section 396 of this title.

PRIOR PROVISIONS

A prior section 408 of act Aug. 15, 1921, was renumbered section 415 and is classified to section 229 of this title.

AMENDMENTS

1987—Pub. L. 100-173 inserted “or live poultry, or has failed to pay any poultry grower what is due on account of poultry obtained under a poultry growing arrangement,” after “unmanufactured form.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as a note under section 182 of this title.

§ 228b. Prompt payment for purchase of livestock

(a) Full amount of purchase price required; methods of payment

Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized representative the full amount of the purchase price: *Provided*, That each packer, market agency, or dealer purchasing livestock for slaughter shall, before the close of the next business day following purchase of livestock and transfer of possession thereof, actually deliver at the point of transfer of possession to the seller or his duly authorized representative a check or shall wire transfer funds to the seller's account for the full amount of the purchase price; or, in the case of a pur-

chase on a carcass or “grade and yield” basis, the purchaser shall make payment by check at the point of transfer of possession or shall wire transfer funds to the seller's account for the full amount of the purchase price not later than the close of the first business day following determination of the purchase price: *Provided further*, That if the seller or his duly authorized representative is not present to receive payment at the point of transfer of possession, as herein provided, the packer, market agency or dealer shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, properly addressed to the seller, within the time limits specified in this subsection, such action being deemed compliance with the requirement for prompt payment.

(b) Waiver of prompt payment by written agreement; disclosure requirements

Notwithstanding the provisions of subsection (a) of this section and subject to such terms and conditions as the Secretary may prescribe, the parties to the purchase and sale of livestock may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in subsection (a) of this section. Any such agreement shall be disclosed in the records of any market agency or dealer selling the livestock, and in the purchaser's records and on the accounts or other documents issued by the purchaser relating to the transaction.

(c) Delay in payment or attempt to delay deemed unfair practice

Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock shall be considered an “unfair practice” in violation of this chapter. Nothing in this section shall be deemed to limit the meaning of the term “unfair practice” as used in this chapter.

(Aug. 15, 1921, ch. 64, title IV, §409, as added Sept. 13, 1976, Pub. L. 94-410, §7, 90 Stat. 1250.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 196, 228c of this title.

§ 228b-1. Final date for making payment to cash seller or poultry grower

(a) Delivery of full amount due

Each live poultry dealer obtaining live poultry by purchase in a cash sale shall, before the close of the next business day following the purchase of poultry, and each live poultry dealer obtaining live poultry under a poultry growing arrangement shall, before the close of the fifteenth day following the week in which the poultry is slaughtered, deliver, to the cash seller or poultry grower from whom such live poultry dealer obtains the poultry, the full amount due to such cash seller or poultry grower on account of such poultry.

(b) Delay or attempt to delay collection of funds as “unfair practice”

Any delay or attempt to delay, by a live poultry dealer which is a party to any such trans-

action, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for poultry obtained by poultry growing arrangement or purchased in a cash sale, shall be considered an “unfair practice” in violation of this chapter. Nothing in this section shall be deemed to limit the meaning of the term “unfair practice” as used in this chapter.

(c) Definition of cash sale

For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

(Aug. 15, 1921, ch. 64, title IV, § 410, as added Nov. 23, 1987, Pub. L. 100-173, §9(2), 101 Stat. 920.)

PRIOR PROVISIONS

A prior section 410 of act Aug. 15, 1921, was renumbered section 414 and is classified to section 228c of this title.

EFFECTIVE DATE

Section effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as an Effective Date of 1987 Amendment note under section 182 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 197, 227, 228b-2 of this title.

§ 228b-2. Violations by live poultry dealers

(a) Written complaint by Secretary; hearing; intervention; amended complaint

Whenever the Secretary has reason to believe that any live poultry dealer has violated or is violating any provision of section 197 of this title or section 228b-1 of this title, he shall cause a complaint in writing to be served upon the live poultry dealer, stating his charges in that respect, and requiring the live poultry dealer to attend and testify at a hearing at a time and place designated therein, at least 30 days after the service of such complaint; and at such time and place there shall be afforded the live poultry dealer a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may, on application, be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing, the Secretary may amend the complaint; but in case of any amendment adding new charges, the hearing shall, on the request of the live poultry dealer, be adjourned for a period not exceeding 15 days.

(b) Report on findings of fact by Secretary; cease and desist order; assessment of civil penalty; action by Attorney General upon live poultry dealer's failure to pay penalty

If, after such hearing, the Secretary finds that the live poultry dealer has violated, or is violating, any provisions of section 197 of this title or section 228b-1 of this title covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the live

poultry dealer an order requiring such live poultry dealer to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture. The Secretary may also assess a civil penalty of not more than \$20,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business: *Provided, however*, That in no event can the penalty assessed by the Secretary take priority over or impede the ability of the live poultry dealer to pay any unpaid cash seller or poultry grower. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General, who may recover such penalty by an action in the appropriate District Court of the United States.

(c) Amendment or setting aside of report or order

Until the record in such hearing has been filed in a court of appeals of the United States, as provided in section 228b-3 of this title, the Secretary, at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the live poultry dealer to be heard, may amend or set aside the report or order, in whole or in part.

(d) Service of complaints, orders, and other processes

Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 45 of title 15.

(Aug. 15, 1921, ch. 64, title IV, § 411, as added Nov. 23, 1987, Pub. L. 100-173, §9(2), 101 Stat. 920.)

PRIOR PROVISIONS

A prior section 411 of act Aug. 15, 1921, was renumbered section 415 and is classified to section 229 of this title.

EFFECTIVE DATE

Section effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as an Effective Date of 1987 Amendment note under section 182 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228b-3, 228b-4 of this title.

§ 228b-3. Judicial review of order regarding live poultry dealer

(a) Finality of order unless appeal to court of appeals; time limit; bond

An order made under section 228b-2 of this title shall be final and conclusive unless within 30 days after service the live poultry dealer appeals to the court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the pe-

tition, together with a bond in such sum as the court may determine, conditioned that such live poultry dealer will pay the costs of the proceedings if the court so directs.

(b) Notification of appeal to Secretary; filing of record with court

The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28. If before such record is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(c) Issuance of temporary injunction

At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, restraining, to the extent it deems proper, the live poultry dealer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

(d) Evidence in record as evidence in case; expedited proceedings

The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.

(e) Action by court

The court may affirm, modify, or set aside the order of the Secretary.

(f) Taking of additional evidence; modified or additional findings by Secretary

If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

(g) Affirmance or modification of order as injunction

If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the live poultry dealer, and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

(h) Exclusive jurisdiction of court of appeals; finality of decree; appeal to Supreme Court; stay of decree

The court of appeals shall have jurisdiction which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the

decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, if such writ is duly applied for within 60 days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction, unless so ordered by the Supreme Court.

(Aug. 15, 1921, ch. 64, title IV, §412, as added Nov. 23, 1987, Pub. L. 100-173, §9(2), 101 Stat. 921.)

EFFECTIVE DATE

Section effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as an Effective Date of 1987 Amendment note under section 182 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228b-2, 228b-4 of this title.

§ 228b-4. Violation of final order by live poultry dealer; penalty

Any live poultry dealer, or any officer, director, agent, or employee of a live poultry dealer, who fails to obey any order of the Secretary issued under the provisions of section 228b-2 of this title, or such order as modified—

(1) after the expiration of the time allowed for filing a petition in the court of appeals to set aside or modify such order, if no such petition has been filed within such time;

(2) after the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) after such order, or such order as modified, has been sustained by the courts as provided in section 228b-3 of this title;

shall on conviction be fined not less than \$1,000 nor more than \$20,000. Each day during which such failure continues shall be deemed a separate offense.

(Aug. 15, 1921, ch. 64, title IV, §413, as added Nov. 23, 1987, Pub. L. 100-173, §9(2), 101 Stat. 922.)

EFFECTIVE DATE

Section effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as an Effective Date of 1987 Amendment note under section 182 of this title.

§ 228c. Federal preemption of State and local requirements

No requirement of any State or territory of the United States, or any subdivision thereof, or the District of Columbia, with respect to bonding of packers or prompt payment by packers for livestock purchases may be enforced upon any packer operating in compliance with the bonding provisions under section 204 of this title, and prompt payment provisions of section 228b of this title, respectively: *Provided*, That this section shall not preclude a State from enforcing a requirement, with respect to payment for livestock purchased by a packer at a stockyard subject to this chapter, which is not in conflict with this chapter or regulations thereunder: *Provided further*, That this section shall not preclude a State from enforcing State law or

regulations with respect to any packer not subject to this chapter or section 204 of this title.

(Aug. 15, 1921, ch. 64, title IV, §414, formerly §410, as added Sept. 13, 1976, Pub. L. 94-410, §9, 90 Stat. 1252; renumbered §414, Nov. 23, 1987, Pub. L. 100-173, §9(1), 101 Stat. 919.)

§ 229. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Aug. 15, 1921, ch. 64, title IV, §415, formerly §408, 42 Stat. 169; renumbered §411, Sept. 13, 1976, Pub. L. 94-410, §5, 90 Stat. 1250; renumbered §415, Nov. 23, 1987, Pub. L. 100-173, §9(1), 101 Stat. 919.)

SUBCHAPTER VI—CHARGE FOR INSPECTION

§ 231. Omitted

CODIFICATION

Section, act July 22, 1942, ch. 516, 56 Stat. 689, was from the Department of Agriculture Appropriation Act, 1943, and provided for fees for inspection of brands appearing upon livestock. See section 217a of this title.

Similar provisions were contained in the following prior appropriation acts:

- July 1, 1941, ch. 267, 55 Stat. 432.
- June 25, 1940, ch. 421, 54 Stat. 557.
- June 30, 1939, ch. 253, title I, 53 Stat. 970.
- June 16, 1938, ch. 464, title I, 52 Stat. 721.
- June 29, 1937, ch. 404, 50 Stat. 406.
- June 4, 1936, ch. 489, 49 Stat. 1432.
- May 17, 1935, ch. 131, title I, 49 Stat. 257.
- Mar. 26, 1934, ch. 89, 48 Stat. 477.
- Mar. 3, 1933, ch. 203, 47 Stat. 1441.
- July 7, 1932, ch. 443, 47 Stat. 620.
- Feb. 23, 1931, ch. 278, 46 Stat. 1252.
- May 27, 1930, ch. 341, 46 Stat. 402.
- Feb. 16, 1929, ch. 227, 45 Stat. 1198.

CHAPTER 10—WAREHOUSES

- | | |
|------|--|
| Sec. | |
| 241. | Short title. |
| 242. | Definitions. |
| 243. | Investigation of warehousing, weighing, classifying, and certification of agricultural products; inspection of warehouses; prescribing duties of warehousemen. |
| 244. | Licensing warehouseman. |
| 245. | Term of license; renewal. |
| 246. | Suspension and revocation of license. |
| 247. | Bond of applicant for warehouse license; additional bond. |
| 248. | License to person not warehouseman; bond; duties of licensee. |
| 249. | Action on bond by person injured. |
| 250. | Designation as bonded warehouse. |
| 251. | Fee for warehouse examination, inspection, and licensing; amount; disposition of monies. |
| 252. | License to classify, grade, or weigh agricultural products. |
| 253. | Suspension and revocation of license to classify, grade, or weigh. |
| 254. | Discrimination by warehouseman prohibited. |
| 255. | Deposits of products deemed subject to chapter. |
| 256. | Inspection and grading of products stored. |
| 257. | Standards for agricultural products. |
| 258. | Mingling products stored. |

Sec.
259.

Security interests.

- | | |
|------|--|
| 260. | Contents of receipts. |
| 261. | Issuance of further receipt with original outstanding. |
| 262. | Delivery of products stored on demand; conditions to delivery. |
| 263. | Cancellation of receipt on delivery of product stored. |
| 264. | Records; reports to Secretary of Agriculture; compliance with provisions of chapter, rules, and regulations. |
| 265. | Examination of stored products; publication of findings. |
| 266. | Publication of investigation of warehousing, names and locations of bonded warehouses, and revocation of licenses. |
| 267. | Examination of books, records, etc., of warehousemen. |
| 268. | Rules and regulations. |
| 269. | Cooperation with State authorities; authority of Secretary; operation of existing laws. |
| 270. | Punishment for violations; reimbursement of owner of products converted. |
| 271. | Authorization of appropriations; employment of temporary personnel. |
| 272. | Separability. |
| 273. | Rights reserved. |

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 7a, 61a, 79a, 420 of this title.

§ 241. Short title

This chapter shall be known by the short title of "United States Warehouse Act."

(Aug. 11, 1916, ch. 313, pt. C, §1, 39 Stat. 486.)

CODIFICATION

This chapter constitutes part C of "An act making appropriations for the Department of Agriculture for the fiscal year ending June 13, 1917, and for other purposes," approved Aug. 11, 1916. Part A of act of Aug. 11, 1916, ch. 313, containing the "United States Cotton Futures Act" formerly classified to chapter 13 of Title 26, Internal Revenue Code, was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. Part B of that act contained the "United States Grain Standards Act" and constitutes section 71 et seq. of this title.

CROSS REFERENCES

Warehouse receipts as satisfaction of futures contract, see section 7a of this title.

§ 242. Definitions

The term "warehouse" as used in this chapter shall be deemed to mean every building, struc-

ture, or other protected inclosure in which any agricultural product is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which any agricultural product is or may be stored. As used in this chapter, "person" includes a corporation or partnership or two or more persons having a joint or common interest; "warehouseman" means a person lawfully engaged in the business of storing agricultural products; and "receipt" means a warehouse receipt.

(Aug. 11, 1916, ch. 313, pt. C, § 2, 39 Stat. 486; Feb. 23, 1923, ch. 106, 42 Stat. 1282.)

AMENDMENTS

1923—Act Feb. 23, 1923, struck out second sentence defining "agricultural product".

§ 243. Investigation of warehousing, weighing, classifying, and certification of agricultural products; inspection of warehouses; prescribing duties of warehousemen

The Secretary of Agriculture is authorized to investigate the storage, warehousing, classifying according to grade and otherwise, weighing, and certification of agricultural products; upon application to him by any person applying for license to conduct a warehouse under this chapter, to inspect such warehouse or cause it to be inspected; at any time, with or without application to him, to inspect or cause to be inspected all warehouses licensed under this chapter; to determine whether warehouses for which licenses are applied for or have been issued under this chapter are suitable for the proper storage of any agricultural product or products; to classify warehouses licensed or applying for a license in accordance with their ownership, location, surroundings, capacity, conditions, and other qualities, and as to the kinds of licenses issued or that may be issued for them pursuant to this chapter; and to prescribe, within the limitations of this chapter, the duties of the warehousemen conducting warehouses licensed under this chapter with respect to their care of and responsibility for agricultural products stored therein.

(Aug. 11, 1916, ch. 313, pt. C, § 3, 39 Stat. 486.)

CROSS REFERENCES

Publication of general investigation of warehousing under this section, see section 266 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 266 of this title.

§ 244. Licensing warehouseman

The Secretary of Agriculture, or his designated representative, is authorized, upon application to him, to issue to any warehouseman a license for the conduct of a warehouse or warehouses in accordance with this chapter and such rules and regulations as may be made hereunder: *Provided*, That each such warehouse be found suitable for the proper storage of the particular agricultural product or products for which a license is applied for, and that such warehouseman agree, as a condition to the granting of the license, to comply with and

abide by all the terms of this chapter and the rules and regulations prescribed hereunder.

(Aug. 11, 1916, ch. 313, pt. C, § 4, 39 Stat. 486; Mar. 2, 1931, ch. 366, § 1, 46 Stat. 1463.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted ", or his designated representative," after "Secretary of Agriculture".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 245 of this title.

§ 245. Term of license; renewal

Each license issued under sections 244 and 248 of this title shall terminate as therein provided, or in accordance with the terms of this chapter and the regulations thereunder, and may from time to time be modified or extended by written instrument.

(Aug. 11, 1916, ch. 313, pt. C, § 5, 39 Stat. 486; Feb. 23, 1923, ch. 106, 42 Stat. 1282.)

AMENDMENTS

1923—Act Feb. 23, 1923, substituted provisions for termination of the license in accordance with the terms of the license or this chapter, and regulations thereunder for provision for license period.

§ 246. Suspension and revocation of license

The Secretary of Agriculture, or his designated representative, may, after opportunity for hearing has been afforded to the licensee concerned, suspend or revoke any license to any warehouseman conducting a warehouse under this chapter, for any violation of or failure to comply with any provision of this chapter or of the rules and regulations made hereunder, or upon the ground that unreasonable or exorbitant charges have been made for services rendered. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

(Aug. 11, 1916, ch. 313, pt. C, § 25, 39 Stat. 490; Mar. 2, 1931, ch. 366, § 8, 46 Stat. 1465.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted ", or his designated representative," after "Secretary of Agriculture" in first clause of section.

§ 247. Bond of applicant for warehouse license; additional bond

Each warehouseman applying for a license to conduct a warehouse in accordance with this chapter shall, as a condition to the granting thereof, execute and file with the Secretary of Agriculture a good and sufficient bond to the United States to secure the faithful performance of his obligations as a warehouseman under the terms of this chapter and the rules and regulations prescribed hereunder, and of such additional obligations as a warehouseman as may be assumed by him under contracts with the respective depositors of agricultural products in such warehouse. Said bond shall be in such form and amount, shall have such surety or sureties, subject to service of process in suits on the bond within the State, District, or Territory in which the warehouse is located, and shall contain such

terms and conditions as the Secretary of Agriculture may prescribe to carry out the purposes of this chapter, and may, in the discretion of the Secretary of Agriculture, include the requirements of fire and/or other insurance. Whenever the Secretary of Agriculture, or his designated representative, shall determine that a previously approved bond is, or for any cause has become, insufficient, he may require an additional bond or bonds to be given by the warehouseman concerned, conforming with the requirements of this section, and unless the same be given within the time fixed by a written demand therefor the license of such warehouseman may be suspended or revoked.

(Aug. 11, 1916, ch. 313, pt. C, § 6, 39 Stat. 486; July 24, 1919, ch. 26, 41 Stat. 266; Feb. 23, 1923, ch. 106, 42 Stat. 1283; Mar. 2, 1931, ch. 366, § 2, 46 Stat. 1463.)

AMENDMENTS

1931—Act Mar. 2, 1931, struck out “under the laws of the State, District, or Territory in which he is conducting such warehouse, as well as” in first sentence, and inserted “, or his designated representative,” after “Secretary of Agriculture” in last sentence.

1923—Act Feb. 23, 1923, inserted provision permitting the Secretary of Agriculture, in his discretion, to include the requirements of fire insurance among the terms and conditions of the bond.

1919—Act July 24, 1919, struck out “other than personal security” after “good and sufficient bond” in first sentence and after “including the requirements of fire insurance” at end of second sentence.

CROSS REFERENCES

Action on bond by person injured, see section 249 of this title.

Designation as bonded warehouse, filing of bond such as is provided in this section as prerequisite to, see section 250 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 249, 250 of this title.

§ 248. License to person not warehouseman; bond; duties of licensee

The Secretary of Agriculture, or his designated representative, may, under such rules and regulations as he shall prescribe, issue a license to any person not a warehouseman to accept the custody of agricultural products and to store the same in a warehouse or warehouses owned, operated, or leased by any State, upon condition that such person agree to comply with and abide by the terms of this chapter and the rules and regulations prescribed hereunder. Each person so licensed shall issue receipts for the agricultural products placed in his custody, and shall give bond, in accordance with the provisions of this chapter, and the rules and regulations hereunder affecting warehousemen licensed under this chapter, and shall otherwise be subject to this chapter, and such rules and regulations, to the same extent as is provided for warehousemen licensed hereunder.

(Aug. 11, 1916, ch. 313, pt. C, § 9, 39 Stat. 487; Mar. 2, 1931, ch. 366, § 4, 46 Stat. 1464.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted “, or his designated representative,” after “Secretary of Agriculture”.

CROSS REFERENCES

Action on bond by person injured, see section 249 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 245, 249 of this title.

§ 249. Action on bond by person injured

Any person injured by the breach of any obligation to secure which a bond is given, under the provisions of sections 247 or 248 of this title, shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

(Aug. 11, 1916, ch. 313, pt. C, § 7, 39 Stat. 487.)

§ 250. Designation as bonded warehouse

Upon the filing with and approval by the Secretary of Agriculture, or his designated representative, of a bond, in compliance with this chapter, for the conduct of a warehouse, such warehouse may be designated as bonded hereunder; but no warehouse shall be designated as bonded under this chapter, and no name or description conveying the impression that it is so bonded, shall be used, until a bond, such as provided for in section 247 of this title, has been filed with and approved by the Secretary of Agriculture, or his designated representative, nor unless the license issued under this chapter for the conduct of such warehouse remains unsuspended and unrevoked.

(Aug. 11, 1916, ch. 313, pt. C, § 8, 39 Stat. 487; Mar. 2, 1931, ch. 366, § 3, 46 Stat. 1463.)

AMENDMENTS

1931—Act Mar. 2, 1931, substituted “may” for “shall” before “be designated” in first clause, and inserted “, or his designated representative,” after “Secretary of Agriculture” wherever appearing.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 270 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270 of this title.

§ 251. Fee for warehouse examination, inspection, and licensing; amount; disposition of moneys

The Secretary of Agriculture, or the Secretary's designated representative, shall charge, assess, and cause to be collected a reasonable fee for (1) each examination or inspection of a warehouse (including the physical facilities and records thereof and the agricultural products therein) under this chapter; (2) each license issued to any person to classify, inspect, grade, sample, or weigh agricultural products stored or to be stored under provisions of this chapter; (3) each annual warehouse license issued to a warehouseman to conduct a warehouse under this chapter; and (4) each warehouse license amended, modified, extended, or reinstated under this chapter. Such fees shall cover, as nearly as practicable, the costs of providing such services and licenses, including administrative and supervisory costs: *Provided*, That the amount of such

fees collected for cotton warehouse inspections shall not exceed \$400,000 in the fiscal year ending September 30, 1982, \$415,000 in fiscal year ending September 30, 1983, and \$430,000 in the fiscal year ending September 30, 1984. All fees collected shall be credited to the current appropriation account that incurs the costs and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to providing services under this chapter. The Secretary may deposit such funds in an interest bearing account with a financial institution. If any interest is earned on this account such interest shall be credited to the account for use by the Secretary in providing such services.

(Aug. 11, 1916, ch. 313, pt. C, §10, 39 Stat. 487; Mar. 2, 1931, ch. 366, §5, 46 Stat. 1464; Aug. 13, 1981, Pub. L. 97-35, title I, § 158(a)(1), 95 Stat. 375.)

AMENDMENTS

1981—Pub. L. 97-35 substituted provisions requiring the Secretary or the Secretary's designated representative to charge, assess, and cause to be collected fees for warehouse examination, inspection, and licensing, for provisions authorizing the Secretary or his designated representative to charge, assess, and cause to be collected fees for warehouse inspection and licensing.

1931—Act Mar. 2, 1931, inserted “, or his designated representative,” after “Secretary of Agriculture”, substituted “may” for “shall” where appearing for first time and substituted provision authorizing a reasonable fee to be charged for license issued to warehouseman or other person to classify etc., agricultural products for former provision requiring a fee of \$2 per annum for each license or renewal thereof issued to a warehouseman, all in first sentence.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 158(b) of Pub. L. 97-35 provided that: “The provisions of this section [amending this section and section 271 of this title] shall become effective October 1, 1981”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 271 of this title.

§ 252. License to classify, grade, or weigh agricultural products

The Secretary of Agriculture, or his designated representative, may upon presentation of satisfactory proof of competency, issue to any person a license to inspect, sample, or classify any agricultural product or products, stored or to be stored in a warehouse licensed under this chapter, according to condition, grade, or otherwise and to certificate the condition, grade, or other class thereof, or to weigh the same and certificate the weight thereof, or both to inspect, sample, or classify and weigh the same and to certificate the condition, grade, or other class and the weight thereof, upon condition that such person agree to comply with and abide by the terms of this chapter and of the rules and regulations prescribed hereunder so far as the same relate to him.

(Aug. 11, 1916, ch. 313, pt. C, §11, 39 Stat. 487; Feb. 23, 1923, ch. 106, 42 Stat. 1283; Mar. 2, 1931, ch. 366, §6, 46 Stat. 1464.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted “, or his designated representative,” after “Secretary of Agriculture”.

1923—Act Feb. 23, 1923, inserted “inspect, sample or” before “classify” and “condition” before “grade” wherever appearing.

§ 253. Suspension and revocation of license to classify, grade, or weigh

Any license issued to any person to inspect, sample, or classify, or to weigh any agricultural product or products under this chapter may be suspended or revoked by the Secretary of Agriculture, or his designated representative, whenever he is satisfied, after opportunity afforded to the licensee concerned for a hearing, that such licensee has failed to inspect, sample, or classify, or to weigh any agricultural product or products correctly, or has violated any of the provisions of this chapter or of the rules and regulations prescribed hereunder, so far as the same may relate to him, or that he has used his license or allowed it to be used for any improper purpose whatever. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

(Aug. 11, 1916, ch. 313, pt. C, §12, 39 Stat. 487; Feb. 23, 1923, ch. 106, 42 Stat. 1283; Mar. 2, 1931, ch. 366, §7, 46 Stat. 1464.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted “, or his designated representative,” after “Secretary of Agriculture” wherever appearing.

1923—Act Feb. 23, 1923, inserted “inspect, sample or” before “classify” wherever appearing.

§ 254. Discrimination by warehouseman prohibited

Every warehouseman conducting a warehouse licensed under this chapter shall receive for storage therein, so far as its capacity permits, any agricultural product of the kind customarily stored therein by him which may be tendered to him in a suitable condition for warehousing, in the usual manner in the ordinary and usual course of business, without making any discrimination between persons desiring to avail themselves of warehouse facilities.

(Aug. 11, 1916, ch. 313, pt. C, §13, 39 Stat. 488.)

§ 255. Deposits of products deemed subject to chapter

Any person who deposits agricultural products for storage in a warehouse licensed under this chapter shall be deemed to have deposited the same subject to the terms of this chapter and the rules and regulations prescribed thereunder.

(Aug. 11, 1916, ch. 313, pt. C, §14, 39 Stat. 488.)

§ 256. Inspection and grading of products stored

Any fungible agricultural product stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this chapter, shall be inspected and graded by a person duly licensed to grade the same under this chapter.

(Aug. 11, 1916, ch. 313, pt. C, §15, 39 Stat. 488; Feb. 23, 1923, ch. 106, 42 Stat. 1283.)

AMENDMENTS

1923—Act Feb. 23, 1923, struck out “That grain, flaxseed or”.

§ 257. Standards for agricultural products

The Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards for agricultural products by which their quality or value may be judged or determined: *Provided*, That the standards for any agricultural products which have been, or which in future may be, established by or under authority or any other Act of Congress shall be, and are, adopted for the purposes of this chapter as the official standards of the United States for the agricultural products to which they relate.

(Aug. 11, 1916, ch. 313, pt. C, §19, 39 Stat. 489; Feb. 23, 1923, ch. 106, 42 Stat. 1284.)

AMENDMENTS

1923—Act Feb. 23, 1923, struck out “in this chapter defined” after “products”.

§ 258. Mingling products stored

Every warehouseman conducting a warehouse licensed under this chapter shall keep the agricultural products therein of one depositor so far separate from agricultural products of other depositors, and from other agricultural products of the same depositor for which a separate receipt has been issued, as to permit at all times the identification and redelivery of the agricultural products deposited; but if authorized by agreement or by custom, a warehouseman may mingle fungible agricultural products with other agricultural products of the same kind and grade, and shall be severally liable to each depositor for the care and redelivery of his share of such mass, to the same extent and under the same circumstances as if the agricultural products had been kept separate, but he shall at no time while they are in his custody mix fungible agricultural products of different grades.

(Aug. 11, 1916, ch. 313, pt. C, §16, 39 Stat. 488.)

§ 259. Security interests**(a) Receipts for products stored**

Except as provided in subsection (b) of this section, for all agricultural products stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this chapter original receipts shall be issued by the warehouseman conducting the same, but no receipts shall be issued except for agricultural products actually stored in the warehouse at the time of the issuance thereof.

(b) Transfer of agricultural products stored in warehouses

(1) Notwithstanding any other provision of this chapter, if a warehouseman because of a temporary shortage lacks sufficient space to store the agricultural products of all depositors in a licensed warehouse, the warehouseman may, in accordance with regulations issued by the Secretary of Agriculture and subject to such terms and conditions as the Secretary may prescribe, transfer stored agricultural products for

which receipts have been issued out of such warehouse to another licensed warehouse for continued storage.

(2) The warehouseman of a licensed warehouse from which agricultural products have been transferred under paragraph (1) shall deliver to the rightful owner of such products, on request, at the licensed warehouse where first deposited, such products in the amount, and of the kind, quality, and grade, called for by the receipts or other evidence of storage of such owner.

(c) Central filing system records in lieu of receipts for cotton stored; delivery of cotton; electronic transmission facilities between warehouses and systems; system records equivalent to receipts and ownership interests; recordation and enforcement of liens in central filing system; warehousemen's liens unaffected; conditions for delivery on demand of cotton stored

(1)(A) Notwithstanding any other provision of Federal or State law, the Secretary of Agriculture, or the designated representative of the Secretary, may provide that in lieu of issuing a receipt for cotton stored in a warehouse licensed under this chapter or in any other warehouse the information required to be included in a receipt (i) under section 260 of this title in the case of a warehouse licensed under this chapter or (ii) under any applicable State law in the case of a warehouse not licensed under this chapter shall be recorded instead in a central filing system or systems maintained in one or more locations in accordance with regulations issued by the Secretary.

(B) Any such record shall state that the cotton shall be delivered to a specified person or to the order of the person.

(C) This subsection and subsection (d) of this section shall not apply to a warehouse that does not have facilities to electronically transmit and receive information to and from the central filing system. Nothing in this subsection shall be construed as to require a warehouseman to obtain the facilities.

(2) Notwithstanding any other provision of Federal or State law:

(A) The record of the possessory interests of persons in cotton included in any such central filing system shall be deemed to be a receipt for the purposes of this chapter or State law and shall establish the possessory interest of persons in the cotton.

(B) Any person designated as a holder of an electronic warehouse receipt authorized under this subsection and subsection (d) of this section shall, for the purpose of perfecting the security interest of the person under Federal or State law with respect to the cotton covered by the warehouse receipt, be considered to be in possession of the warehouse receipt. If more than one security interest exist in the cotton reflected on the electronic warehouse receipt, the priority of the security interests shall be determined by the applicable Federal or State law. This subsection is applicable to electronic cotton warehouse receipts and any other security interests covering cotton stored in a cotton warehouse, regardless of whether the warehouse is licensed under this chapter.

(3) A warehouseman conducting a warehouse covered under this subsection, in the absence of a lawful excuse, shall, without unnecessary delay, deliver the cotton stored in the warehouse on demand made by the person named in the record in the central filing system as the holder of the receipt representing the cotton, if demand is accompanied by—

(A) an offer to satisfy a valid warehouseman's lien, as determined by the Secretary; and

(B) an offer to provide an acknowledgement in the central filing system, if requested by the warehouseman, that the cotton has been delivered.

(d) Administration of central filing system or systems; imposition and collection of fees; fund as depository for fees, late payment penalties, and investments; fund monies available for expenses

(1) The Secretary shall (under such regulations as the Secretary may prescribe) charge and provide for the collection of reasonable fees to cover the estimated costs to the Department of Agriculture incident to the functioning and the maintenance of any central filing system or systems referred to in subsection (c) of this section that is administered by the Department of Agriculture.

(2) The Secretary may provide for the fees to be collected by persons operating the central filing system administered by the Department from those persons recording information in the central filing system at such time and in such manner as may be prescribed in regulations issued by the Secretary.

(3) The fees shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Secretary incurred in carrying out subsection (c) of this section and this subsection. Any sums collected or received by the Secretary under this chapter and deposited to the fund and any late payment penalties collected by the Secretary and credited to the fund may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. The interest earned on the sums and any late payment penalties collected by the Secretary shall be credited to the fund and shall be available without fiscal year limitations for the expenses of the Service incurred in carrying out subsection (c) of this section and this subsection.

(Aug. 11, 1916, ch. 313, pt. C, §17, 39 Stat. 488; Mar. 20, 1986, Pub. L. 99-260, §14, 100 Stat. 54; Nov. 28, 1990, Pub. L. 101-624, title V, §508(a), 104 Stat. 3441; Dec. 13, 1991, Pub. L. 102-237, title X, §1009, 105 Stat. 1898; Oct. 28, 1992, Pub. L. 102-553, §1, 106 Stat. 4140.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c)(1)(A), (2) and (d)(3), was in the original "this Act" and was translated as reading "this part", meaning part C of act Aug. 11, 1916, known as the United States Warehouse Act, to reflect the probable intent of Congress.

AMENDMENTS

1992—Subsec. (c)(1)(A). Pub. L. 102-553, §1(1), substituted "Notwithstanding any other provision of Federal or State law, the Secretary" for "The Secretary", inserted "or in any other warehouse" after "licensed under this chapter", and substituted "(i) under section 260 of this title in the case of a warehouse licensed under this chapter or (ii) under any applicable State law in the case of a warehouse not licensed under this chapter" for "under section 260 of this title".

Subsec. (c)(2). Pub. L. 102-553, §1(2), substituted "provision of Federal or State law:" for "provision of law—" in introductory provisions and in subpar. (A) substituted "The record" for "the record", "possessory" for "ownership" in two places, "of this chapter or State law" for "of this chapter", and a period for "and" at end, added subpar. (B) and struck out former subpar. (B) which read as follows: "the Secretary may provide for the recording of liens in the central filing system that shall represent the perfected security interest of persons whose liens are so recorded and for liens that are so recorded to be the only liens that are enforceable against owners and purchasers of cotton registered in the central filing system, except that nothing in this paragraph shall be construed to alter the enforceability of the warehouseman's lien."

Subsec. (c)(3). Pub. L. 102-553, §1(3), substituted "covered under this subsection" for "licensed under this chapter" and "holder" for "owner".

1991—Subsec. (c)(1)(B). Pub. L. 102-237 struck out "or to a specified person" after "specified person".

1990—Subsecs. (c), (d). Pub. L. 101-624 added subsecs. (c) and (d).

1986—Pub. L. 99-260 designated existing provision as subsec. (a), substituted "Except as provided in subsection (b) of this section, for" for "For", and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270 of this title.

§ 260. Contents of receipts

Every receipt issued for agricultural products stored in a warehouse licensed under this chapter shall embody within its written or printed terms (a) the location of the warehouse in which the agricultural products are stored; (b) the date of issue of the receipt; (c) the consecutive number of the receipt; (d) a statement whether the agricultural products received will be delivered to the bearer, to a specified person, or to a specified person or his order; (e) the rate of storage charges; (f) a description of the agricultural products received, showing the quantity thereof, or, in case of agricultural products customarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages; (g) the grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made: *Provided*, That such grade or other class shall be stated according to the official standard of the United States applicable to such agricultural products as the same may be fixed and promulgated under authority of law: *Provided further*, That until such official standards of the United States for any agricultural product or products

have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the Secretary of Agriculture; (h) a statement that the receipt is issued subject to this chapter and the rules and regulations prescribed thereunder; (i) if the receipt be issued for agricultural products of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; (j) a statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien: *Provided*, That if the precise amount of such advances made or of such liabilities incurred be at the time of the issue of the receipt unknown to the warehouseman or his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof shall be sufficient; (k) such other terms and conditions within the limitations of this chapter as may be required by the Secretary of Agriculture; and (l) the signature of the warehouseman, which may be made by his authorized agent: *Provided*, That unless otherwise required by the law of the State in which the warehouse is located, when requested by the depositor of other than fungible agricultural products, a receipt omitting compliance with subdivision (g) of this section may be issued: *Provided, however*, That the Secretary of Agriculture may in his discretion require that such receipt have plainly and conspicuously embodied in its written or printed terms a provision that such receipt is not negotiable.

(Aug. 11, 1916, ch. 313, pt. C, §18, 39 Stat. 488; July 24, 1919, ch. 26, 41 Stat. 266; Feb. 23, 1923, ch. 106, 42 Stat. 1284.)

AMENDMENTS

1923—Act Feb. 23, 1923, inserted last proviso in cl. (l).
1919—Act July 24, 1919, struck out “if it has plainly and conspicuously embodied in its written or printed terms a provision that such receipt is not negotiable” after “may be issued” in cl. (l).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 259 of this title.

§ 261. Issuance of further receipt with original outstanding

While an original receipt issued under this chapter is outstanding and uncanceled by the warehouseman issuing the same no other or further receipt shall be issued for the agricultural product covered thereby or for any part thereof, except that in the case of a lost or destroyed receipt a new receipt, upon the same terms and subject to the same conditions and bearing on its face the number and date of the receipt in lieu of which it is issued, may be issued upon compliance with the statutes of the United States applicable thereto in places under the exclusive jurisdiction of the United States or upon compliance with the laws of any State applicable thereto in any place not under the exclusive jurisdiction of the United States: *Provided*, That if there be in such case no statute of the United States or law of a State applicable thereto such new receipts may be issued upon the giving of

satisfactory security in compliance with the rules and regulations made pursuant to this chapter.

(Aug. 11, 1916, ch. 313, pt. C, §20, 39 Stat. 489.)

§ 262. Delivery of products stored on demand; conditions to delivery

A warehouseman conducting a warehouse licensed under this chapter, in the absence of some lawful excuse, shall, without unnecessary delay, deliver the agricultural products stored therein upon a demand made either by the holder of a receipt for such agricultural products or by the depositor thereof if such demand be accompanied with (a) an offer to satisfy the warehouseman's lien; (b) an offer to surrender the receipt, if negotiable, with such indorsements as would be necessary for the negotiation of the receipt; and (c) a readiness and willingness to sign, when the products are delivered, an acknowledgement that they have been delivered if such signature is requested by the warehouseman.

(Aug. 11, 1916, ch. 313, pt. C, §21, 39 Stat. 489.)

§ 263. Cancellation of receipt on delivery of product stored

A warehouseman conducting a warehouse licensed under this chapter shall plainly cancel upon the face thereof each receipt returned to him upon the delivery by him of the agricultural products for which the receipt was issued.

(Aug. 11, 1916, ch. 313, pt. C, §22, 39 Stat. 490.)

§ 264. Records; reports to Secretary of Agriculture; compliance with provisions of chapter, rules, and regulations

Every warehouseman conducting a warehouse licensed under this chapter shall keep in a place of safety complete and correct records of all agricultural products stored therein and withdrawn therefrom, of all warehouse receipts issued by him, and of the receipts returned to and canceled by him, shall make reports to the Secretary of Agriculture concerning such warehouse and the condition, contents, operation, and business thereof in such form and at such times as he may require, and shall conduct said warehouse in all other respects in compliance with this chapter and the rules and regulations made thereunder.

(Aug. 11, 1916, ch. 313, pt. C, §23, 39 Stat. 490.)

§ 265. Examination of stored products; publication of findings

The Secretary of Agriculture is authorized to cause examination to be made of any agricultural products stored in any warehouse licensed under this chapter. Whenever, after opportunity for hearing is given to the warehouseman conducting such warehouse, it is determined that he is not performing fully the duties imposed on him by this chapter and the rules and regulations made thereunder, the Secretary may publish his findings.

(Aug. 11, 1916, ch. 313, pt. C, §24, 39 Stat. 490.)

§ 266. Publication of investigation of warehousing, names and locations of bonded warehouses, and revocation of licenses

The Secretary of Agriculture from time to time may publish the results of any investigations made under section 243 of this title; and he shall publish the names and locations of warehouses licensed and bonded and the names and addresses of persons licensed under this chapter and list of all licenses terminated under this chapter and the causes therefor.

(Aug. 11, 1916, ch. 313, pt. C, §26, 39 Stat. 490.)

§ 267. Examination of books, records, etc., of warehousemen

The Secretary of Agriculture is authorized through officials, employees, or agents of the Department of Agriculture designated by him to examine all books, records, papers, and accounts of warehouses licensed under this chapter and of the warehousemen conducting such warehouses relating thereto.

(Aug. 11, 1916, ch. 313, pt. C, §27, 39 Stat. 490.)

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.

§ 268. Rules and regulations

The Secretary of Agriculture shall from time to time make such rules and regulations as he may deem necessary for the efficient execution of the provisions of this chapter.

(Aug. 11, 1916, ch. 313, pt. C, §28, 39 Stat. 490.)

§ 269. Cooperation with State authorities; authority of Secretary; operation of existing laws

In the discretion of the Secretary of Agriculture he is authorized to cooperate with State officials charged with the enforcement of State laws relating to warehouses, warehousemen, weighers, graders, inspectors, samplers, or classifiers; but the power, jurisdiction, and authority conferred upon the Secretary of Agriculture under this chapter shall be exclusive with respect to all persons securing a license hereunder so long as said license remains in effect. This chapter shall not be construed so as to limit the operation of any statute of the United States relating to warehouses or to warehousemen, weighers, graders, inspectors, samplers, or classifiers now in force in the District of Columbia or in any Territory or other place under the exclusive jurisdiction of the United States.

(Aug. 11, 1916, ch. 313, pt. C, §29, 39 Stat. 490; Feb. 23, 1923, ch. 106, 42 Stat. 1285; Mar. 2, 1931, ch. 366, §9, 46 Stat. 1465.)

AMENDMENTS

1931—Act Mar. 2, 1931, struck out first clause which read as follows: "Nothing in this chapter shall be construed to conflict with, or to authorize any conflict with, or in any way to impair or limit the effect or operation of the laws of any State relating to warehouses, warehousemen, weighers, graders, inspectors, samplers, or classifiers;"; inserted "In the discretion of the Sec-

retary of Agriculture" in first clause of first sentence and "but the power, jurisdiction, and authority conferred upon the Secretary of Agriculture under this chapter shall be exclusive with respect to all persons securing a license hereunder so long as said license remains in effect" in second clause of first section.

1923—Act of Feb. 23, 1923, included among the objects to which the section applied, "inspectors, and samplers," as well as warehouses, warehousemen, weighers, graders and classifiers as originally specified.

§ 270. Punishment for violations; reimbursement of owner of products converted

Every person who shall forge, alter, counterfeit, simulate, or falsely represent, or shall without proper authority use, any license issued by the Secretary of Agriculture, or his designated representative, under this chapter, or who shall violate or fail to comply with any provision of section 250 of this title, or who shall issue or utter a false or fraudulent receipt or certificate, or furnish false or fraudulent information to a central filing system maintained under section 259 of this title, or change in any manner an original receipt or certificate subsequently to issuance by a licensee, or any person who, without lawful authority, shall convert to his own use, or use for purposes of securing a loan, or remove from a licensed warehouse contrary to this chapter or the regulations promulgated thereunder, any agricultural products stored or to be stored in such warehouse, and for which licensed receipts have been or are to be issued, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$10,000, or double the value of the products involved if such double value exceeds \$10,000, or imprisoned not more than ten years, or both, in the discretion of the court, and the owner of the agricultural products so converted, used, or removed may, in the discretion of the Secretary of Agriculture, be reimbursed for the value thereof out of any fine collected hereunder, by check drawn on the Treasury at the direction of the Secretary of Agriculture for the value of such products to the extent that such owner has not otherwise been reimbursed. Any person who shall draw with intent to deceive, a false sample of, or who shall willfully mutilate or falsely represent a sample drawn under this chapter, or who shall classify, grade, or weigh fraudulently, any agricultural products stored or to be stored under the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof fined not more than \$500, or imprisoned for not more than six months, or both, in the discretion of the court.

(Aug. 11, 1916, ch. 313, pt. C, §30, 39 Stat. 490; Feb. 23, 1923, ch. 106, 42 Stat. 1285; Mar. 2, 1931, ch. 366, §10, 46 Stat. 1465; Nov. 28, 1990, Pub. L. 101-624, title V, §508(b), 104 Stat. 3443.)

AMENDMENTS

1990—Pub. L. 101-624 inserted "or furnish false or fraudulent information to a central filing system maintained under section 259 of this title,".

1931—Act Mar. 2, 1931, in first sentence inserted "or his designated representative," after "Secretary of Agriculture" and "or change in any manner an original receipt or certificate subsequently to issuance by licensee" after "certificate", and substituted "ten" for "one".

1923—Act Feb. 23, 1923, amended section generally.

EFFECTIVE DATE OF 1990 AMENDMENT

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

§ 271. Authorization of appropriations; employment of temporary personnel

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this chapter other than those services for which fees are authorized pursuant to section 251 of this title. Such appropriated funds may be used by the Secretary to employ qualified persons not regularly in the service of the United States for temporary assistance in carrying out the provisions of this chapter.

(Aug. 11, 1916, ch. 313, pt. C, §31, 39 Stat. 491; Aug. 13, 1981, Pub. L. 97-35, title I, §158(a)(2), 95 Stat. 376.)

AMENDMENTS

1981—Pub. L. 97-35 inserted provisions respecting authorizing of appropriations.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 158(b) of Pub. L. 97-35, set out as a note under section 251 of this title.

§ 272. Separability

If any clause, sentence, paragraph, or part of this chapter shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

(Aug. 11, 1916, ch. 313, pt. C, §32, 39 Stat. 491.)

§ 273. Rights reserved

The right to amend, alter or repeal this chapter is expressly reserved.

(Aug. 11, 1916, ch. 313, pt. C, §33, 39 Stat. 491.)

CHAPTER 11—HONEYBEES

Sec.	
281.	Honeybee importation. <ul style="list-style-type: none"> (a) In general. (b) Regulations. (c) Enforcement. (d) "Honeybee" defined.
282.	Punishment for unlawful importation.
283.	Propagation of stock and release of germ plasm.
284.	Eradication and control of undesirable species and subspecies. <ul style="list-style-type: none"> (a) Operations in United States. (b) Cooperation with certain foreign governments; measure and character; consultation with Secretary of State. (c) Responsibility for authority to carry out operations.
285.	Uses of funds.
286.	Authorization of appropriations.

§ 281. Honeybee importation

(a) In general

The Secretary of Agriculture is authorized to prohibit or restrict the importation or entry of honeybees and honeybee semen into or through the United States in order to prevent the introduction and spread of diseases and parasites harmful to honeybees, the introduction of genetically undesirable germ plasm of honeybees, or the introduction and spread of undesirable species or subspecies of honeybees and the semen of honeybees.

(b) Regulations

The Secretary of Agriculture and the Secretary of the Treasury are each authorized to prescribe such regulations as the respective Secretary determines necessary to carry out this section.

(c) Enforcement

Honeybees or honeybee semen offered for importation into, intercepted entering, or having entered the United States, other than in accordance with regulations promulgated by the Secretary of Agriculture and the Secretary of the Treasury, shall be destroyed or immediately exported.

(d) "Honeybee" defined

As used in this chapter, the term "honeybee" means all life stages and the germ plasm of honeybees of the genus *Apis*, except honeybee semen.

(Aug. 31, 1922, ch. 301, §1, 42 Stat. 833; July 19, 1962, Pub. L. 87-539, §1, 76 Stat. 169; June 25, 1976, Pub. L. 94-319, §1, 90 Stat. 709; Dec. 8, 1993, Pub. L. 103-182, title III, §361(d)(2), 107 Stat. 2123; Dec. 8, 1994, Pub. L. 103-465, title IV, §431(e), 108 Stat. 4968.)

AMENDMENTS

1994—Pub. L. 103-465 amended section generally, substituting present provisions for former subsecs. (a) to (e) restricting importation of honeybees and honeybee semen into United States, providing for promulgation of rules and regulations as to such importation, providing for destruction or immediate exportation of non-expected honeybees or honeybee semen offered for import or intercepted, and defining "honeybee".

1993—Subsec. (a)(3). Pub. L. 103-182, §361(d)(2)(A), added par. (3).

Subsec. (b). Pub. L. 103-182, §361(d)(2)(B), inserted "(1)" after "only from" and added cl. (2).

1976—Pub. L. 94-319 incorporated existing provisions, which related only to honeybees, into subsecs. (a) to (e) relating to honeybees and honeybee semen, making honeybee provisions applicable to all life stages and the germ plasm of honeybees instead of only to honeybees in the adult stage, restating purpose of prohibiting importation of honeybees and restating conditions to be determined by Secretary of Agriculture with respect to countries from which honeybees may be imported.

1962—Pub. L. 87-539 enlarged prohibition against importation of honeybees to include the honeybee of the genus *Apis* instead of only the honeybee *Apis mellifica* and restricted permission to import the honeybee to countries which take adequate precautions to prevent importation of honeybees from countries where dangerous diseases exist.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to

the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

SHORT TITLE

Act Aug. 31, 1922, as amended, which is classified to this chapter, is popularly known as the "Honeybee Act".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 282 of this title.

§ 282. Punishment for unlawful importation

Any person who violates any provision of section 281 of this title or any regulation issued under it is guilty of an offense against the United States and shall, upon conviction, be fined not more than \$1,000, or imprisoned for not more than one year, or both.

(Aug. 31, 1922, ch. 301, § 2, 42 Stat. 834; June 25, 1976, Pub. L. 94-319, § 2, 90 Stat. 709.)

AMENDMENTS

1976—Pub. L. 94-319 inserted reference to regulations, substituted characterization of violation as offense against the United States for characterization as a misdemeanor, increased maximum fine to \$1,000 from \$500 and struck out provision relating to discretion of the court.

§ 283. Propagation of stock and release of germ plasm

The Secretary of Agriculture may propagate bee-breeding stock and may release bee germ plasm to the public.

(Sept. 21, 1944, ch. 412, title I, § 103, 58 Stat. 735; Oct. 31, 1951, ch. 654, § 3(1), 65 Stat. 708; Dec. 22, 1981, Pub. L. 97-98, title XI, § 1120, 95 Stat. 1273.)

CODIFICATION

This section was not enacted as part of act Aug. 31, 1922, which comprises this chapter.

Provisions similar to this section were contained in the following prior Department of Agriculture Appropriation Acts:

June 28, 1944, ch. 296, 58 Stat. 439.

July 12, 1943, ch. 215, 57 Stat. 407.

AMENDMENTS

1981—Pub. L. 97-98 inserted "and may release bee germ plasm to the public".

1951—Act Oct. 31, 1951, struck out provisions relating to sale of surplus bee-breeding stock, and the fixing of rates and disposition of proceeds in connection therewith.

EFFECTIVE DATE OF 1981 AMENDMENT

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

§ 284. Eradication and control of undesirable species and subspecies

(a) Operations in United States

The Secretary of Agriculture either independently or in cooperation with States or political subdivisions thereof, farmers' associations, and similar organizations and individuals, is authorized to carry out operations or measures in the United States to eradicate, suppress, control, and to prevent or retard the spread of undesirable species and subspecies of honeybees.

(b) Cooperation with certain foreign governments; measure and character; consultation with Secretary of State

The Secretary of Agriculture is authorized to cooperate with the Governments of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia, or the local authorities thereof, in carrying out necessary research, surveys, and control operations in those countries in connection with the eradication, suppression, control, and prevention or retardation of the spread of undesirable species and subspecies of honeybees, including but not limited to *Apis mellifera adansonii*, commonly known as the African or Brazilian honeybee. The measure and character of cooperation carried out under this subsection on the part of such countries, including the expenditure or use of funds appropriated pursuant to this chapter, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for the cooperation authorized by this subsection shall be made through and in consultation with the Secretary of State.

(c) Responsibility for authority to carry out operations

In performing the operations or measures authorized in this chapter, the cooperating foreign country, State, or local agency shall be responsible for the authority to carry out such operations or measures on all lands and properties within the foreign country or State, other than those owned or controlled by the Federal Government of the United States, and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

(Aug. 31, 1922, ch. 301, § 3, as added June 25, 1976, Pub. L. 94-319, § 3, 90 Stat. 709.)

INDEMNIFICATION FOR BEEKEEPERS

Pub. L. 91-524, title VIII, § 804, Nov. 30, 1970, 84 Stat. 1382, as amended by Pub. L. 93-86, § 1(27)(A), Aug. 10, 1973, 87 Stat. 237; Pub. L. 95-113, title II, § 207, Sept. 29, 1977, 91 Stat. 921, provided that:

"(a) The Secretary of Agriculture is authorized to make indemnity payments to beekeepers who through no fault of their own have suffered losses of honey bees after January 1, 1967, as a result of utilization of economic poisons near or adjacent to the property on which the beehives of such beekeepers were located.

"(b) The amount of the indemnity payment in the case of any beekeeper shall be determined on the basis of the net loss sustained by such beekeeper as a result of the loss of his honey bees.

"(c) Indemnity payments shall be made only in cases in which the loss occurred as a result of the use of economic poisons which had been registered and approved for use by the Federal Government.

"(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

"(e) The Secretary is authorized to issue such regulations as he deems necessary to carry out the purposes of this section.

"(f) The provisions of this section shall not be in effect after September 30, 1981."

§ 285. Uses of funds

Funds appropriated to carry out the provisions of this chapter may also be used for printing and binding without regard to section 501 of title 44 for employment, by contract or otherwise, of ci-

vilian nationals of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia for services abroad, and for the construction and operation of research laboratories, quarantine stations, and other buildings and facilities.

(Aug. 31, 1922, ch. 301, § 4, as added June 25, 1976, Pub. L. 94-319, § 3, 90 Stat. 710.)

§ 286. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Aug. 31, 1922, ch. 301, § 5, as added June 25, 1976, Pub. L. 94-319, § 3, 90 Stat. 710.)

CHAPTER 12—ASSOCIATIONS OF AGRICULTURAL PRODUCTS PRODUCERS

Sec.

291. Authorization of associations; powers.
292. Monopolizing or restraining trade and unduly enhancing prices prohibited; remedy and procedure.

§ 291. Authorization of associations; powers

Persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce, such products of persons so engaged. Such associations may have marketing agencies in common; and such associations and their members may make the necessary contracts and agreements to effect such purposes: *Provided, however,* That such associations are operated for the mutual benefit of the members thereof, as such producers, and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein, or,

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

And in any case to the following:

Third. That the association shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members.

(Feb. 18, 1922, ch. 57, § 1, 42 Stat. 388.)

CROSS REFERENCES

Agricultural Fair Practices Act of 1967, association of producers as meaning associations referred to in this section, see section 2302 of this title.

“Cooperative association of producers” defined, see section 2 of this title.

Cooperative marketing, see sections 451 to 457 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1a, 457, 608c, 2302 of this title; title 15 section 57b-5.

§ 292. Monopolizing or restraining trade and unduly enhancing prices prohibited; remedy and procedure

If the Secretary of Agriculture shall have reason to believe that any such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, he shall serve upon such association a complaint stating his charge in that respect, to which complaint shall be attached, or contained therein, a notice of hearing, specifying a day and place not less than thirty days after the service thereof, requiring the association to show cause why an order should not be made directing it to cease and desist from monopolization or restraint of trade. An association so complained of may at the time and place so fixed show cause why such order should not be entered. The evidence given on such a hearing shall be taken under such rules and regulations as the Secretary of Agriculture may prescribe, reduced to writing, and made a part of the record therein. If upon such hearing the Secretary of Agriculture shall be of the opinion that such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced thereby, he shall issue and cause to be served upon the association an order reciting the facts found by him, directing such association to cease and desist from monopolization or restraint of trade. On the request of such association or if such association fails or neglects for thirty days to obey such order, the Secretary of Agriculture shall file in the district court in the judicial district in which such association has its principal place of business a certified copy of the order and of all the records in the proceeding, together with a petition asking that the order be enforced, and shall give notice to the Attorney General and to said association of such filing. Such district court shall thereupon have jurisdiction to enter a decree affirming, modifying, or setting aside said order, or enter such other decree as the court may deem equitable, and may make rules as to pleadings and proceedings to be had in considering such order. The place of trial may, for cause or by consent of parties, be changed as in other causes.

The facts found by the Secretary of Agriculture and recited or set forth in said order shall be prima facie evidence of such facts, but either party may adduce additional evidence. The Department of Justice shall have charge of the enforcement of such order. After the order is so filed in such district court and while pending for review therein the court may issue a temporary writ of injunction forbidding such association from violating such order or any part thereof. The court may, upon conclusion of its hearing, enforce its decree by a permanent injunction or other appropriate remedy. Service of such complaint and of all notices may be made upon such association by service upon any officer or agent thereof engaged in carrying on its business, or on any attorney authorized to appear in such proceedings for such association, and such service shall be binding upon such association, the officers, and members thereof.

(Feb. 18, 1922, ch. 57, § 2, 42 Stat. 388.)

RESTRICTION ON USE OF FUNDS RESPECTING STUDY, INVESTIGATION, OR PROSECUTION OF ANY AGRICULTURAL COOPERATIVE OR STUDY OR INVESTIGATION OF ANY AGRICULTURAL MARKETING ORDERS

For provisions restricting the use of funds authorized to be appropriated to carry out section 41 et seq. of Title 15, Commerce and Trade, for fiscal year 1980, 1981, or 1982, for the purpose of conducting any study, investigation, or prosecution of any provisions of this chapter, see section 20 of Pub. L. 96-252, set out as a note under section 57c of Title 15.

FEDERAL RULES OF CIVIL PROCEDURE

Application of Rules of Civil Procedure, see Rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

Preliminary and permanent injunctions, see Rule 65.

CROSS REFERENCES

“Cooperative association of producers” defined, see section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1a, 457, 608c of this title; title 15 section 57b-5.

CHAPTER 13—AGRICULTURAL AND MECHANICAL COLLEGES

SUBCHAPTER I—COLLEGE-AID LAND APPROPRIATION

- Sec. 301. Land grant aid of colleges.
- 302. Method of apportionment and selection; issuance of land scrip.
- 303. Management expenses paid by State.
- 304. Investment of proceeds of sale of land or scrip.
- 305. Conditions of grant.
- 306. Repealed.
- 307. Fees for locating land scrip.
- 308. Reports by State governors of sale of scrip.

SUBCHAPTER II—COLLEGE-AID ANNUAL APPROPRIATION

- 321. Secretary of Agriculture to administer annual college-aid appropriation.
- 322. Annual appropriation.
- 323. Racial discrimination by colleges restricted.
- 324. Time, manner, etc., of annual payments.
- 325. State to replace funds misapplied, etc.; restrictions on use of funds; reports by colleges.
- 326. Ascertainment and certification of amounts due States; certificates withheld from States; appeal to Congress.
- 326a. Annual appropriations for Puerto Rico, Virgin Islands, American Samoa, Guam, Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau.
- 327. Repealed.
- 328. Power to amend, repeal, etc., reserved.
- 329. Additional appropriation for agricultural colleges.

SUBCHAPTER III—RETIREMENT OF EMPLOYEES

- 331. Retirement of land-grant college employees.

SUBCHAPTER IV—AGRICULTURAL EXTENSION WORK APPROPRIATION

- 341. Cooperative extension work by colleges.
- 342. Cooperative agricultural extension work; cooperation with Secretary of Agriculture.
- 343. Appropriations; distribution; allotment and apportionment; Federal Extension Service.
- 343a to 343g. Repealed or Transferred.

- Sec. 344. Ascertainment of entitlement; guidelines concerning conflicts of interest among employees; time and manner of payment; reports of receipts and disbursements.
- 345. Replacement of diminished, lost or misapplied funds; restrictions on use; reports of colleges.
- 346. Report of nonentitlement to President; retention in Treasury; appeal and disposition.
- 347. Repealed.
- 347a. Disadvantaged agricultural areas.
 - (a) Congressional findings.
 - (b) Appropriation.
 - (c) Assistance.
 - (d) Allocation of funds.
 - (e) Appropriation as additional; limitation on amount.
- 348. Rules and regulations.
- 349. “State” defined.

SUBCHAPTER I—COLLEGE-AID LAND APPROPRIATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 322, 323, 329, 331, 341, 343, 361a, 390b, 1926, 2204c, 2662, 2663, 2664, 3103, 3124a, 3703 of this title; title 16 sections 551c, 582a-1, 1672; title 20 section 1060; title 22 section 2220a; title 42 sections 1788, 10303.

§ 301. Land grant aid of colleges

There is granted to the several States, for the purposes hereinafter mentioned in this subchapter, an amount of public land, to be apportioned to each State a quantity equal to thirty thousand acres for each Senator and Representative in Congress to which the States are respectively entitled by the apportionment under the census of 1860: *Provided*, That no mineral lands shall be selected or purchased under the provisions of said sections.

(July 2, 1862, ch. 130, § 1, 12 Stat. 503.)

CODIFICATION

Act July 2, 1862, with the exception of section 7, was not incorporated into the Revised Statutes, probably because the grants made thereby were regarded as executed, and the provisions incidental thereto as temporary. By act Mar. 3, 1883, ch. 102, 22 Stat. 484, however, section 4 of the original act was amended to read as set out under section 304 of this title.

SHORT TITLE

Act July 2, 1862, as amended, which is classified to this subchapter, is popularly known as the “Morrill Act” and also as the “First Morrill Act”.

EQUITY IN EDUCATIONAL LAND GRANT STATUS

Pub. L. 103-382, title V, part C, Oct. 20, 1994, 108 Stat. 4048, provided that:

“SEC. 531. SHORT TITLE.

“This part may be cited as the ‘Equity in Educational Land-Grant Status Act of 1994’.

“SEC. 532. DEFINITION.

“As used in this part, the term ‘1994 Institutions’ means any one of the following colleges:

- “(1) Bay Mills Community College.
- “(2) Blackfeet Community College.
- “(3) Cheyenne River Community College.
- “(4) D-Q University.
- “(5) Dullknife Memorial College.
- “(6) Fond Du Lac Community College.
- “(7) Fort Belknap Community College.
- “(8) Fort Berthold Community College.

- “(9) Fort Peck Community College.
- “(10) LacCourte Orielles Ojibwa Community College.
- “(11) Little Big Horn Community College.
- “(12) Little Hoop Community College.
- “(13) Nebraska Indian Community College.
- “(14) Northwest Indian College.
- “(15) Oglala Lakota College.
- “(16) Salish Kootenai College.
- “(17) Sinte Gleska University.
- “(18) Sisseton Wahpeton Community College.
- “(19) Standing Rock College.
- “(20) Stonechild Community College.
- “(21) Turtle Mountain Community College.
- “(22) Navajo Community College.
- “(23) United Tribes Technical College.
- “(24) Southwest Indian Polytechnic Institute.
- “(25) Institute of American Indian and Alaska Native Culture and Arts Development.
- “(26) Crownpoint Institute of Technology.
- “(27) Haskell Indian Junior College.
- “(28) Leech Lake Tribal College.
- “(29) College of the Menominee Nation.

“SEC. 533. LAND-GRANT STATUS FOR 1994 INSTITUTIONS.

“(a) IN GENERAL.—

“(1) STATUS OF 1994 INSTITUTIONS.—Except as provided in paragraph (2), 1994 Institutions shall be considered land-grant colleges established for the benefit of agriculture and the mechanic arts in accordance with the provisions of the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301 et seq.) (commonly known as the First Morrill Act).

“(2) 1994 INSTITUTIONS.—(A) 1994 Institutions shall not be considered as land-grant colleges that are eligible to receive funding under—

“(i) the Act of March 2, 1887 (24 Stat. 440, chapter 314; 7 U.S.C. 361a et seq.);

“(ii) the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343), except as provided under section 3(b)(3) of such Act [7 U.S.C. 343(b)(3)] (as added by section 534(b)(1) of this part); or

“(iii) the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 321 et seq.) (commonly known as the Second Morrill Act).

“(B) In lieu of receiving donations under the provisions of the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301 et seq.) (commonly known as the First Morrill Act), relating to the donations of public land or scrip for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, 1994 Institutions shall receive funding pursuant to the authorization under subsection (b).

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$4,600,000 for each of fiscal years 1996 through 2000. Amounts appropriated pursuant to this section shall be held and considered to have been granted to 1994 Institutions to establish an endowment pursuant to subsection (c).

“(c) ENDOWMENT.—

“(1) IN GENERAL.—In accordance with this subsection, the Secretary of the Treasury shall establish a 1994 Institutions Endowment Fund (hereafter in this subsection referred to as the ‘endowment fund’). The Secretary may enter into such agreements as are necessary to carry out this subsection.

“(2) DEPOSIT TO THE ENDOWMENT FUND.—The Secretary shall deposit in the endowment fund any—

“(A) amounts made available by appropriations pursuant to subsection (b) (hereafter in this subsection referred to as the ‘endowment fund corpus’); and

“(B) interest earned on the endowment fund corpus.

“(3) INVESTMENTS.—The Secretary shall invest the endowment fund corpus and income in interest-bearing obligations of the United States.

“(4) WITHDRAWALS AND EXPENDITURES.—The Secretary may not make a withdrawal or expenditure

from the endowment fund corpus. On the termination of each fiscal year, the Secretary shall withdraw the amount of the income from the endowment fund for the fiscal year, and after making adjustments for the cost of administering the endowment fund, distribute the adjusted income as follows:

“(A) 60 percent of the adjusted income shall be distributed among the 1994 Institutions on a pro rata basis. The proportionate share of the adjusted income received by a 1994 Institution under this subparagraph shall be based on the Indian student count (as defined in section 390(3) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2397h(3))) for each 1994 Institution for the fiscal year.

“(B) 40 percent of the adjusted income shall be distributed in equal shares to the 1994 Institutions.

“SEC. 534. APPROPRIATIONS.

“(a) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—For fiscal year 1996, and for each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury an amount equal to—

“(A) \$50,000; multiplied by

“(B) the number of 1994 Institutions.

“(2) PAYMENTS.—For each fiscal year, the Secretary of the Treasury shall pay to the treasurer of each 1994 Institution an amount equal to—

“(A) the total amount made available by appropriations pursuant to paragraph (1); divided by

“(B) the number of 1994 Institutions.

“(3) USE OF FUNDS; REQUIREMENTS.—The amounts authorized to be appropriated under this subsection shall be used in the same manner as is prescribed for colleges under the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 321 et seq.) (commonly known as the Second Morrill Act), and, except as otherwise provided in this subsection, the requirements of such Act shall apply to 1994 Institutions.

“(b) FUNDING.—[Amended section 343 of this title.]

“SEC. 535. INSTITUTIONAL CAPACITY BUILDING GRANTS.

“(a) DEFINITIONS.—As used in this section:

“(1) FEDERAL SHARE.—The term ‘Federal share’ means, with respect to a grant awarded under subsection (b), the share of the grant that is provided from Federal funds.

“(2) NON-FEDERAL SHARE.—The term ‘non-Federal share’ means, with respect to a grant awarded under subsection (b), the matching funds paid with funds other than funds referred to in paragraph (1), as determined by the Secretary.

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture.

“(b) IN GENERAL.—

“(1) INSTITUTIONAL CAPACITY BUILDING GRANTS.—For each of fiscal years 1996 through 2000, the Secretary shall make two or more institutional capacity building grants to assist 1994 Institutions with constructing, acquiring, and remodeling buildings, laboratories, and other capital facilities (including fixtures and equipment) necessary to conduct instructional activities more effectively in agriculture and sciences.

“(2) REQUIREMENTS FOR GRANTS.—The Secretary shall make grants under this section—

“(A) on the basis of a competitive application process under which appropriate officials of 1994 Institutions may submit applications to the Secretary in such form and manner as the Secretary may prescribe; and

“(B) in such manner as to ensure geographic diversity with respect to the 1994 Institutions that are the subject of the grants.

“(3) DEMONSTRATION OF NEED.—The Secretary shall require, as part of an application for a grant under this subsection, a demonstration of need. The Secretary may only award a grant under this subsection to an applicant that demonstrates a failure to obtain

funding for a project after making a reasonable effort to otherwise obtain the funding.

“(4) PAYMENT OF NON-FEDERAL SHARE.—A grant awarded under this subsection shall be made only if the recipient of the grant pays a non-Federal share in an amount specified by the Secretary.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Agriculture to carry out this section, \$1,700,000 for each of fiscal years 1996 through 2000.”

LAND GRANT COLLEGES IN AMERICAN SAMOA, NORTHERN MARIANA ISLANDS, AND TRUST TERRITORY OF THE PACIFIC ISLANDS

Pub. L. 96-374, title XIII, §1361(c), (d), Oct. 3, 1980, 94 Stat. 1502, as amended by Pub. L. 99-396, §9(c), Aug. 27, 1986, 100 Stat. 840, provided that:

“(c) Any provision of any Act of Congress relating to the operation of or provision of assistance to a land grant college in the Virgin Islands or Guam shall apply to the land grant college in American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands) in the same manner and to the same extent.

“(d) Nothing in this section [amending section 326a of this title and provisions set out as a note below] shall be construed to interfere with or affect any of the provisions of the April 17, 1900 Treaty of Cession of Tutuila and Aunu'u Islands or the July 16, 1904 Treaty of Cession of the Manu'a Islands as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4) [48 U.S.C. 1431a].”

[For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.]

COLLEGE OF THE VIRGIN ISLANDS, COMMUNITY COLLEGE OF AMERICAN SAMOA, COLLEGE OF MICRONESIA, NORTHERN MARIANAS COLLEGE, AND UNIVERSITY OF GUAM; LAND-GRANT STATUS; AUTHORIZATION OF APPROPRIATIONS

Section 506(a), (b) of Pub. L. 92-318, title V, June 23, 1972, 86 Stat. 350, as amended by Pub. L. 96-374, title XIII, §1361(a), Oct. 3, 1980, 94 Stat. 1501; Pub. L. 99-396, §9(a), Aug. 27, 1986, 100 Stat. 840, as amended by Pub. L. 102-247, title III, §305, Feb. 24, 1992, 106 Stat. 39, provided that:

“(a) The College of the Virgin Islands, the Community College of American Samoa, the College of Micronesia[,] the Northern Marianas College, and the University of Guam shall be considered land-grant colleges established for the benefit or agriculture and mechanic arts in accordance with the provisions of the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C. 301-305, 307, 308).

“(b) In lieu of extending to the Virgin Islands, Guam, American Samoa, Micronesia, and the Northern Mariana Islands those provisions of the Act of July 2, 1862, as amended, relating to donations of public land or land scrip for the endowment and maintenance of colleges or the benefit of agriculture and the mechanic arts, there is authorized to be appropriated \$3,000,000 to the Virgin Islands and \$3,000,000 to Guam and an equal amount to American Samoa, Micronesia, and to the Northern Mariana Islands. Amounts appropriated pursuant to this section shall be held and considered to have been granted to the Virgin Islands, Guam, American Samoa, Micronesia, and the Northern Mariana Islands subject to the provisions of that Act applicable to the proceeds from the sale of land or land scrip.”

EXCHANGE OF LAND IN MISSOURI

Pub. L. 85-282, Sept. 4, 1957, 71 Stat. 607, provided: “That, notwithstanding the provisions of the Act entitled ‘An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts’, approved July 2, 1862 (7 U.S.C. secs. 301-308), the State of Missouri is authorized to convey to the United States all

right, title, and interest of such State in and to any land granted to such State under authority of such Act of July 2, 1862, which is located within the exterior boundaries of the national forests situated within such State, and, in exchange therefor, the Secretary of Agriculture is authorized to convey to the State of Missouri all right, title, and interest of the United States in and to not to exceed an equal value of national forest lands (as determined by the Secretary) situated within such State.

“SEC. 2. Any exchange authorized by the first section of this Act shall be made in accordance with the applicable provisions of section 7 of the Act of March 1, 1911, commonly referred to as the Weeks Law (16 U.S.C., sec. 516), and the applicable provisions of the Act entitled ‘An Act to consolidate national forest lands’, approved March 20, 1922 (16 U.S.C., secs. 485 and 486).

“SEC. 3. Any land conveyed to the State of Missouri under authority of this Act shall, upon acceptance of such conveyance by such State, be held and considered to be granted to such State subject to the provisions of the Act of July 2, 1862, referred to in the first section of this Act.”

COOPERATION IN PLACEMENT OF DOMESTIC FARM LABOR

Section 2(b) of act Apr. 28, 1947, ch. 43, 61 Stat. 55, provided: “The Secretary of Agriculture and the Secretary of Labor shall take such action as may be necessary to assure maximum cooperation between the agricultural extension services of the land-grant colleges and the State public employment agencies in the recruitment and placement of domestic farm labor and in the keeping of such records and information with respect thereto as may be necessary for the proper and efficient administration of the State unemployment compensation laws and of title V of the Servicemen's Readjustment Act of 1944, as amended (58 Stat. 295).”

ADMISSION OF ALASKA AS STATE; GRANTS NOT TO EXTEND TO ALASKA

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Land grant under Alaska Statehood provisions as being in lieu of grant of acreage under sections 301 to 305, 307, 308 of this title (declared not to extend to Alaska), see section 6(l) of Pub. L. 85-508, set out as a note preceding section 21 of Title 48.

CROSS REFERENCES

Agricultural experiment stations, see section 361a et seq. of this title.

Agricultural extension work appropriation, see sections 341 to 343, 344 to 346, and 348 of this title.

College-aid annual appropriation, see sections 321 to 326 and 328 of this title.

Research and study grants to land-grant colleges for farm housing research, see note set out under section 1476 of Title 42, The Public Health and Welfare.

Water resources research and technology institutes, establishment at colleges or universities founded in accordance with this subchapter, see section 10303(a) of Title 42.

§ 302. Method of apportionment and selection; issuance of land scrip

The land aforesaid, after being surveyed, shall be apportioned to the several States in sections or subdivisions of sections, not less than one-quarter of a section; and whenever there are public lands in a State subject to sale at private entry at \$1.25 per acre, the quantity to which said State shall be entitled shall be selected from such lands within the limits of such State,

and the Secretary of the Interior is directed to issue to each of the States in which there is not the quantity of public lands subject to sale at private entry at \$1.25 per acre, to which said State may be entitled under the provisions of this subchapter, land scrip to the amount in acres for the deficiency of its distributive share; said scrip to be sold by said States and the proceeds thereof applied to the uses and purposes prescribed in said sections, and for no other use or purpose whatsoever: *Provided*, That in no case shall any State to which land scrip may thus be issued be allowed to locate the same within the limits of any other State, or of any Territory of the United States, but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States subject to sale at private entry at \$1.25, or less, per acre: *And provided further*, That not more than one million acres shall be located by such assignees in any one of the States: *And provided further*, That no such location shall be made before July 2, 1863.

(July 2, 1862, ch. 130, § 2, 12 Stat. 503.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 304 of this title.

§ 303. Management expenses paid by State

All the expenses of management, superintendence, and taxes from date of selection of said lands, previous to their sales, and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, shall be paid by the States to which they may belong, out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied without any diminution whatever to the purposes in sections 304, 305, 307 and 308 of this title mentioned.

(July 2, 1862, ch. 130, § 3, 12 Stat. 504.)

§ 304. Investment of proceeds of sale of land or scrip

All moneys derived from the sale of lands as provided in section 302 of this title by the States to which lands are apportioned and from the sales of land scrip provided for in said section shall be invested in bonds of the United States or of the States or some other safe bonds; or the same may be invested by the States having no State bonds, in any manner after the legislatures of such States shall have assented thereto and engaged that such funds shall yield a fair and reasonable rate of return, to be fixed by the State legislatures, and that the principal thereof shall forever remain unimpaired: *Provided*, That the moneys so invested or loaned shall constitute a perpetual fund, the capital of which shall remain forever undiminished (except so far as may be provided in section 305 of this title), and the interest of which shall be inviolably appropriated, by each State which may take and claim the benefit of this subchapter, to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner

as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

(July 2, 1862, ch. 130, § 4, 12 Stat. 504; Mar. 3, 1883, ch. 102, 22 Stat. 484; Apr. 13, 1926, ch. 130, 44 Stat. 247.)

AMENDMENTS

1926—Act Apr. 13, 1926, substituted “bonds” for “stocks” and “a fair and reasonable rate of return, to be fixed by the State Legislatures” for “not less than 5 per centum upon the amount so invested”, before proviso.

1883—Act Mar. 3, 1883, inserted “or the same may be invested by the States having no State stocks, in any other manner after the legislatures of such States shall have assented thereto, and engaged that such funds shall” after “other safe stocks” and substituted “yield” for “yielding”, “principal” for “capital” and “unimpaired” for “undiminished”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 305 of this title.

§ 305. Conditions of grant

The grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as well as to the provisions contained in said sections, the previous assent of the several States shall be signified by legislative acts:

First. If any portion of the fund invested, as provided by section 304 of this title, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes mentioned in section 304 of this title, except that a sum, not exceeding 10 per centum upon the amount received by any State under the provisions of this subchapter, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective legislatures of said States.

Second. No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings.

Third. Any State which may take and claim the benefit of the provisions of this subchapter shall provide, within five years from the time of its acceptance as provided in subdivision seven of this section, at least not less than one college, as described in section 304 of this title, or the grant to such State shall cease; and said State shall be bound to pay the United States the amount received of any lands previously sold, and the title to purchasers under the State shall be valid.

Fourth. An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their cost and results, and such other matters, including State industrial and economical statistics, as may be supposed useful; one copy of which shall be transmitted by mail, by each, to all the other colleges which may be endowed under the provisions of this subchapter, and also one copy to the Secretary of the Interior.

Fifth. When lands shall be selected from those which have been raised to double the minimum price, in consequence of railroad grants, they shall be computed to the States at the maximum price, and the number of acres proportionally diminished.

Sixth. No State while in a condition of rebellion or insurrection against the Government of the United States shall be entitled to the benefit of the provisions of this subchapter.

Seventh. No State shall be entitled to the benefits of the provisions of this subchapter unless it shall express its acceptance thereof by its legislature within three years from July 23, 1866: *Provided*, That when any Territory shall become a State and be admitted into the Union, such new State shall be entitled to the benefits of the provisions of said sections, by expressing the acceptance therein required within three years from the date of its admission into the Union, and providing the college or colleges within five years after such acceptance, as heretofore prescribed in this chapter.

(July 2, 1862, ch. 130, § 5, 12 Stat. 504; July 23, 1866, ch. 209, 14 Stat. 208; Mar. 3, 1873, ch. 231, § 3, 17 Stat. 559.)

REPEALS

Subd. fourth was repealed in part by act March 3, 1873, which provided in part: "That all laws and parts of laws permitting the transmission by mail of any free matter whatever be, and the same are hereby, repealed from and after June thirtieth, eighteen hundred and seventy-three."

Subd. seventh formerly contained a proviso which read as follows: "*Provided further*, That any State which has prior to July 23, 1866, expressed its acceptance of the foregoing provisions of this chapter shall have the period of five years within which to provide at least one college, as described in the fourth section of said act, after the time for providing said college, according to the act of July second, eighteen hundred and sixty-two shall have expired."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 304 of this title.

§ 306. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1028

Section, act July 2, 1862, ch. 130, § 6, 12 Stat. 505, related to time of location of land scrip.

§ 307. Fees for locating land scrip

The land officers shall receive the same fees for locating land scrip issued under the provisions of this subchapter as was on July 2, 1862, allowed for the location of military bounty land warrants under laws existing at that time: *Provided*, That their maximum compensation shall not be thereby increased.

(July 2, 1862, ch. 130, § 7, 12 Stat. 505.)

§ 308. Reports by State governors of sale of scrip

The governors of the several States to which scrip shall be issued under the provisions of this subchapter shall be required to report annually to Congress all sales made of such scrip until the whole shall be disposed of, the amount received for the same, and what appropriation has been made of the proceeds.

(July 2, 1862, ch. 130, § 8, 12 Stat. 505.)

SUBCHAPTER II—COLLEGE-AID ANNUAL APPROPRIATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 331, 341, 390b, 450i, 1358c, 1926, 2204c, 2209b, 2662, 2663, 2664, 3103, 3122, 3124a, 3221, 3222, 3222a, 3222b, 3222c, 3223, 3224, 3703, 5812 of this title; title 16 sections 551c, 1672, 1673; title 20 section 3441; title 22 section 2220a; title 42 section 1788.

§ 321. Secretary of Agriculture to administer annual college-aid appropriation

The Secretary of Agriculture is charged with the proper administration of this subchapter.

(Aug. 30, 1890, ch. 841, § 4, 26 Stat. 419; 1939 Reorg. Plan No. 1, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96-88, title III, § 301(a)(2)(E), 93 Stat. 677; Dec. 22, 1981, Pub. L. 97-98, title XIV, § 1419, 95 Stat. 1306.)

CODIFICATION

Section constitutes part of section 4 of act Aug. 30, 1890. Remainder of section 4 is classified to section 326 of this title.

SHORT TITLE

Act Aug. 30, 1890, as amended, which is classified to this subchapter, is popularly known as the "Agricultural College Act of 1890" and also as the "Second Morrill Act".

TRANSFER OF FUNCTIONS

Functions and duties of Secretary of Education under this subchapter transferred to Secretary of Agriculture by section 1419 of Pub. L. 97-98.

Functions of Secretary of Health, Education, and Welfare under this subchapter transferred to Secretary of Education by section 301(a)(2)(E) of Pub. L. 96-88, which is classified to section 3441(a)(2)(E) of Title 20, Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of 1953 Reorg. Plan No. 1.

Prior to July 1, 1939, functions of Secretary of the Interior under this subchapter were carried out through Office of Education of Department of the Interior. Office of Education and its functions transferred to Federal Security Administrator by section 204 of 1939 Reorg. Plan No. 1, set out in the Appendix to Title 5.

RECLAMATION FUND

Moneys received from the sale and disposal of public lands in certain States and Territories were appropriated to a "reclamation fund", for the reclamation of arid and semi-arid lands, by the Reclamation Act of June 17, 1902, ch. 1093, § 1, 32 Stat. 388, and, by a proviso annexed to that section, in case the receipts from the sale and disposal of other public lands are insufficient to meet the requirements for the support of agricultural colleges under this act, the sum necessary is to be provided from any moneys in the Treasury not otherwise appropriated. See section 391 et seq. of Title 43, Public Lands.

CROSS REFERENCES

Additional aid for agricultural college extension work, see sections 341 to 343, 344 to 346, and 347a to 349 of this title.

College land-aid appropriation, see sections 301 to 305, 307, and 308 of this title.

§ 322. Annual appropriation

There is annually appropriated, out of any money in the Treasury not otherwise appropriated, to be paid as provided in section 324 of this title, to each State and Territory for the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts established in accordance with the provisions of subchapter I of this chapter, \$50,000 to be applied only to instruction in food and agricultural sciences, and to the facilities for such instruction: *Provided*, That said colleges may use a portion of this money for providing courses for the special preparation of instructors for teaching the elements of food and agricultural sciences.

(Aug. 30, 1890, ch. 841, §1, 26 Stat. 417; Mar. 4, 1907, ch. 2907, 34 Stat. 1281, 1282; Dec. 22, 1981, Pub. L. 97-98, title XIV, §1421, 95 Stat. 1306.)

CODIFICATION

Section is based on a part of section 1 of act Aug. 30, 1890, and the tenth and eleventh pars. under the heading "Emergency Appropriations" of act Mar. 4, 1907. Remainder of section 1 of act Aug. 30, 1890, is classified to section 323 of this title.

AMENDMENTS

1981—Pub. L. 97-98 substituted "food and agricultural sciences" for "agriculture, the mechanic arts, the English language, and the various branches of mathematical, physical, natural, and economic science, with special reference to their applications in the industries of life" and "the elements of food and agricultural sciences" for "the elements of agriculture and the mechanic arts".

1907—Act Mar. 4, 1907, substituted "\$50,000" for "\$25,000", and inserted proviso.

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.

TRANSFER OF FUNCTIONS

For transfer of functions under this section to Secretary of Agriculture, see note set out under section 321 of this title.

AVAILABILITY OF FUNDS FOR PAYMENTS UNDER THIS SUBCHAPTER

Pub. L. 103-330, title VII, §724, Sept. 30, 1994, 108 Stat. 2469, provided that: "No funds shall be available in fiscal year 1995 and thereafter for payments under the Act of August 30, 1890 and the tenth and eleventh paragraphs under the heading 'Emergency Appropriations' of the Act of March 4, 1907 (7 U.S.C. 321 et seq.)."

CROSS REFERENCES

Additional appropriation for agricultural colleges, see section 329 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 326a of this title.

§ 323. Racial discrimination by colleges restricted

No money shall be paid out under this subchapter to any State or Territory for the support or maintenance of a college where a distinction of race or color is made in the admission of students, but the establishment and

maintenance of such colleges separately for white and colored students shall be held to be a compliance with the provisions of said sections if the funds received in such State or Territory be equitably divided as hereinafter set forth: *Provided*, That in any State in which there has been one college established in pursuance of subchapter I of this chapter, and also in which an educational institution of like character has been established, or may be hereafter established, and is on August 30, 1890, aided by such State from its own revenue, for the education of colored students in agriculture and the mechanic arts, however named or styled, or whether or not it has received money prior to August 30, 1890, under said subchapter I, the legislature of such State may propose and report to the Secretary of Agriculture a just and equitable division of the fund to be received under this subchapter between one college for white students and one institution for colored students established as aforesaid, which shall be divided into two parts and paid accordingly, and thereupon such institution for colored students shall be entitled to the benefits of said sections and subject to their provisions, as much as it would have been if it had been included under subchapter I of this chapter, and the fulfillment of the foregoing provisions shall be taken as a compliance with the provision in reference to separate colleges for white and colored students.

(Aug. 30, 1890, ch. 841, §1, 26 Stat. 417; 1939 Reorg. Plan No. 1, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96-88, title III, §301(a)(2)(E), 93 Stat. 677; Dec. 22, 1981, Pub. L. 97-98, title XIV, §1419, 95 Stat. 1306.)

CODIFICATION

Section constitutes part of section 1 of act Aug. 30, 1890. Remainder of section 1 is classified to section 322 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions under this section to Secretary of Agriculture, see note set out under section 321 of this title.

§ 324. Time, manner, etc., of annual payments

The sums appropriated by this subchapter to the States and Territories for the further endowment and support of colleges shall be annually paid on or before the 31st day of October of each year, by the Secretary of the Treasury, upon the warrant of the Secretary of Agriculture, out of the Treasury of the United States, to the State or Territorial treasurer, or to such officer as shall be designated by the laws of such State or Territory to receive the same, who shall, upon the order of the trustees of the college, or the institution for colored students, immediately pay over said sums to the treasurers of the respective colleges or other institutions entitled to receive the same, and such treasurers shall be required to report to the Secretary of Agriculture, on or before the 1st day of December of each year, a detailed statement of the amount so received and of its disbursement. The grants of moneys authorized by this subchapter are made subject to the legislative assent of the sev-

eral States and Territories to the purpose of said grants.

(Aug. 30, 1890, ch. 841, § 2, 26 Stat. 418; 1939 Reorg. Plan No. I, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 21, 1976, Pub. L. 94-273, § 9(1), 90 Stat. 378; Oct. 17, 1979, Pub. L. 96-88, title III, § 301(a)(2)(E), 93 Stat. 677; Dec. 22, 1981, Pub. L. 97-98, title XIV, § 1419, 95 Stat. 1306.)

AMENDMENTS

1976—Pub. L. 94-273 substituted “October” for “July” and “December” for “September”.

TRANSFER OF FUNCTIONS

For transfer of functions under this section to Secretary of Agriculture, see note set out under section 321 of this title.

Functions of Department of Health, Education, and Welfare and Secretary thereof under this subchapter transferred to Secretary of Education by section 301(a)(2)(E) of Pub. L. 96-88, which is classified to section 3441(a)(2)(E) of Title 20, Education.

Transfer of functions from Secretary of the Interior to Secretary of Health, Education, and Welfare, see note set out under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 322 of this title.

§ 325. State to replace funds misapplied, etc.; restrictions on use of funds; reports by colleges

If any portion of the moneys received by the designated officer of the State or Territory for the further and more complete endowment, support, and maintenance of colleges, or of institutions for colored students, as provided in this subchapter, shall, by any action or contingency, be diminished or lost, or be misapplied, it shall be replaced by the State or Territory to which it belongs, and until so replaced no subsequent appropriation shall be apportioned or paid to such State or Territory; and no portion of said moneys shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings. An annual report by the president of each of said colleges shall be made to the Secretary of Agriculture, regarding the condition and progress of each college, including statistical information in relation to its receipts and expenditures, its library, the number of its students and professors, and also as to any improvements and experiments made under the direction of any experiment stations attached to said colleges, with their cost and results, and such other industrial and economical statistics as may be regarded as useful, one copy of which shall be transmitted by mail free to all other colleges further endowed under this subchapter. (Aug. 30, 1890, ch. 841, § 3, 26 Stat. 418; 1939 Reorg. Plan No. I, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96-88, title III, § 301(a)(2)(E), 93 Stat. 677; Dec. 22, 1981, Pub. L. 97-98, title XIV, § 1419, 95 Stat. 1306.)

TRANSFER OF FUNCTIONS

For transfer of functions under this section to Secretary of Agriculture, see note set out under section 321 of this title.

Functions of Department of Health, Education, and Welfare and Secretary thereof under this subchapter transferred to Secretary of Education by section 301(a)(2)(E) of Pub. L. 96-88, which is classified to section 3441(a)(2)(E) of Title 20, Education.

Transfer of functions from Secretary of the Interior to Secretary of Health, Education, and Welfare, see note set out under section 321 of this title.

CROSS REFERENCES

Misapplication of funds received for support and maintenance of cooperative agricultural extension work, see section 345 of this title.

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

Penalty mail service, reimbursement for, see section 3206 of Title 39.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3202.

§ 326. Ascertainment and certification of amounts due States; certificates withheld from States; appeal to Congress

On or before the 1st day of October in each year, the Secretary of Agriculture shall ascertain and certify to the Secretary of the Treasury as to each State and Territory whether it is entitled to receive its share of the annual appropriation for colleges, or of institutions for colored students, under this subchapter, and the amount which thereupon each is entitled, respectively, to receive. If the Secretary of Agriculture shall withhold a certificate from any State or Territory of its appropriation the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the close of the next Congress, in order that the State or Territory may, if it should so desire, appeal to Congress from the determination of the Secretary of Agriculture. If the next Congress shall not direct such sum to be paid it shall be covered into the Treasury.

(Aug. 30, 1890, ch. 841, § 4, 26 Stat. 419; 1939 Reorg. Plan No. I, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 21, 1976, Pub. L. 94-273, § 3(1), 90 Stat. 376; Oct. 17, 1979, Pub. L. 96-88, title III, § 301(a)(2)(E), 93 Stat. 677; Dec. 22, 1981, Pub. L. 97-97, title XIV, § 1419, 95 Stat. 1306.)

CODIFICATION

Section constitutes part of section 4 of act Aug. 30, 1890. Remainder of section 4 is classified to section 321 of this title.

AMENDMENTS

1976—Pub. L. 94-273 substituted “October” for “July”.

TRANSFER OF FUNCTIONS

For transfer of functions under this section to Secretary of Agriculture, see note set out under section 321 of this title.

Functions of Department of Health, Education, and Welfare and Secretary thereof under this subchapter transferred to Secretary of Education by section 301(a)(2)(E) of Pub. L. 96-88, which is classified to section 3441(a)(2)(E) of Title 20, Education.

Transfer of functions from Secretary of the Interior to Secretary of Health, Education, and Welfare, see note set out under section 321 of this title.

§ 326a. Annual appropriations for Puerto Rico, Virgin Islands, American Samoa, Guam, Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau

There is appropriated annually, out of funds in the Treasury not otherwise appropriated, for payment to the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau the amount they would be entitled to receive under this subchapter if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by the first sentence of section 322 of this title.

(Aug. 30, 1890, ch. 841, §5, as added June 23, 1972, Pub. L. 92-318, title V, §506(c), 86 Stat. 350; amended Oct. 3, 1980, Pub. L. 96-374, title XIII, §1361(b), 94 Stat. 1502; Aug. 27, 1986, Pub. L. 99-396, §9(b), 100 Stat. 840; June 17, 1988, Pub. L. 100-339, §2, 102 Stat. 620; Oct. 20, 1994, Pub. L. 103-382, title III, §352, 108 Stat. 3966.)

CODIFICATION

“Appropriated by section 322 of this title” substituted in text for “appropriated by the first sentence of section 1”. The first sentence of section 1 of act Aug. 30, 1890, is classified to sections 322 and 323 of this title, but section 322 only contains the appropriation provision.

AMENDMENTS

1994—Pub. L. 103-382 substituted “the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau” for “and the Trust Territory of the Pacific Islands or its successor governments”.

1988—Pub. L. 100-339 amended section generally. Prior to amendment, section read as follows: “There is authorized to be appropriated annually for payment to the Virgin Islands, American Samoa, Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands) the amount they would receive under this subchapter if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by section 322 of this title.”

1986—Pub. L. 99-396 substituted “Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands)” for “and Micronesia, and Guam”.

1980—Pub. L. 96-374 inserted references to American Samoa and Micronesia.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 3 of Pub. L. 100-339 provided that: “This Act [amending this section] shall take effect on October 1, 1987.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96-374, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE

Section 506(n) of Pub. L. 92-318 provided that: “The amendments made by this section [enacting this section, amending sections 329, 331, 343, 349, 361a, 361c, and

1626 of this title and sections 582a-3 and 582a-7 of Title 16, and enacting provisions set out as notes under this section and section 301 of this title] shall be effective after June 30, 1970.”

STATE CONSENT

Section 506(m) of Pub. L. 92-318 provided that: “With respect to the Virgin Islands and Guam, the enactment of this section [see Effective Date note set out above] shall be deemed to satisfy any requirement of State consent contained in laws or provisions of law referred to in this section.”

§ 327. Repealed. May 29, 1928, ch. 901, §1(74), 45 Stat. 991

Section, act Aug. 30, 1890, ch. 841, §5, 26 Stat. 419, related to reports by Secretary of the Interior of disbursements and certificates withheld.

§ 328. Power to amend, repeal, etc., reserved

Congress may at any time amend, suspend, or repeal any or all of the provisions of this subchapter.

(Aug. 30, 1890, ch. 841, §6, 26 Stat. 419.)

§ 329. Additional appropriation for agricultural colleges

In order to provide for the more complete endowment and support of the colleges in the several States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands entitled to the benefits of this subchapter and subchapter I of this title, there are authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, the following amounts:

(a) for the first fiscal year beginning after the date of enactment of this Act, and for each fiscal year thereafter, \$8,250,000; and

(b) For the first fiscal year beginning after the date of enactment of this Act, and for each fiscal year thereafter, \$4,380,000.

The sums appropriated in pursuance of paragraph (a) of this section shall be paid annually to the several States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands in equal shares. The sums appropriated in pursuance of paragraph (b) of this section shall be in addition to sums appropriated in pursuance of paragraph (a) of this section and shall be allotted and paid annually to each of the several States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands in the proportion to which the total population of each State, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands bears to the total population of all the States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands as determined by the last preceding decennial census. Sums appropriated in pursuance of this section shall be in addition to sums appropriated or authorized under this subchapter and subchapter I of this title, and shall be applied only for the purposes of the colleges defined in such subchapters. The provisions of law applicable to the use and payment of sums under this subchapter shall apply to the use and payment of sums appropriated in pursuance of this section.

(June 29, 1935, ch. 338, title II, §22, 49 Stat. 439; June 12, 1952, ch. 419, §§1-4, 66 Stat. 135, 136; July

14, 1960, Pub. L. 86-658, 74 Stat. 525; Nov. 7, 1966, Pub. L. 89-791, title I, § 108(a), as added June 20, 1968, Pub. L. 90-354, § 1, 82 Stat. 241; June 23, 1972, Pub. L. 92-318, title V, § 506(d), 86 Stat. 350; Aug. 27, 1986, Pub. L. 99-396, § 9(d), 100 Stat. 840.)

REFERENCES IN TEXT

The words "date of enactment of this Act" appear in par. (a) of section 22 of act June 29, 1935, which was approved on June 29, 1935, and also in pars. (a) and (b) of section 22 of act June 29, 1935, as amended by Pub. L. 86-658, which was approved on July 14, 1960.

CODIFICATION

Section was not enacted as part of the act Aug. 30, 1890, which comprises this subchapter.

Section was formerly classified to section 343d of this title.

AMENDMENTS

1986—Pub. L. 99-396 substituted "Guam, and the Northern Mariana Islands" for "and Guam" in five places, "\$8,250,000" for "\$8,100,000", and "\$4,380,000" for "\$4,360,000".

1972—Pub. L. 92-318 inserted references to Virgin Islands and Guam, and substituted "\$8,100,000" and "\$4,360,000" for "\$7,800,000" and "\$4,320,000", respectively.

1968—Pub. L. 89-791, as added by Pub. L. 90-354, increased authorization for annual appropriations for Federal grants to States for support of resident teaching in land-grant colleges and universities from an authorization of \$7,650,000 to \$7,800,000, allocated equally among the States, and from an authorization of \$4,300,000, allotted on basis of relative State population, to \$4,320,000.

1960—Pub. L. 86-658 increased authorization for annual appropriations for Federal grants to States for support of resident teaching in land-grant colleges and universities from an authorization of \$1,000,000, allocated equally among the States, to \$7,650,000, and from an authorization of \$1,501,500, allotted on basis of relative State population, to \$4,300,000, struck out references to Territories of Alaska and Hawaii as now included in term "States" and included Puerto Rico in provisions of section.

1952—Opening par. Act June 12, 1952, § 1, made section applicable to Alaska.

Par. (a). Act June 12, 1952, § 2, increased allotment from \$980,000 to \$1,000,000.

Par. (b). Act June 12, 1952, §§ 3, 4, increased additional allotment of \$1,500,000 to \$1,501,500, and made said par. applicable to Alaska.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as an Effective Date note under section 326a of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Section 5 of act June 12, 1952, provided that: "The amendments made by this Act [amending this section] shall take effect on the first day of the first fiscal year beginning on or after the date of enactment of this Act [June 12, 1952]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3124a, 3152 of this title.

SUBCHAPTER III—RETIREMENT OF EMPLOYEES

§ 331. Retirement of land-grant college employees

Pursuant to the recognized obligations of governments to guarantee the social security of their employees and in order to provide for the

retirement on an annuity, or otherwise, of all persons being paid salaries in whole or in part from grants of Federal funds to the several States, Puerto Rico, the Virgin Islands, and Guam pursuant to the terms of the Act approved July 2, 1862, for the endowment and support of colleges of agriculture and mechanic arts [7 U.S.C. 301 et seq.], and Acts supplementary thereto providing for instruction in agriculture and mechanic arts, for the establishment of agricultural experiment stations, and for cooperative extension work in agriculture and home economics, all States, Puerto Rico, the Virgin Islands, and Guam are after March 4, 1940, authorized, notwithstanding any contrary provisions in said Acts, to withhold from expenditure, from Federal funds advanced under the terms of said Acts, amounts designated as employer contributions to be made by the States, Puerto Rico, the Virgin Islands, or Guam to retirement systems established in accordance with the laws of such States, Puerto Rico, the Virgin Islands, or Guam, or established by the governing boards of colleges of agriculture and mechanic arts in accordance with the authority vested in them, and to deposit such amounts to the credit of such retirement systems for subsequent disbursement in accordance with the terms of the retirement systems in effect in the respective States, Puerto Rico, the Virgin Islands, and Guam: *Provided*, That there shall not be deducted from Federal funds and deposited to the credit of retirement accounts as employer contributions, amounts in excess of 5 per centum of that portion of the salaries of employees paid from such Federal funds: *Provided further*, That, for the purpose of making deposits and contributions in retirement systems in favor of any employee, in no event shall the deductions from any Federal fund advanced pursuant to the foregoing Acts be in greater proportion to the total deductions for such employee than the salary received under such Federal funds bears to the total salary from Federal sources: *Provided further*, That the deposits and contributions from funds of Federal origin to any retirement system established by a State, Puerto Rico, the Virgin Islands, or Guam or a land-grant college must be at least equaled by the total contributions thereto on the part of the individuals concerned, the State, Puerto Rico, the Virgin Islands, or Guam, and the counties: *And provided further*, That no deductions for the foregoing purposes shall be made from Federal funds in support of employees appointed pursuant to the terms of the foregoing Acts, whose salaries are paid wholly by the States, Puerto Rico, the Virgin Islands, or Guam: *Provided further*, That the provisions of this section shall not apply to any employee paid in whole or in part from Federal funds who may be subject to subchapter III of chapter 83 of title 5.

(Mar. 4, 1940, ch. 38, 54 Stat. 39; June 23, 1972, Pub. L. 92-318, title V, § 506(e), 86 Stat. 351.)

REFERENCES IN TEXT

The Act approved July 2, 1862, referred to in text, is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, known as the "Morrill Act" and also known as the "First Morrill Act", which is classified generally to subchapter I (§301 et seq.) of this chapter. "Acts supplementary

thereto" include act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890, and also known as the Second Morrill Act, which is classified generally to subchapter II (§321 et seq.) of this chapter. For complete classification of these Acts to the Code, see Short Title notes set out under sections 301 and 321 of this title and Tables.

CODIFICATION

"Subchapter III of chapter 83 of title 5" substituted in text for "United States Civil Service Retirement Act, as amended" on authority of Pub. L. 89-544, §7(b), Sept. 6, 1966, 80 Stat. 631, 632, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1972—Pub. L. 92-318 substituted "Puerto Rico, the Virgin Islands, and Guam" and "Puerto Rico, the Virgin Islands, or Guam" for "and Territories" and "or Territories", respectively, wherever appearing and inserted in third proviso reference to Puerto Rico, Virgin Islands, and Guam.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as an Effective Date note under section 326a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361d, 3195, 3221, 3222 of this title.

SUBCHAPTER IV—AGRICULTURAL EXTENSION WORK APPROPRIATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 418, 1358b, 3103, 3124a, 3221 of this title; title 39 section 3202; title 40 section 483.

§ 341. Cooperative extension work by colleges

In order to aid in diffusing among the people of the United States useful and practical information on subjects relating to agriculture, uses of solar energy with respect to agriculture, home economics, and rural energy, and to encourage the application of the same, there may be continued or inaugurated in connection with the college or colleges in each State, Territory, or possession, now receiving, or which may hereafter receive, the benefits of subchapters I and II of this chapter, agricultural extension work which shall be carried on in cooperation with the United States Department of Agriculture: *Provided*, That in any State, Territory, or possession in which two or more such colleges have been or hereafter may be established, the appropriations hereinafter made to such State, Territory, or possession shall be administered by such college or colleges as the legislature of such State, Territory, or possession may direct. For the purposes of this subchapter, the term "solar energy" means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear¹ Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.].

(May 8, 1914, ch. 79, §1, 38 Stat. 372; June 26, 1953, ch. 157, §1, 67 Stat. 83; Sept. 29, 1977, Pub. L. 95-113, title XIV, §1447(1), (2), 91 Stat. 1011; June

30, 1980, Pub. L. 96-294, title II, §256(1), 94 Stat. 708.)

REFERENCES IN TEXT

The Federal Nonnuclear Energy Research and Development Act of 1974, as amended, referred to in text, is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

CODIFICATION

Another section 1447 of Pub. L. 95-113 is classified to section 3222b of this title.

AMENDMENTS

1980—Pub. L. 96-294 inserted reference to rural energy.

1977—Pub. L. 95-113 inserted reference to the uses of solar energy with respect to agriculture and inserted definition of "solar energy".

1953—Act June 26, 1953, inserted "continued or" before "inaugurated" near beginning of section, inserted references to "territory, or possession" after "State," wherever the latter term appeared, and struck out a second proviso which continued farm management work and farmers' cooperative demonstration work as conducted May 8, 1914, pending inauguration and development of cooperative extension work under sections 341-343 and 344-348 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.

SHORT TITLE

Act May 8, 1914, as amended, which is classified to this subchapter, is popularly known as the "Smith-Lever Act" and the "Agricultural Extension Work Act".

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.

DONATION OF SURPLUS PROPERTY TO STATE AGRICULTURAL EXTENSION AGENCIES

Transfer of office equipment, materials, books and other supplies to State or county agencies engaged in cooperative agricultural extension work, see note set out under section 484 of Title 40, Public Buildings, Property, and Works.

CROSS REFERENCES

Agricultural experiment stations, see section 361a et seq. of this title.

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 8852.

§ 342. Cooperative agricultural extension work; cooperation with Secretary of Agriculture

Cooperative agricultural extension work shall consist of the development of practical applications of research knowledge and giving of instruction and practical demonstrations of existing or improved practices or technologies in agriculture, uses of solar energy with respect to

¹ So in original. Probably should be "Nonnuclear".

agriculture, home economics, and rural energy and subjects relating thereto to persons not attending or resident in said colleges in the several communities, and imparting information on said subjects through demonstrations, publications, and otherwise and for the necessary printing and distribution of information in connection with the foregoing; and this work shall be carried on in such manner as may be mutually agreed upon by the Secretary of Agriculture and the State agricultural college or colleges or Territory or possession receiving the benefits of this subchapter.

(May 8, 1914, ch. 79, § 2, 38 Stat. 373; June 26, 1953, ch. 157, § 1, 67 Stat. 84; Oct. 5, 1962, Pub. L. 87-749, § 1(a), 76 Stat. 745; Sept. 29, 1977, Pub. L. 95-113, title XIV, § 1447(3), 91 Stat. 1011; June 30, 1980, Pub. L. 96-294, title II, § 256(2), 94 Stat. 708; Dec. 23, 1985, Pub. L. 99-198, title XIV, § 1435(a), 99 Stat. 1557.)

CODIFICATION

Another section 1447 of Pub. L. 95-113 is classified to section 3222b of this title.

AMENDMENTS

1985—Pub. L. 99-198 substituted “shall consist of the development of practical applications of research knowledge and giving of instruction and practical demonstrations of existing or improved practices or technologies” for “shall consist of the giving of instructions and practical demonstrations”.

1980—Pub. L. 96-294 inserted reference to rural energy.

1977—Pub. L. 95-113 inserted reference to uses of solar energy with respect to agriculture.

1962—Pub. L. 87-749 inserted “or Territory or possession” after “college or colleges”.

1953—Act June 26, 1953, inserted “and subjects relating thereto” after “agriculture and home economics” near beginning of section, and inserted reference to necessary printing and distribution of information.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-198 effective Oct. 1, 1985, see section 1435(d) of Pub. L. 99-198, set out as a note under section 343 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.

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 343, 347a of this title; title 42 section 8852.

§ 343. Appropriations; distribution; allotment and apportionment; Federal Extension Service

(a) There are authorized to be appropriated for the purposes of this subchapter such sums as Congress may from time to time determine to be necessary.

(b)(1) Out of such sums, each State and the Federal Extension Service shall be entitled to receive annually a sum of money equal to the sums available from Federal cooperative extension funds for the fiscal year 1962, and subject to the same requirements as to furnishing of equi-

alent sums by the State, except that amounts heretofore made available to the Secretary for allotment on the basis of special needs shall continue available for use on the same basis.

(2) There is authorized to be appropriated for the fiscal year ending June 30, 1971, and for each fiscal year thereafter, for payment to the Virgin Islands, Guam, and the Northern Mariana Islands, \$100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1971, and June 30, 1972, when such amount may be used to pay the total cost of providing services pursuant to this subchapter, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of this subchapter.

(3) There are authorized to be appropriated for the fiscal year ending June 30, 1996, and for each fiscal year thereafter, for payment on behalf of the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994), \$5,000,000 for the purposes set forth in section 342 of this title. Such sums shall be in addition to the sums appropriated for the several States and Puerto Rico, the Virgin Islands, and Guam under the provisions of this section. Such sums shall be distributed on the basis of a competitive application process to be developed and implemented by the Secretary and paid by the Secretary to State institutions established in accordance with the provisions of subchapter I of this chapter (other than 1994 Institutions) and administered by such institutions through cooperative agreements with 1994 Institutions in the States of the 1994 Institutions in accordance with regulations that the Secretary shall adopt.

(c) Any sums made available by the Congress for further development of cooperative extension work in addition to those referred to in subsection (b) of this section shall be distributed as follows:

1. Four per centum of the sum so appropriated for each fiscal year shall be allotted to the Federal Extension Service for administrative, technical, and other services, and for coordinating the extension work of the Department and the several States, Territories, and possessions.

2. Of the remainder so appropriated for each fiscal year 20 per centum shall be paid to the several States in equal proportions, 40 per centum shall be paid to the several States in the proportion that the rural population of each bears to the total rural population of the several States as determined by the census, and the balance shall be paid to the several States in the proportion that the farm population of each bears to the total farm population of the several States as determined by the census: *Provided*, That payments out of the additional appropriations for further development of extension work authorized herein may be made subject to the making available of such sums of public funds by the States from non-Federal funds for the maintenance of cooperative agricultural extension work provided for in this

subchapter, as may be provided by the Congress at the time such additional appropriations are made: *Provided further*, That any appropriation made hereunder shall be allotted in the first and succeeding years on the basis of the decennial census current at the time such appropriation is first made, and as to any increase, on the basis of decennial census current at the time such increase is first appropriated.

(d) The Federal Extension Service shall receive such additional amounts as Congress shall determine for administration, technical, and other services and for coordinating the extension work of the Department and the several States, Territories, and possessions.

(e) Insofar as the provisions of subsections (b) and (c) of this section, which require or permit Congress to require matching of Federal funds, apply to the Virgin Islands of the United States and Guam, such provisions shall be deemed to have been satisfied, for the fiscal years ending September 30, 1978, and September 30, 1979, only, if the amounts budgeted and available for expenditure by the Virgin Islands of the United States and Guam in such years equal the amounts budgeted and available for expenditure by the Virgin Islands of the United States and Guam in the fiscal year ending September 30, 1977.

(f) There shall be no matching requirement for funds made available pursuant to subsection (b)(3) of this section.

(g)(1) The Secretary of Agriculture may conduct educational, instructional, demonstration, and publication distribution programs through the Federal Extension Service and enter into cooperative agreements with private nonprofit and profit organizations and individuals to share the cost of such programs through contributions from private sources as provided in this subsection.

(2) The Secretary may receive contributions under this subsection from private sources for the purposes described in paragraph (1) and provide matching funds in an amount not greater than 50 percent of such contributions.

(May 8, 1914, ch. 79, § 3, 38 Stat. 373; June 26, 1953, ch. 157, § 1, 67 Stat. 84; Oct. 5, 1962, Pub. L. 87-749, § 1(b)-(e), 76 Stat. 745; June 23, 1972, Pub. L. 92-318, title V, § 506(g), 86 Stat. 351; Sept. 29, 1977, Pub. L. 95-113, title XIV, § 1465, 91 Stat. 1018; Dec. 23, 1985, Pub. L. 99-198, title XIV, § 1435(b), 99 Stat. 1557; Aug. 27, 1986, Pub. L. 99-396, § 9(e), 100 Stat. 840; Oct. 20, 1994, Pub. L. 103-382, title V, § 534(b), 108 Stat. 4050.)

REFERENCES IN TEXT

Section 532 of the Equity in Educational Land-Grant Status Act of 1994, referred to in subsec. (b)(3), is section 532 of Pub. L. 103-382, which is set out as a note under section 301 of this title.

CODIFICATION

Section 3 of act May 8, 1914 contained additional provisions relating to appropriations which were omitted from the Code as executed legislation.

AMENDMENTS

1994—Subsec. (b)(3). Pub. L. 103-382, § 534(b)(1), added par. (3).

Subsecs. (f), (g). Pub. L. 103-382, § 534(2), (3), added subsec. (f) and redesignated former subsec. (f) as (g).

1986—Subsec. (b)(2). Pub. L. 99-396 substituted “Guam, and the Northern Mariana Islands” for “and Guam” in provision authorizing an appropriation each fiscal year for the payment of \$100,000 in addition to the sums appropriated for the States and Puerto Rico.

1985—Subsec. (f). Pub. L. 99-198 added subsec. (f).

1977—Subsec. (e). Pub. L. 95-113 added subsec. (e).

1972—Subsec. (b). Pub. L. 92-318 designated existing provisions as par. (1) and added par. (2).

1962—Subsec. (b). Pub. L. 87-749, § 1(b), substituted “sums available” for “sums received”, and “1962” for “1953”, and struck out “, Alaska, Hawaii, Puerto Rico,” before “and the Federal Extension Service”, “such sums shall be” before “subject to the same requirement”, “, Alaska, Hawaii, and Puerto Rico as existed immediately prior to June 26, 1953” before “except that amounts heretofore”, and proviso which authorized Puerto Rico to receive the total initial amount set by Act Oct. 26, 1949, which amount was to be increased yearly until the total sum equalled the maximum amount set by such Act, and to receive such amount annually thereafter.

Subsec. (c)1. Pub. L. 87-749, § 1(c), provided that the allotment shall be to the Federal Extension Service for various services and for coordinating the extension work of the Department, States, Territories and Possessions, and struck out provisions which required the Secretary to allot the funds among the States, Alaska, Hawaii, and Puerto Rico according to special needs.

Subsec. (c)2. Pub. L. 87-749, § 1(d), substituted provisions authorizing 20 per centum of the remainder of the appropriated funds to be paid to the States in equal proportions, 40 per centum of such funds to be paid to the States in the proportion that the rural population of each bears to the total rural population of the States, and the balance to be paid the States in the proportion that the farm population of each bears to the total farm population of the States, for provisions paying 50 per centum of the remaining sum to the States, Alaska, Hawaii and Puerto Rico in the proportion that the rural population of each had to the total rural population of all, and the balance in the proportion that the farm population of each had to the farm population of all, and struck out “, Alaska, Hawaii, and Puerto Rico” from first proviso.

Subsec. (d). Pub. L. 87-749, § 1(e), inserted “additional” after “receive such”.

1953—Act June 26, 1953, amended section generally, and, among other changes: (1) divided section into subsections; (2) substituted general authorization for appropriations for former authorization for specific annual appropriations; (3) inserted references to Alaska, Hawaii, and Puerto Rico; and (4) substituted provisions relating to allotment and apportionment of appropriations for former provisions for such apportionment on basis of rural population, and farm population, as determined by latest census.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1435(d) of Pub. L. 99-198 provided that: “This section and the amendments made by this section [amending this section and section 342 of this title] shall become effective on October 1, 1985.”

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.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as an Effective Date note under section 326a of this title.

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2020, 3175, 3221 of this title.

§§ 343a to 343c-1. Repealed. June 26, 1953, ch. 157, § 2, 67 Stat. 85, 86

Section 343a, acts May 22, 1928, ch. 687, § 1, 45 Stat. 711; Mar. 10, 1930, ch. 73, 46 Stat. 83, authorized additional annual appropriations of \$980,000, and \$500,000, further to develop cooperative agricultural extension work under sections 341 to 343, 344 to 346, and 347a to 349 of this title, provided for the disposition of such sums, and extended the system to Hawaii.

Section 343b, act May 22, 1928, ch. 687, § 2, 45 Stat. 712, provided that the sums appropriated under said section 343a should be in addition to sums appropriated under section 343 of this title, or sums otherwise annually appropriated for cooperative agricultural extension work.

Section 343c, acts June 29, 1935, ch. 338, title II, § 21, 49 Stat. 438; June 6, 1945, ch. 175, § 2, 59 Stat. 233, authorized further additional appropriations on an ascending scale until they amounted to \$12,000,000 annually, further to develop the cooperative agricultural system inaugurated under sections 341 to 343, 344 to 346, 347a to 349 of this title, and provided for their disposition.

Section 343c-1, acts Apr. 24, 1939, ch. 85, 53 Stat. 589; Sept. 21, 1944, ch. 412, title VII, § 707, 58 Stat. 742, authorized additional appropriations of \$555,000 annually, for the purpose of paying the expenses of cooperative extension work in agriculture and home economics, and provided for their disposition.

The provisions that were contained in all of the above repealed sections are covered generally by sections 341 to 343, 344 to 346, and 347a to 349 of this title.

§ 343d. Transferred

CODIFICATION

Section, act June 29, 1935, ch. 338, title II, § 22, 49 Stat. 439, as amended, which related to additional appropriations for agricultural colleges, was transferred to section 329 of this title.

§§ 343d-1 to 343d-5. Repealed. June 26, 1953, ch. 157, § 2, 67 Stat. 86

Section 343d-1, act June 29, 1935, ch. 338, title II, § 23, as added June 6, 1945, ch. 175, § 1, 59 Stat. 231, authorized further additional appropriations, commencing with the fiscal year ended June 30, 1946 and continuing on an ascending scale until they amounted to \$12,500,000 for the fiscal year ended June 30, 1948 and each subsequent fiscal year, further to develop the cooperative agricultural extension system inaugurated under sections 341 to 343, 344 to 346, and 347a to 349 of this title, and provided for their disposition.

Sections 343d-2 and 343d-3, act Oct. 26, 1949, ch. 753, §§ 1, 2, 63 Stat. 926, extended the provisions of former section 343d-1 of this title to Puerto Rico and for such purposes, authorized additional appropriations on an ascending scale until they should amount to \$401,090 annually.

Sections 343d-4 and 343d-5, act Oct. 27, 1949, ch. 768, §§ 1, 2, 63 Stat. 939, extended the provisions of former sections 343a, 343b, 343c and 343d-1 of this title to Alaska, and, for such purpose, authorized annual appropriations in amounts to be computed on the same basis as computations of appropriations to States, subject to annual estimates as to funds and amounts by the Secretary of Agriculture.

See, generally, sections 341 to 343, 344 to 346, and 347a to 349 of this title.

§ 343e. Repealed. Oct. 27, 1949, ch. 768, § 3, 63 Stat. 940

Section, act June 20, 1936, ch. 631, §§ 1, 3, 49 Stat. 1553, 1554, related to extension of benefits of former sections

343a and 343b of this title to Alaska. See notes thereunder.

§§ 343f, 343g. Repealed. June 26, 1953, ch. 157, § 2, 67 Stat. 86

Sections, act Aug. 28, 1937, ch. 878, §§ 1, 2, 50 Stat. 881, extended benefits of former section 343c of this title to Puerto Rico, and for such purpose, authorized appropriations, commencing with initial authorization of \$88,000 for the fiscal year beginning after August 28, 1937, and on an ascending scale thereafter, until they amounted to \$408,000 annually. See sections 341 to 343, 344 to 346, and 347a to 349 of this title.

§ 344. Ascertainment of entitlement; guidelines concerning conflicts of interest among employees; time and manner of payment; reports of receipts and disbursements

On or about the first day of October in each year after June 26, 1953, the Secretary of Agriculture shall ascertain as to each State whether it is entitled to receive its share of the annual appropriation for cooperative agricultural extension work under this subchapter and the amount which it is entitled to receive. Before the funds herein provided shall become available to any college for any fiscal year, plans for the work to be carried on under this subchapter shall be submitted by the proper officials of each college and approved by the Secretary of Agriculture. The Secretary shall ensure that each college seeking to receive funds under this subchapter has in place appropriate guidelines, as determined by the Secretary, to minimize actual or potential conflicts of interest among employees of such college whose salaries are funded in whole or in part with such funds. Such sums shall be paid in equal quarterly payments in or about July, October, January, and April of each year to the treasurer or other officer of the State duly authorized by the laws of the State to receive the same, and such officer shall be required to report to the Secretary of Agriculture on or about the first day of April of each year, a detailed statement of the amount so received during the previous fiscal year and its disbursement, on forms prescribed by the Secretary of Agriculture.

(May 8, 1914, ch. 79, § 4, 38 Stat. 374; June 26, 1953, ch. 157, § 1, 67 Stat. 85; Oct. 5, 1962, Pub. L. 87-749, § 1(f), 76 Stat. 745; Apr. 21, 1976, Pub. L. 94-273, § 15, 90 Stat. 379; Nov. 28, 1990, Pub. L. 101-624, title XVI, § 1617, 104 Stat. 3732.)

AMENDMENTS

1990—Pub. L. 101-624 inserted after second sentence “The Secretary shall ensure that each college seeking to receive funds under this subchapter has in place appropriate guidelines, as determined by the Secretary, to minimize actual or potential conflicts of interest among employees of such college whose salaries are funded in whole or in part with such funds.”

1976—Pub. L. 94-273 substituted “of October” for “of July” and “of April” for “of January”.

1962—Pub. L. 87-749 substituted “quarterly payments in or about July, October, January, and April” for “semiannual payments on the first day of January and July”, and struck out “, Territory or possession” wherever appearing.

1953—Act June 26, 1953, among other changes, inserted first two sentences, inserted references to “Territory, or possession” after references to “State,” in sentence commencing “Such sums”, and in such sen-

tence, struck out reference to payment by the Secretary of the Treasury upon warrant of the Secretary of Agriculture, and substituted "January" for "September" with respect to submission of annual detailed statements.

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§ 345. Replacement of diminished, lost or misapplied funds; restrictions on use; reports of colleges

If any portion of the moneys received by the designated officer of any State for the support and maintenance of cooperative agricultural extension work, as provided in this subchapter, shall by any action or contingency be diminished or lost or be misapplied, it shall be replaced by said State and until so replaced no subsequent appropriation shall be apportioned or paid to said State. No portion of said moneys shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings, or the purchase or rental of land, or in college-course teaching, lectures in college, or any other purpose not specified in this subchapter. It shall be the duty of said colleges, annually, on or about the first day of January, to make to the Governor of the State in which it is located a full and detailed report of its operations in extension work as defined in this subchapter, including a detailed statement of receipts and expenditures from all sources for this purpose, a copy of which report shall be sent to the Secretary of Agriculture.

(May 8, 1914, ch. 79, § 5, 38 Stat. 374; June 26, 1953, ch. 157, § 1, 67 Stat. 85; Oct. 5, 1962, Pub. L. 87-749, § 1(g), 76 Stat. 745.)

AMENDMENTS

1962—Pub. L. 87-749 struck out references to territories and possessions wherever appearing.

1953—Act June 26, 1953, among other changes, inserted "Territory, or possession" after "State," wherever latter term appeared, struck out provision that not more than five per centum of each annual appropriation should be applied to the printing and distribution of publications, and struck out the provision that copies of the required reports should be sent to the Secretary of the Treasury.

CROSS REFERENCES

Misapplication of funds received for endowment of institutions for colored students, see section 325 of this title.

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§ 346. Report of nonentitlement to President; retention in Treasury; appeal and disposition

If the Secretary of Agriculture finds that a State is not entitled to receive its share of the annual appropriation, the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the expiration of the Congress next succeeding a session of the legislature of the State from which funds have been withheld in order that the State may, if it should so desire, appeal to Congress from the determination of the Secretary of Agriculture. If the next

Congress shall not direct such sum to be paid, it shall be covered into the Treasury.

(May 8, 1914, ch. 79, § 6, 38 Stat. 374; June 26, 1953, ch. 157, § 1, 67 Stat. 85; Oct. 5, 1962, Pub. L. 87-749, § 1(g), 76 Stat. 745.)

AMENDMENTS

1962—Pub. L. 87-749 struck out references to territories and possessions wherever appearing.

1953—Act June 26, 1953, among other changes, struck out former first sentence relating to ascertainment of entitlement to funds (which provision is now covered in section 344 of this title); substituted "finds that a State, Territory, or possession is not entitled to receive its share of the annual appropriation" for "shall withhold a certificate from any State of its appropriation"; and inserted references to "Territory, or possession" after "State," wherever the latter term appeared.

CROSS REFERENCES

Ascertainment of amount due States, or Territories, and report of appropriation withheld in the case of annual appropriations for institutions for colored students, see section 326 of this title.

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§ 347. Repealed. Pub. L. 86-533, § 1(21), June 29, 1960, 74 Stat. 249

Section, acts May 8, 1914, ch. 79, § 7, 38 Stat. 374; June 26, 1953, ch. 157, § 1, 67 Stat. 85, required Secretary of Agriculture to report to Congress receipts, expenditures, and results of cooperative agriculture extension work in all States, Territories, or possessions receiving benefits of sections 341 to 343, 344 to 346, and 347a to 349 of this title.

§ 347a. Disadvantaged agricultural areas

(a) Congressional findings

The Congress finds that there exists special circumstances in certain agricultural areas which cause such areas to be at a disadvantage insofar as agricultural development is concerned, which circumstances include the following: (1) There is concentration of farm families on farms either too small or too unproductive or both; (2) such farm operators because of limited productivity are unable to make adjustments and investments required to establish profitable operations; (3) the productive capacity of the existing farm unit does not permit profitable employment of available labor; (4) because of limited resources, many of these farm families are not able to make full use of current extension programs designed for families operating economic units nor are extension facilities adequate to provide the assistance needed to produce desirable results.

(b) Appropriation

In order to further the purposes of section 342 of this title in such areas and to encourage complementary development essential to the welfare of such areas, there are authorized to be appropriated such sums as the Congress from time to time shall determine to be necessary for payments to the States on the basis of special needs in such areas as determined by the Secretary of Agriculture.

(c) Assistance

In determining that the area has such special need, the Secretary shall find that it has a sub-

stantial number of disadvantaged farms or farm families for one or more of the reasons heretofore enumerated. The Secretary shall make provisions for the assistance to be extended to include one or more of the following: (1) Intensive on-the-farm educational assistance to the farm family in appraising and resolving its problems; (2) assistance and counseling to local groups in appraising resources for capability of improvement in agriculture or introduction of industry designed to supplement farm income; (3) cooperation with other agencies and groups in furnishing all possible information as to existing employment opportunities, particularly to farm families having under-employed workers; and (4) in cases where the farm family, after analysis of its opportunities and existing resources, finds it advisable to seek a new farming venture, the providing of information, advice, and counsel in connection with making such change.

(d) Allocation of funds

No more than 10 per centum of the sums available under this section shall be allotted to any one State. The Secretary shall use project proposals and plans of work submitted by the State Extension directors as a basis for determining the allocation of funds appropriated pursuant to this section.

(e) Appropriation as additional; limitation on amount

Sums appropriated pursuant to this section shall be in addition to, and not in substitution for, appropriations otherwise available under this subchapter. The amounts authorized to be appropriated pursuant to this section shall not exceed a sum in any year equal to 10 per centum of sums otherwise appropriated pursuant to this subchapter.

(May 8, 1914, ch. 79, §8, as added Aug. 11, 1955, ch. 798, §1(a), 69 Stat. 683; amended Oct. 5, 1962, Pub. L. 87-749, §1(h), 76 Stat. 745.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-749 struck out “, Alaska, Hawaii, and Puerto Rico” before “on the basis of”.

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§ 348. Rules and regulations

The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary for carrying out the provisions of this subchapter.

(May 8, 1914, ch. 79, §9, formerly §8, 38 Stat. 374; June 26, 1953, ch. 157, §1, 67 Stat. 85; renumbered §9, Aug. 11, 1955, ch. 798, §1(b), 69 Stat. 684.)

AMENDMENTS

1953—Act June 26, 1953, substituted provisions for rules and regulations for provisions empowering Congress to alter, amend, or repeal sections 341 to 343 and 344 to 348 of this title at any time.

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§ 349. “State” defined

The term “State” means the States of the Union, Puerto Rico, the Virgin Islands, Guam and the Northern Mariana Islands.

(May 8, 1914, ch. 79, §10, as added Oct. 5, 1962, Pub. L. 87-749, §1(i), 76 Stat. 745; amended June 23, 1972, Pub. L. 92-318, title V, §506(h), 86 Stat. 351; Aug. 27, 1986, Pub. L. 99-396, §9(f), 100 Stat. 840.)

AMENDMENTS

1986—Pub. L. 99-396 amended section generally, expanding definition of “State” to include the Northern Mariana Islands.

1972—Pub. L. 92-318 inserted reference to Virgin Islands and Guam.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as a note under section 326a of this title.

CHAPTER 14—AGRICULTURAL EXPERIMENT STATIONS

SUBCHAPTER I—GENERAL PROVISIONS

- Sec. 361. Repealed.
 - 361a. Congressional declaration of purpose; definitions.
 - 361b. Congressional statement of policy; researches, investigations and experiments.
 - 361c. Authorization of appropriations and allotments of grants.
 - (a) Authorization.
 - (b) Allotments to States; authorization of appropriations for Virgin Islands and Guam; limitation.
 - (c) Allotment of additional sums.
 - (d) Allotment of amounts in excess of \$90,000.
 - (e) “Administration” defined.
 - (f) Adjustment of payments.
 - (g) Reductions and reapportionments.
 - 361d. Use of funds.
 - 361e. Payment of allotments to State agricultural experiment stations; directors and treasurers or other officers; accounting; reports to Secretary; replacement by States of diminished, lost or misapplied allotments; subsequent allotments or payments contingent on such replacement.
 - 361f. Publications of experiment stations; free mailing.
 - 361g. Secretary of Agriculture; powers and duties; rules and regulations; determination of amount of entitlement; deduction of unexpended balances.
 - 361h. Relation of college or university to State unaffected; division of appropriations.
 - 361i. Power to amend, repeal, etc., reserved.
 - 362 to 383. Transferred, Repealed, or Omitted.
 - 384. Card index of agricultural literature; copies to be furnished by Secretary.
 - 385. South Carolina Experiment Station; cooperation by Secretary of Agriculture; lump sum appropriation.
 - 385a. Authorization of appropriations.
 - 386 to 386g. Repealed.
- SUBCHAPTER II—EXPERIMENT STATIONS FOR PROPAGATION OF TREES, SHRUBS, VINES, AND VEGETABLES
- 387. Station for semi-arid or dry-land regions; establishment.
 - 387a. Authorization of appropriations.
 - 388. Station for southern Great Plains area; establishment.

- Sec.
388a. Authorization of appropriations.
389. Transfer of certain dry land and irrigation field stations to States.
389a. Conditions of transfer of dry land and irrigation field stations; reservation of mineral rights.

SUBCHAPTER III—RESEARCH FACILITIES

390. Congressional declaration of policy.
390a. Congressional declaration of purpose.
390b. Definitions.
390c. Administration.
 (a) Authorization of appropriations.
 (b) Limitation on amount of grant; funding from non-Federal sources.
 (c) Rules and regulations.
390d. Eligibility for payments; facility proposals.
390e. Repealed.
390f. Multiple-purpose equipment and physical facilities; fund support basis.
390g. Repealed.
390h. Fiscal accountability.
 (a) Chief administrative officers; fiscal officers; duties; reports.
 (b) Diminution, loss, or misapplication of funds.
390i. Reports to Congress.
390j. Availability of appropriated funds for administration.
390k. Repealed.

SUBCHAPTER I—GENERAL PROVISIONS

ACT REFERRED TO IN OTHER SECTIONS

Sections 361a to 361i, commonly known as the Hatch Act of 1887, are referred to in sections 384, 390b, 418, 450i, 3103, 3124a, 3311 of this title; title 16 section 582a-1; title 40 section 483.

§ 361. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section, acts Mar. 16, 1906, ch. 951, § 4, 34 Stat. 64; Feb. 24, 1925, ch. 308, § 4, 43 Stat. 971, provided for the administration of the agricultural experiment station program. See section 361g of this title.

EXISTING RIGHTS AND LIABILITIES

Section 2 of act Aug. 11, 1955, which repealed sections 361, 364, 366, 369, 369a, 371 to 376, 380, 382, 383, 386 to 386f, 427a to 427h, and 427j of this title, provided in part that any rights or liabilities existing under such repealed sections or parts of sections should not be affected by their repeal.

§ 361a. Congressional declaration of purpose; definitions

It is the policy of Congress to continue the agricultural research at State agricultural experiment stations which has been encouraged and supported by the Hatch Act of 1887 [7 U.S.C. 361a et seq.], the Adams Act of 1906, the Purnell Act of 1925, the Bankhead-Jones Act of 1935, and title I, section 9, of that Act as added by the Act of August 14, 1946, and Acts amendatory and supplementary thereto, and to promote the efficiency of such research by a codification and simplification of such laws. As used in this Act [7 U.S.C. 361a et seq.], the terms "State" or "States" are defined to include the several States (including the District of Columbia), Alaska, Hawaii, Puerto Rico, Guam and the Virgin Islands. As used in this Act [7 U.S.C. 361a et seq.], the term "State agricultural experiment station" means a department which shall have been established, under direction of the college

or university or agricultural departments of the college or university in each State in accordance with an Act approved July 2, 1862, (12 Stat. 503), entitled "An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts" [7 U.S.C. 301 et seq.]; or such other substantially equivalent arrangements as any State shall determine.

(Mar. 2, 1887, ch. 314, § 1, 24 Stat. 440; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 671; June 23, 1972, Pub. L. 92-318, title V, § 506(k), 86 Stat. 351; Oct. 26, 1974, Pub. L. 93-471, title II, § 208(e), 88 Stat. 1429.)

REFERENCES IN TEXT

The Hatch Act of 1887, referred to in text, is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, which is classified generally to sections 361a to 361i of this title. For complete classification of this act to the Code, see Short Title note set out below, and Tables.

The Adams Act of 1906, referred to in text, is act Mar. 16, 1906, ch. 951, 34 Stat. 63, as amended, which was classified to sections 361, 366, 369, 371, 373 to 376, 380, and 382 of this title, and was repealed by act Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674. For complete classification of this Act to the Code prior to repeal, see Tables.

The Purnell Act of 1925, referred to in text, is act Feb. 24, 1925, ch. 308, 43 Stat. 970, as amended, which was classified to sections 361, 366, 370, 371, 373 to 376, 380, and 382 of this title, and was repealed by act Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674. For complete classification of this Act to the Code prior to repeal, see Tables.

The Bankhead-Jones Act of 1935, referred to in text, is act June 29, 1935, ch. 338, 49 Stat. 436, as amended, which was classified principally to sections 329 and 427 to 427j of this title, and was repealed by act Aug. 11, 1966, ch. 790, § 2, 69 Stat. 674, except for sections 1, 10, and 22 of the Act, which are classified to sections 427, 427i, and 329 of this title, respectively. For complete classification of this Act to the Code, see Tables.

Title I, section 9, of that Act, referred to in text, was classified to section 427h of this title prior to repeal.

The Act approved July 2, 1862 (12 Stat. 503), referred to in text, is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the "Morrill Act" and also as the "First Morrill Act", which is classified generally to subchapter I of chapter 13 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this Act and Tables.

CODIFICATION

Section 208 of act Oct. 26, 1974, Pub. L. 93-471, cited as a credit to this section, was renumbered section "209" by act Nov. 1, 1975, D.C. Law 1-36, § 4, 22 DCR 2911.

Section was formerly classified to section 362 of this title.

AMENDMENTS

1974—Pub. L. 93-471 defined "State" to include the District of Columbia.

1972—Pub. L. 92-318 defined "State" to include Guam and the Virgin Islands.

1955—Act Aug. 11, 1955, amended section generally to continue agricultural research at the agricultural experiment stations, to restate the declaration of purpose, and to insert definitions of "State" and "State agricultural experiment station." Former provisions which required division of appropriations between colleges of same state are now contained in section 361h of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-471 effective July 1, 1975, unless Pub. L. 93-471 repealed by District of Columbia Council after Jan. 2, 1975, and prior to July 1, 1975; or

such amendment by Pub. L. 93-471, as amended by the District Council, also effective July 1, 1975, or some other date prescribed by the Council as authorized under provisions of section 407 of Pub. L. 93-471.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as an Effective Date note under section 326a of this title.

SHORT TITLE

Act Mar. 2, 1887, as amended, which is classified to sections 361a to 361i of this title, is popularly known as the "Hatch Act of 1887".

ARLINGTON ESTATE

Besides the provisions establishing agricultural experiment stations, contained in act Mar. 2, 1887, a portion of the Arlington estate in the State of Virginia was set apart for experimental agricultural purposes by act April 18, 1900, ch. 243, 31 Stat. 135, and provisions for establishing and maintaining a general experimental farm and agricultural station thereon were made by the subsequent agricultural appropriation acts.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

CROSS REFERENCES

Exemption of experiment stations from penalties under Agricultural Adjustment Act of 1938, see section 1372 of this title.

Increased annual appropriations for the endowment and maintenance of agricultural colleges, see sections 321 to 326 and 328 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361c, 361d, 361e, 361g, 361h, 361i, 418, 2664 of this title; title 16 section 582a-1.

§ 361b. Congressional statement of policy; researches, investigations and experiments

It is further the policy of the Congress to promote the efficient production, marketing, distribution, and utilization of products of the farm as essential to the health and welfare of our peoples and to promote a sound and prosperous agriculture and rural life as indispensable to the maintenance of maximum employment and national prosperity and security. It is also the intent of Congress to assure agriculture a position in research equal to that of industry, which will aid in maintaining an equitable balance between agriculture and other segments of our economy. It shall be the object and duty of the State agricultural experiment stations through the expenditure of the appropriations hereinafter authorized to conduct original and other researches, investigations, and experiments bearing directly on and contributing to the establishment and maintenance of a permanent and effective agricultural industry of the United States, including researches basic to the problems of agriculture in its broadest aspects, and such investigations as have for their pur-

pose the development and improvement of the rural home and rural life and the maximum contribution by agriculture to the welfare of the consumer, as may be deemed advisable, having due regard to the varying conditions and needs of the respective States.

(Mar. 2, 1887, ch. 314, §2, 24 Stat. 440; Aug. 11, 1955, ch. 790, §1, 69 Stat. 671.)

CODIFICATION

Section was formerly classified to section 363 of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to restate the policy of Congress.

CROSS REFERENCES

Additional appropriations for research work, see section 427i of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 361d of this title.

§ 361c. Authorization of appropriations and allotments of grants

(a) Authorization

There are authorized to be appropriated for the purposes of sections 361a to 361i of this title such sums as Congress may from time to time determine to be necessary.

(b) Allotments to States; authorization of appropriations for Virgin Islands and Guam; limitation

(1) Out of such sums each State shall be entitled to receive annually a sum of money equal to and subject to the same requirement as to use for marketing research projects as the sums received from Federal appropriations for State agricultural experiment stations for the fiscal year 1955, except that amounts heretofore made available from the fund known as the "Regional research fund, Office of Experiment Stations" shall continue to be available for the support of cooperative regional projects as defined in subsection (c)(3) of this section, and the said fund shall be designated "Regional research fund, State agricultural experiment stations," and the Secretary of Agriculture shall be entitled to receive annually for the administration of sections 361a to 361i of this title, a sum not less than that available for this purpose for the fiscal year ending June 30, 1955: *Provided*, That if the appropriations hereunder available for distribution in any fiscal year are less than those for the fiscal year 1955 the allotment to each State and the amounts for Federal administration and the regional research fund shall be reduced in proportion to the amount of such reduction.

(2) There is authorized to be appropriated for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, for payment to the Virgin Islands and Guam, \$100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal

year, except the fiscal years ending June 30, 1971, and June 30, 1972, when such amount may be used to pay the total cost of providing services pursuant to sections 361a to 361i of this title, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of such sections.

(c) Allotment of additional sums

Any sums made available by the Congress in addition to those provided for in subsection (b) of this section for State agricultural experiment station work shall be distributed as follows:

1. Twenty per centum shall be allotted equally to each State;

2. Not less than 52 per centum of such sums shall be allotted to each State, as follows: One-half in an amount which bears the same ratio to the total amount to be allotted as the rural population of the State bears to the total rural population of all the States as determined by the last preceding decennial census current at the time each such additional sum is first appropriated; and one-half in an amount which bears the same ratio to the total amount to be allotted as the farm population of the State bears to the total farm population of all the States as determined by the last preceding decennial census current at the time such additional sum is first appropriated;

3. Not more than 25 per centum shall be allotted to the States for cooperative research in which two or more State agricultural experiment stations are cooperating to solve problems that concern the agriculture of more than one State. The funds available for such purposes, together with funds available pursuant to subsection (b) of this section for like purpose shall be designated as the "Regional research fund, State agricultural experiment stations", and shall be used only for such cooperative regional projects as are recommended by a committee of nine persons elected by and representing the directors of the State agricultural experiment stations, and approved by the Secretary of Agriculture. The necessary travel expenses of the committee of nine persons in performance of their duties may be paid from the fund established by this paragraph;

4. Repealed. Pub. L. 95-113, title XIV, §1466(a), Sept. 29, 1977, 91 Stat. 1018.

5. Three per centum shall be available to the Secretary of Agriculture for administration of sections 361a to 361i of this title. These administrative funds may be used for transportation of scientists who are not officers or employees of the United States to research meetings convened for the purpose of assessing research opportunities or research planning.

(d) Allotment of amounts in excess of \$90,000

Of any amount in excess of \$90,000 available under sections 361a to 361i of this title for allotment to any State, exclusive of the regional research fund, State agricultural experiment stations, no allotment and no payments thereof shall be made in excess of the amount which the State makes available out of its own funds for research and for the establishment and maintenance of facilities necessary for the prosecution of such research: *And provided further*, That if any State fails to make available for such re-

search purposes for any fiscal year a sum equal to the amount in excess of \$90,000 to which it may be entitled for such year, the remainder of such amount shall be withheld by the Secretary of Agriculture and reapportioned among the States.

(e) "Administration" defined

"Administration" as used in this section shall include participation in planning and coordinating cooperative regional research as defined in subsection (c)3 of this section.

(f) Adjustment of payments

In making payments to States, the Secretary of Agriculture is authorized to adjust any such payment to the nearest dollar.

(g) Reductions and reapportionments

If in any year the amount made available by a State from its own funds (including any revenue-sharing funds) to a State agricultural experiment station is reduced because of an increase in the allotment made available under sections 361a to 361i of this title, the allotment to the State agricultural experiment station from the appropriation in the next succeeding fiscal year shall be reduced in an equivalent amount. The Secretary shall reapportion the amount of such reduction to other States for use by their agricultural experiment stations.

(Mar. 2, 1887, ch. 314, §3, 24 Stat. 441; Aug. 11, 1955, ch. 790, §1, 69 Stat. 671; June 23, 1972, Pub. L. 92-318, title V, §506(l), 86 Stat. 351; Sept. 29, 1977, Pub. L. 95-113, title XIV, §1466, 91 Stat. 1018; Dec. 22, 1981, Pub. L. 97-98, title XIV, §1442(a), 95 Stat. 1321; Nov. 28, 1990, Pub. L. 101-624, title XVI, §1618(a), 104 Stat. 3733.)

CODIFICATION

Section is based on first sentence of section 3 of act Mar. 2, 1887, which was formerly classified to section 368 of this title. See section 361g of this title. The second sentence of said section 3 was reenacted in act Feb. 24, 1925, ch. 308, §3, 43 Stat. 971, and was classified to former section 366 of this title which was repealed by act Aug. 11, 1955, ch. 790, §2, 69 Stat. 674.

AMENDMENTS

1990—Subsec. (d). Pub. L. 101-624 inserted before period at end "and reapportioned among the States".

1981—Subsec. (g). Pub. L. 97-98 added subsec. (g).

1977—Subsec. (c)(4). Pub. L. 95-113, §1466(a), struck out par. (4) which provided that not less than 20 per centum of any sums appropriated pursuant to subsec. (c) for distribution to States be used for conducting marketing research projects approved by the Department of Agriculture.

Subsec. (c)(5). Pub. L. 95-113, §1466(b), inserted provision authorizing the use of administrative funds for the transportation of scientists who are not officers or employees of the United States to research meetings convened for the purpose of assessing research opportunities or research planning.

1972—Subsec. (b). Pub. L. 92-318 designated existing provisions as par. (1) and added par. (2).

1955—Act Aug. 11, 1955, amended section generally to authorize appropriations and to provide for allotment of grants. For provisions which related to advice and assistance by the Secretary of Agriculture, see section 361g of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as an Effective Date note under section 326a of this title.

CROSS REFERENCES

Additional appropriations for research work, see section 427i of this title.

Annual appropriations for agricultural colleges, see section 322 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361e, 3222 of this title.

§ 361d. Use of funds

Moneys appropriated pursuant to sections 361a to 361i of this title shall also be available, in addition to meeting expenses for research and investigations conducted under authority of section 361b of this title, for printing and disseminating the results of such research, retirement of employees subject to the provisions of section 331 of this title, administrative planning and direction, and for the purchase and rental of land and the construction, acquisition, alteration, or repair of buildings necessary for conducting research. The State agricultural experiment stations are authorized to plan and conduct any research authorized under section 361b of this title in cooperation with each other and such other agencies and individuals as may contribute to the solution of the agricultural problems involved, and moneys appropriated pursuant to sections 361a to 361i of this title shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

(Mar. 2, 1887, ch. 314, § 4, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 672.)

CODIFICATION

Section was formerly classified to section 365 of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to provide for printing and disseminating the results of research, retirement of employees, administrative planning and direction, purchase and rental of land, and the construction, acquisition, alteration, or repair of buildings necessary for conducting research. Former provisions which related to issuance and free mailing of publications are now contained in section 361f of this title.

§ 361e. Payment of allotments to State agricultural experiment stations; directors and treasurers or other officers; accounting; reports to Secretary; replacement by States of diminished, lost or misapplied allotments; subsequent allotments or payments contingent on such replacement

Sums available for allotment to the States under the terms of sections 361a to 361i of this title, excluding the regional research fund authorized by section 361c(c)(3) of this title, shall be paid to each State agricultural experiment

station in equal quarterly payments beginning on the first day of October of each fiscal year upon vouchers approved by the Secretary of Agriculture. Each such station authorized to receive allotted funds shall have a chief administrative officer known as a director, and a treasurer or other officer appointed by the governing board of the station. Such treasurer or other officer shall receive and account for all funds allotted to the State under the provisions of sections 361a to 361i of this title and shall report, with the approval of the director, to the Secretary of Agriculture on or before the first day of December of each year a detailed statement of the amount received under provisions of said sections during the preceding fiscal year, and of its disbursement on schedules prescribed by the Secretary of Agriculture. If any portion of the allotted moneys received by the authorized receiving officer of any State agricultural experiment station shall by any action or contingency be diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to such State.

(Mar. 2, 1887, ch. 314, § 5, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 673; Apr. 21, 1976, Pub. L. 94-273, § 9(2), 90 Stat. 378.)

CODIFICATION

Section was formerly classified to section 368a of this title. See sections 361c and 361d of this title.

AMENDMENTS

1976—Pub. L. 94-273 substituted "October" for "July" and "December" for "September".

1955—Act Aug. 11, 1955, amended section generally to provide for quarterly payment of allotments, to require annual report of allotments and disbursements, and to provide for replacement of funds diminished, lost, or misapplied. For provisions which authorized appropriations for investigations and experiments, see sections 361c and 361d of this title.

§ 361f. Publications of experiment stations; free mailing

Bulletins, reports, periodicals, reprints of articles, and other publications necessary for the dissemination of results of the researches and experiments, including lists of publications available for distribution by the experiment stations, shall be transmitted in the mails of the United States under penalty indicia: *Provided, however,* That each publication shall bear such indicia as are prescribed by the United States Postal Service and shall be mailed under such regulations as the United States Postal Service may from time to time prescribe. Such publications may be mailed from the principal place of business of the station or from an established subunit of said station.

(Mar. 2, 1887, ch. 314, § 6, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 673; Aug. 12, 1970, Pub. L. 91-375, § 4(a), 84 Stat. 773.)

CODIFICATION

Section was formerly classified to section 377 of this title. See section 361g of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to authorize free mailing of publications by the agricul-

tural experiment stations. For provisions which related to the unexpended balance of annual appropriation, see section 361g of this title.

TRANSFER OF FUNCTIONS

“United States Postal Service” substituted in text for “Postmaster General” pursuant to Pub. L. 91-375, §4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service, which abolished office of Postmaster General of Post Office Department and transferred its functions to United States Postal Service.

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

Preparation and printing of annual report of experiment stations, see section 418 of this title.

Sale of card index of literature prepared in connection with the administration of sections 361a to 361i of this title, see section 384 of this title.

§ 361g. Secretary of Agriculture; powers and duties; rules and regulations; determination of amount of entitlement; deduction of unexpended balances

The Secretary of Agriculture is charged with the responsibility for the proper administration of sections 361a to 361i of this title, and is authorized and directed to prescribe such rules and regulations as may be necessary to carry out its provisions. It shall be the duty of the Secretary to furnish such advice and assistance as will best promote the purposes of said sections, including participation in coordination of research initiated under said sections by the State agricultural experiment stations, from time to time to indicate such lines of inquiry as to him seem most important, and to encourage and assist in the establishment and maintenance of cooperation by and between the several State agricultural experiment stations, and between the stations and the United States Department of Agriculture.

On or before the first day of October in each year after the passage of sections 361a to 361i of this title, the Secretary of Agriculture shall ascertain as to each State whether it is entitled to receive its share of the annual appropriations for agricultural experiment stations under said sections and the amount which thereupon each is entitled, respectively, to receive.

Whenever it shall appear to the Secretary of Agriculture from the annual statement of receipts and expenditures of funds by any State agricultural experiment station that any portion of the preceding annual appropriation allotted to that station under sections 361a to 361i of this title remains unexpended, such amount shall be deducted from the next succeeding annual allotment to the State concerned.

If the Secretary of Agriculture shall withhold from any State any portion of the appropriations available for allotment, the facts and reasons therefor shall be reported to the President and the amount involved shall be kept separate in the Treasury until the close of the next Congress. If the next Congress shall not direct such sum to be paid, it shall be carried to surplus.

(Mar. 2, 1887, ch. 314, §7, 24 Stat. 441; Aug. 11, 1955, ch. 790, §1, 69 Stat. 673; June 29, 1960, Pub. L. 86-533, §1(22), 74 Stat. 249; Apr. 21, 1976, Pub. L. 94-273, §3(2), 90 Stat. 376.)

CODIFICATION

Section was formerly classified to section 379 of this title. See section 361h of this title.

AMENDMENTS

1976—Pub. L. 94-273 substituted “October” for “July” in second par.

1960—Pub. L. 86-533 repealed provisions which required the Secretary of Agriculture to make a report to the Congress of the receipts, expenditures and work of the agricultural experiment stations in all the States under the provisions of sections 361a to 361i of this title.

1955—Act Aug. 11, 1955, amended section generally to prescribe the powers and duties of the Secretary of Agriculture, to provide for the determination of the amount of entitlement, to authorize deduction of unexpended balances, and to require reports. For provisions which stated that the relation of the college to the State was unaffected, see section 361h 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.

§ 361h. Relation of college or university to State unaffected; division of appropriations

Nothing in sections 361a to 361i of this title shall be construed to impair or modify the legal relation existing between any of the colleges or universities under whose direction State agricultural experiment stations have been established and the government of the States in which they are respectively located. States having agricultural experiment stations separate from such colleges or universities and established by law, shall be authorized to apply such benefits to research at stations so established by such States: *Provided*, That in any State in which more than one such college, university, or agricultural experiment station has been established the appropriations made pursuant to sections 361a to 361i of this title for such State shall be divided between such institutions as the legislature of such State shall direct.

(Mar. 2, 1887, ch. 314, §8, 24 Stat. 441; Aug. 11, 1955, ch. 790, §1, 69 Stat. 674.)

CODIFICATION

Section was formerly classified to section 378 of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to provide that the relation between the college and the State is to be unaffected, and to require division of appropriations.

§ 361i. Power to amend, repeal, etc., reserved

The Congress may at any time, amend, suspend, or repeal any or all of the provisions of sections 361a to 361i of this title.

(Mar. 2, 1887, ch. 314, §9, 24 Stat. 442; Aug. 11, 1955, ch. 790, §1, 69 Stat. 674.)

CODIFICATION

Section was formerly classified to section 368b of this title. The provisions of section 368b were eliminated from section 361i of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to reserve the right to Congress to amend, suspend, or repeal any or all of the provisions of sections 361a to 361i of this title, and to strike out provisions which subjected grants of moneys to the legislative assent of the several States and Territories.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361c, 361d, 361e, 361g, 361h of this title.

§§ 362, 363. Transferred

CODIFICATION

Sections, act Mar. 2, 1887, ch. 314, §§1, 2, 24 Stat. 440, as amended, were transferred to sections 361a and 361b, respectively, of this title.

§ 364. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 675

Section, act Mar. 2, 1889, ch. 373, 25 Stat. 840, required all agricultural experiment stations to devote a portion of their work to the examination and classification of the soils of their respective States and Territories.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under this section as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 365. Transferred

CODIFICATION

Section, act Mar. 2, 1887, ch. 314, § 4, 24 Stat. 441, as amended, was transferred to section 361d of this title. For provisions of section 365 of this title which related to issuance and free mailing by stations of bulletins or reports, see section 361f of this title.

§ 366. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section, acts Mar. 16, 1906, ch. 951, § 3, 34 Stat. 63; Feb. 24, 1925, ch. 308, § 3, 43 Stat. 971, provided for annual reports by agricultural experiment stations to governors.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under this section as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under section 361 of this title.

§ 367. Omitted

CODIFICATION

Section was from act July 28, 1953, ch. 251, title I, 67 Stat. 207, the Department of Agriculture Appropriation Act, 1954, and authorized the Secretary of Agriculture to prescribe the form of the annual financial statement required from the agricultural experiment stations. See section 361e of this title.

Similar provisions were contained in the following prior appropriation acts:

- July 5, 1952, ch. 574, title I, 66 Stat. 337.
- Aug. 31, 1951, ch. 374, title I, 65 Stat. 228.
- Sept. 6, 1950, ch. 896, ch. VI, title I, 64 Stat. 660.
- June 29, 1949, ch. 280, title I, 63 Stat. 330.
- June 19, 1948, ch. 543, title I, 62 Stat. 514.
- July 30, 1947, ch. 356, title I, 61 Stat. 530.
- June 22, 1946, ch. 445, 60 Stat. 277.
- May 5, 1945, ch. 109, 59 Stat. 143.
- June 28, 1944, ch. 296, 58 Stat. 432.
- July 12, 1943, ch. 215, 57 Stat. 400.
- July 22, 1942, ch. 516, 56 Stat. 670.
- July 1, 1941, ch. 267, 55 Stat. 412.
- June 25, 1940, ch. 421, 54 Stat. 536.
- June 30, 1939, ch. 253, title I, 53 Stat. 944.

- June 16, 1938, ch. 464, title I, 52 Stat. 715.
- June 29, 1937, ch. 404, 50 Stat. 399.
- June 4, 1936, ch. 489, 49 Stat. 1425.
- May 17, 1935, ch. 131, title I, 49 Stat. 251.
- Mar. 26, 1934, ch. 89, 48 Stat. 471.
- Mar. 3, 1933, ch. 203, 47 Stat. 1435.
- July 7, 1932, ch. 443, 47 Stat. 613.
- Feb. 23, 1931, ch. 278, 46 Stat. 1246.
- May 27, 1930, ch. 341, 46 Stat. 396.
- Feb. 16, 1929, ch. 227, 45 Stat. 1192.
- May 16, 1928, ch. 572, 45 Stat. 542.
- Jan. 18, 1927, ch. 39, 44 Stat. 979.
- May 11, 1926, ch. 286, 44 Stat. 502.
- Feb. 10, 1925, ch. 200, 43 Stat. 824.

§§ 368 to 368b. Transferred

CODIFICATION

Section 368, act Mar. 2, 1887, ch. 314, § 3, 24 Stat. 441, as amended, was transferred to section 361c of this title. For provisions of section 368 which provided for assistance and advice by the Secretary of Agriculture, see section 361g of this title.

Section 368a, act Mar. 2, 1887, ch. 314, § 5, 24 Stat. 441, as amended, was transferred to section 361e of this title. For provisions of section 368a which authorized appropriations for investigations and experiments, see sections 361c and 361d of this title.

Section 368b, act Mar. 8, 1887, ch. 314, § 9, 24 Stat. 442, as amended, was transferred to section 361i of this title. Former provisions of section 368b making grants of money authorized by section 368a of this title subject to the legislative assent of the States and Territories were eliminated from section 361i.

§ 368c. Omitted

CODIFICATION

Section, act Mar. 2, 1887, ch. 314, § 10, 24 Stat. 442, which was not reenacted by act Aug. 11, 1955, ch. 790, 69 Stat. 671, reserved the right to Congress to amend, suspend, or repeal any or all of the provisions of act Mar. 2, 1887. See section 361i of this title.

§§ 369 to 376. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section 369, act Mar. 16, 1906, ch. 951, § 1, 34 Stat. 63, authorized annual appropriations for agricultural experiment stations. See section 361c of this title.

Section 369a, acts June 20, 1936, ch. 631, §§1, 2, 49 Stat. 1553, 1554; Aug. 29, 1950, ch. 820, 64 Stat. 563, extended provisions of former sections 343a, 343b, 361, 366, 369, 370, 371, 373 to 376, 380, and 382 of this title to Alaska. See section 361a of this title.

Section 370, act Feb. 24, 1925, ch. 308, § 1, 43 Stat. 970, authorized an additional appropriation of \$60,000 for each fiscal year. See section 361c of this title.

Section 371, acts Mar. 16, 1906, ch. 951, § 2, 34 Stat. 63; Feb. 24, 1925, ch. 308, § 2, 43 Stat. 971, made grants of money authorized for agricultural experiment stations subject to the legislative assent of the several States and Territories.

Section 372, act June 7, 1888, ch. 373, 25 Stat. 176, provided for assent to installments of appropriations when the legislature is not in session.

Section 373, acts Mar. 16, 1906, ch. 951, § 2, 34 Stat. 63; Feb. 24, 1925, ch. 308, § 2, 43 Stat. 971, prescribed the time and manner of payments to agricultural experiment stations and required a report of expenditures to the Secretary of Agriculture. See sections 361c and 361e of this title.

Section 374, acts Mar. 16, 1906, ch. 951, § 3, 34 Stat. 63; Feb. 24, 1925, ch. 308, § 3, 43 Stat. 971, required the State to replace moneys misapplied. See section 361e of this title.

Section 375, acts Mar. 16, 1906, ch. 951, § 3, 34 Stat. 63; Feb. 24, 1925, ch. 308, § 3, 43 Stat. 971, permitted use of funds for purchase, repairs, etc., of buildings, or for

purchase or rental of lands. See section 361d of this title.

Section 376, acts Mar. 16, 1906, ch. 951, § 4, 34 Stat. 64; Feb. 24, 1925, ch. 308, § 4, 43 Stat. 971, provided for certification of amounts due States for agricultural experiment stations, for withholding certificate, and for redress by Congress. See section 361g of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under sections 369 to 376 as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§§ 377 to 379. Transferred

CODIFICATION

Section 377, act Mar. 2, 1887, ch. 314, § 6, 24 Stat. 441, as amended, was transferred to section 361f of this title. For provisions of section 377 which related to unexpended part of annual appropriations, see section 361g of this title.

Section 378, act Mar. 2, 1887, ch. 314, § 8, 24 Stat. 441, as amended, was transferred to section 361h of this title.

Section 379, act Mar. 2, 1887, ch. 314, § 7, 24 Stat. 441, as amended, was transferred to section 361g of this title. For provisions of section 379 which provided that the relation of the college to the State was unaffected, see section 361h of this title.

§ 380. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section, acts Mar. 16, 1906, ch. 951, § 5, 34 Stat. 64; Feb. 24, 1925, ch. 308, § 5, 43 Stat. 972, provided for an annual report to Congress. See section 361g of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under this section as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 381. Omitted

CODIFICATION

Section was from act Mar. 2, 1901, ch. 805, 31 Stat. 935, the Agricultural Appropriation Act, 1902, and authorized the Secretary of Agriculture to employ personnel and to incur administrative expenses in carrying out the objects of the agricultural experiment station program. See section 361g of this title.

Similar provisions were contained in several prior appropriation acts.

§§ 382, 383. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674, 675

Section 382, acts Mar. 16, 1906, ch. 951, § 6, 34 Stat. 64; Feb. 24, 1925, ch. 308, § 6, 43 Stat. 972, reserved the right to Congress to amend, suspend or repeal any and all of the provisions of act Mar. 16, 1906. See section 361i of this title.

Section 383, act Oct. 1, 1918, ch. 178, 40 Stat. 998, authorized appropriations for the Georgia Experiment Station. See section 361c of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under these sections as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 384. Card index of agricultural literature; copies to be furnished by Secretary

The Secretary of Agriculture may furnish to such institutions or individuals as may care to buy them copies of the card index of agricul-

tural literature prepared by the Department of Agriculture in connection with its administration of the Act of March second, eighteen hundred and eighty-seven [7 U.S.C. 361a et seq.], and the Act of March sixteenth, nineteen hundred and six, and the Acts amendatory of and supplementary thereto, and charge for the same a price covering the additional expenses involved in the preparation of these copies, the money received from such sales to be deposited in the Treasury of the United States as miscellaneous receipts.

(Mar. 4, 1915, ch. 144, 38 Stat. 1109.)

REFERENCES IN TEXT

The Act of March second, eighteen hundred and eighty-seven, referred to in text, is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act of 1887, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

The Act of March sixteenth, nineteen hundred and six, referred to in text, means act Mar. 16, 1906, ch. 951, 34 Stat. 63, as amended, known as the Adams Act of 1906, which was classified to sections 361, 366, 369, 371, 373 to 376, 380, and 382 of this title, and was repealed by act Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674. For complete classification of this Act to the Code prior to repeal, see Tables.

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.

§ 385. South Carolina Experiment Station; cooperation by Secretary of Agriculture; lump sum appropriation

There is authorized to be appropriated the sum of \$50,000 to enable the Secretary of Agriculture to cooperate with the South Carolina Agricultural Experiment Station and/or other agencies in making investigations and experiments in dairying and livestock industries and of the problems pertaining to the establishment and development of such industries, including cropping systems, soil improvement, and farm organization studies of such industries, and for demonstration, assistance, and service in developing the agriculture of the Sand Hill region of the Southeast.

(Mar. 3, 1927, ch. 367, § 1, 44 Stat. 1397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 385a of this title.

§ 385a. Authorization of appropriations

There is authorized to be appropriated each fiscal year necessary appropriations to enable the Secretary of Agriculture to carry on the cooperative experiments contemplated by section 385 of this title.

(Mar. 3, 1927, ch. 367, § 2, as added Feb. 4, 1928, ch. 24, 45 Stat. 57.)

§§ 386 to 386f. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Sections 386 to 386f, act May 16, 1928, ch. 575, §§ 1-3, 45 Stat. 571, 572, provided for establishment of an experi-

ment station in Hawaii, authorized appropriations and an increase in permanent annual appropriations. See sections 361a and 361c of this title.

Section 386c, act Feb. 23, 1929, ch. 299, 45 Stat. 1256, extended provisions of agricultural experiment station program to Alaska. See section 361a of this title.

Sections 386d to 386f, acts Mar. 4, 1931, ch. 499, §§1-3, 46 Stat. 1520, 1521; May 17, 1932, ch. 190, 47 Stat. 158, provided for establishment of an experiment station in Puerto Rico, authorized appropriations and an increase in permanent annual appropriations. See sections 361a and 361c of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under sections 386 to 386f as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 386g. Repealed. Oct. 31, 1951, ch. 654, § 1(10), 65 Stat. 701

Section, act July 7, 1932, ch. 443, § 1, 47 Stat. 614, related to transfer or sale of property of Alaska, Guam, and Virgin Islands stations.

SUBCHAPTER II — EXPERIMENT STATIONS FOR PROPAGATION OF TREES, SHRUBS, VINES, AND VEGETABLES

§ 387. Station for semi-arid or dry-land regions; establishment

The Secretary of Agriculture is authorized and directed to cause such shade, ornamental, fruit, and shelter-belt trees, shrubs, vines, and vegetables as are adapted to the conditions and needs of the semi-arid or dry-land regions of the United States, to be propagated at an experiment station of the Department of Agriculture to be established at or near Cheyenne, Wyoming, and seedlings, and cuttings and seeds of such trees, shrubs, vines, and vegetables to be distributed free of charge under such regulations as he may prescribe for experimental and demonstration purposes within the semi-arid or dry-land regions of the United States.

(Mar. 19, 1928, ch. 228, § 1, 45 Stat. 323.)

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 387a of this title.

§ 387a. Authorization of appropriations

There is authorized to be appropriated each fiscal year necessary appropriations to enable the Secretary of Agriculture to carry on the experiments contemplated by section 387 of this title.

(Mar. 19, 1928, ch. 228, § 3, 45 Stat. 323.)

§ 388. Station for southern Great Plains area; establishment

The Secretary of Agriculture is authorized and directed to cause such shade, ornamental, fruit, and shelter-belt trees, shrubs, and vines as are adapted to the conditions and needs of the

southern Great Plains area, comprised of those parts of the States of Colorado, Nebraska, Kansas, Texas, Oklahoma, and New Mexico lying west of the ninety-eighth meridian and east of the five thousand-foot contour line, to be propagated at one of the existing field stations of the Department of Agriculture in such area, and seedlings and cuttings and seeds of such trees, shrubs, and vines to be distributed free of charge under such regulations as he may prescribe for experimental and demonstration purposes within such area.

(Apr. 16, 1928, ch. 377, § 1, 45 Stat. 430.)

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 388a of this title.

§ 388a. Authorization of appropriations

There is authorized to be appropriated each fiscal year necessary appropriations to enable the Secretary of Agriculture to carry on the experiments contemplated by section 388 of this title.

(Apr. 16, 1928, ch. 377, § 3, 45 Stat. 431.)

§ 389. Transfer of certain dry land and irrigation field stations to States

The Secretary of Agriculture is authorized, at such times as he deems appropriate, to convey by appropriate conveyances, without consideration, the interest of the United States in the lands, including water rights, buildings, and improvements presently comprising or appurtenant to the following dry land and irrigation field stations, to the States in which such stations are located, when, in the opinion of the Secretary of Agriculture, the transfer of any such station will result in establishing a more effective program in the cooperative agricultural experimental work of the Department of Agriculture and the respective State and the furtherance of agricultural experimental work on a national or regional basis will be better served by such transfer: Huntley, Montana; Mitchell, Nebraska; Fallon, Nevada; Tucumcari, New Mexico; Hermiston, Oregon; Sheridan, Wyoming: *Provided*, That when any or all of the land, including water rights, comprising any such station is public-domain land, only the Secretary of the Interior may by patent or other appropriate conveyance transfer such lands to the respective States: *Provided further*, That when any easement necessary to a station conveyed or patented hereunder is on public-domain lands, only the Secretary of the Interior may grant such easements to the State to which the station has been conveyed.

(Sept. 23, 1950, ch. 1005, § 1, 64 Stat. 981.)

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 389a of this title.

§ 389a. Conditions of transfer of dry land and irrigation field stations; reservation of mineral rights

Conveyances or patents under this section and section 389 of this title shall be upon such conditions as in the opinion of the Secretary of Agriculture will assure the use of such station in the cooperative agricultural experimental work of the Department of Agriculture and the respective State. Any such conveyances of the land shall contain a reservation to the United States of all the minerals in the land together with the right to prospect for, mine, and remove the same under such regulations as the Secretary of the Interior may prescribe.

(Sept. 23, 1950, ch. 1005, §2, 64 Stat. 982.)

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.

SUBCHAPTER III—RESEARCH FACILITIES

§ 390. Congressional declaration of policy

It is declared to be the policy of the Congress to continue its support of agricultural research at eligible institutions through Federal-grant funds on a matching funds basis, to help finance physical facilities and equipment as required for the effective conduct of agricultural research and related academic programs.

(Pub. L. 88-74, §1, July 22, 1963, 77 Stat. 90; Pub. L. 95-113, title XIV, §1416(3), Sept. 29, 1977, 91 Stat. 996; Pub. L. 99-198, title XIV, §1411(a), Dec. 23, 1985, 99 Stat. 1547.)

AMENDMENTS

1985—Pub. L. 99-198 substituted “Federal-grant funds on a matching funds basis” for “Federal-grant funds”, “facilities and equipment” for “facilities”, and “agricultural research and related academic programs” for “an adequate research program”.

1977—Pub. L. 95-113 substituted “eligible institutions” for “the State agricultural experiment stations” and struck out “on a matching basis,” after “Federal-grant funds”.

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.

SHORT TITLE

Section 10 of Pub. L. 88-74, as added by Pub. L. 99-198, title XIV, §1411(l), Dec. 23, 1985, 99 Stat. 1548, provided that: “This Act [enacting this subchapter] may be cited as the ‘Research Facilities Act’.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3311 of this title.

§ 390a. Congressional declaration of purpose

The purpose of this subchapter is to assist eligible institutions in the construction, acquisition,

and remodeling of buildings, laboratories, and other capital facilities (including the acquisition of fixtures and equipment) which are necessary to more effectively conduct research in agriculture and sciences related thereto through means of matching grants from the Federal Government.

(Pub. L. 88-74, §2, July 22, 1963, 77 Stat. 90; Pub. L. 95-113, title XIV, §1416(3), Sept. 29, 1977, 91 Stat. 996; Pub. L. 99-198, title XIV, §1411(b), Dec. 23, 1985, 99 Stat. 1547.)

AMENDMENTS

1985—Pub. L. 99-198 struck out “which are to become a part of such buildings” after “equipment” in parenthetical clause and substituted “matching grants” for “grants”.

1977—Pub. L. 95-113 substituted “eligible institutions” for “the State agricultural experiment stations”.

EFFECTIVE DATE OF 1977 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390b, 390c, 390h of this title.

§ 390b. Definitions

As used in sections 390a to 390j, inclusive, of this title—

(1) the term “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands of the United States;

(2) the term “eligible institution” means a department established under provisions of the Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), and under the direction of a college or university established in any State in accordance with the Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307 and 308), a department otherwise established pursuant to standards prescribed by any State the purpose of which is to conduct agricultural, forestry, or veterinary medicine research, the Connecticut Agricultural Experiment Station at New Haven, Connecticut, the Ohio Agricultural Experiment Station at Wooster, Ohio, and those colleges, universities, and other legal entities in each State now receiving, or which may hereafter receive, benefits under the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute, or the Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582a-1—582a-7); and

(3) the term “Secretary” shall mean the Secretary of Agriculture.

(Pub. L. 88-74, §3, July 22, 1963, 77 Stat. 90; Pub. L. 95-113, title XIV, §1416(1), Sept. 29, 1977, 91 Stat. 994; Pub. L. 99-198, title XIV, §1411(c), Dec. 23, 1985, 99 Stat. 1547.)

REFERENCES IN TEXT

Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), referred to in par. (2), is act Mar. 2,

1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act of 1887, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307 and 308), referred to in par. (2), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the Morrill Act and also as the First Morrill Act, which is classified generally to subchapter I (§301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this title and Tables.

Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), referred to in par. (2), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582a-1-582a-7), referred to in par. (2), is Pub. L. 87-788, Oct. 10, 1962, 76 Stat. 806, as amended, known as the McIntire-Stennis Act of 1962, which is classified generally to subchapter III (§582a et seq.) of chapter 3 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1985—Par. (1). Pub. L. 99-198, §1411(c)(1), added par. (1) and struck out former par. (1) which provided “the term ‘State’ shall include Puerto Rico”.

Par. (2). Pub. L. 99-198, §1411(c)(2), inserted “, forestry, or veterinary medicine” after “to conduct agricultural”.

1977—Par. (2). Pub. L. 95-113 substituted definition of “eligible institution” for definition of “State agricultural experiment station”.

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.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390h of this title.

§ 390c. Administration

(a) Authorization of appropriations

There are authorized to be appropriated, for grants to eligible institutions under this subchapter to be used for the purpose set out in section 390a of this title, \$50,000,000 for each of the fiscal years 1991 through 1995.

(b) Limitation on amount of grant; funding from non-Federal sources

No grant may be made under section 390a of this title for an amount exceeding a percentage determined by the Secretary of the cost of the project for which such grant is made. The remaining cost of such project shall be paid with funds from non-Federal sources.

(c) Rules and regulations

It shall be the duty and responsibility of the Secretary to administer the provisions of this subchapter under such rules and regulations as

the Secretary may prescribe as necessary therefor.

(Pub. L. 88-74, §4, July 22, 1963, 77 Stat. 91; Pub. L. 95-113, title XIV, §1416(2), Sept. 29, 1977, 91 Stat. 994; Pub. L. 97-98, title XIV, §1416, Dec. 22, 1981, 95 Stat. 1304; Pub. L. 99-198, title XIV, §1411(d), Dec. 23, 1985, 99 Stat. 1548; Pub. L. 101-624, title XVI, §1601(a), Nov. 28, 1990, 104 Stat. 3703.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-624 substituted “\$50,000,000” for “\$20,000,000” and “1991 through 1995” for “ending September 30, 1986, through September 30, 1990”.

1985—Subsec. (a). Pub. L. 99-198, §1411(d)(1), in amending subsec. (a) generally, substituted “grants” for “allocation”; authorized appropriations of \$20,000,000 for each of the fiscal years ending Sept. 30, 1986, through Sept. 30, 1990; and struck out appropriations authorization of 15, 19, 23, and 27 million dollars for fiscal years ending Sept. 30, 1978, through Sept. 30, 1981, and 31 million dollars for fiscal years ending Sept. 30, 1982, through Sept. 30, 1985, and such sums as may be authorized for any subsequent fiscal year.

Subsec. (b). Pub. L. 99-198, §1411(d)(2), amended subsec. (b) generally. Prior to the amendment, subsec. (b) provided for the first \$4,000,000 appropriated for any fiscal year to be apportioned equally among eligible institutions and any amount in excess of \$4,000,000 to be apportioned by a formula involving the amounts allocated in the preceding fiscal year.

1981—Subsec. (a). Pub. L. 97-98 substituted “for each of the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985” for “for the fiscal year ending September 30, 1982”.

1977—Subsec. (a). Pub. L. 95-113 substituted provisions authorizing the appropriation of specific sums for each fiscal year through the end of the fiscal year ending Sept. 30, 1982, for provisions that had simply authorized the appropriation of such funds “as the Congress deems advisable”.

Subsec. (b). Pub. L. 95-113 revised the formula under which appropriated funds will be apportioned by replacing a formula which had directed that one-third of the funds be allotted equally among the States, with the remaining two-thirds allotted according to a fixed formula.

Subsec. (c). Pub. L. 95-113 substituted “this subchapter” for “this section” and “as the Secretary may prescribe” for “as he may prescribe”.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1411(d)(1) of Pub. L. 99-198 provided that the amendment made by that section is effective Oct. 1, 1985.

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1977 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390d of this title.

§ 390d. Eligibility for payments; facility proposals

As a condition for receiving funds under section 390c of this title, each eligible institution shall submit, in such form as the Secretary may require, specific proposals for planning, acquisition, construction, repair, rehabilitation, ren-

ovation, or remodeling of buildings, laboratories, and other capital facilities including the acquisition of fixtures and equipment, including scientific instrumentation. In a State having more than one eligible institution the Secretary shall devise procedures to insure that the facility proposals of the eligible institutions in such State provide for a coordinated food and agricultural research program among eligible institutions in such State.

(Pub. L. 88-74, § 5, July 22, 1963, 77 Stat. 91; Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995; Pub. L. 99-198, title XIV, § 1411(e), Dec. 23, 1985, 99 Stat. 1548.)

AMENDMENTS

1985—Pub. L. 99-198 struck out “apportioned” after “funds” and “, which are to become part of such buildings” after “instrumentation” in first sentence.

1977—Pub. L. 95-113 inserted planning, repair, rehabilitation, renovation, and remodeling to enumeration of activities covered by specific proposals submitted to Secretary and inserted provisions directing Secretary to devise procedures to be used for coordination of programs among eligible institutions in States having more than one eligible institution.

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.

§ 390e. Repealed. Pub. L. 99-198, title XIV, § 1411(f), Dec. 23, 1985, 99 Stat. 1548

Section, Pub. L. 88-74, § 6, July 22, 1963, 77 Stat. 91; Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995, related to continuing availability of unused allotments to eligible institutions for a period of five fiscal years following the fiscal year of initial availability thereof.

§ 390f. Multiple-purpose equipment and physical facilities; fund support basis

With respect to multiple-purpose equipment and physical facilities, the segment or portion thereof which is to be utilized for food and agricultural research and related programs, including forestry and veterinary medicine, shall be the basis for determination of fund support under this subchapter.

(Pub. L. 88-74, § 6, formerly § 7, July 22, 1963, 77 Stat. 91; Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995; renumbered § 6 and amended Pub. L. 99-198, title XIV, § 1411(g), (k), Dec. 23, 1985, 99 Stat. 1548.)

PRIOR PROVISIONS

A prior section 6 of Pub. L. 88-74 was classified to section 390e of this title and was repealed by section 1411(f) of Pub. L. 99-198.

AMENDMENTS

1985—Pub. L. 99-198, § 1411(g), inserted “equipment and” after “multiple-purpose” and “and related programs, including forestry and veterinary medicine,” after “research”.

1977—Pub. L. 95-113 inserted reference to food research.

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.

§ 390g. Repealed. Pub. L. 99-198, title XIV, § 1411(h), Dec. 23, 1985, 99 Stat. 1548

Section, Pub. L. 88-74, § 8, July 22, 1963, 77 Stat. 91; Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995, related to ascertainment of the amount of the allocation to which each institution was entitled and written notification to each such institution.

§ 390h. Fiscal accountability

(a) Chief administrative officers; fiscal officers; duties; reports

Any eligible institution that receives payments under the provisions of section 390a of this title shall have a chief administrative officer and a duly designated fiscal officer, who shall be the persons responsible for receipt of payments under the Acts referred to in section 390b(2) of this title, to whom payments can be directed by the Secretary. Such fiscal officer shall receive and account for all funds paid to such institution pursuant to the provisions of this subchapter, and shall submit a report, approved by the chief administrative officer of such institution, to the Secretary on or before the first day of December of each year. Such report shall contain a detailed statement of the amount received under the provisions of this subchapter during the preceding fiscal year, and of its disbursements on schedules prescribed by the Secretary.

(b) Diminution, loss, or misapplication of funds

If any portion of the funds received under this subchapter by the duly authorized fiscal officer of any eligible institution shall by any action or contingency be diminished, lost, or misapplied, it shall be repaid by the institution concerned, and until repaid no part of any subsequent appropriation shall be paid to such institution.

(Pub. L. 88-74, § 7, formerly § 9, July 22, 1963, 77 Stat. 91; Pub. L. 94-273, § 7(1), Apr. 21, 1976, 90 Stat. 378; Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995; renumbered § 7 and amended Pub. L. 99-198, title XIV, § 1411(i), (k), Dec. 23, 1985, 99 Stat. 1548.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99-198, § 1411(i)(1), substituted “that receives” for “authorized to receive” and references to section “390a” and “390b(2)” for “390c” and “390c(b)” of this title, respectively.

Subsec. (b). Pub. L. 99-198, § 1411(i)(2), substituted “funds received under this subchapter” for “allotted funds received” and “shall be paid” for “shall be allocated or paid”.

1977—Subsec. (a). Pub. L. 95-113 substituted reference to “eligible institution” for reference to “State agricultural experiment station”, struck out directive that the chief administrative officer be known as a director, and substituted reference to a “duly designated fiscal officer” for reference to a “treasurer or other officer appointed by the governing board”.

Subsec. (b). Pub. L. 95-113 substituted reference to “duly authorized fiscal officer of any eligible institution” for reference to “authorized receiving officer of any State agricultural experiment station” and “repaid by the institution concerned” for “repaid by the State concerned”.

1976—Subsec. (a). Pub. L. 94-273 substituted “December” for “September”.

EFFECTIVE DATE OF 1977 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390i of this title.

§ 390i. Reports to Congress

The Secretary shall make an annual report to Congress during the first regular session of each year with respect to (1) payments made under this subchapter, (2) the facilities, by institution, for which such payments were made, and (3) those eligible institutions, if any, that were prevented, because of failure to repay funds as required by section 390h(b) of this title, from receiving any grant under this subchapter.

(Pub. L. 88-74, § 8, formerly § 10, July 22, 1963, 77 Stat. 92; Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995; renumbered § 8 and amended Pub. L. 99-198, title XIV, § 1411(j), (k), Dec. 23, 1985, 99 Stat. 1548.)

PRIOR PROVISIONS

A prior section 8 of Pub. L. 88-74 was classified to section 390g of this title and was repealed by section 1411(h) of Pub. L. 99-198.

AMENDMENTS

1985—Pub. L. 99-198, § 1411(j), amended cl. (3) generally. Prior to amendment, cl. (3) read as follows: "whether any portion of the appropriation available for allotment to any of the eligible institutions has been withheld and, if so, the reasons therefor".

1977—Pub. L. 95-113 substituted reference to "eligible institution" and "institution" for references to "State" and "States", respectively.

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.

§ 390j. Availability of appropriated funds for administration

Three per centum of funds appropriated under this subchapter shall be available to the Secretary for administration of this subchapter.

(Pub. L. 88-74, § 9, formerly § 11, July 22, 1963, 77 Stat. 92; Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995; renumbered § 9, Pub. L. 99-198, title XIV, § 1411(k), Dec. 23, 1985, 99 Stat. 1548.)

PRIOR PROVISIONS

A prior section 9 of Pub. L. 88-74 was renumbered section 7 and is classified to section 390h of this title.

AMENDMENTS

1977—Pub. L. 95-113 substituted provisions making available for administration three per centum of appropriated funds for provisions that any agricultural experiment station established by State law be eligible for benefits and that appropriated funds be divided between eligible institutions in any one State.

EFFECTIVE DATE OF 1977 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390b, 3311 of this title.

§ 390k. Repealed. Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 994

Section, Pub. L. 88-74, § 12, July 22, 1963, 77 Stat. 92, authorized appropriation of such sums as might be nec-

essary for proper administration of this subchapter. See section 390j of this title.

EFFECTIVE DATE OF REPEAL

Repeal 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.

CHAPTER 15—BUREAU OF ANIMAL INDUSTRY

Sec.	
391.	Establishment of bureau; appointment of chief; duties.
392.	Repealed.
393.	Sale of pathological and zoological specimens; disposition of moneys.
394.	Overtime of employees engaged in enforcement of Meat Inspection Act.
394a.	Overtime of employees working at establishments which prepare virus, serum, toxin, and analogous products.
395.	Fees for rabies diagnoses; disposition of moneys.
396.	Inspection of livestock, hides, animal products, etc.; place; charges; disposition of funds.
397.	Omitted.

CROSS REFERENCES

Animals, meats, and meat and dairy products, see section 603 et seq. of Title 21, Food and Drugs.

Packers and stockyards, see section 181 et seq. of this title.

§ 391. Establishment of bureau; appointment of chief; duties

There shall be in the Department of Agriculture a Bureau of Animal Industry. The Secretary of Agriculture is authorized to appoint a chief thereof, who shall be a competent veterinary surgeon, and whose duty it shall be to investigate and report upon the condition of the domestic animals and live poultry of the United States, their protection and use, and also inquire into and report the causes of contagious, infectious, and communicable diseases among them, and the means for the prevention and cure of the same, and to collect such information on these subjects as shall be valuable to the agricultural and commercial interests of the country.

(May 29, 1884, ch. 60, § 1, 23 Stat. 31; July 14, 1890, ch. 707, 26 Stat. 288; Feb. 7, 1928, ch. 30, 45 Stat. 59.)

CODIFICATION

Section is composed of part of section 1 of act May 29, 1884.

Section 1 of that act as originally enacted contained this further provision: "And the Commissioner of Agriculture is hereby authorized to employ a force sufficient for the purpose, not to exceed 20 persons at any one time." This provision was practically superseded by subsequent appropriations for an enlarged force.

Section 1 also contained a provision as to salary of the Chief of the Bureau and a clerk for said bureau, that has been omitted as obsolete. The salaries are now fixed under chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees.

AMENDMENTS

1928—Joint Res. Feb. 7, 1928, inserted "and live poultry" after "domestic animals".

TRANSFER OF FUNCTIONS

Section 301 of 1947 Reorg. Plan No. 1, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952, provided: "The functions of

the following agencies of the Department of Agriculture, namely, the Bureau of Animal Industry, the Bureau of Dairy Industry, the Bureau of Plant Industry, Soils, and Agricultural Engineering, the Bureau of Entomology and Plant Quarantine, the Bureau of Agricultural and Industrial Chemistry, the Bureau of Human Nutrition and Home Economics, the Office of Experiment Stations, and the Agricultural Research Center, together with the functions of the Agricultural Research Administrator, are transferred to the Secretary of Agriculture and shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he may designate." For provisions concerning transfer of records, property, personnel, and funds, see full text of this Plan, set out in the Appendix to Title 5, Government Organization and Employees.

The President's message, set out in the Appendix to Title 5, Government Organization and Employees, transmitting this Reorg. Plan to Congress pointed out that the Plan would make it possible to continue the consolidation of the agencies concerned in the Agricultural Research Administration which was affected on a temporary wartime basis by Ex. Ord. No. 9069, Feb. 23, 1942, 7 F.R. 1409, and to make further adjustments in the organization of agricultural research activities.

Functions of Bureau of Animal Industry which were transferred to Secretary of Agriculture were transferred to Agricultural Research Service under Secretary's memorandum 1320, supp. 4, of Nov. 2, 1953.

As of July 1, 1927, by order of the Secretary of Agriculture, the Packers and Stockyards administration was abolished, and the enforcement of the Packers and Stockyards Act of 1921, sections 181 to 229 of this title, put under the control of the chief of the Bureau of Animal Industry.

Authority formerly granted to Commissioner of Agriculture by section 1 of act of May 29, 1884, vested in Secretary of Agriculture by act July 14, 1890. See also sections 2202 and 2205 of this title.

Functions of Bureau of Animal Industry of Agricultural Research Administration concerned primarily with regulatory activities consolidated with other agencies into Food Distribution Administration, which was consolidated into War Food Administration, which was terminated and its functions transferred to Secretary of Agriculture, by Ex. Ord. No. 9577.

CROSS REFERENCES

Importation of cattle and quarantine, see section 101 et seq. of Title 21, Food and Drugs.

Improvement in the breeding of horses suitable to needs of United States, see section 437 of this title.

Leave of absence of employees of the Bureau of Animal Industry, see section 6301 et seq. of Title 5, Government Organization and Employees.

Penalty for interference with an officer or employee of the Bureau of Animal Industry in the execution of his duties, see section 111 of Title 18, Crimes and Criminal Procedure.

Prevention of introduction and spread of contagion among livestock, see section 111 et seq. of Title 21.

§ 392. Repealed. Oct. 31, 1951, ch. 654, § 1(11), 65 Stat. 701

Section, act Aug. 10, 1912, ch. 284, 37 Stat. 274, related to sale or exchange of animals not needed. See section 484 of Title 40, Public Buildings, Property, and Works.

§ 393. Sale of pathological and zoological specimens; disposition of moneys

The Secretary of Agriculture is authorized to prepare and sell at cost such pathological and zoological specimens as he may deem of scientific or educational value to scientists or others engaged in the work of hygiene and sanitation: *Provided*, That all moneys received from

the sale of such specimens shall be deposited in the Treasury as miscellaneous receipts.

(Mar. 4, 1913, ch. 145, § 1 [part], 37 Stat. 833.)

TRANSFER OF FUNCTIONS

Functions of Bureau of Animal Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

§ 394. Overtime of employees engaged in enforcement of Meat Inspection Act

The Secretary of Agriculture is authorized, in his discretion, to pay employees of the Bureau of Animal Industry employed in establishments subject to the provisions of the Meat Inspection Act of June 30, 1906, for all overtime work performed at such establishments, at such rates as he may determine, and to accept from such establishments wherein such overtime work is performed reimbursement for any sums paid out by him for such overtime work.

(July 24, 1919, ch. 26, 41 Stat. 241.)

REFERENCES IN TEXT

Act of June 30, 1906, referred to in text, is act June 30, 1906, ch. 3913, 34 Stat. 670, which generally made appropriations for the Department of Agriculture for the fiscal year ending June 30, 1907. The meat inspection provisions of that Act were not classified to the Code. For the "Meat Inspection Act", see subchapters I to IV (§601 et seq.) of chapter 12 of Title 21, Food and Drugs.

TRANSFER OF FUNCTIONS

Functions of Bureau of Animal Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

CROSS REFERENCES

Payment of overtime services or for Sunday or holiday work under this section not prevented by generally applicable premium pay provisions covering government employees, see section 5549 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5549; title 21 section 695.

§ 394a. Overtime of employees working at establishments which prepare virus, serum, toxin, and analogous products

The Secretary of Agriculture is authorized to pay employees of the Bureau of Animal Industry employed in establishments subject to the provisions of section 157 of title 21, for all overtime, night, or holiday work performed at such establishments, at such rates as he may determine, and to accept from such establishments wherein such overtime work is performed reimbursement for any sums paid out by him for such overtime work.

(Aug. 4, 1949, ch. 392, 63 Stat. 495.)

TRANSFER OF FUNCTIONS

Functions of Bureau of Animal Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

§ 395. Fees for rabies diagnoses; disposition of moneys

Fees shall be charged for all diagnoses in connection with rabies, except those performed for agencies of the United States Government, in such amounts as the Secretary shall prescribe, and such fees shall be covered into the Treasury as miscellaneous receipts.

(Sept. 21, 1944, ch. 412, title I, §101(e), 58 Stat. 734.)

PRIOR PROVISIONS

Provisions similar to this section were contained in the following prior Department of Agriculture Appropriation Acts:

June 28, 1944, ch. 296, 58 Stat. 433.
July 12, 1943, ch. 215, 57 Stat. 401.
July 22, 1942, ch. 516, 56 Stat. 674.

APPROPRIATIONS

Section 101(g) of act Sept. 21, 1944, provided that Congress may appropriate such funds as are necessary to accomplish the purpose of this section.

§ 396. Inspection of livestock, hides, animal products, etc.; place; charges; disposition of funds

The Secretary of Agriculture upon application of any exporter, importer, packer, or owner of, or the agent thereof, or dealer in, livestock, hides, skins, meat, or other animal products may, in his discretion, cause to be made inspections and examinations at places other than the headquarters of inspectors for the convenience of said applicants, who may be charged for the expenses of travel and subsistence incurred for such inspections and examinations, the funds derived from such charges to be deposited in the Treasury of the United States to the credit of the appropriation from which the expenses are paid.

(Sept. 21, 1944, ch. 412, title I, §101(c), 58 Stat. 734.)

CODIFICATION

Section was formerly classified to section 228a of this title.

PRIOR PROVISIONS

Provisions similar to this section were carried in the following prior Department of Agriculture Appropriation Acts:

June 28, 1944, ch. 296, 58 Stat. 433.
July 12, 1943, ch. 215, 57 Stat. 400.
July 22, 1942, ch. 516, 56 Stat. 673.
July 1, 1941, ch. 267, 55 Stat. 415.
June 25, 1940, ch. 421, 54 Stat. 539.
June 30, 1939, ch. 253, title I, 53 Stat. 948.
June 16, 1938, ch. 464, title I, 52 Stat. 719.
June 29, 1937, ch. 404, 50 Stat. 403.
June 4, 1936, ch. 489, 49 Stat. 1429.

APPROPRIATIONS

Appropriations of funds necessary to accomplish the purpose of this section, see note under section 395 of this title.

§ 397. Omitted

CODIFICATION

Section, acts Aug. 28, 1954, ch. 1041, title II, §204(e), 68 Stat. 900; Apr. 2, 1956, ch. 159, §2, 70 Stat. 87, authorized transfer of Commodity Credit Corporation funds not to exceed \$17,000,000 for fiscal year ending June 30, 1956

and not to exceed \$20,000,000 for each of fiscal years 1957 and 1958 for brucellosis eradication, indemnification for destroyed cattle and administrative expenses and authorized appropriations to reimburse the Commodity Credit Corporation for the expenditures.

CHAPTER 16—BUREAU OF DAIRY INDUSTRY

Sec.

401. Establishment of bureau.
402. Chief of bureau; appointment and duties.
403. Transfer of activities of Department of Agriculture to bureau; employment of clerks, etc.
404. Authorization of appropriations.

CROSS REFERENCES

Filled milk, regulation of, see section 61 et seq. of Title 21, Food and Drugs.

§ 401. Establishment of bureau

There is established in the Department of Agriculture a bureau to be known as the "Bureau of Dairy Industry."

(May 29, 1924, ch. 208, §1, 43 Stat. 243; May 11, 1926, ch. 286, 44 Stat. 499.)

CHANGE OF NAME

"Bureau of Dairying" established by act May 29, 1924, designated "Bureau of Dairy Industry" by act May 11, 1926.

Bureau of Dairy Industry consolidated with other agencies into Agricultural Research Administration for duration of World War II by Ex. Ord. No. 9069.

TRANSFER OF FUNCTIONS

Functions of Bureau of Dairy Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, §301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

§ 402. Chief of bureau; appointment and duties

A Chief of the Bureau of Dairy Industry shall be appointed by the Secretary of Agriculture, who shall be subject to the general direction of the Secretary of Agriculture. He shall devote his time to the investigation of the dairy industry, and the dissemination of information for the promotion of the dairy industry.

(May 29, 1924, ch. 208, §2, 43 Stat. 243; May 11, 1926, ch. 286, 44 Stat. 499.)

CHANGE OF NAME; TEMPORARY CONSOLIDATION

Change of name of Bureau and temporary wartime consolidation into Agricultural Research Administration, see notes set out under section 401 of this title.

TRANSFER OF FUNCTIONS

Functions of Bureau of Dairy Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, §301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

CROSS REFERENCES

Filled milk, regulation of, see section 61 et seq. of Title 21, Food and Drugs.

§ 403. Transfer of activities of Department of Agriculture to bureau; employment of clerks, etc.

For the purpose of enabling the Secretary of Agriculture and the Chief of the Bureau of Dairy Industry to carry out the purposes of this chap-

ter, the Secretary of Agriculture is authorized to transfer to the Bureau of Dairy Industry such activities of the Department of Agriculture as he may designate which relate primarily to the dairy industry, and to employ such additional persons in the city of Washington and elsewhere, as may be necessary.

(May 29, 1924, ch. 208, §3, 43 Stat. 243; May 11, 1926, ch. 286, 44 Stat. 499.)

CHANGE OF NAME; TEMPORARY CONSOLIDATION

Change of name of Bureau and temporary wartime consolidation into Agricultural Research Administration, see notes set out under section 401 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.

Functions of Bureau of Dairy Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, §301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

§ 404. Authorization of appropriations

For the purpose of carrying out the provisions of this chapter and the activities of the Bureau of Dairy Industry, such sums of money as Congress may deem necessary are authorized to be appropriated.

(May 29, 1924, ch. 208, §4, 43 Stat. 243; May 11, 1926, ch. 286, 44 Stat. 499.)

CHANGE OF NAME; TEMPORARY CONSOLIDATION

Change of name of Bureau and temporary wartime consolidation into Agricultural Research Administration, see notes set out under section 401 of this title.

TRANSFER OF FUNCTIONS

Functions of Bureau of Dairy Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, §301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

CHAPTER 17—MISCELLANEOUS MATTERS

Sec.	
411.	Omitted.
411a.	Repealed.
411b.	Estimates of apple production.
412 to 414.	Transferred or Repealed.
414a.	Transfer of nonadministrative funds of Commodity Credit Corporation for classing and grading purposes.
415.	Purchase of seeds and plants for distribution.
415a.	Omitted.
415b.	Wool standards; appropriation of certain funds.
415c.	Use of funds for dissemination of information relating to standardization, grading, etc., of wool; charge for grading wool.
415d.	Rules and regulations for wool standards; deposit of receipts in the Treasury.
415e.	Farm or food products; sale of samples, practical forms, etc.
416.	Letting contract for packeting, etc., of seeds, etc., for distribution.
417.	Distribution of farmers' bulletins.
418.	Annual report on work of agricultural experiment stations and of college extension work; publication and distribution.
419.	Repealed.
420.	Power to administer oaths, examine witnesses, or require production of books, etc.

Sec.	
421.	Dairying and livestock experiment station, Mandan, North Dakota.
421a.	Omitted.
422.	Dairying and livestock experiment station, Lewisburg, Tennessee.
422a.	Omitted.
423.	Cotton; investigation of new uses; cooperation with State and other agencies.
424.	Cotton ginning investigations; publication of results; cooperation with Federal and State departments and agencies.
425.	Authorization of appropriations for cotton ginning studies.
426.	Predatory and other wild animals; eradication and control; investigations, experiments, and tests by Secretary of Agriculture; cooperation with other agencies.
426a.	Omitted.
426b.	Authorization of expenditures for the eradication and control of predatory and other wild animals.
426c.	Control of nuisance mammals and birds and those constituting reservoirs of zoonotic diseases; exception.
427.	Agriculture research; declaration of policy; duties of Secretary of Agriculture; use of existing facilities.
427a to 427h.	Repealed.
427i.	Agricultural research; authorization of additional appropriations; administrative expenses; availability of special research fund.
427j, 428.	Repealed or Omitted.
428a.	Acquisition of land; options.
428b.	Wheat and feed grains research; regional and national research programs; utilization of services of Federal, State and private agencies; authorization of appropriations.
428c.	Rice research. <ul style="list-style-type: none"> (a) Regional and national research programs; rules; purposes. (b) Utilization of services of Federal, State, local governmental and private agencies; priority consideration. (c) Authorization of appropriations; use restriction.
429.	Improvement of poultry, poultry products, and hatcheries.
430.	Purchase and testing of serums or analogous products; dissemination of test results.
431.	Purchase of tags, labels, stamps, and certificates.
432.	Purchase of cultures for soil and fertilizer investigations.
433.	Domestic raising of fur-bearing animals; classification.
434.	Transfer of functions, appropriations, records and property to Secretary of Agriculture.
435.	Omitted.
436.	Transfer of Army Remount Service to Department of Agriculture; effective date.
437.	Administration of transferred property; improvement in horse breeding; acquisition of breeding stock and facilities; fees; cooperation with other organizations.
438.	Repealed.
439.	Operation of Government-owned alcohol plants; location; transfer of plants.
439a.	Powers and duties of Secretary of Agriculture.
439b.	Recommendations to Congress for discontinuance of plants.
439c.	Construction of additional facilities; acquisition of property; incurment of expenses; rules and regulations.
439d.	Assumption of obligations of Reconstruction Finance Corporation covering Muscatine, Iowa, plant.
439e.	Authorization of appropriations; availability of other appropriations.

- Sec.
440. Reimbursement of appropriations available for classing or grading agriculture commodities without charge.
441. Repealed.
442. Availability of grain to prevent waterfowl depredations; payment of packaging, transporting, handling, and other charges.
443. Requisition of grain to prevent crop depredation by migratory waterfowl.
444. Reimbursement of packaging and transporting expenses.
445. Authorization of appropriations for mitigating losses caused by waterfowl depredation.
446. Repealed.
447. Requisition of surplus grain; prevention of starvation of resident game birds and other resident wildlife; utilization by State agencies; reimbursement for packaging and transporting.
448. Requisition and use of grain for prevention of starvation of migratory birds; reimbursement for packaging and transporting.
449. Authorization of appropriations for reimbursement of Commodity Credit Corporation.
450. Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; coordination of administration of Federal and State laws.
- 450a. Cooperative research projects; agreements with and receipt of funds from State and other agencies.
- 450b. Cooperation with State and other agencies; expenditures.
- 450c. Delegation of regulatory functions of Secretary of Agriculture; definitions.
- 450d. Delegation of regulatory functions to designated employees; status of employees; number; revocation of delegation.
- 450e. Authority of designated employees; retroactive revocation of delegation.
- 450f. Delegation of functions under other laws as unaffected.
- 450g. Authorization of appropriations for cooperative research projects.
- 450h. Transferred.
- 450i. Competitive, special, and facilities research grants.
 - (a) Establishment of grant program.
 - (b) Competitive grants.
 - (c) Special grants.
 - (d) Facilities grants.
 - (e) Inter-Regional Research Project Number 4.
 - (f) Record keeping.
 - (g) Limits on overhead costs.
 - (h) Authorization of appropriations.
 - (i) Rules.
 - (j) Application of other laws.
 - (k) Emphasis on sustainable agriculture.
 - (l) Reports.
 - (m) Consultation with Technology Board.
- 450j. Indemnity payments to dairy farmers and manufacturers of dairy products; milk removed for its residue of chemical or toxic substances; nuclear radiation or fallout contaminants; other legal recourse.
- 450k. Authorization of appropriations for dairy farmer indemnities.
- 450l. Expiration of dairy farmer indemnity program.

§ 411. Omitted

CODIFICATION

Section, act May 11, 1922, ch. 185, 42 Stat. 532, which provided that powers conferred prior to May 11, 1922,

and the duties imposed by law on the Bureau of Markets, Bureau of Markets and Crop Estimates, and the Office of Farm Management and Farms Economics of the Department of Agriculture shall be exercised and performed by the Bureau of Agricultural Economics, was omitted from the Code as executed and obsolete.

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the 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 the Bureau of Agricultural Economics were transferred to other units of the Department of Agriculture by Secretary's memorandum of November 2, 1953.

Agricultural Statistics Division of the Agricultural Marketing Service and its functions, personnel, property, etc., transferred to Bureau of Agricultural Economics for duration of World War II, see Ex. Ord. No. 9069.

The functions, personnel and property of the Division of Farm Management and Costs of the Bureau of Agricultural Economics concerned primarily with the planning of current agricultural production were consolidated with other agencies into the Food Production Administration, which was consolidated into the War Food Administration, which was terminated and its functions transferred to the Secretary of Agriculture by Ex. Ord. No. 9577.

§ 411a. Repealed. Pub. L. 101-624, title XXV, § 2514(d), Nov. 28, 1990, 104 Stat. 4075

Section, acts Mar. 4, 1909, ch. 301, 35 Stat. 1053; Mar. 4, 1917, ch. 179, 39 Stat. 1157, related to contents, issuance, and approval by Secretary of Agriculture of monthly crop report.

§ 411b. Estimates of apple production

On and after October 18, 1986, no funds available to the Department of Agriculture shall be available to publish estimates of apple production for other than the commercial crop.

(Oct. 18, 1986, Pub. L. 99-500, §101(a) [title I], 100 Stat. 1783, 1783-3, and Oct. 30, 1986, Pub. L. 99-591, §101(a) [title I], 100 Stat. 3341, 3341-3.)

CODIFICATION

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

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

Dec. 19, 1985, Pub. L. 99-190, §101(a) [H.R. 3037, title I], 99 Stat. 1185.

Oct. 12, 1984, Pub. L. 98-473, title I, §101(a) [H.R. 5743, title I], 98 Stat. 1837.

Nov. 14, 1983, Pub. L. 98-151, §101(d) [H.R. 3223, title I], 97 Stat. 972.

Dec. 18, 1982, Pub. L. 97-370, title I, 96 Stat. 1794.

Dec. 23, 1981, Pub. L. 97-103, title I, 95 Stat. 1473.

Dec. 15, 1980, Pub. L. 96-528, title I, 95 Stat. 3101.

Nov. 9, 1979, Pub. L. 96-108, title I, 93 Stat. 827.

Oct. 11, 1978, Pub. L. 95-448, title I, 92 Stat. 1079.

Aug. 12, 1977, Pub. L. 95-97, title I, 91 Stat. 815.

July 12, 1976, Pub. L. 94-351, title I, 90 Stat. 855.

Oct. 21, 1975, Pub. L. 94-122, title I, 89 Stat. 648.

Dec. 31, 1974, Pub. L. 93-563, title I, 88 Stat. 1826.

Oct. 24, 1973, Pub. L. 93-135, title I, 87 Stat. 474.

Aug. 22, 1972, Pub. L. 92-399, title I, 86 Stat. 596.

Aug. 10, 1971, Pub. L. 92-73, title I, 85 Stat. 187.

Dec. 22, 1970, Pub. L. 91-566, title I, 84 Stat. 1487.

Nov. 26, 1969, Pub. L. 91-127, title I, 83 Stat. 250.

Aug. 8, 1968, Pub. L. 90-463, title I, 82 Stat. 644.

Oct. 24, 1967, Pub. L. 90-113, title I, 81 Stat. 325.

Sept. 7, 1966, Pub. L. 89-556, title I, 80 Stat. 694.

Nov. 2, 1965, Pub. L. 89-316, title I, 79 Stat. 1170.
 Sept. 2, 1964, Pub. L. 88-573, title I, 78 Stat. 867.
 Dec. 30, 1963, Pub. L. 88-250, title I, 77 Stat. 825.
 Oct. 24, 1962, Pub. L. 87-879, title I, 76 Stat. 1208.
 July 26, 1961, Pub. L. 87-112, title I, 75 Stat. 231.
 June 29, 1960, Pub. L. 86-532, title I, 74 Stat. 237.
 July 8, 1959, Pub. L. 86-80, title I, 73 Stat. 172.
 June 13, 1958, Pub. L. 85-459, title I, 72 Stat. 193.
 Aug. 2, 1957, Pub. L. 85-118, title I, 71 Stat. 331.
 June 4, 1956, ch. 355, title I, 70 Stat. 234.
 May 23, 1955, ch. 43, title I, 69 Stat. 57.
 June 29, 1954, ch. 409, title I, 68 Stat. 313.
 July 28, 1953, ch. 251, title I, 67 Stat. 206.
 July 5, 1952, ch. 574, title I, 66 Stat. 336.
 Aug. 31, 1951, ch. 374, title I, 65 Stat. 226.
 Sept. 6, 1950, ch. 896, ch. VI, title I, 64 Stat. 658.
 June 29, 1949, ch. 280, title I, 63 Stat. 328.
 June 19, 1948, ch. 543, title I, 62 Stat. 512.
 July 30, 1947, ch. 356, title I, 61 Stat. 527.
 June 22, 1946, ch. 445, 60 Stat. 274.
 May 5, 1945, ch. 109, 59 Stat. 140.
 June 28, 1944, ch. 296, 58 Stat. 430.
 July 12, 1943, ch. 215, 57 Stat. 398.
 July 22, 1942, ch. 516, 56 Stat. 687.
 July 1, 1941, ch. 267, 55 Stat. 430.
 June 25, 1940, ch. 421, 54 Stat. 555.
 June 30, 1939, ch. 253, title I, 53 Stat. 968.

§§ 412, 413. Transferred

CODIFICATION

Section 412, act May 27, 1912, ch. 135, §1, 37 Stat. 118, which related to acreage cotton crop report, was transferred to section 476 of this title.

Section 413, act May 3, 1924, ch. 149, §1, 43 Stat. 115, which related to cotton crop reports, was transferred to section 475 of this title.

§ 414. Repealed. Aug. 9, 1955, ch. 632, § 2, 69 Stat. 553

Section, act July 28, 1953, ch. 251, title I, 67 Stat. 217, related to investigation and certification of any agricultural commodity or food product offered for interstate shipment. See section 1622(h) of this title.

Similar provisions were contained in the following prior appropriation acts:

July 5, 1952, ch. 574, title I, 66 Stat. 348.
 Aug. 31, 1951, ch. 374, title I, 65 Stat. 238.
 Sept. 6, 1950, ch. 896, Ch. VI, 64 Stat. 672.
 June 29, 1949, ch. 280, title I, 63 Stat. 343.
 June 19, 1948, ch. 543, title I, 62 Stat. 527.
 July 30, 1947, ch. 356, title I, 61 Stat. 543.
 June 22, 1946, ch. 445, 60 Stat. 290.
 May 5, 1945, ch. 109, 59 Stat. 158.
 June 28, 1944, ch. 296, 58 Stat. 453.
 July 12, 1943, ch. 215, 57 Stat. 421.
 July 22, 1942, ch. 516, 56 Stat. 687.
 July 1, 1941, ch. 267, 55 Stat. 431.
 June 25, 1940, ch. 421, 54 Stat. 555.
 June 30, 1939, ch. 253, title I, 53 Stat. 968.
 June 16, 1938, ch. 464, title I, 52 Stat. 740.
 June 29, 1937, ch. 404, title I, 50 Stat. 425.
 June 4, 1936, ch. 489, title I, 49 Stat. 1450.
 May 17, 1935, ch. 131, title I, 49 Stat. 275.
 Mar. 26, 1934, ch. 89, 48 Stat. 493.
 Mar. 3, 1933, ch. 203, 47 Stat. 1459.
 July 7, 1932, ch. 443, 47 Stat. 637.
 Feb. 23, 1931, ch. 278, 46 Stat. 1268.
 May 27, 1930, ch. 341, 46 Stat. 418.
 Feb. 16, 1929, ch. 227, 45 Stat. 1212.
 May 16, 1928, ch. 572, 45 Stat. 561.
 Jan. 18, 1927, ch. 39, 44 Stat. 998.
 May 11, 1926, ch. 286, 44 Stat. 523.
 Feb. 10, 1925, ch. 200, 43 Stat. 844.

§ 414a. Transfer of nonadministrative funds of Commodity Credit Corporation for classing and grading purposes

On and after August 31, 1951, there may be transferred to appropriations available for class-

ing or grading any agricultural commodity without charge to the producers thereof such sums from nonadministrative funds of the Commodity Credit Corporation as may be necessary in addition to other funds available for these purposes, such transfers to be reimbursed from subsequent appropriations therefor.

(Aug. 31, 1951, ch. 374, title I, 65 Stat. 239.)

§ 415. Purchase of seeds and plants for distribution

Purchase and distribution of vegetable, field, and flower seeds, plants, shrubs, vines, bulbs, and cuttings shall be of the freshest and best obtainable varieties and adapted to general cultivation.

(R.S. § 527; Apr. 25, 1896, ch. 140, 29 Stat. 106.)

AMENDMENTS

1896—Act Apr. 25, 1896, struck out “by the Department of Agriculture” and “trees”, and inserted “vegetable, field, and flower seeds” and “bulbs”.

CROSS REFERENCES

Collection, testing, propagation, and distribution of seeds by Secretary of Agriculture, see section 2204 of this title.

Letting contract for seeds and plants, see section 416 of this title.

§ 415a. Omitted

CODIFICATION

Section was from act June 16, 1938, ch. 464, title I, 52 Stat. 739, the Department of Agriculture Appropriation Act, 1939, and related to sale of practical forms of grades of wool and mohair. See section 415e of this title.

Similar provisions were contained in the following prior appropriation acts:

June 29, 1937, ch. 404, title I, 50 Stat. 424.
 June 4, 1936, ch. 489, title I, 49 Stat. 1450.
 May 17, 1935, ch. 131, title I, 49 Stat. 275.
 Mar. 26, 1934, ch. 89, 48 Stat. 493.
 Mar. 3, 1933, ch. 203, 47 Stat. 1458.
 July 7, 1932, ch. 443, 47 Stat. 636.
 Feb. 23, 1931, ch. 278, 46 Stat. 1268.
 May 27, 1930, ch. 341, 46 Stat. 418.
 Feb. 16, 1929, ch. 227, 45 Stat. 1212.
 May 16, 1928, ch. 572, 45 Stat. 561.
 Jan. 18, 1927, ch. 39, 44 Stat. 997.

§ 415b. Wool standards; appropriation of certain funds

There is authorized to be appropriated for expenditure by the Secretary of Agriculture, for the purposes stated in section 415c of this title, all funds prior to or after May 17, 1928, collected by suit, or otherwise, pursuant to appropriations for the completion of the work of the domestic wool section of the War Industries Board, and for enforcing Government regulations for handling the wool clip of 1918 as established by the wool division of said board, pursuant to the Executive order dated December 31, 1918, transferring such work to the Bureau of Markets, now a part of the Bureau of Agricultural Economics of the Department of Agriculture, and for continuing as far as practicable the distribution among the growers of the wool clip of 1918 of all sums prior to or after May 17, 1928, collected or recovered with or without suit by the Government from all persons, firms, or corporations which

handled any part of the wool clip of 1918, which he finds it impracticable to distribute among said growers, provided that not to exceed \$50,000 may be expended in any fiscal year.

(May 17, 1928, ch. 602, §1, 45 Stat. 593.)

TRANSFER OF FUNCTIONS

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

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 415c, 415d of this title.

§ 415c. Use of funds for dissemination of information relating to standardization, grading, etc., of wool; charge for grading wool

The funds referred to in section 415b of this title may be used for the purpose of acquiring and diffusing among the people of the United States useful information relative to the standardization, grading, preparation for market, marketing, utilization, transportation, handling, and distribution of wool, and of approved methods and practices relative thereto, including the demonstration and promotion of the use of grades for wool in accordance with standards therefor which the Secretary of Agriculture is authorized to establish. Said funds may be used for the grading of wool, and for such grading or other service rendered under sections 415b to 415d of this title reasonable fees may be charged, and provided further that after May 17, 1928, reasonable charges may be made for practical forms of grades for wool.

(May 17, 1928, ch. 602, §2, 45 Stat. 593.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 415b, 415d of this title.

§ 415d. Rules and regulations for wool standards; deposit of receipts in the Treasury

The Secretary of Agriculture may make such rules and regulations as he deems advisable for carrying out any of the provisions of sections 415b and 415c of this title. All receipts under sections 415b to 415d of this title shall be deposited in the Treasury to the credit of miscellaneous receipts.

(May 17, 1928, ch. 602, §3, 45 Stat. 594.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 415c of this title.

§ 415e. Farm or food products; sale of samples, practical forms, etc.

The Secretary of Agriculture is authorized to sell samples, illustrations, practical forms, or sets of the grades recommended or promulgated by him for farm or food products, under such rules and regulations as he may prescribe, and the receipts therefrom shall be deposited in the Treasury to the credit of miscellaneous receipts.

(Sept. 21, 1944, ch. 412, title IV, §401(a), 58 Stat. 738.)

PRIOR PROVISIONS

Provisions similar to this section were contained in the following Department of Agriculture appropriation acts:

June 28, 1944, ch. 296, 58 Stat. 454.

July 12, 1943, ch. 215, 57 Stat. 421.

July 22, 1942, ch. 516, 56 Stat. 688.

July 1, 1941, ch. 267, 55 Stat. 431.

June 25, 1940, ch. 421, 54 Stat. 555.

June 30, 1939, ch. 253, title I, 53 Stat. 968.

§ 416. Letting contract for packeting, etc., of seeds, etc., for distribution

The Secretary of Agriculture, after due advertisement and on competitive bids, is authorized to award the contract for the supplying of printed packets and envelopes and the packeting, assembling, and mailing of the seeds, bulbs, shrubs, vines, cuttings, and plants, or any part thereof, for a period of not more than five years nor less than one year, if by such action he can best protect the interests of the United States.

(May 11, 1922, ch. 185, 42 Stat. 517.)

CODIFICATION

Section is from the Agriculture Department Appropriation Act, 1923.

CROSS REFERENCES

Purchase of seeds and plants for distribution, see section 415 of this title.

§ 417. Distribution of farmers' bulletins

In the distribution of farmers' bulletins, which shall be adapted to the interests of the people of the different sections of the country, an equal proportion of four-fifths shall be delivered to or sent out under the addressed franks furnished by Senators, Representatives, and Delegates in Congress, as such Senators, Representatives, or Delegates shall direct: *Provided*, That the Secretary of Agriculture shall notify Senators, Representatives, and Delegates in Congress of the title and character of each such bulletin, with the total number to which each Senator, Representative, and Delegate may be entitled for such distribution; and on the face of the envelope inclosing said bulletins shall be printed the title of each bulletin contained therein.

(June 30, 1906, ch. 3913, 34 Stat. 690.)

CODIFICATION

Section is derived from an Appropriation Act for the Department of Agriculture, 1907. The last proviso of section relating to farmers' bulletins not called for in quotas of Senators and Representatives was omitted from the Code as obsolete in view of Attorney General's opinion, 27 Op. Atty. Gen. 288.

§ 418. Annual report on work of agricultural experiment stations and of college extension work; publication and distribution

There shall be prepared by the Department of Agriculture an annual report on the work and expenditures of the agricultural experiment stations established under the Act of Congress of March second, eighteen hundred and eighty-seven [7 U.S.C. 361a et seq.], on the work and ex-

penditures of the Department of Agriculture in connection therewith, and on the cooperative agricultural extension work and expenditures of the Department of Agriculture and of agricultural colleges under the Act of May eighth, nineteen hundred and fourteen [7 U.S.C. 341 et seq.], and there shall be printed annually eight thousand copies of said report, of which one thousand copies shall be for the use of the Senate, two thousand copies for the use of the House of Representatives, and five thousand copies for the use of the Department of Agriculture.

(Mar. 4, 1915, ch. 144, 38 Stat. 1110.)

REFERENCES IN TEXT

The Act of Congress of March second, eighteen hundred and eighty-seven, referred to in text, is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, known as the Hatch Act, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

The Act of May eighth, nineteen hundred and fourteen, referred to in text, is act May 8, 1914, ch. 79, 38 Stat. 372, as amended, known as the "Smith-Lever Act", and also known as the "Agricultural Work Extension Act", which is classified generally to subchapter IV (§341 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 341 of this title and Tables.

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.

CROSS REFERENCES

Secretary of Agriculture as required to prescribe form of financial statement for agricultural experiment stations, see section 361e of this title.

§ 419. Repealed. Oct. 31, 1951, ch. 654, §1(12), 65 Stat. 701

Section, act May 5, 1945, ch. 109, 59 Stat. 143, related to sale by Secretary of Agriculture of products of agricultural experiment station in Puerto Rico, and disposition of moneys derived therefrom. See section 484 of Title 40, Public Buildings, Property, and Works. Similar provisions had been carried in prior Department of Agriculture appropriation acts back to and including that for the fiscal year ending June 30, 1919 (40 Stat. 1000).

PRIOR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

June 28, 1944, ch. 296, 58 Stat. 432.
 July 12, 1943, ch. 215, 57 Stat. 400.
 July 22, 1942, ch. 516, 56 Stat. 670.
 July 1, 1941, ch. 267, 55 Stat. 413.
 June 25, 1940, ch. 421, 54 Stat. 536.
 June 30, 1939, ch. 253, title I, 53 Stat. 944.
 June 16, 1938, ch. 464, title I, 52 Stat. 715.
 June 29, 1937, ch. 404, 50 Stat. 399.
 June 4, 1936, ch. 489, 49 Stat. 1425.
 May 17, 1935, ch. 131, title I, 49 Stat. 251.
 Mar. 26, 1934, ch. 89, 48 Stat. 471.
 Mar. 3, 1933, ch. 203, 47 Stat. 1436.
 July 7, 1932, ch. 443, 47 Stat. 614.
 May 17, 1932, ch. 190, 47 Stat. 158.
 Feb. 23, 1931, ch. 278, 46 Stat. 1246.
 May 27, 1930, ch. 341, 46 Stat. 396.

Feb. 16, 1929, ch. 227, 45 Stat. 1192.
 May 16, 1928, ch. 572, 45 Stat. 542.
 Jan. 18, 1927, ch. 39, 44 Stat. 979.
 May 11, 1926, ch. 286, 44 Stat. 502.
 Feb. 10, 1925, ch. 200, 43 Stat. 824.

§ 420. Power to administer oaths, examine witnesses, or require production of books, etc.

In the performance of the duties required of the Bureau of Agricultural Economics in the administration or enforcement of provisions of Acts (United States Cotton Futures Act, Thirty-ninth Statutes at Large, page 476; United States Grain Standards Act, Thirty-ninth Statutes at Large, page 482 [7 U.S.C. 71 et seq.], United States Warehouse Act, Thirty-ninth Statutes at Large, page 486 [7 U.S.C. 241 et seq.]; Standard Container Act, Thirty-ninth Statutes at Large, page 673; and the Acts making annual appropriations for the Department of Agriculture) relating to the Department of Agriculture, the Secretary of Agriculture, or any representative specifically authorized in writing by him for the purpose, shall have power to administer oaths, examine witnesses, and call for the production of books and papers.

(July 24, 1919, ch. 26, 41 Stat. 267; May 11, 1922, ch. 185, 42 Stat. 532.)

REFERENCES IN TEXT

The United States Cotton Futures Act, referred to in text, is part A of act Aug. 11, 1916, ch. 313, 39 Stat. 476, as amended, which was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. For complete classification of this Act to the Code prior to its repeal, see Tables.

The United States Grain Standards Act, referred to in text, is part B of act Aug. 11, 1916, ch. 313, 39 Stat. 482, as amended, which is classified generally to chapter 3 (§71 et seq.) of this title. For complete classification of this Act to the Code, see section 71 of this title and Tables.

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

The Standard Container Act, referred to in text, is act Aug. 31, 1916, ch. 426, 39 Stat. 673, as amended, which was classified generally to subchapter VII (§251 et seq.) of chapter 6 of Title 15, Commerce and Trade, and was repealed by Pub. L. 90-628, §1(a), Oct. 22, 1968, 82 Stat. 1320. For complete classification of this Act to the Code prior to its repeal, see Tables.

TRANSFER OF FUNCTIONS

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

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

Act May 11, 1922, transferred powers of former "Bureau of Markets, Bureau of Markets and Crop Estimates, and the Office of Farm Management and Farm Economics" to "Bureau of Agricultural Economics".

CROSS REFERENCES

Oaths, affirmations, and affidavits by officers, agents, or employees of Department of Agriculture generally, see section 2217 of this title.

§ 421. Dairying and livestock experiment station, Mandan, North Dakota

The Secretary of Agriculture is authorized and directed to establish at Mandan, North Dakota, a dairying and livestock experiment station, in connection with the Great Plains Experiment Station, for investigations and experiments in the dairy and livestock industries and the problems pertaining to the establishment and development of such industries, and for demonstrations, assistance, and service in livestock breeding, growing, and feeding.

(July 3, 1926, ch. 769, §1, 44 Stat. 840.)

§ 421a. Omitted

CODIFICATION

Section, act July 3, 1926, ch. 769, §2, 44 Stat. 840, appropriated \$25,000 to effectuate the purposes of section 421 of this title.

§ 422. Dairying and livestock experiment station, Lewisburg, Tennessee

The Secretary of Agriculture is authorized and directed to establish at or near Lewisburg, Tennessee, a dairying station for investigations, experiments, and demonstrations in the dairy industry, and the problems pertaining to the development of such industry in the South, and for investigations, demonstrations, assistance, and service in dairy livestock breeding, growing, and feeding, and dairy products manufacture.

(May 29, 1928, ch. 892, §1, 45 Stat. 981.)

§ 422a. Omitted

CODIFICATION

Section, act May 29, 1928, ch. 892, §2, 45 Stat. 981, appropriated \$50,000 for the purposes of section 422 of this title.

§ 423. Cotton; investigation of new uses; cooperation with State and other agencies

The Secretary of Agriculture and the Secretary of Commerce are authorized to engage in technical and scientific research in American-grown cotton and its byproducts and their present and potential uses, including new and additional commercial and scientific uses for cotton and its byproducts, and to diffuse such information among the people of the United States; and the Secretary of Agriculture and the Secretary of Commerce or their duly authorized representatives may cooperate with any department or agency of the Government, any State, Territory, District, or possession or department, agency, or political subdivision thereof, or any person in carrying out the purposes of this section in the District of Columbia and elsewhere.

(Apr. 12, 1928, ch. 362, 45 Stat. 426.)

§ 424. Cotton ginning investigations; publication of results; cooperation with Federal and State departments and agencies

The Secretary of Agriculture is authorized to investigate the ginning of cotton; to establish and maintain experimental ginning plants and laboratories; and to make such tests, demonstrations, and experiments, and such tech-

nical and scientific studies in relation to cotton ginning as he shall deem necessary and to publish the results thereof, with a view to developing improved ginning equipment and encouraging the use of improved methods, and he may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, as he shall find to be necessary.

(Apr. 19, 1930, ch. 203, §1, 46 Stat. 248.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 425 of this title.

§ 425. Authorization of appropriations for cotton ginning studies

For the purposes of section 424 of this title there is authorized to be appropriated, after June 30, 1931, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary.

(Apr. 19, 1930, ch. 203, §2, 46 Stat. 248.)

§ 426. Predatory and other wild animals; eradication and control; investigations, experiments, and tests by Secretary of Agriculture; cooperation with other agencies

The Secretary of Agriculture is authorized and directed to conduct such investigations, experiments, and tests as he may deem necessary in order to determine, demonstrate, and promulgate the best methods of eradication, suppression, or bringing under control on national forests and other areas of the public domain as well as on State, Territory, or privately owned lands of mountain lions, wolves, coyotes, bobcats, prairie dogs, gophers, ground squirrels, jack rabbits, brown tree snakes, and other animals injurious to agriculture, horticulture, forestry, animal husbandry, wild game animals, fur-bearing animals, and birds, and for the protection of stock and other domestic animals through the suppression of rabies and tularemia in predatory or other wild animals; and to conduct campaigns for the destruction or control of such animals: *Provided*, That in carrying out the provisions of this section the Secretary of Agriculture may cooperate with States, individuals, and public and private agencies, organizations, and institutions.

(Mar. 2, 1931, ch. 370, §1, 46 Stat. 1468; Dec. 13, 1991, Pub. L. 102-237, title X, §1013(d), 105 Stat. 1901.)

AMENDMENTS

1991—Pub. L. 102-237 inserted “brown tree snakes,” after “rabbits.”

TRANSFER OF FUNCTIONS

Functions of Secretary of Agriculture administered through Bureau of Biological Survey, relating to conservation of wildlife, game, and migratory birds, transferred to Secretary of the Interior by 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, set out in the Appendix to Title 5, Government Organization and Employees. See also sections 401 to 404 of said plan for provisions relating to transfer of functions, records, property, personnel, and funds.

Pub. L. 99-190, §101(a) [H.R. 3037, title I, §101], Dec. 19, 1985, 99 Stat. 1185; Pub. L. 100-202, §106, Dec. 22, 1987, 101

Stat. 1329-433, provided in part: "That effective upon the date of enactment of this Act [Dec. 19, 1985] and notwithstanding any other provision of law, the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b), (transferred to the Secretary of the Interior pursuant to section 4(f) of 1939 Reorganization Plan No. II) and all personnel, property, records, unexpended balances of appropriations, allocations and other funds of the Fish and Wildlife Service, United States Department of the Interior used, held, available or to be made available in connection with the administration of such Act, are hereby transferred from the Secretary of the Interior to the Secretary of Agriculture, and this appropriation shall be available to carry out such authorities."

PREVENTION OF INTRODUCTION OF BROWN TREE SNAKES TO HAWAII FROM GUAM

Section 1013(a)-(c) of Pub. L. 102-237 provided that:

"(a) IN GENERAL.—The Secretary of Agriculture shall, to the extent practicable, take such action as may be necessary to prevent the inadvertent introduction of brown tree snakes into other areas of the United States from Guam.

"(b) INTRODUCTION INTO HAWAII.—The Secretary shall initiate a program to prevent, to the extent practicable, the introduction of the brown tree snake into Hawaii from Guam. In carrying out this section, the Secretary shall consider the use of sniffer or tracking dogs, snake traps, and other preventative processes or devices at aircraft and vessel loading facilities on Guam, Hawaii, or intermediate sites serving as transportation points that could result in the introduction of brown tree snakes into Hawaii.

"(c) AUTHORITY.—The Secretary shall use the authority provided under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.) to carry out subsections (a) and (b)."

Pub. L. 102-190, div. A, title III, §348, Dec. 5, 1991, 105 Stat. 1348, provided that: "The Secretary of Defense shall take such action as may be necessary to prevent the inadvertent introduction of brown tree snakes from Guam to Hawaii in aircraft and vessels transporting personnel or cargo for the Department of Defense. In carrying out this section, the Secretary shall consider the use of sniffer or tracking dogs, snake traps, and other preventive processes or devices at aircraft and vessel loading facilities in Guam or Hawaii or at intermediate transit points for personnel or cargo transported between Guam and Hawaii."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 426b of this title; title 16 section 2909.

§ 426a. Omitted

CODIFICATION

Section, act Mar. 2, 1931, ch. 370, §2, 46 Stat. 1469, authorized \$1,000,000 per year for fiscal years 1932 to 1941, inclusive.

§ 426b. Authorization of expenditures for the eradication and control of predatory and other wild animals

The Secretary of Agriculture is authorized to make such expenditures for equipment, supplies, and materials, including the employment of persons and means in the District of Columbia and elsewhere, and to employ such means as may be necessary to execute the functions imposed upon him by section 426 of this title.

(Mar. 2, 1931, ch. 370, §3, 46 Stat. 1469.)

TRANSFER OF FUNCTIONS

See note under section 426 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 2909.

§ 426c. Control of nuisance mammals and birds and those constituting reservoirs of zoonotic diseases; exception

On and after December 22, 1987, the Secretary of Agriculture is authorized, except for urban rodent control, to conduct activities and to enter into agreements with States, local jurisdictions, individuals, and public and private agencies, organizations, and institutions in the control of nuisance mammals and birds and those mammal and bird species that are reservoirs for zoonotic diseases, and to deposit any money collected under any such agreement into the appropriation accounts that incur the costs to be available immediately and to remain available until expended for Animal Damage Control activities.

(Pub. L. 100-202, §101(k) [title I], Dec. 22, 1987, 101 Stat. 1329-322, 1329-331.)

§ 427. Agriculture research; declaration of policy; duties of Secretary of Agriculture; use of existing facilities

It is declared to be the policy of the Congress to promote the efficient production and utilization of products of the soil as essential to the health and welfare of our people and to promote a sound and prosperous agriculture and rural life as indispensable to the maintenance of maximum employment and national prosperity. It is also the intent of Congress to assure agriculture a position in research equal to that of industry which will aid in maintaining an equitable balance between agriculture and other sections of our economy. For the attainment of these objectives, the Secretary of Agriculture is authorized and directed to conduct and to stimulate research into the laws and principles underlying the basic problems of agriculture in its broadest aspects, including but not limited to: Research relating to the improvement of the quality of, and the development of new and improved methods of the production, marketing, distribution, processing, and utilization of plant and animal commodities at all stages from the original producer through to the ultimate consumer; research into the problems of human nutrition and the nutritive value of agricultural commodities, with particular reference to their content of vitamins, minerals, amino and fatty acids, and all other constituents that may be found necessary for the health of the consumer and to the gains or losses in nutritive value that may take place at any stage in their production, distribution, processing, and preparation for use by the consumer; research relating to the development of present, new, and extended uses and markets for agricultural commodities and byproducts as food or in commerce, manufacture, or trade, both at home and abroad, with particular reference to those foods and fibers for which our capacity to produce exceeds or may exceed existing economic demand; research to encourage the discovery, introduction, and breeding of new and useful agricultural crops, plants, and animals, both foreign and native, particularly for those crops and plants which may be adapted to utilization in chemical and manufacturing industries; research relating to new and more profitable uses for our resources of agricultural

manpower, soils, plants, animals, and equipment than those to which they are now, or may hereafter be, devoted; research relating to the conservation, development, and use of land, forest, and water resources for agricultural purposes; research relating to the design, development, and the more efficient and satisfactory use of farm buildings, farm homes, farm machinery, including the application of electricity and other forms of power; research and development relating to uses of solar energy with respect to farm buildings, farm homes, and farm machinery (including equipment used to dry and cure crops and provide irrigation); applied research to develop agricultural, forestry, and rural energy conservation and biomass energy production and use; research relating to the diversification of farm enterprises, both as to the type of commodities produced, and as to the type of operations performed, on the individual farm; research relating to any other laws and principles that may contribute to the establishment and maintenance of a permanent and effective agricultural industry including such investigations as have for their purpose the development and improvement of the rural home and rural life, and the maximum contribution by agriculture to the welfare of the consumer and the maintenance of maximum employment and national prosperity; and such other researches or experiments bearing on the agricultural industry or on rural homes of the United States as may in each case be deemed¹ advisable, having due regard to the varying conditions and needs of Puerto Rico, the respective States, and Territories. In effectuating the purposes of this section, maximum use shall be made of existing research facilities owned or controlled by the Federal Government or by State agricultural experiment stations and of the facilities of the Federal and State extension services. Research authorized under this section shall be in addition to research provided for under existing law (but both activities shall be coordinated so far as practicable). For purposes of sections 427 to 427j of this title, the term "solar energy" means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear² Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.].

(June 29, 1935, ch. 338, title I, § 1, 49 Stat. 436; Aug. 14, 1946, ch. 966, title I, § 101(1), 60 Stat. 1082; Sept. 29, 1977, Pub. L. 95-113, title XIV, § 1446, 91 Stat. 1011; June 30, 1980, Pub. L. 96-294, title II, § 253, 94 Stat. 707.)

REFERENCES IN TEXT

Sections 427a to 427h and 427j of this title, referred to in text, were repealed by act Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674. See sections 361a to 361i of this title.

The Federal Nonnuclear Energy Research and Development Act of 1974, as amended, referred to in text, is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

¹ So in original. Probably should be "deemed".

² So in original. Probably should be "Nonnuclear".

CODIFICATION

Another section 1446 of Pub. L. 95-113 is classified to section 3222a of this title.

AMENDMENTS

1980—Pub. L. 96-294 inserted provisions relating to applied research to develop agricultural, forestry, and rural energy conservation and biomass energy production and use.

1977—Pub. L. 95-113 inserted reference to research and development relating to uses of solar energy with respect to farm buildings, farm homes, and farm machinery (including equipment used to dry and cure crops and provide irrigation) and inserted definition of "solar energy".

1946—Act Aug. 14, 1946, amended section generally to provide for a greatly augmented research program in order to enable agriculture to attain a position in research comparable to that of other industries.

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.

SHORT TITLE

Act June 29, 1935, as amended, which enacted sections 329, 343, 343d-1, and 427-427j of this title, is popularly known as the "Agricultural Research Act" and also as the "Bankhead-Jones Act".

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.

MINIMUM SUM FOR CONTRACTING

Minimum of \$1,500,000 of appropriations of Department of Agriculture for research and service work authorized by this section and section 1621 et seq. of this title as available for contracting in accordance therewith, see section 1623a of this title.

EX. ORD. NO. 9310. TRANSFERRING NUTRITION FUNCTIONS OF OFFICE OF DEFENSE HEALTH AND WELFARE SERVICES TO DEPARTMENT OF AGRICULTURE

Ex. Ord. No. 9310, Mar. 6, 1943, 8 F.R. 2913, provided: By virtue of the authority vested in me by Title I of the First War Powers Act, 1941 [former sections 601 to 605 of Appendix to Title 50, War and National Defense], as President of the United States, and in order to enable the Secretary of Agriculture more effectively to carry out his responsibilities with respect to the Nation's food program, it is hereby ordered:

1. The functions, powers, and duties, with respect to nutrition, (a) of the Office of Defense Health and Welfare Services in the Office for Emergency Management of the Executive Office of the President (including all functions, powers, and duties of the Nutrition Division of the Office of Defense Health and Welfare Services), and (b) of the Director of the Office of Defense Health and Welfare Services, are transferred to the Department of Agriculture and shall be administered under the supervision and direction of the Secretary of Agriculture through such agency or agencies in the Department as the Secretary shall designate.

2. The personnel, property, and records used primarily in the administration of the functions, powers, and duties transferred by this Order are transferred to the Department of Agriculture. So much of the unexpended balances of appropriations, allocations, and other funds available for the use of the Office of Defense Health and Welfare Services in discharging the functions, powers, and duties transferred by this Order, as the Director of the Bureau of the Budget shall determine, shall be transferred to the Department of Agri-

culture for use in connection with the exercise of the functions, powers, and duties so transferred. In determining the amounts to be transferred hereunder, allowance shall be made for the liquidation of obligations previously incurred against such appropriations, allocations, or other funds.

FRANKLIN D. ROOSEVELT.

CROSS REFERENCES

Appropriations for cooperative research with State agricultural experiment stations and other appropriate agencies, see section 427i of this title.

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

Research to discover new uses and markets for commodities, see section 1292 of this title.

Similar provisions authorizing agricultural research and investigations, see sections 361b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361a, 427i, 1623a, 1629, 3152 of this title; title 42 section 8852.

§§ 427a to 427h. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Sections 427a to 427c, act June 29, 1935, ch. 338, title I, §§ 2-4, 49 Stat. 437, authorized research by experiment stations, appropriations, and allocation of appropriations. See sections 361a to 361c of this title.

Section 427d, acts June 29, 1935, ch. 338, title I, § 5, 49 Stat. 437; Sept. 21, 1944, ch. 412, title I, § 105, 58 Stat. 735, related to allocation of appropriations. See section 361c of this title.

Sections 427e to 427g, act June 29, 1935, ch. 338, title I, §§ 6-8, 49 Stat. 438, defined "Territory", authorized Secretary of Agriculture to prescribe rules and regulations, and reserved the right to Congress to amend, suspend, or repeal act June 29, 1935. See sections 361a, 361g, and 361i, respectively, of this title.

Section 427h, act June 29, 1935, ch. 338, title I, § 9, as added Aug. 14, 1946, ch. 966, title I, § 101(2), 60 Stat. 1083, authorized appropriations for agricultural experiment stations, provided for availability of funds and unexpended balances, and prescribed allotments for the experiment stations. See sections 361c, 361d, and 361g of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under sections 427a to 427h as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 427i. Agricultural research; authorization of additional appropriations; administrative expenses; availability of special research fund

(a) In order to carry out further research on utilization and associated problems in connection with the development and application of present, new, and extended uses of agricultural commodities and products thereof authorized by section 427 of this title, and to disseminate information relative thereto, and in addition to all other appropriations authorized by sections 427 to 427j of this title, there is authorized to be appropriated the following sums:

(1) \$3,000,000 for the fiscal year ending June 30, 1947, and each subsequent fiscal year.

(2) An additional \$3,000,000 for the fiscal year ending June 30, 1948, and each subsequent fiscal year.

(3) An additional \$3,000,000 for the fiscal year ending June 30, 1949, and each subsequent fiscal year.

(4) An additional \$3,000,000 for the fiscal year ending June 30, 1950, and each subsequent fiscal year.

(5) An additional \$3,000,000 for the fiscal year ending June 30, 1951, and each subsequent fiscal year.

(6) In addition to the foregoing, such additional funds beginning with the fiscal year ending June 30, 1952, and thereafter, as the Congress may deem necessary.

The Secretary of Agriculture, in accordance with such regulations as he deems necessary, and when in his judgment the work to be performed will be carried out more effectively, more rapidly, or at less cost than if performed by the Department of Agriculture, may enter into contracts with such public or private organizations or individuals as he may find qualified to carry on work under this section without regard to the provisions of section 5 of title 41, and with respect to such contracts he may make advance progress or other payments without regard to the provisions of section 3324(a) and (b) of title 31. Contracts under this section may be made for work to continue not more than four years from the date of any such contract. Notwithstanding the provisions of section 5 of the Act of June 20, 1874, as amended (31 U.S.C. 713), any unexpended balances of appropriations properly obligated by contracting with an organization as provided in this subsection may remain upon the books of the Treasury for not more than five fiscal years before being carried to the surplus fund and covered into the Treasury. Research authorized under this subsection shall be conducted so far as practicable at laboratories of the Department of Agriculture. Projects conducted under contract with public and private agencies shall be supplemental to and coordinated with research of these laboratories. Any contracts made pursuant to this authority shall contain requirements making the results of research and investigations available to the public through dedication, assignment to the Government, or such other means as the Secretary shall determine.

(b) In order to carry out further the purposes of section 427 of this title, other than research on utilization of agricultural commodities and the products thereof, and in addition to all other appropriations authorized by sections 427 to 427j of this title, there is authorized to be appropriated for cooperative research with the State agricultural experiment stations and such other appropriate agencies as may be mutually agreeable to the Department of Agriculture and the experiment stations concerned, the following sums:

(1) \$1,500,000 for the fiscal year ending June 30, 1947, and each subsequent fiscal year.

(2) An additional \$1,500,000 for the fiscal year ending June 30, 1948, and each subsequent fiscal year.

(3) An additional \$1,500,000 for the fiscal year ending June 30, 1949, and each subsequent fiscal year.

(4) An additional \$1,500,000 for the fiscal year ending June 30, 1950, and each subsequent fiscal year.

(5) In addition to the foregoing such additional funds beginning with the fiscal year ending June 30, 1951, and thereafter, as the Congress may deem necessary.

(c) The Secretary may incur necessary administrative expenses not to exceed 3 per centum of the amount appropriated in any fiscal year in carrying out this section, including the specific objects of expense enumerated in section 427b of this title.

(d) The “Special research fund, Department of Agriculture,” provided by section 427c of this title, shall continue to be available solely for research into laws and principles underlying basic problems of agriculture in its broadest aspects; research relating to the improvement of the quality of, and the development of, new and improved methods of production of, distribution of, and new and extended uses and markets for, agricultural commodities and byproducts and manufactures thereof; and research relating to the conservation, development, and use of land and water resources for agricultural purposes. Such research shall be in addition to research provided for under other law (but both activities shall be coordinated so far as practicable) and shall be conducted by such agencies of the Department of Agriculture as the Secretary of Agriculture may designate or establish.

(e) Appropriations for research work in the Department of Agriculture shall be available for accomplishing such purposes by contract through the means provided in subsection (a) of this section.

(June 29, 1935, ch. 338, title I, § 10, as added Aug. 14, 1946, ch. 966, title I, § 101(2), 60 Stat. 1083; amended July 28, 1954, ch. 591, 68 Stat. 574.)

REFERENCES IN TEXT

Section 5 of the Act of June 20, 1874, as amended (31 U.S.C. 713), referred to in subsec. (a), was repealed by act July 6, 1949, ch. 299, § 3, 63 Stat. 407.

Sections 427a to 427h and 427j of this title, referred to in text, were repealed by act Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674. See sections 361a to 361i of this title.

CODIFICATION

In subsec. (a), closing par., “section 3324(a) and (b) of title 31” substituted for “section 3648, Revised Statutes [31 U.S.C. 529]” on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1954—Subsec. (e). Act July 23, 1954, added subsec. (e).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361a, 427, 1629, 3152 of this title; title 21 section 113a; title 35 section 210.

§ 427j. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section, act June 29, 1935, ch. 338, title I, § 11, as added Aug. 14, 1946, ch. 966, title I, § 101(2), 60 Stat. 1086; amended July 31, 1947, ch. 412, 61 Stat. 694; Aug. 30, 1954, ch. 1076, § 1(7), 68 Stat. 966, authorized use of funds appropriated for agricultural research program for market research projects and required an annual report to Congress. See sections 361a to 361h of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under this section as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under section 361 of this title.

§ 428. Omitted

CODIFICATION

Section, act June 4, 1956, ch. 355, title V, § 503, 70 Stat. 240, related to options to purchase lands and was superseded by section 428a of this title.

Similar provisions were contained in the following prior appropriation acts:

May 23, 1955, ch. 43, title V, § 503, 69 Stat. 63.
 June 29, 1954, ch. 409, title V, § 503, 68 Stat. 318.
 July 28, 1953, ch. 251, title IV, § 403, 67 Stat. 224.
 July 5, 1952, ch. 574, title IV, § 403, 66 Stat. 355.
 Aug. 31, 1951, ch. 374, title IV, § 403, 65 Stat. 246.
 Sept. 6, 1950, ch. 896, Ch. VI, title IV, § 407, 64 Stat. 657.
 June 29, 1949, ch. 280, title I, 63 Stat. 325.
 June 19, 1948, ch. 543, title I, 62 Stat. 508.
 July 30, 1947, ch. 356, title I, 61 Stat. 523.
 June 22, 1946, ch. 445, 60 Stat. 271.
 May 5, 1945, ch. 109, 59 Stat. 136.
 June 28, 1944, ch. 296, 58 Stat. 426.
 July 12, 1943, ch. 215, 57 Stat. 393.
 July 22, 1942, ch. 516, 56 Stat. 665.
 July 1, 1941, ch. 267, 55 Stat. 408.
 June 25, 1940, ch. 421, 54 Stat. 532.

§ 428a. Acquisition of land; options

(a) The Department of Agriculture is authorized to acquire land, or interest therein, by purchase, exchange or otherwise, as may be necessary to carry out its authorized work: *Provided*, That no acquisition shall be made under this authority unless provision is made therefor in the applicable appropriation or other law.

(b) Appropriations for the Department of Agriculture which are available for the purchase of land may be expended for options to purchase land: *Provided*, That not to exceed \$1 may be expended for each option to purchase any particular tract or tracts of land unless otherwise provided in appropriation or other law.

(Aug. 3, 1956, ch. 950, § 11, 70 Stat. 1034.)

CROSS REFERENCES

Adjustment of title to lands under jurisdiction of Secretary of Agriculture, see section 2253 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 2103c.

§ 428b. Wheat and feed grains research; regional and national research programs; utilization of services of Federal, State and private agencies; authorization of appropriations

In order to reduce fertilizer and herbicide usage in excess of production needs, to develop wheat and feed grain varieties more susceptible to complete fertilizer utilization, and to improve the resistance of wheat and feed grain plants to disease and to enhance their conservation and environmental qualities, the Secretary of Agriculture is authorized and directed to carry out regional and national research programs.

In carrying out such research, the Secretary shall utilize the technical and related services of the appropriate Federal, State, and private agencies.

There is authorized to be appropriated such sums as may be necessary to carry out the pro-

visions of this section, but not more than \$1,000,000 in any fiscal year.

(Pub. L. 91-524, title VIII, §810, as added Pub. L. 93-86, §1(27)(B), Aug. 10, 1973, 87 Stat. 238.)

§ 428c. Rice research

(a) Regional and national research programs; rules; purposes

The Secretary of Agriculture may, under rules prescribed by such Secretary, carry out regional and national research programs with regard to rice for the following purposes:

- (1) to reduce fertilizer and herbicide usage in excess of production needs;
- (2) to develop varieties of rice more susceptible to complete fertilizer utilization;
- (3) to improve the resistance of rice plants to disease and to enhance their conservation and environmental qualities;
- (4) to increase the usage of rice and its processing byproducts;
- (5) to develop better husbandry practices in production and conservation of rice;
- (6) to develop more efficient rice storage practices;
- (7) to improve domestic and international marketing of rice; and
- (8) to benefit the general welfare.

(b) Utilization of services of Federal, State, local governmental and private agencies; priority consideration

The Secretary shall, in implementing the program authorized in subsection (a) of this section, utilize the technical and related services of appropriate Federal, State, local governmental, and private agencies, with priority consideration for land grant universities, State experiment stations, and other agricultural institutions of higher learning.

(c) Authorization of appropriations; use restriction

There is authorized to be appropriated not more than \$1,000,000 for the period ending September 30, 1976, to carry out the provisions of this section. No funds authorized by this section shall be used for advertising or promotional activities.

(Pub. L. 94-214, title II, §201, Feb. 16, 1976, 90 Stat. 187.)

SHORT TITLE

Section 1 of Pub. L. 94-214 provided that: "This Act [enacting this section, amending sections 1352, 1385, 1428, and 1441 of this title, and enacting provisions set out as notes under sections 1352, 1353, 1377, 1385, 1428, and 1441 of this title] may be cited as the 'Rice Production Act of 1975'."

§ 429. Improvement of poultry, poultry products, and hatcheries

The Secretary of Agriculture is authorized to cooperate with State authorities and with the authorities of the District of Columbia, Alaska, Hawaii, and Puerto Rico in the administration of regulations for the improvement of poultry, poultry products, and hatcheries.

(Sept. 21, 1944, ch. 412, title I, §101(b), 58 Stat. 734; Aug. 4, 1950, ch. 579, 64 Stat. 413.)

AMENDMENTS

1950—Act Aug. 4, 1950, included within its provisions the District of Columbia, Alaska, Hawaii, and Puerto Rico.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

APPROPRIATIONS

Appropriations of funds necessary to accomplish the purpose of this section, see note under section 395 of this title.

§ 430. Purchase and testing of serums or analogous products; dissemination of test results

The Secretary of Agriculture may purchase in the open market from applicable appropriations samples of all tuberculin, serums, antitoxins, or analogous products, of foreign or domestic manufacture, which are sold in the United States, for the detection, prevention, treatment, or cure of diseases of domestic animals, test the same, and disseminate the results of said tests in such manner as he may deem best.

(Sept. 21, 1944, ch. 412, title I, §101(d), 58 Stat. 734.)

APPROPRIATIONS

Appropriations of funds necessary to accomplish the purpose of this section, see note under section 395 of this title.

§ 431. Purchase of tags, labels, stamps, and certificates

The Secretary of Agriculture is authorized to expend appropriations for meat inspection for the purchase of printed tags, labels, stamps, and certificates without regard to existing laws applicable to public printing.

(Sept. 21, 1944, ch. 412, title I, §101(f), 58 Stat. 734.)

APPROPRIATIONS

Appropriations of funds necessary to accomplish the purpose of this section, see note under section 395 of this title.

§ 432. Purchase of cultures for soil and fertilizer investigations

The Secretary of Agriculture may purchase from applicable appropriations cultures in the open market for use in connection with soil and fertilizer investigations.

(Sept. 21, 1944, ch. 412, title I, §104, 58 Stat. 735.)

§ 433. Domestic raising of fur-bearing animals; classification

For the purposes of all classification and administration of Acts of Congress, Executive orders, administrative orders, and regulations pertaining to—

(a) fox, rabbit, mink, chinchilla, marten, fisher, muskrat, karakul and all other fur-bearing animals, raised in captivity for breeding or other useful purposes shall be deemed domestic animals;

(b) such animals and the products thereof shall be deemed agricultural products; and

(c) the breeding, raising, producing, or marketing of such animals or their products by the producer shall be deemed an agricultural pursuit.

(Apr. 30, 1946, ch. 242, § 1, 60 Stat. 127.)

EFFECTIVE DATE

Section 3 of act Apr. 30, 1946, provided that this section and section 434 of this title shall become effective sixty days after Apr. 30, 1946.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 434 of this title.

§ 434. Transfer of functions, appropriations, records and property to Secretary of Agriculture

(a) All the functions of the Secretary of the Interior and the Fish and Wildlife Service of the Department of the Interior, which affect the breeding, raising, producing, marketing, or any other phase of the production or distribution, of domestically raised fur-bearing animals, or products thereof, are transferred to and vested in the Secretary of Agriculture.

(b) Appropriations and unexpended balances of appropriations, or parts thereof, which the Director of the Office of Management and Budget determines to be available for expenditure for the administration of any function transferred by this section and section 433 of this title, shall be available for expenditure for the continued administration of such function by the officer to whom such function is so transferred.

(c) All records and property (including office furniture and equipment) under the jurisdiction of the Secretary of the Interior and the Fish and Wildlife Service of the Department of the Interior used primarily in connection with the administration of functions transferred by said sections are transferred to the jurisdiction of the Secretary of Agriculture.

(Apr. 30, 1946, ch. 242, § 2, 60 Stat. 127; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

EFFECTIVE DATE

Section effective 60 days after Apr. 30, 1946, see note set out under section 433 of this title.

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget were transferred to President by section 101 of 1970 Reorg. Plan No. 2. Section 102 of 1970 Reorg. Plan No. 2 redesignated Bureau of the Budget as Office of Management and Budget and the offices of Director of Bureau of the Budget, Deputy Director of Bureau of the Budget, and Assistant Directors of Bureau of the Budget as Director of Office of Management and Budget, Deputy Director of Office of Management and Budget, and Assistant Directors of Office of Management and Budget, respectively. Section 103 of 1970 Reorg. Plan No. 2 transferred all records, property, personnel, and funds of the Bureau to the Office of Management

and Budget. See part I of Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 502 of Title 31, Money and Finance.

§ 435. Omitted

CODIFICATION

Section, which made inapplicable provisions of law prohibiting or restricting employment of aliens to employment under the appropriations for the Foreign Agricultural Service, was from the Department of Agriculture Appropriation Act, 1974, Pub. L. 93-135. Similar provisions were contained in prior appropriation acts. Section was not repeated in the Department of Agriculture Appropriation Act, 1975, accordingly, section was omitted from the Code. For provisions covering employment of aliens generally, see section 3101 note of Title 5, Government Organization and Employees.

Section was based on acts July 30, 1947, ch. 356, title I, § 4, 61 Stat. 548; June 19, 1948, ch. 543, title I, § 4, 62 Stat. 530; June 2, 1949, ch. 280, title III, § 302, 63 Stat. 348; Sept. 6, 1950, ch. 896, ch. VI, title IV, § 402, 64 Stat. 679; Aug. 31, 1951, ch. 374, title IV, § 402, 65 Stat. 245; July 5, 1952, ch. 574, title IV, § 402, 66 Stat. 355; July 28, 1953, ch. 251, title IV § 402, 67 Stat. 224; June 29, 1954, ch. 409, title V, § 502, 68 Stat. 318; May 23, 1955, ch. 43, title V, § 502, 69 Stat. 63; June 4, 1956, ch. 355, title V, § 502, 70 Stat. 240; Aug. 2, 1957, Pub. L. 85-118, title V, § 502, 71 Stat. 340; June 13, 1958, Pub. L. 85-459, title IV, § 402, 72 Stat. 199; July 8, 1959, Pub. L. 86-80, title IV, § 402, 73 Stat. 179; June 29, 1960, Pub. L. 86-532, title IV, § 402, 74 Stat. 244; July 26, 1961, Pub. L. 87-112, title V, § 502, 75 Stat. 240; Oct. 24, 1962, Pub. L. 87-879, title VI, § 602, 76 Stat. 1215; Dec. 30, 1963, Pub. L. 88-250, title VI, § 602, 77 Stat. 833; Sept. 2, 1964, Pub. L. 88-573, title V, § 502, 78 Stat. 876; Nov. 2, 1965, Pub. L. 89-316, title V, § 502, 79 Stat. 1179; Sept. 7, 1966, Pub. L. 89-556, title V, § 502, 80 Stat. 703; Oct. 24, 1967, Pub. L. 90-113, title V, § 502, 81 Stat. 334; Aug. 8, 1968, Pub. L. 90-463, title V, § 502, 82 Stat. 653; Nov. 26, 1969, Pub. L. 91-127, title V, § 502, 83 Stat. 260; Dec. 22, 1970, Pub. L. 91-566, title V, § 502, 84 Stat. 1496; Aug. 10, 1971, Pub. L. 92-73, title V, § 502, 85 Stat. 201; Aug. 22, 1972, Pub. L. 92-399, title V, § 502, 86 Stat. 611; Oct. 24, 1973, Pub. L. 93-135, title V, § 502, 87 Stat. 489.

§ 436. Transfer of Army Remount Service to Department of Agriculture; effective date

In the interests of economy and efficiency, the records, property, real and personal, and civilian personnel of the Remount Service of the Quartermaster Corps, Department of the Army, are transferred to the Department of Agriculture, effective July 1, 1948. Prior to that date, the Secretary of the Army and the Secretary of Agriculture shall enter into a written agreement on the property and the personnel covered by this transfer.

(Apr. 21, 1948, ch. 224, § 1, 62 Stat. 197.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 437 of this title.

§ 437. Administration of transferred property; improvement in horse breeding; acquisition of breeding stock and facilities; fees; cooperation with other organizations

The Secretary of Agriculture is authorized to receive the property transferred by section 436 of this title and is directed to administer it in such manner as he deems will best advance the livestock and agricultural interests of the United States, including improvement in the breeding of horses suited to the needs of the

United States; the acquisition by purchase in the open market, exchange, hire, or donation of breeding stock, and necessary land, buildings, and facilities; the use of horses in the improvement of the supply of horses available in agriculture; the demonstration of the quality and usefulness of horses through participation in and lending for use in fairs, shows, and other events, or otherwise; the loan, sale, or hire of animals or animal products through such arrangements and subject to such fees as are deemed necessary by the Secretary to accomplish the purposes of this section and section 436 of this title, and, in carrying out such program, the Secretary is authorized to cooperate with public and private organizations and individuals under such rules and regulations as are deemed by him to be necessary.

(Apr. 21, 1948, ch. 224, § 2, 62 Stat. 197.)

AUTHORIZATION OF APPROPRIATIONS; ABOLITION OF
ARMY REMOUNT PROGRAM

Section 4 of act Apr. 21, 1948, provided: "There is hereby authorized to be appropriated to the Department of Agriculture such funds as may be necessary to carry out this Act [sections 436 to 438 of this title]. The authority of the Department of the Army to conduct a remount breeding program is hereby abolished. Funds appropriated pursuant to this Act [said sections] shall be available for necessary administrative expenses, including personal services in the District of Columbia, printing and binding, and purchase or hire of passenger motor vehicles."

§ 438. Repealed. Pub. L. 88-448, title IV, § 402(a)(26), Aug. 19, 1964, 78 Stat. 494

Section, act Apr. 21, 1948, ch. 224, § 3, 62 Stat. 197, related to employment of retired Army officers in Remount Service.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins later than ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88-448.

§ 439. Operation of Government-owned alcohol plants; location; transfer of plants

For the purpose of assuring their operation for the production of products from agricultural commodities in order to provide a means of discharging the responsibility of the Department of Agriculture in connection with surplus agricultural commodities, research, and other authorized activities, and to assist in providing an adequate supply of alcohol and other products produced from agricultural commodities necessary for the national defense, (1) the Reconstruction Finance Corporation, as successor to Defense Plant Corporation, shall transfer, without regard to the provisions of the Surplus Property Act of 1944 and without reimbursement or transfer of funds, to the Secretary of Agriculture all of its right, title, and interest in and to the alcohol plant established and constructed by Defense Plant Corporation at Muscatine, Iowa, the property, together with the equipment, records, facilities, and other property appurtenant thereto; and (2) the War Assets Administration shall transfer to the Secretary of Agriculture without regard to the provisions of the Surplus Property Act of 1944 and without reimbursement or transfer of funds the alcohol plants at Kansas City,

Missouri, and Omaha, Nebraska, together with the land, equipment, facilities, and other property appurtenant thereto.

(July 2, 1948, ch. 818, § 1, 62 Stat. 1234.)

REFERENCES IN TEXT

The Surplus Property Act of 1944, referred to in text, is act Oct. 3, 1944, ch. 479, 58 Stat. 765, which was classified principally to sections 1611 to 1646 of Title 50, Appendix, War and National Defense, and was repealed effective July 1, 1949, with the exception of sections 1622, 1631, 1637, and 1641 of Title 50, Appendix, by act June 30, 1949, ch. 288, title VI, § 602(a)(1), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583. Sections 1622 and 1641 were partially repealed by the 1949 act, and section 1622 is still set out in part in Title 50, Appendix. Section 1622(g) was repealed and reenacted as sections 47151 to 47153 of Title 49, Transportation, by Pub. L. 103-272, §§ 1(d), 7(b), July 5, 1994, 108 Stat. 1278-1280, 1379. Section 1631 was repealed by act June 7, 1939, ch. 190, § 6(e), as added by act July 23, 1946, ch. 590, 60 Stat. 599, and is covered by sections 98 et seq. of Title 50. Section 1637 was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is covered by section 3287 of Title 18, Crimes and Criminal Procedure. Provisions of section 1641 not repealed by the 1949 act were repealed by Pub. L. 87-256, § 111(a)(1), Sept. 21, 1961, 75 Stat. 538, and are covered by chapter 33 (§ 2451 et seq.) of Title 22, Foreign Relations and Intercourse. The provisions of the Surplus Property Act of 1944 originally repealed by the 1949 act are covered by chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works.

TRANSFER OF FUNCTIONS

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

Functions, property, records, etc., of War Assets Administration transferred to Administrator of General Services and War Assets Administration abolished by act June 30, 1949, ch. 288, title I, § 105, 63 Stat. 381.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439b, 439c, 439e of this title.

§ 439a. Powers and duties of Secretary of Agriculture

In carrying out the purposes of sections 439 to 439e of this title the Secretary is authorized, upon such terms and conditions as he deems reasonable, and notwithstanding the provisions of any other law—

(a) to provide for the operation of such plants by lease or other arrangement;

(b) to operate such plants, where operation by others will not, in the judgment of the Secretary, accomplish the purpose of sections 439 to 439e of this title.

Such plants may be operated in the furtherance of any authorized activities of the Department of Agriculture, and any lease, or other arrangement may be upon such terms and conditions as to result in the plant being operated for such purposes.

(July 2, 1948, ch. 818, § 2, 62 Stat. 1234.)

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439b, 439c, 439e of this title.

§ 439b. Recommendations to Congress for discontinuance of plants

Whenever the Secretary finds that the operation of any plant or plants as provided in sections 439 to 439e of this title is no longer necessary or desirable, he shall report such fact to Congress with his recommendations for the disposition thereof.

(July 2, 1948, ch. 818, §3, 62 Stat. 1235.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439c, 439e of this title.

§ 439c. Construction of additional facilities; acquisition of property; incurrence of expenses; rules and regulations

For the purposes of sections 439 to 439e of this title, the Secretary of Agriculture is authorized (a) to construct and provide additional facilities and equipment necessary to the operation of such plants, and to maintain, repair, and alter such plants; (b) to acquire property or rights or interest therein by purchase, lease, gift, transfer, condemnation, or otherwise; (c) to incur necessary administrative expenses, including personal services; and (d) to make such rules and regulations as may be necessary to carry out the purposes of said sections.

(July 2, 1948, ch. 818, §4, 62 Stat. 1235.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439b, 439e of this title.

§ 439d. Assumption of obligations of Reconstruction Finance Corporation covering Muscatine, Iowa, plant

The Secretary of Agriculture shall assume all obligations of the Reconstruction Finance Corporation covering operations of the Muscatine, Iowa, plant, equipment, facilities, and appurtenant property outstanding at the date of transfer.

(July 2, 1948, ch. 818, §5, 62 Stat. 1235.)

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished Reconstruction Finance Corporation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439b, 439c, 439e of this title.

§ 439e. Authorization of appropriations; availability of other appropriations

There are authorized to be appropriated for the purposes of sections 439 to 439e of this title

such sums as the Congress may from time to time determine to be necessary. Also, the Secretary is authorized to use such sums from other appropriations or funds available to the bureaus, corporations, or agencies of the Department of Agriculture as he may deem necessary for expenses in connection with maintaining these plants in standby condition while not under lease.

(July 2, 1948, ch. 818, §6, 62 Stat. 1235.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439b, 439c, 439d of this title.

§ 440. Reimbursement of appropriations available for classing or grading agriculture commodities without charge

On and after June 29, 1949, appropriations available for classing or grading any agricultural commodity without charge to the producers thereof may be reimbursed from nonadministrative funds of the Commodity Credit Corporation for the cost of classing or grading any such commodity for producers who obtain Commodity Credit Corporation price support.

(June 29, 1949, ch. 280, title I, 63 Stat. 344.)

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 the 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.

§ 441. Repealed. Pub. L. 85-36, title I, § 111, May 23, 1957, 71 Stat. 35

Section, act Sept. 22, 1951, ch. 409, 65 Stat. 335, related to prevention of entry of mollusks. See chapter 7B of this title.

CONTINUATION OF PROVISIONS

Sections amended or repealed by Pub. L. 85-36 to continue in force as to rights, liabilities and violations that occurred before May 23, 1957, and findings, regulations, orders, permits and certificates issued before May 23, 1957 as remaining in effect until modified, see section 111 of Pub. L. 85-36 set out as a note under section 147a of this title.

§ 442. Availability of grain to prevent waterfowl depredations; payment of packaging, transporting, handling, and other charges

For the purpose of preventing crop damage by migratory waterfowl, the Commodity Credit Corporation shall make available to the Secretary of the Interior such wheat, corn, or other grains, acquired through price support operations and certified by the Commodity Credit Corporation to be available for purposes of sections 442 to 445 of this title or in such condition through spoilage or deterioration as not to be desirable for human consumption, as the Secretary of the Interior shall requisition pursuant to section 443 of this title. With respect to any grain thus made available, the Commodity Cred-

it Corporation may pay packaging, transporting, handling, and other charges up to the time of delivery to one or more designated locations in each State.

(July 3, 1956, ch. 512, §1, 70 Stat. 492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 444, 445 of this title.

§ 443. Requisition of grain to prevent crop depredation by migratory waterfowl

Upon a finding by the Secretary of the Interior that any area in the United States is threatened with damage to farmers' crops by migratory waterfowl, whether or not during the open season for such migratory waterfowl, the Secretary of the Interior is authorized and directed to requisition from the Commodity Credit Corporation and to make available to Federal, State, or local governmental bodies or officials, or to private organizations or persons, such grain acquired by the Commodity Credit Corporation through price-support operations in such quantities and subject to such regulations as the Secretary determines will most effectively lure migratory waterfowl away from crop depredations and at the same time not expose such migratory waterfowl to shooting over areas to which the waterfowl have been lured by such feeding programs.

(July 3, 1956, ch. 512, §2, 70 Stat. 492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 442, 444, 445 of this title.

§ 444. Reimbursement of packaging and transporting expenses

With respect to all grain made available pursuant to section 443 of this title, the Commodity Credit Corporation shall be reimbursed by the Secretary of the Interior for its expenses in packaging and transporting such grain for purposes of sections 442 to 445 of this title.

(July 3, 1956, ch. 512, §3, 70 Stat. 492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 442, 445 of this title.

§ 445. Authorization of appropriations for mitigating losses caused by waterfowl depredation

There are authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation for its investment in the grain transferred pursuant to sections 442 to 445 of this title.

(July 3, 1956, ch. 512, §4, 70 Stat. 492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 442, 444 of this title.

§ 446. Repealed. Pub. L. 86-133, Aug. 4, 1959, 73 Stat. 279

Section, act July 3, 1956, ch. 512, §5, 70 Stat. 492, prescribed three years following July 3, 1956, as expiration date for availability of grain under sections 442 to 446 of this title.

§ 447. Requisition of surplus grain; prevention of starvation of resident game birds and other resident wildlife; utilization by State agencies; reimbursement for packaging and transporting

For the purpose of meeting emergency situations caused by adverse weather conditions or other factors destructive of important wildlife resources, the States are authorized, upon the request of the State fish and game authority or other State agency having similar authority and a finding by the Secretary of the Interior that any area of the United States is threatened with serious damage or loss to resident game birds and other resident wildlife from starvation, to requisition from the Commodity Credit Corporation grain acquired by the Corporation through price support operations. Such grain may thereafter be furnished to the particular State for direct and sole utilization by the appropriate State agencies for purposes of sections 447 to 449 of this title in such quantities as mutually agreed upon by the State and the Commodity Credit Corporation and subject to such regulations as may be considered desirable by the Corporation. The Corporation shall be reimbursed by the particular State in each instance for the expense of the Corporation in packaging and transporting such grain for purposes of sections 447 to 449 of this title.

(Pub. L. 87-152, §1, Aug. 17, 1961, 75 Stat. 389.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 448, 449 of this title.

§ 448. Requisition and use of grain for prevention of starvation of migratory birds; reimbursement for packaging and transporting

Upon a finding by the Secretary of the Interior that migratory birds are threatened with starvation in any area of the United States, the Secretary is authorized to requisition from the Commodity Credit Corporation grain acquired by that Corporation through price support operations in such quantities as may be mutually agreed upon. The Corporation shall be reimbursed by the Secretary for its expense in packaging and transporting of such grain for purposes of sections 447 to 449 of this title.

(Pub. L. 87-152, §2, Aug. 17, 1961, 75 Stat. 389.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 447, 449 of this title.

§ 449. Authorization of appropriations for reimbursement of Commodity Credit Corporation

There are authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation for its investment in grain transferred pursuant to sections 447 to 449 of this title.

(Pub. L. 87-152, §3, Aug. 17, 1961, 75 Stat. 389.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 447, 448 of this title.

§ 450. Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; coordination of administration of Federal and State laws

In order to avoid duplication of functions, facilities, and personnel, and to attain closer coordination and greater effectiveness and economy in administration of Federal and State laws and regulations relating to the marketing of agricultural products and to the control or eradication of plant and animal diseases and pests, the Secretary of Agriculture is authorized, in the administration and enforcement of such Federal laws within his area of responsibility, whenever he deems it feasible and in the public interest, to enter into cooperative arrangements with State departments of agriculture and other State agencies charged with the administration and enforcement of such State laws and regulations and to provide that any such State agency which has adequate facilities, personnel, and procedures, as determined by the Secretary, may assist the Secretary in the administration and enforcement of such Federal laws and regulations to the extent and in the manner he deems appropriate in the public interest.

Further, the Secretary is authorized to coordinate the administration of such Federal laws and regulations with such State laws and regulations wherever feasible. However, nothing herein shall affect the jurisdiction of the Secretary of Agriculture under any Federal law, or any authority to cooperate with State agencies or other agencies or persons under existing provisions of law, or affect any restrictions of law upon such cooperation.

(Pub. L. 87-718, Sept. 28, 1962, 76 Stat. 663.)

§ 450a. Cooperative research projects; agreements with and receipt of funds from State and other agencies

On and after December 30, 1963, the Administrator of the Agricultural Research Service may enter into agreements with and received funds from any State, other political subdivision, organization, or individual for the purpose of conducting cooperative research projects with such cooperators.

(Pub. L. 88-250, title I, Dec. 30, 1963, 77 Stat. 820.)

§ 450b. Cooperation with State and other agencies; expenditures

In carrying on the activities of the Department of Agriculture involving cooperation with State, county, and municipal agencies, associations of farmers, individual farmers, universities, colleges, boards of trade, chambers of commerce, or other local associations of business men, business organizations, and individuals within the State, Territory, district, or insular possession in which such activities are to be carried on, moneys contributed from such outside sources, except in the case of the authorized activities of the Forest Service, shall be paid only through the Secretary of Agriculture or through State, county, or municipal agencies, or local farm bureaus or like organiza-

tions, cooperating for the purpose with the Secretary of Agriculture.

(July 24, 1919, ch. 26, 41 Stat. 270.)

CODIFICATION

Section was formerly classified to section 563 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378.

A prior section 450b, Pub. L. 89-106, §2, Aug. 4, 1965, 79 Stat. 431, which related to research grants, duration, records, and audit, was transferred to section 450i of this title.

CROSS REFERENCES

Application to cooperative work by Fish and Wildlife Service, see section 753 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2220 of this title; title 16 section 743.

§ 450c. Delegation of regulatory functions of Secretary of Agriculture; definitions

As used in sections 450c to 450g of this title—

(a) The term “regulatory order” means an order, marketing agreement, standard, permit, license, registration, suspension or revocation of a permit, license, or registration, certificate, award, rule or regulation, if it has the force and effect of law, and if it may be made, prescribed, issued, or promulgated only after notice and hearing or opportunity for hearing have been given.

(b) The term “regulatory function” means the making, prescribing, issuing, or promulgating of a regulatory order; and includes (1) determining whether such making, prescribing, issuing, or promulgating is authorized or required by law, and (2) any action which is required or authorized to be performed before, after, or in connection with, such determining, making, prescribing, issuing, or promulgating.

(Apr. 4, 1940, ch. 75, §1, 54 Stat. 81.)

CODIFICATION

Section was formerly classified to section 516a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450g of this title.

§ 450d. Delegation of regulatory functions to designated employees; status of employees; number; revocation of delegation

Whenever the Secretary of Agriculture deems that the delegation of the whole or any part of any regulatory function which the Secretary is, now or after April 4, 1940, required or authorized to perform will result in the more expeditious discharge of the duties of the Department of Agriculture, he is authorized to make such delegation to any officer or employee designated under this section. The Secretary is authorized to designate officers or employees of the Department to whom functions may be delegated under this section and to assign appropriate titles to such officers or employees. There shall not be in the Department at any one time more than two offi-

cers or employees designated under this section and vested with a regulatory function or part thereof delegated under this section. The Secretary may at any time revoke the whole or any part of a delegation or designation made by him under this section.

(Apr. 4, 1940, ch. 75, § 2, 54 Stat. 81; Sept. 6, 1966, Pub. L. 89-554, § 8(a), 80 Stat. 632, 650.)

CODIFICATION

Section was formerly classified to section 516b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1966—Pub. L. 89-554 repealed third sentence which related to grade of a position. See section 5109 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450c, 450e, 450f, 450g of this title; title 5 section 5109.

§ 450e. Authority of designated employees; retroactive revocation of delegation

Whenever a delegation is made under section 450d of this title, all provisions of law shall be construed as if the regulatory function or the part thereof delegated had (to the extent of the delegation) been vested by law in the individual to whom the delegation is made, instead of in the Secretary of Agriculture. A revocation of delegation shall not be retroactive, and each regulatory function or part thereof performed (within the scope of the delegation) by such individual prior to the revocation shall be considered as having been performed by the Secretary.

(Apr. 4, 1940, ch. 75, § 3, 54 Stat. 82.)

CODIFICATION

Section was formerly classified to section 516c of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450c, 450g of this title.

§ 450f. Delegation of functions under other laws as unaffected

The provisions of section 450d of this title shall not be deemed to prohibit the delegation, under authority of any other provision of law, of the whole or any part of any regulatory function or other function to any officer or employee of the Department of Agriculture.

(Apr. 4, 1940, ch. 75, § 4, 54 Stat. 82.)

CODIFICATION

Section was formerly classified to section 516d of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450c, 450g of this title.

§ 450g. Authorization of appropriations for cooperative research projects

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 450c to 450g of this title.

(Apr. 4, 1940, ch. 75, § 5, 54 Stat. 82.)

CODIFICATION

Section was formerly classified to section 516e of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450c of this title.

§ 450h. Transferred

CODIFICATION

Section, act July 24, 1919, ch. 26, 41 Stat. 270, as amended, was transferred to section 2220 of this title.

Section was formerly classified to sections 67 and 564 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 450i. Competitive, special, and facilities research grants

(a) Establishment of grant program

(1) In order to promote research in food, agriculture, and related areas, a research grants program is hereby established in the Department of Agriculture.

(2) SHORT TITLE.—This section may be cited as the “Competitive, Special, and Facilities Research Grant Act”.

(b) Competitive grants

(1) The Secretary of Agriculture is authorized to make competitive grants, for periods not to exceed five years, to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals, for research to further the programs of the Department of Agriculture. To the greatest extent possible the Secretary shall allocate these grants to high priority research taking into consideration, when available, the determinations made by the Joint Council on Food and Agricultural Sciences and the National Agricultural Research and Extension Users Advisory Board identifying high priority research areas.

(2) HIGH PRIORITY RESEARCH.—For purposes of this subsection, the term “high priority research” means basic and applied research that focuses on both national and regional research needs (and methods to transfer such research to onfarm or inmarket practice) in—

(A) plant systems, including plant genome structure and function; molecular and cellular genetics and plant biotechnology; plant-pest interactions and biocontrol systems; crop plant response to environmental stresses; unproved nutrient qualities of plant products; and new food and industrial uses of plant products;

(B) animal systems, including aquaculture, cellular and molecular basis of animal reproduction, growth, disease, and health; identi-

fication of genes responsible for improved production traits and resistance to disease; improved nutritional performance of animals; and improved nutrient qualities of animal products, and uses, and the development of new and improved animal husbandry and production systems that take into account production efficiency and animal well-being, and animal systems applicable to aquaculture;

(C) nutrition, food quality, and health, including microbial contaminants and pesticides residues related to human health; links between diet and health; bioavailability of nutrients; postharvest physiology and practices; and improved processing technologies;

(D) natural resources and the environment, including fundamental structures and functions of ecosystems; biological and physical bases of sustainable production systems; minimizing soil and water losses and sustaining surface water and ground water quality; global climate effects on agriculture; forestry; and biological diversity;

(E) engineering, products, and processes, including new uses and new products from traditional and non-traditional crops, animals, by-products, and natural resources; robotics, energy efficiency, computing, and expert systems; new hazard and risk assessment and mitigation measures; and water quality and management; and

(F) markets, trade, and policy, including optional strategies for entering and being competitive in overseas markets; new decision tools for onfarm and inmarket systems; choices and applications of technology; technology assessment; and new approaches to rural economic development.

(3) TYPES OF GRANTS.—In addition to making research grants under paragraph (1), the Secretary may conduct a program to improve research capabilities in the agricultural, food, and environmental sciences and award the following categories of competitive grants:

(A) Grants may be awarded to a single investigator or coinvestigators within the same discipline.

(B) Grants may be awarded to teams of researchers from different areas of agricultural research and scientific disciplines.

(C) Grants may be awarded to multidisciplinary teams that are proposing research on long-term applied research problems, with technology transfer a major component of all such grant proposals.

(D) Grants may be awarded to an institution to allow for the improvement of the research, development, technology transfer, and education capacity of the institution through the acquisition of special research equipment and the improvement of agricultural education and teaching. The Secretary shall use not less than 25 percent, and not more than 40 percent, of the funds made available for grants under this subparagraph to provide fellowships to outstanding pre- and post-doctoral students for research in the agricultural sciences.

(E) Grants may be awarded to single investigators or coinvestigators who are beginning their research careers and do not have an extensive research publication record. To be eli-

gible for a grant under this subparagraph, an individual shall have less than 5 years of postgraduate research experience.

(F) Grants may be awarded to ensure that the faculty of small and mid-sized institutions who have not previously been successful in obtaining competitive grants under this subsection receive a portion of the grants.

(4) TERM.—The term of a competitive grant made under this subsection may not exceed 5 years.

(5) DIRECTOR.—The Secretary shall appoint a director for the grant program authorized by this subsection. The Secretary, acting through the director, shall be responsible for the overall direction of the grant program and implementation of general policies respecting the management and operation of programs and activities in the program.

(6) PARTICIPATION IN GRANT PROCESS.—In seeking proposals for grants under this subsection and in performing peer review evaluations of such proposals, the Secretary shall seek the widest participation of qualified scientists in the Federal Government, colleges and universities, State agricultural experiment stations, and the private sector.

(7) CONSTRUCTION PROHIBITED.—A grant made under paragraph (1) may not be used for any purpose for which a grant may be made under subsection (d) of this section or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(8) MATCHING FUNDS.—(A) Except as provided in subparagraph (B), the Secretary may not take the offer or availability of matching funds into consideration in making a grant under this subsection.

(B) In the case of grants under paragraph (3)(D), the amount provided under this subsection may not exceed 50 percent of the cost the special research equipment or other equipment acquired.

(9) ANNUAL REPORT.—The Secretary shall transmit to Congress an annual report describing the policies, priorities, and operations of the grant program authorized by this subsection during the preceding fiscal year. The report shall—

(A) include a description of the progress being made to comply with subsection (j) of this section; and

(B) be transmitted not later than January 1 of each year.

(10) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$150,000,000 for fiscal year 1991, \$275,000,000 for fiscal year 1992, \$350,000,000 for fiscal year 1993, \$400,000,000 for fiscal year 1994, and \$500,000,000 for fiscal year 1995, of which each fiscal year—

(A) not less than 10 percent for fiscal year 1991, 20 percent for fiscal year 1992, and 30 percent for fiscal year 1993 and each fiscal year thereafter shall be available to make grants for research to be conducted by multidisciplinary teams;

(B) not less than 20 percent shall be available to make grants for research to be conducted by persons conducting mission-linked systems research;

(C) not less than 10 percent shall be available to make grants under subparagraphs (D) and (F) of paragraph (3) for awarding grants in research and education strengthening and research opportunity;

(D) not more than two percent may be used for equipment grants under subparagraph (3)(D); and

(E) not more than four percent may be retained by the Secretary to pay administrative costs incurred by the Secretary in carrying out this subsection.

(c) Special grants

(1) The Secretary of Agriculture may make grants, for periods not to exceed 5 years—

(A) to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals for the purpose of conducting research to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the United States; and

(B) to State agricultural experiment stations, land-grant colleges and universities, research foundations established by land-grant colleges and universities, colleges and universities receiving funds under the Act of October 10, 1962 (16 U.S.C. 582a et seq.), and accredited schools or colleges of veterinary medicine for the purpose of facilitating or expanding ongoing State-Federal food and agricultural research programs that—

(i) promote excellence in research on a regional and national level;

(ii) promote the development of regional research centers;

(iii) promote the research partnership between the Department of Agriculture, colleges and universities, research foundations, and State agricultural experiment stations for regional research efforts; and

(iv) facilitate coordination and cooperation of research among States through regional research grants.

(2) **LIMITATIONS.**—The Secretary may not make a grant under this subsection—

(A) for any purpose for which a grant may be made under subsection (d) of this section; or

(B) for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(3) **MATCHING FUNDS.**—Grants made under this subsection shall be made without regard to matching funds.

(4) **SET ASIDES.**—Of amounts appropriated for a fiscal year to carry out this subsection—

(A) ninety percent of such amounts shall be used for grants for regional research projects; and

(B) four percent of such amounts may be retained by the Secretary to pay administrative costs incurred by the Secretary to carry out this subsection.

(d) Facilities grants

The Secretary of Agriculture shall make annual grants to support the renovation and refurbishment (including energy retrofitting) of re-

search spaces in buildings or spaces to be used for research, and the purchase and installation of fixed equipment in such spaces. Such grants may be used for new construction only for auxiliary facilities and fixed equipment used for research in such facilities, such as greenhouses, insectaries, and research farm structures and installations. Such grants shall be made to—

(1) each State agricultural experiment station in an amount of \$100,000 or an amount which is equal to 10 per centum of the funds received by such station under the Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–361i), and the Act of October 10, 1962 (76 Stat. 806–807, as amended; 16 U.S.C. 582a, 582a–1–582a–7), whichever is greater: *Provided*, That of any amount in excess of \$50,000 made available under this paragraph during any year for allotment to a State agricultural experiment station, no payment thereof shall be made in excess of the amount which the station makes available during that year for the purposes for which grants under this paragraph are made available;

(2) each accredited college of veterinary medicine and State agricultural experiment station which receives funds from the Federal Government for animal health research, in an amount which is equal to 10 per centum of the animal health research funds received by such college or experiment station from the Federal Government during the previous fiscal year;

(3) each forestry school not described in paragraph (1) of this subsection, which is eligible to receive funds under the Act of October 10, 1962 (16 U.S.C. 582a et seq.), in an amount which is equal to 10 per centum of the funds received by such school under that Act; and

(4) each college eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee Institute, in an amount which is equal to 10 per centum of the funds received by such college under section 3222 of this title.

Any college or State agricultural experiment station eligible for annual grants under this subsection may elect to defer the receipt of an annual grant for any fiscal year for up to five years: *Provided*, That the total amounts deferred may not exceed \$1,000,000. Application may be made for receipt of deferred grants at any time during the five years, subject to the matching funds requirement of this subsection and the availability of appropriations under this subsection.

(e) Inter-Regional Research Project Number 4

(1) The Secretary of Agriculture shall establish an Inter-Regional Research Project Number 4 (hereinafter referred to in this subsection as the “IR-4 Program”) to assist in the collection of residue and efficacy data in support of—

(A) the registration or reregistration of minor use pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.); and

(B) tolerances for residues of minor use chemicals in or on raw agricultural commodities under sections 346a and 348 of title 21.

(2) The Secretary shall carry out the IR-4 Program in cooperation with the Administrator of

the Environmental Protection Agency, State agricultural experiment stations, colleges and universities, extension services, private industry, and other interested parties.

(3) In carrying out the IR-4 Program, the Secretary shall give priority to registrations, reregistrations, and tolerances for pesticide uses related to the production of agricultural crops for food use.

(4) As part of carrying out the IR-4 Program, the Secretary shall—

(A) participate in research activities aimed at reducing residues of pesticides registered for minor agricultural use;

(B) develop analytical techniques applicable to residues of pesticides registered for minor agricultural use, including automation techniques and validation of analytical methods; and

(C) coordinate with other programs within the Department of Agriculture and the Environmental Protection Agency designed to develop and promote biological and other alternative control measures.

(5) The Secretary shall prepare and submit, to appropriate Committees of Congress, a report on an annual basis that contains—

(A) a listing of all registrations, reregistrations, and tolerances for which data has been collected in the preceding year;

(B) a listing of all registrations, reregistrations, and tolerances for which data collection is scheduled to occur in the following year, with an explanation of the priority system used to develop this list; and

(C) a listing of all activities the IR-4 Program has carried out pursuant to paragraph (4).

(6) The Secretary shall submit to Congress not later than November 28, 1991, a report detailing the feasibility of requiring recoupment of the costs of developing residue data for registrations, reregistrations, or tolerances under this program. Such recoupment shall only apply to those registrants which make a profit on such registration, reregistration, or tolerance subsequent to residue data development under this program. Such report shall include:

(A) an analysis of possible benefits to the IR-4 Program of such a recoupment;

(B) an analysis of the impact of such a payment on the availability of registrants to pursue registrations or reregistrations of minor use pesticides; and

(C) recommendations for implementation of such a recoupment policy.

(7) There are authorized to be appropriated \$25,000,000 for fiscal year 1991, and such sums as are necessary for subsequent fiscal years to carry out this subsection.

(f) Record keeping

Each recipient of assistance under this section shall keep such records as the Secretary of Agriculture shall, by regulation, prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grants, the total cost of the project or undertaking in connection with which such funds are given or used, and the amount of that

portion of the costs of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The Secretary of Agriculture and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this section.

(g) Limits on overhead costs

The Secretary of Agriculture shall limit allowable overhead costs, with respect to grants awarded under this section, to those necessary to carry out the purposes of the grants.

(h) Authorization of appropriations

Except as otherwise provided in subsections (b) and (e) of this section, there are hereby authorized to be appropriated such sums as are necessary to carry out this section.

(i) Rules

The Secretary of Agriculture may issue such rules and regulations as the Secretary deems necessary to carry out this section.

(j) Application of other laws

The Federal Advisory Committee Act and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created for the purpose of reviewing applications or proposals submitted under this section.

(k) Emphasis on sustainable agriculture

The Secretary of Agriculture shall ensure that grants made under subsections (b) and (c) of this section are, where appropriate, consistent with the development of systems of sustainable agriculture. For purposes of this section, the term "sustainable agriculture" has the meaning given that term in section 3103(17) of this title.

(l) Reports

The Secretary of Agriculture shall prepare and submit to Congress on January 1 of each year a report on awards made under subsections (b) and (c) of this section during the previous fiscal year.

(m) Consultation with Technology Board

The Secretary of Agriculture may consult with the Agricultural Science and Technology Review Board regarding the policies, priorities, and operation of subsections (b) and (c) of this section.

(Pub. L. 89-106, §2, Aug. 4, 1965, 79 Stat. 431; Pub. L. 95-113, title XIV, §1414, Sept. 29, 1977, 91 Stat. 991; Pub. L. 97-98, title XIV, §1415, Dec. 22, 1981, 95 Stat. 1303; Pub. L. 99-198, title XIV, §1409, Dec. 23, 1985, 99 Stat. 1546; Pub. L. 101-624, title XIV, §1497, title XVI, §§1615, 1616, Nov. 28, 1990, 104 Stat. 3630, 3729, 3732; Pub. L. 102-237, title IV, §401, Dec. 13, 1991, 105 Stat. 1862.)

REFERENCES IN TEXT

Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), referred to in subsec. (d)(1), is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act of 1887, which is classified generally to sections 361a to 361i of this title. For complete

classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

Act of October 10, 1962, referred to in subsecs. (c)(1)(B) and (d)(1), (3), is Pub. L. 87-788, Oct. 10, 1962, 76 Stat. 806, as amended, known as the McIntire-Stennis Act of 1962, which is classified generally to subchapter III (§582a et seq.) of chapter 3 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

Act of August 30, 1890 (7 U.S.C. 321 et seq.), referred to in subsec. (d)(4), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (e)(1)(A), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92-516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§136 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (j), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Food and Agriculture Act of 1977, referred to in subsec. (j), is Pub. L. 95-113, Sept. 29, 1977, 91 Stat. 913, as amended. Title XVIII of the Act is classified generally to chapter 55A (§281 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237, §401(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(10). Pub. L. 102-237, §401(b)(1), struck out “and” after “1993.”

Subsec. (e). Pub. L. 102-237, §401(b)(2)(A), substituted “Inter-Regional Research Project Number 4” for “Record keeping” as heading.

Subsec. (e)(1). Pub. L. 102-237, §401(b)(2)(B), substituted “this subsection” for “this section” in introductory provisions.

Subsec. (e)(2) to (4). Pub. L. 102-237, §401(b)(2)(C), substituted “IR-4 Program” for “IR-4 program”.

Subsec. (e)(5)(B). Pub. L. 102-237, §401(b)(2)(D), substituted “registrations,” for “registration,” and inserted “and” at end.

Subsec. (e)(5)(C). Pub. L. 102-237, §401(b)(2)(C), substituted “IR-4 Program” for “IR-4 program”.

Subsec. (e)(6). Pub. L. 102-237, §401(b)(2)(E), substituted “not later than November 28, 1991,” for “with- in one year of November 28, 1990,” and inserted a comma after “reregistrations” in first sentence.

Subsec. (e)(6)(A). Pub. L. 102-237, §401(b)(2)(C), substituted “IR-4 Program” for “IR-4 program”.

Subsec. (e)(7). Pub. L. 102-237, §401(b)(2)(B), substituted “this subsection” for “this section”.

Subsec. (f). Pub. L. 102-237, §401(b)(3), substituted “Record keeping” for “Limits on overhead costs” as heading.

Subsec. (g). Pub. L. 102-237, §401(b)(4), substituted “Limits on overhead costs” for “Authorization of appropriations” as heading.

Subsec. (h). Pub. L. 102-237, §401(b)(5), substituted “Authorization of appropriations” for “Rules” as heading and “subsections (b) and (e) of this section” for “subsection (b) of this section” and struck out “the provisions of” after “to carry out”.

Subsec. (i). Pub. L. 102-237, §401(b)(6), substituted “Rules” for “Application of other laws” as heading, substituted “may” for “is authorized to”, and struck out “the provisions of” after “to carry out”.

Subsec. (j). Pub. L. 102-237, §401(b)(7), (8), inserted “Application of other laws” as heading and redesignated another subsec. (j), relating to emphasis on sustainable agriculture, as (k).

Subsecs. (k) to (m). Pub. L. 102-237, §401(b)(8), redesignated subsecs. (j) to (l), as added by Pub. L. 101-624, §1615(b), as (k) to (m), respectively.

1990—Pub. L. 101-624, §1615(c)(1), inserted “Competitive, special, and facilities research grants” as section catchline.

Subsec. (a). Pub. L. 101-624, §1615(c)(1), inserted heading.

Subsec. (b). Pub. L. 101-624, §1615(a), inserted heading, designated first two sentences of existing text as par. (1), added pars. (2) to (10), and struck out former similar provisions which identified “high priority research” as well as provisions relating to the awarding, administration, and funding of such research.

Subsec. (c). Pub. L. 101-624, §1616, amended subsec. (c) generally, designating former introductory text as par. (1), redesignating former pars. (1) and (2) as subpars. (A) and (B), respectively, and in subpar. (A), expanding the entities which may receive grants under this subsection to include all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals for the purpose of conducting research in areas of food and agriculture important to the U.S., and designating former closing provisions as pars. (2) through (4), and in par. (4), inserting provisions requiring that ninety percent of the amounts appropriated for a fiscal year under this subsection be used for regional research projects.

Subsec. (d). Pub. L. 101-624, §1615(c)(2), inserted heading.

Subsec. (e). Pub. L. 101-624, §§1497(1), (2), 1615(c)(3), added subsec. (e), inserted heading, and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 101-624, §§1497(1), 1615(c)(4), redesignated subsec. (e) as (f) and inserted heading. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 101-624, §§1497(1), 1615(c)(5), redesignated subsec. (f) as (g) and inserted heading. Former subsec. (g) redesignated (h).

Pub. L. 101-624, §1497(3), which directed insertion of “and subsection (e)” after “subsection (b)”, could not be executed because “subsection (b)” did not appear in text.

Subsec. (h). Pub. L. 101-624, §§1497(1), 1615(c)(6), redesignated subsec. (g) as (h) and inserted heading. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 101-624, §§1497(1), 1615(c)(7), redesignated subsec. (h) as (i) and inserted heading. Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 101-624, §1615(b), added subsec. (j) relating to emphasis on sustainable agriculture.

Pub. L. 101-624, §1497(1), redesignated subsec. (i), relating to application of other laws, as (j).

Subsecs. (k) and (l). Pub. L. 101-624, §1615(b), added subsecs. (k) and (l).

1985—Subsec. (b). Pub. L. 99-198, §1409(a)(1), (2), substituted in third sentence par. “(2) research, with emphasis on biotechnology,” for “(2) research” and added pars. (7) and (8), and prohibited any grant under subsec. (b) for any purpose for which a grant may be made under subsec. (d) or for the planning, repair, rehabilitation, acquisition, or construction of a building or a facility.

Pub. L. 99-198, §1409(a)(3), in concluding provisions substituted appropriations authorization of \$70,000,000 annually for fiscal years ending Sept. 30, 1986, through Sept. 30, 1990 for prior authorization of 25, 30, 35, and 40 million dollars for fiscal years ending Sept. 30, 1978, through Sept. 30, 1981, and 50 million dollars annually for fiscal years ending Sept. 30, 1982, through Sept. 30, 1985, and for any subsequent fiscal year not in excess of such sums as may be authorized by law; and authorized retention of four percent of appropriated funds for payment of administrative costs.

Subsec. (c). Pub. L. 99-198, §1409(b)(1), prohibited any grant under subsec. (c) for any purpose for which a grant may be made under subsec. (d) or for the planning, repair, rehabilitation, acquisition, or construction of a building or a facility.

Pub. L. 99-198, §1409(b)(2), authorized retention of four percent of appropriated funds for payment of administrative costs.

Subsec. (i). Pub. L. 99-198, §1409(c), added subsec. (i). 1981—Subsec. (b). Pub. L. 97-98, §1415(a), inserted “and the National Agricultural Research and Extension Users Advisory Board” and provision specifying what is included in high priority research and substituted “for each of the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985” for “for the fiscal year ending September 30, 1982”.

Subsec. (c). Pub. L. 97-98, §1415(b), in par. (1) inserted “research foundations established by land-grant colleges and universities.”, in par. (2) inserted reference to research foundations established by land-grant colleges and universities, colleges and universities receiving funds under the Act of October 10, 1962, and accredited schools or colleges of veterinary medicine, and added subpar. (D).

Subsec. (d). Pub. L. 97-98, §1415(c), in provision preceding par. (1) substituted provision directing that annual grants be made to support the renovation and refurbishment, including energy retrofitting, of research spaces in buildings or spaces to be used for research, and the purchase and installation of fixed equipment in such spaces and providing that grants may be used for new construction only for auxiliary facilities and fixed equipment used for research in such facilities, such as greenhouses, insectaries, and research farm structures and installations for provision that grants be made to support the purchase of equipment, supplies, and land, and the construction, alteration, or renovation of buildings, necessary for the conduct of food and agricultural research and added pars. (3) and (4).

1977—Pub. L. 95-113 designated existing provisions as subsec. (e) and a part of subsec. (b) and added the remainder of subsec. (b) and subsecs. (a), (c), (d), (f), (g), and (h).

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1409(a)(3) of Pub. L. 99-198 provided that the amendment made by that section is effective Oct. 1, 1985.

Section 1409(b)(2) of Pub. L. 99-198 provided that the amendment made by that section is effective Oct. 1, 1985.

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1977 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3222, 3311, 3315, 3319 of this title.

§ 450j. Indemnity payments to dairy farmers and manufacturers of dairy products; milk removed for its residue of chemical or toxic substances; nuclear radiation or fallout contaminants; other legal recourse

The Secretary of Agriculture is authorized to make indemnity payments for milk or cows producing such milk at a fair market value, to dairy farmers who have been directed since January 1, 1964 (but only since August 10, 1973, in the case of indemnity payments not authorized prior to August 10, 1973), to remove their milk, and to make indemnity payments for dairy products at fair market value to manufacturers of dairy products who have been directed since

November 30, 1970, to remove their dairy products from commercial markets because of residues of chemicals registered and approved for use by the Federal Government at the time of such use. The Secretary is also authorized to make indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of this section if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer: *Provided*, That no indemnity payment may be made for contamination resulting from such residues of chemicals or toxic substances if the Secretary determines within thirty days after the date of application for payment that other legal recourse is available to the farmer. Any indemnity payment to any farmer shall continue until he has been reinstated and is again allowed to dispose of his milk on commercial markets.

(Pub. L. 90-484, §1, Aug. 13, 1968, 82 Stat. 750; Pub. L. 91-524, title II, §204(b), Nov. 30, 1970, 84 Stat. 1362; Pub. L. 93-86, §1(5)(B), Aug. 10, 1973, 87 Stat. 223; Pub. L. 95-113, title II, §205(1), Sept. 29, 1977, 91 Stat. 920.)

PRIOR PROVISIONS

The following Acts authorized indemnity payments for the periods ending as indicated:

June 30, 1968—Pub. L. 90-95, §1, Sept. 28, 1967, 81 Stat. 231.

June 30, 1967—Pub. L. 89-794, title III, §301(c), Nov. 8, 1966, 80 Stat. 1465.

June 30, 1966—Pub. L. 89-253, §24, Oct. 29, 1965, 79 Stat. 977.

June 30, 1965—Pub. L. 89-16, title III, §303, Apr. 30, 1965, 79 Stat. 108.

Jan. 31, 1965—Pub. L. 88-452, title III, §331, Aug. 20, 1964, 78 Stat. 525.

AMENDMENTS

1977—Pub. L. 95-113 authorized indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of the presence of products of nuclear radiation or fall-out if such contamination is not due to the fault of the farmer, or because of residues of chemicals or toxic substances not included under the first sentence of this section if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, and inserted provision that no indemnity payment may be made for contamination resulting from residues of chemicals or toxic substances if the Secretary determines within thirty days after the date of application for payment that other legal recourse is available to the farmer.

1973—Pub. L. 93-86 inserted “for milk or cows producing such milk” after “The Secretary of Agriculture is authorized to make indemnity payments” and “(but only since August 10, 1973, in the case of indemnity payments not authorized prior to August 10, 1973)” after “January 1, 1964” and substituted “, and to make indemnity payments for dairy products at fair market value to” for “and” after “remove their milk” and “of” for “it contained” before “residues of chemicals”.

1970—Pub. L. 91-524 inserted “and manufacturers of dairy products who have been directed since November 30, 1970, to remove their dairy products,” after “milk”, in first sentence, and substituted “Any indemnity payment to any farmer shall continue” for “Such indemnity payments shall continue to each dairy farmer” in second sentence.

EFFECTIVE DATE OF 1977 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450k, 450l of this title.

§ 450k. Authorization of appropriations for dairy farmer indemnities

There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 450j to 450l of this title.

(Pub. L. 90-484, § 2, Aug. 13, 1968, 82 Stat. 750.)

PRIOR PROVISIONS

The following Acts authorized indemnity payments for the periods ending as indicated:

June 30, 1968—Pub. L. 90-95, § 2, Sept. 28, 1967, 81 Stat. 231.

June 30, 1967—Pub. L. 89-794, title III, § 301(c), Nov. 8, 1966, 80 Stat. 1465.

June 30, 1966—Pub. L. 89-253, § 24, Oct. 29, 1965, 79 Stat. 977.

June 30, 1965—Pub. L. 89-16, title III, § 303, Apr. 30, 1965, 79 Stat. 108.

Jan. 31, 1965—Pub. L. 88-452, title III, § 331, Aug. 20, 1964, 78 Stat. 525.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450l of this title.

§ 450l. Expiration of dairy farmer indemnity program

The authority granted under sections 450j to 450l of this title shall expire on September 30, 1995.

(Pub. L. 90-484, § 3, Aug. 13, 1968, 82 Stat. 750; Pub. L. 91-524, title II, § 204(a), Nov. 30, 1970, 84 Stat. 1361; Pub. L. 93-86, § 1(5)(A), Aug. 10, 1973, 87 Stat. 223; Pub. L. 95-113, title II, § 205(2), Sept. 29, 1977, 91 Stat. 920; Pub. L. 97-98, title I, § 105, Dec. 22, 1981, 95 Stat. 1220; Pub. L. 99-198, title I, § 152, Dec. 23, 1985, 99 Stat. 1377; Pub. L. 101-624, title I, § 110, Nov. 28, 1990, 104 Stat. 3380.)

PRIOR PROVISIONS

The following Acts authorized indemnity payments for the periods ending as indicated:

June 30, 1968—Pub. L. 90-95, § 3, Sept. 28, 1967, 81 Stat. 231.

June 30, 1967—Pub. L. 89-794, title III, § 301(c), Nov. 8, 1966, 80 Stat. 1465.

June 30, 1966—Pub. L. 89-253, § 24, Oct. 29, 1965, 79 Stat. 977.

June 30, 1965—Pub. L. 89-16, title III, § 303, Apr. 30, 1965, 79 Stat. 108.

Jan. 31, 1965—Pub. L. 88-452, title III, § 331, Aug. 20, 1964, 78 Stat. 525.

AMENDMENTS

1990—Pub. L. 101-624 substituted “1995” for “1990”.
 1985—Pub. L. 99-198 substituted “1990” for “1985”.
 1981—Pub. L. 97-98 substituted “1985” for “1981”.
 1977—Pub. L. 95-113 substituted “September 30, 1981” for “June 30, 1977”.

1973—Pub. L. 93-86 substituted “1977” for “1973”.
 1970—Pub. L. 91-524 substituted “1973” for “1970”.

EFFECTIVE DATE OF 1990 AMENDMENT

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

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1977 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450k of this title.

CHAPTER 18—COOPERATIVE MARKETING

Sec.

451. “Agricultural products” defined.
 452. Supervision of division of cooperative marketing.
 453. Authority and duties of division.
 454. Advisers to counsel with Secretary of Agriculture; expenses and subsistence.
 455. Dissemination of crop, market, etc., information by cooperative marketing associations.
 456. Rules and regulations; appointment, removal, and compensation of employees; expenditures; authorization of appropriations.
 457. Separability.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 6944 of this title.

§ 451. “Agricultural products” defined

When used in this chapter the term “agricultural products” means agricultural, horticultural, viticultural, and dairy products, livestock and the products thereof, the products of poultry and bee raising, the edible products of forestry, and any and all products raised or produced on farms and processed or manufactured products thereof, transported or intended to be transported in interstate and/or foreign commerce.

(July 2, 1926, ch. 725, § 1, 44 Stat. 802.)

CROSS REFERENCES

Associations of producers of agricultural products, see sections 291 and 292 of this title.

Banks for cooperatives, see section 2001 et seq. of Title 12, Banks and Banking.

Organization and development of cooperative associations, see sections 1141, 1141b et seq. of Title 12.

§ 452. Supervision of division of cooperative marketing

The division of cooperative marketing shall be under the direction and supervision of the Secretary of Agriculture.

(July 2, 1926, ch. 725, § 2, 44 Stat. 802.)

CODIFICATION

First sentence of section, which provided that “The Secretary of Agriculture is hereby authorized and directed to establish a division of cooperative marketing with suitable personnel in the Bureau of Agricultural

Economics of the Department of Agriculture or in such bureau in the Department of Agriculture as may hereafter be concerned with the marketing and distribution of farm products" was omitted from the Code as executed.

TRANSFER TO SECRETARY OF AGRICULTURE

Act Aug. 6, 1953, ch. 335, §9, 67 Stat. 394, provided: "There is hereby transferred from the Farm Credit Administration to the jurisdiction and control of the Secretary of Agriculture the Division of Cooperative Marketing (by whatever name now called) authorized and created under and by virtue of an Act of Congress of July 2, 1926 (Public, Numbered 450, Sixty-ninth Congress), entitled 'An Act to create a Division of Cooperative Marketing in the Department of Agriculture; to provide for the acquisition and dissemination of information pertaining to cooperation; to promote the knowledge of cooperative principles and practices; to provide for calling advisers to counsel with the Secretary of Agriculture on cooperative activities; to authorize cooperative associations to acquire, interpret, and disseminate crop and market information, and for other purposes [this chapter]', together with all functions pertaining to the work and services of such Division, its personnel, property (including office equipment), assets, funds, contracts, and records used and employed in the execution of its functions, powers, and duties, and so much of the unexpended balances of appropriations, allocations, and other funds available or to be made available for salaries, expenses, and all other administrative expenditures as the Director of the Bureau of the Budget [now Director of the Office of Management and Budget] shall determine, for use in the execution of the functions, powers, and duties of said Division."

TRANSFER OF FUNCTIONS

Farmer Cooperative Service established in Department of Agriculture Dec. 4, 1953, pursuant to Secretary's Memorandum 1320, Supp. 4, 1953, as successor to functions of Cooperative Research and Service Division, Farm Credit Administration.

Ex. Ord. No. 9322, Mar. 26, 1943, 8 F.R. 3807, as amended by Ex. Ord. No. 9334, Apr. 19, 1943, 8 F.R. 5423, removed Farm Credit Administration from Food Production Administration of Department of Agriculture and returned it to its former status as a separate agency of Department.

Ex. Ord. No. 9280, Dec. 5, 1942, 7 F.R. 10179, made Farm Credit Administration a part of Food Production Administration of Department of Agriculture.

Farm Credit Administration transferred to Department of Agriculture by 1939 Reorg. Plan No. I, §401, 4 F.R. 2727, 53 Stat. 1423, set out in the Appendix to Title 5, Government Organization and Employees.

Ex. Ord. No. 6084, Mar. 27, 1933, set out as a note preceding section 2241 of Title 12, Banks and Banking, changed name of Federal Farm Board to Farm Credit Administration and name of office of Chairman of Federal Farm Board to Governor of Farm Credit Administration.

Ex. Ord. No. 5200, Oct. 1, 1929, transferred, eff. Oct. 1, 1929, from Department of Agriculture to jurisdiction and control of Federal Farm Board the whole of Division of Cooperative Marketing in Bureau of Agricultural Economics of Department of Agriculture, all functions pertaining to work and services of such division, its records, property, including office equipment, personnel, and unexpended balances of appropriation, pertaining to such work or services.

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 offi-

cers, 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.

§ 453. Authority and duties of division

(a) The division shall render service to associations of producers of agricultural products, and federations and subsidiaries thereof, engaged in the cooperative marketing of agricultural products, including processing, warehousing, manufacturing, storage, the cooperative purchasing of farm supplies, credit, financing, insurance, and other cooperative activities.

(b) The division is authorized—

(1) To acquire, analyze, and disseminate economic, statistical, and historical information regarding the progress, organization, and business methods of cooperative associations in the United States and foreign countries.

(2) To conduct studies of the economic, legal, financial, social, and other phases of cooperation, and publish the results thereof. Such studies shall include the analyses of the organization, operation, financial and merchandising problems of cooperative associations.

(3) To make surveys and analyses if deemed advisable of the accounts and business practices of representative cooperative associations upon their request; to report to the association so surveyed the results thereof; and with the consent of the association so surveyed to publish summaries of the results of such surveys, together with similar facts, for the guidance of cooperative associations and for the purpose of assisting cooperative associations in developing methods of business and market analysis.

(4) To confer and advise with committees or groups of producers, if deemed advisable, that may be desirous of forming a cooperative association and to make an economic survey and analysis of the facts surrounding the production and marketing of the agricultural product or products which the association, if formed, would handle or market.

(5) To acquire from all available sources information concerning crop prospects, supply, demand, current receipts, exports, imports, and prices of the agricultural products handled or marketed by cooperative associations, and to employ qualified commodity marketing specialists to summarize and analyze this information and disseminate the same among cooperative associations and others.

(6) To promote the knowledge of cooperative principles and practices and to cooperate, in promoting such knowledge, with educational and marketing agencies, cooperative associations, and others.

(7) To make such special studies, in the United States and foreign countries, and to acquire and disseminate such information and findings as may be useful in the development and practice of cooperation.

(July 2, 1926, ch. 725, §3, 44 Stat. 802.)

§ 454. Advisers to counsel with Secretary of Agriculture; expenses and subsistence

The Secretary of Agriculture is authorized, in his discretion, to call advisers to counsel with

him and/or his representatives relative to specific problems of cooperative marketing of farm products or any other cooperative activity. Any person, other than an officer, agent, or employee of the United States, called into conference, as provided for in this section, may be paid actual transportation expenses and not to exceed \$10 per diem to cover subsistence and other expenses while in conference and en route from and to his home.

(July 2, 1926, ch. 725, § 4, 44 Stat. 803.)

TRANSFER TO SECRETARY OF AGRICULTURE

Transfer of Division of Cooperative Marketing "(by whatever name now called)" from Farm Credit Administration to Secretary of Agriculture, by act Aug. 6, 1953, ch. 335, § 9, 67 Stat. 394, see note set out under section 452 of this title.

TRANSFER OF FUNCTIONS

Farmer Cooperative Service in Department of Agriculture as successor to functions of Cooperative Research and Service Division, Farm Credit Administration, see note set out under section 452 of this title.

For prior transfers of functions, see notes set out under section 452 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 455. Dissemination of crop, market, etc., information by cooperative marketing associations

Persons engaged, as original producers of agricultural products, such as farmers, planters, ranchmen, dairymen, nut or fruit growers, acting together in associations, corporate or otherwise, in collectively processing, preparing for market, handling, and marketing in interstate and/or foreign commerce such products of persons so engaged, may acquire, exchange, interpret, and disseminate past, present, and prospective crop, market, statistical, economic, and other similar information by direct exchange between such persons, and/or such associations or federations thereof, and/or by and through a common agent created or selected by them.

(July 2, 1926, ch. 725, § 5, 44 Stat. 803.)

§ 456. Rules and regulations; appointment, removal, and compensation of employees; expenditures; authorization of appropriations

The Secretary of Agriculture may make such rules and regulations as may be deemed advisable to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and may call upon any other Federal department, board, or commission for assistance in carrying out the purposes of this chapter; and shall have the power to appoint, remove, and fix

the compensation of such officers and employees not in conflict with existing law and make such expenditure for rent, outside the District of Columbia, printing, telegrams, telephones, books of reference, books of law, periodicals, newspapers, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and there is hereby authorized to be appropriated, such sums as may be necessary after the fiscal year 1927, for carrying out the purposes of this chapter.

(July 2, 1926, ch. 725, § 6, 44 Stat. 803.)

TRANSFER TO SECRETARY OF AGRICULTURE

Transfer of Division of Cooperative Marketing "(by whatever name now called)" from Farm Credit Administration to Secretary of Agriculture, by act Aug. 6, 1953, ch. 335, § 9, 67 Stat. 394, see note set out under section 452 of this title.

TRANSFER OF FUNCTIONS

Farmer Cooperative Service in Department of Agriculture as successor to functions of Cooperative Research and Service Division, Farm Credit Administration, see note set out under section 452 of this title.

For prior transfers of functions, see notes set out under section 452 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 457. Separability

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons and circumstances shall not be affected thereby, and nothing contained in this chapter is intended nor shall be construed, to modify or repeal any of the provisions of sections 291 and 292 of this title.

(July 2, 1926, ch. 725, § 7, 44 Stat. 803.)

CHAPTER 19—COTTON STATISTICS AND ESTIMATES

Sec.	
471.	Statistics and estimates of grades and staple length of cotton; collection and publication.
472.	Information furnished of confidential character; penalty for divulging information.
473.	Persons required to furnish information; request; failure to furnish; false information.
473a.	Cotton classification services; fees for costs of services, adjustments, surcharge, discounts, and announcement; sales of samples; disposition of moneys.
473b.	Market supply, demand, condition and prices; collection and publication of information.
473c.	Rules and regulations.
473c-1.	Offenses in relation to sampling of cotton for classification.

Sec.	
473c-2.	Penalties for offenses relating to sampling of cotton.
473c-3.	Liability of principal for act of agent.
473d.	Quality tests and analyses by Secretary for breeders and others; fees.
474.	Powers of Secretary of Agriculture; appropriation.
475.	Cotton crop reports.
476.	Acreage reports.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 61a of this title.

§ 471. Statistics and estimates of grades and staple length of cotton; collection and publication

The Secretary of Agriculture is authorized and directed to collect and publish annually, on dates to be announced by him, statistics or estimates concerning the grades and staple length of stocks of cotton, known as the carry-over, on hand on the 1st of August of each year in warehouses and other establishments of every character in the continental United States; and following such publication each year, to publish, at intervals in his discretion, his estimate of the grades and staple length of cotton of the then current crop: *Provided*, That not less than three such estimates shall be published with respect to each crop. In any such statistics or estimates published, the cotton which on the date for which such statistics are published may be recognized as tenderable on contracts of sale of cotton for future delivery under the United States Cotton Futures Act, shall be stated separately from that which may be untenderable under said Act.

(Mar. 3, 1927, ch. 337, § 1, 44 Stat. 1372.)

REFERENCES IN TEXT

The United States Cotton Futures Act, referred to in text, is part A of act Aug. 11, 1916, ch. 313, 39 Stat. 476, which was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. For complete classification of this Act to the Code prior to its repeal, see Tables.

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100-108, § 1, Aug. 20, 1987, 101 Stat. 728, provided: "That this Act [amending section 473a of this title and enacting provisions set out as notes under section 473a of this title] may be cited as the 'Uniform Cotton Classing Fees Act of 1987'."

SHORT TITLE

Act Mar. 3, 1927, which enacted sections 471 to 474 and amended sections 475 and 476 of this title, is popularly known as the "Cotton Statistics and Estimates Act".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2276 of this title.

§ 472. Information furnished of confidential character; penalty for divulging information

The information furnished by any individual establishment under the provisions of this chapter shall be considered as strictly confidential and shall be used only for the statistical purpose for which it is supplied. Any employee of the Department of Agriculture who, without the written authority of the Secretary of Agriculture, shall publish or communicate any information given into his possession by reason of his em-

ployment under the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than \$300 or more than \$1,000, or imprisoned for a period of not exceeding one year, or both so fined and imprisoned, at the discretion of the court.

(Mar. 3, 1927, ch. 337, § 2, 44 Stat. 1373.)

§ 473. Persons required to furnish information; request; failure to furnish; false information

It shall be the duty of every owner, president, treasurer, secretary, director, or other officer or agent of any cotton warehouse, cotton gin, cotton mill, or other place or establishment where cotton is stored, whether conducted as a corporation, firm, limited partnership, or individual, and of any owner or holder of any cotton and of the agents and representatives of any such owner or holder, when requested by the Secretary of Agriculture or by any special agent or other employee of the Department of Agriculture acting under the instructions of said Secretary to furnish completely and correctly, to the best of his knowledge, all of the information concerning the grades and staple length of cotton on hand, and when requested to permit such agent or employee of the Department of Agriculture to examine and classify samples of all such cotton on hand. The request of the Secretary of Agriculture for such information may be made in writing or by a visiting representative, and if made in writing shall be forwarded by registered mail, or by certified mail and the registry receipt or receipt for certified mail of the United States Postal Service shall be accepted as evidence of such demand. Any owner, president, treasurer, secretary, director, or other officer or agent of any cotton warehouse, cotton gin, cotton mill, or other place or establishment where cotton is stored, or any owner or holder of any cotton or the agent or representative of any such owner or holder, who, under the conditions hereinbefore stated, shall refuse or willfully neglect to furnish any information herein provided for or shall willfully give answers that are false or shall refuse to allow agents or employees of the Department of Agriculture to examine or classify any cotton in store in any such establishment, or in the hands of any owner or holder or of the agent or representative of any such owner or holder, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300 or more than \$1,000.

(Mar. 3, 1927, ch. 337, § 3, 44 Stat. 1373; June 11, 1960, Pub. L. 86-507, § 1(3), 74 Stat. 200; Aug. 12, 1970, Pub. L. 91-375, §§ 4(a), 6(o), 84 Stat. 773, 783.)

AMENDMENTS

1960—Pub. L. 86-507 inserted "or by certified mail" after "registered mail", and "or receipt for certified mail" after "registry receipt."

CHANGE OF NAME

"United States Postal Service" substituted in text for "Post Office Department" pursuant to Pub. L. 91-375, §§ 4(a), 6(o), Aug. 12, 1970, 84 Stat. 773, 783, which are set out as notes preceding section 101 of Title 39, Postal Service, and under section 201 of Title 39, respectively, which abolished Post Office Department, transferred its functions to United States Postal Service,

and provided that references in other laws to Post Office Department shall be considered a reference to United States Postal Service.

§ 473a. Cotton classification services; fees for costs of services, adjustments, surcharge, discounts, and announcement; sales of samples; disposition of moneys

Effective for each of fiscal years 1992 through 1996, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers. Such fees, together with the proceeds from the sales of samples submitted under this section, shall cover as nearly as practicable the cost of the services provided under this section, including administrative and supervisory costs: *Provided*, That (1) the uniform per bale classification fee to be collected from producers, or their agents, for the classification service in any year shall be the fee established in the previous year for the prevailing method of classification service, exclusive of adjustments to the fee made in the previous year under clauses (2), (3), and (4), and as may be adjusted by the percentage change in the implicit price deflator for the gross national product as indexed during the most recent 12-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year below the level of 12,500,000 running bales, or decreased by a quantity not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year above the level of 12,500,000 running bales; (3) adjustments made under clause (2) shall not exceed 15 per centum, except when the Secretary estimates that income generated by fees, surcharges, and other sources of income will not provide an ending accumulated operating reserve for a fiscal year of at least 10 per centum of the estimated cost of operating the program; (4) if the Secretary projects an accumulated operating reserve at the end of a fiscal year of less than 25 per centum of the estimated cost of operating the program, the Secretary may add a special surcharge, not to exceed 5 cents per bale, applicable to such fiscal year, to ensure sufficient funds are available; (5) notwithstanding the previous clauses, the Secretary, to the extent practicable, shall not establish a fee which, when combined with all other sources of revenue and adjusted for expenses, would result in a projected operating reserve of more than 25 per centum; (6) the Secretary should continue to recognize that central billing and collection can reduce administrative costs, and offer appropriate discounts where practicable; and (7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies. Classification services, other than the prevailing

method, provided at the request of the producer shall not be subject to the restrictions specified in clauses (1), (2), and (3) of the preceding sentence. All samples of cotton submitted for classification under this section shall become the property of the United States, and shall be sold: *Provided*, That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Any fees collected under this section and under section 473d of this title, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall be credited to the current appropriation account that incurs the cost of services provided under this section and section 473d of this title and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing such services. Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section to the extent that financing is not available from fees and the proceeds from the sales of samples.

(Mar. 3, 1927, ch. 337, §3a, as added Apr. 13, 1937, ch. 75, 50 Stat. 62; amended Aug. 13, 1981, Pub. L. 97-35, title I, §156(b), 95 Stat. 373; Aug. 28, 1984, Pub. L. 98-403, §1, 98 Stat. 1479; Aug. 20, 1987, Pub. L. 100-108, §2, 101 Stat. 728; Dec. 13, 1991, Pub. L. 102-237, title I, §120(a)-(c), 105 Stat. 1842, 1843.)

AMENDMENT OF SECTION

For termination of amendment by section 120(e) of Pub. L. 102-237, see Effective and Termination Dates of 1991 Amendment note below.

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The provisions of that Act relating to management and disposal of government property are classified to chapter 10 (§471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

AMENDMENTS

1991—Pub. L. 102-237, §120(c), (e), temporarily amended third sentence generally. Prior to amendment, third sentence read as follows: "Special classification services provided at the request of the producer shall not be subject to the restrictions specified in clauses (1), (2), and (3) of the preceding sentence." See Effective and Termination Dates of 1991 Amendment note below.

Pub. L. 102-237, §120(b)(2), (e), temporarily added cl. (7) and struck out former cl. (7) which read as follows: "the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies, except that for fiscal year 1987, such announcement shall be made as soon as practicable following enactment of this proviso." See Effective and Termination Dates of 1991 Amendment note below.

Pub. L. 102-237, §120(b)(1), (e), temporarily added cls. (1) and (2) and struck out former cls. (1) and (2) which read as follows: "(1) the uniform per bale classification fee to be collected from producers, or their agents, for

such classification service in any year shall be the uniform fee collected in the previous year, exclusive of adjustments to such fee made in the previous year under clauses (2), (3), and (4) of this proviso, and as may be adjusted by the percentage change in the Implicit Price Deflator for Gross National Product as indexed during the most recent twelve-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 per centum for every 100,000 running bales, or portion thereof, that the Secretary estimates will be produced in such crop year below the level of 12,500,000 running bales, or decreased by an amount not to exceed 1 per centum for every 100,000 running bales, or portion thereof, that the Secretary estimates will be produced in such crop year above the level of 12,500,000 running bales;". See Effective and Termination Dates of 1991 Amendment note below.

Pub. L. 102-237, §120(a), (e), temporarily amended first sentence generally. Prior to amendment, first sentence read as follows: "Effective for the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990, September 30, 1991, and September 30, 1992, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers." See Effective and Termination Dates of 1991 Amendment note below.

1987—Pub. L. 100-108 temporarily amended first sentence generally, substituting "September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990, September 30, 1991, and September 30, 1992" for "September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988" and striking out "from" before "agents who voluntarily agree", in second sentence inserted first proviso and struck out former first proviso which read as follows: "That (1) the uniform per bale classification fee to be collected from producers, or their agents, for such classification service in any year shall not exceed the uniform fee collected in the previous year by more than the percentage increase in the Implicit Price Deflator for Gross National Product as indexed during the most recent twelve-month period for which official statistics are available, and (2) the uniform per bale classification fee shall not be increased for any year if the accumulated reserve exceeds 20 per centum of the cost of the classification program in the previous year", and in third sentence substituted "clauses (1), (2), and (3)" for "clauses (1) and (2)". See Effective and Termination Dates of 1987 Amendment note below.

1984—Pub. L. 98-403 substituted provisions effective for fiscal years ending Sept. 30, 1985, 1986, 1987, and 1988, requiring the Secretary to make classification service available to producers and to set and collect fees for provisions establishing similar requirements effective for fiscal years ending Sept. 30, 1982, 1983, and 1984.

1981—Pub. L. 97-35 substituted provisions effective for fiscal years ending Sept. 30, 1982, 1983, and 1984, requiring the Secretary to make classification services available to producers, and to set and collect fees, for provisions authorizing the Secretary to determine and make available classification procedures.

EFFECTIVE AND TERMINATION DATES OF 1991 AMENDMENT

Section 120(e) of Pub. L. 102-237 provided that: "Subsections (a), (b), and (c), and the amendments made by subsections (a), (b), and (c) [amending this section], shall be effective for the period beginning on the date of enactment of this Act [Dec. 13, 1991] and ending on September 30, 1996."

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 2 of Pub. L. 100-108 provided that the amendment made by that section is effective for the period beginning Aug. 20, 1987, and ending Sept. 30, 1992.

EFFECTIVE AND TERMINATION DATES OF 1984 AMENDMENT

Section 1 of Pub. L. 98-403 provided that the amendment made by that section is effective for the period beginning Oct. 1, 1984, and ending Sept. 30, 1988.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 156(b) of Pub. L. 97-35 provided that the amendment made by that section is effective only for the fiscal years ending Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984.

[Provisions of section 156 of Pub. L. 97-35 effective Oct. 1, 1981, see section 156(e) of Pub. L. 97-35, set out as an Effective Date note under section 61a of this title.]

SHORT TITLE

Act Apr. 13, 1937, which enacted sections 473a to 473c of this title, is popularly known as the "Cotton Classification Act".

STUDY ON PROCESSING CERTAIN COTTON GRADES

Section 3 of Pub. L. 100-108, which directed Secretary of Agriculture to conduct a study of differences between processing efficiency and product quality for Light Spotted and White grade cottons and also conduct a survey and research to determine why an increasing proportion of cotton crop was being classified as Light Spotted, with an initial report describing results of studies to be submitted not later than Oct. 1, 1988, to Committee on Agriculture of House of Representatives and Committee on Agriculture, Nutrition, and Forestry of Senate, and a final report to be submitted to such committees as soon as practicable after submission of initial report, was repealed by Pub. L. 102-237, title I, §120(d), Dec. 13, 1991, 105 Stat. 1843.

§ 473b. Market supply, demand, condition and prices; collection and publication of information

The Secretary of Agriculture is also authorized and directed to collect, authenticate, publish, and distribute, by telegraph, radio, mail, or otherwise, timely information on the market supply, demand, location, condition, and market prices for cotton, and to cause to be prepared regularly and distributed for posting at gins, in post offices, or in other public or conspicuous places in cotton-growing communities, information on prices for the various grades and staple lengths of cotton.

(Mar. 3, 1927, ch. 337, §3b, as added Apr. 13, 1937, ch. 75, 50 Stat. 62.)

§ 473c. Rules and regulations

The Secretary of Agriculture is further authorized to make such rules and regulations as he may deem necessary to effectuate the purposes of this chapter.

(Mar. 3, 1927, ch. 337, §3c, as added Apr. 13, 1937, ch. 75, 50 Stat. 62.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 473c-1 of this title.

§ 473c-1. Offenses in relation to sampling of cotton for classification

It shall be unlawful—

(a) for any person sampling cotton for classification under this chapter knowingly to sam-

ple cotton improperly, or to identify cotton samples improperly, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as a sampler;

(b) for any person to influence improperly or to attempt to influence improperly or to forcibly assault, resist, impede, or interfere with any sampler in the taking of samples for classification under this chapter;

(c) for any person knowingly to alter or cause to be altered a sample taken for classification under this chapter by any means such as trimming, peeling, or dressing the sample, or by removing any leaf, trash, dust, or other material from the sample for the purpose of misrepresenting the actual quality of the bale from which the sample was taken;

(d) for any person knowingly to cause, or attempt to cause, the issuance of a false or misleading certificate or memorandum of classification under this chapter by deceptive baling, handling, or sampling of cotton, or by any other means, or by submitting samples of such cotton for classification knowing that the cotton has been so baled, handled, or sampled;

(e) for any person knowingly to submit more than one sample from the same bale of cotton for classification under this chapter, except a second sample submitted for review classification;

(f) for any person knowingly to operate or adjust a mechanical cotton sampler in such a manner that a representative sample is not drawn from each bale; and

(g) for any person knowingly to violate any regulation of the Secretary of Agriculture relating to the sampling of cotton made pursuant to section 473c of this title.

(Mar. 3, 1927, ch. 337, §3c-1, as added July 5, 1960, Pub. L. 86-588, 74 Stat. 328.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 473c-2 of this title.

§ 473c-2. Penalties for offenses relating to sampling of cotton

Any person violating any provision of section 473c-1 of this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than one year, or both.

(Mar. 3, 1927, ch. 337, §3c-2, as added July 5, 1960, Pub. L. 86-588, 74 Stat. 329.)

§ 473c-3. Liability of principal for act of agent

In construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by an individual, association, partnership, corporation, or firm, within the scope of his employment or office, shall be deemed to be the act, omission, or failure of the individual, association, partnership, corporation, or firm, as well as that of the person.

(Mar. 3, 1927, ch. 337, §3c-3, as added July 5, 1960, Pub. L. 86-588, 74 Stat. 329.)

§ 473d. Quality tests and analyses by Secretary for breeders and others; fees

The Secretary of Agriculture is authorized to make analyses of fiber properties, spinning tests, and other tests of the quality of cotton samples submitted to him by cotton breeders and other persons, subject to such terms and conditions and to the payment by such cotton breeders and other persons of such fees as he may prescribe by regulations under this chapter. The fees to be assessed hereunder shall be reasonable, and, as nearly as may be, to cover the cost of the service rendered.

(Mar. 3, 1927, ch. 337, §3d, as added Apr. 7, 1941, ch. 42, 55 Stat. 131.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 473a of this title.

§ 474. Powers of Secretary of Agriculture; appropriation

The Secretary of Agriculture may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for the purchase of samples of cotton, for rent outside the District of Columbia, printing, telegrams, telephones, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere and there are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated such sums as may be necessary for such purposes.

(Mar. 3, 1927, ch. 337, §4, 44 Stat. 1373.)

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.

§ 475. Cotton crop reports

The Secretary of Agriculture shall cause to be issued as of the first of each month during the cotton growing and harvesting season from August to January inclusive, reports describing the condition and progress of the crop and stating the probable number of bales which will be ginned, these reports to be issued simultaneously with the cotton ginning reports of the Bureau of the Census relating to the same dates, the two reports to be issued from the same place at 3 o'clock postmeridian on or before the 12th day of the month to which the respective reports relate. No such report shall be approved and released by the Secretary of Agriculture until it shall have been passed upon by a cotton crop reporting board consisting of five members or more to be designated by him. Not less than three members of the board shall be supervisory field statisticians of the Department of Agriculture who are located in different sections of

the cotton-growing States, are experienced in estimating cotton production, and have first-hand knowledge of the condition of the cotton crop based upon recent field observations. A majority of the members of the board shall be familiar with the methods and practices of producing cotton.

(May 3, 1924, ch. 149, §1, 43 Stat. 115; Mar. 3, 1927, ch. 337, §5, 44 Stat. 1373; Aug. 8, 1946, ch. 909, 60 Stat. 940; May 29, 1958, Pub. L. 85-430, §2, 72 Stat. 149; June 30, 1972, Pub. L. 92-331, §1, 86 Stat. 400.)

CODIFICATION

Section was not enacted as part of the Cotton Statistics and Estimates Act which enacted sections 471 to 474 of this title and amended sections 475 and 476 of this title.

Section was formerly classified to section 413 of this title.

AMENDMENTS

1972—Pub. L. 92-331 substituted “January” for “December”, substituted provisions requiring the two reports to be issued from the same place at 3 o'clock postmeridian on or before the 12th day of the month to which the respective reports relate for provisions requiring the two reports to be issued from the same place at 11 o'clock antemeridian on the 8th day following that on which the respective reports relate, struck out provisions setting forth the date of release in the event the original release date falls on a Sunday, legal holiday, or other nonworkday in the Department of Agriculture at Washington, and struck out reference to cotton-crop reporting committee.

1958—Pub. L. 85-430 struck out provisions which required Secretary of Agriculture to discontinue making his reports based upon farmers' intention to plant cotton.

1946—Act Aug. 8, 1946, provided for issuing of releases on next succeeding workday following any day which pursuant to an Executive order or statute is a non-workday in addition to same provision relating to Sundays and legal holidays.

1927—Act Mar. 3, 1927, provided for monthly instead of semimonthly publication of cotton crop reports.

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Commerce and functions of all agencies and employees of such Department, with a few exceptions, transferred to Secretary of Commerce, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 5, §§1, 2, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees. Bureau of the Census, referred to in this section, is a bureau of Department of Commerce.

§ 476. Acreage reports

The Secretary of Agriculture shall cause to be issued a report on or before the 12th day of July of each year showing by States and in toto the estimated acreage of cotton planted, to be followed on or before the 12th day of August with an estimate of the acreage for harvest and on or before the 12th day of December with an estimate of the harvested acreage.

(May 27, 1912, ch. 135, §1, 37 Stat. 118; Mar. 3, 1927, ch. 337, §6, 44 Stat. 1374; May 29, 1958, Pub. L. 85-430, §1, 72 Stat. 149; June 30, 1972, Pub. L. 92-331, §2, 86 Stat. 400.)

CODIFICATION

Section was not enacted as part of the Cotton Statistics and Estimates Act which enacted sections 471 to

474 of this title and amended sections 475 and 476 of this title.

Section was formerly classified to section 412 of this title.

AMENDMENTS

1972—Pub. L. 92-331 substituted “12th” for “10th”, “on or before the 12th day of August” for “on August 1”, and “on or before the 12th day of December” for “on December 1”.

1958—Pub. L. 85-430 substituted provisions requiring report to show estimated acreage of cotton planted, to be followed with an estimate of acreage for harvest and an estimate of harvested acreage for provisions which required report to show number of acres of cotton in cultivation on July 1 of each year, followed with an estimate of acreage of cotton abandoned since July 1.

1927—Act Mar. 3, 1927, struck out “Bureau of Statistics of the Department of Agriculture”, substituted “on or before the 10th day of July” for “on or about the first Monday in July” and inserted “on July 1, to be followed on September 1 and December 1 with an estimate of the acreage of cotton abandoned since July 1” after “cultivation”.

CHAPTER 20—DUMPING OR DESTRUCTION OF INTERSTATE PRODUCE

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| Sec. | |
| 491. | Destruction or dumping of farm produce received in interstate commerce by commission merchants, etc.; penalty. |
| 492. | Repealed. |
| 493. | Enforcement of provisions; prosecution of cases. |
| 494. | Rules and regulations; cooperation with States, etc., officers and employees; expenditures. |
| 495. | Authorization of appropriations. |
| 496. | Validity of other statutes dealing with same subject. |
| 497. | Separability. |

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 499s of this title.

§ 491. Destruction or dumping of farm produce received in interstate commerce by commission merchants, etc.; penalty

After June 30, 1927, any person, firm, association, or corporation receiving any fruits, vegetables, melons, dairy, or poultry products or any perishable farm products of any kind or character, hereinafter referred to as produce, in interstate commerce, or in the District of Columbia, for or on behalf of another, who without good and sufficient cause therefor shall destroy or abandon, discard as refuse or dump any produce directly or indirectly or through collusion with any person, or who shall knowingly and with intent to defraud make any false report or statement to the person, firm, association, or corporation from whom any produce was received, concerning the handling, condition, quality, quantity, sale, or disposition thereof or who shall knowingly and with intent to defraud fail truly and correctly to account therefor shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 and not more than \$3,000, or by imprisonment for a period of not exceeding one year, or both, at the discretion of the court.

(Mar. 3, 1927, ch. 309, §1, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 1 of act Mar. 3, 1927. Remainder of section 1 was classified to section 492 of this title.

CROSS REFERENCES

Unfair conduct by commission merchants, see section 499b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 492. Repealed. Aug. 9, 1955, ch. 632, § 2, 69 Stat. 553

Section, act Mar. 3, 1927, ch. 309, § 1, 44 Stat. 1355, related to investigation of quality and condition of produce received in interstate commerce. See section 1622(h) of this title.

§ 493. Enforcement of provisions; prosecution of cases

The Secretary of Agriculture is authorized and directed to enforce this chapter. It is made the duty of all United States attorneys to prosecute cases arising under this chapter, subject to the supervision and control of the Department of Justice.

(Mar. 3, 1927, ch. 309, § 2, 44 Stat. 1355.)

CROSS REFERENCES

Supervision of United States attorneys by Attorney General, see section 519 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 494. Rules and regulations; cooperation with States, etc., officers and employees; expenditures

The Secretary of Agriculture may make such rules and regulations as he may deem advisable to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and may call upon any Federal department, board, or commission for assistance in carrying out the purposes of this chapter; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law and make such expenditure for rent, outside the District of Columbia, printing, telegrams, telephones, books of reference, books of law, periodicals, newspapers, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be deemed necessary to the administration of this chapter in the District of Columbia and elsewhere.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 495 and 496 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 495. Authorization of appropriations

There is authorized to be appropriated, out of any moneys in the Treasury not otherwise ap-

propriated, such sums as may be necessary after the fiscal year beginning July 1, 1927 to carry out the purposes of this chapter.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 494 and 496 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 496. Validity of other statutes dealing with same subject

This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this chapter, but it is intended that all such statutes shall remain in full force and effect, except insofar only as they are inconsistent herewith or repugnant hereto.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 494 and 495 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 497. Separability

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

(Mar. 3, 1927, ch. 309, § 4, 44 Stat. 1356.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

CHAPTER 20A—PERISHABLE AGRICULTURAL COMMODITIES

Sec. 499a.	Short title and definitions. (a) Short title. (b) Definitions.
499b.	Unfair conduct.
499b-1.	Products produced in distinct geographic areas. (a) In general. (b) Penalties. (c) Reimbursement. (d) Prohibition. (e) Regulations.
499c.	Licenses (a) By whom license required, penalty for failure to obtain. (b) Application; fees; creation and limitation of Perishable Agricultural Commodities Act Fund; availability of fund for administrative expenses; budget requirements; notice of increase in annual fee; filing of views and objections to increase. (c) Trade names; disapproval by Secretary; suspension of license for use of disapproved name; refusal of license for deceptive, misleading, or confusing name.

- Sec.
499d. Issuance of license.
 - (a) Authority to do business; termination; renewal.
 - (b) Refusal of license; grounds.
 - (c) Issuance of license upon furnishing bond; issuance after three years without bond; effect of termination of bond; increase or decrease in amount; payment of increase.
 - (d) Withholding license pending investigation.
 - (e) Refusal of license.
- 499e. Liability to persons injured.
 - (a) Amount of damages.
 - (b) Remedies.
 - (c) Trust on commodities and sales proceeds for benefit of unpaid suppliers, sellers, or agents; preservation of trust; jurisdiction of courts.
- 499f. Complaint and investigation.
 - (a) Petition to Secretary of Agriculture; time of making; contents; service; answer.
 - (b) Complaint to Secretary requesting investigation of violations; by whom made.
 - (c) Service of complaint; hearing.
 - (d) Determination by Secretary of violations.
 - (e) Complaints by nonresidents; bond for costs and fees.
- 499g. Reparation order.
 - (a) Determination by Secretary of Agriculture of amount of damages; order for payment.
 - (b) Failure to comply with order of Secretary; suit to enforce liability; order as evidence; costs and fees.
 - (c) Appeal from reparation order; proceedings.
 - (d) Suspension of license for failure to obey reparation order or appeal.
- 499h. Grounds for suspension or revocation of license.
 - (a) Authority of Secretary.
 - (b) Unlawful employment of certain persons; restrictions; bond assuring compliance; approval of employment without bond; change in amount of bond; payment of increased amount; penalties.
 - (c) Fraud in procurement.
 - (d) Injunction.
- 499i. Accounts, records, and memoranda; duty of licensees to keep; contents; suspension of license for violation of duty.
- 499j. Orders; effective date; continuance in force; suspension, modification and setting aside; penalty.
- 499k. Injunctions; application of injunction laws governing orders of Interstate Commerce Commission.
- 499l. Violations; report to Attorney General; proceedings; costs.
- 499m. Complaints; procedure, penalties, etc.
 - (a) Investigation by Secretary of Agriculture; inspection of accounts, records, and memoranda; penalty for refusing inspection.
 - (b) Inspection of records; surety bond; suspension of license.
 - (c) Hearings; subpoenas; oaths; witnesses; evidence.
 - (d) Disobedience to subpoenas; remedy; contempt.
 - (e) Depositions; production of accounts, records and memoranda.
 - (f) Fees and mileage of witnesses.
- 499n. Inspection of perishable agricultural commodities.

- Sec.
 - (a) Employment of inspectors; fees and expenses; inspection certificate as evidence.
 - (b) Issuance of fraudulent certificates; penalties.
- 499o. Rules, regulations, and orders; appointment, removal, and compensation of officers and employees; expenditures; authorization of appropriations; abrogation of inconsistent statutes.
- 499p. Liability of licensees for acts and omissions of agents.
- 499q. Separability.
- 499r. Repealed.
- 499s. Depositing appropriations in fund.
- 499t. Omitted.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 499b-1 of this title; title 11 section 525; title 28 section 2342; title 49 section 5906.

§ 499a. Short title and definitions

(a) Short title

This chapter may be cited as the “Perishable Agricultural Commodities Act, 1930”.

(b) Definitions

For purposes of this chapter:

(1) The term “person” includes individuals, partnerships, corporations, and associations.

(2) The term “Secretary” means the Secretary of Agriculture.

(3) The term “interstate or foreign commerce” means commerce between any State or Territory, or the District of Columbia and any place outside thereof; or between points within the same State or Territory, or the District of Columbia but through any place outside thereof, or within the District of Columbia.

(4) The term “perishable agricultural commodity”—

(A) Means any of the following, whether or not frozen or packed in ice: Fresh fruits and fresh vegetables of every kind and character; and

(B) Includes cherries in brine as defined by the Secretary in accordance with trade usages.

(5) The term “commission merchant” means any person engaged in the business of receiving in interstate or foreign commerce any perishable agricultural commodity for sale, on commission, or for or on behalf of another.

(6) The term “dealer” means any person engaged in the business of buying or selling in wholesale or jobbing quantities, as defined by the Secretary, any perishable agricultural commodity in interstate or foreign commerce, except that (A) no producer shall be considered as a “dealer” in respect to sales of any such commodity of his own raising; (B) no person buying any such commodity solely for sale at retail shall be considered as a “dealer” until the invoice cost of his purchases of perishable agricultural commodities in any calendar year are in excess of \$230,000; and (C) no person buying any commodity other than potatoes for canning and/or processing within the State where grown shall be considered a “dealer” whether or not the canned or processed product is to be shipped in interstate or

foreign commerce, unless such product is frozen or packed in ice, or consists of cherries in brine, within the meaning of paragraph (4) of this section. Any person not considered as a “dealer” under clauses (A), (B), and (C) may elect to secure a license under the provisions of section 499c of this title, and in such case and while the license is in effect such person shall be considered as a “dealer”.

(7) The term “broker” means any person engaged in the business of negotiating sales and purchases of any perishable agricultural commodity in interstate or foreign commerce for or on behalf of the vendor or the purchaser, respectively, except that no person shall be deemed to be a “broker” if such person is an independent agent negotiating sales for and on behalf of the vendor and if the only sales of such commodities negotiated by such person are sales of frozen fruits and vegetables having an invoice value not in excess of \$230,000 in any calendar year.

(8) A transaction in respect of any perishable agricultural commodity shall be considered in interstate or foreign commerce if such commodity is part of that current of commerce usual in the trade in that commodity whereby such commodity and/or the products of such commodity are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where sale is either for shipment to another State, or for processing within the State and the shipment outside the State of the products resulting from such processing. Commodities normally in such current of commerce shall not be considered out of such commerce through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter.

(9) The term “responsibly connected” means affiliated or connected with a commission merchant, dealer, or broker as (A) partner in a partnership, or (B) officer, director, or holder of more than 10 per centum of the outstanding stock of a corporation or association.

(10) The terms “employ” and “employment” mean any affiliation of any person with the business operations of a licensee, with or without compensation, including ownership or self-employment.

(June 10, 1930, ch. 436, §1, 46 Stat. 531; Apr. 13, 1934, ch. 120, §1, 48 Stat. 584; Aug. 20, 1937, ch. 719, §1, 50 Stat. 725; June 29, 1940, ch. 456, §§1, 2, 54 Stat. 696; Oct. 1, 1962, Pub. L. 87-725, §§1, 2, 76 Stat. 673; Nov. 4, 1969, Pub. L. 91-107, §§1, 2, 83 Stat. 182; Nov. 1, 1978, Pub. L. 95-562, §1, 92 Stat. 2381; Dec. 22, 1981, Pub. L. 97-98, title XI, §1115(a), 95 Stat. 1269; Dec. 13, 1991, Pub. L. 102-237, title X, §1011(1), 105 Stat. 1898.)

CODIFICATION

Section was formerly classified to section 551 of this title.

AMENDMENTS

1991—Pub. L. 102-237 inserted section catchline, added subsec. (a), designated existing provisions as subsec. (b), and in subsec. (b), inserted heading, substituted

“For purposes of this chapter:” for “When used in this chapter—” and periods for semicolons at the end of pars. (1) to (6) and (9).

1981—Pars. (6), (7). Pub. L. 97-98 substituted “\$230,000” for “\$200,000”.

1978—Par. (6)(B). Pub. L. 95-562, §1(a)(1), substituted “\$200,000” for “\$100,000”.

Par. (6)(C). Pub. L. 95-562, §1(b), inserted “other than potatoes” after “commodity”.

Par. (7). Pub. L. 95-562, §1(a)(2), substituted “\$200,000” for “\$100,000”.

1969—Par. (6)(B). Pub. L. 91-107, §1, substituted “\$100,000” for “\$90,000”.

Par. (7). Pub. L. 91-107, §2, substituted “\$100,000” for “\$90,000”.

1962—Par. (6). Pub. L. 87-725, §1, substituted “wholesale or jobbing quantities” for “carloads”, the requirement that the dealer’s invoice cost of his purchases in any calendar year exceed \$90,000 for the requirement that his purchases in such year exceed 20 carloads, and struck out definition of “in carloads”.

Par. (7). Pub. L. 87-725, §1, excluded from definition of “broker”, persons who are independent agents negotiating sales for vendors and whose sales are of frozen fruits and vegetables having an invoice value not exceeding \$90,000 in any calendar year.

Pars. (9), (10). Pub. L. 87-725, §2, added pars. (9) and (10).

1940—Par. (4). Act June 29, 1940, §1, designated existing provisions as cl. (A) and added cl. (B).

Par. (6)(C). Act June 29, 1940, §2, inserted “, or consists of cherries in brine,” after “ice”.

1937—Par. (6)(C). Act Aug. 20, 1937, inserted “unless such product is frozen or packed in ice within the meaning of paragraph 4 of this section” after “foreign commerce”.

1934—Par. (6)(C). Act Apr. 13, 1934, added cl. (C).

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1(a) of Pub. L. 95-562 provided that the amendment made by that section is effective Jan. 1, 1979.

STUDY OF DOMESTIC FRUIT AND VEGETABLE INDUSTRY

Pub. L. 101-624, title XIII, §§1301-1305, Nov. 28, 1990, 104 Stat. 3559, 3560, provided that:

“SEC. 1301. FINDINGS.

“Congress finds that—

“(1) fruits, vegetables, and specialty crops are a vital and important source of nutrition for the general health and welfare of the people of the United States; and

“(2) fruits and vegetables are recommended as an essential part of a healthy, nutritious diet by numerous health officials and organizations including the Surgeon General of the United States; the National Institutes of Health; the National Cancer Institute; the American Heart Association; the Committee on Diet, Nutrition and Cancer of the National Academy of Sciences; the Department of Agriculture; and the Department of Health and Human Services.

“SEC. 1302. PURPOSES.

“The purposes of this subtitle [subtitle A (§§1301-1309) of Pub. L. 101-624, enacting section 499b-1 of this title, amending sections 608c and 608e-1 of this title, and enacting this note] are to—

“(1) improve the Nation’s dietary and nutritional standards by promoting domestically produced wholesome and nutritious fruit and vegetable products;

“(2) increase the public awareness as to the difficulties domestic producers experience regarding the production, harvesting, and marketing of these products; and

“(3) aid in the development of new technology and techniques that will assist domestic producers in meeting the challenges of increased demands for fruit and vegetable products in the future.

“SEC. 1303. DECLARATION.

“Congress declares that the domestic production of fruits and vegetables is an integral part of this Nation’s farm policy.

“SEC. 1304. STUDY OF THE FRUIT AND VEGETABLE INDUSTRY.

“(a) STUDY.—

“(1) IN GENERAL.—The Secretary of Agriculture shall conduct a study to determine the state of the domestic fruit and vegetable industry. In conducting such study, the Secretary of Agriculture shall consult with such agencies or departments, as determined necessary by the Secretary of Agriculture, including the Environmental Protection Agency, the Department of Health and Human Services, the Department of Commerce, the Department of Labor, and the Department of Education.

“(2) CONTENTS.—The study conducted under paragraph (1) shall include—

“(A) a review of the availability of an adequate labor supply for maintaining and harvesting of fruits and vegetables;

“(B) a review of the availability of crop insurance or disaster assistance for fruit and vegetable producers;

“(C) a review of scientific and technological advances in the areas of genetics, biotechnology, integrated pest management, post harvest protection, and other scientific developments related to the production and marketing of fruits and vegetables;

“(D) an examination of the availability of safe and effective chemicals for use in the production of fruits and vegetables, and an evaluation of the value of national uniformity to both consumers and producers;

“(E) a review of the requirements and cost of labeling fruits and vegetables in the industry, and the benefits that would result from the labeling of such products; and

“(F) a review of Federal educational programs that teach the importance of fruits and vegetables to a proper diet.

“(b) REPORT.—Not later than 18 months after the date of enactment of this title [Nov. 28, 1990], the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the results of the study described in subsection (a). Such report shall include—

“(1) the recommendations of the Secretary concerning the manner in which producers of domestic fruit and vegetable commodities that are not receiving assistance under the programs that provide market enhancement assistance (such as the export enhancement program under subtitle B of title XI of the Food Security Act of 1985 (7 U.S.C. 1736p et seq.) to producers of domestic fruit and vegetable commodities, could participate in such programs; and

“(2) the recommendations to the Secretary concerning the establishment of additional programs of the type described in paragraph (1) to assist producers of domestic fruit and vegetable commodities in increasing their production and in expanding domestic and foreign markets for the products of such producers.

“SEC. 1305. COUNTRY OF ORIGIN LABELING PROGRAMS.

“(a) GROWN IN THE U.S. PROGRAM.—The Secretary of Agriculture (hereafter referred to in this section as the ‘Secretary’) shall implement a program defining the conditions under which non-perishable agricultural products may be designated as ‘grown in the U.S.’.

“(b) PILOT PROGRAM.—

“(1) IN GENERAL.—The Secretary shall implement a 2-year pilot program during which time perishable agricultural products (fresh fruits and vegetables) are labeled or marked as to their country of origin. This program shall be conducted nationwide. After the 2-year period, the Secretary shall conduct a study to determine the results of the program. The Secretary shall submit to the Congress the results of the study within 18 months from the date of completion of the program.

“(2) DETAILS OF THE PILOT PROGRAM.—

“(A) DESIGNATION OF COUNTRY OF ORIGIN.—The program shall require that the country of origin of perishable agricultural products be indicated on any such products or on the package, display, holding unit, or bin by means of a label, stamp, mark, placard, or other clear and visible indication at the point of sale by any commission merchant, dealer, broker, or grocer. A sign near the products shall be an acceptable indication of the country of origin.

“(B) APPLICATION OF PROGRAM.—

“(i) IMPORTED AND DOMESTIC PRODUCTS.—The program shall apply to imported and domestic perishable agricultural products (including fresh fruits and vegetables).

“(ii) IMPORTED PERISHABLE AGRICULTURAL PRODUCTS.—The labeling program shall apply to imported perishable agricultural products that enter the United States marked as to the country of origin and that are in compliance with section 304(a) of the Tariff Act of 1930 [19 U.S.C. 1304(a)].

“(C) EXEMPTIONS.—The Secretary may provide for exemptions for products that are exempted, under section 304(a)(3)(J) of the Tariff Act of 1930, from the country of origin marking requirements of that Act [19 U.S.C. 1202 et seq.].

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.”

POTATO DEALERS

Section 1(b) of Pub. L. 95-562 provided in part that no person buying potatoes for processing solely within the State where grown shall be deemed or considered to be a dealer under par. (6) of this section as amended by section 1(b) of Pub. L. 95-562 until Jan. 1, 1982.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499b-1 of this title; title 31 section 3903.

§ 499b. Unfair conduct

It shall be unlawful in or in connection with any transaction in interstate or foreign commerce—

(1) For any commission merchant, dealer, or broker to engage in or use any unfair, unreasonable, discriminatory, or deceptive practice in connection with the weighing, counting, or in any way determining the quantity of any perishable agricultural commodity received, bought, sold, shipped, or handled in interstate or foreign commerce;

(2) For any dealer to reject or fail to deliver in accordance with the terms of the contract without reasonable cause any perishable agricultural commodity bought or sold or contracted to be bought, sold, or consigned in interstate or foreign commerce by such dealer;

(3) For any commission merchant to discard, dump, or destroy without reasonable cause, any perishable agricultural commodity received by such commission merchant in interstate or foreign commerce;

(4) For any commission merchant, dealer, or broker to make, for a fraudulent purpose, any

false or misleading statement in connection with any transaction involving any perishable agricultural commodity which is received in interstate or foreign commerce by such commission merchant, or bought or sold, or contracted to be bought, sold, or consigned, in such commerce by such dealer, or the purchase or sale of which in such commerce is negotiated by such broker; or to fail or refuse truly and correctly to account and make full payment promptly in respect of any transaction in any such commodity to the person with whom such transaction is had; or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction; or to fail to maintain the trust as required under section 499e(c) of this title;

(5) For any commission merchant, dealer, or broker to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State, country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce: *Provided*, That any commission merchant, dealer, or broker who has violated—

(A) any provision of this paragraph may, with the consent of the Secretary, admit the violation or violations; or

(B) any provision of this paragraph relating to a misrepresentation by mark, stencil, or label shall be permitted by the Secretary to admit the violation or violations if such violation or violations are not repeated or flagrant;

and pay, in the case of a violation under either clause (A) or (B) of this paragraph, a monetary penalty not to exceed \$2,000 in lieu of a formal proceeding for the suspension or revocation of license, any payment so made to be deposited into the Treasury of the United States as miscellaneous receipts;

(6) For any commission merchant, dealer, or broker, for a fraudulent purpose, to remove, alter, or tamper with any card, stencil, stamp, tag, or other notice placed upon any container or railroad car containing any perishable agricultural commodity, if such card, stencil, stamp, tag, or other notice contains a certificate or statement under authority of any Federal or State inspector or in compliance with any Federal or State law or regulation as to the grade or quality of the commodity contained in such container or railroad car or the State or country in which such commodity was produced;

(7) For any commission merchant, dealer or broker, without the consent of an inspector, to make, cause, or permit to be made any change by way of substitution or otherwise in the contents of a load or lot of any perishable agricultural commodity after it has been officially inspected for grading and certification, but this shall not prohibit re-sorting and discarding inferior produce.

(June 10, 1930, ch. 436, §2, 46 Stat. 532; Apr. 13, 1934, ch. 120, §§2, 3, 48 Stat. 585; June 19, 1936, ch. 602, §1, 49 Stat. 1533; Aug. 20, 1937, ch. 719, §§2-4, 50 Stat. 725, 726; June 29, 1940, ch. 456, §§3, 4, 54 Stat. 696; Apr. 6, 1942, ch. 211, 56 Stat. 200; July

30, 1956, ch. 786, §1, 70 Stat. 726; Aug. 10, 1974, Pub. L. 93-369, 88 Stat. 423; Oct. 18, 1982, Pub. L. 97-352, §1, 96 Stat. 1667; May 7, 1984, Pub. L. 98-273, §2, 98 Stat. 166.)

CODIFICATION

Section was formerly classified to section 552 of this title.

AMENDMENTS

1984—Par. (4). Pub. L. 98-273 inserted “or to fail to maintain the trust as required under section 499e(c) of this title;”.

1982—Par. (5). Pub. L. 97-352 substituted “*Provided*, That any commission merchant, dealer, or broker who has violated (A) any provision of this paragraph may, with the consent of the Secretary, admit the violation or violations; or (B) any provision of this paragraph relating to a misrepresentation by mark, stencil, or label shall be permitted by the Secretary to admit the violation or violations if such violation or violations are not repeated or flagrant; and pay, in the case of a violation under either clause (A) or (B) of this paragraph,” for “*Provided*, That any commission merchant, dealer, or broker who has violated this paragraph may, with the consent of the Secretary, admit the violation or violations and pay”.

1974—Par. (5). Pub. L. 93-369 inserted proviso for consent admission of violations, payment of monetary penalty not in excess of \$2,000 in lieu of formal proceedings for suspension or revocation of license, and for deposit of the payments into the Treasury of the United States as miscellaneous receipts.

1956—Par. (5). Act July 30, 1956, struck out “for a fraudulent purpose” after “broker”, and included misrepresentation of region of origin.

1942—Par. (4). Act Apr. 6, 1942, inserted “and make full payment” and “or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction”.

1940—Par. (1). Act June 29, 1940, §3, among other changes, inserted “dealer” after “merchant”.

Par. (5). Act June 29, 1940, inserted “quantity, size, pack, weight” after “quality”.

1937—Par. (5). Act Aug. 20, 1937, §2, among other changes, inserted “mark, stencil, label, statement” after “act” and “the character, kind, grade, quality, condition, degree of maturity” after “or deed”.

Par. (6). Act Aug. 20, 1937, §3, inserted “or in compliance with any Federal or State law or regulation” after “inspector”.

Par. (7). Act Aug. 20, 1937, §4, added par. (7).

1936—Par. (4). Act June 17, 1936, struck out “or concerning the condition of the market for” after “involving”.

1934—Par. (2). Act Apr. 13, 1934, §2, inserted “or consigned” after “sold”.

Par. (4). Act Apr. 13, 1934, §3, substituted “in connection with any transaction involving or concerning” for “concerning the condition, quality, quantity or disposition of” and inserted “or consigned” after “contracted to be bought or sold”.

CROSS REFERENCES

Destruction or dumping of farm products received in interstate commerce by commission merchants, see section 491 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499b-1, 499d, 499e, 499f, 499g, 499h, 499m of this title.

§ 499b-1. Products produced in distinct geographic areas

(a) In general

In the case of a perishable agricultural commodity (as defined under the Perishable Agricultural Commodity Act (7 U.S.C. 499a(4))—¹

(1) subject to a Federal marketing order under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.);

(2) traditionally identified as being produced in a distinct geographic area, State, or region; and

(3) the unique identity, based on such distinct geographic area, of which has been promoted with funds collected through producer contributions pursuant to such marketing order,

no person may use the unique name or geographical designation of such commodity to promote the sale of a similar commodity produced outside such area, State, or region.

(b) Penalties

A violation of this section shall be considered a violation of paragraphs (4) and (5) of section 2 of the Perishable Agricultural Commodities Act (7 U.S.C. 499b(4) and (5)).

(c) Reimbursement

A person bringing a complaint under this section shall reimburse the Secretary of Agriculture for any and all costs associated with the enforcement of this section.

(d) Prohibition

The Secretary of Agriculture shall not increase any fees charged under the Perishable Agricultural Commodities Act [7 U.S.C. 499a et seq.] to offset costs associated with the operation of this section.

(e) Regulations

The Secretary shall promulgate regulations to carry out this section.

(Pub. L. 101-624, title XIII, §1309, Nov. 28, 1990, 104 Stat. 3562.)

REFERENCES IN TEXT

The Perishable Agricultural Commodity Act, and the Perishable Agricultural Commodities Act, referred to in subsecs. (a), (b), and (d), probably mean the Perishable Agricultural Commodities Act, 1930, act June 10, 1930, ch. 436, 46 Stat. 531, as amended, which is classified generally to this chapter (§499a et seq.). For complete classification of this Act to the Code, see section 499a(a) of this title and Tables.

7 U.S.C. 499a(4), referred to in subsec. (a), was redesignated 7 U.S.C. 499a(b)(4) by Pub. L. 102-237, title X, §1011(1)(A), Dec. 13, 1991, 105 Stat. 1898.

The Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.), referred to in subsec. (a)(1), is act June 3, 1937, ch. 296, 50 Stat. 246, as amended, which is classified principally to chapter 26A (§671 et seq.) of this title. For complete classification of this Act to the Code, see section 674 of this title and Tables. The Agricultural Marketing Agreement Act of 1937 reenacted and amended the Agricultural Adjustment Act, title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

¹ See References in Text note below.

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Perishable Agricultural Commodities Act, 1930 which comprises this chapter.

§ 499c. Licenses

(a) By whom license required; penalty for failure to obtain

After December 10, 1930, no person shall at any time carry on the business of a commission merchant dealer, or broker without a license valid and effective at such time. Any person who violates any provision of this subsection shall be liable to a penalty of not more than \$500 for each such offense and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

Any person violating this provision may, upon a showing satisfactory to the Secretary of Agriculture, or his authorized representative, that such violation was not willful but was due to inadvertence, be permitted by the Secretary, or such representative, to settle his liability in the matter by the payment of the fees due for the period covered by such violation and an additional sum, not in excess of \$25, to be fixed by the Secretary of Agriculture or his authorized representative. Such payment shall be deposited in the Treasury of the United States in the same manner as regular license fees.

(b) Application; fees; creation and limitation of Perishable Agricultural Commodities Act Fund; availability of fund for administrative expenses; budget requirements; notice of increase in annual fee; filing of views and objections to increase

Any person desiring any such license shall make application to the Secretary. The Secretary may by regulation prescribe the information to be contained in such application and to be furnished thereafter. Upon the filing of the application, and annually thereafter, the applicant shall pay such fee as the Secretary determines necessary to meet the reasonably anticipated expenses for administering this chapter and sections 491, 493 to 497 of this title, but in no event shall such fee exceed \$400, plus \$200 for each branch or additional business facility operated by the applicant in excess of nine such facilities, as determined by the Secretary. Total annual fees for any applicant shall not exceed \$4,000 in the aggregate. Such fee, when collected, shall be deposited in the Treasury of the United States as a special fund, without fiscal year limitation, to be designated as the "Perishable Agricultural Commodities Act Fund", which shall be available for all expenses necessary to the administration of this chapter and sections 491, 493 to 497 of this title, referred to above. Any reserve funds in the Perishable Agricultural Commodities Act Fund may be invested by the Secretary in insured or fully-collateralized interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any interest earned on such reserve funds shall be credited to the Perishable Agricultural Commodities Act Fund and shall be available for the

same purposes as the fees deposited in such fund. The amount of money accumulated and on hand in the special fund at the end of any fiscal year shall not exceed 25 percent of the projected budget for the next following fiscal year. Financial statements prescribed by the Director of the Office of Management and Budget for the last completed fiscal year, and as estimated for the current and ensuing fiscal years, shall be included in the budget as submitted to the Congress annually. The Secretary shall give public notice of any increase to be made in the annual fee prescribed by him hereunder and shall allow a reasonable time prior to the effective date of such increase for interested persons to file their views on or objections to such increase.

(c) Trade names; disapproval by Secretary; suspension of license for use of disapproved name; refusal of license for deceptive, misleading, or confusing name

A licensee may conduct business in more than one trade name or change the name under which business is conducted without requiring an additional or new license. The Secretary may disapprove the use of a trade name if, in his opinion, the use of the trade name by the licensee would be deceptive, misleading, or confusing to the trade, and the Secretary may, after notice and opportunity for a hearing, suspend for a period not to exceed ninety days the license of any licensee who continues to use a trade name which the Secretary has disapproved for use by such licensee. The Secretary may refuse to issue a license to an applicant if he finds that the trade name in which the applicant proposes to do business would be deceptive, misleading, or confusing to the trade if used by such applicant.

(June 10, 1930, ch. 436, § 3, 46 Stat. 533; Aug. 20, 1937, ch. 719, § 5, 50 Stat. 726; June 15, 1950, ch. 254, § 1, 64 Stat. 217; July 30, 1956, ch. 786, § 2(a), 70 Stat. 726; Oct. 1, 1962, Pub. L. 87-725, §§ 3, 4, 76 Stat. 673, 674; Nov. 4, 1969, Pub. L. 91-107, § 3, 83 Stat. 182; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Nov. 1, 1978, Pub. L. 95-562, § 2, 92 Stat. 2381; Dec. 22, 1981, Pub. L. 97-98, title XI, § 1115(b), 95 Stat. 1269; Aug. 22, 1988, Pub. L. 100-414, § 1, 102 Stat. 1102; Nov. 28, 1990, Pub. L. 101-624, title XIII, § 1361, 104 Stat. 3568.)

CODIFICATION

Section was formerly classified to section 553 of this title.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-624 substituted “. Any reserve funds in the Perishable Agricultural Commodities Act Fund may be invested by the Secretary in insured or fully-collateralized interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any interest earned on such reserve funds shall be credited to the Perishable Agricultural Commodities Act Fund and shall be available for the same purposes as the fees deposited in such fund. The” for “: Provided, That the” and “. Financial” for “: Provided further, That financial”.

1988—Subsec. (b). Pub. L. 100-414 substituted “\$400, plus \$200” for “\$300, plus \$150” and “\$4,000” for “\$3,000”.

1981—Subsec. (b). Pub. L. 97-98 substituted “\$300”, “\$150”, and “\$3,000” for “\$150”, “\$50”, and “\$1,000”, respectively.

1978—Subsec. (b). Pub. L. 95-562 substituted “in such application and to be furnished thereafter” for “in such application” and “\$150, plus \$50 for each branch or additional business facility operated by the applicant in excess of nine such facilities, as determined by the Secretary” for “\$100”, and inserted provisions limiting the total annual fees for any applicant to an amount not to exceed \$1,000 in the aggregate and limiting the amount of money in the special fund at the end of any fiscal year to an amount not to exceed 25 percent of the projected budget for the next following fiscal year.

1969—Subsec. (b). Pub. L. 91-107 increased limitation on fees from \$50 to \$100.

1962—Subsec. (b). Pub. L. 87-725, § 3, increased annual fee from a maximum of \$25, to such fee as the Secretary determines necessary to meet the expenses of administering this chapter and sections 491, 493 to 497 of this title, but not exceeding \$50, directed the Secretary to give public notice of any increase in the annual fee and to allow reasonable time before the effective date of such increase for submission of views on, or objections to, such increase, and struck out references to the availability of the Perishable Agricultural Commodities Act Fund for administrative expenses of sections 581 to 589 of this title.

Subsec. (c). Pub. L. 87-725, § 4, added subsec. (c).

1956—Subsec. (b). Act July 30, 1956, increased fee from \$15 annually to not more than \$25 annually.

1950—Subsec. (b). Act June 15, 1950, increased fee from \$10 to \$15 annually, provided for its disposition in fund, made fund available for administrative expenses, and provided for financial statements.

1937—Subsec. (a). Act Aug. 20, 1937, added second par.

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.

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President by section 101 of 1970 Reorg. Plan No. 2. Section 102 of 1970 Reorg. Plan No. 2 redesignated Bureau of the Budget as Office of Management and Budget and offices of Director of Bureau of the Budget, Deputy Director of Bureau of the Budget, and Assistant Directors of Bureau of the Budget as Director of Office of Management and Budget, Deputy Director of Office of Management and Budget, and Assistant Directors of Office of Management and Budget, respectively. Section 103 of 1970 Reorg. Plan No. 2 transferred all records, property, personnel, and funds of Bureau to Office of Management and Budget. See part I of Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

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

Exclusive jurisdiction of district courts in actions for recovery of penalties, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Venue of action for penalty, see section 1395 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499a, 499d, 499h, 499o, 499s of this title.

§ 499d. Issuance of license

(a) Authority to do business; termination; renewal

Whenever an applicant has paid the prescribed fee the Secretary, except as provided elsewhere in this chapter, shall issue to such applicant a

license, which shall entitle the licensee to do business as a commission merchant and/or dealer and/or broker unless and until it is suspended or revoked by the Secretary in accordance with the provisions of this chapter, or is automatically suspended under section 499g(d) of this title, but said license shall automatically terminate on any anniversary date thereof unless the annual fee has been paid: *Provided*, That notice of the necessity of paying the annual fee shall be mailed at least thirty days before the anniversary date: *Provided, further*, That if the annual fee is not paid by the anniversary date the licensee may obtain a renewal of that license at any time within thirty days by paying the fee provided in section 499c(b) of this title, plus \$5, which shall be deposited in the Perishable Agricultural Commodities Act fund provided for by section 499c(b) of this title: *And provided further*, That the license of any licensee shall terminate upon said licensee, or in case the licensee is a partnership, any partner, being discharged as a bankrupt, unless the Secretary finds upon examination of the circumstances of such bankruptcy, which he shall examine if requested to do so by said licensee, that such circumstances do not warrant such termination.

(b) Refusal of license; grounds

The Secretary shall refuse to issue a license to an applicant if he finds that the applicant, or any person responsibly connected with the applicant, is a person who, or is or was responsibly connected with a person who—

(A) has had his license revoked under the provisions of section 499h of this title within two years prior to the date of the application or whose license is currently under suspension;

(B) within two years prior to the date of application has been found after notice and opportunity for hearing to have committed any flagrant or repeated violation of section 499b of this title, but this provision shall not apply to any case in which the license of the person found to have committed such violation was suspended and the suspension period has expired or is not in effect;

(C) within two years prior to the date of the application, has been found guilty in a Federal court of having violated the provisions of sections 491, 493 to 497 of this title, relating to the prevention of destruction and dumping of farm produce; or

(D) has failed, except in the case of bankruptcy and subject to his right of appeal under section 499g(c) of this title, to pay any reparation order issued against him within two years prior to the date of the application.

(c) Issuance of license upon furnishing bond; issuance after three years without bond; effect of termination of bond; increase or decrease in amount; payment of increase

An applicant ineligible for a license by reason of the provisions of subsection (b) of this section may, upon the expiration of the two-year period applicable to him, be issued a license by the Secretary if such applicant furnishes a surety bond in the form and amount satisfactory to the Secretary as assurance that his business will be conducted in accordance with this chapter and that he will pay all reparation orders which may

be issued against him in connection with transactions occurring within four years following the issuance of the license, subject to his right of appeal under section 499g(c) of this title. In the event such applicant does not furnish such a surety bond, the Secretary shall not issue a license to him until three years have elapsed after the date of the applicable order of the Secretary or decision of the court on appeal. If the surety bond so furnished is terminated for any reason without the approval of the Secretary the license shall be automatically canceled as of the date of such termination and no new license shall be issued to such person during the four-year period without a new surety bond covering the remainder of such period. The Secretary, based on changes in the nature and volume of business conducted by a bonded licensee, may require an increase or authorize a reduction in the amount of the bond. A bonded licensee who is notified by the Secretary to provide a bond in an increased amount shall do so within a reasonable time to be specified by the Secretary, and upon failure of the licensee to provide such bond his license shall be automatically suspended until such bond is provided.

(d) Withholding license pending investigation

The Secretary may withhold the issuance of a license to an applicant, for a period not to exceed thirty days pending an investigation, for the purpose of determining (a) whether the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this chapter or was convicted of a felony in any State or Federal court, or (b) whether the application contains any materially false or misleading statement or involves any misrepresentation, concealment, or withholding of facts respecting any violation of the chapter by any officer, agent, or employee of the applicant. If after investigation the Secretary believes that the applicant should be refused a license, the applicant shall be given an opportunity for hearing within sixty days from the date of the application to show cause why the license should not be refused. If after the hearing the Secretary finds that the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this chapter or was convicted of a felony in any State or Federal court, or because the application contains a materially false or misleading statement made by the applicant or by its representative on its behalf, or involves a misrepresentation, concealment, or withholding of facts respecting any violation of the chapter by any officer, agent, or employee, the Secretary may refuse to issue a license to the applicant.

(e) Refusal of license

The Secretary may refuse to issue a license to an applicant if he finds that the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, has, within three years prior to the date of the application, been adjudicated or discharged as a bankrupt, or was a general partner of a partnership or officer or holder of more than 10 per centum of the stock of a corporation adjudicated or discharged as a bankrupt, and if he finds that the circumstances of such bankruptcy warrant such a refusal, unless the applicant furnishes a bond of such nature and amount as may be determined by the Secretary or other assurance satisfactory to the Secretary that the business of the applicant will be conducted in accordance with this chapter.

(June 10, 1930, ch. 436, § 4, 46 Stat. 533; Apr. 13, 1934, ch. 120, §§ 4-7, 48 Stat. 585, 586; June 19, 1936, ch. 602, § 2, 49 Stat. 1533; Aug. 20, 1937, ch. 719, § 6, 50 Stat. 726; June 15, 1950, ch. 254, § 2, 64 Stat. 218; July 30, 1956, ch. 786, §§ 2(b), 3, 4, 70 Stat. 726; Oct. 1, 1962, Pub. L. 87-725, §§ 5-7, 76 Stat. 674; Nov. 6, 1978, Pub. L. 95-598, title III, § 303, 92 Stat. 2673; Dec. 13, 1991, Pub. L. 102-237, title X, § 1011(2), 105 Stat. 1898.)

CODIFICATION

Section was formerly classified to section 554 of this title.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237 substituted “annual” for “anual” before “fee has been paid”.

1978—Subsec. (a). Pub. L. 95-598, § 303(a), inserted “, unless the Secretary finds upon examination of the circumstances of such bankruptcy, which he shall examine if requested to do so by said licensee, that such circumstances do not warrant such termination”.

Subsec. (e). Pub. L. 95-598, § 303(b), inserted “and if he finds that the circumstances of such bankruptcy warrant such a refusal.”

1962—Subsec. (a). Pub. L. 87-725, § 5, inserted proviso that the license of any licensee shall terminate, if he, or in case the licensee is a partnership, any partner, is discharged as a bankrupt.

Subsec. (b). Pub. L. 87-725, § 6, amended subsection generally, and among other changes, required refusal of a license upon showing responsible connection by the applicant, or by any person responsibly connected with him, with a person guilty of the specified conduct, without requiring that the applicant was responsible in whole or in part for such conduct, and upon the grounds specified in clause (C) relating to being found guilty in a Federal court of having violated the provisions of sections 491, 493 to 497 of this title, provided that the provisions regarding flagrant or repeated violation of section 499b of this title shall not apply where the license in such case was suspended and the suspension period has expired or is not in effect, and eliminated provisions which, notwithstanding the grounds for refusal specified in the section, permitted the Secretary to issue a license upon the applicant furnishing a bond or other satisfactory assurance that his business would be conducted in accordance with this chapter, and that he would pay reparation orders previously issued against him or which could be issued against him within two years after receiving the license, but such license could not be issued until after the expiration of one year from the revocation or from the finding that the applicant was responsible, for any flagrant or repeated violation of section 499b of this title.

Subsec. (c). Pub. L. 87-725, § 7, substituted provisions which permit a license to be issued to an applicant in-

eligible under subsec. (b) of this section, upon expiration of the two year period applicable to him, if he furnishes a surety bond as assurance that his business will be conducted in accordance with this chapter and that he will pay all reparation orders issued against him in connection with transactions occurring within four years following issuance of license, subject to appeal under section 499g(c) of this title, or if no bond is given, permit issuance of the license after three years from the applicable order, or decision of the court on appeal, and which provide that if a bond is terminated without the Secretary's approval, the license is automatically canceled and cannot be re-issued during the four year period without a new bond, that the Secretary may order an increase or a reduction in the bond, and that a licensee notified to increase the bond must do so in a reasonable time or his license will be suspended until such bond is provided, for provisions which required the Secretary to refuse a license to an applicant, or if the applicant was a partnership, or an association or a corporation, to a partner or officer or any person holding a responsible position therein, respectively, found within two years of being guilty of violating sections 491 to 497 or 499n(b) of this title.

1956—Subsec. (a). Act July 30, 1956, § 2(b), substituted “the fee provided in section 499c(b) of this title, plus \$5” for “a fee of \$20”.

Subsec. (d). Act July 30, 1956, § 3, included within term “applicant” any general partner of a partnership, and officers or holders of more than 10 per centum of the stock of a corporation, and permitted the Secretary to refuse to issue a license to an applicant who was convicted of a felony in any State or Federal court.

Subsec. (e). Act July 30, 1956, § 4, added subsec. (e).

1950—Subsec. (a). Act June 15, 1950, increased fee for late registration from \$15 to \$20, and provided for its disposition in the fund.

1937—Subsec. (a). Act Aug. 20, 1937, inserted first and second provisos.

Subsec. (b). Act Aug. 20, 1937, among other changes, inserted “Such bond shall be in an amount sufficient in the judgment of the Secretary of Agriculture to insure payment of such reparation orders” at the end.

Subsecs. (c), (d). Act Aug. 20, 1937, amended subsecs. (c) and (d) generally.

1936—Subsec. (b). Act June 19, 1936, among other changes, inserted “if he finds” after “or (3)” and “or (5)” after “section 499b”.

1934—Subsec. (b). Act Apr. 13, 1934, § 4, among other changes, added cls. (3) and (4).

Subsecs. (c) to (e). Act Apr. 13, 1934, §§ 5-7, added subsecs. (c) to (e).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

CROSS REFERENCES

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499h of this title.

§ 499e. Liability to persons injured**(a) Amount of damages**

If any commission merchant, dealer, or broker violates any provision of section 499b of this title he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.

(b) Remedies

Such liability may be enforced either (1) by complaint to the Secretary as hereinafter pro-

vided, or (2) by suit in any court of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, and the provisions of this chapter are in addition to such remedies.

(c) Trust on commodities and sales proceeds for benefit of unpaid suppliers, sellers, or agents; preservation of trust; jurisdiction of courts

(1) It is hereby found that a burden on commerce in perishable agricultural commodities is caused by financing arrangements under which commission merchants, dealers, or brokers, who have not made payment for perishable agricultural commodities purchased, contracted to be purchased, or otherwise handled by them on behalf of another person, encumber or give lenders a security interest in, such commodities, or on inventories of food or other products derived from such commodities, and any receivables or proceeds from the sale of such commodities or products, and that such arrangements are contrary to the public interest. This subsection is intended to remedy such burden on commerce in perishable agricultural commodities and to protect the public interest.

(2) Perishable agricultural commodities received by a commission merchant, dealer, or broker in all transactions, and all inventories of food or other products derived from perishable agricultural commodities, and any receivables or proceeds from the sale of such commodities or products, shall be held by such commission merchant, dealer, or broker in trust for the benefit of all unpaid suppliers or sellers of such commodities or agents involved in the transaction, until full payment of the sums owing in connection with such transactions has been received by such unpaid suppliers, sellers, or agents. Payment shall not be considered to have been made if the supplier, seller, or agent receives a payment instrument which is dishonored. The provisions of this subsection shall not apply to transactions between a cooperative association, as defined in section 1141j(a) of title 12, and its members.

(3) The unpaid supplier, seller, or agent shall lose the benefits of such trust unless such person has given written notice of intent to preserve the benefits of the trust to the commission merchant, dealer, or broker and has filed such notice with the Secretary within thirty calendar days (i) after expiration of the time prescribed by which payment must be made, as set forth in regulations issued by the Secretary, (ii) after expiration of such other time by which payment must be made, as the parties have expressly agreed to in writing before entering into the transaction, or (iii) after the time the supplier, seller, or agent has received notice that the payment instrument promptly presented for payment has been dishonored. When the parties expressly agree to a payment time period different from that established by the Secretary, a copy of any such agreement shall be filed in the records of each party to the transaction and the terms of payment shall be disclosed on invoices, accountings, and other documents relating to the transaction.

(4) The several district courts of the United States are vested with jurisdiction specifically

to entertain (i) actions by trust beneficiaries to enforce payment from the trust, and (ii) actions by the Secretary to prevent and restrain dissipation of the trust.

(June 10, 1930, ch. 436, § 5, 46 Stat. 534; Aug. 20, 1937, ch. 719, § 7, 50 Stat. 728; May 7, 1984, Pub. L. 98-273, § 1, 98 Stat. 165; Dec. 13, 1991, Pub. L. 102-237, title X, § 1011(3), 105 Stat. 1898.)

CODIFICATION

Section was formerly classified to section 555 of this title.

AMENDMENTS

1991—Subsec. (c)(2). Pub. L. 102-237 substituted “, as” for “(as” before “defined”.

1984—Subsec. (c). Pub. L. 98-273 added subsec. (c).

1937—Subsec. (a). Act Aug. 20, 1937, struck out “paragraph (1), (2), (3), or (4) of” after “provisions of”.

CROSS REFERENCES

Failure to maintain trust as required under subsec. (c) of this section as unlawful, see section 499b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499b of this title.

§ 499f. Complaint and investigation

(a) Petition to Secretary of Agriculture; time of making; contents; service; answer

Any person complaining of any violation of any provision of section 499b of this title by any commission merchant, dealer, or broker may, at any time within nine months after the cause of action accrues, apply to the Secretary by petition, which shall briefly state the facts, whereupon, if, in the opinion of the Secretary, the facts therein contained warrant such action, a copy of the complaint thus made shall be forwarded by the Secretary to the commission merchant, dealer, or broker, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be prescribed by the Secretary.

(b) Complaint to Secretary requesting investigation of violations; by whom made

Any officer or agency of any State or Territory having jurisdiction over commission merchants, dealers, or brokers in such State or Territory and any employee of the United States Department of Agriculture or any interested person may file, in accordance with rules and regulations of the Secretary, a complaint of any violation of any provision of this chapter by any commission merchant, dealer, or broker and may request an investigation of such complaint by the Secretary.

(c) Service of complaint; hearing

If there appear to be, in the opinion of the Secretary, any reasonable grounds for investigating any complaint made under this section, the Secretary shall investigate such complaint and may, if in his opinion the facts warrant such action, have said complaint served by registered mail or by certified mail or otherwise on the person concerned and afford such person an opportunity for a hearing thereon before a duly authorized examiner of the Secretary in any place in which the said person is engaged in business:

Provided, That in complaints wherein the amount claimed as damages does not exceed the sum of \$15,000, a hearing need not be held and proof in support of the complaint and in support of respondent's answer may be supplied in the form of depositions or verified statements of fact.

(d) Determination by Secretary of violations

After opportunity for hearing on complaints where the damages claimed exceed the sum of \$15,000 has been provided or waived and on complaints where damages claimed do not exceed the sum of \$15,000 not requiring hearing as provided herein, the Secretary shall determine whether or not the commission merchant, dealer, or broker has violated any provision of section 499b of this title.

(e) Complaints by nonresidents; bond for costs and fees

In case a complaint is made by a nonresident of the United States, or by a resident of the United States to whom the claim of a nonresident of the United States has been assigned, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim conditioned upon the payment of costs, including a reasonable attorney's fee for the respondent if the respondent shall prevail, and any reparation award that may be issued by the Secretary of Agriculture against the complainant on any counter claim by respondent: *Provided*, That the Secretary shall have authority to waive the furnishing of a bond by a complainant who is a resident of a country which permits the filing of a complaint by a resident of the United States without the furnishing of a bond.

(June 10, 1930, ch. 436, § 6, 46 Stat. 534; Apr. 13, 1934, ch. 120, §§ 8–10, 48 Stat. 586, 587; Aug. 20, 1937, ch. 719, §§ 8, 9, 50 Stat. 728; June 11, 1960, Pub. L. 86–507, § 1(4), 74 Stat. 200; Oct. 1, 1962, Pub. L. 87–725, § 8, 76 Stat. 675; Feb. 15, 1972, Pub. L. 92–231, § 1, 86 Stat. 38; Dec. 22, 1981, Pub. L. 97–98, title XI, § 1115(c), 95 Stat. 1270; Oct. 18, 1982, Pub. L. 97–352, § 2, 96 Stat. 1667; Dec. 13, 1991, Pub. L. 102–237, title X, § 1011(4), 105 Stat. 1898.)

CODIFICATION

Section was formerly classified to section 556 of this title.

AMENDMENTS

1991—Subsecs. (c), (d). Pub. L. 102–237 inserted a period at end of subsec. (c) and substituted a period for semicolon at end of subsec. (d).

1982—Subsec. (e). Pub. L. 97–352 inserted “or by a resident of the United States to whom the claim of a nonresident of the United States has been assigned,” after “In case a complaint is made by a nonresident of the United States.”.

1981—Subsecs. (c), (d). Pub. L. 97–98 substituted “\$15,000” for “\$3,000”.

1972—Subsec. (c). Pub. L. 92–231 substituted “\$3,000” for “\$1,500”.

Subsec. (d). Pub. L. 92–231 substituted “\$3,000” for “\$1,500” wherever appearing.

1962—Subsec. (c). Pub. L. 87–725 substituted “\$1,500” for “\$500”.

Subsec. (d). Pub. L. 87–725 substituted “\$1,500” for “\$500” wherever appearing.

1960—Subsec. (c). Pub. L. 86–507 inserted “or by certified mail” after “registered mail”.

1937—Subsec. (b). Act Aug. 20, 1937, § 8, substituted “section 499b of this title” for “this chapter”.

Subsec. (e). Act Aug. 20, 1937, § 9, inserted “and any reparation award that may be issued by the Secretary of Agriculture against the complainant on any counter claim by respondent” and proviso.

1934—Subsec. (c). Act Apr. 13, 1934, § 8, inserted proviso.

Subsec. (d). Act Apr. 13, 1934, § 9, substituted “complaints” for “a complaint” after “on” and inserted “where damages claimed do not exceed the sum of \$500 not requiring hearing as provided herein” after “complaints”.

Subsec. (e). Act Apr. 13, 1934, § 10, among other changes, inserted “formal” before “action”.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 3 of Pub. L. 97–352 provided that: “The amendment made by section 2 [amending this section] shall not apply with respect to complaints made under section 6(e) of the Perishable Agricultural Commodities Act, 1930 [subsec. (e) of this section], before the date of enactment of this Act [Oct. 18, 1982].”

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.

FILING AND HANDLING FEES DURING FISCAL YEARS 1995 AND 1996

Pub. L. 103–276, § 1, July 5, 1994, 108 Stat. 1406, provided that:

“(a) TEMPORARY FILING FEE REQUIRED.—During fiscal years 1995 and 1996, the Secretary of Agriculture shall require persons who submit petitions to the Secretary under section 6(a) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499f(a)), alleging a violation of section 2 of such Act (7 U.S.C. 499b), to include a filing fee of \$60 per petition.

“(b) TEMPORARY HANDLING FEE REQUIRED.—During fiscal years 1995 and 1996, if the Secretary determines under section 6(a) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499f(a)), that the facts contained in a petition described in such section warrant further action, the person or persons submitting the petition shall submit to the Secretary a handling fee of \$300. The Secretary may not forward a copy of the complaint to the commission merchant, dealer, or broker involved until after the Secretary receives the required handling fee. In determining the amount of damages incurred by an injured person or persons preparatory to issuing a reparation order under section 7 of such Act (7 U.S.C. 499g), the Secretary shall include the amount of any handling fee paid by the injured person or persons under this subsection.

“(c) DEPOSIT OF FEES.—The Secretary shall deposit fees submitted under this section into the Perishable Agricultural Commodities Act Fund.”

CROSS REFERENCES

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499g, 499h, 499m of this title.

§ 499g. Reparation order

(a) Determination by Secretary of Agriculture of amount of damages; order for payment

If after a hearing on a complaint made by any person under section 499f of this title, or without hearing as provided in subsections (c) and (d) of section 499f of this title, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to ap-

pear at a hearing after being duly notified, the Secretary determines that the commission merchant, dealer, or broker has violated any provision of section 499b of this title, he shall, unless the offender has already made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled as a result of such violation and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. The Secretary shall order any commission merchant, dealer, or broker who is the losing party to pay the prevailing party, as reparation or additional reparation, reasonable fees and expenses incurred in connection with any such hearing. If, after the respondent has filed his answer to the complaint, it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Secretary under such rules and regulations as he shall prescribe, unless the respondent has already made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Secretary with respect to the undisputed sum.

(b) Failure to comply with order of Secretary; suit to enforce liability; order as evidence; costs and fees

If any commission merchant, dealer, or broker does not pay the reparation award within the time specified in the Secretary's order, the complainant, or any person for whose benefit such order was made, may within three years of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the commission merchant, dealer, or broker, or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages and the order of the Secretary in the premises. The orders, writs, and processes of the district courts may in these cases run, be served, and be returnable anywhere in the United States. Such suit in the district court shall proceed in all respects like other civil suits for damages, except that the findings and orders of the Secretary shall be prima-facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court, nor for costs at any subsequent state of the proceedings, unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit.

(c) Appeal from reparation order; proceedings

Either party adversely affected by the entry of a reparation order by the Secretary may, within thirty days from and after the date of such order, appeal therefrom to the district court of the United States for the district in which said hearing was held: *Provided*, That in cases han-

dled without a hearing in accordance with subsections (c) and (d) of section 499f of this title or in which a hearing has been waived by agreement of the parties, appeal shall be to the district court of the United States for the district in which the party complained against is located. Such appeal shall be perfected by the filing with the clerk of said court a notice of appeal, together with a petition in duplicate which shall recite prior proceedings before the Secretary and shall state the grounds upon which the petitioner relies to defeat the right of the adverse party to recover the damages claimed, with proof of service thereof upon the adverse party. Such appeal shall not be effective unless within thirty days from and after the date of the reparation order the appellant also files with the clerk a bond in double the amount of the reparation awarded against the appellant conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail. Such bond shall be in the form of cash, negotiable securities having a market value at least equivalent to the amount of bond prescribed, or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department of the United States. The clerk of court shall immediately forward a copy thereof to the Secretary of Agriculture, who shall forthwith prepare, certify, and file in said court a true copy of the Secretary's decision, findings of fact, conclusions, and order in said case, together with copies of the pleadings upon which the case was heard and submitted to the Secretary. Such suit in the district court shall be a trial de novo and shall proceed in all respects like other civil suits for damages, except that the findings of fact and order or orders of the Secretary shall be prima-facie evidence of the facts therein stated. Appellee shall not be liable for costs in said court and if appellee prevails he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of his costs. Such petition and pleadings certified by the Secretary upon which decision was made by him shall upon filing in the district court constitute the pleadings upon which said trial de novo shall proceed subject to any amendment allowed in that court.

(d) Suspension of license for failure to obey reparation order or appeal

Unless the licensee against whom a reparation order has been issued shows to the satisfaction of the Secretary within five days from the expiration of the period allowed for compliance with such order that he has either taken an appeal as herein authorized or has made payment in full as required by such order his license shall be suspended automatically at the expiration of such five-day period until he shows to the satisfaction of the Secretary that he has paid the amount therein specified with interest thereon to date of payment: *Provided*, That if on appeal the appellee prevails or if the appeal is dismissed the automatic suspension of license shall become effective at the expiration of thirty days from the date of the judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction the suspension shall become

effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.

(June 10, 1930, ch. 436, §7, 46 Stat. 534; Apr. 13, 1934, ch. 120, §§11–13, 48 Stat. 587, 588; June 19, 1936, ch. 602, §3, 49 Stat. 1534; Aug. 20, 1937, ch. 719, §10, 50 Stat. 728; June 23, 1938, ch. 599, 52 Stat. 953; May 14, 1940, ch. 196, 54 Stat. 214; Oct. 1, 1962, Pub. L. 87-725, §§9, 10, 76 Stat. 675; Feb. 15, 1972, Pub. L. 92-231, §2, 86 Stat. 38; Dec. 13, 1991, Pub. L. 102-237, title X, §1011(5), 105 Stat. 1898.)

CODIFICATION

Section was formerly classified to section 557 of this title.

AMENDMENTS

1991—Subsecs. (a) to (c). Pub. L. 102-237 substituted periods for semicolons at end of subsecs. (a) to (c).

1972—Subsec. (a). Pub. L. 92-231 directed the Secretary to order commission merchants, dealers, or brokers who are the losing party to pay the prevailing party, as reparation or additional reparation, reasonable fees and expenses incurred in connection with hearings.

1962—Subsec. (c). Pub. L. 87-725, §9, limited time for filing the bond to within 30 days from and after the date of the reparation order, and required such bond to be in cash, negotiable securities having a market value of at least equivalent to the amount of bond prescribed or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department.

Subsec. (d). Pub. L. 87-725, §10, lengthened period upon the expiration of which the license is suspended from ten to thirty days, and provided that if the judgment is stayed by a court of competent jurisdiction the suspension becomes effective ten days after the expiration of such stay.

1940—Subsec. (c). Act May 14, 1940, inserted proviso in first sentence.

1938—Subsec. (a). Act June 23, 1938, inserted last two sentences.

1937—Subsec. (a). Act Aug. 20, 1937, among other changes, inserted “or without hearing as provided in section 499f of this title, paragraphs (c) and (d), or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified” after “section 499f”.

Subsec. (b). Act Aug. 20, 1937, among other changes, substituted “pay the reparation award” for “comply with an order for the payment of money”.

Subsec. (c). Act Aug. 20, 1937, inserted “together with a bond in double the amount of the reparation award conditioned upon the payment of the judgment entered by the court plus interest and costs, including a reasonable attorney’s fee for the appellee, if the appellee shall prevail” after “upon adverse party” and struck out proviso in first sentence and “by registered mail” after “adverse party”.

Subsec. (d). Act Aug. 20, 1937, inserted proviso.

1936—Subsec. (c). Act June 19, 1936, inserted proviso in first sentence and “by registered mail” after “adverse party”.

1934—Subsec. (b). Act Apr. 13, 1934, §11, inserted after first sentence “The orders, writs and processes of the district courts may in these cases run, be served, and be returnable anywhere in the United States.”

Subsecs. (c), (d). Act Apr. 13, 1934, §§12, 13, added subsecs. (c) and (d).

FEDERAL RULES OF CIVIL PROCEDURE

Costs, application of Rules of Civil Procedure, see rules 54 and 81, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

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

Exclusive jurisdiction of courts of appeals to set aside orders of Secretary of Agriculture under this chapter except those orders issued under subsection (a) of this section, see section 2342 of Title 28, Judiciary and Judicial Procedure.

Review of orders by courts of appeals, see section 2341 et seq. of Title 28.

Venue of proceedings to set aside orders of Secretary of Agriculture under this chapter except subsec. (a) of this section, see section 2343 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499d, 499h, 499m of this title; title 28 section 2342.

§ 499h. Grounds for suspension or revocation of license

(a) Authority of Secretary

Whenever (1) the Secretary determines, as provided in section 499f of this title, that any commission merchant, dealer, or broker has violated any of the provisions of section 499b of this title, or (2) any commission merchant, dealer, or broker has been found guilty in a Federal court of having violated section 499n(b) of this title, the Secretary may publish the facts and circumstances of such violation and/or, by order, suspend the license of such offender for a period not to exceed ninety days, except that, if the violation is flagrant or repeated, the Secretary may, by order, revoke the license of the offender.

(b) Unlawful employment of certain persons; restrictions; bond assuring compliance; approval of employment without bond; change in amount of bond; payment of increased amount; penalties

Except with the approval of the Secretary, no licensee shall employ any person, or any person who is or has been responsibly connected with any person—

(1) whose license has been revoked or is currently suspended by order of the Secretary;

(2) who has been found after notice and opportunity for hearing to have committed any flagrant or repeated violation of section 499b of this title, but this provision shall not apply to any case in which the license of the person found to have committed such violation was suspended and the suspension period has expired or is not in effect; or

(3) against whom there is an unpaid reparation award issued within two years, subject to his right of appeal under section 499g(c) of this title.

The Secretary may approve such employment at any time following nonpayment of a reparation award, or after one year following the revocation or finding of flagrant or repeated violation of section 499b of this title, if the licensee furnishes and maintains a surety bond in form and amount satisfactory to the Secretary as assurance that such licensee’s business will be conducted in accordance with this chapter and that the licensee will pay all reparation awards, subject to its right of appeal under section 499g(c) of this title, which may be issued against it in connection with transactions occurring within

four years following the approval. The Secretary may approve employment without a surety bond after the expiration of two years from the effective date of the applicable disciplinary order. The Secretary, based on changes in the nature and volume of business conducted by the licensee, may require an increase or authorize a reduction in the amount of the bond. A licensee who is notified by the Secretary to provide a bond in an increased amount shall do so within a reasonable time to be specified by the Secretary, and if the licensee fails to do so the approval of employment shall automatically terminate. The Secretary may, after thirty days notice and an opportunity for a hearing, suspend or revoke the license of any licensee who, after the date given in such notice, continues to employ any person in violation of this section.

(c) Fraud in procurement

If, after a license shall have been issued to an applicant, the Secretary believes that the license was obtained through a false or misleading statement in the application therefor or through a misrepresentation, concealment, or withholding of facts respecting any violation of this chapter by any officer, agent, or employee, he may, after thirty days' notice and an opportunity for a hearing, revoke said license, whereupon no license shall be issued to said applicant or any applicant in which the person responsible for such false or misleading statement or misrepresentation, concealment, or withholding of facts is financially interested, except under the conditions set forth in section 499d(b) of this title.

(d) Injunction

In addition to being subject to the penalties provided by section 499c(a) of this title, any commission merchant, dealer, or broker who engages in or operates such business without a valid and effective license from the Secretary shall be liable to be proceeded against in any court of competent jurisdiction in a suit by the United States for an injunction to restrain such defendant from further continuing so to engage in or operate such business, and, if the court shall find that the defendant is continuing to engage in such business without a valid and effective license, the court shall issue an injunction to restrain such defendant from continuing to engage in or to operate such business without such license.

(June 10, 1930, ch. 436, § 8, 46 Stat. 535; Apr. 13, 1934, ch. 120, § 14, 48 Stat. 588; Aug. 20, 1937, ch. 719, § 11, 50 Stat. 730; July 30, 1956, ch. 786, § 5, 70 Stat. 727; Oct. 1, 1962, Pub. L. 87-725, § 11, 76 Stat. 675; Dec. 13, 1991, Pub. L. 102-237, title X, § 1011(6), 105 Stat. 1898.)

CODIFICATION

Section was formerly classified to section 558 of this title.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237 redesignated cls. (a) and (b) as (1) and (2), respectively, and substituted a period for semicolon at end.

1962—Subsec. (b). Pub. L. 87-725 amended subsec. (b) generally, and among other changes, provided that any licensee hiring any person without the Secretary's ap-

proval in violation of this section, after notice and opportunity for hearing, may have his license suspended or revoked, that the restrictions shall apply to persons found, after notice and opportunity for hearing, to have committed any flagrant or repeated violation of section 499b of this title, but not where such violator's license was suspended and the suspension has expired or is not in effect, and shall also apply to persons against whom there is a unpaid reparation award issued within two years, subject to appeal under section 499g(c) of this title, permitted the Secretary to approve employment at any time following nonpayment of a reparation award, or after one year following the revocation or finding of flagrant and repeated violation of section 499b of this title, if the licensee furnishes a bond as assurance that his business will be conducted in accordance with this chapter and he will pay all reparation awards issued within four years following approval, subject to appeal under section 499g(c) of this title, or without bond after two years from the effective date of the disciplinary order, authorized the Secretary to increase or decrease the amount of bond, and required licensees notified of an increased bond to provide such in a reasonable time or the approval of employment will terminate.

1956—Subsec. (b). Act July 30, 1956, provided for suspension of licenses, and restricted authority to permit employment to those cases where licenses have been revoked or suspended for failure to pay a reparation award.

1937—Subsec. (a). Act Aug. 20, 1937, among other changes, inserted cl. (a) designation and inserted "or (b) any commission merchant, dealer, or broker has been found guilty in a Federal court of having violated section 499n(b) of this title" after "section 499b of this title".

Subsec. (b). Act Aug. 20, 1937, amended subsec. (b) generally.

Subsecs. (c), (d). Act Aug. 20, 1937, added subsecs. (c) and (d).

1934—Subsec. (b). Act Apr. 13, 1934, added subsec. (b).

CROSS REFERENCES

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499d of this title.

§ 499i. Accounts, records, and memoranda; duty of licensees to keep; contents; suspension of license for violation of duty

Every commission merchant, dealer, and broker shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. If such accounts, records, and memoranda are not so kept, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days.

(June 10, 1930, ch. 436, § 9, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 559 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499m of this title.

§ 499j. Orders; effective date; continuance in force; suspension, modification and setting aside; penalty

Any order of the Secretary under this chapter other than an order for the payment of money

shall take effect within such reasonable time, not less than ten days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, accordingly as it is prescribed in the order, unless such order is suspended, modified, or set aside by the Secretary or is suspended, modified, or set aside by a court of competent jurisdiction. Any such order of the Secretary, if regularly made, shall be final, unless before the date prescribed for its taking effect application is made to a court of competent jurisdiction by the commission merchant, dealer, or broker against whom such order is directed to have such order set aside or its enforcement, operation, or execution suspended or restrained.

(June 10, 1930, ch. 436, § 10, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 560 of this title.

CROSS REFERENCES

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

Review of orders by courts of appeals, see section 2341 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 499k. Injunctions; application of injunction laws governing orders of Interstate Commerce Commission

For the purposes of this chapter the provisions of all laws relating to the suspending or restraining of the enforcement, operation, or execution, or the setting-aside, in whole or in part, of the orders of the Interstate Commerce Commission are made applicable to orders of the Secretary under this chapter and to any person subject to the provisions of this chapter.

(June 10, 1930, ch. 436, § 11, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 561 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Process and stay of proceedings to enforce judgment, see rules 4 and 62, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under section 499g(a) of this title, see section 2342 of Title 28, Judiciary and Judicial Procedure.

Injunction by courts of appeals restraining orders, see section 2349 of Title 28.

Interstate Commerce Commission orders—

Enforcement and review, see sections 2321 to 2323, 2341 et seq. of Title 28.

Jurisdiction, district courts, see section 1336 of Title 28.

Venue, district courts, see section 1398 of Title 28.

§ 499l. Violations; report to Attorney General; proceedings; costs

The Secretary may report any violation of this chapter for which a civil penalty is provided to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts

of the United States without delay. The costs and expenses of such proceedings shall be paid out of the appropriation for the expenses of the courts of the United States.

(June 10, 1930, ch. 436, § 12, 46 Stat. 536.)

CODIFICATION

Section was formerly classified to section 562 of this title.

CROSS REFERENCES

Exclusive jurisdiction of district courts of actions to recover penalties, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Venue of action for penalty, see section 1395 of Title 28.

§ 499m. Complaints; procedure, penalties, etc.

(a) Investigation by Secretary of Agriculture; inspection of accounts, records, and memoranda; penalty for refusing inspection

The Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material (1) in the investigation of complaints under this chapter, or (2) to the determination of ownership, control, packer, or State, country, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 499i of this title is being complied with, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given. The Secretary or his duly authorized agents shall have the right to inspect any lot of any perishable agricultural commodity covered by this chapter, and if any commission merchant, dealer, or broker having ownership of or control over such lot fails or refuses to authorize or allow such inspection, the Secretary may, after thirty days' notice and an opportunity for a hearing, publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days.

(b) Inspection of records; surety bond; suspension of license

The Secretary or the Secretary's duly authorized agents, in order to insure that the prompt payment provision of section 499b(4) of this title is being complied with, shall from time to time inspect the accounts, records, and memoranda of any commission merchant, dealer, or broker determined in a formal disciplinary proceeding under section 499f(b) of this title to have violated such provision. The Secretary may also require that any such commission merchant, dealer, or broker furnish, maintain, and from time to time adjust a surety bond in form and amount satisfactory to the Secretary as assurance that such commission merchant's, dealer's, or broker's business will be conducted in accordance with this chapter and that such commission merchant, dealer, or broker will pay all reparation awards, subject to its right of appeal under section 499g(c) of this title: *Provided*, That if such surety bond is furnished, maintained, and

adjusted as required by the Secretary, the Secretary shall not thereafter inspect the accounts, records, and memoranda of such commission merchant, dealer, or broker under this subsection more than once a year. If any such commission merchant, dealer, or broker refuses to permit such inspection or fails or refuses to furnish, maintain, or adjust such surety bond, the Secretary may publish the facts and circumstances and, by order, suspend the license of the offender until permission to make such inspection is given or such surety bond is furnished, maintained, or adjusted.

(c) Hearings; subpoenas; oaths; witnesses; evidence

The Secretary, or any officer or employee designated by him for such purpose, may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, receive evidence, and require by subpoena the attendance and testimony of witnesses and the production of such accounts, records, and memoranda as may be material for the determination of any complaint under this chapter.

(d) Disobedience to subpoenas; remedy; contempt

In case of disobedience to a subpoena, the Secretary or any of his examiners may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of accounts, records, and memoranda. Any district court of the United States within the jurisdiction of which any hearing is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring the person to appear before the Secretary or his examiner or to produce accounts, records, and memoranda if so ordered, or to give evidence touching any matter pertinent to any complaint; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

(e) Depositions; production of accounts, records and memoranda

The Secretary may order testimony to be taken by deposition in any proceeding or investigation or incident to any complaint pending under this chapter at any stage thereof. Such depositions may be taken before any person designated by the Secretary and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce accounts, records, and memoranda in the same manner as witnesses may be compelled to appear and testify and produce accounts, records, and memoranda before the Secretary or any of his examiners.

(f) Fees and mileage of witnesses

Witnesses summoned before the Secretary or any officer or employee designated by him shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like service in the courts of the United States.

(June 10, 1930, ch. 436, §13, 46 Stat. 536; July 30, 1956, ch. 786, §6, 70 Stat. 727; Oct. 15, 1970, Pub. L. 91-452, title II, §205, 84 Stat. 928; Nov. 1, 1978, Pub. L. 95-562, §3, 92 Stat. 2381.)

CODIFICATION

Section was formerly classified to section 563 of this title.

AMENDMENTS

1978—Subsecs. (b) to (f). Pub. L. 95-562 added subsec. (b) and redesignated former subsecs. (b) to (e) as (c) to (f), respectively.

1970—Subsec. (f). Pub. L. 91-452 struck out subsec. (f) which related to immunity from prosecution of any natural person compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

1956—Subsec. (a). Act July 30, 1956, permitted inspection of accounts, records and memoranda to determine ownership, control, packer, or State, country, or region of origin in connection with commodity inspection, and to ascertain whether section 499i of this title is being complied with, and to permit inspection of lots of perishable agricultural commodities.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoenas, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal contempt, see rule 42, Title 18, Appendix, Crimes and Criminal Procedure.

CROSS REFERENCES

Fees of witnesses, see section 1821 of Title 28, Judiciary and Judicial Procedure.

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2023 of this title.

§ 499n. Inspection of perishable agricultural commodities

(a) Employment of inspectors; fees and expenses; inspection certificate as evidence

The Secretary is authorized, independently and in cooperation with other branches of the Government, State, or municipal agencies and/or any person, whether operating in one or more jurisdictions, to employ and/or license inspectors to inspect and certify, without regard to the filing of a complaint under this chapter, to any interested person the class, quality, and/or condition of any lot of any perishable agricultural commodity when offered for interstate or foreign shipment or when received at places where the Secretary shall find it practicable to provide such service, under such rules and regulations as he may prescribe, including the payment of such fees and expenses as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That fees for

inspections made by a licensed inspector, less the percentage thereof which he is allowed by the terms of his contract of employment with the Secretary as compensation for his services, shall be deposited into the Treasury of the United States as miscellaneous receipts; and fees for inspections made by an inspector acting under a cooperative agreement with a State, municipality, or other person shall be disposed of in accordance with the terms of such agreement: *Provided further*, That expenses for travel and subsistence incurred by inspectors shall be paid by the applicant for inspection to the United States Department of Agriculture to be credited to the appropriation for carrying out the purposes of this chapter: *And provided further*, That official inspection certificates for fresh fruits and vegetables issued by the Secretary of Agriculture pursuant to any law shall be received by all officers and all courts of the United States, in all proceedings under this chapter, and in all transactions upon contract markets under Commodities Exchange Act (7 U.S.C. 1 et seq.), as prima-facie evidence of the truth of the statements therein contained.

(b) Issuance of fraudulent certificates; penalties

Whoever shall falsely make, issue, alter, forge, or counterfeit, or cause or procure to be falsely made, issued, altered, forged, or counterfeited, or willingly aid, cause, procure or assist in, or be a party to the false making, issuing, altering, forging, or counterfeiting of any certificate of inspection issued under authority of this chapter, sections 491, 493 to 497 of this title, or any Act making appropriations for the Department of Agriculture; or shall utter or publish as true or cause to be uttered or published as true any such false, forged, altered, or counterfeited certificate, for a fraudulent purpose, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500 or by imprisonment for a period of not more than one year, or both, at the discretion of the court.

(June 10, 1930, ch. 436, §14, 46 Stat. 537; Apr. 13, 1934, ch. 120, §15, 48 Stat. 588; Aug. 20, 1937, ch. 719, §12, 50 Stat. 730; Dec. 13, 1991, Pub. L. 102-237, title X, §1011(7), 105 Stat. 1898.)

REFERENCES IN TEXT

The Commodities Exchange Act, referred to in subsec. (a), probably means act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, known as the Commodity Exchange Act, which is classified generally to chapter 1 (§1 et seq.) of this title. For complete classification of this Act to the Code, see section 1 of this title and Tables.

CODIFICATION

Section was formerly classified to section 564 of this title.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237 substituted “(7 U.S.C. 1 et seq.)” for “(7 U.S.C., Supp. 2, secs. 1 to 17(a))” and a period for semicolon at end.

1937—Act Aug. 20, 1937, designated existing provisions as subsec. (a) and, among other changes inserted “That official inspection certificates for fresh fruits and vegetables issued by the Secretary of Agriculture pursuant to any law shall be received by all officers and all courts of the United States, in all proceedings under this chapter, and in all transactions upon contract

markets under Commodities Exchange Act” before “as prima facie” in third proviso, and added subsec. (b).

1934—Act Apr. 13, 1934, inserted “and in all proceedings under this chapter” after “United States” in third proviso.

POTATO INSPECTION

Pub. L. 99-198, title XVII, §1704, Dec. 23, 1985, 99 Stat. 1635, provided that: “The Secretary of Agriculture shall perform random spot checks of potatoes entering through ports of entry in the northeastern United States. The Secretary of Agriculture shall report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives the results of such spot checks.”

FEDERAL RULES OF CIVIL PROCEDURE

Subpoenas, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Fees of witnesses, see section 1821 of Title 28, Judiciary and Judicial Procedure.

Investigation and certification of condition of agricultural products shipped in interstate commerce, see section 1622 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499h of this title; title 42 section 418.

§ 499o. Rules, regulations, and orders; appointment, removal, and compensation of officers and employees; expenditures; authorization of appropriations; abrogation of inconsistent statutes

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, lawbooks, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, from the Perishable Agricultural Commodities Act fund provided for by section 499c(b) of this title and any supplements to such fund, and as may be appropriated for by Congress; and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purposes. This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects of this chapter; but it is intended that all such statutes shall remain in full force and effect except insofar only as they are inconsistent herewith or repugnant hereto.

(June 10, 1930, ch. 436, §15, 46 Stat. 537; June 15, 1950, ch. 254, §3, 64 Stat. 218.)

CODIFICATION

Section was formerly classified to section 565 of this title.

AMENDMENTS

1950—Act June 15, 1950, provided for payment of administrative costs out of fund and any supplements thereto as well as by Congressional appropriations.

CROSS REFERENCES

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

§ 499p. Liability of licensees for acts and omissions of agents

In construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any commission merchant, dealer, or broker, within the scope of his employment or office, shall in every case be deemed the act, omission, or failure of such commission merchant, dealer, or broker as that of such agent, officer, or other person.

(June 10, 1930, ch. 436, §16, 46 Stat. 538.)

CODIFICATION

Section was formerly classified to section 566 of this title.

§ 499q. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(June 10, 1930, ch. 436, §17, 46 Stat. 538.)

CODIFICATION

Section was formerly classified to section 567 of this title.

§ 499r. Repealed. Pub. L. 102-237, title X, § 1011(8), Dec. 13, 1991, 105 Stat. 1898

Section, act June 10, 1930, ch. 436, §18, 46 Stat. 538, provided for short title of chapter. See section 499a(a) of this title.

§ 499s. Depositing appropriations in fund

Any unexpended balances of appropriations for the current fiscal year, and any subsequent appropriations, made to carry out the Acts referred to in section 499c(b) of this title, may be deposited in the Perishable Agricultural Commodities Act fund.

(June 10, 1930, ch. 436, §19, as added June 15, 1950, ch. 254, §4, 64 Stat. 218.)

REFERENCES IN TEXT

The Acts referred to in section 499c(b) of this title, referred to in text, are the Perishable Agricultural Commodities Act, 1930, and the Act to prevent the destruction or dumping of farm produce, act Mar. 3, 1927, ch. 309, 44 Stat. 1355, which are classified, respectively, to this chapter (§ 499a et seq.) and chapter 20 (§ 491 et seq.) of this title.

§ 499t. Omitted

CODIFICATION

Section, act June 10, 1930, ch. 436, §20, as added Aug. 22, 1988, Pub. L. 100-414, §2, 102 Stat. 1102, established Perishable Agricultural Commodities Act Industry Advisory Committee, provided for its membership, com-

pensation, etc., directed advisory committee to review Perishable Agricultural Commodities Act program and to make findings and recommendations to Congress and Secretary of Agriculture with respect to future operations of program, with an interim report not later than Sept. 30, 1989, and a final report not later than May 1, 1990, containing results of its review and recommendations, and provided that advisory committee cease to exist on date of its final report.

CHAPTER 21—TOBACCO STATISTICS

Sec.

- 501. Collection and publication; facts required; deteriorated tobacco.
- 502. Standards for classification; returns and blanks.
- 503. Reports; necessity; by whom made; penalties.
- 504. "Person" defined.
- 505. Access to internal-revenue records.
- 506. Returns under oath; administration.
- 507. Limitation on use of statistical information.
- 508. Separability.
- 509. Reporting requirements relating to tobacco.
 - (a) In general.
 - (b) Special rule.
 - (c) Exceptions.
 - (d) Scope.
 - (e) Reports.
 - (f) Penalty.
 - (g) Confidentiality of information.

§ 501. Collection and publication; facts required; deteriorated tobacco

The Secretary of Agriculture is authorized and directed to collect and publish statistics of the quantity of leaf tobacco in all forms in the United States and Puerto Rico, owned by or in the possession of dealers, manufacturers, quasi-manufacturers, growers' cooperative associations, warehousemen, brokers, holders, or owners, other than the original growers of tobacco. The statistics shall show the quantity of tobacco in such detail as to types, groups of grades, and such other subdivisions as to quality, color, and/or grade for particular types, as the Secretary of Agriculture shall deem to be practical and necessary for the purposes of this chapter, shall be summarized as of January 1, April 1, July 1, and October 1 of each year, and an annual report on tobacco statistics shall be issued: *Provided*, That the Secretary of Agriculture shall not be required to collect statistics of leaf tobacco from any manufacturer of tobacco who, in the first three quarters of the preceding calendar year, according to the returns of the Commissioner of Internal Revenue or the record of the Treasurer of Puerto Rico, manufactured less than thirty-five thousand pounds of tobacco, or from any manufacturer of cigars who, during the first three quarters of the preceding calendar year, manufactured less than one hundred and eighty-five thousand cigars, or from any manufacturer of cigarettes who, during the first three quarters of the preceding year, manufactured less than seven hundred and fifty thousand cigarettes: *And provided further*, That the Secretary of Agriculture may omit the collection of statistics from any dealer, manufacturer, growers' cooperative association, warehouseman, broker, holder, or owner who does not own and/or have in stock, in the aggregate, fifty thousand pounds or more of leaf tobacco on the date as of which the reports are made. For

the purposes of this chapter, any tobacco which has deteriorated on account of age or other causes to the extent that it is not merchantable or is unsuitable for use in manufacturing tobacco products shall be classified with other nondescript tobacco and reported in the "N" group of the type to which it belongs.

(Jan. 14, 1929, ch. 69, §1, 45 Stat. 1079; July 14, 1932, ch. 480, §1, 47 Stat. 662; Aug. 27, 1935, ch. 749, §1, 49 Stat. 893.)

AMENDMENTS

1935—Act Aug. 27, 1935, inserted "and Puerto Rico" after "United States", substituted "seven hundred and fifty thousand cigarettes" for "one million cigarettes" before second proviso and inserted second proviso.

1932—Act July 14, 1932, substituted "thirty-five" for "fifty" and "one hundred and eighty-five thousand cigars" and "one million" for "seven hundred and fifty thousand cigarettes".

CHANGE OF NAME

"Porto Rico" changed to "Puerto Rico" by act May 17, 1932, ch. 190, 47 Stat. 158.

SEPARABILITY

Section 4 of act Aug. 27, 1935, which amended this section and sections 502 and 505 of this title, provided as follows: "If any provision of this act, or the application of such provision to any person or circumstances, is held invalid, the remainder of the act and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 2276 of this title.

§ 502. Standards for classification; returns and blanks

The Secretary of Agriculture shall establish standards for the classification of leaf tobacco, and he is authorized to demonstrate such standards, to prepare and distribute samples thereof, and to make reasonable charges therefor. He shall specify the types, groups of grades, qualities, colors, and/or grades, which shall be included in the returns required by this chapter. The Secretary of Agriculture shall prepare appropriate blanks upon which the returns shall be made, shall, upon request, furnish copies to persons who are required by this chapter to make returns, and such returns shall show the types, groups of grades, qualities, colors, and/or grades and such other information as the Secretary may require.

(Jan. 14, 1929, ch. 69, §2, 45 Stat. 1079; Aug. 27, 1935, ch. 749, §2, 49 Stat. 894.)

AMENDMENTS

1935—Act Aug. 27, 1935, inserted "and such returns shall show the types, groups of grades, qualities, colors, and/or grades and such other information as the Secretary may require" in last sentence.

§ 503. Reports; necessity; by whom made; penalties

It shall be the duty of every dealer, manufacturer, quasi-manufacturer, growers' cooperative association, warehouseman, broker, holder, or owner, other than the original grower, except

such persons as are excluded by the proviso to section 501 of this title, to furnish within fifteen days after January 1, April 1, July 1, and October 1 of each year, completely and correctly, to the best of his knowledge, a report of the quantity of leaf tobacco on hand, segregated in accordance with the blanks furnished by the Secretary of Agriculture. Any person, firm, association, or corporation required by this chapter to furnish a report, and any officer, agent, or employee thereof who shall refuse or willfully neglect to furnish any of the information required by this chapter, or shall willfully give answers that are false or misleading, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$300 or more than \$1,000, or imprisoned not more than one year, or both.

(Jan. 14, 1929, ch. 69, §3, 45 Stat. 1080; July 14, 1932, ch. 480, §2, 47 Stat. 663.)

AMENDMENTS

1932—Act July 14, 1932, made quasi-manufacturers subject to section.

§ 504. "Person" defined

The word "person" as used in this chapter shall be held to embrace also any partnership, corporation, association, or other legal entity.

(Jan. 14, 1929, ch. 69, §4, 45 Stat. 1080.)

§ 505. Access to internal-revenue records

The Secretary of Agriculture shall have access to the tobacco records of the Commissioner of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining lists of the persons subject to this chapter and for the purpose of aiding the collection of the information herein required, and the Commissioner of Internal Revenue and the several collectors of internal revenue shall cooperate with the Secretary of Agriculture in effectuating the provisions of this chapter.

(Jan. 14, 1929, ch. 69, §5, 45 Stat. 1080; Aug. 27, 1935, ch. 749, §3, 49 Stat. 894.)

AMENDMENTS

1935—Act Aug. 27, 1935, reenacted section without change.

ABOLITION OF OFFICES AND TRANSFER OF FUNCTIONS

Offices of Internal Revenue Collector and Deputy Collector abolished by 1952 Reorg. Plan No. 1, §1, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, set out in the Appendix to Title 5, Government Organization and Employees, and by section 2 thereof a new office of district commissioner of internal revenue was established. Section 4 of the Plan transferred all functions, that had been vested by statute in any officer or employee of Bureau of Internal Revenue since effective date of 1950 Reorg. Plan No. 26, §§1, 2, 15 F.R. 4935, 64 Stat. 1280, 1281, to Secretary of the Treasury.

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in text, is an officer of Department of the Treasury.

§ 506. Returns under oath; administration

The returns provided for in this chapter shall be made under oath before a collector or deputy collector of internal revenue, a postmaster, assistant postmaster, or anyone authorized to administer oaths by State or Federal law.

(Jan. 14, 1929, ch. 69, § 6, 45 Stat. 1080.)

ABOLITION OF OFFICES AND TRANSFER OF FUNCTIONS

See note under section 505 of this title.

CROSS REFERENCES

Authorization to administer oaths, see section 7622 of Title 26, Internal Revenue Code.

Notary public authorized to take oath, see section 2903 of Title 5, Government Organization and Employees, and section 636 of Title 28, Judiciary and Judicial Procedure.

§ 507. Limitation on use of statistical information

The information furnished under the provisions of this chapter shall be used only for the statistical purposes for which it is supplied. No publication shall be made by the Secretary of Agriculture whereby the data furnished by any particular establishment can be identified, nor shall the Secretary of Agriculture permit anyone other than the sworn employees of the Department of Agriculture to examine the individual reports.

(Jan. 14, 1929, ch. 69, § 7, 45 Stat. 1080.)

§ 508. Separability

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of said sections and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

(Jan. 14, 1929, ch. 69, § 9, 45 Stat. 1080.)

§ 509. Reporting requirements relating to tobacco

(a) In general

Not later than 60 days after the export of tobacco or a tobacco product not described in subsection (b) of this section, the exporter of such tobacco or tobacco product shall prepare a report containing the records relating to such export and submit such report to the Secretary of Agriculture.

(b) Special rule

Manufacturers of tobacco products shall prepare and maintain records on all finished cigarettes and cigarette ready tobacco. Information contained in such records shall be aggregated on a quarterly basis, certified as accurate by the entity preparing such aggregation, and submitted to the Secretary of Agriculture as provided for in this section. Tobacco manufacturers shall maintain records utilized to prepare the aggregation for a period of 5 years.

(c) Exceptions

The reporting and recordkeeping requirements of this section shall not apply with respect to cigars, cigar tobaccos, pipe tobacco, chewing tobacco in retail packaging, and snuff in retail

packaging. In order to qualify for the exception under this subsection, the tobacco must have a certification that its end use is for cigars, cigar tobacco, pipe tobacco, chewing tobacco in retail packaging, or snuff in retail packaging.

(d) Scope

Records maintained under this section shall include the crop year, grade, type, country of origin, poundage, and such other information relating to the tobacco products as the Secretary determines appropriate.

(e) Reports

Records, reports, and aggregations submitted to the Secretary of Agriculture under this section shall be provided by the Secretary to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, in a timely manner.

(f) Penalty

Any exporter who violates the provisions of this section with respect to the provision of false information or the failure to provide required information shall be subject to section 1001 of title 18 for each such violation.

(g) Confidentiality of information

The personally identifiable information contained in reports under this section may be withheld in accordance with section 552(b)(4) of title 5. Any officer or employee of the Department of Agriculture who knowingly discloses confidential information as defined by section 1905 of title 18 shall be subject to section 1905 of title 18. Nothing in this subsection shall be construed to authorize the withholding of information from Congress.

(Pub. L. 98-180, title II, § 214, as added Pub. L. 101-624, title XV, § 1557, Nov. 28, 1990, 104 Stat. 3699; amended Pub. L. 102-237, title III, § 337, Dec. 13, 1991, 105 Stat. 1859.)

CODIFICATION

Section was enacted as part of the Tobacco Adjustment Act of 1983, and not as part of act Jan. 14, 1929, ch. 69, which comprises this chapter.

AMENDMENTS

1991—Subsecs. (c) to (g). Pub. L. 102-237 added subsec. (c) and redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

CHAPTER 21A—TOBACCO INSPECTION

Sec.	
511.	Definitions.
511a.	Declaration of purpose.
511b.	Official standards for classification; tentative standards; modification.
511c.	Demonstration of official standards; samples; cost.
511d.	Designation of markets; manner; inspection and related services; fees and charges.
511e.	Sampling and weighing; cost; disposition of moneys received; expenses; purpose.
511f.	Reinspection and appeal inspection; certificate as evidence.
511g.	Placing of grade on warehouse tickets, etc.; form.
511h.	Publication of information relating to tobacco.
511i.	Offenses.

- Sec.
 511j. Publication of violations.
 511k. Penalty for violations.
 511l. Act of agent as that of principal.
 511m. Regulation; hearings; employees; expenditures; authorization of appropriations.
 511n. Hearings; examination of witnesses; refusal to testify or produce evidence.
 511o. Separability.
 511p. Delegation of duties by Secretary of Agriculture.
 511q. Short title.
 511r. Imported tobacco.
 (a) Inspection for grade and quality; exception.
 (b) Establishment of grade and quality standards.
 (c) Certification necessary for excepted tobacco; false statements.
 (d) Place of inspection; fees and charges.
 (e) Tobacco pesticide residues; certification, etc., requirements.
 (f) End users of imported tobacco; certification, identification, etc., requirements.

§ 511. Definitions

When used in this chapter—

- (a) “Person” includes partnerships, associations, and corporations, as well as individuals.
 (b) “Secretary” means the Secretary of Agriculture of the United States.
 (c) “Inspector” means any person employed, licensed, or authorized by the Secretary to determine and certify the type, grade condition, or other characteristics of tobacco.
 (d) “Sampler” means any person employed, licensed, or authorized by the Secretary to select, tag, and seal official samples of tobacco.
 (e) “Weigher” means any person employed, licensed, or authorized by the Secretary to weight and certify the weight of tobacco.
 (f) “Tobacco” means tobacco in its unmanufactured form.
 (g) “Auction market” means a market or place to which tobacco is delivered by the producers thereof, or their agents, for sale at auction through a warehouseman or commission merchant.
 (h) Words in the singular form shall be deemed to import the plural form when necessary.
 (i) “Commerce” means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia. For the purposes of this chapter (but not in any wise limiting the foregoing definition) a transaction in respect to tobacco shall be considered to be in commerce if such tobacco is part of that current of commerce usual in the tobacco industry whereby tobacco or products manufactured therefrom are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State or for manufacture within the State and the shipment outside the State of the products resulting from such manufacture. Tobacco normally in such current of commerce shall not be considered out

of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter. For the purpose of this paragraph the word “State” includes Territory, the District of Columbia, possession of the United States, and foreign nations.

(Aug. 23, 1935, ch. 623, §1, 49 Stat. 731.)

§ 511a. Declaration of purpose

Transactions in tobacco involving the sale thereof at auction as commonly conducted at auction markets are affected with a public interest; such transactions are carried on by tobacco producers generally and by persons engaged in the business of buying and selling tobacco in commerce; the classification of tobacco according to type, grade, and other characteristics affect the prices received therefor by producers; without uniform standards of classification and inspection the evaluation of tobacco is susceptible to speculation, manipulation, and control, and unreasonable fluctuations in prices and quality determinations occur which are detrimental to producers and persons handling tobacco in commerce; such fluctuations constitute a burden upon commerce and make the use of uniform standards of classification and inspection imperative for the protection of producers and others engaged in commerce and the public interest therein.

(Aug. 23, 1935, ch. 623, §2, 49 Stat. 731.)

§ 511b. Official standards for classification; tentative standards; modification

The Secretary is authorized to investigate the sorting, handling, conditioning, inspection, and marketing of tobacco from time to time, and to establish standards for tobacco by which its type, grade, size, condition, or other characteristics may be determined, which standards shall be the official standards of the United States, and shall become effective immediately or upon a date specified by the Secretary: *Provided*, That the Secretary may issue tentative standards for tobacco prior to the establishment of official standards therefor, and he may modify any standards established under authority of this chapter whenever, in his judgment, such action is advisable.

(Aug. 23, 1935, ch. 623, §3, 49 Stat. 732.)

CROSS REFERENCES

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

§ 511c. Demonstration of official standards; samples; cost

The Secretary is authorized to demonstrate the official standards; to prepare and distribute, upon request, samples, illustrations, or sets thereof; and to make reasonable charges therefor: *Provided*, That in no event shall charges be in excess of the cost of said samples, illustrations, and services so rendered.

(Aug. 23, 1935, ch. 623, §4, 49 Stat. 732.)

§ 511d. Designation of markets; manner; inspection and related services; fees and charges

The Secretary is authorized to designate those auction markets where tobacco bought and sold thereon at auction, or the products customarily manufactured therefrom, moves in commerce. Before any market is designated by the Secretary under this section he shall determine by referendum the desire of tobacco growers who sold tobacco at auction on such market during the preceding marketing season. The Secretary may at his discretion hold one referendum for two or more markets or for all markets in a type area. No market or group of markets shall be designated by the Secretary unless two-thirds of the growers voting favor it. The Secretary shall have access to the tobacco records of the Collector of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining the names and addresses of growers who sold tobacco on any auction market, and the Secretary shall determine from said records the eligibility of such grower to vote in such referendum, and no grower shall be eligible to vote in more than one referendum. After public notice of not less than thirty days that any auction market has been so designated by the Secretary, no tobacco shall be offered for sale at auction on such market until it shall have been inspected and certified by an authorized representative of the Secretary according to the standards established under this chapter, except that the Secretary may temporarily suspend the requirement of inspection and certification at any designated market whenever he finds it impracticable to provide for such inspection and certification because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service: *Provided*, That, in the event competent inspectors are not available, or for other reasons, the Secretary is unable to provide for such inspection and certification at all auction markets within a type area, he shall first designate those auction markets where the greatest number of growers may be served with the facilities available to him. The Secretary shall by regulation fix and collect fees and charges for inspection and certification, the establishment of standards, and other services under this section at designated auction markets. The fees and charges authorized by this section shall, as nearly as practicable, cover the costs of the services, including the administrative and supervisory costs customarily included by the Secretary in user fee calculations. The fees and charges, late payment penalties, and interest earned from the investment of such funds, when collected, shall be credited to the current appropriation account that incurs the cost and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to providing services under this chapter. Any funds realized from the collection of fees or charges authorized under this section and section 511e of this title and credited to the current appropriation account incurring the cost of services provided under this section and section 511e of this title, late payment penalties, and interest earned from the investment of such funds

may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any income realized from this activity may be used to pay the expenses of the Secretary of Agriculture incident to providing services under this chapter or reinvested in the manner authorized in the preceding sentence. The fees and charges authorized in this section shall be assessed against the warehouse operator, irrespective of ownership or interest in the tobacco, and shall be collected by the warehouse operator from the sellers of the tobacco. The inspection and related services under this section shall be suspended or denied if the warehouse operator fails to collect or otherwise pay the fees and charges imposed under this section. Tobacco inspection or certification services provided to designated auction markets shall take precedence over such services, other than reinspection, requested under the authority contained in section 511e of this title or any other provision of law. In accordance with the Federal Advisory Committee Act, the Secretary shall establish a national advisory committee of tobacco producers, and advisory subcommittees for each major kind of tobacco, to advise the Secretary with regard to the level of inspection and related services and the fees and charges therefor. The advisory committee and subcommittees established under this section shall be of permanent duration. The committees shall meet at the call of the Secretary.

(Aug. 23, 1935, ch. 623, § 5, 49 Stat. 732; Aug. 13, 1981, Pub. L. 97-35, title I, § 157(a)(1), 95 Stat. 374; Apr. 7, 1986, Pub. L. 99-272, title I, § 1111, 100 Stat. 99.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1986—Pub. L. 99-272 inserted “late payment penalties, and interest earned from the investment of such funds,” in ninth sentence, substituted “The fees and charges authorized in this section shall be assessed” for “Such fees and charges shall be assessed”, and inserted provision relating to the investment of any funds realized from collection of fees or charges in insured or fully collateralized, interest-bearing accounts or in United States Government debt instruments, the income therefrom to be used to pay expenses incident to providing services under this chapter or reinvested.

1981—Pub. L. 97-35 substituted provisions requiring the Secretary to fix and collect fees and charges for inspection, certification, establishment of standards, and other services at designated auction markets, for provisions prohibiting imposition or collection of fees or charges for inspection or certification at markets.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 157(b) of Pub. L. 97-35 provided that: “The provisions of this section [amending this section and section 511e of this title] shall become effective October 1, 1981.”

ABOLITION OF OFFICES AND TRANSFER OF FUNCTIONS

Offices of Internal Revenue Collector and Deputy Collector abolished by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, set out in the Appen-

dix to Title 5, Government Organization and Employees, and by section 2 thereof a new office of district commissioner of internal revenue established. Section 4 of the Plan transferred all functions, that had been vested by statute in any officer or employee of Bureau of Internal Revenue since effective date of 1950 Reorg. Plan No. 26, §§ 1, 2, 15 F.R. 4935, 64 Stat. 1280, 1281, to Secretary of the Treasury.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 511e, 511k of this title.

§ 511e. Sampling and weighing; cost; disposition of moneys received; expenses; purpose

The Secretary, independently or in cooperation with other branches of the Government, State agencies, or persons whether operating in one or more jurisdictions, is authorized to employ and/or license competent persons as samplers to take official samples of tobacco, or as weighers to weigh and certify the weight of tobacco, or as inspectors of tobacco to determine and certify, upon the request of the owner or other financially interested person, the type, grade, weight, condition, and/or such other facts as the Secretary may deem necessary.

The Secretary shall fix and collect such fees or charges in the administration of this section as will cover, as nearly as practicable, the costs of the services provided, including administrative and supervisory costs. Such fees and charges shall be credited to the account referred to in section 511d of this title. Fees or charges collected under an agreement with a State, municipality, or person, or by an individual licensed to inspect or weight or sample tobacco under this chapter, may be disposed of in accordance with the terms of such agreement or license. Charges for expenses for travel and subsistence incurred by inspectors or weighers or samplers employed by the Secretary when required to be paid by the applicant for service, may be credited to the appropriation, or any other funds authorized in this chapter from which they were paid.

This section is intended merely to provide for the furnishing of services upon request of the owner or other person financially interested in tobacco to be sampled, inspected, or weighed and shall not be construed otherwise.

(Aug. 23, 1935, ch. 623, § 6, 49 Stat. 732; Aug. 13, 1981, Pub. L. 97-35, title I, § 157(a)(2), 95 Stat. 375.)

AMENDMENTS

1981—Pub. L. 97-35 substituted provisions requiring the Secretary to fix and collect fees and charges to cover cost of services, for provisions authorizing the Secretary to fix and collect fees and charges as he deems reasonable and provisions respecting fees or charges collected under an agreement with a State, etc.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 157(b) of Pub. L. 97-35, set out as a note under section 511d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 511d of this title.

§ 511f. Reinspection and appeal inspection; certificate as evidence

The Secretary shall provide for such reinspection or appeal inspection of tobacco as he may

deem necessary for the confirmation or reversal of certificates issued under this chapter. Each inspection certificate issued under this chapter, unless invalidated or superseded in accordance with the regulations of the Secretary, shall be received in all courts and by all officers and employees of the United States as prima facie evidence of the truth of the statements therein contained.

(Aug. 23, 1935, ch. 623, § 7, 49 Stat. 733.)

§ 511g. Placing of grade on warehouse tickets, etc.; form

Warehousemen shall provide space on warehouse tickets or other tags or labels used by them for showing the grade of the lot covered thereby as determined by an authorized tobacco inspector under this chapter. The Secretary may prescribe, by regulation, the form in which such certification of grade shall be shown, and may require that a copy of such warehouse ticket, tag, or label shall be furnished to the Secretary.

(Aug. 23, 1935, ch. 623, § 8, 49 Stat. 733.)

§ 511h. Publication of information relating to tobacco

The Secretary is authorized to collect, publish, and distribute, by telegraph, mail, or otherwise without cost to the grower, timely information on the market supply and demand, location, disposition, quality, condition, and market prices for tobacco.

(Aug. 23, 1935, ch. 623, § 9, 49 Stat. 733.)

§ 511i. Offenses

It shall be unlawful—

(a) For any person to use the words “United States”, “Government”, or “Federal” or any abbreviation thereof, in, or in connection with, any statement relating to the grade of tobacco when such grade is not, in fact, one of the grades for tobacco according to the standards of the United States.

(b) For any person falsely to make, issue, alter, forge, or counterfeit, or aid, cause, procure, or assist in or be a party to the false making, issuing, altering, forging, or counterfeiting of any certificate, stamp, tag, seal, label, or other writing purporting to be issued or authorized under this chapter.

(c) For any person, not an authorized inspector under this chapter, to issue a certificate or report stating the type, grade, size, or condition of any lot of tobacco to be in accordance with the standards of the United States therefor which is of such color, size, arrangement, or wording as to be mistaken for a certificate issued under this chapter, unless such certificate states in prominent letters in its heading that it is not issued under authority of the United States.

(d) For any person employed, designated, or licensed by the Secretary as an inspector, sampler, or weigher of tobacco under this chapter knowingly to inspect, sample, or weigh improperly, or to issue any false certificate under this chapter, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as an inspector, sampler or weigher.

(e) For any person improperly to influence or to attempt improperly to influence or forcibly to assault, resist, impede, or interfere with any inspector, sampler, weigher, or other person employed, designated, or licensed by the Secretary in the execution of his duties under this chapter: *Provided, however,* That nothing herein shall operate to prevent the owner of tobacco from appealing or protesting, in accordance with regulations of the Secretary, the grade certified for his tobacco.

(f) For any person falsely to represent or otherwise indicate that he is authorized by the Secretary to inspect, sample, or weigh tobacco under this chapter.

(g) For any person to substitute, or attempt to substitute, following inspection or sampling or weighing under this chapter, other tobacco for tobacco actually inspected or sampled or weighed, or in the case of tobacco inspected in auction warehouses for any person not so authorized by the Secretary to remove any certificate of grade from any lot of tobacco prior to the sale of such lot.

(h) For any person falsely to represent that tobacco has been inspected, sampled, or weighed under this chapter; or knowingly to have made any false representation concerning tobacco inspected under this chapter; or knowing that tobacco is to be offered for inspection or sampling under this chapter to load, pack, or arrange such tobacco in such manner as knowingly to conceal foreign matter or tobacco of inferior grade, quality, or condition; or for any person knowing that tobacco has been so loaded, packed, or arranged, to offer it for inspection or sampling without disclosing such knowledge to the inspector or sampler before inspection or sampling.

(i) For any person willfully to alter an official sample of tobacco by removing or plucking leaves or otherwise, or for any person knowing that an official sample of tobacco has been so altered, thereafter to represent such sample as an official sample.

(Aug. 23, 1935, ch. 623, §10, 49 Stat. 733.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 511k of this title.

§ 511j. Publication of violations

The Secretary is authorized to publish the facts regarding any violation of this chapter.

(Aug. 23, 1935, ch. 623, §11, 49 Stat. 734.)

§ 511k. Penalty for violations

Any person violating any provision of sections 511d and 511i of this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than one year, or both.

(Aug. 23, 1935, ch. 623, §12, 49 Stat. 734.)

§ 511l. Act of agent as that of principal

In construing and enforcing the provisions of this chapter;¹ the act;¹ omission, or failure of any agent, officer, or other person acting for or

¹ So in original. The semicolon probably should be a comma.

employed by an association, partnership, corporation, or firm, within the scope of his employment or office, shall be deemed to be the act, omission, or failure of the association, partnership, corporation, or firm, as well as that of the person.

(Aug. 23, 1935, ch. 623, §13, 49 Stat. 734.)

§ 511m. Regulation; hearings; employees; expenditures; authorization of appropriations

The Secretary is authorized to make such rules and regulations and hold such hearings as he may deem necessary to effectuate the purposes of this chapter and may cooperate with any other Department or agency of the Government; any State, territory, district, or possession, or department, agency, or political subdivision thereof; purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of business men or trade organizations; or any person, whether operating in one or more jurisdictions in carrying on the work herein authorized; and he shall have the power to appoint, suspend, remove, and fix the compensation of all officers, employees, and licensees not in conflict with existing law, except that inspectors and supervisors employed thereunder on a seasonal basis and working for periods of six months or less during any twelve-month period may be appointed without reference to the provisions of chapter 51 and subchapter III of chapter 53 of title 5. The Secretary is authorized to make such expenditures for rent outside of the District of Columbia, printing, binding, telegrams, telephones, books of reference, publications, furniture, stationery, office and laboratory equipment, travel, tobacco for use in preparing and demonstrating standards, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress; and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for administering this chapter.

(Aug. 23, 1935, ch. 623, §14, 49 Stat. 734; Oct. 28, 1949, ch. 782, title II, §202(28), title XI, §1106(a), 63 Stat. 956, 972.)

CODIFICATION

“Chapter 51 and subchapter III of chapter 53 of title 5” substituted in text for “the Classification Act of 1949” on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1949—Act Oct. 28, 1949, substituted “Classification Act of 1949” for “Classification Act of 1923”.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

§ 511n. Hearings; examination of witnesses; refusal to testify or produce evidence

In carrying on the work authorized in this chapter, the Secretary, or any officer or em-

ployee designated by him for such purpose, shall have power to hold hearings, administer oaths, sign and issue subpoenas, examine witnesses, and require the production of books, records, accounts, memoranda, and papers. Upon refusal by any person to appear, testify, or produce books, records, accounts, memoranda, and papers in response to a subpoena, the proper United States district court shall have power to compel obedience thereto.

(Aug. 23, 1935, ch. 623, § 15, 49 Stat. 735.)

FEDERAL RULES OF CIVIL PROCEDURE

Subpena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 511o. 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 of the application of such provision to other persons and circumstances shall not be affected thereby.

(Aug. 23, 1935, ch. 623, § 16, 49 Stat. 735.)

§ 511p. Delegation of duties by Secretary of Agriculture

Any duties devolving upon the Secretary of Agriculture by virtue of the provisions of this chapter may with like force and effect be executed by such officer or officers, agent or agents, of the Department of Agriculture as the Secretary may designate for the purpose.

(Aug. 23, 1935, ch. 623, § 17, 49 Stat. 735.)

CROSS REFERENCES

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

§ 511q. Short title

This chapter may be cited as “The Tobacco Inspection Act.”

(Aug. 23, 1935, ch. 623, § 18, 49 Stat. 735.)

§ 511r. Imported tobacco

(a) Inspection for grade and quality; exception

Notwithstanding any other provision of law—

(1) All tobacco offered for importation into the United States, except tobacco described in paragraph (2), shall be inspected, insofar as practicable, for grade and quality as tobacco marketed through a warehouse in the United States is inspected for grade and quality.

(2) Cigar tobacco and oriental tobacco (both as provided for in chapter 24 of the Harmonized Tariff Schedule of the United States) offered for importation into the United States shall be accompanied by a certification by the importer, in such form as the Secretary of Agriculture may prescribe, stating the kind and type of such tobacco, and, in the case of cigar tobacco, that such tobacco will be used solely in the manufacture or production of cigars.

(b) Establishment of grade and quality standards

The Secretary of Agriculture shall establish grade and quality standards for the purposes of subsection (a)(1) of this section that are, insofar

as practicable, the same as those applicable to tobacco marketed through a warehouse in the United States.

(c) Certification necessary for excepted tobacco; false statements

Any tobacco described in subsection (a)(2) of this section that is not accompanied by the certification required by that subsection shall not be permitted entry into the United States. The provisions of section 1001 of title 18 shall be applicable with respect to any certification made by an importer under such subsection.

(d) Place of inspection; fees and charges

The Secretary of Agriculture shall enforce the provisions of subsection (a) of this section at the point of entry of tobacco offered for importation into the United States. The Secretary shall by regulation fix and collect from the importer fees and charges for inspection under subsection (a)(1) and subsection (e) of this section which shall, as nearly as practicable, cover the costs of such services, including the administrative and supervisory costs customarily included by the Secretary in user fee calculations, and which shall be comparable to fees and charges fixed and collected for services provided in connection with tobacco produced in the United States. The fees and charges, when collected, shall be credited to the current appropriation account that incurs the cost and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to providing services under subsection (a)(1) of this section, subsection (e) of this section, and subsection (f) of this section. Any fees collected, late payment penalties, and interest earned shall be credited to the account referred to in this section and may be invested by the Secretary of Agriculture in insured or fully-collateralized interest-bearing accounts or, at the discretion of the Secretary of Agriculture, by the Secretary of the Treasury in United States Government debt instruments. Fees and charges, including late payment penalties, and interest earned from the investment of such funds shall be credited to the account referred to in this section.

(e) Tobacco pesticide residues; certification, etc., requirements

Notwithstanding any other provision of law:

(1)(A) All flue-cured or burley tobacco offered for importation into the United States shall be accompanied by a certification by the importer, in such form as the Secretary of Agriculture shall prescribe, that the tobacco does not contain any prohibited residue of any pesticide that has been cancelled, suspended, revoked, or otherwise prohibited under the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.]. Any flue-cured or burley tobacco that is not accompanied by such certification shall be inspected by the Secretary at the point of entry to determine whether that tobacco meets the pesticide residue requirements. Subsection (d) of this section shall apply with respect to fees and charges imposed to cover the costs of such inspection.

(B) Any tobacco that is determined by the Secretary not to meet the pesticide residue re-

quirements shall not be permitted entry into the United States.

(C) The customs fraud provisions under section 1592 of title 19 and criminal fraud provisions under section 1001 of title 18 shall apply with respect to the certification requirement in subparagraph (A).

(2) The Secretary shall by regulation provide for pesticide residue standards with respect to pesticides that are cancelled, suspended, revoked, or otherwise prohibited under the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.], that shall apply to flue-cured and burley tobacco, whether domestically produced or imported.

(3) The Secretary, to such extent and at such times as the Secretary determines appropriate, shall sample and test flue-cured and burley tobacco offered for importation or for sale in the United States to determine whether it conforms with the pesticide residue requirements. The Secretary shall by regulation impose fees and charges for such inspections.

(4) If the Secretary determines, as a result of tests conducted under paragraph (3), that certain flue-cured or burley tobacco offered for importation does not meet the requirements of this subsection, then such tobacco shall not be permitted entry into the United States.

(5)(A) Subject to subparagraph (B), if the Secretary determines that domestically produced Flue-cured¹ or Burley¹ tobacco does not meet the requirements of this section, such tobacco may not be moved in commerce among the States and shall be destroyed by the Secretary.

(B) This paragraph shall apply only to tobacco produced after December 23, 1985, that receives price support under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) or the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(f) End users of imported tobacco; certification, identification, etc., requirements

(1) The certification required under subsection (e)(1) of this section shall also include the identification of any and all end users of such tobacco of which the importer has knowledge. Any flue cured² or burley tobacco permitted entry into the United States must be accompanied by a written identification of any and all end users of such tobacco. In cases in which the importer has no knowledge of the identity of an end user, the importer shall identify any and all purchasers to whom the importer expects to transfer such imported tobacco. The importer shall file with the Department of Agriculture an amended statement if, at any time after the time of entry of such tobacco imports, the importer has knowledge of any additional purchaser or end user. In those cases in which the importer has not identified all end users of such imported tobacco, the Secretary of Agriculture shall take all steps available to ascertain the identity of any and all such end users, including requesting such information from purchasers of such imported tobacco. Domestic purchasers of

imported tobacco shall be required to supply any relevant information to the Department of Agriculture upon demand under this subsection.

(2) The Secretary shall provide to the Senate Committee on Agriculture, Nutrition, and Forestry, and the House Committee on Agriculture, on or before April 1, 1986, a report on the implementation of this authority to identify each end user and purchaser of imported tobacco. Such report shall identify the end users and purchasers of imported tobacco and the quantity, in pounds, bought by such end user or purchaser, as well as all steps taken by the Department of Agriculture to ascertain such identities. The Secretary shall provide an additional report, beginning November 15, 1986, and annual reports thereafter, on the implementation of this authority.

(3) As used in this subsection, the term "end user of imported tobacco" means—

(A) a domestic manufacturer of cigarettes or other tobacco products;

(B) an entity that mixes, blends, processes, alters in any manner, or stores, imported tobacco for export; and

(C) any other individual that the Secretary may identify as making use of imported tobacco for the production of tobacco products.

(4) Subsection (d) of this section shall apply with respect to fees and charges imposed to cover the costs of such end user identification, certification, and reporting activities.

(Pub. L. 98-180, title II, §213, Nov. 29, 1983, 97 Stat. 1149; Pub. L. 99-198, title XI, §§1161, 1166, Dec. 23, 1985, 99 Stat. 1498, 1501; Pub. L. 100-418, title I, §1214(b), Aug. 23, 1988, 102 Stat. 1156; Pub. L. 101-508, title I, §1204(c), Nov. 5, 1990, 104 Stat. 1388-11; Pub. L. 101-624, title XXV, §2511, Nov. 28, 1990, 104 Stat. 4073; Pub. L. 103-66, title I, §1106(c), Aug. 10, 1993, 107 Stat. 323.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (a)(2), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (e)(1)(A), (2), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92-516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (section 136 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables.

The Agricultural Adjustment Act of 1938, referred to in subsec. (e)(5)(B), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

The Agricultural Act of 1949, referred to in subsec. (e)(5)(B), 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 Tobacco Adjustment Act of 1983, and not as part of The Tobacco Inspection Act which comprises this chapter.

AMENDMENTS

1993—Subsec. (d). Pub. L. 103-66 inserted before period at end of second sentence “, and which shall be com-

¹ So in original. Probably should not be capitalized.

² So in original. Probably should be “flue-cured”.

parable to fees and charges fixed and collected for services provided in connection with tobacco produced in the United States”.

1990—Subsec. (d). Pub. L. 101-624 inserted provisions crediting to account fees, penalties and interest, authorizing investment of interest earned therefrom in insured or fully-collateralized accounts or in United States Government debt instruments, and crediting interest from such investments to account.

Pub. L. 101-508, §1202(c)(1), which directed the insertion of “, subsection (e) of this section, and subsection (f) of this section” before the period was executed by making the insertion before the period at the end thereof as the probable intent of Congress.

Subsec. (f)(4). Pub. L. 101-508, §1202(c)(2), added par. (4).

1988—Subsec. (a)(2). Pub. L. 100-418 substituted “chapter 24 of the Harmonized Tariff Schedule of the United States” for “Schedule 1, Part 13, Tariff Schedules of the United States”.

1985—Subsec. (d). Pub. L. 99-198, §1161(b), inserted “and subsection (e)” after “subsection (a)(1)” in second sentence.

Subsec. (e). Pub. L. 99-198, §1161(a), added subsec. (e).

Subsec. (f). Pub. L. 99-198, §1166, added subsec. (f).

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1301 of title I of Pub. L. 101-508 provided that: “This title and the amendments made by this title [enacting section 940d of this title, amending this section and sections 1441-2, 1444-2, 1444f, 1445, 1445b-3a, 1445c-3, 1445j, 1446e, 1446f to 1446h, 1722, 1736, 1736a, 1783, 1994, 1999, and 5822 of this title and section 136a of Title 21, Food and Drugs, enacting provisions set out as notes under sections 136w, 1421, and 1445b-3a of this title, and amending provisions set out as notes under sections 1421 and 1999 of this title] shall become effective 1 day after the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990 [Nov. 28, 1990], or December 1, 1990, whichever is earlier.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as a note under section 3001 of Title 19, Customs Duties.

WAIVER AUTHORITY OF PRESIDENT

For provision that President may waive application of amendment to this section by section 1106(c) of Pub. L. 103-66, if President determines that waiver is necessary or appropriate pursuant to an international agreement entered into by United States, see section 422(c) of Pub. L. 103-465 set out as a note under section 1445 of this title.

CHAPTER 21B—TOBACCO CONTROL

Sec.	
515.	Consent of Congress to production compacts between States; uniformity; withdrawal of consent; limitation on consent.
515a.	Definitions.
515b.	Advancement of funds to compacting States; repayment.
515c.	Designation of persons to deal with compacting States.
515d.	Loans to associations of tobacco producers.
515e.	Availability of Department of Agriculture records and facilities to compacting States.
515f.	Authorization of appropriations; disposition of repayments of loans.
515g.	Agencies to which funds available.
515h.	Effect of compacts between States producing cigar tobacco on Puerto Rican commerce. <ul style="list-style-type: none"> (a) Determination of world consumption; “crop year” defined. (b) Determination of marketing quota for Puerto Rico.

Sec.

- (c) Establishment of marketing quota for each Puerto Rican farm.
- (d) Uniform adjustment of marketing quotas.
- (e) Issuance of marketing certificates.
- (f) Payments for production deficits due to adverse conditions.
- (g) Prohibition of sale, etc., without certificate.

515i. Disposition of receipts under section 515h.

515j. Separability.

515k. Rules and regulations.

516, 517. Repealed.

§ 515. Consent of Congress to production compacts between States; uniformity; withdrawal of consent; limitation on consent

The Congress of the United States of America consents that any of the States in which tobacco is produced may negotiate a compact or compacts for the purpose of regulating and controlling the production of, or commerce in, any one or more kinds of tobacco therein: *Provided*, That all State acts authorizing such compact or compacts shall be essentially uniform and in no way conflicting: *Provided further*, That any compact, compacts, agreement, or agreements negotiated and agreed upon by the States referred to in the Act of the General Assembly of Virginia, approved March 13, 1936 (known as the Tobacco Control Act) (Va. Code 1936, §1399), or by any other State or States producing any type or types of tobacco referred to in said Act, which is in conformity with said Act and relating to the type or types of tobacco specifically referred to in said Act, shall become effective to the extent and in the manner provided for in said Act without further consent or ratification on the part of the Congress of the United States of America: *Provided, however*, That nothing herein contained shall be construed as preventing the Congress of the United States of America from withdrawing its consent after April 25, 1936, to any compact or agreement entered into pursuant to this chapter: *Provided further*, That nothing in said sections shall be construed to grant the consent of Congress to negotiate any compact for regulating or controlling the production of, or commerce in, tobacco for the purpose of fixing the price thereof, or to create or perpetuate monopoly, or to promote regimentation, but such consent shall be limited to compacts for the regulation and control of production of, or commerce in, tobacco in order thereby to enable growers to receive a fair price for such tobacco. (Apr. 25, 1936, ch. 249, §1, 49 Stat. 1239.)

SHORT TITLE

Act Apr. 25, 1936, which is classified to this chapter, is popularly known as the “Tobacco Control Act”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515a, 515b, 515d of this title.

§ 515a. Definitions

As used in this chapter, unless otherwise stated or unless the context or subject matter clearly indicates otherwise—

“Person” means any individual, partnership, joint-stock company, corporation, or association.

“State Act” means any Act of a State legislature authorizing a compact or compacts pursuant to the consent given in section 515 of this title.

“Commission” means the tobacco commission created by any State Act.

“Secretary” means the Secretary of Agriculture of the United States.

“Kind of tobacco” means one or more types of tobacco as classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture as listed below according to the name or names by which known:

Types 11, 12, 13, and 14, known as flue-cured tobacco.

Type 31, known as Burley tobacco.

Types 21, 22, 23, 24, 35, 36, and 37, known as fire-cured and dark air-cured tobacco.

Types 41, 42, 43, 44, 45, and 46, known as cigar-filler tobacco.

Types 51, 52, 53, 54, and 65, known as cigar-binder tobacco.

Types 61 and 62, known as cigar-wrapper tobacco.

“Association” means any association of tobacco producers or other persons engaged in the tobacco industry, or both, formed under the laws of any State for the purpose of stabilizing the marketing of tobacco and providing crop protection to producers of tobacco in any State or States.

(Apr. 25, 1936, ch. 249, § 2, 49 Stat. 1240.)

TRANSFER OF FUNCTIONS

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

§ 515b. Advancement of funds to compacting States; repayment

The Secretary is authorized to make advances from time to time, from the funds provided in section 515f of this title, to the tobacco commission established by the State act of each State which enters into a compact or compacts under the consent given by section 515 of this title in such amounts as the Secretary shall determine to be required for the payment of administrative expenses incurred by such commission, and under such terms and conditions with respect to the expenditure thereof as the Secretary shall stipulate: *Provided*, That each State act creating such commission shall provide for the repayment to the Secretary of such advances from any funds received by the commission from the sale of marketing certificates with respect to tobacco, prior to the use of such funds for any other purpose.

(Apr. 25, 1936, ch. 249, § 3, 49 Stat. 1240.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 515f of this title.

§ 515c. Designation of persons to deal with compacting States

The Secretary shall upon the request of the Commission of any compacting State, designate such tobacco producers or other persons engaged

in the tobacco industry and such officials of the United States Department of Agriculture as he deems advisable to meet with the tobacco commissions for the different States for the purpose of advising in connection with the administration of any compact or compacts entered into pursuant to this chapter.

(Apr. 25, 1936, ch. 249, § 4, 49 Stat. 1240.)

§ 515d. Loans to associations of tobacco producers

The Secretary, from the funds provided in section 515f of this title, is authorized to make loans for administrative purposes, upon terms and conditions stipulated by him, to such association of tobacco producers as may operate with respect to the 1936 crop in the Georgia Tobacco Belt, in a manner similar to that embodied in State acts providing for compacts under the consent given in section 515 of this title.

(Apr. 25, 1936, ch. 249, § 5, 49 Stat. 1240.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515e, 515f of this title.

§ 515e. Availability of Department of Agriculture records and facilities to compacting States

The Secretary is authorized, upon the request of the commission of any compacting State, or at the request of any association referred to in section 515d of this title, to make available to the commission of any State or to any such association such records and information, whether published or unpublished, and such facilities of the United States Department of Agriculture as the Secretary deems appropriate in aiding such commission or association.

(Apr. 25, 1936, ch. 249, § 6, 49 Stat. 1241.)

§ 515f. Authorization of appropriations; disposition of repayments of loans

(a) For the purpose of administering this chapter there is authorized to be appropriated to the Secretary of Agriculture the sum of \$300,000, or so much thereof as may be necessary for that purpose.

(b) Any advances or loans which are repaid to the Secretary by any commission or association pursuant to sections 515b and 515d of this title shall revert to the general fund of the Treasury of the United States.

(Apr. 25, 1936, ch. 249, § 7, 49 Stat. 1241.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515b, 515d of this title.

§ 515g. Agencies to which funds available

All funds available for carrying out this chapter shall be available for allotment to the bureaus and offices of the Department of Agriculture and for transfer to such other agencies of the Federal or State Governments as the Secretary may request to cooperate or assist in carrying out this chapter.

(Apr. 25, 1936, ch. 249, § 8, 49 Stat. 1241.)

§ 515h. Effect of compacts between States producing cigar tobacco on Puerto Rican commerce

If, pursuant to this chapter, any compact entered into among three or more of the States of Pennsylvania, Ohio, Wisconsin, Massachusetts, Florida, and Connecticut, becomes effective, or if any association or associations are formed, the membership of which includes at least two-thirds of the producers of cigar-filler tobacco and cigar-binder tobacco in three or more of said States, commerce in cigar-filler tobacco produced in Puerto Rico shall be regulated during the period in which any such compact remains effective or such associations continue to operate, as follows:

(a) Determination of world consumption; "crop year" defined

The Secretary shall determine for each crop year, by calculations from available statistics of the United States Department of Agriculture, the quantity of cigar-filler tobacco produced in the continental United States and Puerto Rico which is likely to be consumed in all countries of the world during such crop year, increased or decreased, as the case may be, by the amount by which the world stocks of cigar-filler tobacco (produced in the continental United States and Puerto Rico) at the beginning of such crop year are less than or greater than the normal stocks of such cigar-filler tobacco, as determined by the Secretary. For the purposes of this section, the Secretary shall specify as a "crop year" such period of twelve months as he deems will facilitate the administration of this section.

(b) Determination of marketing quota for Puerto Rico

The Secretary shall determine a marketing quota for Puerto Rico for cigar-filler tobacco for each crop year in which the provisions of this section are operative. Such quota shall be that quantity of cigar-filler tobacco which bears the same proportion (subject to such adjustment, which may be cumulative from one crop year to another, not exceeding 5 per centum of said proportion in any one year, as the Secretary determines is necessary to correct for any abnormal conditions of production during any three normal crop years during the last ten years for trends in production during such crop years and for trends in consumption since such crop years) to the total quantity of cigar-filler tobacco produced in the continental United States and Puerto Rico and required for world consumption (as determined pursuant to subsection (a) of this section) as the average production of cigar-filler tobacco in Puerto Rico in such crop years bore to the average of the total production of cigar-filler tobacco in the continental United States and Puerto Rico in such crop years.

(c) Establishment of marketing quota for each Puerto Rican farm

The Secretary shall establish for each farm in Puerto Rico for each crop year a tobacco-marketing quota, giving due consideration to the quantity of cigar-filler tobacco marketed from the crops produced on such farm and by the operator thereof in past years; to the land, labor,

and equipment available for production of tobacco on such farm; to the crop-rotation practices on such farm; and to the soil and other physical factors affecting production of tobacco on such farm: *Provided*, That the total of the marketing quotas established for all farms in Puerto Rico for any crop year shall not exceed the marketing quota for Puerto Rico for such crop year.

(d) Uniform adjustment of marketing quotas

The marketing quota established for Puerto Rico and the marketing quotas established for farms in Puerto Rico for any crop year pursuant to subsections (b) and (c) of this section shall be subject to such uniform adjustment during the crop year, not exceeding 10 per centum of said quotas, as the Secretary shall determine to be necessary to establish and maintain normal world stocks of cigar-filler tobacco produced in the continental United States and Puerto Rico and otherwise to effectuate the purposes of this chapter.

(e) Issuance of marketing certificates

The Secretary shall, under such terms and conditions and in accordance with such methods as may be established in regulations prescribed by him, issue, to buyers or handlers of tobacco from any farm in Puerto Rico, marketing certificates for an amount of tobacco equal to the marketing quota established for such farm, and, for any tobacco marketed in excess of such quota for such farm, sell, to the buyer or handlers of such excess tobacco, marketing certificates for a charge equal to one-third of the current market value of such tobacco, and the Secretary may require the buyer or handler of such excess tobacco to deduct the charge for marketing certificates from the price or proceeds of or advances on such tobacco.

(f) Payments for production deficits due to adverse conditions

From the proceeds received from the sale of marketing certificates pursuant to subsection (e) of this section, the Secretary shall make payments to the producers of tobacco on farms in Puerto Rico from which the sales of tobacco, because of weather or diseases or loss by fire affecting the tobacco crops thereon adversely during any crop year, are less than the marketing quotas for such farms for such crop year. Such payments shall be at a rate per pound of such deficit as shall be determined by dividing the funds remaining after deduction of such amount as the Secretary estimates to be necessary for the payment of administrative expenses incurred in administering the provisions of this section by the total number of pounds by which the sales of tobacco from all such farms fall below the marketing quotas for such farms.

(g) Prohibition of sale, etc., without certificate

The sale, marketing, purchase, or transportation of any cigar-filler tobacco produced, sold, or marketed in Puerto Rico during any period of time when this section shall be in effect is prohibited unless a marketing certificate has been issued for such tobacco by the Secretary pursuant to the provisions of subsection (e) of this section.

(Apr. 25, 1936, ch. 249, § 9, 49 Stat. 1241.)

CROSS REFERENCES

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 515i of this title.

§ 515i. Disposition of receipts under section 515h

Any receipts by the Secretary under section 515h of this title shall be held in a separate fund and used by the Secretary for the purpose of paying administrative expenses and expenditures incurred or made in connection with said section.

(Apr. 25, 1936, ch. 249, § 10, 49 Stat. 1242.)

§ 515j. Separability

If any provision of this chapter, or the application thereof to any person or circumstance, shall be held invalid, the validity of the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Apr. 25, 1936, ch. 249, § 11, 49 Stat. 1242.)

§ 515k. Rules and regulations

The Secretary shall prescribe such rules and regulations as he may deem necessary to carry out the provisions of this chapter.

(Apr. 25, 1936, ch. 249, § 12, 49 Stat. 1242.)

§§ 516, 517. Repealed. Pub. L. 102-237, title X, § 1019, Dec. 13, 1991, 105 Stat. 1906

Section 516, act June 5, 1940, ch. 232, § 1, 54 Stat. 231, prohibited exportation of seeds or plants without permit.

Section 517, act June 5, 1940, ch. 232, § 2, 54 Stat. 231, provided penalty for violations.

CHAPTER 22—AGRICULTURAL MARKETING

§§ 521 to 535. Omitted or Transferred

CODIFICATION

Sections, act June 15, 1929, ch. 24, §§1-15, 46 Stat. 11, as amended, were omitted or transferred as set forth below.

Section 521, which related to declaration of policy, effective merchandising of agricultural commodities, speculation, cooperative marketing, surpluses and administration of the chapter, was transferred to section 1141 of Title 12, Banks and Banking.

Section 522, which related to appointment, compensation, qualifications, term of office, and expenses of Governor of Farm Credit Administration, was transferred to section 1141a of Title 12, and was repealed by act Aug. 6, 1953, ch. 335, §19, 67 Stat. 400. See section 2244 et seq. of Title 12.

Section 523, which related to designation of agricultural commodities and establishment of advisory commodity committees, was omitted.

Section 524, which related to general powers of Farm Credit Administration, was transferred to section 1141b of Title 12.

Section 525, which related to special powers of Administration, was transferred to section 1141c of Title 12.

Section 526, which related to authorization of a revolving fund, was transferred to section 1141d of Title 12.

Section 527, which related to loans to cooperative associations, was transferred to section 1141e of Title 12.

Section 528, which related to miscellaneous loan provisions, was transferred to section 1141f of Title 12.

Section 529, which provided for recognition, upon application of advisory commodity committee, of stabilization corporations for commodities, and prescribed functions and operations in connection therewith, was transferred to section 1141g of Title 12, and was subsequently omitted from the Code as obsolete.

Section 530, which related to clearing house associations, was omitted.

Section 531, which related to insurance against loss through price decline, was omitted.

Section 532, which related to appropriation for administrative expenses, was omitted.

Section 533, which related to avoidance of duplication, cooperation with other governmental establishments, obtaining information and data, cooperation with States, Territories, and agencies or subdivisions thereof, indication of research problems, and transfer of offices and functions, etc. was transferred to section 1141h of Title 12.

Section 534, which related to examination of books and accounts, was transferred to section 1141i of Title 12.

Section 535, which related to miscellaneous provisions, was transferred to section 1141j of Title 12.

CHAPTER 23—FOREIGN AGRICULTURAL SERVICE

§§ 541 to 545. Repealed. Aug. 13, 1946, ch. 957, title XI, § 1131(56), 60 Stat. 1039

Sections 541 to 545, act June 5, 1930, ch. 399, 46 Stat. 497-499, related to Foreign Agricultural Service.

EFFECTIVE DATE OF REPEAL

Repeal effective three months following Aug. 13, 1946, see section 1141 of act Aug. 13, 1946, ch. 957, title XI, 60 Stat. 1040.

CHAPTER 24—PERISHABLE AGRICULTURAL COMMODITIES

§§ 551 to 568. Transferred

CODIFICATION

Sections 551 to 568 of this title, which were comprised of act June 10, 1930, ch. 436, §§1-18, 46 Stat. 531, as amended, known as the Perishable Agricultural Commodities Act, 1930, were transferred to sections 499a to 499r of chapter 20A of this title.

CHAPTER 25—EXPORT STANDARDS FOR APPLES AND PEARS

Sec.	
581.	Standards of export; establishment; shipping without certificate forbidden; hearings.
582.	Notice of establishment of standards; shipments under contracts made before adoption of standards.
583.	Foreign standards; certification of compliance.
584.	Shipments of less than carload lots; exemptions.
585.	Fees for inspection and certification; certificates as prima facie evidence.
586.	Refusal of certificates for violations of laws; penalties for violations.
587.	Rules and regulations; cooperation with other agencies; compensation of officers and employees; effect on other laws.
588.	Separability.
589.	Definitions.
590.	Authorization of appropriations.

§ 581. Standards of export; establishment; shipping without certificate forbidden; hearings

It shall be unlawful for any person to ship or offer for shipment or for any carrier, or any steamship company, or any person to transport or receive for transportation to any foreign destination, except as provided in this chapter, any apples and/or pears in packages which are not accompanied by a certificate issued under authority of the Secretary of Agriculture showing that such apples or pears are of a Federal or State grade which meets the minimum of quality established by the Secretary for shipment in export. The Secretary is authorized to prescribe, by regulations, the requirements, other than those of grade, which the fruit must meet before certificates are issued. The Secretary shall provide opportunity, by public hearing or otherwise, for interested persons to examine and make recommendation with respect to any standard of export proposed to be established or designated, or regulation prescribed, by the Secretary for the purposes of this chapter.

(June 10, 1933, ch. 59, § 1, 48 Stat. 123.)

SHORT TITLE

Act June 10, 1933, as amended, which is classified to this chapter, is popularly known as the "Export Apple and Pear Act".

§ 582. Notice of establishment of standards; shipments under contracts made before adoption of standards

The Secretary shall give reasonable notice through one or more trade papers of the effective date of standards of export established or designated by him under this chapter: *Provided*, That any apples or pears may be certified and shipped for export in fulfillment of any contract made within six months prior to the date of such shipment if the terms of such contract were in accordance with the grades and regulations of the Secretary in effect at the time the contract was made.

(June 10, 1933, ch. 59, § 2, 48 Stat. 123.)

§ 583. Foreign standards; certification of compliance

Where the government of the country to which the shipment is to be made has standards or requirements as to condition of apples or pears, the Secretary may in addition to inspection and certification for compliance with the standards established or designated hereunder inspect and certify for determination as to compliance with the standards or requirements of such foreign government and may provide for special certificates in such cases.

(June 10, 1933, ch. 59, § 3, 48 Stat. 124.)

§ 584. Shipments of less than carload lots; exemptions

Apples or pears in less than carload lots as defined by the Secretary may, in his discretion, be shipped to any foreign country without complying with the provisions of this chapter.

(June 10, 1933, ch. 59, § 4, 48 Stat. 124.)

§ 585. Fees for inspection and certification; certificates as prima facie evidence

For inspecting and certifying the grade, quality, and/or condition of apples and/or pears, the Secretary shall cause to be collected a reasonable fee which shall as nearly as may be cover the cost of the service rendered: *Provided*, That when cooperative arrangements satisfactory to the Secretary, or his designated representative, for carrying out the purposes of this chapter cannot be made the fees collected hereunder in such cases shall be available until expended to defray the cost of the service rendered, and in such cases the limitations on the amounts expended for the purchase and maintenance of motor-propelled passenger-carrying vehicles shall not be applicable: *Provided further*, That certificates issued by the authorized agents of the United States Department of Agriculture shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained.

(June 10, 1933, ch. 59, § 5, 48 Stat. 124.)

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.

§ 586. Refusal of certificates for violations of laws; penalties for violations

After opportunity for hearing the Secretary is authorized to refuse the issuance of certificates under this chapter for periods not exceeding ninety days to any person who ships or offers for shipment any apples and/or pears in foreign commerce in violation of any of the provisions of this chapter. Any person or any common carrier or any transportation agency knowingly violating any of the provisions of this chapter shall be fined not less than \$100 nor more than \$10,000 by a court of competent jurisdiction.

(June 10, 1933, ch. 59, § 6, 48 Stat. 124.)

§ 587. Rules and regulations; cooperation with other agencies; compensation of officers and employees; effect on other laws

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, whether operating in one or more jurisdictions; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, law books, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress. This chapter shall

not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this chapter; but it is intended that all such statutes shall remain in full force and effect except insofar as they are inconsistent herewith or repugnant hereto.

(June 10, 1933, ch. 59, § 7, 48 Stat. 124.)

§ 588. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(June 10, 1933, ch. 59, § 8, 48 Stat. 124.)

§ 589. Definitions

When used in this chapter—

- (1) The term “person” includes individuals, partnerships, corporations, and associations.
- (2) The term “Secretary of Agriculture” means the Secretary of Agriculture of the United States.
- (3) Except as provided herein, the term “foreign commerce” means commerce between any State, or the District of Columbia, and any place outside of the United States or its possessions.
- (4) The term “apples and/or pears” means fresh whole apples or pears, whether or not they have been in storage.

(June 10, 1933, ch. 59, § 9, 48 Stat. 124.)

§ 590. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for the administration of this chapter.

(June 10, 1933, ch. 59, § 10, as added Oct. 1, 1962, Pub. L. 87-725, § 12, 76 Stat. 676.)

CHAPTER 25A—EXPORT STANDARDS FOR GRAPES AND PLUMS

Sec.	
591.	Standards of export; establishment; shipping without certificate forbidden; hearings.
592.	Notice of establishment of standards; shipments under contracts made before adoption of standards.
593.	Foreign standards; certification of compliance.
594.	Exemption of minimum quantities.
595.	Fees for inspection and certification; certificates as prima facie evidence.
596.	Refusal of certificates for violations of law; penalties for violations.
597.	Rules and regulations; cooperation with other agencies; compensation of officers and employees; effect on other laws.
598.	Separability.
599.	Definitions.

§ 591. Standards of export; establishment; shipping without certificate forbidden; hearings

It shall be unlawful for any person to ship or offer for shipment or for any carrier, or any steamship company, or any person to transport or receive for transportation to any foreign destination, except as provided in this chapter, any

grapes or plums of any variety in packages which are not accompanied by a certificate issued under authority of the Secretary showing that such grapes or plums are of a Federal or State grade which meets the minimum of quality established for such variety and destination by the Secretary for shipment in export to such destination. The Secretary is authorized to prescribe, by regulations, the requirements, other than those of grades, which the fruit must meet before certificates are issued. The Secretary shall provide opportunity, by public hearing or otherwise for interested persons to examine and make recommendation with respect to any standard of export proposed to be established or designated, or regulation prescribed, by the Secretary for the purposes of this chapter.

(Pub. L. 86-687, § 1, Sept. 2, 1960, 74 Stat. 734; Pub. L. 87-105, § 1, July 26, 1961, 75 Stat. 220; Pub. L. 93-606, Jan. 2, 1975, 88 Stat. 1966.)

AMENDMENTS

- 1975—Pub. L. 93-606 inserted “and destination” and “to such destination” after “such variety” and “for shipment in export”, respectively.
- 1961—Pub. L. 87-105 inserted “of any variety” and “for such variety” after “any grapes or plums” and “minimum of quality established”, respectively.

SHORT TITLE

Pub. L. 86-687, as amended, which is classified to this chapter, is popularly known as the “Export Grape and Plum Act”.

§ 592. Notice of establishment of standards; shipments under contracts made before adoption of standards

The Secretary shall give reasonable notice through one or more trade papers of the effective date of standards of export established or designated by him under this chapter: *Provided*, That any grapes or plums may be certified and shipped for export in fulfillment of any contract made within two months prior to the date of such shipment if the terms of such contract were in accordance with the grades and regulations of the Secretary in effect at the time the contract was made.

(Pub. L. 86-687, § 2, Sept. 2, 1960, 74 Stat. 734.)

§ 593. Foreign standards; certification of compliance

Where the government of the country to which the shipment is to be made has standards or requirements as to condition of grapes and plums the Secretary may in addition to inspection and certification for compliance with the standards established or designated hereunder inspect and certify for determination as to compliance with the standards or requirements of such foreign government and may provide for special certificates in such cases.

(Pub. L. 86-687, § 3, Sept. 2, 1960, 74 Stat. 734.)

§ 594. Exemption of minimum quantities

The Secretary may, by regulation, exempt from compliance with the provisions of this chapter (1) any variety or varieties of grapes and plums, and (2) the shipment of such minimum quantities of grapes and plums to any foreign country as he may prescribe.

(Pub. L. 86-687, § 4, Sept. 2, 1960, 74 Stat. 734; Pub. L. 87-105, § 2, July 26, 1961, 75 Stat. 220.)

AMENDMENTS

1961—Pub. L. 87-105 added cl. (1) and designated existing provisions as cl. (2).

§ 595. Fees for inspection and certification; certificates as prima facie evidence

For inspecting and certifying the grade, quality, or condition of grapes or plums the Secretary shall cause to be collected a reasonable fee which shall, as nearly as may be, cover the cost of the service rendered: *Provided*, That when cooperative arrangements satisfactory to the Secretary, or his designated representative, for carrying out the purposes of this chapter cannot be made the fees collected hereunder in such cases shall be available until expended to defray the cost of the service rendered, and in such cases the limitations on the amounts expended for the purchase and maintenance of motor-propelled passenger-carrying vehicles shall not be applicable: *Provided further*, That certificates issued by the authorized agents of the United States Department of Agriculture shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained.

(Pub. L. 86-687, § 5, Sept. 2, 1960, 74 Stat. 734.)

§ 596. Refusal of certificates for violations of law; penalties for violations

After opportunity for hearing the Secretary is authorized to refuse the issuance of certificates under this chapter for periods not exceeding ninety days to any person who ships or offers for shipment any grapes or plums in foreign commerce in violation of any of the provisions of this chapter. Any person or any common carrier or any transportation agency violating any of the provisions of this chapter shall be fined not less than \$100 nor more than \$10,000 by a court of competent jurisdiction.

(Pub. L. 86-687, § 6, Sept. 2, 1960, 74 Stat. 734.)

§ 597. Rules and regulations; cooperation with other agencies; compensation of officers and employees; effect on other laws

The Secretary may make such rules, regulations, and orders, and require such reports, as may be necessary to carry out the provisions of this chapter, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, whether operating in one or more jurisdictions; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, law books, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress.

This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this chapter; but it is intended that all such statutes shall remain in full force and effect except insofar as they are inconsistent herewith or repugnant hereto.

(Pub. L. 86-687, § 7, Sept. 2, 1960, 74 Stat. 735.)

§ 598. Separability

If any provision of the chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 86-687, § 8, Sept. 2, 1960, 74 Stat. 735.)

§ 599. Definitions

When used in this chapter—

(1) The term "person" includes individuals, partnerships, corporations, and associations.

(2) The term "Secretary" means the Secretary of Agriculture.

(3) Except as provided herein, the term "foreign commerce" means commerce between any State, or the District of Columbia, and any place outside of the United States or its possessions.

(4) The term "grapes" means vinifera species table grapes, European type, whether or not they have been in storage.

(5) The term "plums" means both European and Japanese type, whether or not they have been in storage, but does not mean Italian-type prunes, nor damson-type plums.

(Pub. L. 86-687, § 9, Sept. 2, 1960, 74 Stat. 735.)

CHAPTER 26—AGRICULTURAL ADJUSTMENT

SUBCHAPTER I—DECLARATION OF CONDITIONS AND POLICY

Sec.	
601.	Declaration of conditions.
602.	Declaration of policy; establishment of price basing period; marketing standards; orderly supply flow; circumstances for continued regulation.

SUBCHAPTER II—COTTON OPTION CONTRACTS

603.	Government owned cotton; transfer to Secretary of Agriculture; powers of Secretary.
604.	Borrowing money; expenditures; authority of Secretary.
605, 606.	Repealed.
607.	Sale by Secretary; additional options; validation of assignments; publication of information.

SUBCHAPTER III—COMMODITY BENEFITS

608.	Powers of Secretary.
	(1) Investigations; proclamation of findings.
	(2) Agreements for adjustment of acreage or production and for rental or benefit payments.
	(3) Payments by Secretary.
	(4) Additional investigation; suspension of exercise of powers.
	(5) Hearings; notice.
	(6) Commodity in which payment made.
	(7) Additional payments to producers of sugar beets or sugarcane.
	(8) Pledge by rice producer for production credit of right to rental or benefit payments.

Sec.		Sec.	
	(9) Advances of payments on stored non-perishable commodity.		(f) Geographical application.
608-1.	Omitted.		(g) Officers; dealing or speculating in agricultural products; penalties.
608a.	Enforcement of chapter.		(h) Adoption of Federal Trade Commission Act; hearings; report of violations to Attorney General.
	(1) to (4) Omitted.		(i) Cooperation with State authorities; imparting information.
	(5) Forfeitures.		(j) Definitions.
	(6) Jurisdiction of district courts.	611.	“Basic agricultural commodity” defined; exclusion of commodities.
	(7) Duties of United States attorneys; investigation of violations by Secretary; hearings.	612.	Appropriation; use of revenues; administrative expenses.
	(8) Cumulative remedies.	612a, 612b.	Omitted.
	(9) “Person” defined.	612c.	Appropriation to encourage exportation and domestic consumption of agricultural products.
608a-1.	Repealed.	612c-1.	Authorization for appropriations to increase domestic consumption of surplus farm commodities.
608b.	Marketing agreements; exemption from anti-trust laws; inspection requirements for handlers not subject to agreements.	612c-2.	Technical support to exporters and importers of United States agricultural products; scope of support provided by Department of Agriculture.
608c.	Orders regulating handling of commodity.	612c-3.	Repealed.
	(1) Issuance by Secretary.	613.	Termination date; investigations and reports.
	(2) Commodities to which applicable; single commodities and separate agricultural commodities.	613a.	Repealed.
	(3) Notice and hearing.	614.	Separability.
	(4) Finding and issuance of order.	615.	Refunds of tax; exemptions from tax; compensating tax; compensating tax on foreign goods; covering into Treasury.
	(5) Milk and its products; terms and conditions of orders.	616.	Stock on hand when tax takes effect or terminates.
	(6) Other commodities; terms and conditions of orders.	617.	Refund on goods exported; bond to suspend tax on commodity intended for export.
	(7) Terms common to all orders.	618.	Existing contracts; imposition of tax on vendee; collection.
	(8) Orders with marketing agreement.	619.	Collection of tax; provisions of internal revenue laws applicable; returns.
	(9) Orders with or without marketing agreement.	619a.	Cotton tax, time for payment.
	(10) Manner of regulation and applicability.	620.	Falsely ascribing deductions or charges to taxes; penalty.
	(11) Regional application.	621.	Machinery belting processed from cotton; exemption from tax.
	(12) Approval of cooperative association as approval of producers.	622.	Omitted.
	(13) Retailer and producer exemption.	623.	Actions relating to tax; legalization of prior taxes.
	(14) Violation of order; penalty.		(a) Action to restrain collection of tax or obtain declaratory judgment forbidden.
	(15) Petition by handler for modification of order or exemption; court review of ruling of Secretary.		(b) Taxes imposed prior to August 24, 1935, legalized and ratified.
	(16) Termination of orders and marketing agreements.		(c) Rental and benefit payments, agreements, and programs made prior to August 24, 1935, legalized and ratified.
	(17) Provisions applicable to amendments.	624.	Limitation on imports; authority of President.
	(18) Milk prices.	625.	Review of Burley tobacco imports by Secretary of Agriculture; price-support levels; excessive stocks.
	(19) Producer or processor referendum for approving order.	626.	Import inventory.
608c-1.	Repealed.		(a) Compilation and report on imports.
608d.	Books and records; disclosure of information; notification of Congressional committees.		(b) Compilation and report on consumption.
608e.	Repealed.		(c) Issuing of data.
608e-1.	Import prohibitions on specified foreign produce.		
	(a) Import prohibitions on tomatoes, avocados, limes, etc.		SUBCHAPTER IV—REFUNDS
	(b) Extension of time for marketing order; factors; review.	641 to 659.	Omitted.
	(c) Notification of United States Trade Representative of import restrictions; advisement of Secretary of Agriculture.		CROSS REFERENCES
	(d) Proposed prohibition or regulation; authority of Secretary of Agriculture to proceed.		Agricultural Adjustment Act of 1938, see section 1281 et seq. of this title.
608f.	Repealed.		CHAPTER REFERRED TO IN OTHER SECTIONS
609.	Processing tax; methods of computation; rate; what constitutes processing; publicity as to tax to avoid profiteering.		This chapter is referred to in sections 499b-1, 671, 672, 673, 1446 of this title; title 12 section 1150a; title 18 section 433; title 41 section 22.
610.	Administration.		
	(a) Appointment of officers and employees; impounding appropriations.		
	(b) State and local committees or associations of producers; handlers' share of expenses of authority or agency.		
	(c) Regulations; penalty for violation.		
	(d) Regulations of Secretary of the Treasury.		
	(e) Review of official acts.		

SUBCHAPTER I—DECLARATION OF
CONDITIONS AND POLICY

§ 601. Declaration of conditions

It is declared that the disruption of the orderly exchange of commodities in interstate commerce impairs the purchasing power of farmers and destroys the value of agricultural assets which support the national credit structure and that these conditions affect transactions in agricultural commodities with a national public interest, and burden and obstruct the normal channels of interstate commerce.

(May 12, 1933, ch. 25, title I, §1, 48 Stat. 31; June 3, 1937, ch. 296, §§1, 2(a), 50 Stat. 246.)

SHORT TITLE

Section 8(a) of act June 16, 1933, ch. 90, 48 Stat. 199, provided in part that title I of act May 12, 1933, which is classified to this chapter, may for all purposes be referred to as the "Agricultural Adjustment Act."

VALIDITY OF CERTAIN SECTIONS AFFIRMED

Act June 3, 1937, ch. 296, §§1, 2, 50 Stat. 246, provided as follows: "The following provisions of the Agricultural Adjustment Act, as amended, not having been intended for the control of the production of agricultural commodities, and having been intended to be effective irrespective of the validity of any other provision of that Act are expressly affirmed and validated, and are reenacted without change except as provided in section 2:

"(a) Section 1 (relating to the declaration of emergency [this section]);

"(b) Section 2 (relating to declaration of policy [section 602 of this title]);

"(c) Section 8a(5), (6), (7), (8), and (9) (relating to violations and enforcement [section 608a(5), (6), (7), (8), and (9) of this title]);

"(d) Section 8b (relating to marketing agreements [section 608b of this title]);

"(e) Section 8c (relating to orders [section 608c of this title]);

"(f) Section 8d (relating to books and records [section 608d of this title]);

"(g) Section 8e (relating to determination of base period [former section 608e of this title]);

"(h) Section 10(a), (b)(2), (c), (f), (g), (h), and (i) (miscellaneous provisions [section 610(a), (b)(2), (c), (f), (g), (h), and (i) of this title]);

"(i) Section 12(a) and (c) (relating to appropriation and expenses [section 612(a) and (c) of this title]);

"(j) Section 14 (relating to separability [section 614 of this title]);

"(k) Section 22 (relating to imports [section 624 of this title]).

"SEC. 2. The following provisions, reenacted in section I of this act, are amended as follows: * * * [sections 601, 602(1), 608a(6), 608c(5)(B)(d), (6)(B), (6)(B)(18), (19), 610(c), (f), 612(a) of this title]."

Section 2 of act June 3, 1937, also added subsec. (j) to section 610.

Section 2 of act June 3, 1937, was amended by act Aug. 5, 1937, ch. 567, 50 Stat. 563, which amending act provided for amendments to subsecs. (2) and (6) of section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 671, 672, 673, 1392 of this title.

§ 602. Declaration of policy; establishment of price basing period; marketing standards; orderly supply flow; circumstances for continued regulation

It is declared to be the policy of Congress—

(1) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce as will establish, as the prices to farmers, parity prices as defined by section 1301(a)(1) of this title.

(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under this chapter which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section.

(3) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such production research, marketing research, and development projects provided in section 608c(6)(I) of this title, such container and pack requirements provided in section 608c(6)(H) of this title¹ such minimum standards of quality and maturity and such grading and inspection requirements for agricultural commodities enumerated in section 608c (2) of this title, other than milk and its products, in interstate commerce as will effectuate such orderly marketing of such agricultural commodities as will be in the public interest.

(4) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such orderly marketing conditions for any agricultural commodity enumerated in section 608c(2) of this title as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices.

(5) Through the exercise of the power conferred upon the Secretary of Agriculture under this chapter, to continue for the remainder of any marketing season or marketing year, such regulation pursuant to any order as will tend to avoid a disruption of the orderly marketing of any commodity and be in the public interest, if the regulation of such commodity under such order has been initiated during such marketing season or marketing year on the basis of its need to effectuate the policy of this chapter.

(May 12, 1933, ch. 25, title I, §2, 48 Stat. 32; Aug. 24, 1935, ch. 641, §§1, 62, 49 Stat. 750, 782; June 3, 1937, ch. 296, §§1, 2(b), 50 Stat. 246, 247; Aug. 1, 1947, ch. 425, §1, 61 Stat. 707; July 3, 1948, ch. 827, title III, §302(a), 62 Stat. 1257; Aug. 28, 1954, ch. 1041, title IV, §401(a), 68 Stat. 906; Aug. 8, 1961, Pub. L. 87-128, title I, §141(1), 75 Stat. 303; Nov. 8, 1965, Pub. L. 89-330, §1(a), 79 Stat. 1270; June 25, 1970, Pub. L. 91-292, §1(1), 84 Stat. 333.)

¹ So in original. Probably should be followed by a comma.

AMENDMENTS

1970—Subsec. (3). Pub. L. 91-292 inserted authority to establish and maintain the production research, marketing research, and development projects provided in section 608c(6)(I) of this title.

1965—Subsec. (3). Pub. L. 89-330 inserted “such container and pack requirements provided in section 608c(6)(H) of this title”.

1961—Subsec. (5). Pub. L. 87-128 added subsec. (5).

1954—Subsec. (4). Act Aug. 28, 1954, added subsec. (4).

1948—Subsec. (1). Act July 3, 1948, made definition of “parity” conform to definition stated in section 1301(a)(1) of this title.

1947—Subsec. (3). Act Aug. 1, 1947, added subsec. (3).

1937—Act June 3, 1937, inserted “orderly marketing conditions for agricultural commodities in interstate commerce as will establish” before “as the prices to farmers”.

1935—Subsec. (1). Act Aug. 24, 1935, ch. 641, §1, amended first sentence and act Aug. 24, 1935, ch. 641, §62, amended second and third sentences.

Subsec. (2). Act Aug. 24, 1935, amended subsec. (2).

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.

VALIDITY OF SECTION AFFIRMED

Section 1 of act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section except for the amendment to subsec. (1) by section 2 of said act. See note set out under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 609, 672, 673, 1392 of this title.

SUBCHAPTER II—COTTON OPTION
CONTRACTS**§ 603. Government owned cotton; transfer to Secretary of Agriculture; powers of Secretary**

The Farm Credit Administration and all departments and other agencies of the Government, not including the Federal intermediate credit banks are directed—

(a) To sell to the Secretary of Agriculture at such price as may be agreed upon, not in excess of the market price, all cotton now owned by them.

(b) To take such action and to make such settlements as are necessary in order to acquire full legal title to all cotton on which money has been loaned or advanced by any department or agency of the United States, including futures contracts for cotton or which is held as collateral for loans or advances and to make final settlement of such loans and advances as follows:

(1) In making such settlements with regard to cotton, including operations to which such cotton is related, such cotton shall be taken over by all such departments or agencies other than the Secretary of Agriculture at a price or sum equal to the amounts directly or indirectly loaned or advanced thereon and outstanding, including loans by the Government, department or agency and any loans senior thereto, plus any sums required to adjust advances to growers to 90 per centum of the value of their cotton at the date of its delivery in the first instance as collateral to the department or agency involved, such sums to be

computed by subtracting the total amount already advanced to growers on account of pools of which such cotton was a part, from 90 per centum of the value of the cotton to be taken over as of the time of such delivery as collateral, plus unpaid accrued carrying charges and operating costs on such cotton, less, however, any existing assets of the borrower derived from net income, earnings, or profits arising from such cotton, and from operations to which such cotton is related; all as determined by the department or agency making the settlement.

(2) The Secretary of Agriculture shall make settlements with respect to cotton held as collateral for loans or advances made by him on such terms as in his judgment may be deemed advisable, and to carry out the provisions of this section, is authorized to indemnify or furnish bonds to warehousemen for lost warehouse receipts and to pay the premiums on such bonds.

When full legal title to the cotton referred to in this subsection has been acquired, it shall be sold to the Secretary of Agriculture for the purposes of this section, in the same manner as provided in subsection (a) of this section.

(c) The Secretary of Agriculture is authorized to purchase the cotton specified in subsections (a) and (b) of this section.

(May 12, 1933, ch. 25, title I, §3, 48 Stat. 32; 1933 Ex. Ord. No. 6084, Mar. 22, 1933.)

CHANGE OF NAME

Ex. Ord. No. 6084, set out as a note preceding section 2241 of Title 12, Banks and Banking, changed the name of “Federal Farm Board” to “Farm Credit Administration”.

TRANSFER OF FUNCTIONS

Ex. Ord. No. 9322, Mar. 26, 1943, 8 F.R. 3807, as amended by Ex. Ord. No. 9334, Apr. 19, 1943, 8 F.R. 5423, removed Farm Credit Administration from Food Production Administration of Department of Agriculture and returned it to its former status as a separate agency of Department.

Ex. Ord. No. 9280, Dec. 5, 1942, 7 F.R. 10179, made Farm Credit Administration a part of Food Production Administration of Department of Agriculture.

Farm Credit Administration transferred to Department of Agriculture by 1939 Reorg. Plan No. 1, §401, 4 F.R. 2727, 53 Stat. 1423, 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.

FARM CREDIT ADMINISTRATION

Establishment of Farm Credit Administration as independent agency, and other changes in status, functions, etc., see section 2241 et seq., of Title 12, Banks and Banking.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 604, 673 of this title.

§ 604. Borrowing money; expenditures; authority of Secretary

(a) The Secretary of Agriculture shall have authority to borrow money upon all cotton in his possession or control and may, at his discretion, deposit as collateral for such loans the warehouse receipts for such cotton.

(b) The Secretary of the Treasury is authorized to advance, in his discretion, out of any money in the Treasury not otherwise appropriated, the sum of \$100,000,000, to the Secretary of Agriculture, for paying off any debt or debts which may have been or may be incurred by the Secretary of Agriculture and discharging any lien or liens which may have arisen or may arise pursuant to sections 603, 604, and 607 of this title, for protecting title to any cotton which may have been or may be acquired by the Secretary of Agriculture under authority of said sections, and for paying any expenses (including, but not limited to, warehouse charges, insurance, salaries, interest, costs, and commissions) incident to carrying, handling, insuring, and marketing of said cotton and for the purposes described in subsection (e) of this section. This sum shall be available until the cotton acquired by the Secretary of Agriculture under authority of this chapter including cotton futures, shall have been finally marketed by any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring, or marketing of any cotton acquired by the Secretary of Agriculture.

(c) The funds authorized by subsection (b) of this section shall be made available to the Secretary of Agriculture from time to time upon his request and with the approval of the Secretary of the Treasury. Each such request shall be accompanied by a statement showing by weight and average grade and staple the quantity of cotton held by the Secretary of Agriculture and the approximate aggregate market value thereof.

(d) It is the purpose of subsections (b) and (c) of this section to provide an alternative method to that provided by subsection (a) of this section, for enabling the Secretary of Agriculture to finance the acquisition, carrying, handling, insuring, and marketing of cotton acquired by him under authority of section 603 of this title. The Secretary of Agriculture may at his discretion make use of either or both of the methods provided in this section for obtaining funds for the purposes hereinabove enumerated.

(e) The Secretary of Agriculture is authorized to use in his discretion any funds obtained by him pursuant to the provisions of subsection (a) or (b) of this section for making advances to any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring, or marketing of any cotton acquired by the Secretary of Agriculture, to enable any such agency to perform, exercise, and discharge any of the duties, privileges, and functions which such agency may be authorized to perform, exercise, or discharge.

(f) The proceeds derived from the sale of cotton shall be held for the Secretary of Agriculture by the Treasurer of the United States in a special deposit account and shall be used by

the Secretary of Agriculture to discharge the obligations incurred under authority of sections 603, 604, and 607 of this title. Whenever any cotton shall be marketed the net proceeds (after discharge of other obligations incurred with respect thereto) derived from the sale thereof shall be used, to the extent required, to reimburse the Treasury for such portion of the funds hereby provided for as shall have been used, which shall be covered into the Treasury as a miscellaneous receipt. If when all of the cotton acquired by the Secretary of Agriculture shall have been marketed and all of the obligations incurred with respect to such cotton shall have been discharged, and the Treasury reimbursed for any and all sums which may have been advanced pursuant to subsection (b) of this section, there shall remain any balance in the hands of the Secretary of Agriculture, such balance shall be covered into the Treasury as miscellaneous receipts.

The word "obligation" when used in this section shall include (without being limited to) administrative expenses, warehouse charges, insurance, salaries, interest, costs, commissions, and other expenses incident to handling, carrying, insuring, and marketing of said cotton.

(May 12, 1933, ch. 25, title I, § 4, 48 Stat. 33; June 19, 1934, ch. 648, title II, § 1, 48 Stat. 1058; Aug. 24, 1935, ch. 641, §§ 35, 36, 49 Stat. 775.)

AMENDMENTS

1935—Subsec. (b). Act Aug. 24, 1935, § 35, struck out "to be available until March 1, 1936" after "\$100,000,000" and inserted last sentence relating to availability of the sum of \$100,000,000.

Subsec. (f). Act Aug. 24, 1935, § 36, inserted last par. defining "obligation".

1934—Subsec. (a). Act June 19, 1934, inserted "may in his discretion" after "or control and".

Subsecs. (b) to (f). Act June 19, 1934, added subsecs. (b) to (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title; title 12 section 1150a.

§ 605. Repealed. June 30, 1947, ch. 166, title II, § 206(d), 61 Stat. 208

Section, acts May 12, 1933, ch. 25, title I, § 5, 48 Stat. 33; June 19, 1934, ch. 648, title II, § 1, 48 Stat. 1059, related to loans from Reconstruction Finance Corporation and warehouse receipts as collateral.

§ 606. Repealed. Aug. 24, 1935, ch. 641, § 34, 49 Stat. 775

Section, act May 12, 1933, ch. 25, title I, § 6, 48 Stat. 33, related to option contracts.

§ 607. Sale by Secretary; additional options; validation of assignments; publication of information

The Secretary shall sell cotton held or acquired by him pursuant to authority of this chapter at his discretion subject only to the conditions and limitations of this chapter: *Provided*, That the Secretary shall have authority to enter into option contracts with producers of cotton to sell to or for the producers such cotton held and/or acquired by him in such amounts and at such prices and upon such terms and con-

ditions as he, the Secretary, may deem advisable, and such option contracts may be transferred or assigned in such manner as the Secretary of Agriculture may prescribe.

Notwithstanding any provisions contained in option contracts heretofore issued and/or any provision of law, assignments made prior to January 11, 1934, of option contracts exercised prior to January 18, 1934, shall be deemed valid upon determination by the Secretary that such assignment was an assignment in good faith of the full interest in such contract and for full value and is free from evidence of fraud or speculation by the assignee.

Notwithstanding any provision of existing law, the Secretary of Agriculture may, in the administration of this chapter, make public such information as he deems necessary in order to effectuate the purposes of this chapter.

(May 12, 1933, ch. 25, title I, § 7, 48 Stat. 34; June 16, 1933, ch. 90, title II, § 221, 48 Stat. 210; Aug. 24, 1935, ch. 641, § 33, 49 Stat. 775.)

AMENDMENTS

1935—Act Aug. 24, 1935, among other changes, inserted provisions as to presumption of validity of assignments made prior to Jan. 11, 1934 of option contracts exercised prior to Jan. 18, 1934 if in good faith, for full value, and without fraud or speculation by the assignee.

1933—Act June 16, 1933, amended section generally.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608d, 673 of this title.

SUBCHAPTER III—COMMODITY BENEFITS

§ 608. Powers of Secretary

(1) Investigations; proclamation of findings

Whenever the Secretary of Agriculture has reason to believe that:

(a) The current average farm price for any basic agricultural commodity is less than the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that the exercise of any one or more of the powers conferred upon the Secretary under subsections (2) and (3) of this section would tend to effectuate the declared policy of this chapter,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination and shall exercise such one or more of the powers conferred upon him under subsections (2) and (3) of this section as he finds, upon the basis of an investigation, administratively practicable and best calculated to effectuate the declared policy of this chapter.

(2) Agreements for adjustment of acreage or production and for rental or benefit payments

Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall

provide, through agreements with producers or by other voluntary methods,

(a) For such adjustment in the acreage or in the production for market, or both, of any basic agricultural commodity, as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, will tend to effectuate the declared policy of this chapter, and to make such adjustment program practicable to operate and administer, and

(b) For rental or benefit payments in connection with such agreements or methods in such amounts as he finds, upon the basis of such investigation, to be fair and reasonable and best calculated to effectuate the declared policy of this chapter, and to make such program practicable to operate and administer, to be paid out of any moneys available for such payments or, subject to the consent of the producer, to be made in quantities of one or more basic agricultural commodities acquired by the Secretary pursuant to this chapter.

(3) Payments by Secretary

Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this chapter:

(a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;

(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

(4) Additional investigation; suspension of exercise of powers

Whenever, during a period during which any of the powers conferred in subsection (2) or (3) of this section is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:

(a) The current average farm price for such commodity is not less than the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3) of this section, and no combination of such powers, would, if exercised, tend to effectuate the declared policy of this chapter,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination, and shall not exercise any of such powers with respect to such commodity

after the end of the marketing year current at the time when such proclamation is made and prior to a new proclamation under subsection (1) of this section, except insofar as the exercise of such power is necessary to carry out obligations of the Secretary assumed, prior to the date of such proclamation made pursuant to this subsection, in connection with the exercise of any of the powers conferred upon him under subsections (2) or (3) of this section.

(5) Hearings; notice

In the course of any investigation required to be made under subsection (1) or (4) of this section, the Secretary of Agriculture shall hold one or more hearings, and give due notice and opportunity for interested parties to be heard.

(6) Commodity in which payment made

No payment under this chapter made in an agricultural commodity acquired by the Secretary in pursuance of this chapter shall be made in a commodity other than that in respect of which the payment is being made. For the purposes of this subsection, hogs and field corn may be considered as one commodity.

(7) Additional payments to producers of sugar beets or sugarcane

In the case of sugar beets or sugarcane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contracts for the 1933-1934 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or benefit payments, the Secretary of Agriculture shall make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to producers who agree, or have agreed, to participate in the program for reduction in the acreage or reduction in the production for market, or both, of sugar beets or sugarcane.

(8) Pledge by rice producer for production credit of right to rental or benefit payments

In the case of rice, the Secretary of Agriculture, in exercising the power conferred upon him by subsection (2) of this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to such subsection, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of this chapter, that the producer may pledge for production credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a payee to receive such rental or benefit payments.

(9) Advances of payments on stored nonperishable commodity

Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the

locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing but no deduction may be made for interest.

(May 12, 1933, ch. 25, title I, § 8, 48 Stat. 34; Apr. 7, 1934, ch. 103, § 7, 48 Stat. 528; May 9, 1934, ch. 263, § 14, 48 Stat. 676; Mar. 18, 1935, ch. 32, § 7, 49 Stat. 46; Aug. 24, 1935, ch. 641, §§ 2, 4-7, 49 Stat. 751, 753-762.)

CODIFICATION

Section as originally enacted consisted of subsections (1) to (5). Act Aug. 24, 1935, amended section by striking out or amending and redesignating the various subsections.

AMENDMENTS

1935—Subsec. (1) was, together with subsecs. (2) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935, which also struck out former (1) as amended by acts May 9, 1934, and March 18, 1935.

Subsec. (2) was, together with subsecs. (1) and (3) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (2), as amended by act Apr. 7, 1934, was designated section 8b of the Agricultural Adjustment Act, section 608b of this title, and amended by section 4 of said act Aug. 24, 1935.

Subsec. (3) was, together with subsecs. (1), (2), and (4) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (3) was struck out by section 5 of said act Aug. 24, 1935, which also added section 8c to the Agricultural Adjustment Act, section 608c of this title.

Subsec. (4) was, together with subsecs. (1) to (3) and (5) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (4) was struck out by section 6 of said act Aug. 24, 1935, which also added sections 8d and 8e to the Agricultural Adjustment Act, section 608d and former section 608e, respectively, of this title.

Subsec. (5) was, together with subsecs. (1) to (4) and (6) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (5) was designated section 8f of the Agricultural Adjustment Act, section 608f of this title, and amended by section 7 of said act Aug. 24, 1935.

Subsecs. (6) to (9) were, together with subsecs. (1) to (5), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935.

1934—Act May 9, 1934, amended subsec. (1) generally.

Act Apr. 7, 1934, amended subsec. (2) by striking out proviso.

VALIDITY OF AGREEMENTS AND LICENSES PRESERVED UNDER 1935 ACT

Section 38 of act Aug. 24, 1935, which amended this chapter generally, provided as follows: "Nothing contained in this Act shall (a), invalidate any marketing agreement or license in existence on the date of the enactment hereof [Aug. 24, 1935], or any provision thereof, or any act done pursuant thereto, either before or after the enactment of this Act, or (b) impair any remedy provided for on the date of the enactment thereof for the enforcement of any such marketing agreement or license, or (c) invalidate any agreement entered into pursuant to section 8(1) of the Agricultural Adjustment Act prior to the enactment of this Act, or subsequent to the enactment of this Act in connection with a program the initiation of which has been formally approved by the Secretary of Agriculture under such sec-

tion 8(1) prior to the enactment of this Act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this Act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act [this chapter]; *Provided*, That the Secretary shall not prescribe, pursuant to any such agreement or voluntary arrangement, any adjustment in the acreage or in the production for market of any basic agricultural commodity to be made after July 1, 1937, except pursuant to the provisions of section 8 of the Agricultural Adjustment Act as amended by this Act."

CROSS REFERENCES

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

Marketing quotas for tobacco, corn, wheat, cotton, and rice, see section 1311 et seq. of this title.

Parity payments to producers, see section 1303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 609, 610, 612, 623, 673 of this title; title 12 section 1150a.

§ 608-1. Omitted

CODIFICATION

Section, act July 2, 1940, ch. 521, §9, 54 Stat. 729, which related to adjustments between payee and third persons, was omitted as executed.

§ 608a. Enforcement of chapter

(1) to (4) Omitted

(5) Forfeitures

Any person exceeding any quota or allotment fixed for him under this chapter by the Secretary of Agriculture and any other person knowingly participating or aiding in the exceeding of such quota or allotment shall forfeit to the United States a sum equal to the value of such excess at the current market price for such commodity at the time of violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(6) Jurisdiction of district 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 any order, regulation, or agreement, heretofore or hereafter made or issued pursuant to this chapter, in any proceeding now pending or hereafter brought in said courts.

(7) Duties of United States attorneys; investigation of violations by Secretary; hearings

Upon the request of the Secretary of Agriculture, it shall be the duty of the several United States attorneys, in their respective districts, under the directions of the Attorney General, to institute proceedings to enforce the remedies and to collect the forfeitures provided for in, or pursuant to this chapter. Whenever the Secretary, or such officer or employee of the Department of Agriculture as he may designate for the purpose, has reason to believe that any handler has violated, or is violating, the provisions of any order or amendment thereto issued pur-

suant to this chapter, the Secretary shall have power to institute an investigation and, after due notice to such handler, to conduct a hearing in order to determine the facts for the purpose of referring the matter to the Attorney General for appropriate action.

(8) Cumulative remedies

The remedies provided for in this section shall be in addition to, and not exclusive of, any of the remedies or penalties provided for elsewhere in this chapter or now or hereafter existing at law or in equity.

(9) "Person" defined

The term "person" as used in this chapter includes an individual, partnership, corporation, association, and any other business unit.

(May 12, 1933, ch. 25, title I, §8a, as added May 9, 1934, ch. 263, §4, 48 Stat. 672; amended Aug. 24, 1935, ch. 641, §§8-10, 49 Stat. 762; June 3, 1937, ch. 296, §§1, 2(c), 50 Stat. 246, 247; June 25, 1948, ch. 646, §1, 62 Stat. 909; Aug. 8, 1961, Pub. L. 87-128, title I, §141(2), 75 Stat. 304.)

CODIFICATION

Provisions of subsecs. (1) to (4), relating to establishment, regulation and determination of sugar quotas, agreements limiting or regulating child labor, wages, and adjustment of disputes in the sugar industry, and prescribing penalties for violations thereof, were omitted since they ceased to apply on Sept. 1, 1937, in accordance with the provisions of section 510 of the Sugar Act of 1937, act Sept. 1, 1937, ch. 898, 50 Stat. 916. Section 510 of act Sept. 1, 1937, provided in part that: "The provisions of the Agricultural Adjustment Act, as amended [this chapter], shall cease to apply to sugar upon the enactment of this Act [Sept. 1, 1937]". Provisions similar to former subsecs. (1) to (4) were contained in the Sugar Act of 1948, section 1100 et seq. of this title, which expired on Dec. 31, 1974.

AMENDMENTS

1961—Subsec. (5). Pub. L. 87-128 struck out "willfully" after "Any person" and substituted provision for forfeiture of a sum equal to the value of the excess at the current market price for the commodity at the time of violation for provision for forfeiture of a sum equal to three times the current market value of the excess.

1937—Subsec. (6). Act June 3, 1937, §2(c), struck out "the provisions of this section, or of".

1935—Subsec. (1). Act Aug. 24, 1935, §8, substituted "persons engaged in handling" for "handlers" wherever appearing; struck out "or in competition with," in par. (B); inserted "directly" before "to burden" in par. (B); and struck out "in any way" in par. (B).

Subsec. (6). Act Aug. 24, 1935, §9, inserted "or" after "regulation," and struck out "or license".

Subsec. (7). Act Aug. 24, 1935, §10, inserted last sentence.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorneys" for "district attorneys" in subsec. (7). See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

ADMISSION OF HAWAII AS STATE

Admission of Hawaii into the Union was accomplished Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding 491 of Title 48, Territories and Insular Possessions.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of subsections (5),

(6), (7), (8), and (9) of this section, except for the amendment to subsection (6) by section 2 of the act. See note set out under section 601 of this title.

CROSS REFERENCES

Anti-hog-cholera serum and hog-cholera virus provisions, provisions of section as applicable to, see section 855 of this title.

Jurisdiction of district courts of actions for fines, penalties and forfeitures, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Pendency of proceedings by handler for modification of order or exemption as not impeding the United States or the Secretary from obtaining relief pursuant to subsection (6) of this section, see section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 608e-1, 616, 672, 673, 855, 1392 of this title.

§ 608a-1. Repealed. Sept. 1, 1937, ch. 898, title V, § 510, 50 Stat. 916

Section, act June 19, 1936, ch. 612, § 2, 49 Stat. 1539, related to additional provisions regulating the sugar quotas.

§ 608b. Marketing agreements; exemption from anti-trust laws; inspection requirements for handlers not subject to agreements

(a) In order to effectuate the declared policy of this chapter, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: *Provided*, That no such agreement shall remain in force after the termination of this chapter.

(b)(1) If an agreement with the Secretary is in effect with respect to peanuts pursuant to this section—

(A) all peanuts handled by persons who have not entered into such an agreement with the Secretary shall be subject to inspection to the same extent and manner as is required by such agreement;

(B) no such peanuts shall be sold or otherwise disposed of for human consumption if such peanuts fail to meet the quality requirements of such agreement; and

(C) any assessment (except with respect to any assessment for the indemnification of losses on rejected peanuts) imposed under the agreement shall—

(i) apply to peanut handlers (as defined by the Secretary) who have not entered into such an agreement with the Secretary in addition to those handlers who have entered into the agreement; and

(ii) be paid to the Secretary.

(2) Violation of this subsection by a person who has not entered into such an agreement

shall result in the assessment by the Secretary of a penalty equal to 140 percent of the support price for quota peanuts multiplied by the quantity of peanuts sold or disposed of in violation of subsection (b)(1)(B) of this section, as determined under section 1445c-3 of this title, for the marketing year for the crop with respect to which such violation occurs.

(May 12, 1933, ch. 25, title I, § 8b, formerly § 8(2), 48 Stat. 34; Apr. 7, 1934, ch. 103, § 7, 48 Stat. 528; renumbered and amended Aug. 24, 1935, ch. 641, § 4, 49 Stat. 753; June 3, 1937, ch. 296, § 1, 50 Stat. 246; June 30, 1947, ch. 166, title II, § 206(d), 61 Stat. 208; Dec. 12, 1989, Pub. L. 101-220, § 4, 103 Stat. 1878; Dec. 13, 1991, Pub. L. 102-237, title I, § 115(1), 105 Stat. 1840; Aug. 10, 1993, Pub. L. 103-66, title I, § 1109(b), 107 Stat. 326.)

CODIFICATION

The provisions appearing in subsec. (a) of this section except the first sentence, were originally enacted as part of section 8(2) of act May 12, 1933, and formerly appeared as section 608(2) of this title.

AMENDMENTS

1993—Subsec. (b)(1)(C). Pub. L. 103-66 added subpar. (C).

1991—Subsec. (b)(2). Pub. L. 102-237 made technical amendment to reference to section 1445c-3 of this title involving corresponding provisions of original Act.

1989—Pub. L. 101-220 designated existing provisions as subsec. (a) and added subsec. (b).

1947—Act June 30, 1947, repealed provisions providing for loans from Reconstruction Finance Corporation.

1935—Act Aug. 24, 1935, designated subsection 2 of section 8 of act May 12, 1933, as section 8b and amended first sentence generally.

1934—Act Apr. 7, 1934, empowered Secretary of Agriculture to enter into marketing agreements with individual producers.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 4(c) of Pub. L. 101-220 provided that: "The amendment made by this section [amending this section] shall be effective with respect to the 1990 and subsequent crops of peanuts."

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note set out under section 601 of this title.

CROSS REFERENCES

Anti-trust laws, see section 1 et seq. of Title 15, Commerce and Trade.

Orders with marketing agreement, see section 608c of this title.

Termination of marketing agreements entered into under this section, see section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 672, 673, 1392 of this title; title 12 section 1150a.

§ 608c. Orders regulating handling of commodity

(1) Issuance by Secretary

The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this chapter as "handlers." Such or-

ders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof. In carrying out this section, the Secretary shall complete all informal rulemaking actions necessary to respond to recommendations submitted by administrative committees for such orders as expeditiously as possible, but not more than 45 days (to the extent practicable) after submission of the committee recommendations. The Secretary shall establish time frames for each office and agency within the Department of Agriculture to consider the committee recommendations.

(2) Commodities to which applicable; single commodities and separate agricultural commodities

Orders issued pursuant to this section shall be applicable only to (A) the following agricultural commodities and the products thereof (except canned or frozen pears, grapefruit, cherries, apples, or cranberries, the products of naval stores, and the products of honeybees), or to any regional, or market classification of any such commodity or product: Milk, fruits (including filberts, almonds, pecans, and walnuts but not including apples, other than apples produced in the States of Washington, Oregon, Idaho, New York, Michigan, Maryland, New Jersey, Indiana, California, Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, Connecticut, Colorado, Utah, New Mexico, Illinois, and Ohio, and not including fruits for canning or freezing other than pears, olives, grapefruit, cherries, cranberries, and apples produced in the States named above except Washington, Oregon, and Idaho), tobacco, vegetables (not including vegetables, other than asparagus, for canning or freezing and not including potatoes for canning, freezing, or other processing), hops, honeybees, and naval stores as included in the Naval Stores Act [7 U.S.C. 91 et seq.] and standards established thereunder (including refined or partially refined oleoresin): *Provided*, That no order issued pursuant to this section shall be effective as to any grapefruit for canning or freezing unless the Secretary of Agriculture determines, in addition to other findings and determinations required by this chapter, that the issuance of such order is approved or favored by the processors who, during a representative period determined by the Secretary, have been engaged in canning or freezing such commodity for market and have canned or frozen for market more than 50 per centum of the total volume of such commodity canned or frozen for market during such representative period; and (B) any agricultural commodity (except honey, cotton, rice, wheat, corn, grain sorghums, oats, barley, rye, sugarcane, sugarbeets, wool, mohair, livestock, soybeans, cottonseed, flaxseed, poultry (but not excepting turkeys and not excepting poultry which produce commercial eggs), fruits and vegetables for canning or freezing, including potatoes for canning, freezing, or other processing¹ and apples), or any regional or market clas-

sification thereof, not subject to orders under (A) of this subdivision, but not the products (including canned or frozen commodities or products) thereof. No order issued pursuant to this section shall be effective as to cherries, apples, or cranberries for canning or freezing unless the Secretary of Agriculture determines, in addition to other required findings and determinations, that the issuance of such order is approved or favored by processors who, during a representative period determined by the Secretary, have engaged in canning or freezing such commodity for market and have frozen or canned more than 50 per centum of the total volume of the commodity to be regulated which was canned or frozen within the production area, or marketed within the marketing area, defined in such order, during such representative period. No order issued pursuant to this section shall be applicable to peanuts produced in more than one of the following production areas: the Virginia-Carolina production area, the Southeast production area, and the Southwest production area. If the Secretary determines that the declared policy of this chapter will be better achieved thereby (i) the commodities of the same general class and used wholly or in part for the same purposes may be combined and treated as a single commodity and (ii) the portion of an agricultural commodity devoted to or marketed for a particular use or combination of uses, may be treated as a separate agricultural commodity. All agricultural commodities and products covered hereby shall be deemed specified herein for the purposes of subsections (6) and (7) of this section.

(3) Notice and hearing

Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter with respect to any commodity or product thereof specified in subsection (2) of this section, he shall give due notice of and an opportunity for a hearing upon a proposed order.

(4) Finding and issuance of order

After such notice and opportunity for hearing, the Secretary of Agriculture shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing (in addition to such other findings as may be specifically required by this section) that the issuance of such order and all of the terms and conditions thereof will tend to effectuate the declared policy of this chapter with respect to such commodity.

(5) Milk and its products; terms and conditions of orders

In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section) no others:

(A) Classifying milk in accordance with the form in which or the purpose for which it is used, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices shall be uniform as to all

¹ So in original. Probably should be followed by a comma.

handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers. Throughout the 2-year period beginning on the effective date of this sentence (and subsequent to such 2-year period unless modified by amendment to the order involved), the minimum aggregate amount of the adjustments, under clauses (1) and (2) of the preceding sentence, to prices for milk of the highest use classification under orders that are in effect under this section on December 23, 1985, shall be as follows:

Marketing Area Subject to Order	Minimum Aggregate Dollar Amount of Such Adjustments Per Hundredweight of Milk Having 3.5 Percent Milkfat
New England	\$3.24
New York-New Jersey	3.14
Middle Atlantic	3.03
Georgia	3.08
Alabama-West Florida	3.08
Upper Florida	3.58
Tampa Bay	3.88
Southeastern Florida	4.18
Michigan Upper Peninsula	1.35
Southern Michigan	1.75
Eastern Ohio-Western Pennsylvania ...	1.95
Ohio Valley	2.04
Indiana	2.00
Chicago Regional	1.40
Central Illinois	1.61
Southern Illinois	1.92
Louisville-Lexington-Evansville	2.11
Upper Midwest	1.20
Eastern South Dakota	1.50
Black Hills, South Dakota	2.05
Iowa	1.55
Nebraska-Western Iowa	1.75
Greater Kansas City	1.92
Tennessee Valley	2.77
Nashville, Tennessee	2.52
Paducah, Kentucky	2.39
Memphis, Tennessee	2.77
Central Arkansas	2.77
Fort Smith, Arkansas	2.77
Southwest Plains	2.77
Texas Panhandle	2.49
Lubbock-Plainview, Texas	2.49
Texas	3.28
Greater Louisiana	3.28
New Orleans-Mississippi	3.85
Eastern Colorado	2.73
Western Colorado	2.00
Southwestern Idaho-Eastern Oregon ...	1.50
Great Basin	1.90
Lake Mead	1.60
Central Arizona	2.52
Rio Grande Valley	2.35
Puget Sound-Inland	1.85
Oregon-Washington	1.95

Effective at the beginning of such two-year period, the minimum prices for milk of the highest use classification shall be adjusted for the locations at which delivery of such milk is made to such handlers.

(B) Providing:

(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: *Provided*, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered;

subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, (d) a further adjustment to encourage seasonal adjustments in the production of milk through equitable apportionment of the total value of the milk purchased by any handler, or by all handlers, among producers on the basis of their marketings of milk during a representative period of time, which need not be limited to one year, (e) a provision providing for the accumulation and disbursement of a fund to encourage seasonal adjustments in the production of milk may be included in an order, and (f) a further adjustment, equitably to apportion the total value of milk purchased by any handler or by all handlers among producers on the basis of the milk components contained in their marketings of milk.

(C) In order to accomplish the purposes set forth in paragraphs (A) and (B) of this subsection, providing a method for making adjustments in payments, as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the milk purchased by him at the prices fixed in accordance with paragraph (A) of this subsection.

(D) Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order, subject to the adjustments specified in paragraph (B) of this subsection.

(E) Providing (i) except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph (F) of this subsection, for

market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, and (ii) for assurance of, and security for, the payment by handlers for milk purchased.

(F) Nothing contained in this subsection is intended or shall be construed to prevent a cooperative marketing association qualified under the provisions of sections 291 and 292 of this title, engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all of its sales in all markets in all use classifications, and making distribution thereof to its producers in accordance with the contract between the association and its producers: *Provided*, That it shall not sell milk or its products to any handler for use or consumption in any market at prices less than the prices fixed pursuant to paragraph (A) of this subsection for such milk.

(G) No marketing agreement or order applicable to milk and its products in any marketing area shall prohibit or in any manner limit, in the case of the products of milk, the marketing in that area of any milk or product thereof produced in any production area in the United States.

(H) Omitted

(I) Establishing or providing for the establishment of research and development projects, and advertising (excluding brand advertising), sales promotion, educational, and other programs designed to improve or promote the domestic marketing and consumption of milk and its products, to be financed by producers in a manner and at a rate specified in the order, on all producer milk under the order. Producer contributions under this subparagraph² may be deducted from funds due producers in computing total pool value or otherwise computing total funds due producers and such deductions shall be in addition to the adjustments authorized by paragraph (B) of this subsection. Provision may be made in the order to exempt, or allow suitable adjustments or credits in connection with, milk on which a mandatory checkoff for advertising or marketing research is required under the authority of any State law. Such funds shall be paid to an agency organized by milk producers and producers' cooperative associations in such form and with such methods of operation as shall be specified in the order. Such agency may expend such funds for any of the purposes authorized by this subparagraph² and may designate, employ, and allocate funds to persons and organizations engaged in such programs which meet the standards and qualifications specified in the order. All funds collected under this subparagraph² shall be separately accounted for and shall be used only for the purposes for which they were collected. Programs authorized by this subparagraph² may be either local or national in scope, or both, as provided in the order, but shall not be international. Order provisions under this subparagraph² shall not become effective in any marketing order unless such provisions are approved by producers

separately from other order provisions, in the same manner provided for the approval of marketing orders, and may be terminated separately whenever the Secretary makes a determination with respect to such provisions as is provided for the termination of an order in subsection (16)(B) of this section. Disapproval or termination of such order provisions shall not be considered disapproval of the order or of other terms of the order. Notwithstanding any other provision of this chapter, any producer against whose marketings any assessment is withheld or collected under the authority of this subparagraph,² and who is not in favor of supporting the research and promotion programs, as provided for herein, shall have the right to demand and receive a refund of such assessment pursuant to the terms and conditions specified in the order.

(J) Providing for the payment, from the total sums payable by all handlers for milk (irrespective of the use classification of such milk) and before computing uniform prices under paragraph (A) and making adjustments in payments under paragraph (C), to handlers that are cooperative marketing associations described in paragraph (F) and to handlers with respect to which adjustments in payments are made under paragraph (C), for services of marketwide benefit, including but not limited to—

(i) providing facilities to furnish additional supplies of milk needed by handlers and to handle and dispose of milk supplies in excess of quantities needed by handlers;

(ii) handling on specific days quantities of milk that exceed the quantities needed by handlers; and

(iii) transporting milk from one location to another for the purpose of fulfilling requirements for milk of a higher use classification or for providing a market outlet for milk of any use classification.

(K)(i) Notwithstanding any other provision of law, milk produced by dairies—

(I) owned or controlled by foreign persons; and

(II) financed by or with the use of bonds the interest on which is exempt from Federal income tax under section 103 of title 26;

shall be treated as other-source milk, and shall be allocated as milk received from producer-handlers for the purposes of classifying producer milk, under the milk marketing program established under this chapter. For the purposes of this subparagraph,² the term "foreign person" has the meaning given such term under section 3508(3) of this title.

(ii) The Secretary of Agriculture shall prescribe regulations to carry out this subparagraph.²

(iii) This subparagraph² shall not apply with respect to any dairy that began operation before May 6, 1986.

(L) Providing that adjustments in payments by handlers under paragraph (A) need not be the same as adjustments to producers under paragraph (B) with regard to adjustments authorized by subparagraphs (2) and (3) of paragraph (A) and clauses (b), (c), and (d) of paragraph (B)(ii).

² So in original. Probably should be "paragraph".

(6) Other commodities; terms and conditions of orders

In the case of the agricultural commodities and the products thereof, other than milk and its products, specified in subsection (2) of this section orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section), no others:

(A) Limiting, or providing methods for the limitation of, the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods by all handlers thereof.

(B) Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts sold by such producers in such prior period as the Secretary determines to be representative, or upon the current quantities available for sale by such producers, or both, to the end that the total quantity thereof to be purchased, or handled during any specified period or periods shall be apportioned equitably among producers.

(C) Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

(D) Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

(E) Establishing or providing for the establishment of reserve pools of any such commodity or product, or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.

(F) Requiring or providing for the requirement of inspection of any such commodity or product produced during specified periods and marketed by handlers.

(G) In the case of hops and their products in addition to, or in lieu of, the foregoing terms and conditions, orders may contain one or more of the following:

(i) Limiting, or providing methods for the limitation of, the total quantity thereof, or of any grade, type, or variety thereof, produced during any specified period or periods, which all handlers may handle in the current of or so as directly to burden, obstruct, or affect interstate or foreign commerce in hops or any product thereof.

(ii) Apportioning, or providing methods for apportioning, the total quantity of hops of the production of the then current calendar year permitted to be handled equitably among all producers in the production area to which the order applies upon the basis of one or more or a combination of the following: The total quantity of hops available or estimated will become available for market by each producer from his production during such period; the normal production of the acreage of hops operated by each producer during such period upon the basis of the number of acres of hops in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper for age of plantings or abnormal conditions affecting yield; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for.

(iii) Allotting, or providing methods for allotting, the quantity of hops which any handler may handle so that the allotment fixed for that handler shall be limited to the quantity of hops apportioned under preceding clause (ii) to each respective producer of hops; such allotment shall constitute an allotment fixed for that handler within the meaning of subsection (5) of section 608a of this title.

(H) Providing a method for fixing the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging, transportation, sale, shipment, or handling of any fresh or dried fruits, vegetables, or tree nuts: *Provided, however,* That no action taken hereunder shall conflict with the Standard Containers Act of 1916 (15 U.S.C. 251-256) and the Standard Containers Act of 1928 (15 U.S.C. 257-257i).

(I) Establishing or providing for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of any such commodity or product, the expense of such projects to be paid from funds collected pursuant to the marketing order: *Provided,* That with respect to orders applicable to almonds, filberts (otherwise known as hazel-

nuts), California-grown peaches, cherries, papayas, carrots, citrus fruits, onions, Tokay grapes, pears, dates, plums, nectarines, celery, sweet corn, limes, olives, pecans, eggs, avocados, apples, raisins, walnuts, tomatoes, or Florida-grown strawberries, such projects may provide for any form of marketing promotion including paid advertising and with respect to almonds, filberts (otherwise known as hazelnuts), raisins, walnuts, olives, and Florida Indian River grapefruit may provide for crediting the pro rata expense assessment obligations of a handler with all or any portion of his direct expenditures for such marketing promotion including paid advertising as may be authorized by the order and when the handling of any commodity for canning or freezing is regulated, then any such projects may also deal with the commodity or its products in canned or frozen form: *Provided further*, That the inclusion in a Federal marketing order of provisions for research and marketing promotion, including paid advertising, shall not be deemed to preclude, preempt or supersede any such provisions in any State program covering the same commodity.

(J) In the case of pears for canning or freezing, any order for a production area encompassing territory within two or more States or portions thereof shall provide that the grade, size, quality, maturity, and inspection regulation under the order applicable to pears grown within any such State or portion thereof may be recommended to the Secretary by the agency established to administer the order only if a majority of the representatives from that State on such agency concur in the recommendation each year.

(7) Terms common to all orders

In the case of the agricultural commodities and the products thereof specified in subsection (2) of this section orders shall contain one or more of the following terms and conditions:

(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

(C) Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties, which shall include only the powers:

- (i) To administer such order in accordance with its terms and provisions;
- (ii) To make rules and regulations to effectuate the terms and provisions of such order;
- (iii) To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order; and
- (iv) To recommend to the Secretary of Agriculture amendments to such order.

No person acting as a member of an agency established pursuant to this paragraph shall be deemed to be acting in an official capacity, within the meaning of section 610(g) of this title, unless such person receives compensation for his

personal services from funds of the United States. There shall be included in the membership of any agency selected to administer a marketing order applicable to grapefruit or pears for canning or freezing one or more representatives of processors of the commodity specified in such order: *Provided*, That in a marketing order applicable to pears for canning or freezing the representation of processors and producers on such agency shall be equal.

(D) Incidental to, and not inconsistent with, the terms and conditions specified in subsections (5) to (7) of this section and necessary to effectuate the other provisions of such order.

(8) Orders with marketing agreement

Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 per centum of the volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 608b of this title, which regulates the handling of such commodity or product in the same manner as such order, except that as to citrus fruits produced in any area producing what is known as California citrus fruits no order issued pursuant to this subsection shall become effective until the handlers of not less than 80 per centum of the volume of such commodity or product thereof covered by such order have signed such a marketing agreement: *Provided*, That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored:

(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

(9) Orders with or without marketing agreement

Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing,

or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) covered by such order which is produced or marketed within the production or marketing area defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture determines:

(A) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) specified therein which is produced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of this chapter with respect to such commodity or product, and

(B) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored:

(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

(10) Manner of regulation and applicability

No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held. No order shall be issued under this chapter prohibiting, regulating, or restricting the advertising of any commodity or product covered thereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the

advertising of any commodity, or product covered by such marketing agreement.

(11) Regional application

(A) No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this chapter.

(B) Except in the case of milk and its products, orders issued under this section shall be limited in their application to the smallest regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable, consistently with carrying out such declared policy.

(C) All orders issued under this section which are applicable to the same commodity or product thereof shall, so far as practicable, prescribe such different terms, applicable to different production areas and marketing areas, as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity or product in such areas.

(12) Approval of cooperative association as approval of producers

Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

(13) Retailer and producer exemption

(A) No order issued under subsection (9) of this section shall be applicable to any person who sells agricultural commodities or products thereof at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products.

(B) No order issued under this chapter shall be applicable to any producer in his capacity as a producer.

(14) Violation of order; penalty

(A) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order shall, on conviction, be fined not less than \$50 or more than \$5,000 for each such violation, and each day during which such violation continues shall be deemed a separate violation. If the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violations as occurred between the date upon which the de-

fendant's petition was filed with the Secretary, and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15) of this section.

(B) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order may be assessed a civil penalty by the Secretary not exceeding \$1,000 for each such violation. Each day during which such violation continues shall be deemed a separate violation, except that if the Secretary finds that a petition pursuant to paragraph (15) was filed and prosecuted by the handler in good faith and not for delay, no civil penalty may be assessed under this paragraph for such violations as occurred between the date on which the handler's petition was filed with the Secretary, and the date on which notice of the Secretary's ruling thereon was given to the handler in accordance with regulations prescribed pursuant to paragraph (15). The Secretary may issue an order assessing a civil penalty under this paragraph only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable in the district courts of the United States in any district in which the handler subject to the order is an inhabitant, or has the handler's principal place of business. The validity of such order may not be reviewed in an action to collect such civil penalty.

(15) Petition by handler for modification of order or exemption; court review of ruling of Secretary

(A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture, with the approval of the President. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(B) The District Courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection (15) shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 608a(6) of this title.

Any proceedings brought pursuant to section 608a(6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15)) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection (15).

(16) Termination of orders and marketing agreements

(A)(i) Except as provided in clause (ii), the Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provision thereof.

(ii) The Secretary may not terminate any order issued under this section for a commodity for which there is no Federal program established to support the price of such commodity unless the Secretary gives notice of, and a statement of the reasons relied upon by the Secretary for, the proposed termination of such order to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives not later than 60 days before the date such order will be terminated.

(B) The Secretary shall terminate any marketing agreement entered into under section 608b of this title, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: *Provided*, That such majority have, during such representative period, produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

(C) Except as otherwise provided in this subsection with respect to the termination of an order issued under this section, the termination or suspension of any order or amendment thereto or provision thereof, shall not be considered an order within the meaning of this section.

(17) Provisions applicable to amendments

The provisions of this section and section 608d of this title applicable to orders shall be applicable to amendments to orders: *Provided*, That no-

tice of a hearing upon a proposed amendment to any order issued pursuant to this section, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof: *Provided further*, That if one-third or more of the producers as defined in a milk order apply in writing for a hearing on a proposed amendment of such order, the Secretary shall call such a hearing if the proposed amendment is one that may legally be made to such order. Subsection (12) of this section shall not be construed to permit any cooperative to act for its members in an application for a hearing under the foregoing proviso and nothing in such proviso shall be construed to preclude the Secretary from calling an amendment hearing as provided in subsection (3) of this section. The Secretary shall not be required to call a hearing on any proposed amendment to an order in response to an application for a hearing on such proposed amendment if the application requesting the hearing is received by the Secretary within ninety days after the date on which the Secretary has announced the decision on a previously proposed amendment to such order and the two proposed amendments are essentially the same.

(18) Milk prices

The Secretary of Agriculture, prior to prescribing any term in any marketing agreement or order, or amendment thereto, relating to milk or its products, if such term is to fix minimum prices to be paid to producers or associations of producers, or prior to modifying the price fixed in any such term, shall ascertain the parity prices of such commodities. The prices which it is declared to be the policy of Congress to establish in section 602 of this title shall, for the purposes of such agreement, order, or amendment, be adjusted to reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products in the marketing area to which the contemplated marketing agreement, order, or amendment relates. Whenever the Secretary finds, upon the basis of the evidence adduced at the hearing required by section 608b of this title or this section, as the case may be, that the parity prices of such commodities are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area to which the contemplated agreement, order, or amendment relates, he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs, and be in the public interest. Thereafter, as the Secretary finds necessary on account of changed circumstances, he shall, after due notice and opportunity for hearing, make adjustments in such prices.

(19) Producer or processor referendum for approving order

For the purpose of ascertaining whether the issuance of an order is approved or favored by

producers or processors, as required under the applicable provisions of this chapter, the Secretary may conduct a referendum among producers or processors and in the case of an order other than an amendatory order shall do so. The requirements of approval or favor under any such provision shall be held to be complied with if, of the total number of producers or processors, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of the percentage required under such provision. The terms and conditions of the proposed order shall be described by the Secretary in the ballot used in the conduct of the referendum. The nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto. Nothing in this subsection shall be construed as limiting representation by cooperative associations as provided in subsection (12) of this section. For the purpose of ascertaining whether the issuance of an order applicable to pears for canning or freezing is approved or favored by producers as required under the applicable provisions of this chapter, the Secretary shall conduct a referendum among producers in each State in which pears for canning or freezing are proposed to be included within the provisions of such marketing order and the requirements of approval or favor under any such provisions applicable to pears for canning or freezing shall be held to be complied with if, of the total number of producers, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of 66⅔ per centum except that in the event that pear producers in any State fail to approve or favor the issuance of any such marketing order, it shall not be made effective in such State.

(May 12, 1933, ch. 25, title I, §8c, as added Aug. 24, 1935, ch. 641, §5, 49 Stat. 753; amended June 25, 1936, ch. 804, 49 Stat. 1921; June 3, 1937, ch. 296, §§1, 2(d), (e), (f), (k), (l), (m), 50 Stat. 246, 247; Aug. 5, 1937, ch. 567, 50 Stat. 563; Apr. 13, 1938, ch. 143, §§1, 2, 52 Stat. 215; May 31, 1939, ch. 157, 53 Stat. 793; Feb. 10, 1942, ch. 52, §§2, 3, 56 Stat. 85; 1947 Reorg. Plan No. 1, §102, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951; Aug. 1, 1947, ch. 425, §§2, 4, 61 Stat. 707, 710; July 3, 1948, ch. 827, title III, §302(b), (c), 62 Stat. 1258; June 29, 1949, ch. 273, 63 Stat. 282; Aug. 28, 1954, ch. 1041, title IV, §401(b)-(d), 68 Stat. 906, 907; Aug. 8, 1961, Pub. L. 87-128, title I, §141(3), (4), 75 Stat. 304, 305; Sept. 27, 1962, Pub. L. 87-703, title IV, §403, 76 Stat. 632; Nov. 3, 1965, Pub. L. 89-321, title I, §§101, 102, 79 Stat. 1187; Nov. 8, 1965, Pub. L. 89-330, §1(b), 79 Stat. 1270; Feb. 20, 1970, Pub. L. 91-196, §1, 84 Stat. 14; June 25, 1970, Pub. L. 91-292, §1(2), 84 Stat. 333; July 18, 1970, Pub. L. 91-341, 84 Stat. 438; July 31, 1970, Pub. L. 91-363, 84 Stat. 687; Aug. 18, 1970, Pub. L. 91-384, 84 Stat. 827; Nov. 25, 1970, Pub. L. 91-522, 84 Stat. 1357; Nov. 30, 1970, Pub. L. 91-524, title II, §201(a), 84 Stat. 1359; Jan. 11, 1971, Pub. L. 91-670, title I, §101, title II, §201, 84 Stat. 2040, 2041; Aug. 13, 1971, Pub. L. 92-120, 85 Stat. 340; Feb. 15, 1972, Pub. L. 92-233, 86 Stat. 39; Oct. 6, 1972, Pub. L. 92-466, 86 Stat. 780; Nov. 30, 1970, Pub. L. 91-524, title II, §201(f), as added Aug. 10, 1973, Pub. L. 93-86, §1(2)(B), 87 Stat. 222;

Dec. 29, 1973, Pub. L. 93-230, 87 Stat. 945; May 15, 1978, Pub. L. 95-279, title IV, §401(a), 92 Stat. 242; Dec. 3, 1980, Pub. L. 96-494, title I, §101, 94 Stat. 2570; Dec. 22, 1981, Pub. L. 97-98, title I, §101(a), 95 Stat. 1218; Nov. 29, 1983, Pub. L. 98-171, §1, 97 Stat. 1117; Nov. 29, 1983, Pub. L. 98-180, title III, §304, 97 Stat. 1151; Dec. 23, 1985, Pub. L. 99-198, title I, §§131(a), 133, title XVI, §§1661(a), 1662(a), 99 Stat. 1372, 1373, 1630, 1631; Dec. 22, 1987, Pub. L. 100-203, title I, §1501, 101 Stat. 1330-27; Aug. 23, 1988, Pub. L. 100-418, title IV, §§4601, 4602, 102 Stat. 1407; Nov. 28, 1990, Pub. L. 101-624, title I, §§112, 113, title XIII, §1306, 104 Stat. 3380, 3561; Dec. 13, 1991, Pub. L. 102-237, title I, §115(2), 105 Stat. 1840; Oct. 28, 1992, Pub. L. 102-553, §2, 106 Stat. 4141.)

AMENDMENT OF SECTION

For termination of amendment by section 101(b) of Pub. L. 97-98, see Effective and Termination Dates of 1981 Amendment note below.

REFERENCES IN TEXT

The Naval Stores Act, referred to in subsec. (2), is act Mar. 3, 1923, ch. 217, 42 Stat. 1435, as amended, which is classified generally to chapter 4 (§91 et seq.) of this title. For complete classification of this Act to the Code, see section 91 of this title and Tables.

For the effective date of this sentence, referred to in subsec. (5)(A), see Effective Date of 1985 Amendment note below.

The Standard Containers Act of 1916 and the Standard Containers Act of 1928, referred to in subsec. (6)(H), are act Aug. 31, 1916, ch. 426, 39 Stat. 673, as amended, and act May 21, 1928, ch. 664, 45 Stat. 685, as amended, respectively, and were repealed by Pub. L. 90-628, §1(a), (b), Oct. 22, 1968, 82 Stat. 1320.

CODIFICATION

Subsec. (5)(H), which permitted marketing orders applicable to milk and its products to be limited in application to milk used for manufacturing, was omitted as terminated. See Termination of 1965 Amendments note set out below.

Phrase "with the approval of the President," following "Secretary of Agriculture" in opening par. of subsec. (9) of this section was omitted on the authority of 1947 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the function of the President with respect to approving determinations of the Secretary of Agriculture in connection with agricultural marketing orders under this section.

The words "(including the district court of the United States for the District of Columbia)" in subsec. (15)(B) following "The District Courts of the United States" have been deleted as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure which states that "There should be in each judicial district a district court which shall be a court of record known as the United States District Court for the district", and section 88 of said Title 28 which states that "The District of Columbia constitutes one judicial district."

In subsec. (18), "or, in the case of orders applying only to manufacturing milk, the production area" following "marketing area" in two places, was deleted from the Code. See Termination of 1965 Amendments note set out below.

AMENDMENTS

1992—Subsec. (1). Pub. L. 102-553 inserted at end "In carrying out this section, the Secretary shall complete all informal rulemaking actions necessary to respond to recommendations submitted by administrative committees for such orders as expeditiously as possible, but not more than 45 days (to the extent practicable) after

submission of the committee recommendations. The Secretary shall establish time frames for each office and agency within the Department of Agriculture to consider the committee recommendations."

1991—Subsec. (5)(B). Pub. L. 102-237 substituted "and" for "and," before cl. (f) in last sentence.

1990—Subsec. (5)(B)(f). Pub. L. 101-624, §112, added cl. (f).

Subsec. (5)(L). Pub. L. 101-624, §113, added par. (L).

Subsec. (14)(A). Pub. L. 101-624, §1306(1), struck out "(other than a provision calling for payment of a pro rata share of expenses)" before "shall, on conviction" and substituted ". If" for "Provided, That if".

Subsec. (14)(B). Pub. L. 101-624, §1306(2), struck out "(other than a provision calling for payment of a pro rata share of expenses)" before "may be assessed".

1988—Subsec. (5)(K). Pub. L. 100-418, §4601, added par. (K).

Subsec. (6)(D). Pub. L. 100-418, §4602, substituted "tomatoes, or Florida-grown strawberries," for "or tomatoes".

1987—Subsec. (14). Pub. L. 100-203 designated existing provisions as par. (A) and added par. (B).

1985—Subsec. (5)(A). Pub. L. 99-198, §131(a), inserted provisions, with accompanying table, establishing the minimum aggregate amounts of the adjustments under cls. (1) and (2) to prices for milk of the highest use classification under orders in effect on Dec. 23, 1985, and requiring that such prices be adjusted for the locations at which delivery of such milk is made to such handlers.

Subsec. (5)(J). Pub. L. 99-198, §133, added par. (J).

Subsec. (14). Pub. L. 99-198, §1661(a), substituted "\$5,000" for "\$500".

Subsec. (16)(A). Pub. L. 99-198, §1662(a)(1), designated existing provisions of par. (A) as cl. (i), substituted "Except as provided in clause (ii), the Secretary" for "The Secretary", and added cl. (ii).

Subsec. (16)(C). Pub. L. 99-198, §1662(a)(2), substituted "Except as otherwise provided in this subsection with respect to the termination of an order issued under this section, the termination" for "The termination".

1983—Subsec. (2). Pub. L. 98-180, §304(1), substituted "poultry (but not excepting turkeys and not excepting poultry which produce commercial eggs)," for "poultry (but not excepting turkeys), eggs (but not excepting turkey hatching eggs)."

Subsec. (6)(I). Pub. L. 98-180, §304(2), inserted "eggs," after "pecans,".

Pub. L. 98-171 inserted "filberts (otherwise known as hazelnuts)," after "almonds," in two places.

1981—Subsec. (5)(B). Pub. L. 97-98, §101(a)(1), struck out cl. (f) which extended authority for Class I Base Plans, provided for a representative Class I base period of one to three years to be automatically updated each year, inserted provisions to automatically keep the total of bases closely related to changing levels of market utilization, provided authorization for transfers of Class I bases on such terms and conditions as prescribed in the order by the Secretary, added authority to make provision in the order for the alleviation of hardship and inequity among producers including abnormally low production during a base forming period due to circumstances beyond his control, operation during part but not all of a base period, acts of God, and reduced marketing due to diseases, pesticides, residues, and condemnation of milk, and removed provision under which the participation of new producers in the market's Class I sales was confined to increases in such sales with defined exceptions.

Subsec. (17). Pub. L. 97-98, §101(a)(2), inserted provisions governing procedures when one-third or more of producers apply in writing for a hearing on a proposed amendment of an order, prohibiting any construction of subsec. (12) in a way which might permit cooperatives to act for their members in applying for hearings, and excusing the Secretary from the requirement of having to call a hearing on proposed amendments to an order in response to an application for such a hearing when the application for such a hearing is received by the Secretary within ninety days after the date on

which the Secretary has announced his decision on a previously proposed amendment to such order and the two proposed amendments are essentially the same. An identical amendment was made by Pub. L. 91-524, §201(f)(1), as added by Pub. L. 93-86, see Termination of 1970 Amendment note set out below.

Subsec. (18). Pub. L. 97-98, §101(a)(3), inserted "to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs" after "pure and wholesome milk". An identical amendment was made by Pub. L. 91-524, §201(f)(2), as added by Pub. L. 93-86, see Termination of 1970 Amendment note set out below.

1980—Subsec. (6)(I). Pub. L. 96-494 inserted "walnuts" before "or tomatoes" and substituted "walnuts, olives, and Florida Indian River grapefruit" for "Florida Indian River grapefruit".

1978—Subsec. (6)(I). Pub. L. 95-279 inserted "raisins" after "apples" and after "with respect to almonds".

1973—Subsec. (6)(I). Pub. L. 93-230 inserted "and Florida Indian River grapefruit" after "with respect to almonds".

Subsec. (17). Pub. L. 91-524, §201(f)(1), as added by Pub. L. 93-86, inserted provisions governing procedures when one-third or more of producers apply in writing for a hearing on a proposed amendment of an order, prohibiting any construction of subsec. (12) in a way which might permit cooperatives to act for their members in applying for hearings, and excusing the Secretary from the requirement of having to call a hearing on proposed amendments to an order in response to an application for such a hearing when the application for such a hearing is received by the Secretary within ninety days after the date on which the Secretary has announced his decision on a previously proposed amendment to such order and the two proposed amendments are essentially the same.

Subsec. (18). Pub. L. 91-524, §201(f)(2), as added by Pub. L. 93-86, inserted "to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs" after "insure a sufficient quantity of pure and wholesome milk".

1972—Subsec. (2). Pub. L. 92-233 inserted potatoes for canning, freezing or other processing to the agricultural commodities excluded from the categories of commodities which the Secretary may regulate. The amendment served to make permanent the temporary exemption first inserted by Pub. L. 91-196. See 1970 Amendment note and Effective Date of 1970 Amendment note.

Subsec. (2)(A). Pub. L. 92-466, §1(1), inserted "pears," after "except canned or frozen" and after "canning or freezing other than".

Subsec. (6)(I). Pub. L. 92-466, §1(2), struck out "fresh" before "pears" and provided that when the handling of any commodity for canning or freezing is regulated, then any projects may also deal with the commodity or its products in canned or frozen form.

Subsec. (6)(J). Pub. L. 92-466, §1(5), added par. (J).

Subsec. (7)(C). Pub. L. 92-466, §1(3), inserted "or pears" after "marketing order applicable to grapefruit" and inserted proviso that in a marketing order applicable to pears for canning or freezing the representation of processors and producers on the agency shall be equal.

Subsec. (19). Pub. L. 92-466, §1(4), inserted provision respecting producer or processor referendum for approving order applicable to pears for canning or freezing.

1971—Subsec. (5)(I). Pub. L. 91-670, §101, added par. (I).

Subsec. (6)(I). Pub. L. 92-120 inserted reference to "California-grown peaches" in proviso.

Pub. L. 91-670, §201, inserted reference to "tomatoes" in proviso.

1970—Subsec. (2). Pub. L. 91-196 inserted potatoes for canning, freezing or other processing to the category of agricultural commodities excluded from the Secretary's power to issue orders to regulate the handling of such commodities.

Subsec. (2)(A). Pub. L. 91-341 inserted provision for marketing orders for apples produced in Colorado, Utah, New Mexico, Illinois and Ohio.

Subsec. (5)(B). Pub. L. 91-524 retained and separately stated the existing authority for base-surplus or base-excess provisions in milk marketing orders in cl. (d), clarified and reaffirmed, in cl. (e), the authority for plans under which leveling of spring and fall production is encouraged by withholding from sums paid for milk in the spring and subsequently paying the same sums to producers in the fall, and, in cl. (f), extended the authority for Class I Base Plans, provided for a representative Class I base period of one to three years to be automatically updated each year, inserted provisions to automatically keep the total of bases closely related to changing levels of market utilization, provided authorization for transfers of Class I bases on such terms and conditions as prescribed in the order by the Secretary, added authority to make provision in the order for the alleviation of hardship and inequity among producers including abnormally low production during a base forming period due to circumstances beyond his control, operation during part but not all of a base period, acts of God, and reduced marketing due to diseases, pesticides, residues, and condemnation of milk, and removed provision under which the participation of new producers in the market's Class I sales was confined to increases in such sales with defined exceptions.

Subsec. (6)(I). Pub. L. 91-522 in first proviso inserted applicability to almonds and provisions authorizing with respect to almonds the crediting of the pro rata expense assessment obligations of a handler with all or any portion of his direct expenditures for marketing promotion including paid advertising as authorized by the order, and in second proviso inserted provisions relating to marketing promotion, including paid advertising, in Federal marketing orders.

Pub. L. 91-384 inserted "papayas," after "applicable to cherries,".

Pub. L. 91-363 substituted "avocados, or apples" for "or avocados" in proviso.

Pub. L. 91-292 authorized the establishment of production research, inserted efficient production to the enumeration of aims to be served by established projects, and inserted proviso that the inclusion in a Federal marketing order of provisions for research not be deemed to preclude, preempt, or supersede research provisions in any State program covering the same commodity.

1965—Subsec. (5). Pub. L. 89-321, §§101, 102, inserted " , which may be adjusted to reflect sales of such milk by any handler or by all handlers in any classification or classifications," before "during a representative period of time" in cl. (d) of par. (B) and, after "representative period of time", inserted "which need not be limited to one year" in completion of first sentence of cl. (d) as well as all the remaining sentences in completion of cl. (d), and added par. (H).

Subsec. (6)(I). Pub. L. 89-330 inserted "carrots, citrus fruits, onions, Tokay grapes, fresh pears, dates, plums, nectarines, celery, sweet corn, limes, olives, pecans, or avocados" in proviso.

Subsec. (18). Pub. L. 89-321, §102, inserted "or, in the case of orders applying only to manufacturing milk, the production area" after "marketing area" wherever occurring.

1962—Subsec. (6)(I). Pub. L. 87-703 inserted the cherry marketing order provisions for advertising.

1961—Subsec. (2). Pub. L. 87-128, §141(3), designated existing provisions as par. (A), included in exception provision thereof cherries, apples, and cranberries, substituted "Idaho, New York, Michigan, Maryland, New Jersey, Indiana, California, Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, and Connecticut, and not including fruits for canning or freezing other than olives, grapefruit, cherries, cranberries, and apples produced in the States named above except Washington, Oregon, and Idaho)" for "and Idaho, and not including fruits, other than olives and grapefruit, for canning or freezing)", struck out "soybeans" before

“, hops, honeybees”, and added par. (B) and provisions respecting the effectiveness of orders as to cherries, apples and cranberries for canning or freezing, the applicability of orders to peanuts, the treatment of commodities as single commodities and separate agricultural commodities, and the deeming of the covered agricultural commodities and products as specified in the subsection.

Subsec. (19). Pub. L. 87-128, §141(4), provided for processor referendum for approving order, required referendum in case of an order other than an amendatory order, and a description of the terms and conditions of the proposed order in the ballot used in the conduct of the referendum, and prohibited the use of such description as a basis for attacking legality of orders or any action relating thereto.

1954—Subsec. (2). Act Aug. 28, 1954, §401(b), made grapefruit for canning and freezing (but not the canned or frozen product) subject to its provisions, and inserted proviso.

Subsec. (6). Act Aug. 28, 1954, §401(c), brought within its scope all agricultural commodities specified in subsec. (2) of this section, and added pars. (H) and (I).

Subsec. (7)(C). Act Aug. 28, 1954, §401(d), provided for the appointment of representatives from the grapefruit for canning processors.

1949—Subsecs. (2), (6). Act June 29, 1949, made section applicable to filberts and almonds.

1948—Subsec. (17). Act July 3, 1948, §302(c), struck out “section 608e of this title”.

Subsec. (18). Act July 3, 1948, §302(b), made definition of “parity” conform to definition stated in section 1301(a)(1) of this title.

1947—Subsec. (2). Act Aug. 1, 1947, inserted “or freezing” after “canning” in two places.

Subsec. (6). Act Aug. 1, 1947, in opening par., inserted “or freezing” after “canning” in two places, reenacted pars. (A) to (E) without change, inserted par. (F), redesignated former par. (F) as (G) and reenacted such par. without further change.

1942—Subsec. (6), opening par. Act Feb. 10, 1942, §2, inserted “and their products” after “hops”.

Subsec. (6)(F). Act Feb. 10, 1942, §3, added par. (F).

1939—Subsecs. (2), (6). Act May 31, 1939, amended Act June 3, 1937, §2, by adding subsection (m) thereto, which in turn amended subsecs. (2) and (6) of this section.

1938—Subsec. (2). Act Apr. 13, 1938, §1, inserted “hops” after “soybeans”.

Subsec. (6). Act Apr. 13, 1938, §2, inserted “hops” after “soybeans and their products”.

1937—Subsec. (2). Act Aug. 5, 1937, amended act June 3, 1937, by adding thereto subsec. (k), which in turn amended subsec. (2) by inserting “and the products of honeybees” after “except the products of naval stores” and “, honeybees” after “soybeans”.

Subsec. (5)(B)(d). Act June 3, 1937, §2(d), substituted “marketings” for “production”.

Subsec. (6). Act Aug. 5, 1937, amended act June 3, 1937, by adding subsec. (7), which in turn amended subsec. (6) by inserting “honeybees” after “soybeans and their products”.

Subsec. (6)(B). Act June 3, 1937, §2(e), struck out “produced or” and “production or sales of” and inserted in lieu thereof “quantities available for sale by”.

Subsecs. (18), (19). Act June 3, 1937, §2(f), added subsecs. (18) and (19). See note set out under section 601 of this title.

1936—Act June 25, 1936, provided that the Supreme Court of the District of Columbia should thereafter be known as the “district court of the United States for the District of Columbia”.

1935—Section added to the Agricultural Adjustment Act by act Aug. 24, 1935, which also struck out former section 608(3) of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendments by sections 112 and 113 of Pub. L. 101-624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section

1171 of Pub. L. 101-624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 131(b) of Pub. L. 99-198 provided that: “The amendment made by this section [amending this section] shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act [Dec. 23, 1985].”

Section 133 of Pub. L. 99-198 provided that the amendment made by that section is effective Jan. 1, 1986.

Section 1661(b) of Pub. L. 99-198 provided that: “The amendment made by subsection (a) [amending this section] shall not apply with respect to any violation described in section 8c(14) of the Agricultural Adjustment Act [subsec. (14) of this section] occurring before the date of the enactment of this Act [Dec. 23, 1985].”

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 101(b) of Pub. L. 97-98, as amended by Pub. L. 99-198, title I, §132, Dec. 23, 1985, 99 Stat. 1373; Pub. L. 101-624, title I, §108, Nov. 28, 1990, 104 Stat. 3380; Pub. L. 103-66, title I, §1105(b), Aug. 10, 1993, 107 Stat. 317, provided that: “The provisions of subsection (a) [amending this section] shall become effective January 1, 1982, and shall terminate December 31, 1996.”

EFFECTIVE DATE OF 1978 AMENDMENT

Section 401(a) of Pub. L. 95-279 provided that the amendment made by that section is effective Oct. 1, 1978.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 2 of Pub. L. 91-196 provided that: “The amendments made by this Act [amending this section] shall be effective only during the period beginning with the date of enactment of this Act [Feb. 20, 1970] and ending two years after such date.” The limited effective period beginning Feb. 20, 1970, and ending two years after such date for the amendment made by Pub. L. 91-196 was removed as a result of the enactment of Pub. L. 92-233, Feb. 15, 1972, 86 Stat. 39, which made an amendment to the section identical to that made by Pub. L. 91-196 but without a time limit on such amendment of the type which had limited the duration of such earlier Pub. L. 91-196 amendment.

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.

TERMINATION OF 1970 AMENDMENT; SAVINGS PROVISION

Section 201(e) of Pub. L. 91-524, as amended by Pub. L. 93-86, §1(2)(A), Aug. 10, 1973, 87 Stat. 222; Pub. L. 95-113, title II, §201, Sept. 29, 1977, 91 Stat. 919, provided that: “The provisions of this section [amending this section] shall not be effective after December 31, 1981, except with respect to orders providing for class I base plans issued prior to such date, but in no event shall any order so issued extend or be effective beyond December 31, 1984.”

TERMINATION OF 1965 AMENDMENTS; REVERSION OF STATUS OF PRODUCER HANDLERS OF MILK TO PRE-AMENDMENT STATUS

Sections 103 and 104 of Pub. L. 89-321, as amended by Pub. L. 90-559, §1(3), Oct. 11, 1968, 82 Stat. 996, provided that:

“SEC. 103. The provisions of this title [amending this section] shall not be effective after December 31, 1970.

“SEC. 104. The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by this title [amending this section] as it was prior thereto.”

SHORT TITLE

Section 1 of Pub. L. 89-321 provided: "That this Act [enacting sections 1305, 1306, 1316, 1344b, 1379, 1446a-1, and 1838 of this title, amending this section and sections 1301, 1314b, 1332, 1333, 1334, 1335, 1339, 1339a, 1339c, 1340, 1346, 1348, 1350, 1353, 1374, 1379b, 1379c, 1379d, 1379e, 1379g, 1379i, 1423, 1427, 1428, 1444, 1445a, and 1782 of this title and section 590p of Title 16, Conservation, repealing sections 1801 to 1816, 1821 to 1824, 1831, and 1832 to 1837 of this title, enacting provisions set out as notes under this section and sections 1282, 1301, 1332, 1334, 1339, 1350, 1359, 1379b, 1379c, 1379d, 1379i, 1428, 1441, and 1445a of this title and section 590p of Title 16, and amending provisions set out as notes under sections 1339, 1379c, and 1427 of this title] may be cited as the 'Food and Agriculture Act of 1965'."

MINNESOTA-WISCONSIN PRICE SERIES REFORM

Section 103 of Pub. L. 101-624 provided that:

"(a) IN GENERAL.—Within 60 days of the date of enactment of this Act [Nov. 28, 1990], the Secretary of Agriculture shall commence to accept alternative pricing formula recommendations, as they may relate to the Minnesota-Wisconsin price series used to determine the minimum prices paid under milk marketing orders, in order to amend such milk marketing orders authorized under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937. Among the alternative pricing formulas to be considered by the Secretary shall be a price series based on prices paid by milk processors for Grade A milk and manufacturing grade milk that is used in the manufacture of dairy products.

"(b) AVAILABILITY OF DATA.—The Secretary shall compile and make available to the public the historical and current data used to compare the alternative pricing formulas submitted and recommended as provided in subsection (a) with the existing Minnesota-Wisconsin price series.

"(c) IMPLEMENTATION IN FEDERAL MARKETING ORDERS.—

"(1) ANNOUNCEMENT OF HEARING.—Not later than October 1, 1991, the Secretary shall—

"(A) announce a national hearing to consider the proposed replacement of the Minnesota-Wisconsin price series in Federal milk marketing orders; and

"(B) invite industry and consumer proposals on the specific provisions to be considered for each order.

"(2) REPORT TO CONGRESS.—On issuance of the final decision on the hearing proposals, the Secretary shall report the decision to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(3) OPPORTUNITY FOR PUBLIC COMMENT.—The opportunity for public comment on the recommended decision shall not be less than 30 legislative days. For purposes of this paragraph, the term 'legislative day' means a day on which either House of Congress is in session."

HEARINGS ON FEDERAL MILK MARKETING ORDERS

Section 104 of Pub. L. 101-624 provided that: "The Secretary of Agriculture shall—

"(1) conclude the national hearings announced by the Secretary on March 29, 1990, regarding possible changes in the pricing provisions of Federal milk marketing orders; and

"(2) to the maximum extent practicable consistent with applicable laws, effect any resulting system-wide changes in the Federal orders setting minimum prices that milk processors must pay for Grade A milk received from producers, by January 1, 1992."

STATUS OF PRODUCER HANDLERS

Section 115 of title I of Pub. L. 101-624 provided that: "The legal status of producer handlers of milk under

the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall be the same after the amendments made by this title [enacting section 1446e of this title and amending sections 450f, 608c, and 1446a of this title, section 713a-14 of Title 15, Commerce and Trade, and provisions set out as notes under sections 608c and 1731 of this title] take effect as it was before the effective date of the amendments [see Effective Date of 1990 Amendment note set out under section 1421 of this title]."

MULTIPLE COMPONENT PRICING STUDY

Section 116 of Pub. L. 101-624 provided that:

"(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [Nov. 28, 1990], the Secretary of Agriculture shall initiate a study to determine whether, and to what extent, milkfat is being produced in the United States in excess of commercial market needs as a result of any provision of law, regulation, or order that affects the manner in which producers receive payment for milk on the basis of the milk components contained in their marketings of milk under any Federal or State milk pricing program.

"(b) STUDY.—In conducting the study, the Secretary shall assess the potential impact on achieving balance in the production, marketing, and domestic commercial use of milkfat through adoption of multiple component pricing programs under Federal and State milk pricing programs.

"(c) REPORT.—Not later than 180 days after the date of enactment of this Act [Nov. 28, 1990], the Secretary shall—

"(1) report the results of the study conducted under subsection (a), together with associated recommendations, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate; and

"(2) publish the results of the study.

"(d) IMPLEMENTATION IN FEDERAL MARKETING ORDERS.—On completion and publication of the study described in this section, the Secretary shall—

"(1) announce a national hearing to consider the adoption of multiple component pricing provisions in individual Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

"(2) invite industry and consumer proposals on the specific provisions to be considered for each order."

MARKETWIDE SERVICE PAYMENTS

Pub. L. 99-260, §9, Mar. 20, 1986, 100 Stat. 51, provided that:

"(a) HEARING.—Not later than 90 days after receipt of a proposal to amend a milk marketing order in accordance with section 8c(5)(J) of the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 608c(5)(J)) (as added by section 133 of the Food Security Act of 1985), the Secretary of Agriculture shall conduct a hearing on the proposal.

"(b) IMPLEMENTATION.—Not later than 120 days after a hearing is conducted under subsection (a), the Secretary shall implement, in accordance with the Agricultural Adjustment Act [this chapter], a marketwide service payment program under section 8c(5)(J) of such Act that meets the requirements of such Act."

TERMINATION OF MARKETING ORDERS

Section 1662(b) of Pub. L. 99-198 provided that: "The Secretary of Agriculture may not terminate any marketing order under section 8c(16) of the [so in original] Agricultural Adjustment Act (7 U.S.C. 608c(16)), reenacted with amendments by the Agricul-

tural Marketing Agreement Act of 1937, if such termination becomes effective before January 16, 1986.”

REPORT TO HOUSES OF CONGRESS REGARDING IMPLEMENTATION OF PROVISIONS RELATING TO HANDLING OF COMMODITIES

Section 401(b) of Pub. L. 95-279 provided that: “Within a period of sixty days following the second anniversary of the implementation of this section, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that shall describe in detail how this section has been implemented including, but not limited to, information as to the issuance or amendment of any affected order, the annual amount of assessments collected, in the aggregate and by size and class of handler, the manner in which such assessments were collected, the amount of direct expenditures credited against the pro rata expense assessment obligations of each handler, and the purpose to which such assessments and such direct expenditures of each such handler were devoted.”

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1985 AMENDMENT STATUS

Section 134 of Pub. L. 99-198 provided that: “The legal status of producer handlers of milk under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall be the same after the amendments made by this title [probably means this subtitle, subtitle C (§§131-134) of title I of Pub. L. 99-198, amending subsec. (5) of this section and provisions set out as a note above] take effect as it was before the effective date of such amendments.”

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1981 AMENDMENT STATUS

Section 102 of Pub. L. 97-98 provided that: “The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 [this chapter] shall be the same subsequent to the adoption of the amendment made by the Agriculture and Food Act of 1981 [see Tables] as it was prior thereto.”

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1977 AMENDMENT STATUS

Pub. L. 95-113, title II, §202, Sept. 29, 1977, 91 Stat. 919, provided that: “The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act [see Short Title note set out under section 601 of this title], as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended [act June 3, 1937, ch. 296, 50 Stat. 246, set out as a note under section 601 of this title] shall be the same subsequent to the adoption of the amendment made by the Food and Agriculture Act of 1977 [see Short Title of 1977 Amendment note set out under section 1281 of this title] as it was prior thereto.”

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1973 AMENDMENT STATUS

Section 206 of Pub. L. 91-524, as added Pub. L. 93-86, §1(6), Aug. 10, 1973, 87 Stat. 224; amended Pub. L. 93-125, §1(a)(iii), Oct. 18, 1973, 87 Stat. 450, provided that: “The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by the Agriculture and Consumer Protection Act of 1973 [amending this section and sections 450f, 1446, and 1446a of this title] as it was prior thereto.”

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1970 AMENDMENT STATUS

Section 201(b) of Pub. L. 91-524 provided that: “The legal status of producer handlers of milk under the pro-

visions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by this Act [amending subsec. (5)(B) of this section] as it was prior thereto.”

RATIFICATION, LEGALIZATION, CONFIRMATION, AND EXTENSION OF CLASS I BASE PLAN PROVISIONS IN MARKETING ORDERS ISSUED PRIOR TO NOV. 30, 1970

Section 201(c) of Pub. L. 91-524 provided that: “Nothing in subsection (a) of this section 201 [amending subsec. (5)(B) of this section] shall be construed as invalidating any class I base plan provisions of any marketing order previously issued by the Secretary of Agriculture pursuant to authority contained in the Food and Agriculture Act of 1965 (79 Stat. 1187), but such provisions are expressly ratified, legalized, and confirmed and may be extended through and including December 31, 1971.”

REAFFIRMATION OF SUBSEC. (5)(G) OF THIS SECTION

Section 201(d) of Pub. L. 91-524 provided that: “It is not intended that existing law be in any way altered, rescinded, or amended with respect to section 8c(5)(G) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended [subsec. (5)(G) of this section], and such section 8c(5)(G) is fully reaffirmed.”

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section, except for the amendments to subsections (5)(B)(d) and (6)(B) by section 2 of the act, and the addition of subsections (18) and (19) by said section 2. See note set out under section 601 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

Process, see rule 4.

CROSS REFERENCES

Anti-hog-cholera serum and hog-cholera virus, marketing agreements relating to, see section 853 of this title.

Anti-hog-cholera serum and hog-cholera virus provisions, provisions of section as applicable to, see section 855 of this title.

Referendum on quotas established for tobacco, corn, wheat, cotton, and rice, see sections 1312 and 1336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 608e-1, 610, 672, 673, 853, 855, 1392, 1446e, 6409 of this title.

§ 608c-1. Repealed. June 29, 1945, ch. 196, 59 Stat. 263

Section, acts Apr. 13, 1938, ch. 143, §3, 52 Stat. 215; May 26, 1939, ch. 150, 53 Stat. 782; Feb. 10, 1942, ch. 52, §1, 56 Stat. 85, related to orders applicable to hops. Section was not a part of the Agricultural Adjustment Act of 1933.

§ 608d. Books and records; disclosure of information; notification of Congressional committees

(1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has

effectuated the declared policy of this chapter and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is authorized to examine such books, papers, records, copies of income-tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

(2) Notwithstanding the provisions of section 607 of this title, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section, as well as information for marketing order programs that is categorized as trade secrets and commercial or financial information exempt under section 552(b)(4) of title 5 from disclosure under section 552 of such title, shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Notwithstanding the preceding sentence, any such information relating to a marketing agreement or order applicable to milk may be released upon the authorization of any regulated milk handler to whom such information pertains. The Secretary shall notify the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives not later than 10 legislative days before the contemplated release under law, of the names and addresses of producers participating in such marketing agreements and orders, and shall include in such notice a statement of reasons relied upon by the Secretary in making the determination to release such names and addresses. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be

subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

(May 12, 1933, ch. 25, title I, §8d, as added Aug. 24, 1935, ch. 641, §6, 49 Stat. 761; amended June 3, 1937, ch. 296, §1, 50 Stat. 246; Dec. 23, 1985, Pub. L. 99-198, title XVI, §1663, 99 Stat. 1631.)

REFERENCES IN TEXT

The antitrust laws, referred to in subsec. (1), are classified generally to chapter 1 (§1 et seq.) of Title 15, Commerce and Trade.

CODIFICATION

Act Aug. 24, 1935, struck out provisions of section 8(4) of act May 12, 1933, formerly appearing in section 608(4) of this title and added a new section 8d containing provisions appearing in text.

AMENDMENTS

1985—Subsec. (2). Pub. L. 99-198, §1663(1), extended confidentiality requirement to include information for marketing order programs that is categorized as trade secrets and commercial or financial information that is exempt from disclosure under section 552 of title 5.

Pub. L. 99-198, §1663(2), inserted provisions directing that confidential information relating to a marketing agreement or order applicable to milk may be released upon the authorization of any regulated milk handler to whom such information pertains and that the Secretary notify the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives not later than 10 legislative days before the contemplated release under law, of the names and addresses of producers participating in such marketing agreements and orders, and include in such notice a statement of reasons relied upon by the Secretary in making the determination to release such names and addresses.

RELEASE OF INFORMATION

Pub. L. 103-111, title VII, §715, Oct. 21, 1993, 107 Stat. 1079, provided that: "Hereafter, none of the funds available to the Department of Agriculture may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended [see section 674 of this title]: *Provided*, That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further*, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further*, That this provision shall not prohibit the release of information submitted by milk handlers."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-341, title VII, §721, Aug. 14, 1992, 106 Stat. 908.

Pub. L. 102-142, title VII, §728, Oct. 28, 1991, 105 Stat. 914.

Pub. L. 101-506, title VI, §630, Nov. 5, 1990, 104 Stat. 1349.

Pub. L. 101-161, title VI, §630, Nov. 21, 1989, 103 Stat. 985.

Pub. L. 100-460, title VI, §630, Oct. 1, 1988, 102 Stat. 2262.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note set out under section 601 of this title.

CROSS REFERENCES

Amendments to orders, section as applicable to, see section 608c of this title.

Anti-hog-cholera serum and hog-cholera virus provisions, provisions of section as applicable to, see section 855 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 610, 672, 673, 855, 1392 of this title.

§ 608e. Repealed. July 3, 1948, ch. 827, title III, § 302(d), 62 Stat. 1258

Section, act May 12, 1933, ch. 25, title I, § 8e, as added Aug. 24, 1935, ch. 641, § 6, 49 Stat. 762; amended June 3, 1937, ch. 296, § 1, 50 Stat. 246, related to determination of base period.

EFFECTIVE DATE OF REPEAL

Repeal 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.

§ 608e-1. Import prohibitions on specified foreign produce

(a) Import prohibitions on tomatoes, avocados, limes, etc.

Subject to the provisions of subsections (c) and (d) of this section and notwithstanding any other provision of law, whenever a marketing order issued by the Secretary of Agriculture pursuant to section 608c of this title contains any terms or conditions regulating the grade, size, quality, or maturity of tomatoes, raisins, olives (other than Spanish-style green olives), prunes, avocados, mangoes, limes, grapefruit, green peppers, Irish potatoes, cucumbers, oranges, onions, walnuts, dates, filberts, table grapes, eggplants, kiwifruit, nectarines, plums, pistachios, or apples produced in the United States the importation into the United States of any such commodity, other than dates for processing, during the period of time such order is in effect shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of such order or comparable restrictions promulgated hereunder: *Provided*, That this prohibition shall not apply to such commodities when shipped into continental United States from the Commonwealth of Puerto Rico or any Territory or possession of the United States where this chapter has force and effect: *Provided further*, That whenever two or more such marketing orders regulating the same agricultural commodity produced in different areas of the United States are concurrently in effect, the importation into the United States of any such commodity, other than dates for processing, shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of the order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition. Such prohibition shall not become effective until after the giving of such notice as the Secretary of Agriculture determines reasonable, which shall not be less than three days. In determining the amount of notice that is reasonable in the case of tomatoes the Secretary of Agriculture shall give due consideration to the time required for their transportation and entry into the United States after picking. Whenever the Secretary of Agriculture finds that the application of the restrictions

under a marketing order to an imported commodity is not practicable because of variations in characteristics between the domestic and imported commodity he shall establish with respect to the imported commodity, other than dates for processing, such grade, size, quality, and maturity restrictions by varieties, types, or other classifications as he finds will be equivalent or comparable to those imposed upon the domestic commodity under such order. The Secretary of Agriculture may promulgate such rules and regulations as he deems necessary, to carry out the provisions of this section. Any person who violates any provision if¹ this section or of any rule, regulation, or order promulgated hereunder shall be subject to a forfeiture in the amount prescribed in section 608a(5) of this title or, upon conviction, a penalty in the amount prescribed in section 608c(14) of this title, or to both such forfeiture and penalty.

(b) Extension of time for marketing order; factors; review

(1) The Secretary may provide for a period of time (not to exceed 35 days) in addition to the period of time covered by a marketing order during which the marketing order requirements would be in effect for a particular commodity during any year if the Secretary determines that such additional period of time is necessary—

(A) to effectuate the purposes of this chapter; and

(B) to prevent the circumvention of the grade, size, quality, or maturity standards of a seasonal marketing order applicable to a commodity produced in the United States by imports of such commodity.

(2) In making the determination required by paragraph (1), the Secretary, through notice and comment procedures, shall consider—

(A) to what extent, during the previous year, imports of a commodity that did not meet the requirements of a marketing order applicable to such commodity were marketed in the United States during the period that such marketing order requirements were in effect for available domestic commodities (or would have been marketed during such time if not for any additional period established by the Secretary);

(B) if the importation into the United States of such commodity did, or was likely to, circumvent the grade, size, quality or maturity standards of a seasonal marketing order applicable to such commodity produced in the United States; and

(C) the availability and price of commodities of the variety covered by the marketing order during any additional period the marketing order requirements are to be in effect.

(3) An additional period established by the Secretary in accordance with this subsection shall be—

(A) announced not later than 30 days before the date such additional period is to be in effect; and

(B) reviewed by the Secretary on request, through notice and comment procedures, at

¹ So in original. Probably should be "of".

least every 3 years in order to determine if the additional period is still needed to prevent circumvention of the seasonal marketing order by imported commodities.

(4) For the purposes of carrying out this subsection, the Secretary is authorized to make such reasonable inspections as may be necessary.

(c) Notification of United States Trade Representative of import restrictions; advise-ment of Secretary of Agriculture

Prior to any import prohibition or regulation under this section being made effective with respect to any commodity—

(1) the Secretary of Agriculture shall notify the United States Trade Representative of such import prohibition or regulation; and

(2) the United States Trade Representative shall advise the Secretary of Agriculture, within 60 days of the notification under paragraph (1), to ensure that the application of the grade, size, quality, and maturity provisions of the relevant marketing order, or comparable restrictions, to imports is not inconsistent with United States international obligations under any trade agreement, including the General Agreement on Tariffs and Trade.

(d) Proposed prohibition or regulation; authority of Secretary of Agriculture to proceed

The Secretary may proceed with the proposed prohibition or regulation if the Secretary receives the advice and concurrence of the United States Trade Representative within 60 days of the notification under subsection (c)(1) of this section.

(May 12, 1933, ch. 25, title I, §8e, as added Aug. 28, 1954, ch. 1041, title IV, §401(e), 68 Stat. 907; amended Aug. 31, 1954, ch. 1172, §3(a), 68 Stat. 1047; Aug. 8, 1961, Pub. L. 87-128, title I, §141(5), 75 Stat. 305; Jan. 11, 1971, Pub. L. 91-670, title IV, §401, 84 Stat. 2047; Sept. 29, 1977, Pub. L. 95-113, title X, §1006, 91 Stat. 951; Oct. 14, 1982, Pub. L. 97-312, §2, 96 Stat. 1461; Aug. 23, 1988, Pub. L. 100-418, title IV, §4603, 102 Stat. 1407; Nov. 28, 1990, Pub. L. 101-624, title XIII, §§1307, 1308, 104 Stat. 3561.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-624, §§1307, 1308(1), substituted “Subject to the provisions of subsections (c) and (d) of this section and notwithstanding any other provision of law,” for “Notwithstanding any other provision of law,” and “eggplants, kiwifruit, nectarines, plums, pistachios, or apples” for “or eggplants”.

Subsecs. (c), (d). Pub. L. 101-624, §1308(2), added subsections. (c) and (d).

1988—Pub. L. 100-418 designated existing provisions as subsec. (a) and added subsec. (b).

1982—Pub. L. 97-312 extended import prohibition to table grapes.

1977—Pub. L. 95-113 extended import prohibition to filberts.

1971—Pub. L. 91-670 extended import prohibition to raisins, olives (other than Spanish-style green olives), and prunes.

1961—Pub. L. 87-128 extended importation prohibition to oranges, onions, walnuts and dates, other than dates for processing.

1954—Act Aug. 31, 1954, made section applicable to mangoes.

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.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 3(b) of act Aug. 31, 1954, provided that: “The amendment made by this section [amending this section] shall become effective upon the enactment of this Act [Aug. 31, 1954] or upon the enactment of the Agricultural Act of 1954 [Aug. 28, 1954], whichever occurs later.”

§ 608f. Repealed. Pub. L. 89-106, §9, Aug. 4, 1965, 79 Stat. 432

Section, act May 12, 1933, ch. 25, title I, §8f, formerly §8(5), 48 Stat. 34; renumbered §8f and amended Aug. 24, 1935, ch. 641, §7, 49 Stat. 762; Oct. 8, 1940, ch. 759, 54 Stat. 1019, prohibited, except in specified cases, the shipment of grain from public grain warehouses to other warehouse without cancellation of warehouse receipts to avoid conflict with other laws regulating warehousemen.

§ 609. Processing tax; methods of computation; rate; what constitutes processing; publicity as to tax to avoid profiteering

(a) To obtain revenue for extraordinary expenses incurred by reason of the national economic emergency, there shall be levied processing taxes as hereinafter provided. When the Secretary of Agriculture determines that any one or more payments authorized to be made under section 608 of this title are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation; except that (1) in the case of sugar beets and sugarcane, the Secretary of Agriculture shall, on or before the thirtieth day after May 9, 1934, proclaim that rental or benefit payments with respect to said commodities are to be made, and the processing tax shall be in effect on and after the thirtieth day after May 9, 1934, and (2) in the case of rice, the Secretary of Agriculture shall, before April 1, 1935, proclaim that rental or benefit payments are to be made with respect thereto, and the processing tax shall be in effect on and after April 1, 1935. In the case of sugar beets and sugarcane, the calendar year shall be considered to be the marketing year and for the year 1934 the marketing year shall begin January 1, 1934. In the case of rice, the period from August 1 to July 31, both inclusive, shall be considered to be the marketing year. The processing tax shall be levied, assessed, and collected upon the first domestic processing of the commodity, whether of domestic production or imported, and shall be paid by the processor. The rate of tax shall conform to the requirements of subsection (b) of this section. Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements. The processing tax shall terminate at the end of the marketing year current at the time the Secretary proclaims that all payments authorized under

section 608 of this title which are in effect are to be discontinued with respect to such commodity. The marketing year for each commodity shall be ascertained and prescribed by regulations of the Secretary of Agriculture: *Provided*, That upon any article upon which a manufacturers' sales tax is levied under the authority of the Revenue Act of 1932, act June 6, 1932, ch. 209, 47 Stat. 169-289, and which manufacturers' sales tax is computed on the basis of weight, such manufacturers' sales tax shall be computed on the basis of the weight of said finished article less the weight of the processed cotton contained therein on which a processing tax has been paid.

(b)(1) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity, plus such percentage of such difference, not to exceed 20 per centum, as the Secretary of Agriculture may determine will result in the collection, in any marketing year with respect to which such rate of tax may be in effect pursuant to the provisions of this chapter, of an amount of tax equal to (A) the amount of credits or refunds which he estimates will be allowed or made during such period pursuant to section 615(c) of this title with respect to the commodity and (B) the amount of tax which he estimates would have been collected during such period upon all processings of such commodity, which are exempt from tax by reason of the fact that such processings are done by or for a State, or a political subdivision or an institution thereof, had such processings been subject to tax. If, prior to the time the tax takes effect, or at any time thereafter, the Secretary has reason to believe that the tax at such rate, or at the then existing rate, on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, will cause or is causing such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then the Secretary shall cause an appropriate investigation to be made, and afford due notice and opportunity for hearing to interested parties. If thereupon the Secretary determines and proclaims that any such result will occur or is occurring, then the processing tax on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be at such lower rate or rates as he determines and proclaims will prevent such accumulation of surplus stocks and depression of the farm price of the commodity, and the tax shall remain during its effective period at such lower rate until the Secretary, after due notice and opportunity for hearing to interested parties, determines and proclaims that an increase in the rate of such tax will not cause such accumulation of surplus stocks or depression of the farm price of the commodity. Thereafter the processing tax shall

be at the highest rate which the Secretary determines will not cause such accumulation of surplus stocks or depression of the farm price of the commodity, but it shall not be higher than the rate provided in the first sentence of this paragraph.

(2) In the case of wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and jute, and (except as provided in paragraph (8) of this subsection) in the case of sugarcane and sugar beets, the tax on the first domestic processing of the commodity generally or for any particular use, or in the production of any designated product for any designated use, shall be levied, assessed, collected, and paid at the rate prescribed by the regulations of the Secretary of Agriculture in effect on August 24, 1935, during the period from such date to December 31, 1937, both dates inclusive.

(3) For the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be levied, assessed, collected, and paid at the rate of 1 cent per pound of rough rice.

(4) For the period from September 1, 1935, to December 31, 1937, both inclusive, the processing tax with respect to rye shall be levied, assessed, collected, and paid at the rate of 30 cents per bushel of fifty-six pounds. In the case of rye, the first marketing year shall be considered to be the period commencing September 1, 1935, and ending June 30, 1936. Subsequent marketing years shall commence on July 1 and end on June 30 of the succeeding year. The provisions of section 616 of this title shall not apply in the case of rye.

(5) If at any time prior to December 31, 1937, a tax with respect to barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, at the rate of 25 cents per bushel of forty-eight pounds. The provisions of section 616 of this title shall not apply in the case of barley.

(6)(A) Any rate of tax which is prescribed in paragraphs (2) to (4), or (5) of this subsection or which is established pursuant to this paragraph on the processing of any commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity, and shall thereafter be increased in accordance with the provisions of paragraph (1) of this subsection but subject to the provisions of subdivision (B) of this paragraph.

(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraphs (2) to (4), or (5) of this subsection or is established pursuant to this

paragraph, during any period of twelve successive months ending after July 1, 1935, consisting of the first ten months of any marketing year and the last two months of the preceding marketing year—

(i) is equal to, or exceeds by 10 per centum or less, the fair exchange value thereof, or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 20 per centum of the fair exchange value thereof.

(ii) exceeds by more than 10 per centum, but not more than 20 per centum, the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 15 per centum of the fair exchange value thereof.

(iii) exceeds by more than 20 per centum the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 10 per centum of the fair exchange value thereof.

(C) Any rate of tax which has been adjusted pursuant to this paragraph shall remain at such adjusted rate unless further adjusted or terminated pursuant to this paragraph, until December 31, 1937, or until July 31, 1936, in the case of rice.

(D) In accordance with the formulae, standards, and requirements prescribed in this chapter, any rate of tax prescribed in paragraphs (2) to (4) or (5) of this subsection or which is established pursuant to this paragraph shall be increased.

(E) Any tax, the rate of which is prescribed in paragraphs (2) to (4), or (5) of this subsection or which is established pursuant to this paragraph, shall terminate pursuant to proclamation as provided in subsection (a) of this section or pursuant to section 613 of this title. Any such tax with respect to any basic commodity which terminates pursuant to proclamation as provided in subsection (a) of this section shall again become effective at the rate prescribed in paragraphs (2) to (4), or (5) of this subsection, subject however to the provisions of subdivisions (A) and (B) of this paragraph, from the beginning of the marketing year for such commodity next following the date of a new proclamation by the Secretary as provided in subsection (a) of this section, if such marketing year begins prior to December 31, 1937, or prior to July 31, 1936, in the case of rice, and shall remain at such rate until altered or terminated pursuant to this section or terminated pursuant to section 613 of this title.

(F) After December 31, 1937 (in the case of the commodities specified in paragraphs (2), (4), and (5) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this chapter but not in this paragraph, and shall, subject to such formulae,

standards, and requirements, thereafter be effective.

(G) If the applicability to any person or circumstances of any tax, the rate of which is fixed in pursuance of this paragraph, is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this chapter, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph with respect to all tax liabilities incurred under this chapter on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph), rates of tax fixed under paragraphs (2) to (4), or (5) of this subsection, and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation, as provided in subsection (a) of this section or pursuant to section 613 of this title) until altered by Act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between the tax at the rate fixed in pursuance of this paragraph (6) and the tax at the rate fixed under paragraphs (2) to (4), and (5) shall not be levied, assessed, collected or paid.

(7) In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that, where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.

(8) In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and in the event that the Secretary increases or decreases the rate of tax fixed by paragraph (2) of this subsection, pursuant to the provisions of paragraph (6) of this subsection, then the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (A) of a ton of sugar beets and (B) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); the rate of tax fixed by paragraph (2) of this subsection or adjusted pursuant to the provisions of paragraph (6) of this subsection shall in no event exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of section 1001¹ of title 19, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of sections 124 and 125 of title 19.

(9) In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account.

¹ See References in Text note below.

(c) For the purposes of this chapter, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 602 of this title; and, in the case of all commodities where the base period is the prewar period, August 1909 to July 1914, will also reflect interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during said base period; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture. The rate of tax upon the processing of any commodity in effect on August 24, 1935, shall not be affected by the adoption of this amendment and shall not be required to be adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to subsection (a) of this section.

(d) As used in this chapter—

(1) In case of wheat, rye, barley and corn, the term "processing" means the milling or other processing (except cleaning and drying) of wheat, rye, barley or corn for market, including custom milling for toll as well as commercial milling, but shall not include the grinding or cracking thereof not in the form of flour for feed purposes only.

(2) In case of cotton, the term "processing" means the spinning, manufacturing, or other processing (except ginning) of cotton; and the term "cotton" shall not include cotton linters.

(3) In case of tobacco, the term "processing" means the manufacturing or other processing (except drying or converting into insecticides and fertilizers) of tobacco.

(4) Repealed. June 26, 1934, ch. 759, §2(a), 48 Stat. 1242.

(5) Repealed. Aug. 24, 1935, ch. 641, §14(b), 49 Stat. 767.

(6) In the case of sugar beets and sugarcane—

(A) The term "first domestic processing" means each domestic processing, including each processing of successive domestic processings, of sugar beets, sugarcane, or raw sugar, which directly results in direct-consumption sugar.

(B) The term "sugar" means sugar in any form whatsoever, derived from sugar beets or sugarcane, whether raw sugar or direct-consumption sugar, including also edible molasses, sirups, and any mixture containing sugar (except blackstrap molasses and beet molasses).

(C) The term "blackstrap molasses" means the commercially so-designated "byproduct" of the cane-sugar industry, not used for human consumption or for the extraction of sugar.

(D) The term "beet molasses" means the commercially so-designated "byproduct" of the beet-sugar industry, not used for human consumption or for the extraction of sugar.

(E) The term "raw sugar" means any sugar, as defined above, manufactured or marketed in, or brought into, the United States, in any form whatsoever, for the purpose of being, or

which shall be, further refined (or improved in quality, or further prepared for distribution or use).

(F) The term "direct-consumption sugar" means any sugar, as defined above, manufactured or marketed in, or brought into, the United States in any form whatsoever, for any purpose other than to be further refined (or improved in quality, or further prepared for distribution or use).

(G) The term "raw value" means a standard unit of sugar testing ninety-six sugar degrees by the polariscope. All taxes shall be imposed and all quotas shall be established in terms of "raw value" and for purposes of quota and tax measurements all sugar shall be translated into terms of "raw value" according to regulations to be issued by the Secretary, except that in the case of direct-consumption sugar produced in continental United States from sugar beets the raw value of such sugar shall be one and seven one-hundredths times the weight thereof.

(7) In the case of rice—

(A) The term "rough rice" means rice in that condition which is usual and customary when delivered by the producer to a processor.

(B) The term "processing" means the cleaning shelling, milling (including custom milling for toll as well as commercial milling), grinding, rolling, or other processing (except grinding or cracking by or for the producer thereof for feed for his own livestock, cleaning by or directly for a producer for seed purposes, and drying) of rough rice; and in the case of rough rice with respect to which a tax-payment warrant has been previously issued or applied for by application then pending, the term "processing" means any one of the above mentioned processings or any preparation or handling in connection with the sale or other disposition thereof.

(C) The term "cooperating producer" means any person (including any share-tenant or share-cropper) whom the Secretary of Agriculture finds to be willing to participate in the 1935 production-adjustment program for rice.

(D) The term "processor", as used in subsection (b-1) of section 615 of this title, means any person (including a cooperative association of producers) engaged in the processing of rice on a commercial basis (including custom milling for toll as well as commercial milling).

(8) In the case of any other commodity, the term "processing" means any manufacturing or other processing involving a change in the form of the commodity or its preparation for distribution or use, as defined by regulations of the Secretary of Agriculture; and in prescribing such regulations the Secretary shall give due weight to the customs of the industry.

(e) When any processing tax, or increase or decrease therein, takes effect in respect of a commodity the Secretary of Agriculture, in order to prevent pyramiding of the processing tax and profiteering in the sale of the products derived from the commodity, shall make public such information as he deems necessary regarding (1) the relationship between the processing tax and the price paid to producers of the commodity, (2)

the effect of the processing tax upon prices to consumers of products of the commodity, (3) the relationship, in previous periods, between prices paid to the producers of the commodity and prices to consumers of the products thereof, and (4) the situation in foreign countries relating to prices paid to producers of the commodity and prices to consumers of the products thereof.

(f) For the purposes of this chapter, processing shall be held to include manufacturing.

(g) Nothing contained in this chapter shall be construed to authorize any tax upon the processing of any commodity which processing results in the production of newsprint.

(May 12, 1933, ch. 25, title I, § 9, 48 Stat. 35; Apr. 7, 1934, ch. 103, § 3(a), 48 Stat. 528; May 9, 1934, ch. 263, §§ 2, 3, 5, 6, 9, 48 Stat. 670, 671, 675, 676; June 26, 1934, ch. 759, § 2, 48 Stat. 1242; Mar. 18, 1935, ch. 32, §§ 1-6, 49 Stat. 45, 46; Aug. 24, 1935, ch. 641, §§ 11-15, 49 Stat. 762-767.)

REFERENCES IN TEXT

Section 1001 of title 19, referred to in subsec. (b)(8), was repealed by Pub. L. 87-456, title I, § 101(a), May 24, 1962, 76 Stat. 72. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

The treaty of commercial reciprocity concluded between the United States and Cuba on December 11, 1902, referred to in subsec. (b)(8), was terminated Aug. 21, 1963, pursuant to notice given by the United States on Aug. 21, 1962. See, Bevans, *Treaties and Other International Agreements of the United States of America, 1776-1949*, vol. VI, page 1106.

Sections 124 and 125 of title 19, referred to in subsec. (b)(8), have been omitted from the Code.

Phrase "this amendment" in subsec. (c) refers to amendments by act Aug. 24, 1935.

AMENDMENTS

1935—Subsec. (a). Act Aug. 24, 1935, § 11, struck out second sentence preceding semicolon and inserted in lieu thereof "When the Secretary of Agriculture determines that any one or more payments authorized to be made under section 608 of this title are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation."

Act Mar. 18, 1935, § 1, 2, struck out comma after "except that" in second sentence and inserted in lieu thereof "(i)", and inserted "and (2) in the case of rice, the Secretary of Agriculture shall, before April 1, 1935, proclaim that rental or benefit payments are to be made with respect thereto, and the processing tax shall be in effect on and after April 1, 1935".

Subsec. (b). Act Aug. 24, 1935, § 12, amended subsec. (b) generally.

Act Mar. 18, 1935, §§ 3, 4, among other changes inserted "In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing."

Subsec. (c). Act Aug. 24, 1935, § 13, among other changes inserted "The rate of tax upon the processing of any commodity, in effect on August 24, 1935, shall not be affected by the adoption of this amendment and shall not be required to be adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to subsection (a) of this section."

Subsec. (d). Act Aug. 24, 1935, § 14, inserted ", rye, barley" after "wheat" wherever appearing and struck out par. (5).

Act Mar. 18, 1935, §§ 5, 6, struck out ", rice," in two places in par. (1), added par. (7), and renumbered former par. (7) as (8).

Subsec. (g). Act Aug. 24, 1935, § 15, added subsec. (g). 1934—Subsec. (a). Act May 9, 1934, § 9, struck out the period after "proclamation" and inserted in lieu thereof "except that, in the case of sugar beets and sugarcane, the Secretary of Agriculture shall, on or before the thirtieth day after May 9, 1934, proclaim that rental or benefit payments with respect to said commodities are to be made, and the processing tax shall be in effect on and after the thirtieth day after May 9, 1934. In the case of sugar beets and sugarcane, the calendar year shall be considered to be the marketing year and for the year 1934 the marketing year shall begin January 1, 1934."

Subsec. (b). Act May 9, 1934, § 3, among other changes amended first two sentences and inserted "In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (1) of a ton of sugar beets and (2) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); except that such rate shall not exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of section 1001 of Title 19, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of sections 124 and 125 of Title 19."

Subsec. (d). Act June 26, 1934, § 2(a), struck out par. (4).

Act June 26, 1934, § 2(b), amended par. (7).

Act May 9, 1934, §§ 2, 5, amended par. (6) generally and renumbered former par. (6) as (7).

Act Apr. 7, 1934, added par. (5) and renumbered former par. (5) as (6).

Subsec. (f). Act May 9, 1934, § 6, added subsec. (f).

UNCONSTITUTIONALITY

This section may be obsolete in view of the Supreme Court's holding that the processing and floor stock taxes provided for by the Agricultural Adjustment Act of 1933 are unconstitutional. See *U.S. v. Butler*, Mass. 1936, 56 S.Ct. 312, 297 U.S. 1, 80 L.Ed. 477, 102 A.L.R. 914.

SEPARABILITY

Validity of remainder of this chapter as not affected should any of those provisions be declared unconstitutional, see section 614 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 619a, 673 of this title; title 12 section 1150a.

§ 610. Administration

(a) Appointment of officers and employees; impounding appropriations

The Secretary of Agriculture may appoint such officers and employees, subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, and such experts, as are necessary to execute the functions vested in him by this chapter: *Provided*, That the Secretary shall

establish the Agricultural Adjustment Administration in the Department of Agriculture for the administration of the functions vested in him by this chapter: And *provided further*, That the State Administrator appointed to administer this chapter in each State shall be appointed by the President, by and with the advice and consent of the Senate. Section 8 of Title II of the Act entitled "An Act to maintain the credit of the United States Government," approved March 20, 1933, to the extent that it provides for the impoundment of appropriations on account of reductions in compensation, shall not operate to require such impoundment under appropriations contained in this chapter.

(b) State and local committees or associations of producers; handlers' share of expenses of authority or agency

(1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this chapter, State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 608 of this title. The Secretary, in the administration of this chapter, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

(2)(i) Each order relating to milk and its products issued by the Secretary under this chapter shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of milk or products thereof received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of milk or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers.

(ii) Each order relating to any other commodity or product issued by the Secretary under this chapter shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find are reasonable and are likely to be incurred by such authority or agency, during any period specified by him, for such purposes as the Secretary may, pursuant to such order, determine to be appropriate, and for the maintenance and functioning

of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. The payment of assessments for the maintenance and functioning of such authority or agency, as provided for herein, may be required under a marketing agreement or marketing order throughout the period the marketing agreement or order is in effect and irrespective of whether particular provisions thereof are suspended or become inoperative.

(iii) Any authority or agency established under an order may maintain in its own name, or in the name of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses. The several district courts of the United States are vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(c) Regulations; penalty for violation

The Secretary of Agriculture is authorized, with the approval of the President, to make such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by this chapter. Any violation of any regulation shall be subject to such penalty, not in excess of \$100, as may be provided therein.

(d) Regulations of Secretary of the Treasury

The Secretary of the Treasury is authorized to make such regulations as may be necessary to carry out the powers vested in him by this chapter.

(e) Review of official acts

The action of any officer, employee, or agent in determining the amount of and in making any payment authorized to be made under section 608 of this title shall not be subject to review by any officer of the Government other than the Secretary of Agriculture or Secretary of the Treasury.

(f) Geographical application

The provisions of this chapter shall be applicable to the United States and its possessions, except the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam; except that, in the case of sugar beets and sugarcane, the President, if he finds it necessary in order to effectuate the declared policy of this chapter, is authorized by proclamation to make the provisions of this chapter applicable to the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam.

(g) Officers; dealing or speculating in agricultural products; penalties

No person shall, while acting in any official capacity in the administration of this chapter, speculate, directly or indirectly, in any agricultural commodity or product thereof to which this chapter applies, or in contracts relating

thereto, or in the stock or membership interest of any association or corporation engaged in handling, processing, or disposing of any such commodity or product. Any person violating this subsection shall upon conviction thereof be fined not more than \$10,000 or imprisoned not more than two years, or both.

(h) Adoption of Federal Trade Commission Act; hearings; report of violations to Attorney General

For the efficient administration of the provisions of this chapter, the provisions, including penalties, of sections 48, 49, and 50 of title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in administering the provisions of this chapter, and to any person subject to the provisions of this chapter, whether or not a corporation. Hearings authorized or required under this chapter shall be conducted by the Secretary of Agriculture or such officer or employee of the Department as he may designate for the purpose. The Secretary may report any violation of any agreement entered into under this chapter, to the Attorney General of the United States, who shall cause appropriate proceedings to enforce such agreement to be commenced and prosecuted in the proper courts of the United States without delay.

(i) Cooperation with State authorities; imparting information

The Secretary of Agriculture upon the request of the duly constituted authorities of any State is directed, in order to effectuate the declared policy of this chapter and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, and is authorized to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and facilities of such authorities; to issue orders (subject to the provisions of section 608c of this title) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: *Provided*, That information furnished to the Secretary of Agriculture pursuant to section 608d(1) of this title shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 608d(2) of this title.

(j) Definitions

The term "interstate or foreign commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any

place outside thereof; or within any Territory or possession, or the District of Columbia. For the purpose of this chapter (but in nowise limiting the foregoing definition) a marketing transaction in respect to an agricultural commodity or the product thereof shall be considered in interstate or foreign commerce if such commodity or product is part of that current of interstate or foreign commerce usual in the handling of the commodity or product whereby they, or either of them, are sent from one State to end their transit, after purchase, in another, including all cases where purchase or sale is either for shipment to another State or for the processing within the State and the shipment outside the State of the products so processed. Agricultural commodities or products thereof normally in such current of interstate or foreign commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of said sections. As used herein, the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nations.

(May 12, 1933, ch. 25, title I, § 10, 48 Stat. 37; June 16, 1933, ch. 98, title VIII, § 86, 48 Stat. 273; May 9, 1934, ch. 263, § 7, 48 Stat. 675; Aug. 24, 1935, ch. 641, §§ 16-18, 49 Stat. 767; Aug. 26, 1935, ch. 685, 49 Stat. 801; June 22, 1936, ch. 690, § 601(a), 49 Stat. 1739; June 3, 1937, ch. 296, §§ 1, 2(g)-(i), 50 Stat. 246, 248; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7817, 60 Stat. 1352; Aug. 1, 1947, ch. 425, § 3, 61 Stat. 709; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972.)

REFERENCES IN TEXT

Section 8 of title II of the Act entitled "An Act to maintain the credit of the United States Government," referred to in subsec. (a), means act Mar. 20, 1933, ch. 3, title II, § 8, 48 Stat. 15, which is not classified to the Code.

For definition of Canal Zone, referred to in subsec. (f), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

In subsec. (a), "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949" on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions of subsec. (a), which authorized appointment of officers and employees without regard to the civil-service laws and regulations and which limited the maximum salary payable to any officer or employee to not more than \$10,000 per annum, were omitted from the Code as obsolete and superseded. Such appointments are now subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to act Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5.

The salary limitation was superseded by the Classification Act of 1949.

References to the Philippine Islands in subsec. (f) of this section were omitted from the Code as obsolete in view of the independence of the Philippine Islands, proclaimed by the President of the United States in Proc. No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1949—Subsec. (a). Act Oct. 28, 1949, substituted “Classification Act of 1949” for “Classification Act of 1923”.

1947—Subsec. (b)(2). Act Aug. 1, 1947, among other changes inserted subpar. (i), designated former first and second sentences of subsection as subpar. (ii) and inserted last sentence relating to the payment of assessments for the maintenance and functioning of such authority thereto, and designated former third and fourth sentences of subsection as subpar. (iii).

1937—Subsec. (c). Act June 3, 1937, §2(g), struck out last clause of first sentence which related to regulations establishing conversion factors for any commodity and article processed therefrom to determine the amount of tax imposed or refunds to be made with respect thereto.

Subsec. (f). Act June 3, 1937, §2(b), struck out sentence which authorized the President to attach by executive order any or all possessions to any internal-revenue district for the purpose of carrying out provisions with respect to the collection of taxes.

Subsec. (j). Act June 3, 1937, §2(i), added subsec. (j).

1936—Subsec. (d). Act June 22, 1936, reenacted subsec. (d) for refund purposes.

1935—Subsec. (b). Act Aug. 24, 1935, §16, among other changes inserted “The Secretary, in the administration of this chapter, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

“(2) Each order issued by the Secretary under this chapter shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler’s pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. Any such authority or agency may maintain in its own name, or in the names of its members, a suit against any handler subject to an order for the collection of such handler’s pro rata share of expenses. The several District Courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.”

Subsec. (e). Act Aug. 24, 1935, §17, struck out “rental or benefit payment” and inserted in lieu thereof “payment authorized to be made under section 8”.

Subsec. (f). Act Aug. 26, 1935, inserted sentence authorizing the President to attach by executive order any or all possessions to any internal-revenue district for the purpose of carrying out provisions with respect to the collection of taxes.

Subsec. (i). Act Aug. 24, 1935, §18, added subsec. (i).

1934—Subsec. (f). Act May 9, 1934, inserted exception provision.

1933—Subsec. (a). Act June 16, 1933, inserted “*And provided further*, That the State Administrator appointed to administer this chapter in each State shall be appointed by the President, by and with the advice and consent of the Senate” at end of first sentence.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

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.

Executive and administrative functions of Federal Trade Commission, with certain reservations, transferred to Chairman of Commission by 1950 Reorg. Plan No. 8, §1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

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, transferred functions of Agricultural Adjustment Administration to Secretary of Agriculture. In his letter to Congress, the President stated that purpose of this transfer was to permit Secretary of Agriculture to continue consolidation already effected in Production and Marketing Administration. By temporary Executive Orders 9069 and 9577, and Ex. Ord. No. 9280, Dec. 5, 1942, 7 F.R. 10, 179, and Ex. Ord. No. 9322, Mar. 26, 1943, 8 F.R. 3807, as amended by Ex. Ord. No. 9334, Apr. 19, 1943, 8 F.R. 5423, the Agricultural Adjustment Administration had been successively consolidated into Agricultural Conservation and Adjustment Administration, Food Production Administration, and War Food Administration, which was terminated and its functions transferred to Secretary of Agriculture by said Ex. Ord. 9577. Secretary of Agriculture consolidated functions of Agricultural Adjustment Administration into Production and Marketing Administration by Memorandum 1118, Aug. 18, 1945.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, §1, affirmed, validated, and reenacted without change the provisions of subsecs. (a), (b) (2), (c), and (f) to (i) of this section, except for the amendments to subsecs. (c) and (f) by section 2 of the act. See note set out under section 601 of this title.

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, §1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, §1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, §1, 55 Stat. 218; Mar. 10, 1942, ch. 178, title I, §1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, §1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

EX. ORD. NO. 10199. REGULATIONS WITHOUT APPROVAL OF PRESIDENT

Ex. Ord. No. 10199, Dec. 21, 1950, 15 F.R. 9217, provided: By virtue of the authority vested in me by the act of August 8, 1950, Public Law 673, 81st Congress [sections 301 to 303 of Title 3] I hereby authorize the Secretary of Agriculture to make without the approval of the President such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by the Agricultural Marketing Agreement Act of 1937, as amended [this chapter].

HARRY S TRUMAN.

CROSS REFERENCES

Anti-hog-cholera serum and hog-cholera virus provisions, provisions of section as applicable to, see section 855 of this title.

Creditable service for retirement of employees of a committee or association of employees described by subsec. (b) of this section, see section 8332 of Title 5, Government Organization and Employees.

Member of agency as acting in an official capacity when compensated from United States funds, see section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 671, 672, 673, 855, 1392 of this title; title 5 sections 3502, 6312, 8332.

§ 611. "Basic agricultural commodity" defined; exclusion of commodities

As used in this chapter, the term "basic agricultural commodity" means wheat, rye, flax, barley, cotton, field corn, grain sorghums, hogs, cattle, rice, potatoes, tobacco, sugar beets and sugarcane, peanuts, and milk and its products, and any regional or market classification, type, or grade thereof; but the Secretary of Agriculture shall exclude from the operation of the provisions of this chapter, during any period, any such commodity or classification, type, or grade thereof if he finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that the conditions of production, marketing, and consumption are such that during such period this chapter can not be effectively administered to the end of effectuating the declared policy with respect to such commodity or classification, type, or grade thereof. As used in this chapter, the term "potatoes" means all varieties of potatoes included in the species *Solanum tuberosum*.

(May 12, 1933, ch. 25, title I, § 11, 48 Stat. 38; Apr. 7, 1934, ch. 103, §§ 1, 3(b), 4, 5, 48 Stat. 528; May 9, 1934, ch. 263, § 1, 48 Stat. 670; Aug. 24, 1935, ch. 641, § 61, 49 Stat. 782.)

AMENDMENTS

1935—Act Aug. 24, 1935, inserted " , potatoes" after "rice" and last sentence defining potatoes.

1934—Act May 9, 1934, inserted " , sugar beets and sugarcane" after "tobacco".

Act Apr. 7, 1934, inserted " , cattle" after "hogs", " , peanuts" after "tobacco", " , rye, flax, barley" after "wheat", and " , grain sorghums" after "field corn".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title; title 12 section 1150a.

§ 612. Appropriation; use of revenues; administrative expenses

(a) There is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$100,000,000 to be available to the Secretary of Agriculture for administrative expenses under this chapter, and for payments authorized to be made under section 608 of this title. Such sum shall remain available until expended.

To enable the Secretary of Agriculture to finance under such terms and conditions as he may prescribe, surplus reductions with respect to the dairy- and beef-cattle industries, and to carry out any of the purposes described in subsections (a) and (b) of this section and to support and balance the markets for the dairy and beef cattle industries, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$200,000,000: *Provided*, That not more than 60 per centum of such amount shall be used for either of such industries.

(b) In addition to the foregoing, for the purpose of effectuating the declared policy of this chapter, a sum equal to the proceeds derived

from all taxes imposed under this chapter is appropriated to be available to the Secretary of Agriculture for (1) the acquisition of any agricultural commodity pledged as security for any loan made by any Federal agency, which loan was conditioned upon the borrower agreeing or having agreed to cooperate with a program of production adjustment or marketing adjustment adopted under the authority of this chapter, and (2) the following purposes under this chapter: Administrative expenses, payments authorized to be made under section 608 of this title, and refunds on taxes. The Secretary of Agriculture and the Secretary of the Treasury shall jointly estimate from time to time the amounts, in addition to any money available under subsection (a) of this section, currently required for such purposes; and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection.

(c) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books and books of reference, for contract stenographic reporting services, and for printing and paper in addition to allotments under the existing law. The Secretary of Agriculture shall transfer to the Treasury Department, and is authorized to transfer to other agencies, out of funds available for administrative expenses under this chapter, such sums as are required to pay administrative expenses incurred and refunds made by such department or agencies in the administration of this chapter.

(May 12, 1933, ch. 25, title I, § 12, 48 Stat. 38; Apr. 7, 1934, ch. 103, § 2, 48 Stat. 528; Aug. 24, 1935, ch. 641, §§ 3, 19, 49 Stat. 753, 768; June 3, 1937, ch. 296, § 1, 2(j), 50 Stat. 246, 248.)

AMENDMENTS

1937—Subsec. (a). Act June 3, 1937, § 2(j), struck out "and production adjustments" after "surplus reductions" in second par.

1935—Subsec. (a). Act Aug. 24, 1935, § 19, substituted "payments authorized to be made under section 608" for "rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title".

Subsec. (b). Act Aug. 24, 1935, § 3, amended subsec. (b) generally.

1934—Subsec. (a). Act Apr. 7, 1934, added second par.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, § 1, affirmed and validated, and reenacted without change the provisions of subsections (a) and (c) of this section, except for the amendment to subsection (a) by section 2 of the act. See note set out under section 601 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 prior to January 6, 1936, under Agricultural Adjustment Act of 1933 or amendments thereto [this chapter] or under the appropriation "Payments for Agricultural Adjustment" in act Feb. 11, 1936, ch. 49, 49 Stat. 1116, 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.

EX. ORD. NO. 10914. EXPANDED PROGRAM OF FOOD
DISTRIBUTION TO NEEDY FAMILIES

Ex. Ord. No. 10914, Jan. 21, 1961, 26 F.R. 639, provided: Whereas one of the most important and urgent problems confronting this Nation today is the development of a positive food and nutrition program for all Americans;

Whereas I have received the report of the Task Force on Area Redevelopment under the chairmanship of Senator Douglas, in which special emphasis is placed upon the need for additional food to supplement the diets of needy persons in areas of chronic unemployment;

Whereas I am also advised that there are now almost 7 million persons receiving some form of public assistance, that 4.5 million persons are reported as being unemployed and that a substantial number of needy persons are not recipients in the present food distribution program;

Whereas the variety of foods currently being made available is limited and its nutritional content inadequate; and

Whereas despite an abundance of food, farm income has been in a period of decline, and a strengthening of farm prices is desirable.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

The Secretary of Agriculture shall take immediate steps to expand and improve the program of food distribution throughout the United States, utilizing funds and existing statutory authority available to him, including section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612) [this section], so as to make available for distribution, through appropriate State and local agencies, to all needy families a greater variety and quantity of food out of our agricultural abundance.

JOHN F. KENNEDY.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616, 672, 673, 724, 1392 of this title; title 12 section 1150a; title 31 section 1511.

§§ 612a, 612b. Omitted

CODIFICATION

Section 612a, act Apr. 7, 1934, ch. 103, § 6, 48 Stat. 528; 1940 Reorg. Plan No. III, § 5, 5 F.R. 2108, 54 Stat. 1232, authorized appropriation of \$50,000,000 for purpose of dairy and beef products for distribution for relief purposes, and for elimination of diseased cattle.

Section 612b, act Aug. 24, 1935, ch. 641, § 37, 49 Stat. 775, provided appropriations for elimination of disease in dairy and beef cattle to remain available until June 30, 1936.

§ 612c. Appropriation to encourage exportation
and domestic consumption of agricultural
products

There is appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936 an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year. Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities

and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce or by increasing their utilization through benefits, indemnities, donations or by other means, among persons in low income groups as determined by the Secretary of Agriculture; and (3) reestablish farmers' purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption. Determinations by the Secretary as to what constitutes diversion and what constitutes normal channels of trade and commerce and what constitutes normal production for domestic consumption shall be final. The sums appropriated under this section shall be expended for such one or more of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more of the purposes of this section. Notwithstanding any other provision of this section, the amount that may be devoted, during any fiscal year after June 30, 1939, to any one agricultural commodity or the products thereof in such fiscal year, shall not exceed 25 per centum of the funds available under this section for such fiscal year. The sums appropriated under this section shall be devoted principally to perishable nonbasic agricultural commodities (other than those receiving price support under section 1446 of this title) and their products. The sums appropriated under this section shall, notwithstanding the provisions of any other law, continue to remain available for the purposes of this section until expended; but any excess of the amount remaining unexpended at the end of any fiscal year over \$300,000,000 shall, in the same manner as though it had been appropriated for the service of such fiscal year, be subject to the provisions of section 3690¹ of the Revised Statutes, and section 5¹ of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June thirtieth, eighteen hundred and seventy-five, and for other purposes". A public or private nonprofit organization that receives agricultural commodities or the products thereof under clause (2) of the second sentence may transfer such commodities or products to another public or private nonprofit organization that agrees to use such commodities or products to provide, without cost or waste, nutrition assistance to individuals in low-income groups.

(Aug. 24, 1935, ch. 641, § 32, 49 Stat. 774; Feb. 29, 1936, ch. 104, § 2, 49 Stat. 1151; Feb. 16, 1938, ch. 30, title II, § 203, 52 Stat. 38; June 30, 1939, ch. 253, title I, 53 Stat. 975; July 3, 1948, ch. 827, title III, § 301, 62 Stat. 1257; Oct. 31, 1949, ch. 792, title IV,

¹ See References in Text note below.

§ 411, 63 Stat. 1057; Jan. 30, 1954, ch. 2, § 5(b), 68 Stat. 7; Dec. 23, 1985, Pub. L. 99-198, title XV, § 1561, 99 Stat. 1589.)

REFERENCES IN TEXT

Section 3690 of the Revised Statutes, and section 5 of act June 30, 1875, referred to in text, which were classified to sections 712 and 713 of former Title 31, Money and Finance, were repealed by act July 6, 1949, ch. 299, § 3, 63 Stat. 407.

CODIFICATION

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

AMENDMENTS

1985—Pub. L. 99-198 inserted sentence authorizing a public or private nonprofit organization that receives agricultural commodities or the products thereof under clause (2) of the second sentence to transfer such commodities or products to another public or private nonprofit organization that agrees to use such commodities or products to provide, without cost or waste, nutrition assistance to individuals in low-income groups.

1954—Act Jan. 30, 1954, substituted “(other than those receiving price support under section 1446 of this title)” for “(other than those designated in section 1446 of this title),” in next to last sentence.

1949—Act Oct. 31, 1949, inserted sentence relating to perishable nonbasic agricultural commodities.

1948—Act July 3, 1948, inserted sentence providing for the accumulation of funds up to \$300,000,000.

1939—Act June 30, 1939, in cl. (2), inserted “or by increasing their utilization through benefits, indemnities, donations or by other means, among persons in low income groups as determined by the Secretary of Agriculture”.

1938—Act Feb. 16, 1938, inserted “Notwithstanding any other provision of this section, the amount that may be devoted, during any fiscal year after June 30, 1939, to any one agricultural commodity or the products thereof in such fiscal year, shall not exceed 25 per centum of the funds available under this section for such fiscal year.”

1936—Act Feb. 29, 1936, struck out cl. (3) and inserted in lieu thereof immediately preceding second proviso “(3) reestablish farmers’ purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption. Determinations by the Secretary as to what constitutes diversion and what constitutes normal channels of trade and commerce and what constitutes normal production for domestic consumption shall be final. The sums appropriated under this section shall be expended for such one or more of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more of the purposes of this section.”

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

Functions of all officers, agencies, and employees of the 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.

Federal Surplus Relief Corporation changed to Federal Surplus Commodities Corporation by amendment of its charter in 1935. It consolidated with Division of Marketing and Marketing Agreements of Agricultural Adjustment Administration to form Surplus Marketing Administration by 1940 Reorg. Plan No. III, § 5, 5 F.R.

2108, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees. By Executive orders under First War Powers Act, former section 601 et seq. of Appendix to Title 50, War and National Defense, Surplus Marketing Administration merged into Agricultural Marketing Administration, which consolidated into Food Distribution Administration, which consolidated into War Food Administration, which terminated and its functions transferred to Secretary of Agriculture. By Memorandum 1118, Secretary of Agriculture, Aug. 18, 1945, functions of Federal Surplus Commodities Corporation transferred to Production and Marketing Administration. 1946 Reorg. Plan No. 3, § 501(a), eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, transferred functions of Surplus Marketing Administration to Secretary of Agriculture. In his letter to Congress, the President stated that purpose of this transfer was to permit Secretary of Agriculture to continue the consolidation already effected in Production and Marketing Administration.

Federal Surplus Commodities Corporation and Division of Marketing and Marketing Agreements of Agricultural Adjustment Administration and their functions consolidated into Surplus Marketing Administration in Department of Agriculture by Reorg. Plan No. III, § 5, eff. June 30, 1940, set out in the Appendix to Title 5. See, also, sections 8 and 9 of said plan for provisions relating to transfer of records, property, personnel, and funds.

ADDITIONAL APPROPRIATIONS

Joint Res. July 1, 1941, ch. 266, § 34, 55 Stat. 407, appropriated, in addition to the funds already provided, \$25,000,000, to be used by the Secretary of Agriculture, for the purpose of effectuating this section, subject to the provisions of law relating to the expenditure of such funds.

Act July 1, 1941, ch. 267, § 1, 55 Stat. 435, made the funds provided for in this section available for the fiscal year 1942.

Joint Res. June 26, 1940, ch. 432, § 41, 54 Stat. 627, appropriated, in addition to the funds already provided, \$50,000,000, to be used by the Secretary of Agriculture, for the purpose of effectuating this section, subject to the provisions of law relating to the expenditure of such funds.

Act June 25, 1940, ch. 421, § 1, 54 Stat. 561, made the funds provided for in this section available for the fiscal year 1941.

Act June 30, 1939, besides amending clause 2, provided for the availability of funds provided by this section during the fiscal year 1940.

Act Aug. 25, 1937, ch. 757, title I, § 1, 50 Stat. 762, provided for availability of portions of funds available under this section in fiscal years 1938 and 1939, for expenditure for price-adjustment payments with respect to 1937 cotton crop.

USE OF APPROPRIATION

Section 301 of act July 30, 1947, ch. 356, title III, 61 Stat. 550, provided that, notwithstanding section 612c of this title, no more than \$44,000,000 would be available during the fiscal year ending June 30, 1948, for use in effectuating this chapter; that \$65,000,000 of the fiscal year 1948 appropriation were made available to carry out the National School Lunch Act of June 4, 1946, without regard to the 25 per cent limitation in section 612c and exclusive of funds expended pursuant to the last sentence of section 9 of the National School Lunch Act; provided that no part of such funds were to be used for nonfood assistance under section 5 of said Act; and that the remainder of the fund appropriated by said Act for the fiscal year 1948 was rescinded effective July 1, 1947, carried to the surplus fund, and covered into the Treasury immediately thereafter.

CANCELLATION OR RESCISSION OF APPROPRIATION

Section 112(f) of act Apr. 3, 1948, ch. 169, title I, 62 Stat. 148, which provided in part for the rescission or

cancellation of appropriations under this section as provided for in act July 30, 1947, ch. 356, title III, 61 Stat. 550, was repealed by act Oct. 10, 1951, ch. 479, title V, §503(b)(1), as added June 20, 1952, ch. 449, §7 (c), 66 Stat. 144.

REPORT ON ENTITLEMENT COMMODITY PROCESSING

Pub. L. 101-624, title XVII, §1773(f), Nov. 28, 1990, 104 Stat. 3811, provided that:

“(1) IN GENERAL.—Not later than January 1, 1992, the Comptroller General of the United States shall submit a report regarding processing of entitlement commodities used in child nutrition programs to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

“(2) CONSULTATION.—The Comptroller General shall consult with representatives of State and Federal commodity distribution authorities, local elected school authorities, local school food service authorities, and food processors with experience providing service to child nutrition programs regarding the scope and design of the report.

“(3) EVALUATION.—The report shall evaluate the extent to which—

“(A) processing of entitlement commodities occurs in the States;

“(B) governmental requirements for participation in the processing vary among States; and

“(C) entitlement commodity recipients are satisfied with access to and services provided through entitlement commodity processing.”

SOUP KITCHENS AND OTHER EMERGENCY FOOD AID

Pub. L. 100-435, title I, §110, Sept. 19, 1988, 102 Stat. 1651, as amended by Pub. L. 101-624, title XVII, §1774(a), Nov. 28, 1990, 104 Stat. 3811; Pub. L. 102-237, title IX, §922(a), Dec. 13, 1991, 105 Stat. 1888, provided that:

“(a) PURPOSE.—It is the purpose of this section to establish a formula so that the amount, measured by their value, of additional commodities that are to be provided to each State for redistribution to soup kitchens and food banks can be precisely calculated for fiscal years 1989 through 1995. The share of commodities, as measured by their value, to be provided to each State shall be based 60 percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the State.

“(b) DEFINITIONS.—As used in this section—

“(1) ADDITIONAL COMMODITIES.—The term ‘additional commodities’ means commodities purchased under this section in addition to the commodities otherwise made available to soup kitchens and food banks providing nutrition assistance to relieve situations of emergency and distress.

“(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term ‘average monthly number of unemployed persons’ refers to the average monthly number of unemployed persons within each State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

“(3) FOOD BANKS.—The term ‘food bank’ refers to public and charitable institutions that maintain an established operation involving the provision of food or edible commodities, or the products thereof, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that provide meals or food to needy persons on a regular basis as an integral part of their normal activities.

“(4) FOOD PANTRY.—The term ‘food pantry’ means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

“(5) POVERTY LINE.—The term ‘poverty line’ has the same meaning given such term in section 673(2) of the

Community Services Block Grant Act (42 U.S.C. 9902(2)).

“(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture.

“(7) SOUP KITCHENS.—The term ‘soup kitchens’ refers to public and charitable institutions that maintain an established feeding operation to provide food to needy homeless persons on a regular basis as an integral part of their normal activities.

“(8) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term ‘total value of additional commodities’ means the actual cost (including the processing and distribution costs of the Secretary), as paid by the Secretary, for all additional commodities purchased under subsection (c).

“(9) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO A STATE.—The term ‘value of additional commodities allocated to a State’ means the actual cost for additional commodities (including the processing and distribution costs of the Secretary) as paid by the Secretary for commodities purchased under this section and allocated to such State.

“(c) AMOUNTS.—

“(1) 1991 FISCAL YEAR.—During fiscal year 1991, the Secretary shall spend \$32,000,000, to purchase, process, and distribute additional commodities to States for distribution to soup kitchens and food banks within a given State that provide nutrition assistance to relieve situations of emergency and distress through the provision of food and meals to needy persons and to other institutions that can demonstrate, in accordance with subsection (j)(3), that they serve predominantly needy persons.

“(2) 1992 THROUGH 1995 FISCAL YEARS.—There are authorized to be appropriated \$40,000,000 for each of the fiscal years 1992 through 1995 to purchase, process, and distribute additional commodities to States for distribution to soup kitchens and food banks within a given State that provide nutrition assistance to relieve situations of emergency and distress through the provision of food and meals to needy persons and to other institutions that can demonstrate, in accordance with subsection (j)(3), that they serve predominantly needy persons. Any amounts provided for fiscal years 1992 through 1995 shall be available only to the extent and in such amounts as are provided in advance in appropriations Acts.

“(3) FOOD PANTRIES.—In instances in which food banks do not operate within a given State, the State may distribute commodities to food pantries.

“(d) MANDATORY ALLOTMENTS.—In each fiscal year, the Secretary shall allot—

“(1) 60 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 60 percent of the total value of additional commodities as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line, and each State shall be entitled to receive such value of additional commodities; and

“(2) 40 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 40 percent of the total value of additional commodities as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year, and each State shall be entitled to receive such value of additional commodities.

“(e) ALLOCATION AND REALLOCATION.—

“(1) NOTIFICATION BY SECRETARY.—The Secretary shall notify each State of the amount of the allocation that the State is entitled to receive under subsection (d).

“(2) NOTIFICATION BY STATE.—

“(A) ACCEPTANCE AMOUNT.—A State shall promptly notify the Secretary of the amount of commod-

ities that will be accepted by soup kitchens or food banks. In determining such amount, the State shall give priority to institutions that provide meals to homeless individuals.

“(B) LESS THAN FULL AMOUNT ACCEPTED.—A State shall promptly notify the Secretary if the State determines that it will not accept the full amount of the allocation under subsection (d) (or a portion thereof).

“(3) REALLOCATION.—Whenever the Secretary receives a notification under paragraph (2)(B), the Secretary shall reallocate and distribute the amount of such allocation (or any portion thereof) not accepted, in a fair and equitable manner among the States that accept the full amount of their respective allocations under subsection (d) and that have requested receipt of additional allocations.

“(f) ADMINISTRATION.—Subject to subsection (c), purchases under this section shall be made by the Secretary at such times and under such conditions as the Secretary determines to be appropriate within each fiscal year. All commodities purchased under subsection (c) within each fiscal year shall be provided to States prior to the end of each such fiscal year.

“(g) MAINTENANCE OF EFFORT.—If a State uses its own funds to provide commodities or services under this section, such State funds shall not be obtained from existing Federal or State programs.

“(h) INCREASED COMMODITY LEVELS AND MAINTENANCE OF EFFORT.—

“(1) INCREASED COMMODITY LEVELS.—Commodities provided under the amendments made by section 104 [enacting sections 213 and 214 of Pub. L. 98-8, set out below] and under this section shall be in addition to the commodities otherwise provided (through commodity donations traditionally provided by the Secretary or the Commodity Credit Corporation) to emergency feeding organizations. The value of the commodity donations traditionally provided to such organizations shall not be diminished as a result of the purchases required by the amendments made by section 104 and this section.

“(2) FEDERAL MAINTENANCE.—The purchase of commodities required under the amendments made by section 104 and under this section, shall not be made in such a manner as to cause any reduction in the value of the bonus commodities that would otherwise be distributed, in the absence of section 104 and this section, to charitable institutions, or to any other domestic food assistance program, such as the programs authorized under the National School Lunch Act [42 U.S.C. 1751 et seq.], the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.], or sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93-86, set out below].

“(3) OTHER MAINTENANCE.—Local agencies receiving commodities purchased under this section shall provide an assurance to the State that donations of foodstuffs from other sources shall not be diminished as a result of the receipt of commodities under this section.

“(i) NEW FORMULA.—Notwithstanding the provisions of this section that set forth the specific formula for allocating additional commodities to each State, the Secretary is authorized to establish a different precise formula, after prior notice and comment as required by section 553 of title 5, United States Code, only to the extent that—

“(1) any such formula is effective at the outset of, and throughout any given fiscal year;

“(2) any such formula can be used to precisely calculate the amount of commodities to be made available to each State by the Secretary for each fiscal year; and

“(3) such formula provides that each State is entitled to receive that value of additional commodities which results from the application of such formula to the total value of additional commodities.

“(j) PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES.—

“(1) SOUP KITCHENS.—In distributing commodities under this section, the distributing agency, under procedures determined appropriate by the distributing agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to soup kitchens and other like organizations that serve meals to homeless persons, and to food banks for distribution to such organizations.

“(2) INSTITUTIONS THAT SERVE ONLY LOW-INCOME RECIPIENTS.—If distributing agencies determine that they will not likely exhaust their allocation of commodities under this section through distribution to institutions referred to in paragraph (1), the distributing agencies shall make the remaining commodities available to food banks for distribution to institutions that distribute commodities to the needy. When such institutions distribute commodities to individuals for home consumption, eligibility for such commodities shall be determined through a means test as determined appropriate by the State distributing agency.

“(3) OTHER INSTITUTIONS.—If the distributing agency's commodity allocation is not likely to be exhausted after distribution under paragraphs (1) and (2) (as determined by the food bank), food banks may distribute the remaining commodities to institutions that serve meals to needy persons and do not employ a means test to determine eligibility for such meals, provided that the organizations have documented, to the satisfaction of the food bank, that the organizations do, in fact, serve predominantly needy persons.

“(k) SETTLEMENT AND ADJUSTMENT OF CLAIMS.—

“(1) IN GENERAL.—The Secretary or a designee of the Secretary shall have the authority to—

“(A) determine the amount of, settle, and adjust any claim arising under this section; and

“(B) waive such a claim if the Secretary determines that to do so will serve the purposes of this section.

“(2) LITIGATION.—Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.”

[Amendment by Pub. L. 102-237 effective and implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102-237, set out as an Effective Date of 1991 Amendment note under section 1421 of this title.]

[Amendment by section 1774(a)(1) of Pub. L. 101-624 effective Nov. 28, 1990, and amendments by section 1774(a)(2)-(4) of Pub. L. 101-624 effective and implemented the first day of the month beginning 120 days after the publication of implementing regulations which shall be promulgated not later than Oct. 1, 1991, see section 1781(a), (b)(2) of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 2012 of this title.]

[Section 110 of Pub. L. 100-435 to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100-435, set out as an Effective Date of 1988 Amendment note under section 2012 of this title.]

GLEANNING CLEARINGHOUSES

Pub. L. 100-435, title I, §111, Sept. 19, 1988, 102 Stat. 1654, as amended by Pub. L. 101-624, title XVII, §1774(b), Nov. 28, 1990, 104 Stat. 3812, provided that:

“(a) DEFINITION OF GLEANNING.—For purposes of this section, the term ‘to glean’ means to collect unharvested crops from the fields of farmers, or to obtain agricultural products from farmers, processors, or retailers, in order to distribute the products to needy individuals, including unemployed and low-income individuals, and the term includes only those situations in which agricultural products and access to fields and facilities are made available without charge.

“(b) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary of Agriculture (hereafter in this section referred to as the ‘Secretary’) is authorized to assist States and private nonprofit organizations in establishing Gleaning

Clearinghouses (hereafter in this section referred to as a 'Clearinghouse').

"(2) ASSISTANCE.—The Secretary is authorized to provide technical information and other assistance considered appropriate by the Secretary to encourage public and nonprofit private organizations to—

"(A) initiate and carry out gleaning activities, and to assist other organizations and individuals to do so, through lectures, correspondence, consultation, or such other measures as the Secretary may consider appropriate;

"(B) collect from public and private sources (including farmers, processors, and retailers) information relating to the kinds, quantities, and geographical locations of agricultural products not completely harvested;

"(C) gather, compile, and make available to public and nonprofit private organizations and to the public the statistics and other information collected under this paragraph, at reasonable intervals;

"(D) establish and operate a toll-free telephone line by which—

"(i) farmers, processors, and retailers may report to a Clearinghouse for dissemination information regarding unharvested crops and agricultural products available for gleaning, and may also report how they may be contacted;

"(ii) public and nonprofit organizations that wish to glean or to assist others to glean, may report to a Clearinghouse the kinds and amounts of products that are wanted for gleaning, and may also report how they may be contacted;

"(iii) persons who can transport crops or products may report the availability of free transportation for gleaned crops or products; and

"(iv) information about gleaning can be provided without charge by a Clearinghouse to the persons and organizations described in clauses (i), (ii), and (iii);

"(E) prepare, publish, and make available to the public, at cost and on a continuing basis, a handbook on gleaning that includes such information and advice as may be useful in operating efficient gleaning activities and projects, including information regarding how to—

"(i) organize groups to engage in gleaning; and

"(ii) distribute to needy individuals, including low-income and unemployed individuals, food and other agricultural products that have been gleaned; or

"(F) advertise in print, on radio, television, or through other media, as the Secretary considers to be appropriate, the services offered by a Clearinghouse under this section."

[Section 111 of Pub. L. 100-435 effective and implemented on Oct. 1, 1988, except that such section to become effective and implemented on Oct. 1, 1989, if final order is issued under section 902(b) of Title 2, The Congress, for fiscal year 1989 making reductions and sequestrations specified in the report required under section 901(a)(3)(A) of Title 2, see section 701(a), (c)(2) of Pub. L. 100-435, set out as an Effective Date of 1988 Amendment note under section 2012 of this title.]

CONTINUATION OF PROVISION OF CHEESE SUPPLIES

Pub. L. 100-435, title I, § 130, Sept. 19, 1988, 102 Stat. 1655, was redesignated section 5(d)(2) of Pub. L. 93-86, set out below, by Pub. L. 101-624, title XVII, § 1774(c)(2)(A), Nov. 28, 1990, 104 Stat. 3813.

ENCOURAGEMENT OF FOOD PROCESSING AND DISTRIBUTION BY ELIGIBLE RECIPIENT AGENCIES

Pub. L. 100-435, title II, § 220, Sept. 19, 1988, 102 Stat. 1659, as amended by Pub. L. 101-624, title XVII, § 1772(h)(5), Nov. 28, 1990, 104 Stat. 3809; Pub. L. 102-237, title IX, § 942, Dec. 13, 1991, 105 Stat. 1893, provided that:

"(a) SOLICITATION OF APPLICATIONS.—

"(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [Sept. 19, 1988], the Sec-

retary of Agriculture shall, to the extent that the Commodity Credit Corporation's inventory levels permit, solicit applications, in accordance with paragraph (2), for surplus commodities available for distribution under section 202 of the Emergency Food Assistance Act of 1983 [Pub. L. 98-8] (7 U.S.C. 612c note).

"(2) REQUIREMENTS.—The solicitation by the Secretary of Agriculture under paragraph (1) shall be in the form of a request that any eligible recipient agency (as defined in section 201A of the Emergency Food Assistance Act of 1983 [Pub. L. 98-8, set out below]) submit an application to the Secretary that shall include an assurance that such agency will—

"(A) process any agricultural commodity received in response to such application into end-use products suitable for distribution through the Emergency Food Assistance Program;

"(B) package such products for use by individual households; and

"(C) distribute such products to State agencies responsible for the administration of the Emergency Food Assistance Program, at no cost to the State agency, for distribution through the Emergency Food Assistance Program.

"(3) PROHIBITION ON PAYMENT OF PROCESSING COSTS.—Funds made available under section 204 of the Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) or funds of the Commodity Credit Corporation shall not be used to pay any costs incurred for the processing, storage, transportation or distribution of the commodities or end-use products prior to their delivery to the State agency.

"(b) REVIEW OF APPLICATIONS.—

"(1) TIME OF REVIEW.—Not later than 60 days after the Secretary of Agriculture receives an application solicited under subsection (a), the Secretary shall approve or disapprove such application.

"(2) NOTICE OF DISAPPROVAL.—If the Secretary disapproves the application submitted under subsection (a), the Secretary shall inform the applicant of the reasons for such disapproval."

[Amendment by Pub. L. 102-237 effective and implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102-237, set out as an Effective Date of 1991 Amendment note under section 1421 of this title.]

[Section 220 of Pub. L. 100-435 to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100-435, set out as an Effective Date of 1988 Amendment note under section 2012 of this title.]

FOOD BANK DEMONSTRATION PROJECTS

Pub. L. 100-435, title V, § 502, Sept. 19, 1988, 102 Stat. 1671, provided that:

"(a) IN GENERAL.—The Secretary of Agriculture may carry out demonstration projects to provide and redistribute to needy individuals and families through community food banks and other charitable food banks—

"(1) agricultural commodities or the products thereof made available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); and

"(2) to the extent practicable, agricultural commodities or the products thereof made available under section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c).

"(b) FOOD TYPES.—The Secretary shall determine the quantities, varieties, and types of agricultural commodities and products thereof to be made available to community food banks under this section.

"(c) REPORT.—Not later than July 1, 1990, the Secretary shall submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report describing any demonstration projects carried out under this section. The report shall include an analysis and evaluation of the distribution and redistribution of food under the demonstration projects and the feasibility of expanding the projects to other community food banks.

“(d) TERMINATION.—The authority provided under this section shall terminate on September 30, 1990.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$400,000 for each of the fiscal years 1989 through 1990.”

[Section 502 of Pub. L. 100-435 [enacting note above] effective and implemented on Oct. 1, 1988, except that such section to become effective and implemented on Oct. 1, 1989, if final order is issued under section 902(b) of Title 2, The Congress, for fiscal year 1989 making reductions and sequestrations specified in the report required under section 901(a)(3)(A) of Title 2, see section 701(a), (c)(2) of Pub. L. 100-435, set out as an Effective Date of 1988 Amendment note under section 2012 of this title.]

COMMODITY DISTRIBUTION REFORM

Pub. L. 100-237, §§1-4, 7, 13, 14, Jan. 8, 1988, 101 Stat. 1733, 1739, 1740, 1742, 1743, as amended by Pub. L. 101-624, title XVII, §§1772(h)(3), (4), 1773(a)-(e), Nov. 28, 1990, 104 Stat. 3809-3811; Pub. L. 102-342, title IV, §401, Aug. 14, 1992, 106 Stat. 914; Pub. L. 103-448, title III, §303, Nov. 2, 1994, 108 Stat. 4750, provided that:

“SECTION 1. SHORT TITLE.

“This Act [amending section 1431e of this title and sections 1755, 1769, and 1786 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and section 1786 of Title 42] may be cited as the ‘Commodity Distribution Reform Act and WIC Amendments of 1987’.

“SEC. 2. STATEMENT OF PURPOSE; SENSE OF CONGRESS.

“(a) STATEMENT OF PURPOSE.—It is the purpose of this Act to improve the manner in which agricultural commodities acquired by the Department of Agriculture are distributed to recipient agencies, the quality of the commodities that are distributed, and the degree to which such distribution reponds [sic] to the needs of the recipient agencies.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that the distribution of commodities and products—

“(1) should be improved as an effective means of removing agricultural surpluses from the market and providing nutritious high-quality foods to recipient agencies;

“(2) is inextricably linked to the agricultural support and surplus removal programs; and

“(3) is an important mission of the Secretary of Agriculture.

“SEC. 3. COMMODITY DISTRIBUTION PROGRAM REFORMS.

“(a) COMMODITIES SPECIFICATIONS.—

“(1) DEVELOPMENT.—In developing specifications for commodities acquired through price support, surplus removal, and direct purchase programs of the Department of Agriculture that are donated for use for programs or institutions described in paragraph (2), the Secretary shall—

“(A) consult with the advisory council established under paragraph (3);

“(B) consider both the results of the information received from recipient agencies under subsection (f)(2) and the results of an ongoing field testing program under subsection (g) in determining which commodities and products, and in which form the commodities and products, should be provided to recipient agencies; and

“(C) give significant weight to the recommendations of the advisory council established under paragraph (3) in ensuring that commodities and products are—

“(i) of the quality, size, and form most usable by recipient agencies; and

“(ii) to the maximum extent practicable, consistent with the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services.

“(2) APPLICABILITY.—Paragraph (1) shall apply to—

“(A) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93-86] (7 U.S.C. 612c note);

“(B) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

“(C) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

“(D) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

“(E) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

“(F) to the extent practicable—

“(i) the emergency food assistance program established under the Emergency Food Assistance Act of 1983 (Public Law 100-237 [Pub. L. 98-8, title II]; 7 U.S.C. 612c note); and

“(ii) programs under which food is donated to charitable institutions.

“(3) ADVISORY COUNCIL.—(A) The Secretary shall establish an advisory council on the distribution of donated commodities to recipient agencies. The Secretary shall appoint not less than nine and not more than 15 members to the council, including—

“(i) representatives of recipient agencies, including food banks;

“(ii) representatives of food processors and food distributors;

“(iii) representatives of agricultural organizations;

“(iv) representatives of State distribution agency directors; and

“(v) representatives of State advisory committees.

“(B) The council shall meet not less than semi-annually with appropriate officials of the Department of Agriculture and shall provide guidance to the Secretary on regulations and policy development with respect to specifications for commodities.

“(C) Members of the council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the committee.

“(D) The council shall report annually to the Secretary of Agriculture, the Committee on Education and Labor [now Committee on Economic and Educational Opportunities] and the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

“(E) The council shall expire on September 30, 1996.

“(b) DUTIES OF SECRETARY WITH RESPECT TO PROVISION OF COMMODITIES.—With respect to the provision of commodities to recipient agencies, the Secretary shall—

“(1) before the end of the 270-day period beginning on the date of the enactment of this Act [Jan. 8, 1988]—

“(A) implement a system to provide recipient agencies with options with respect to package sizes and forms of such commodities, based on information received from such agencies under subsection (f)(2), taking into account the duty of the Secretary—

“(i) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation;

“(ii) to purchase surplus agriculture commodities through section 32 of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.) [probably means section 32 of act Aug. 24, 1935, which is classified to section 612c of this title]; and

“(iii) to make direct purchases of agricultural commodities and other foods for distribution to recipient agencies under—

“(I) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93-86] (7 U.S.C. 612c note);

“(II) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

“(III) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

“(IV) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

“(V) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

“(B) implement procedures to monitor the manner in which State distribution agencies carry out their responsibilities;

“(2) provide technical assistance to recipient agencies on the use of such commodities, including handling, storage, and menu planning and shall distribute to all recipient agencies suggested recipes for the use of donated commodities and products (the recipe cards shall be distributed as soon as practicable after the date of enactment of this Act [Jan. 8, 1988] and updated on a regular basis taking into consideration the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services, as in effect at the time of the update of the recipe files);

“(3) before the end of the 120-day period beginning on the date of the enactment of this Act [Jan. 8, 1988], implement a system under which the Secretary shall—

“(A) make available to State agencies summaries of the specifications with respect to such commodities and products; and

“(B) require State agencies to make such summaries available to recipient agencies on request;

“(4) implement a system for the dissemination to recipient agencies and to State distribution agencies—

“(A) not less than 60 days before each distribution of commodities by the Secretary is scheduled to begin, of information relating to the types and quantities of such commodities that are to be distributed; or

“(B) in the case of emergency purchases and purchases of perishable fruits and vegetables, of as much advance notification as is consistent with the need to ensure that high-quality commodities are distributed;

“(5) before the expiration of the 90-day period beginning on the date of the enactment of this Act [Jan. 8, 1988], establish procedures for the replacement of commodities received by recipient agencies that are stale, spoiled, out of condition, or not in compliance with the specifications developed under subsection (a)(1), including a requirement that the appropriate State distribution agency be notified promptly of the receipt of commodities that are stale, spoiled, out of condition, or not in compliance with the specifications developed under subsection (a)(1);

“(6) monitor the condition of commodities designated for donation to recipient agencies that are being stored by or for the Secretary to ensure that high quality is maintained;

“(7) establish a value for donated commodities and products to be used by State agencies in the allocation or charging of commodities against entitlements; and

“(8) require that each State distribution agency shall receive donated commodities not more than 90 days after such commodities are ordered by such

agency, unless such agency specifies a longer delivery period.

“(c) QUALIFICATIONS FOR PURCHASE OF COMMODITIES.—

“(1) OFFERS FOR EQUAL OR LESS POUNDAGE.—Subject to compliance by the Secretary with surplus removal responsibilities under other provisions of law, the Secretary may not refuse any offer in response to an invitation to bid with respect to a contract for the purchase of entitlement commodities (provided in standard order sizes) solely on the basis that such offer provides less than the total amount of poundage for a destination specified in such invitation.

“(2) OTHER QUALIFICATIONS.—The Secretary may not enter into a contract for the purchase of entitlement commodities unless the Secretary considers the previous history and current patterns of the bidding party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption.

“(d) DUTIES OF STATE DISTRIBUTION AGENCIES.—On or before July 1, 1992, the Secretary shall by regulation require each State distribution agency to—

“(1) evaluate its system for warehousing and distributing donated commodities to recipient agencies designated in subparagraphs (A) and (B) of section 13(3) (hereafter referred to in this Act as ‘child and elderly nutrition program recipient agencies’);

“(2) in the case of State distribution agencies that require payment of fees by child and elderly nutrition program recipient agencies for any aspect of warehousing or distribution, implement the warehousing and distribution system that provides donated commodities to such recipient agencies in the most efficient manner, at the lowest cost to such recipient agencies, and at a level that is not less than a basic level of services determined by the Secretary;

“(3) in determining the most efficient and lowest cost system, use commercial facilities for providing warehousing and distribution services to such recipient agencies, unless the State applies to the Secretary for approval to use other facilities demonstrating that, when both direct and indirect costs incurred by such recipient agencies are considered, such other facilities are more efficient and provide services at a lower total cost to such recipient agencies;

“(4) consider the preparation and storage capabilities of recipient agencies when ordering donated commodities, including capabilities of such agencies to handle commodity product forms, quality, packaging, and quantities; and

“(5) in the case of any such agency that enters into a contract with respect to processing of agricultural commodities and their products for recipient agencies—

“(A) test the product of such processing with the recipient agencies before entering into a contract for such processing; and

“(B) develop a system for monitoring product acceptability.

“(e) REGULATIONS.—

“(1) IN GENERAL.—The Secretary shall provide by regulation for—

“(A) whenever fees are charged to local recipient agencies, the establishment of mandatory criteria for such fees based on national standards and industry charges (taking into account regional differences in such charges) to be used by State distribution agencies for storage and deliveries of commodities;

“(B) minimum performance standards to be followed by State agencies responsible for intrastate distribution of donated commodities and products;

“(C) procedures for allocating donated commodities among the States; and

“(D) delivery schedules for the distribution of commodities and products that are consistent with the needs of eligible recipient agencies, taking into account the duty of the Secretary—

“(i) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation;

“(ii) to purchase surplus agricultural commodities through section 32 of the Act entitled ‘An Act to amend the Agricultural Adjustment Act, and for other purposes’, approved August 24, 1935 (7 U.S.C. 612c); and

“(iii) to make direct purchases of agricultural commodities and other foods for distribution to recipient agencies under—

“(I) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93-86] (7 U.S.C. 612c note);

“(II) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and

“(III) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

“(IV) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

“(V) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a).

“(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary shall promulgate—

“(A) regulations as required by paragraph (1)(D) before the end of the 90-day period beginning on the date of enactment of this Act [Jan. 8, 1988]; and

“(B) regulations as required by subparagraphs (A), (B), and (C) of paragraph (1) before the end of the 270-day period beginning on such date.

“(f) REVIEW OF PROVISION OF COMMODITIES.—

“(1) IN GENERAL.—Before the expiration of the 270-day period beginning on the date of the enactment of this Act [Jan. 8, 1988], the Secretary shall establish procedures to provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of recipient agencies.

“(2) INFORMATION FROM RECIPIENT AGENCIES.—Before the expiration of the 120-day period beginning on the date of the enactment of this Act [Jan. 8, 1988], the Secretary shall establish procedures to ensure that information is received from recipient agencies at least annually with respect to the types and forms of commodities that are most useful to persons participating in programs operated by recipient agencies.

“(g) TESTING FOR ACCEPTABILITY.—The Secretary shall establish an ongoing field testing program for present and anticipated commodity and product purchases to test product acceptability with program participants. Test results shall be taken into consideration in deciding which commodities and products, and in what form the commodities and products, should be provided to recipient agencies.

“(h) BUY AMERICAN PROVISION.—

“(1) IN GENERAL.—The Secretary shall require that recipient agencies purchase, whenever possible, only food products that are produced in the United States.

“(2) WAIVER.—The Secretary may waive the requirement established in paragraph (1)—

“(A) in the case of recipient agencies that have unusual or ethnic preferences in food products; or

“(B) for such other circumstances as the Secretary considers appropriate.

“(3) EXCEPTION.—The requirement established in paragraph (1) shall not apply to recipient agencies in Alaska, Guam, American Samoa, Puerto Rico, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands. The requirement established in paragraph (1) shall apply to recipient agencies in Hawaii only with respect to the purchase of pineapples.

“(i) UNIFORM INTERPRETATION.—The Secretary shall take such actions as are necessary to ensure that regional offices of the Department of Agriculture interpret uniformly across the United States policies and regulations issued to implement this section.

“(j) [Amended section 6(e) of the National School Lunch Act (42 U.S.C. 1755(e)).]

“(k) REPORT.—Not later than January 1, 1989, the Secretary shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the implementation and operation of this section.

“SEC. 3A. ADVANCE FUNDING FOR STATE OPTION CONTRACTS.

“(a) IN GENERAL.—The Secretary may use the funds of the Commodity Credit Corporation and funds made available to carry out section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to pay for all or a portion of the cost, as agreed on with the State distribution agency, of food or the processing or packaging of food on behalf of a State distribution agency.

“(b) REIMBURSEMENT.—In such cases, the State distribution agency shall reimburse the Secretary for the agreed on cost. Any funds received by the Secretary as reimbursement shall be deposited to the credit of the Commodity Credit Corporation or section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), as appropriate. If the State distribution agency fails, within 150 days of delivery, to make the required reimbursement in full, the Secretary shall, within 30 days, offset any outstanding amount against the appropriate account.

“SEC. 4. FOOD BANK PROJECT.

“(a) COMMUNITY FOOD BANKS.—The Secretary shall carry out no less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled ‘An Act to amend the Agricultural Adjustment Act, and for other purposes’, approved August 24, 1935 (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through community food banks under a demonstration project.

“(b) RECORDKEEPING AND MONITORING.—Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

“(c) DETERMINATION OF QUANTITIES, VARIETIES, AND TYPES OF COMMODITIES.—The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.

“(d) EFFECTIVE PERIOD.—This section shall be effective for the period beginning on the date of enactment of this Act [Jan. 8, 1988].

“SEC. 7. ASSESSMENT AND REPORT TO CONGRESS.

“(a) ASSESSMENT.—The Comptroller General of the United States shall monitor and assess the implementation by the Secretary of the provisions of this Act [see section 1 set out above].

“(b) REPORT.—Before the expiration of the 18-month period beginning on the date of the enactment of this Act [Jan. 8, 1988], the Comptroller General shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report of the findings of the assessment conducted as required by subsection (a).

“SEC. 13. DEFINITIONS.

“For purposes of this Act:

“(1) The term ‘donated commodities’ means agricultural commodities and their products that are donated by the Secretary to recipient agencies.

“(2) The term ‘entitlement commodities’ means agricultural commodities and their products that are donated and charged by the Secretary against entitlements established under programs authorized by statute to receive such commodities.

“(3) The term ‘recipient agency’ means—

“(A) a school, school food service authority, or other agency authorized under the National School Lunch Act [42 U.S.C. 1751 et seq.] or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to operate breakfast programs, lunch programs, child care food programs, summer food service programs, or similar programs and to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase;

“(B) a nutrition program for the elderly authorized under title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.) to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase;

“(C) an agency or organization distributing commodities under the commodity supplemental food program established in section 4 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93-86] (7 U.S.C. 612c note);

“(D) any charitable institution, summer camp, or assistance agency for the food distribution program on Indian reservations authorized under section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase; or

“(E) an agency or organization distributing commodities under a program established in section 202 of the Emergency Food Assistance Act of 1983 [Pub. L. 98-8] (7 U.S.C. 612c note).

“(4) The term ‘State distribution agency’ means a State agency responsible for the intrastate distribution of donated commodities.

“(5) The term ‘Secretary’ means Secretary of Agriculture, unless the context specifies otherwise.

“SEC. 14. GENERAL EFFECTIVE DATE.

“Except as otherwise provided in this Act, this Act and the amendments made by this Act [see section 1 set out above] shall take effect on the date of the enactment of this Act [Jan. 8, 1988].”

FOOD BANK DEMONSTRATION PROJECT

Pub. L. 100-232, §3, Jan. 5, 1988, 101 Stat. 1566, provided that:

“(a) The Secretary of Agriculture shall carry out no less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled ‘An Act to amend the Agricultural Adjustment Act, and for other purposes’, approved August 24, 1935, as amended (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through community food banks under a demonstration project.

“(b) Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the project shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

“(c) The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.

“(d) This section shall be effective for the period beginning on the date of enactment of this Act [Jan. 5, 1988] and ending on December 31, 1990.

“(e) The Secretary shall submit annual progress reports to Congress beginning on July 1, 1988, and a final report on July 1, 1990, regarding each demonstration project carried out under this section. Such reports shall include analyses and evaluations of the provision and redistribution of agricultural commodities and food products under the demonstration projects. In addition, the Secretary shall include in the final report any recommendations regarding improvements in the provision and redistribution of agricultural commodities and food products to community food banks and the feasibility of expanding such method of provisions and redistribution of agricultural commodities and food products to other community food banks.”

CONTINUATION OF DISTRIBUTION OF AGRICULTURAL COMMODITIES TO LOW-INCOME ELDERLY AT EXISTING LEVELS

Section 1562(d) of Pub. L. 99-198 provided that: “Notwithstanding any other provision of law, in implementing the commodity supplemental food program under section 4 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93-86, set out as a note below], the Secretary of Agriculture shall allow agencies distributing agricultural commodities to low-income elderly people under such programs on the date of enactment of this Act [Dec. 23, 1985] to continue such distribution at levels no lower than existing caseloads.”

REPORT TO CONGRESS ON ACTIVITIES OF PROGRAM CONDUCTED UNDER TEMPORARY EMERGENCY FOOD ASSISTANCE ACT OF 1983

Section 1571 of Pub. L. 99-198 provided that: “Not later than April 1, 1987, the Secretary of Agriculture shall report to Congress on the activities of the program conducted under the Temporary Emergency Food Assistance Act of 1983 [title II of Pub. L. 98-8, set out as a note below]. Such report shall include information on—

“(1) the volume and types of commodities distributed under the program;

“(2) the types of State and local agencies receiving commodities for distribution under the program;

“(3) the populations served under the program and their characteristics;

“(4) the Federal, State, and local costs of commodity distribution operations under the program (including transportation, storage, refrigeration, handling, distribution, and administrative costs); and

“(5) the amount of Federal funds provided to cover State and local costs under the program.”

EMERGENCY FOOD ASSISTANCE ACT OF 1983

Pub. L. 98-8, title II, Mar. 24, 1983, 97 Stat. 35, as amended Pub. L. 98-92, §2, Sept. 2, 1983, 97 Stat. 608; Pub. L. 99-198, title XV, §§1562(e)(1), 1563-1566, 1567(c), 1568-1570, Dec. 23, 1985, 99 Stat. 1590-1594; Pub. L. 100-77, title VIII, §§811-814, July 22, 1987, 101 Stat. 536-538; Pub. L. 100-435, title I, §§101-105, Sept. 19, 1988, 102 Stat. 1647-1650; Pub. L. 101-624, title XVII, §1772(a)-(h)(1), Nov. 28, 1990, 104 Stat. 3808, 3809; Pub. L. 102-237, title IX, §922(b), Dec. 13, 1991, 105 Stat. 1888, provided that:

“SEC. 201. This title may be cited as the ‘Emergency Food Assistance Act of 1983’, and is hereinafter in this title referred to as ‘this Act’.

“ELIGIBLE RECIPIENT AGENCIES

“SEC. 201A. As used in this Act, the term ‘eligible recipient agencies’, means public or nonprofit organizations that administer—

“(1) activities and projects providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons (including the activities and projects of charitable institutions, food banks, hunger centers, soup kitchens,

and similar public or private nonprofit eligible recipient agencies) hereinafter in this title referred to as 'emergency feeding organizations';

"(2) school lunch programs, summer camps for children, and other child nutrition programs providing food service;

"(3) nutrition projects operating under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], including congregate nutrition sites and providers of home-delivered meals;

"(4) activities and projects that are supported under section 4 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93-86, set out as a note below];

"(5) activities of charitable institutions, including hospitals and retirement homes, to the extent that needy persons are served; or

"(6) disaster relief programs;

and that have been designated by the appropriate State agency, or by the Secretary, and approved by the Secretary for participation in the program established under this Act.

"AVAILABILITY OF CCC COMMODITIES

"SEC. 202. (a) Notwithstanding any other provision of law, in order to complement the domestic nutrition programs, make maximum use of the Nation's agricultural abundance, and expand and improve the domestic distribution of price-supported commodities, commodities acquired by the Commodity Credit Corporation that the Secretary of Agriculture (hereinafter referred to as the 'Secretary') determines, in his discretion, are in excess of quantities needed to—

"(1) carry out other domestic donation programs,

"(2) meet other domestic obligations (including quantities needed to carry out a payment-in-kind acreage diversion program),

"(3) meet international market development and food aid commitments, and

"(4) carry out the farm price and income stabilization purposes of the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.], the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], and the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.],

shall be made available by the Secretary, without charge or credit for such commodities, for use by eligible recipient agencies for food assistance.

"[(b) Repealed. Pub. L. 99-198, title XV, §1565(a)(2), Dec. 23, 1985, 99 Stat. 1591]

"(c) In addition to any commodities described in subsection (a), in carrying out this Act, the Secretary may use agricultural commodities and the products thereof made available under clause (2) of the second sentence of section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c).

"(d) Commodities made available under this Act shall include a variety of commodities and products thereof that are most useful to eligible recipient agencies, including, but not be [sic] limited to, dairy products, wheat or the products thereof, rice, honey, and cornmeal.

"(e) Effective April 1, 1986, the Secretary shall submit semiannually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the types and amounts of commodities made available for distribution under this Act.

"(f) Notwithstanding any other provision of law, the programs authorized by sections 153 and 1163 of the Food Security Act of 1985 [Pub. L. 99-198] (15 U.S.C. 713a-14 and 7 U.S.C. 1731 note) shall not be operated in a manner that will, in any way, reduce the quantities of dairy products that traditionally are made available to carry out this Act or any other domestic feeding program.

"(g)(1) Whenever commodities acquired by the Commodity Credit Corporation are made available for donation to domestic food programs in quantities that exceed Federal obligations, the Secretary shall give equal

consideration to making donations of such commodities to emergency feeding organizations participating in the program authorized by this Act as is given to other commodity recipient agencies, taking into account the types and amounts of commodities available and appropriate for distribution to these organizations.

"(2) In determining the commodities that will be made available to emergency feeding organizations under this Act, the Secretary may distribute commodities that become available on a seasonal or irregular basis.

"AVAILABILITY OF CCC FLOUR, CORNMEAL, AND CHEESE

"SEC. 202A. Notwithstanding any other provision of law—

"(a)(1) To the extent provided in advance in an appropriation Act, in fiscal year 1988, flour, cornmeal, and cheese acquired by the Commodity Credit Corporation that are in excess of quantities needed to—

"(A) carry out other domestic donation programs,

"(B) meet other domestic obligations (including quantities needed to carry out a payment-in-kind acreage diversion program),

"(C) meet international market development and food aid commitments, and

"(D) carry out the farm price and income stabilization purposes of the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.], the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], and Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.],

shall be made available as provided in paragraph (2).

"(2) The Secretary shall make such excess flour, cornmeal, and cheese available in any State, in addition to the normal allotment of such commodities (adjusted by any reallocation) for fiscal year 1988 under this Act, at the request of the chief executive officer of such State who certifies to the Secretary that—

"(A)(i) individuals in such State who are eligible to receive flour, cornmeal, and cheese under this Act are not receiving such commodities distributed under other provisions of this Act, or

"(ii) the number of unemployed individuals in such State has increased during the most recent 90-day period for which unemployment statistics are available prior to the date the certification is made, and

"(B) the distribution of flour, cornmeal, and cheese under this section in such State will not substantially displace the commercial sale of such commodities in such State.

"(b) Flour, cornmeal, and cheese made available under this section by the Secretary shall be made available without charge or credit in fiscal year 1988, in a usable form, for use by eligible recipient agencies in a State.

"(c) The amount of cheese made available under this section in fiscal year 1988 shall not exceed 14,000,000 pounds.

"(d) Whenever the Secretary receives a request submitted under subsection (a)(2), the Secretary shall immediately notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that such request was received.

"PROCESSING AGREEMENTS

"[SEC. 203. Repealed. Pub. L. 99-198, title XV, §1567(c), Dec. 23, 1985, 99 Stat. 1592]

"INITIAL PROCESSING COSTS

"SEC. 203A. The Secretary may use funds of the Commodity Credit Corporation to pay costs of initial processing and packaging of commodities to be distributed under the program established under this Act into forms, and in quantities, suitable, as determined by the Secretary, for use in individual households when such commodities are to be consumed by individual households or for institutional use, as applicable. The Secretary may pay such costs in the form of Corporation-owned commodities equal in value to such costs. The

Secretary shall ensure that any such payments in kind will not displace commercial sales of such commodities.

“FEDERAL AND STATE RESPONSIBILITIES

“SEC. 203B. (a) The Secretary shall, as expeditiously as possible, provide the commodities made available under this Act in such quantities as can be used without waste to State agencies designated by the Governor or other appropriate State official for distribution to eligible recipient agencies, except that the Secretary may provide such commodities directly to eligible recipient agencies and to private companies that process such commodities for eligible recipient agencies under sections 203 and 203A of this Act. Notwithstanding any other provision of this Act, in the distribution of commodities under this Act, each State agency shall have the option to give priority to existing food bank networks and other organizations whose ongoing primary function is to facilitate the distribution of food to low-income households, including food from sources other than the Department of Agriculture.

“(b) State agencies receiving commodities under this Act shall, as expeditiously as possible, distribute such commodities, in the quantities requested (to the extent practicable), to eligible recipient agencies within their respective States. However, if a State agency cannot meet all requests for a particular commodity under this Act, the State agency shall give priority in the distribution of such commodity to eligible recipient agencies providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons. Each State agency shall encourage distribution of such commodities in rural areas.

“(c) Each State agency receiving commodities for individual household use under this Act shall distribute such commodities to eligible recipient agencies in the State that serve needy persons, and shall, with the approval of the Secretary, determine those persons in the State that shall qualify as needy persons eligible for such commodities.

“(d) Each State agency receiving commodities under this title may—

“(1) enter into cooperative agreements with State agencies of other States for joint provision of such commodities to an emergency feeding organization that serves needy persons in a single geographical area part of which is situated in each of such States; or

“(2) transfer such commodities to any such emergency feeding organization in the other State under such agreement.

“ASSURANCES; ANTICIPATED USE

“SEC. 203C. (a) The Secretary shall take such precautions as the Secretary deems necessary to assure that any eligible recipient agency receiving commodities under this act will provide such commodities to persons served by the eligible recipient agency and will not diminish its normal expenditures for food by reason of the receipt of such commodities. The Secretary shall also take such precautions as the Secretary deems necessary to assure that commodities made available under this Act will not displace commercial sales of such commodities or the products thereof. The Secretary shall not make commodities available for donation in any quantity or manner that the Secretary, in the Secretary's discretion, determines may, substitute for the same or any other agricultural produce that would otherwise be purchased in the market. The Secretary shall submit to Congress each year a report as to whether and to what extent such displacements or substitutions are occurring.

“(b) Commodities provided under this Act shall be distributed only in quantities that can be consumed without waste. No eligible recipient agency may receive commodities under this Act in excess of anticipated use, based on inventory records and controls, or

in excess of its ability to accept and store such commodities.

“STATE AND LOCAL SUPPLEMENTATION OF COMMODITIES

“SEC. 203D. (a) AUTHORIZATION.—The Secretary shall establish procedures under which State and local agencies, charitable institutions, or any other persons may supplement the commodities distributed under the program authorized by this Act for use by emergency feeding organizations with nutritious and wholesome commodities that such entities or persons donate to State agencies and emergency feeding organizations for distribution, in all or part of the State, in addition to the commodities otherwise made available under this Act.

“(b) USE OF FUNDS AND FACILITIES.—States and emergency feeding organizations may use the funds appropriated under this Act and equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this Act, and the personnel, both paid or volunteer, involved in such storage, handling, or distribution, to store, handle or distribute commodities donated for the use of emergency feeding organizations under subsection (a).

“(c) VOLUNTEER WORKERS.—State and emergency feeding organizations shall continue, to the maximum extent practicable, to use volunteer workers and commodities and other foodstuffs donated by charitable and other organizations in the operation of the program authorized by this section.

“AUTHORIZATION AND APPROPRIATIONS

“(a)(1) There are authorized to be appropriated \$50,000,000 for each of the fiscal years 1991 through 1995 for the Secretary to make available to the States for State and local payments for costs associated with the distribution of commodities by emergency feeding organizations under this title. Funds appropriated under this paragraph for any fiscal year shall be allocated to the States on an advance basis, dividing such funds among the States in the same proportions as the commodities distributed under this title for such fiscal year are divided among the States. If a State agency is unable to use all of the funds so allocated to it, the Secretary shall reallocate such unused funds among the other States. States may also use funds provided under this paragraph to pay for the costs associated with the distribution of commodities under the program authorized under section 110 of the Hunger Prevention Act of 1988 [section 110 of Pub. L. 100-435, set out above], and to pay for the costs associated with the distribution of additional commodities provided pursuant to section 214.

“(2) Each State shall make available to emergency feeding organizations in the State not less than 40 per centum of the funds provided as authorized in paragraph (1) that it has been allocated for a fiscal year, as necessary to pay for, or provide advance payments to cover, the direct expenses of the emergency feeding organizations for distributing commodities to needy persons, but only to the extent such expenses are actually so incurred by such organizations. As used in this paragraph, the term ‘direct expenses’ includes costs of transporting, storing, handling, repackaging, processing, and distributing commodities incurred after they are received by the organization; costs associated with determinations of eligibility, verification, and documentation; costs of providing information to persons receiving commodities under this Act concerning the appropriate storage and preparation of such commodities; costs involved in publishing announcements of times and locations of distribution; and costs of record-keeping, auditing, and other administrative procedures required for participation in the program under this title. If a State makes a payment, using State funds, to cover direct expenses of emergency feeding organizations, the amount of such payment shall be counted toward the amount a State must make available for direct expenses of emergency feeding organizations under this paragraph.

“(3) States to which funds are allocated for a fiscal year under this subsection shall submit financial reports to the Secretary, on a regular basis, as to the use of such funds. No such funds may be used by States or emergency feeding organizations for costs other than those involved in covering the expenses related to the distribution of commodities by emergency feeding organizations.

“(4)(A) Except as provided in subparagraph (B), effective January 1, 1987, to be eligible to receive funds under this subsection, a State shall provide in cash or in kind (according to procedures approved by the Secretary for certifying these in-kind contributions) from non-Federal sources a contribution equal to the difference between—

“(i) the amount of such funds so received; and

“(ii) any part of the amount allocated to the State and paid by the State—

“(I) to emergency feeding organizations; or

“(II) for the direct expenses of such organizations; for use in carrying out this title.

“(B)(i) Except as provided in clause (ii), subparagraph (A) shall apply to States beginning on January 1, 1987.

“(ii) If the legislature of a State does not convene in regular session before January 1, 1987, paragraph (1) shall apply to such State beginning on October 1, 1987.

“(C) Funds allocated to a State under this section may, upon State request, be allocated before States satisfy the matching requirement specified in subparagraph (A), based on the estimated contribution required. The Secretary shall periodically reconcile estimated and actual contributions and adjust allocations to the State to correct for overpayments and underpayments.

“(5) States may not charge for commodities made available to emergency feeding organizations, and may not pass on to such organizations the cost of any matching requirements, under this Act.

“(b) The value of the commodities made available under this Act and the funds of the Corporation used to pay the costs of initial processing, packaging (including forms suitable for home use), and delivering commodities to the States shall not be charged against appropriations made or authorized under this section.

“RELATIONSHIPS TO OTHER PROGRAMS

“SEC. 205. (a) Section 4(b) of the Food Stamp Act of 1977 [7 U.S.C. 2013(b)] shall not apply with respect to the distribution of commodities under this Act.

“(b) Except as otherwise provided in section 203A of this Act, none of the commodities distributed under this Act shall be sold or otherwise disposed of in commercial channels in any form.

“COMMODITIES NOT INCOME

“SEC. 206. Notwithstanding any other provision of law, commodities distributed under this Act shall not be considered income or resources for any purposes under any Federal, State, or local law.

“PENALTIES

“SEC. 207. Section 4(c) of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93-86, set out as a note below] is amended by—

“(1) striking out ‘or section 709’ and inserting in lieu thereof ‘section 709’; and

“(2) inserting after ‘(7 U.S.C. 1446a-1)’ the phrase ‘or the Emergency Food Assistance Act of 1983’.

“PROHIBITION AGAINST CERTAIN STATE CHARGES

“SEC. 208. Whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary for distribution within the States to eligible recipient agencies, the State may not charge recipient agencies any amount that is in excess of the State’s direct costs of storing and transporting the commodities to recipient agencies minus any amount the Secretary provides the State for the costs of storing and transporting such commodities.

“COMMODITY SUPPLEMENTAL FOOD PROGRAM ADMINISTRATIVE EXPENSES

“[SEC. 209. Repealed. Pub. L. 99-198, title XV, § 1562(e)(1), Dec. 23, 1985, 99 Stat. 1590]

“REGULATIONS

“SEC. 210. (a) The Secretary shall issue regulations within 30 days to implement this Act.

“(b) In administering this Act, the Secretary shall minimize, to the maximum extent practicable, the regulatory, recordkeeping, and paperwork requirements imposed on eligible recipient agencies.

“(c)(1) The Secretary shall as early as feasible but not later than the beginning of each fiscal year, publish in the Federal Register an estimate of the types and quantities of commodities that the Secretary anticipates are likely to be made available under the commodity distribution program under this Act during the fiscal year.

“(2) The actual types and quantities of commodities made available by the Secretary under this Act may differ from the estimates made under paragraph (1).

“(d) The regulations issued by the Secretary under this section shall include provisions that set standards with respect to liability for commodity losses under the program under this title in situations in which there is no evidence of negligence or fraud, and conditions for payment to cover such losses. Such provisions shall take into consideration the special needs and circumstances of emergency feeding organizations[.]

“(e) The Secretary is authorized to issue final regulations without first issuing proposed regulations (except as otherwise provided for in section 214(j)) for public comment in order to carry out the provisions of sections 213 and 214. If final regulations are issued without such prior public comment the Secretary shall permit public comment on such regulations, consider pertinent comments, and make modifications of such regulations as appropriate not later than 1 year after the date of enactment of this subsection [Sept. 19, 1988]. Such final and modified regulations shall be accompanied by a statement of the basis and purpose for such regulations.

“FINALITY OF DETERMINATIONS

“SEC. 211. Determinations made by the Secretary of Agriculture under this Act and the facts constituting the basis for any donation of commodities under this Act, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

“PROGRAM TERMINATION

“SEC. 212. Except for section 207, this Act shall terminate on September 30, 1995.

“INCORPORATION OF ADDITIONAL COMMODITIES

“SEC. 213. (a) IN GENERAL.—The Secretary shall administer the program authorized under this Act in a manner that incorporates into the program additional commodities purchased by the Secretary under section 214 to be distributed to States for use in such States by emergency feeding organizations, as defined in section 201A(1). Such additional commodities, to the extent practicable and appropriate, shall include commodities purchased within a given State for distribution within such State.

“(b) SUPPLEMENT COMMODITIES AVAILABLE.—The Secretary shall supplement the commodities made available to emergency feeding organizations under sections 202 and 203D(a) with nutritious and useful commodities purchased by the Secretary under section 214.

“REQUIRED PURCHASES OF COMMODITIES

“SEC. 214. (a) PURPOSE.—It is the purpose of this section to establish a formula so that the amount, meas-

ured by their value, of additional commodities that are to be allocated to each State can be precisely calculated for fiscal years 1991 through 1995. The share of commodities, as measured by their value, to be allocated to each State shall be based 60 percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the State.

“(b) DEFINITIONS.—As used in this section—

“(1) ADDITIONAL COMMODITIES.—The term ‘additional commodities’ means commodities purchased under this section in addition to the commodities otherwise made available under sections 202 and 203D(a).

“(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term ‘average monthly number of unemployed persons’ refers to the average monthly number of unemployed persons within each State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

“(3) POVERTY LINE.—The term ‘poverty line’ has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

“(4) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term ‘total value of additional commodities’ means the actual cost (including the distribution and processing costs incurred by the Secretary), as paid by the Secretary, for all additional commodities purchased under subsection (e).

“(5) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.—The term ‘value of additional commodities allocated to each State’ means the actual cost for additional commodities (including the distribution and processing costs incurred by the Secretary) as paid by the Secretary under this section and allocated to such State.

“(c) PURCHASE OF COMMODITIES.—The Secretary shall purchase a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 32 of the Act entitled ‘An Act to amend the Agricultural Adjustment Act, and for other purposes’, approved August 24, 1935 (7 U.S.C. 612c note) [7 U.S.C. 612c], to supplement the commodities otherwise provided under the program authorized by this Act.

“(d) TYPES AND VARIETIES.—The Secretary shall, to the extent practicable and appropriate, purchase types and varieties of commodities—

“(1) with high nutrient density per calorie;

“(2) that are easily and safely stored;

“(3) that are convenient to use and consume;

“(4) that are desired by recipient agencies; and

“(5) that meet the requirement imposed by section 203C(a).

“(e) AMOUNTS.—To carry out this section there are authorized to be appropriated \$175,000,000 for fiscal year 1991, \$190,000,000 for fiscal year 1992, and \$220,000,000 for each of the fiscal years 1993 through 1995 to purchase, process, and distribute additional commodities under this section. Any amounts provided for fiscal years 1991 through 1995 shall be available only to the extent and in such amounts as are provided in advance in appropriations Acts.

“(f) MANDATORY ALLOTMENTS.—In each fiscal year, the Secretary shall allot—

“(1) 60 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 60 percent of the total value of additional commodities as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line, and each State shall be entitled to receive such value of additional commodities; and

“(2) 40 percent of the total value of additional commodities provided to States in a manner such that

the value of additional commodities allocated to each State bears the same ratio to 40 percent of the total value of additional commodities as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year, and each State shall be entitled to receive such value of additional commodities.

“(g) REALLOCATION.—The Secretary shall notify each State of the amount of the additional commodities that such State is allotted to receive under subsection (f) or subsection (j) if applicable, and each State shall promptly notify the Secretary if such State determines that it will not accept any or all of the commodities made available under such allocation. On such a notification by a State, the Secretary shall reallocate and distribute the amount the State was allocated to receive under the formula prescribed in subsection (f) but declined to accept. The Secretary shall further establish procedures to permit States to decline to receive portions of such allocation during each fiscal year as the State determines is appropriate and the Secretary shall reallocate and distribute such allocation. In the event of any drought, flood, hurricane, or other natural disaster affecting substantial numbers of persons in a State, county or parish, the Secretary may request that States unaffected by such a disaster consider assisting affected States by allowing the Secretary to reallocate commodities to which each such unaffected State is entitled to States containing areas adversely affected by the disaster.

“(h) ADMINISTRATION.—Subject to subsections (e) and (f), or subsection (j) if applicable, purchases under this section shall be made by the Secretary at such times and under such conditions as the Secretary determines appropriate within each fiscal year. All such commodities purchased for each such fiscal year shall be delivered at reasonable intervals to States based on the allotments calculated under subsection (f), or reallocated under subsection (g), or calculated under subsection (j) if applicable, before the end of such fiscal year. Each State shall be entitled to receive that value of additional commodities that results from the application of the formula set forth in this section to the total value of additional commodities.

“(i) MAINTENANCE OF EFFORT.—If a State uses its own funds to provide commodities or services to organizations receiving funds or services under this section, such State shall not diminish the level of support it provides to such organizations or reduce the amount of funds available for other nutrition programs in the State in each fiscal year.

“(j) NEW FORMULA.—Notwithstanding the provisions of this section that set forth the specific formula for allocating additional commodities to each State, the Secretary is authorized to promulgate a different precise formula, after prior notice and comment as required by section 553 of title 5, United States Code, only to the extent that—

“(1) any such formula is effective at the outset of, and throughout any given fiscal year;

“(2) any such formula can be used to precisely calculate the amount of commodities to be made available to each State by the Secretary for each fiscal year; and

“(3) such formula provides that each State is entitled to receive that value of additional commodities which results from the application of such formula to the total value of additional commodities.”

“SETTLEMENT AND ADJUSTMENT OF CLAIMS

“SEC. 215. (a) IN GENERAL.—The Secretary or a designee of the Secretary shall have the authority to—

“(1) determine the amount of, settle, and adjust any claim arising under this Act; and

“(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this Act.

“(b) LITIGATION.—Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516

of title 28, United States Code, to conduct litigation on behalf of the United States.”

[Amendment by Pub. L. 102-237 effective and implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102-237, set out as an Effective Date of 1991 Amendment note under section 1421 of this title.]

[Amendment by section 1772(a), (b), (d), and (h)(1) of Pub. L. 101-624 [amending title heading and sections 201, 202, 204, and 214 of Pub. L. 98-8] effective Nov. 28, 1990, amendment by section 1772(c), (f), and (g) of Pub. L. 101-624 [amending sections 204, 212, and 214 of Pub. L. 98-8] effective Oct. 1, 1990, and amendment by section 1772(e) of Pub. L. 101-624 [amending section 210 of Pub. L. 98-8] effective and implemented the first day of the month beginning 120 days after publication of implementing regulations which shall be promulgated not later than Oct. 1, 1991, see section 1781(a), (b)(1) and (2) of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 2012 of this title.]

[Amendment by sections 101 and 103 of Pub. L. 100-435 [amending sections 204(c)(1), (2), 210(c), and 212 of Pub. L. 98-8] effective and implemented on Sept. 19, 1988, and amendment by sections 102, 104, and 105 of Pub. L. 100-435 [enacting sections 203D, 213, and 214, and amending sections 203B(a), 204(c)(1), and 210 of Pub. L. 98-8] effective and implemented on Oct. 1, 1988, see section 701(a), (b)(1) of Pub. L. 100-435, set out as an Effective Date of 1988 Amendment note under section 2012 of this title.]

AGRICULTURAL EXPORT PROMOTION

Pub. L. 97-253, title I, §135, Sept. 8, 1982, 96 Stat. 772, authorized Secretary of Agriculture, for each of fiscal years 1983, 1984, and 1985, to use up to \$190,000,000 of Commodity Credit Corporation funds to carry out export activities through Commodity Credit Corporation under provisions of law in effect on Sept. 8, 1982, including activities authorized under amendments made by section 405(d) of Pub. L. 98-623 to sections 1707a and 1732 of this title and section 714c(f) of Title 15, Commerce and Trade, even if those export activities were not included in budget program of Corporation.

[Amendments made by section 405(d) of Pub. L. 98-623, amending sections 1707a and 1732 of this title and section 714c(f) of Title 15, Commerce and Trade, to be considered as having taken effect before Sept. 8, 1982, for purposes of section 135 of Pub. L. 97-253, set out above, see section 405(d) of Pub. L. 98-623, set out as an Effective Date of 1984 Amendment note under section 714c of Title 15, Commerce and Trade.]

DISTRIBUTION OF COMMODITIES TO INDIVIDUALS IN CASES OF HARDSHIP

Pub. L. 103-330, title VII, §709, Sept. 30, 1994, 108 Stat. 2467, provided that: “Notwithstanding any other provision of this Act [see Tables for classification], commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 [this section] price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.”

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 103-111, title VII, §710, Oct. 21, 1993, 107 Stat. 1079.

Pub. L. 102-341, title VII, §715, Aug. 14, 1992, 106 Stat. 908.

Pub. L. 102-142, title VII, §718, Oct. 28, 1991, 105 Stat. 913.

Pub. L. 101-506, title VI, §619, Nov. 5, 1990, 104 Stat. 1347.

Pub. L. 101-161, title VI, §619, Nov. 21, 1989, 103 Stat. 983.

Pub. L. 100-460, title VI, §619, Oct. 1, 1988, 102 Stat. 2261.

Pub. L. 100-202, §101(k) [title VI, §619], Dec. 22, 1987, 101 Stat. 1329-322, 1329-355.

Pub. L. 99-500, §101(a) [title VI, §619], Oct. 18, 1986, 100 Stat. 1783, 1783-29, and Pub. L. 99-591, §101(a) [title VI, §619], Oct. 30, 1986, 100 Stat. 3341, 3341-29.

Pub. L. 99-190, §101(a) [H.R. 3037, title VI, §619], Dec. 19, 1985, 99 Stat. 1185.

Pub. L. 98-473, title I, §101(a) [H.R. 5743, title VI, §619], Oct. 12, 1984, 98 Stat. 1837.

Pub. L. 98-151, §101(d) [H.R. 3223, title VI, §619], Nov. 14, 1983, 97 Stat. 972.

Pub. L. 97-370, title VI, §620, Dec. 18, 1982, 96 Stat. 1811.

Pub. L. 97-103, title VI, §620, Dec. 23, 1981, 95 Stat. 1490.

COMMODITY DISTRIBUTION PROGRAM; PURCHASE OF AGRICULTURAL COMMODITIES; FURNISHING COMMODITIES TO SUMMER CAMPS

Pub. L. 93-86, §4, Aug. 10, 1973, 87 Stat. 249, as amended by Pub. L. 93-347, §1, July 12, 1974, 88 Stat. 340; Pub. L. 94-273, §2(1), Apr. 21, 1976, 90 Stat. 375; Pub. L. 95-113, title XIII, §§1302(a)(1), 1304(a), Sept. 29, 1977, 91 Stat. 979, 980, Pub. L. 97-98, title XIII, §1334, Dec. 22, 1981, 95 Stat. 1292; Pub. L. 98-8, title II, §207, Mar. 24, 1983, 97 Stat. 36; Pub. L. 98-92, §3, Sept. 2, 1983, 97 Stat. 612; Pub. L. 99-198, title XV, §1562(a), Dec. 23, 1985, 99 Stat. 1590; Pub. L. 101-624, title XVII, §§1771(a), (b)(1), (c)(1), 1772(h)(2), Nov. 28, 1990, 104 Stat. 3806, 3807, 3809, provided that:

“(a) Notwithstanding any other provision of law, the Secretary may, during fiscal years 1991 through 1995, purchase and distribute sufficient agricultural commodities with funds appropriated from the general fund of the Treasury to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to institutions (including hospitals and facilities caring for needy infants and children), supplemental feeding programs serving women, infants, and children or elderly persons, or both, wherever located, disaster areas, summer camps for children, the United States Trust Territory of the Pacific Islands, and Indians, whenever a tribal organization requests distribution of federally donated foods pursuant to section 4(b) of the Food Stamp Act of 1977 [section 2013(b) of this title]. In providing for commodity distribution to Indians, the Secretary shall improve the variety and quantity of commodities supplied to Indians in order to provide them an opportunity to obtain a more nutritious diet.

“(b) The Secretary may furnish commodities to summer camps for children in which the number of adults participating in camp activities as compared with the number of children 18 years of age and under so participating is not unreasonable in light of the nature of such camp and the characteristics of the children in attendance.”

“(c) Whoever embezzles, willfully misapplies, steals or obtains by fraud any agricultural commodity or its products (or any funds, assets, or property deriving from donation of such commodities) provided under this section, or under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1), or the Emergency Food Assistance Act of 1983 [set out as a note above], whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such commodities, products, funds, assets, or property for personal use or gain, knowing such commodities, products, funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such commodities, products, funds, assets, or property are of a value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than five years, or both, or if such commodities, products, funds, assets, or property are of value of less than \$100, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.”

[Amendment by section 1771(a) of Pub. L. 101-624 effective Oct. 1, 1990, and amendments by sections 1771(b)(1), (c)(1), and 1772(h)(2) of Pub. L. 101-624 effective Nov. 28, 1990, see section 1781(b)(1), (2) of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 2012 of this title.]

[Section 1334 of Pub. L. 97-98 provided in part that the amendment of section 4 of Pub. L. 93-86 by Pub. L. 97-98 is effective Oct. 1, 1981.]

[Section 1302(b) and section 1304(a) in part, both of Pub. L. 95-113, provided that the amendment of subsecs. (a) and (b) of section 4 of Pub. L. 93-86 and the repeal of subsec. (c) of section 4 of Pub. L. 93-86 are effective Oct. 1, 1977.]

[Pub. L. 93-233, §8(b)(1), Dec. 31, 1973, 87 Stat. 956, as amended by Pub. L. 93-335, §1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, §3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94-365, §2(2), July 14, 1976, 90 Stat. 990; Pub. L. 95-59, §3(2), June 30, 1977, 91 Stat. 255, eff. July 1, 1977, provided that: "Section 4(c) of Public Law 93-86 shall not be effective for the period ending September 30, 1978." [For repeal of section 4(c) of Pub. L. 93-86, see section 1304(a) of Pub. L. 95-113].

[For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.]

COMMODITY SUPPLEMENTAL FOOD PROGRAM

Section 5 of Pub. L. 93-86, as added Pub. L. 95-113, title XIII, §1304(b)(2), Sept. 29, 1977, 91 Stat. 980, and amended by Pub. L. 97-98, title XIII, §1335, Dec. 22, 1981, 95 Stat. 1293; Pub. L. 98-8, title II, §209, Mar. 24, 1983, 97 Stat. 36, as amended Pub. L. 98-92, §2(8), Sept. 2, 1983, 97 Stat. 611; Pub. L. 99-198, title XV, §1562(b), (c), (e)(2), Dec. 23, 1985, 99 Stat. 1590; Pub. L. 100-435, title I, §130, redesignated §5(d)(2) of Pub. L. 93-86 by Pub. L. 101-624, title XVII, §1774(c)(2)(A), (B), Nov. 28, 1990, 104 Stat. 3813; Pub. L. 101-624, title XVII, §§1771(c)(2)-(f), 1774(c)(2)(C), Nov. 28, 1990, 104 Stat. 3807, 3808, 3813; Pub. L. 102-237, title I, §118(a), title IX, §922(c), Dec. 13, 1991, 105 Stat. 1841, 1889, provided that:

"(a) In carrying out the supplemental feeding program (hereinafter referred to as the 'commodity supplemental food program') under section 4 of this Act [set out as a note above], the Secretary (1) may institute two pilot projects directed at low-income elderly persons, including, where feasible, distribution of commodities to such persons in their homes; and (2) shall provide to the State agencies administering the commodity supplemental food program, for each of the fiscal years 1991 through 1995, funds appropriated from the general fund of the Treasury in amounts equal to the administrative costs of State and local agencies in operating the program, except that the funds provided to State agencies each fiscal year may not exceed 20 percent of the amount appropriated for the commodity supplemental food program.

"(b) During the first three months of any commodity supplemental food program, or until such program reaches its projected caseload level, whichever comes first, the Secretary shall pay those administrative costs necessary to commence the program successfully: *Provided*, That in no event shall administrative costs paid by the Secretary for any fiscal year exceed the limitation established in subsection (a) of this section.

"(c) Administrative costs for the purposes of the commodity supplemental food program shall include, but not be limited to, expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration, including staff, warehouse and transportation personnel, insurance, and administration of the State or local office.

"(d)(1) During each fiscal year the commodity supplemental food program is in operation, the types and varieties of commodities and their proportional amounts shall be determined by the Secretary, but, if the Secretary proposes to make any significant changes in the types, varieties, or proportional amounts from those that were available or were planned at the beginning of the fiscal year (or as were available during the fiscal year ending June 30, 1976, whichever is greater) the Secretary shall report such changes before implementation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(2) Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that

the Commodity Credit Corporation inventory levels permit, provide not less than 9,000,000 pounds of cheese and not less than 4,000,000 pounds of nonfat dry milk in each of the fiscal years 1991 through 1995 to the Secretary of Agriculture. The Secretary shall use such amounts of cheese and nonfat dry milk to carry out the commodity supplemental food program before the end of each fiscal year.

"(e) The Secretary of Agriculture is authorized to issue such regulations as may be necessary to carry out the commodity supplemental food program.

"(f) The Secretary shall, in any fiscal year, approve applications of additional sites for the program, including sites that serve only elderly persons, in areas in which the program currently does not operate to the full extent that this can be done within the appropriations available for the program for the fiscal year and without reducing actual participation levels (including participation of elderly persons under subsection (g)) in areas in which the program is in effect.

"(g) If a local agency that administers the commodity supplemental food program determines that the amount of funds made available to the agency to carry out this section exceeds the amount of funds necessary to provide assistance under such program to women, infants, and children, the agency, with the approval of the Secretary, may permit low-income elderly persons (as defined by the Secretary) to participate in and be served by such program.

"(h) Each State agency administering a commodity supplemental food program serving women, infants, and children shall—

"(1) ensure that written information concerning food stamps, the program for aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and the child support enforcement program under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) is provided on at least one occasion to each adult who applies for or participates in the commodity supplemental food program;

"(2) provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 6 under the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (hereinafter referred to in this section as the 'medicaid program') which materials may be identical to those provided under section 17(e)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)(3)); and

"(3) ensure that local agencies provide to pregnant, breast feeding and post partum women, and adults applying on behalf of infants or children, who apply to the commodity supplemental food program, or who reapply to such program, written information about the medicaid program and referral to the program or to agencies authorized to determine presumptive eligibility for the medicaid program, if the individuals are not participating in the medicaid program.

"(i) Each State agency administering a commodity supplemental food program serving elderly persons shall ensure that written information is provided on at least one occasion to each elderly participant in or applicant for the commodity supplemental food program for the elderly concerning—

"(1) food stamps provided under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

"(2) the supplemental security income benefits provided under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.); and

"(3) medical assistance provided under title XIX of such Act (42 U.S.C. 1396 et seq.) (including medical assistance provided to a qualified medicare beneficiary (as defined in section 1905(p) of such Act (42 U.S.C. 1396d(5))))).

"(j)(1) If the Secretary must pay a significantly higher than expected price for one or more types of commodities purchased under the commodity supplemental food program, the Secretary shall promptly determine

whether the price is likely to cause the number of persons that can be served in the program in a fiscal year to decline.

“(2) If the Secretary determines that such a decline would occur, the Secretary shall promptly notify the State agencies charged with operating the program of the decline and shall ensure that a State agency notify all local agencies operating the program in the State of the decline.

“(k)(1) The Secretary or a designee of the Secretary shall have the authority to—

“(A) determine the amount of, settle, and adjust any claim arising under the commodity supplemental food program; and

“(B) waive such a claim if the Secretary determines that to do so will serve the purposes of the program.

“(2) Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.”

[Amendment by section 922(c) of Pub. L. 102-237 effective and implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102-237, set out as an Effective Date of 1991 Amendment note under section 1421 of this title.]

[Amendment by sections 1771(c)(2) and 1774(c) of Pub. L. 101-624 effective Nov. 28, 1990; amendment by section 1771(d) of Pub. L. 101-624 effective Oct. 1, 1990, and amendments by section 1771(e) and (f) of Pub. L. 101-624 effective and implemented the first day of the month beginning 120 days after the publication of implementing regulations which shall be promulgated not later than Oct. 1, 1991, see section 1781(a), (b)(1), (2) of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 2012 of this title.]

[Section 1335 of Pub. L. 97-98 provided in part that the amendment to section 5 of Pub. L. 93-86 by Pub. L. 97-98 is effective Oct. 1, 1981.]

[Section 1304(b) of Pub. L. 95-113 provided in part that section 5 of Pub. L. 93-86 is effective Oct. 1, 1977.]

DIRECT DISTRIBUTION PROGRAMS FOR DIET OF NEEDY CHILDREN AND LOW-INCOME PERSONS SUFFERING FROM GENERAL AND CONTINUED HUNGER; ADDITIONAL FUNDS

Section 6 of Pub. L. 92-32, June 30, 1971, 85 Stat. 86, authorized the Secretary of Agriculture to use during the fiscal year ending June 30, 1972, not to exceed \$20,000,000 in funds from section 612c of this title, in addition to funds appropriated or otherwise available, to carry out in any area of the United States direct distribution or other programs, without regard to whether such area is under the food stamp program or a system of direct distribution, in order to provide in the vicinity of their residence an adequate diet to needy children and low income persons suffering, through no fault of their own, from general and continued hunger; provided that food made available to needy children was to be in addition to food made available under the National School Lunch Act or the Child Nutrition Act of 1966; and authorized payment of administrative costs incurred by state or local agencies in carrying out programs for needy children.

USE OF FUNDS FOR SCHOOL LUNCH PROGRAM UNDER SECTION 1753 OF TITLE 42

Use of funds appropriated under this section for implementing section 1753 of Title 42 till supplemental appropriation is made and reimbursement of such funds, see section 4(a) of Pub. L. 92-433, set out as a note under section 1753 of Title 42, The Public Health and Welfare.

TRANSFER OF FUNDS TO SCHOOLS IN NEED OF ADDITIONAL ASSISTANCE IN SCHOOL BREAKFAST PROGRAM

Authorization for transfer of funds under this section to assist schools in need of additional funds in school

breakfast program, see note set out under section 1773 of Title 42, The Public Health and Welfare.

ADDITIONAL FUNDS FOR FOOD SERVICE PROGRAMS FOR CHILDREN; APPORTIONMENT TO STATES; SPECIAL ASSISTANCE; CONSULTATION WITH CHILD NUTRITION COUNCIL; REIMBURSEMENT FROM SUPPLEMENTAL APPROPRIATION

Additional funds for food service programs for children from appropriations under this section, apportionment to States, special assistance programs, consultation with National Advisory Council on Child Nutrition, and reimbursement from supplemental appropriation, see note set out under section 1753 of Title 42, The Public Health and Welfare.

MEAL AND FLOUR FOR RELIEF

Act Aug. 9, 1955, ch. 671, 69 Stat. 608, authorized the Secretary of Agriculture upon specific request of the Governor of any State, during the period commencing Aug. 9, 1955 and ending June 30, 1957, to make available, pursuant to clause (2) of this section for distribution by State agencies, other than institutions and schools, directly to families and persons determined by appropriate State or local public welfare agencies to be in need, wheat flour and corn meal in such quantities as the Secretary of Agriculture determines can be effectively distributed and utilized within such period without regard to the requirement contained in this section, that such funds be devoted principally to perishable nonbasic agricultural commodities and their products.

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING THE PERIOD ENDING SEPTEMBER 30, 1978

Pub. L. 93-233, § 8(b)(3), Dec. 31, 1973, 87 Stat. 956, as amended by Pub. L. 93-335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, § 3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2(2), July 14, 1976, 90 Stat. 990; Pub. L. 95-59, § 3(2), June 30, 1977, 91 Stat. 255, provided that: “For the period ending September 30, 1978, no individual, who receives supplemental security income benefits under title XVI of the Social Security Act [section 1381 et seq. of Title 42, The Public Health and Welfare], State supplementary payments described in section 1616 of such Act [section 1382e of Title 42], or payments of the type referred to in section 212(a) of Public Law 93-66 [set out as a note under section 1382 of Title 42], shall be considered to be a member of a household for any purpose of the food distribution program for families under section 32 of Public Law 74-320 [this section], section 416 of the Agricultural Act of 1949 [section 1431 of this title], or any other law, for any month during such period, if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1616(a) of the Social Security Act [section 1382e(a) of Title 42], and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.”

[Amendment by Pub. L. 93-335 effective July 1, 1974, see section 1(c) of Pub. L. 93-335, set out as an Effective Date of 1974 Amendment note under section 1382 of Title 42. Section 3 of Pub. L. 95-59 provided in part that the amendment of section 8 of Pub. L. 93-233 by section 3(2) of Pub. L. 95-59 is effective July 1, 1977.]

FOOD STAMP PLAN

Acts June 25, 1940, ch. 421, § 1, 54 Stat. 563; July 1, 1941, ch. 267, § 1, 55 Stat. 438, provided: “That said 25 per centum provision and the like provision in said section 32 [this section], as amended, shall not apply to amounts devoted to a stamp plan for the removal of surplus agricultural commodities from funds made available hereby and by said section 32 [this section], and, notwithstanding expenditures under such stamp plan, the 25 per centum provision shall continue to be calculated on

the aggregate amount available hereunder and under said section 32 [this section].”

DISTRIBUTION OF SURPLUS COMMODITIES TO OTHER UNITED STATES AREAS

Extension of relief programs to areas under United States jurisdiction, see section 1431b of this title.

FISHERY PRODUCTS; USE OF FUNDS

Use of funds made available under this section for distribution of surplus fishery products, and for promotion of free flow of domestically produced fishery products, see sections 713c-2 and 713c-3 of Title 15, Commerce and Trade.

HOME ECONOMICS TRAINING

Authorization of schools to use surplus foods received under this section to train students in home economics, see note set out under section 1431 of this title.

CROSS REFERENCES

Secretary of Agriculture not precluded from carrying on programs under this section by International Wheat Agreement Act of 1949, see section 1641 of this title.

Supplemental appropriations to encourage exportation and domestic consumption of agricultural products, see section 1855 of this title.

Transfer of funds to Federal Surplus Commodities Corporation to effectuate clause (2) of this section, see section 713c of Title 15, Commerce and Trade.

Utilization of services and facilities of Commodity Credit Corporation in carrying out program under this section, see section 1424 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 624, 1392, 1421, 1424, 1431b, 1641, 1736m, 1855, 2627, 4004, 5676 of this title; title 12 section 1150a; title 15 sections 713c, 713c-2, 713c-3; title 22 section 1922; title 31 section 1511; title 40 section 474; title 42 sections 1755, 1758, 1761, 1762a, 1777, 1786, 3030a, 3045f, 5180.

§ 612c-1. Authorization for appropriations to increase domestic consumption of surplus farm commodities

On and after December 30, 1963, such sums (not in excess of \$25,000,000 in any one year) as may be approved by the Congress shall be available for the purpose of increasing domestic consumption of any farm commodity or farm commodities determined by the Secretary of Agriculture to be in surplus supply, such authorization not to restrict authority in existing law, of which amount \$11,000,000 shall remain available until expended for construction and equipping of research facilities determined to be needed as a result of a special survey.

(Pub. L. 88-250, title I, § 101, Dec. 30, 1963, 77 Stat. 826.)

CODIFICATION

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

§ 612c-2. Technical support to exporters and importers of United States agricultural products; scope of support provided by Department of Agriculture

The Department of Agriculture shall provide technical support to exporters and importers of United States agricultural products when so requested. Such support shall include, but not be limited to, a review of the feasibility of the export proposal, adequacy of sources of supply,

compliance with trade regulations of the United States and the importing country and such other information or guidance as may be needed to expand and expedite United States agricultural exports by private trading interests.

(Pub. L. 91-524, title VIII, § 811, as added Pub. L. 93-86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 238.)

CODIFICATION

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

§ 612c-3. Repealed. Pub. L. 101-624, title XV, § 1578, Nov. 28, 1990, 104 Stat. 3702

Section, Pub. L. 91-524, title VIII, § 812, as added Pub. L. 93-86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 238, and amended Pub. L. 95-113, title X, § 1005, Sept. 29, 1977, 91 Stat. 951; Pub. L. 97-444, title II, § 238, Jan. 11, 1983, 96 Stat. 2326, required exporters to report export sales and restricted President from prohibiting or curtailing certain exports. See section 5712 of this title.

EFFECTIVE DATE OF REPEAL

Section 1578 of Pub. L. 101-624 provided that the repeal is effective on the effective date of regulations promulgated under section 5664 of this title. Implementing regulations were promulgated and published in the Federal Register as follows:

May 30, 1991, eff. July 8, 1991, 56 F.R. 25998.

June 3, 1991, eff. June 7, 1991, 56 F.R. 26323.

Aug. 16, 1991, eff. Aug. 27, 1991, 56 F.R. 42222.

§ 613. Termination date; investigations and reports

This chapter shall cease to be in effect whenever the President finds and proclaims that the national economic emergency in relation to agriculture has been ended; and pending such time the President shall by proclamation terminate with respect to any basic agricultural commodity such provisions of this chapter as he finds are not requisite to carrying out the declared policy with respect to such commodity. In the case of sugar beets and sugarcane, the taxes provided by this chapter shall cease to be in effect, and the powers vested in the President or in the Secretary of Agriculture shall terminate on December 31, 1937 unless this chapter ceases to be in effect at an earlier date, as hereinabove provided. The Secretary of Agriculture shall make such investigations and reports thereon to the President as may be necessary to aid him in executing this section.

(May 12, 1933, ch. 25, title I, § 13, 48 Stat. 39; May 9, 1934, ch. 263, § 15, 48 Stat. 677; Aug. 24, 1935, ch. 641, § 20(a), 49 Stat. 768.)

AMENDMENTS

1935—Act Aug. 24, 1935, substituted “on December 31, 1937” for “at the end of three years after the adoption of this amendment”.

1934—Act May 9, 1934, inserted second sentence relating to taxes on sugar beets and sugarcane.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 609, 673 of this title.

§ 613a. Repealed. Sept. 1, 1937, ch. 898, title V, § 510, 50 Stat. 916

Section, act June 19, 1936, ch. 612, § 1, 49 Stat. 1539, related to termination of taxes on sugar beets and sugarcane.

§ 614. Separability

If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person, circumstance, or commodity is held invalid the validity of the remainder of this chapter and the applicability thereof to other persons, circumstances, or commodities shall not be affected thereby.

(May 12, 1933, ch. 25, title I, §14, 48 Stat. 39; June 3, 1937, ch. 296, §1, 50 Stat. 246.)

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, §1, affirmed and validated, and reenacted without change the provisions of this section. See note set out under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 672, 673, 1392 of this title.

§ 615. Refunds of tax; exemptions from tax; compensating tax; exempting tax on foreign goods; covering into Treasury

(a) If at any time the Secretary of Agriculture finds, upon investigation and after due notice and opportunity for hearing to interested parties, that any class of products of any commodity is of such low value, considering the quantity of the commodity used for their manufacture, that the imposition of the processing tax would prevent in whole or in large part the use of the commodity in the manufacture of such products and thereby substantially reduce consumption and increase the surplus of the commodity, then the Secretary of Agriculture shall so certify to the Secretary of the Treasury, specifying whether such results will in his judgment most effectively be prevented by a suspension of the imposition of the processing tax or a refund of the tax paid, with respect to such amount of the commodity or any product thereof as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (1) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (2) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to interested parties, revokes his certification to the Secretary of the Treasury, or (3) the Secretary of the Treasury shall refund (in accordance with the provisions of, to such persons and in such manner as shall be specified in, such certification) the amount of any tax paid (prior to the date of any revocation by the Secretary of Agriculture of his certification to the Secretary of the Treasury, upon further investigation and after due notice and opportunity for hearing to interested parties) under this chapter with respect to such amount of the commodity or any product thereof as is used after the date of such certification in the manufacture of such products, or shall credit against any tax due and payable under this chapter the amount of tax

which would be refundable. During the period in which any certificate under this section is effective, the provisions of subsection (e) of this section shall be suspended with respect to all imported articles of the kind described in such certificate; and notwithstanding the provisions of section 623 of this title, any compensating taxes, which have heretofore, during the period in which any certificate under this section has been effective, become due and payable upon imported articles of the kind described in such certificate, shall be refunded by the Secretary of the Treasury if the same have been paid, or, if the same have not been paid the amount thereof shall be abated. Notwithstanding the provisions of section 623 of this title, the Secretary of the Treasury shall refund or credit any processing tax paid on or before June 12, 1934, with respect to such amount of cotton as was used in the manufacture of large cotton bags (as defined in the Certificate of the Secretary of Agriculture, dated June 12, 1934) between June 13, and July 7, 1934, both inclusive.

(b) No tax shall be required to be paid on the processing of any commodity by or for the producer thereof for consumption by his own family, employees, or household; and the Secretary of Agriculture is authorized, by regulations, to exempt from the payment of the processing tax the processing of commodities by or for the producer thereof for sale by him where, in the judgment of the Secretary, the imposition of a processing tax with respect thereto is unnecessary to effectuate the declared policy.

(b-1) The Secretary of Agriculture is authorized and directed to issue tax-payment warrants, with respect to rough rice produced in 1933 and 1934 (provided the processing of such rice is not exempt from the tax, and provided no tax payment warrant has been previously issued with respect thereto or previously applied for by application then pending, sufficient to cover the tax with respect to the processing thereof at the rate in effect at the time of such issuance, to any processor with respect to any such rice which he had in his possession on March 31, 1935, and to, or at the direction of any other person with respect to any such rice which, on or after April 1, 1935, he delivers for processing or sells to a processor: *Provided*, That in case any such processor or other person is the producer of such rice (or has received such rice by gift, bequest, or descent from the producer thereof) that such processor or other person is, if eligible, a cooperating producer: *And provided further*, That in case such processor or other person is not the producer thereof (nor a person who has received such rice by gift, bequest, or descent from the producer thereof), (a) that, if the title to such rice was transferred from the producer thereof, whether by operation of law or otherwise, prior to April 1, 1935, such producer received the price prescribed in any marketing agreement, license, regulation, or administrative ruling, pursuant to this chapter, applicable to the sale of such rice by the producer, and (b) that, if the title to such rice was transferred from the producer thereof, whether by operation of law or otherwise, on or after April 1, 1935, such producer received at least the full market price therefor plus an amount equal to 99 per centum of the

face value of taxpayment warrants sufficient to cover the tax on the processing of such rice at rate in effect at the time title was so transferred, and was, if eligible, a cooperating producer.

(b-2) The warrants authorized and directed to be issued by subsection (b-1) of this section—

(1) shall be issued by the Secretary of Agriculture or his duly authorized agent in such manner, at such time or times, at such place or places, in such form, and subject to such terms and conditions with reference to the transfer thereof or the voiding of warrants fraudulently obtained and/or erroneously issued, as the Secretary of Agriculture may prescribe, and the Secretary of Agriculture is authorized to discontinue the further issuance of tax-payment warrants at any time or times and in any region or regions when he shall determine that the rice in any such region or regions can no longer be identified adequately as rice grown in 1933 or 1934; and

(2) shall be accepted by the Collector of Internal Revenue and the Secretary of the Treasury at the face value thereof in payment of any processing tax on rice.

(b-3)(1) Any person who deals or traffics in, or purchases any such tax-payment warrant or the right of any person thereto at less than 99 per centum of its face value shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year or both.

(2) Any person who, with intent to defraud, secures or attempts to secure, or aids or assists in or procures, counsels, or advises, the securing or attempting to secure any tax-payment warrant with respect to rice as to which any tax-payment warrant has been theretofore issued shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(3) Any person who with intent to defraud forges, makes, alters, or counterfeits any tax-payment warrant or any stamp, tag, or other means of identification provided for by this chapter or any regulation issued pursuant thereto, or makes any false entry upon such warrant or any false statement in any application for the issuance of such warrant, or who uses, sells, lends, or has in his possession any such altered, forged, or counterfeited warrant or stamp, tag, or other means of identification, or who makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such warrants or stamps, tags, or other means of identification, shall, upon conviction thereof, be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding five years, or both.

(4) All producers, warehousemen, processors, and common carriers, having information with respect to rice produced in the years 1933 or 1934, may be required to furnish to the Secretary of Agriculture such information as he shall, by order, prescribe as necessary to safeguard the issuance, transfer, and/or use of tax-payment warrants.

(5) The Secretary of Agriculture may make regulations protecting the interests of producers (including share-tenants and share-croppers) and

others, in the issuance, holding, use, and/or transfer of such tax-payment warrants.

(c) Any person, including any State or Federal organization or institution, delivering any product to any organization for charitable distribution or use, including any State or Federal welfare organization, for its own use, whether the product is delivered as merchandise, or as a container for merchandise, or otherwise, shall, if such product or the commodity from which processed is under this chapter subject to tax, be entitled to a refund of the amount of any tax due and paid under this chapter with respect to such product so delivered, or to a credit against any tax due and payable under this chapter of the amount of tax which would be refundable under this section with respect to such product so delivered: *Provided, however,* That no tax shall be refunded or credited under this section, unless the person claiming the refund or credit establishes, in accordance with regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury (1) that he has not included the tax in the price of the product so delivered or collected the amount of the tax from the said organization, or (2) that he has repaid, or has agreed in writing to repay, the amount of the tax to the said organization. The word "State" as used in this section shall include a State and any political subdivision thereof.

(d) The Secretary of Agriculture shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing or will cause to the processors or producers thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof. If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist, or will exist, he shall proclaim such finding. The Secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition. Thereafter there shall be levied, assessed, and collected upon the first domestic processing of such competing commodity a tax, to be paid by the processor, at the rate specified, until such rate is altered pursuant to a further finding under this section, or the tax or rate thereof on the basic agricultural commodity is altered or terminated. In no case shall the tax imposed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary, upon the basic agricultural commodity.

(e) During any period for which a processing tax is in effect with respect to any commodity there shall be levied, assessed, collected, and paid upon any article processed or manufactured wholly or partly from such commodity and imported into the United States or any possession thereof to which this chapter applies, from any foreign country or from any possession of the United States to which this chapter does not apply, whether imported as merchandise, or as a container of merchandise, or otherwise, a compensating tax equal to the amount of the proc-

essing tax in effect with respect to domestic processing of such commodity into such an article at the time of importation: *Provided*, (1) That in the event any of the provisions of this chapter have been or are hereafter made applicable to any possession of the United States in the case of any particular commodity or commodities, but not generally, this chapter, for the purposes of this subsection, shall be deemed applicable to such possession with respect to such commodity or commodities but shall not be deemed applicable to such possession with respect to other commodities; and (2) That all taxes collected under this subsection upon articles coming from the possessions of the United States to which this chapter does not apply shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid into the Treasury of the said possessions, respectively, to be used and expended by the governments thereof for the benefit of agriculture. Such tax shall be paid prior to the release of the article from customs custody or control.

(f) The President, in his discretion, is authorized by proclamation to decree that all or part of the taxes collected from the processing of sugar beets or sugarcane in Puerto Rico, the Territory of Hawaii, the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam (if the provisions of this chapter are made applicable thereto), and/or upon the processing in continental United States of sugar produced in, or coming from, said areas, shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund, in the name of the respective area to which related, to be used and expended for the benefit of agriculture and/or paid as rental or benefit payments in connection with the reduction in the acreage, or reduction in the production for market, or both, of sugar beets and/or sugarcane, and/or used and expended for expansion of markets and for removal of surplus agricultural products in such areas, respectively, as the Secretary of Agriculture, with the approval of the President, shall direct.

(May 12, 1933, ch. 25, title I, § 15, 48 Stat. 39; May 9, 1934, ch. 263, §§ 8, 11, 48 Stat. 675, 676; June 16, 1934, ch. 551, 48 Stat. 973; June 26, 1934, ch. 759, § 1, 48 Stat. 1241; Mar. 18, 1935, ch. 32, §§ 8, 9, 49 Stat. 47, 48; Aug. 24, 1935, ch. 641, §§ 21–24, 49 Stat. 768; June 22, 1936, ch. 690, § 601(a), 49 Stat. 1739; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7871, 60 Stat. 1352.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (f), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Reference to the Philippine Islands in subsec. (f) was omitted as obsolete in view of the independence proclaimed by the President of the United States by Proc. No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1936—Subsecs. (a), (c). Act June 22, 1936, reenacted subsecs. (a) and (c) only for the purpose of allowing refunds in cases where the delivery for charitable dis-

tribution or use, or the exportation, or the manufacture of large cotton bags, or the decrease in the rate of the processing tax, took place prior to Jan. 6, 1936.

1935—Subsec. (a). Act Aug. 24, 1935, § 21, inserted “or shall credit against any tax due and payable under this chapter the amount of tax which would be refundable. During the period in which any certificate under this section is effective, the provisions of subsection (e) of this section shall be suspended with respect to all imported articles of the kind described in such certificate; and notwithstanding the provisions of section 623 of this title, any compensating taxes, which have heretofore, during the period in which any certificate under this section has been effective, become due and payable upon imported articles of the kind described in such certificate, shall be refunded by the Secretary of the Treasury if the same have been paid, or, if the same have not been paid the amount thereof shall be abated. Notwithstanding the provisions of section 623 of this title, the Secretary of the Treasury shall refund or credit any processing tax paid on or before June 12, 1934, with respect to such amount of cotton as was used in the manufacture of large cotton bags (as defined in the Certificate of the Secretary of Agriculture, dated June 12, 1934) between June 13, and July 7, 1934, both inclusive”.

Subsecs. (b-1) to (b-3). Act Mar. 18, 1935, § 8, added subsecs. (b-1) to (b-3).

Subsec. (e). Act Aug. 24, 1935, § 24, inserted “into such an article” after “with respect to domestic processing of such commodity”.

Subsec. (e). Act Mar. 18, 1935, § 9, among other changes, inserted “(1) That in the event any of the provisions of this chapter have been or are hereafter made applicable to any possession of the United States in the case of any particular commodity or commodities, but not generally, this chapter, for the purposes of this subsection, shall be deemed applicable to such possession with respect to such commodity or commodities but shall not be deemed applicable to such possession with respect to other commodities; and (2)” at beginning of proviso.

1934—Subsec. (a). Act June 26, 1934, among other changes, inserted “and thereafter, as shall be specified in such certification, (1) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products”.

Subsec. (c). Act June 16, 1934, among other changes, inserted proviso.

Subsec. (e). Act May 9, 1934, § 11, substituted “partly” for “in chief value”, inserted “whether imported as merchandise, or as a container of merchandise, or otherwise,” after “apply”, and inserted “of such commodity” after “processing”.

Subsec. (f). Act May 9, 1934, § 8, added subsec. (f).

SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

ABOLITION OF OFFICES AND TRANSFER OF FUNCTIONS

The office of Internal Revenue Collector was abolished by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, set out in the Appendix to Title 5, Government Organization and Employees, and by section 2 thereof a new office of district commissioner of internal revenue was established. Section 4 of the Plan transferred all functions, that had been vested by statute in any officer or employee of the Bureau of Internal Revenue since the effective date of 1950 Reorg. Plan No. 26, § 1, 2, 15 F.R. 4935, 64 Stat. 1280, 1281, to the Secretary of the Treasury.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employ-

ees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. The Collector and Commissioner of Internal Revenue, referred to in this section, are officers of the Treasury Department.

ADMISSION OF HAWAII TO STATEHOOD

Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 25, 1959, 24 F.R. 6868, 73 Stat. c74. For Hawaii statehood law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48, Territories and Insular Possessions.

APPROPRIATIONS

Appropriations for refunds, etc., see note under section 610 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 609, 616, 673 of this title.

§ 616. Stock on hand when tax takes effect or terminates

(a) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which a processing tax is to be levied, that on the date the tax first takes effect or wholly terminates with respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, there shall be made a tax adjustment as follows:

(1) Whenever the processing tax first takes effect, there shall be levied, assessed, and collected a tax to be paid by such person equivalent to the amount of the processing tax which would be payable with respect to the commodity from which processed if the processing had occurred on such date. Such tax upon articles imported prior to, but in customs custody or control on, the effective date, shall be paid prior to release therefrom. In the case of sugar, the tax on floor stocks, except the retail stocks of persons engaged in retail trade, shall be paid for the month in which the stocks are sold, or used in the manufacture of other articles, under rules and regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.

(2) Whenever the processing tax is wholly terminated, (A) there shall be refunded or credited in the case of a person holding such stocks with respect to which a tax under this chapter has been paid, or (B) there shall be credited or abated in the case of a person holding such stocks with respect to which a tax under this chapter is payable, where such person is the processor liable for the payment of such tax, or (C) there shall be refunded or credited (but not before the tax has been paid) in the case of a person holding such stocks with respect to which a tax under this chapter is payable, where such person is not the processor liable for the payment of such tax, a sum

in an amount equivalent to the processing tax which would have been payable with respect to the commodity from which processed if the processing had occurred on such date: *Provided*, That in the case of any commodity with respect to which there was any increase, effective prior to June 1, 1934, in the rate of the processing tax, no such refund, credit, or abatement, shall be in an amount which exceeds the equivalent of the initial rate of the processing tax in effect with respect to such commodity.

(b) The tax imposed by subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade, held at the date the processing tax first takes effect; but such retail stocks shall not be deemed to include stocks held in a warehouse on such date, or such portion of other stocks held on such date as are not sold or otherwise disposed of within thirty days thereafter. Except as to flour and prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1, and as to any article processed wholly or in chief value from cotton, the tax refund, credit, or abatement provided in subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade, nor to any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, nor to any article (except flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1) processed wholly or in chief value from wheat, held on the date the processing tax is wholly terminated.

(c)(1) Any sugar, imported prior to the effective date of a processing tax on sugar beets and sugarcane, with respect to which it is established (under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury) that there was paid at the time of importation a duty at the rate in effect on January 1, 1934, and (2) any sugar held on April 25, 1934, by, or to be delivered under a bona fide contract of sale entered into prior to April 25, 1934, to, any manufacturer or converter, for use in the production of any article (except sugar) and not for ultimate consumption as sugar, and (3) any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, shall be exempt from taxation under subsection (a) of this section, but sugar held in customs custody or control on April 25, 1934, shall not be exempt from taxation under subsection (a) of this section, unless the rate of duty paid upon the withdrawal thereof was the rate of duty in effect on January 1, 1934.

(d) The Secretary of Agriculture is authorized to purchase, out of such proceeds of taxes as are available therefor, during the period this chapter is in effect with respect to sugar beets and sugarcane, not in excess of three hundred thousand tons of sugar raw value from the surplus stocks of direct-consumption sugar produced in the United States beet-sugar area, at a price not in excess of the market price for direct consumption sugar on the date of purchase, and to dispose of such sugar by sale or otherwise, in-

cluding distribution to any organization for the relief of the unemployed, under such conditions and at such times as will tend to effectuate the declared policy of section 608a of this title. The sugar so purchased shall not be included in the quota for the United States beet-sugar area. All proceeds received by the Secretary of Agriculture, in the exercise of the powers granted, are appropriated to be available to the Secretary of Agriculture for the purposes described in subsections (a) and (b) of section 612 of this title.

(e) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which the existing rate of the processing tax is to be increased, or decreased, that on the date such increase, or decrease, first takes effect with respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, and upon the production of any article from a commodity in process on the date on which the rate of the processing tax is to be increased or decreased, there shall be made a tax adjustment as follows:

(1) Whenever, on or after June 1, 1934, the rate of the processing tax on the processing of the commodity generally or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, or as to any class of products, is decreased, there shall be credited or refunded to such person an amount equivalent to the difference between the rate of the processing tax payable or paid at the time immediately preceding the decrease in rate and the rate of the processing tax which would have been payable with respect to the commodity from which processed, if the processing had occurred on such date: *Provided, however*, That no such credit or refund shall be made in the case of hogs unless the rate of the processing tax immediately preceding said decrease is equal to, or less than, the rate of the processing tax in effect on the date on which any floor stocks tax was paid prior to the adoption of this subsection. In the case of wheat the provisions of this paragraph and of paragraph (2) of this subsection shall apply to flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1 only; in the case of sugarcane and sugar beets the provisions of this paragraph and of paragraph (2) of this subsection shall apply to sugar only.

(2) Whenever the rate of the processing tax on the processing of the commodity generally, or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, or as to any class of products, is increased, there shall be levied, assessed and collected a tax to be paid by such person equivalent to the difference between the rate of the processing tax payable or paid at the time immediately preceding the increase in rate and the rate of the processing tax which would be payable with respect to the commodity from which processed, if the processing had occurred on such date.

(3) Whenever the processing tax is suspended or is to be refunded pursuant to a certification

of the Secretary of Agriculture to the Secretary of the Treasury, under section 615(a) of this title, the provisions of subdivision (1) of this subsection shall become applicable.

(4) Whenever the Secretary of Agriculture revokes any certification to the Secretary of the Treasury under section 615(a) of this title, the provisions of paragraph (2) of this subsection shall become applicable.

(5) The provisions of this subsection shall be effective on and after June 1, 1934.

(f) The provisions of this section shall not be applicable with respect to rice.

(May 12, 1933, ch. 25, title I, §16, 48 Stat. 40; May 9, 1934, ch. 263, §§10, 17, 48 Stat. 676, 678; June 26, 1934, ch. 759, §1, 48 Stat. 1241; Mar. 18, 1935, ch. 32, §10, 49 Stat. 48; Aug. 24, 1935, ch. 641, §§20(b), 25-27, 49 Stat. 768, 769; June 4, 1936, ch. 501, 49 Stat. 1464; June 22, 1936, ch. 690, §601(a), (c), (g), 49 Stat. 1739, 1740.)

AMENDMENTS

1936—Subsec. (e)(1). Act June 22, 1936, §601(a), (g), reenacted par. (1) for certain refund purposes only and substituted "on or after June 1, 1934" for "subsequent to June 26, 1934", respectively.

Act June 4, 1936, substituted "on or after June 1, 1934" for "subsequent to June 26, 1934".

Subsec. (e)(3). Act June 22, 1936, §601(a), reenacted par. (3) for certain refund purposes only.

Subsec. (g). Act June 22, 1936, §601(c), repealed subsec. (g) which related to the time for filing refunds.

1935—Subsec. (a)(2). Act Aug. 24, 1935, §25, substituted a new par. (2) for former par. (2).

Subsec. (b). Act Aug. 24, 1935, §26, amended second sentence generally.

Subsec. (c). Act Aug. 24, 1935, §20(b), struck out last sentence.

Subsec. (e). Act Mar. 18, 1935, redesignated former subsec. (c) as (e).

Subsec. (e)(1). Act Aug. 24, 1935, §27(a), inserted "subsequent to June 26, 1934" at beginning of paragraph, and "in the case of hogs" after "made" in proviso and inserted "In the case of wheat the provisions of this paragraph and of paragraph (2) of this subsection shall apply to flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1 only; in the case of sugarcane and sugar beets the provisions of this paragraph and of paragraph (2) of this subsection shall apply to sugar only."

Subsec. (f). Act Mar. 18, 1935, added subsec. (f).

Subsec. (g). Act Aug. 24, 1935, §27(b), added subsec. (g).
1934—Subsec. (a)(1). Act May 9, 1934, §10, inserted second sentence.

Subsec. (c). Act June 26, 1934, added subsec. (c).

Subsec. (c)(1). Act May 9, 1934, §17, added par. (1).

Subsec. (d). Act May 9, 1934, §17, added subsec. (d).

SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional. See section 614 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in this section, is an officer of Department of the Treasury.

CONSTITUTIONALITY

Section may be obsolete in view of the Supreme Court's holding that the processing and floor stock taxes provided for by the Agricultural Adjustment Act of 1933 are unconstitutional. See *U.S. v. Butler*, Mass. 1936, 56 S.Ct. 312, 297 U.S. 1, 80 L.Ed. 477, 102 A.L.R. 914.

APPROPRIATIONS

Appropriations for refunds, etc., see note set out under section 610 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 609, 621, 673 of this title.

§ 617. Refund on goods exported; bond to suspend tax on commodity intended for export

(a) Upon the exportation to any foreign country (and/or to the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this chapter, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax. In the case of rice, a tax due under this chapter which has been paid by a tax-payment warrant shall be deemed for the purposes of this subsection to have been paid; and with respect to any refund authorized under this section, the amount scheduled by the Commissioner of Internal Revenue for refunding shall be paid, any provision of law notwithstanding. In the case of sugar beets and sugarcane, this subsection shall be applicable to exports of products thereof to the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam only if this chapter with respect to sugar beets and sugarcane is not made applicable thereto. The term "product" includes any product exported as merchandise, or as a container for merchandise, or otherwise.

(b) Upon the giving of bond satisfactory to the Secretary of the Treasury for the faithful observance of the provisions of this chapter requiring the payment of taxes, any person shall be entitled, without payment of the tax, to process for such exportation any commodity with respect to which a tax is imposed by this chapter, or to hold for such exportation any article processed wholly or partly therefrom.

(May 12, 1933, ch. 25, title I, § 17, 48 Stat. 40; May 9, 1934, ch. 263, §§ 12, 13, 48 Stat. 676; Mar. 18, 1935, ch. 32, § 11, 49 Stat. 48; Aug. 24, 1935, ch. 641, § 28, 49 Stat. 770; June 22, 1936, ch. 690, § 601(a), 49 Stat. 1739; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7871, 60 Stat. 1352.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

References to the Philippine Islands in subsec. (a) were omitted from the Code as obsolete in view of the independence proclaimed by the President of the United States by Proc. No. 2695, cited to text, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1936—Subsec. (a). Act June 22, 1936, reenacted subsec. (a) for refund purposes only.

1935—Subsec. (a). Act Aug. 24, 1935, struck out first two sentences and substituted "Upon the exportation to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this chapter, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax."

Act Mar. 18, 1935, inserted third sentence.

1934—Subsec. (a). Act May 9, 1934, amended subsec. (a) generally.

Subsec. (b). Act May 9, 1934, § 13, substituted "partly" for "in chief value".

SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan. No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in this section, is an officer of Department the Treasury.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

APPROPRIATIONS

Appropriations for refunds, etc., see note set out under section 610 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title.

§ 618. Existing contracts; imposition of tax on vendee; collection

(a) If (1) any processor, jobber, or wholesaler has, prior to the date a tax with respect to any

commodity is first imposed under this chapter, made a bona fide contract of sale for delivery on or after such date, of any article processed wholly or in chief value from such commodity, and if (2) such contract does not permit the addition to the amount to be paid thereunder of the whole of such tax, then (unless the contract prohibits such addition) the vendee shall pay so much of the tax as is not permitted to be added to the contract price.

(b) Taxes payable by the vendee shall be paid to the vendor at the time the sale is consummated and shall be collected and paid to the United States by the vendor in the same manner as other taxes under this chapter. In case of failure or refusal by the vendee to pay such taxes to the vendor, the vendor shall report the facts to the Commissioner of Internal Revenue who shall cause collections of such taxes to be made from the vendee.

(May 12, 1933, ch. 25, title I, §18, 48 Stat. 41.)

SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in this section, is an officer of Department of the Treasury.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title.

§ 619. Collection of tax; provisions of internal revenue laws applicable; returns

(a) The taxes provided in this chapter shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury. Such taxes shall be paid into the Treasury of the United States.

(b) All provisions of law, including penalties, applicable with respect to the taxes imposed by section 600 of the Revenue Act of 1926, and the provisions of section 626 of the Revenue Act of 1932, shall, insofar as applicable and not inconsistent with the provisions of this chapter, be applicable in respect of taxes imposed by this chapter: *Provided*, That the Secretary of the Treasury is authorized to permit postponement, for a period not exceeding one hundred and eighty days, of the payment of not exceeding three-fourths of the amount of the taxes covered by any return under this chapter, but postpone-

ment of all taxes covered by returns under this chapter for a period not exceeding one hundred and eighty days may be permitted in cases in which the Secretary of the Treasury authorizes such taxes to be paid each month on the amount of the commodity marketed during the next preceding month.

(c) Repealed. June 30, 1947, ch. 166, title II, §206(d), 61 Stat. 208.

(d) Under regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, any person required pursuant to the provisions of this chapter to file a return may be required to file such return and pay the tax shown to be due thereon to the collector of internal revenue for the district in which the processing was done or the liability was incurred. Whenever the Commissioner of Internal Revenue deems it necessary, he may require any person or class of persons handling or dealing in any commodity or product thereof, with respect to which a tax is imposed under the provisions of this chapter, to make a return, render under oath such statements, or to keep such records, as the Commissioner deems sufficient to show whether or not such person, or any other person, is liable for the tax.

(May 12, 1933, ch. 25, title I, §19, 48 Stat. 41; June 26, 1934, ch. 759, §3, 48 Stat. 1242; Aug. 24, 1935, ch. 641, §29, 49 Stat. 770; June 30, 1947, ch. 166, title II, §206(d), 61 Stat. 208.)

REFERENCES IN TEXT

Provisions of section 600 of the Revenue Act of 1926 and section 626 of the Revenue Act of 1932, referred to in subsec. (b), were incorporated in sections 2700, 2704, and 3448 of Title 26, Internal Revenue Code, 1939. See sections 4181, 4182, 4216, 4224, 5831, 6151 and 6601 of Title 26, Internal Revenue Code, 1986.

AMENDMENTS

1947—Subsec. (c). Act June 30, 1947, repealed subsec. (c) which related to loans by Reconstruction Finance Corporation.

1935—Subsec. (b). Act Aug. 24, 1935, §29(a), among other changes, inserted at end of proviso "but postponement of all taxes covered by returns under this chapter for a period not exceeding one hundred and eighty days may be permitted in cases in which the Secretary of the Treasury authorizes such taxes to be paid each month on the amount of the commodity marketed during the next preceding month".

Subsec. (d). Act Aug. 24, 1935, §29(b), added subsec. (d).

1934—Subsec. (b). Act June 26, 1934, substituted "one hundred and eighty" for "ninety".

SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

TRANSFER OF FUNCTIONS

Office of Internal Revenue Collector abolished by 1952 Reorg. Plan No. 1, §1, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, set out in the Appendix to Title 5, Government Organization and Employees, and by section 2 thereof a new office of district commissioner of internal revenue was established. Section 4 of the Plan transferred all functions, that had been vested by statute in any officer or employee of Bureau of Internal Revenue since effective date of 1950 Reorg. Plan No. 26, §§1, 2, 15 F.R. 4935, 64 Stat. 1280, 1281, to Secretary of the Treasury.

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of

such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. Collector and Commissioner of Internal Revenue, referred to in this section, are officers of Department of the Treasury.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 623, 673 of this title.

§ 619a. Cotton tax, time for payment

The processing tax authorized by section 609 of this title, when levied upon cotton, shall be payable ninety days after the filing of the processor's report: *Provided*, That, under regulations to be prescribed by the Secretary of the Treasury, the time for payment of such tax upon cotton may be extended, but in no case to exceed six months from the date of the filing of the report.

(May 17, 1935, ch. 131, title I, §2, 49 Stat. 281.)

CODIFICATION

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

SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

§ 620. Falsely ascribing deductions or charges to taxes; penalty

(a) Whoever in connection with the purchase of, or offer to purchase, any commodity, subject to any tax under this chapter, or which is to be subjected to any tax under this chapter, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any amount deducted from the market price or the agreed price of the commodity consists of a tax imposed under this chapter, or (2) ascribing a particular part of the deduction from the market price or the agreed price of the commodity, to a tax imposed under this chapter, knowing that such statement is false or that the tax is not so great as the amount deducted from the market price or the agreed price of the commodity, ascribed to such tax, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment for not exceeding six months, or both.

(b) Whoever in connection with the processing of any commodity subject to any tax under this chapter, whether commercially, for toll, upon an

exchange, or otherwise, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any part of the charge for said processing, whether commercially, for toll, upon an exchange, or otherwise, consists of a tax imposed under this chapter, or (2) ascribing a particular part of the charge for processing, whether commercially, for toll, upon an exchange, or otherwise, to a tax imposed under this chapter, knowing that such statement is false, or that the tax is not so great as the amount charged for said processing ascribed to such tax, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment for not exceeding six months, or both.

(c) Whoever in connection with any settlement, under a contract to buy any commodity, and/or to sell such commodity, or any product or byproduct thereof, subject to any tax under this chapter, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any amount deducted from the gross sales price, in arriving at the basis of settlement under the contract, consists of a tax under this chapter, or (2) ascribing a particular amount deducted from the gross sales price, in arriving at the basis of settlement under the contract, to a tax imposed under this chapter, knowing that such statement is false, or that the tax is not so great as the amount so deducted and/or ascribed to such tax, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment for not exceeding six months, or both.

(May 12, 1933, ch. 25, title I, §20, as added May 9, 1934, ch. 263, §16, 48 Stat. 677.)

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

CROSS REFERENCES

Misdemeanor, defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title.

§ 621. Machinery belting processed from cotton; exemption from tax

The provisions of section 616 of this title, shall not apply to articles of machinery belting processed wholly or in chief value from cotton, if such processing was completed prior to January 1, 1930.

(June 26, 1934, ch. 753, §1, 48 Stat. 1223.)

CODIFICATION

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

§ 622. Omitted

CODIFICATION

Section, act June 26, 1934, ch. 753, §2, 48 Stat. 1223, related to refunding or crediting of taxes paid under section 616 of this title.

§ 623. Actions relating to tax; legalization of prior taxes

(a) Action to restrain collection of tax or obtain declaratory judgment forbidden

No suit, action, or proceeding (including probate, administration, and receivership proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed or the amount of any penalty or interest accrued under this chapter on or after August 24, 1935, or (2) of obtaining a declaratory judgment under sections 2201 and 2202 of title 28 in connection with any such tax or such amount of any such interest or penalty. In probate, administration, receivership, or other similar proceedings, the claim of the United States for any such tax or such amount of any such interest or penalty, in the amount assessed by the Commissioner of Internal Revenue, shall be allowed and ordered to be paid, but the right to claim the refund or credit thereof and to maintain such claim pursuant to the applicable provisions of law, including subsection (d) of this section, may be reserved in the court's order.

(b) Taxes imposed prior to August 24, 1935, legalized and ratified

The taxes imposed under this chapter, as determined, prescribed, proclaimed and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to August 24, 1935, are legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically by prior Act of Congress. All such taxes which had accrued and remained unpaid August 24, 1935, shall be assessed and collected pursuant to section 619 of this title, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to August 24, 1935.

(c) Rental and benefit payments, agreements, and programs made prior to August 24, 1935, legalized and ratified

The making of rental and benefit payments under this chapter, prior to August 24, 1935, as determined, prescribed, proclaimed and made effective by the proclamations of the Secretary of Agriculture or of the President or by regulations of the Secretary, and the initiation, if formally approved by the Secretary of Agriculture prior to such date of adjustment programs under section 608(1) of this title, and the making of agreements with producers prior to such date, and the adoption of other voluntary methods prior to such date, by the Secretary of Agriculture under this chapter, and rental and benefit payments made pursuant thereto, are legalized and ratified, and the making of all such

agreements and payments, the initiation of such programs, and the adoption of all such methods prior to such date are legalized, ratified, and confirmed as fully to all intents and purposes as if each such agreement, program, method, and payment had been specifically authorized and made effective and the rate and amount thereof fixed specifically by prior act of Congress.

(May 12, 1933, ch. 25, title I, §21, as added Aug. 24, 1935, ch. 641, §30, 49 Stat. 770; amended June 22, 1936, ch. 690, §§601(c), 901, 49 Stat. 1740, 1747; Nov. 6, 1978, Pub. L. 95-598, title III, §304, 92 Stat. 2673.)

REFERENCES IN TEXT

Subsection (d) of this section, referred to in subsec. (a), was repealed by section 901 of act June 22, 1936. See 1936 Amendment note set out below.

CODIFICATION

"Sections 2201 and 2202 of title 28" was substituted for "the Federal Declaratory Judgments Act", which had enacted section 400 of former Title 28, Judicial Code and Judiciary, on authority of act June 25, 1948, ch. 646, 62 Stat. 869, section 1 of which enacted Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1978—Subsec. (a), Pub. L. 95-598 struck out ", and bankruptcy" after "receivership" in first sentence, and struck out "bankruptcy," after "receivership" in second sentence.

1936—Subsecs. (d) to (g). Act June 22, 1936, §901, repealed subsec. (d) relating to prohibition on making certain refunds, subsec. (e) providing for access to books, and subsec. (g) providing for recovery of taxes erroneously collected, and act June 22, 1936, §601(c), repealed subsec. (f) relating to time for filing claim for refund.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in this section, is an officer of Department of the Treasury.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

CROSS REFERENCES

Other refund provisions, see section 615 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615, 673 of this title.

§ 624. Limitation on imports; authority of President

(a) Whenever the Secretary of Agriculture has reason to believe that any article or articles are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, any program or operation undertaken under this chapter or the Soil Conservation and Domestic Allotment Act, as amended [16 U.S.C. 590a et seq.], or section 612c of this title, or any loan, purchase, or other program or operation undertaken by the Department of Agriculture, or any agency operating under its direction, with respect to any agricultural commodity or product thereof, or to reduce substantially the amount of any product processed in the United States from any agricultural commodity or product thereof with respect to which any such program or operation is being undertaken, he shall so advise the President, and, if the President agrees that there is reason for such belief, the President shall cause an immediate investigation to be made by the United States International Trade Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties, and shall be conducted subject to such regulations as the President shall specify.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such fees not in excess of 50 per centum ad valorem or such quantitative limitations on any article or articles which may be entered, or withdrawn from warehouse, for consumption as he finds and declares shown by such investigation to be necessary in order that the entry of such article or articles will not render or tend to render ineffective, or materially interfere with, any program or operation referred to in subsection (a) of this section, or reduce substantially the amount of any product processed in the United States from any such agricultural commodity or product thereof with respect to which any such program or operation is being undertaken: *Provided*, That no proclamation under this section shall impose any limitation on the total quantity of any article or articles which may be entered, or withdrawn from warehouse, for consumption which reduces such permissible total quantity to proportionately less than 50 per centum of the total quantity of such article or articles which was entered, or withdrawn from warehouse, for consumption during a representative period as determined by the President: *And provided further*, That in designating any article or articles, the President may describe them by physical qualities, value, use, or upon such other bases as he shall determine.

In any case where the Secretary of Agriculture determines and reports to the President with regard to any article or articles that a condition exists requiring emergency treatment, the President may take immediate action under

this section without awaiting the recommendations of the International Trade Commission, such action to continue in effect pending the report and recommendations of the International Trade Commission and action thereon by the President.

(c) The fees and limitations imposed by the President by proclamation under this section and any revocation, suspension, or modification thereof, shall become effective on such date as shall be therein specified, and such fees shall be treated for administrative purposes and for the purposes of section 612c of this title, as duties imposed by the Tariff Act of 1930 [19 U.S.C. 1202 et seq.], but such fees shall not be considered as duties for the purpose of granting any preferential concession under any international obligation of the United States.

(d) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended or terminated by the President whenever he finds and proclaims that the circumstances requiring the proclamation or provision thereof no longer exist or may be modified by the President whenever he finds and proclaims that changed circumstances require such modification to carry out the purposes of this section.

(e) Any decision of the President as to facts under this section shall be final.

(f) No quantitative limitation or fee shall be imposed under this section with respect to any article that is the product of a WTO member (as defined in section 3501(10) of title 19).

(May 12, 1933, ch. 25, title I, §22, as added Aug. 24, 1935, ch. 641, §31, 49 Stat. 773; amended Feb. 29, 1936, ch. 104, §5, 49 Stat. 1152; June 3, 1937, ch. 296, §1, 50 Stat. 246; Jan. 25, 1940, ch. 13, 54 Stat. 17; July 3, 1948, ch. 827, title I, §3, 62 Stat. 1248; June 28, 1950, ch. 381, §3, 64 Stat. 261; June 16, 1951, ch. 141, §8(b), 65 Stat. 75; Aug. 7, 1953, ch. 348, title I, §104, 67 Stat. 472; Jan. 3, 1975, Pub. L. 93-618, title I, §171(b), 88 Stat. 2009; Sept. 28, 1988, Pub. L. 100-449, title III, §301(c), 102 Stat. 1868; Dec. 8, 1994, Pub. L. 103-465, title IV, §401(a)(1), 108 Stat. 4957.)

REFERENCES IN TEXT

The Soil Conservation and Domestic Allotment Act, as amended, referred to in subsec. (a), 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.

The Tariff Act of 1930, referred to in subsec. (c), is act June 17, 1930, ch. 497, 46 Stat. 590, as amended, which is classified generally to chapter 4 (§1202 et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 1654 of Title 19 and Tables.

AMENDMENTS

1994—Subsec. (f). Pub. L. 103-465 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: "No trade agreement or other international agreement heretofore or hereafter entered into by the United States shall be applied in a manner inconsistent with the requirements of this section; except that the President may, pursuant to articles 705.5 and 707 of the United States-Canada Free-Trade Agreement, exempt products of Canada from any import restriction imposed under this section."

1988—Subsec. (f). Pub. L. 100-449 inserted before period at end “; except that the President may, pursuant to articles 705.5 and 707 of the United States-Canada Free-Trade Agreement, exempt products of Canada from any import restriction imposed under this section”.

1975—Subsecs. (a), (b). Pub. L. 93-618 substituted “United States International Trade Commission” for “United States Tariff Commission”.

1953—Subsec. (b) amended by subsec. (c) of section 8 of act June 16, 1951, as added to section 8 by act Aug. 7, 1953, which added second paragraph to subsec. (b).

1951—Subsec. (f). Act June 16, 1951, amended subsec. (f) generally to provide that no trade agreement concessions can be construed to interfere with the operation of agricultural programs.

1950—Subsec. (a). Act June 28, 1950, placed upon the Secretary of Agriculture the responsibility of notifying the President whenever the Secretary believes or has reason to believe that any article or articles are being or practically certain to be brought into this country so as to render, or tend to render ineffective or materially interfere with programs undertaken under this chapter.

Subsecs. (b) to (e). Act June 28, 1950, reenacted subsecs. (b) to (e) without change.

Subsec. (f). Act June 28, 1950, made certain that future international agreements or amendments to existing agreements give effect to this section within the framework of the general agreements on tariffs and trade.

1948—Act July 3, 1948, amended section generally to extend authority of this section to agriculture products as well as commodities; to extend such authority to cover articles the import of which affects any loan, purchase, or other Departmental operation or program; to make quantitative limitation restrictions applicable to the total quantity of an article imported during a representative period as determined by the President, rather than to each country’s average annual quantity of the article imported during the period from Jan. 1, 1929, to Dec. 31, 1933, as formerly provided; to give the President a specific grant of authority to describe designated articles by physical qualities, value, use, or upon such bases as he determines; to clarify definition respecting authorized fees, which formerly were considered duties for some purposes, so that they no longer shall be considered as duties for the purpose of granting any preferential concession under any international obligation of the United States; and, to prohibit the enforcement of a proclamation under this section which would be in contravention to any treaty or international agreement to which the United States is a part.

1940—Subsecs. (a) to (c). Act Jan. 25, 1940, amended subsecs. (a) to (c) generally.

1936—Act Feb. 29, 1936, inserted “or the Soil Conservation and Domestic Allotment Act, as amended” after “this chapter” wherever appearing, and substituted “any” for “an adjustment” wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 401(a)(2) of Pub. L. 103-465 provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except that with respect to wheat, that amendment shall take effect on the later of such date or September 12, 1995.”

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on the date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on the date the Agreement ceases to be in force, see section 501(a), (c), of Pub. L. 100-449, set out in a note under section 2112 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 6 of title I of act July 3, 1948, provided that: “This title [enacting provisions set out as notes under sections 1281, 1282, and 1312 of this title and section 713a-8 of Title 15, Commerce and Trade] shall take effect on January 1, 1949, except that sections 3 and 4 [amending this section and section 590h of Title 16, Conservation] shall take effect on the date of enactment of this Act [July 3, 1948].”

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note set out under section 601 of this title.

REPORT TO CONGRESS ON TERMINATION OR SUSPENSION OF QUANTITATIVE LIMITATIONS OR FEES

Pub. L. 101-624, title XV, § 1554, Nov. 28, 1990, 104 Stat. 3697, provided that:

“(a) REQUIREMENT OF REPORT.—If section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) is repealed or all measures proclaimed under such section are suspended, the Secretary of Agriculture shall, prior to the effective date of the suspension or termination of any quantitative limitation or fee in effect under that section, report to the Congress.

“(b) CONTENTS OF REPORT.—The report under subsection (a) shall assess each material consequence of the lifting of such limitation or fee, including the impact on—

“(1) the Farmers Home Administration and agricultural credit in general;

“(2) the prices paid to farmers generally for the affected commodity; and

“(3) United States food security needs.”

INTERFERENCE WITH TOBACCO PRICE SUPPORT PROGRAM

Pub. L. 100-418, title IV, § 4609, Aug. 23, 1988, 102 Stat. 1411, provided that: “It is the sense of Congress that—

“(1) the amounts of assessments collected under the no-net-cost tobacco program can be an indicator of import injury and material interference with the tobacco price support program administered by the Secretary of Agriculture; and

“(2) for purposes of any investigation conducted under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, with respect to tobacco, or articles containing tobacco, imported into the United States, the International Trade Commission should take into account, as if they are costs to the Federal government, contributions and assessments imposed under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1 and 1445-2) in determining whether such imported tobacco or articles containing tobacco materially interfere with the tobacco price support program carried out by the Secretary of Agriculture.”

DAIRY IMPORT STUDY BY SECRETARY OF AGRICULTURE; REPORT TO CONGRESS BY JAN. 1, 1975

Pub. L. 91-524, title II, § 205, as added Pub. L. 93-86, § 1(6), Aug. 10, 1973, 87 Stat. 223; amended Pub. L. 93-125, § 1(a)(1), Oct. 18, 1973, 87 Stat. 450, authorized the Secretary of Agriculture to determine the effect upon domestic dairy producers, handlers, and processors and upon consumers of increases in the level of imports, if any, of dairy products and report his findings, together with any recommendations he may have with respect to import quotas or other matters, to the Congress of the United States no later than Jan. 1, 1975, defined dairy products as including (1) all forms of milk and dairy products, butterfat, milk solids-not-fat, and any combination or mixture thereof; (2) any article, com-

pound, or mixture containing 5 per centum or more of butterfat, or milk solids-not-fat, or any combinations of the two; and (3) lactose, and other derivatives of milk, butterfat, or milk solids-not-fat, if imported commercially for any food use, and excluded from the definition of dairy products (1) casein, caseinates, industrial casein, industrial caseinates, or any other industrial products, not to be used in any form for any food use, or an ingredient of food; or (2) articles not normally considered to be dairy products, such as candy, bakery goods, and other similar articles.

PROC. NO. 3178. QUOTA ON BUTTER SUBSTITUTES

Proc. No. 3178, Apr. 17, 1957, 22 F.R. 2701, provided: WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), the Secretary of Agriculture advised me that there was reason to believe that butter substitutes, including butter oil, containing 45 per centum or more of butterfat, which are dutiable under paragraph 709 of the Tariff Act of 1930, as amended, are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program undertaken by the Department of Agriculture with respect to milk and butterfat, or to reduce substantially the amount of products processed in the United States from domestic milk and butterfat with respect to which such program of the Department of Agriculture is being undertaken; and

WHEREAS on November 17, 1956, under the authority of the said section 22, I caused the United States Tariff Commission [now the United States International Trade Commission] to make an investigation with respect to this matter; and

WHEREAS, in accordance with the said section 22, as implemented by Executive Order No. 7233 of November 23, 1935, the said Tariff Commission has made such investigation and has reported to me its findings and recommendations made in connection therewith; and

WHEREAS, on the basis of the said investigation and report of the Tariff Commission, I find that butter substitutes, including butter oil, containing 45 per centum or more of butterfat and classifiable under paragraph 709 of the Tariff Act of 1930 are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the said price-support program with respect to milk and butterfat, and to reduce substantially the amount of products processed in the United States from domestic milk and butterfat with respect to which said price-support program is being undertaken; and

WHEREAS I find and declare that the imposition of the quantitative limitations hereinafter proclaimed is shown by such investigation of the said Tariff Commission to be necessary in order that the entry, or withdrawal from warehouse, for consumption of such butter substitutes, including butter oil, will not materially interfere with the said price-support program or reduce substantially the amount of products processed in the United States from domestic milk and butterfat with respect to which the said price-support program is being undertaken:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by the said section 22 of the Agricultural Adjustment Act [this section], do hereby proclaim that the total aggregate quantity of butter substitutes, including butter oil, containing 45 per centum or more of butterfat and classifiable under paragraph 709 of the Tariff Act of 1930, as amended, which shall be permitted to be entered, or withdrawn from warehouse, for consumption during the calendar year 1958 and each subsequent calendar year shall not exceed 1,200,000 pounds. The specified quantities of the named articles which may be entered, or withdrawn from warehouse, for consumption are not proportionately less than 50 per centum of the total quantities of such articles entered, or withdrawn

from warehouse, for consumption during the representative period from January 1, 1956, to December 31, 1956, inclusive.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this fifteenth day of April in the year of our Lord nineteen hundred and fifty-seven, and of the Independence of the United States of America the one hundred and eighty-first.

[SEAL]

DWIGHT D. EISENHOWER.

PROCLAMATION NO. 3306

Proc. No. 3306, Aug. 7, 1959, 24 F.R. 6407, which provided for quotas on imports of rye, rye flour, and rye meal terminated on June 30, 1961.

PROCLAMATION NO. 3378

Proc. No. 3378, Oct. 31, 1960, 25 F.R. 10449, relating to quotas on imports of tung oil and tung nuts, was terminated by Proc. No. 3471, May 2, 1962, 27 F.R. 4271.

PROC. NO. 3428. IMPORT RESTRICTIONS ON CERTAIN COTTON PRODUCTS

Proc. No. 3428, Sept. 11, 1961, 26 F.R. 8535, provided:

WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), the Secretary of Agriculture advised the President that he had reason to believe that certain cotton products produced in any stage preceding the spinning into yarn are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program and other programs or operations undertaken by the Department of Agriculture with respect to cotton or products thereof, or to reduce substantially the amount of cotton processed in the United States from cotton or products thereof with respect to which any such program or operation is being undertaken; and

WHEREAS, on January 18, 1961, under the authority of the said section 22, the President requested the United States Tariff Commission [now the United States International Trade Commission] to make an investigation with respect to this matter; and

WHEREAS, in accordance with the said section 22, as implemented by Executive Order No. 7233 of November 23, 1935, the Tariff Commission has made such investigation and has reported to me its findings and recommendations made in connection therewith; and

WHEREAS, on the basis of the investigation and report of the Tariff Commission, I find that the articles with respect to which import restrictions are hereinafter proclaimed are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program and other programs or operations undertaken by the Department of Agriculture with respect to cotton or products thereof; and

WHEREAS I find and declare that the important restrictions hereinafter proclaimed are shown by such investigation of the Tariff Commission to be necessary in order that the entry, or withdrawal from warehouse, for consumption of the said articles will not render or tend to render ineffective, or materially interfere with, the price-support program and other programs or operations undertaken by the Department of Agriculture with respect to cotton or products thereof;

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, acting under and by virtue of the authority vested in me by section 22 of the Agricultural Adjustment Act, as amended, do hereby proclaim that the total aggregate quantity of cotton products produced in any stage preceding the spinning into yarn, except cotton wastes, which may be entered, or withdrawn from warehouse, for consumption in any

12-month period, beginning September 11 in 1961 and in subsequent years shall not exceed 1,000 pounds, which permissible total quantity I find and declare to be proportionately not less than 50 per centum of the total quantity of such articles entered, or withdrawn from warehouse, for consumption during the representative period from January 1, 1940, to December 31, 1953, inclusive.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 11th day of September in the year of our Lord nineteen hundred and sixty-one, and of the Independence of the United States of America the one hundred and eighty-sixth.

[SEAL]

JOHN F. KENNEDY.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 625, 672, 673, 1359a, 1392, 1854 of this title; title 19 sections 1360, 1366, 1887, 2581, 2703, 3011, 3203, 3333, 3391.

§ 625. Review of Burley tobacco imports by Secretary of Agriculture; price-support levels; excessive stocks

The Secretary of Agriculture shall review, pursuant to section 624 of this title, the effects of imports of Burley tobacco on the Department of Agriculture's Burley tobacco price-support program whenever (1) the level of price support for any crop of Burley tobacco is increased by less than 65 per centum of the amount that it would have otherwise been increased if the level of price support would have been determined in accordance with section 1445(b) of this title, or (2) stocks of Burley tobacco held by producer-owned cooperative marketing associations having loan agreements with the Commodity Credit Corporation exceed 20 per centum of the national marketing quota proclaimed by the Secretary for any such crop of Burley tobacco.

(Pub. L. 98-59, § 3, July 25, 1983, 97 Stat. 296.)

CODIFICATION

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

§ 626. Import inventory

(a) Compilation and report on imports

The Secretary of Agriculture, in consultation with the Secretary of Commerce, the International Trade Commission, the United States Trade Representative, and the heads of all other appropriate Federal agencies, shall compile and report to the public statistics on the total value and quantity of imported raw and processed agricultural products. The report shall be limited to those statistics that such agencies already obtain for other purposes.

(b) Compilation and report on consumption

The Secretary shall compile and report to the public data on the total quantity of production and consumption of domestically produced raw and processed agricultural products.

(c) Issuing of data

The reports required by this section shall be made in a format that correlates statistics for the quantity and value of imported agricultural products to the production and consumption of

domestic agricultural products. The Secretary shall issue such reports on an annual basis, with the first report required not later than 1 year after August 23, 1988.

(Pub. L. 100-418, title IV, § 4502, Aug. 23, 1988, 102 Stat. 1403.)

CODIFICATION

Section was enacted as part of the Agricultural Competitiveness and Trade Act of 1988 and also as part of the Omnibus Trade and Competitiveness Act of 1988, and not as part of the Agricultural Adjustment Act which comprises this chapter.

SUBCHAPTER IV—REFUNDS

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, § 1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, § 1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, § 1, 55 Stat. 218; Mar. 10, 1942, ch. 178, title I, § 1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, § 1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

CROSS REFERENCES

Abatements, credits, and refunds of internal revenue taxes, see section 6401 et seq. of Title 26, Internal Revenue Code.

§§ 641 to 659. Omitted

CODIFICATION

Section 641, act June 22, 1936, ch. 690, § 601, 49 Stat. 1739, related to refunds in cases where exports, deliveries for charitable distribution or use, manufacture of large cotton bags, or the decrease in rate of processing tax took place prior to January 6, 1936, specified persons entitled to refunds, and filing and determination of claims.

Section 642, acts June 22, 1936, ch. 690, § 602, 49 Stat. 1740; Aug. 10, 1939, ch. 666, title IX, § 911, 53 Stat. 1402, specified amount of refunds on articles processed wholly or in chief value from a commodity subject to processing tax, defined certain terms, prohibited payments with respect to retail floor stocks with some exceptions, and made final determinations of Commissioner of Internal Revenue with respect to such payments.

Section 643, act June 22, 1936, ch. 690, § 603, 49 Stat. 1742, made applicable proclamations, certificates, and regulations of this chapter for purpose of determining amount of refunds or payments authorized by sections 641 and 642.

Section 644, acts June 22, 1936, ch. 690, § 902, 49 Stat. 1747; Oct. 21, 1942, ch. 619, title V, §§ 504(a), (c), 510(e), 56 Stat. 957, 968, conditioned allowance of refunds on a showing by claimant that he bore burden of tax or that he repaid such amount unconditionally to his vendee.

Section 645, acts June 22, 1936, ch. 690, § 903, 49 Stat. 1747; June 29, 1939, ch. 247, title IV, § 405, 53 Stat. 884, prohibited refunds except where claims were filed after June 22, 1936, and prior to January 1, 1940, and provided for regulations relating to filing of such claims.

Section 646, act June 22, 1936, ch. 690, § 904, 49 Stat. 1747, provided that no action could be brought before expiration of eighteen months from date of filing of a claim, or after expiration of two years from date of mailing to claimant of a notice disallowing the claim.

Section 647, act June 22, 1936, ch. 690, § 905, 49 Stat. 1748, provided for District Courts of the United States to have concurrent jurisdiction with Court of Claims or refund cases regardless of amount in controversy.

Section 648, acts June 22, 1936, ch. 690, § 906, 49 Stat. 1748; Oct. 21, 1942, ch. 619, title V, §§ 504(a), (c), 510(b), (f)(1), (g)-(j), 56 Stat. 957, 967; June 25, 1948, ch. 646, § 32,

62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107, related to procedure on claims for refunds of processing taxes, review of actions of Commissioner of Internal Revenue by Tax Court, and review of Tax Court decisions by Courts of Appeals.

Section 649, act June 22, 1936, ch. 690, §907, 49 Stat. 1751, related to evidence and presumptions.

Section 650, act June 22, 1936, ch. 690, §908, 49 Stat. 1753, placed limitations on allowance of claims and interest.

Section 651, act June 22, 1936, ch. 690, §909, 49 Stat. 1753, provided that, in absence of fraud or mistake, findings of fact and conclusions of law of Commissioner was conclusive on any other administrative or accounting officer.

Section 652, act June 22, 1936, ch. 690, §910, 49 Stat. 1753, related to liability of collectors.

Section 653, act June 22, 1936, ch. 690, §911, 49 Stat. 1753, made provisions of former sections 644-659 of this title inapplicable to certain refunds.

Section 654, act June 22, 1936, ch. 690, §912, 49 Stat. 1754, provided that suits or proceedings, and claims barred on June 22, 1936, shall remain barred.

Section 655, act June 22, 1936, ch. 690, §913, 49 Stat. 1754, defined "tax", "processing tax," "commodity", "article", "refund", and "Agricultural Adjustment Act".

Section 656, act June 22, 1936, ch. 690, §914, 49 Stat. 1754, related to authority of Commissioner of Internal Revenue.

Section 657, act June 22, 1936, ch. 690, §915, 49 Stat. 1755, relating to salaries and administrative expenses, made funds available until June 30, 1937, and was not extended.

Section 658, act June 22, 1936, ch. 690, §916, 49 Stat. 1755, provided that Commissioner of Internal Revenue, with approval of Secretary of Agriculture, prescribe rules and regulations for carrying out provisions of sections 644 to 659 of this title.

Section 659, act June 22, 1936, ch. 690, §917, 49 Stat. 1755, related to personnel.

CHAPTER 26A—AGRICULTURAL MARKETING AGREEMENTS

- Sec. 671. Arbitration of disputes concerning milk.
 - (a) Application.
 - (b) Conduct of meetings.
 - (c) Approval of award.
 - (d) Exemption from antitrust laws.
- 672. Agreements; licenses, regulations, programs, etc., unaffected.
- 673. Taxes under Agricultural Adjustment Act; laws unaffected.
- 674. Short title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 499b-1, 1445c-3 of this title; title 50 App. section 2166.

§ 671. Arbitration of disputes concerning milk

(a) Application

The Secretary of Agriculture, or such officer or employee of the Department of Agriculture as may be designated by him, upon written application of any cooperative association, incorporated or otherwise, which is in good faith owned or controlled by producers or organizations thereof, of milk or its products, and which is bona fide engaged in collective processing or preparing for market or handling or marketing (in the current of interstate or foreign commerce, as defined by section 610(j) of this title), milk or its products, may mediate and, with the consent of all parties, shall arbitrate if the Secretary has reason to believe that the declared

policy of the Agricultural Adjustment Act [7 U.S.C. 601 et seq.], as amended, would be effectuated thereby, bona fide disputes, between such associations and the purchasers or handlers, or processors or distributors of milk or its products, as to terms and conditions of the sale of milk or its products. The power to arbitrate under this section shall apply only to such subjects of the term or condition in dispute as could be regulated under the provisions of the Agricultural Adjustment Act, as amended, relating to orders for milk and its products.

(b) Conduct of meetings

Meeting held pursuant to this section shall be conducted subject to such rules and regulations as the Secretary may prescribe.

(c) Approval of award

No award or agreement resulting from any such arbitration or mediation shall be effective unless and until approved by the Secretary of Agriculture, or such officer or employee of the Department of Agriculture as may be designated by him, and shall not be approved if it permits any unlawful trade practice or any unfair method of competition.

(d) Exemption from antitrust laws

No meeting so held and no award or agreement so approved shall be deemed to be in violation of any of the antitrust laws of the United States. (June 3, 1937, ch. 296, §3, 50 Stat. 248.)

REFERENCES IN TEXT

The Agricultural Adjustment Act, as amended, referred to in subsec. (a), is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

The antitrust laws, referred to in subsec. (d), are classified generally to chapter 1 (§1 et seq.) of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1392 of this title.

§ 672. Agreements; licenses, regulations, programs, etc., unaffected

(a) Nothing in this Act shall be construed as invalidating any marketing agreement, license, or order, or any regulation relating to, or any provision of, or any act of the Secretary of Agriculture in connection with, any such agreement, license, or order which has been executed, issued, approved, or done under the Agricultural Adjustment Act [7 U.S.C. 601 et seq.], or any amendment thereof, but such marketing agreements, licenses, orders, regulations, provisions, and acts are expressly ratified, legalized, and confirmed.

(b) Any program in effect under the Agricultural Adjustment Act [7 U.S.C. 601 et seq.], as re-enacted and amended by this Act, on January 1, 1950, shall continue in effect without the necessity for any amendatory action relative to such program, but any such program shall be continued in operation by the Secretary of Agriculture only to establish and maintain such orderly marketing conditions as will tend to effectuate the declared purpose set out in section 2 or

8c(18) of the Agricultural Adjustment Act [7 U.S.C. 602 or 608c(18)], as reenacted and amended by this Act.

(June 3, 1937, ch. 296, § 4, 50 Stat. 249; July 3, 1948, ch. 827, title III, § 302(e), 62 Stat. 1258.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 3, 1937, ch. 296, 50 Stat. 246, as amended, known as the Agricultural Marketing Agreement Act of 1937. For complete classification of this Act to the Code, see Tables.

The Agricultural Adjustment Act, referred to in text, is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§ 601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

AMENDMENTS

1948—Act July 3, 1948, designated existing provisions as subsec. (a) and added subsec. (b).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1392 of this title.

§ 673. Taxes under Agricultural Adjustment Act; laws unaffected

No processing taxes or compensating taxes shall be levied or collected under the Agricultural Adjustment Act [7 U.S.C. 601 et seq.], as amended. Except as provided in the preceding sentence, nothing in this Act shall be construed as affecting provisions of the Agricultural Adjustment Act, as amended, other than those enumerated in section 1 of Act of June 3, 1937, ch. 296, 50 Stat. 246. The provisions so enumerated shall apply in accordance with their terms (as amended by this Act) to the provisions of the Agricultural Adjustment Act, this Act, and other provisions of law to which they have been heretofore made applicable.

(June 3, 1937, ch. 296, § 5, 50 Stat. 249.)

REFERENCES IN TEXT

The Agricultural Adjustment Act, as amended, referred to in text, is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§ 601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

This Act, referred to in text, is act June 3, 1937, ch. 296, 50 Stat. 246, as amended, known as the Agricultural Marketing Agreement Act of 1937. For complete classification of this Act to the Code, see Tables.

Section 1 of act June 3, 1937, ch. 296, 50 Stat. 246, referred to in text, amended sections 601, 602, 608a, 608b, 608c, 608d, 608e, 610, 612, 614, and 624 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1392 of this title.

§ 674. Short title

This Act may be cited as the "Agricultural Marketing Agreement Act of 1937".

(June 3, 1937, ch. 296, § 6, 50 Stat. 249.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 3, 1937, ch. 296, 50 Stat. 246, as amended, which among other things

enacted this chapter. For complete classification of this Act to the Code, see Tables.

CHAPTER 27—COTTON MARKETING

§§ 701 to 723. Repealed. Feb. 10, 1936, ch. 42, 49 Stat. 1106

Sections, acts Apr. 21, 1934, ch. 157, §§1-2, 48 Stat. 598-606; Aug. 9, 1935, ch. 504, 49 Stat. 570; Aug. 24, 1935, ch. 641, §§39(a)-(e), 40-42, 49 Stat. 777, 778, related to placing of cotton industry on a sound commercial basis, to preventing unfair competition and practices in putting cotton into channels of interstate and foreign commerce and to providing funds for paying additional benefits under the Agricultural Adjustment Act.

COLLECTION OF UNPAID TAXES

Act Mar. 2, 1936, ch. 112, 49 Stat. 1155, amending act Feb. 10, 1936, ch. 42, 49 Stat. 1106, which repealed sections 701 to 723, provided that no tax, civil penalty, or interest which accrued under any provision of law repealed by said act Feb. 10, 1936, and which was uncollected on date of enactment of said act Feb. 10, 1936, was to be collected; and all liens for taxes, civil penalties, or interest arising out of taxes under such provisions of law were cancelled and released.

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, § 1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, § 1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, § 1, 55 Stat. 219; Mar. 10, 1942, ch. 178, title I, § 1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, § 1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

§ 724. Omitted

CODIFICATION

Section, act Apr. 21, 1934, ch. 157, § 24, 48 Stat. 607, authorized Secretary of Agriculture to develop new and extended uses for cotton, and made available not to exceed \$500,000 out of funds available to Secretary under section 612 of this title.

§ 725. Repealed. Feb. 10, 1936, ch. 42, 49 Stat. 1106

Section, act Apr. 21, 1934, ch. 157, § 25, as added June 20, 1934, ch. 687, 48 Stat. 1184, related to issuance of tax exemption certificates.

COLLECTION OF UNPAID TAXES

Act Mar. 2, 1936, ch. 112, 49 Stat. 1155, amending act Feb. 10, 1936, ch. 42, 49 Stat. 1106, which repealed this section provided that no tax, civil penalty, or interest which accrued under any provision of law repealed by said act Feb. 10, 1936, and which was uncollected on date of enactment of said act Feb. 10, 1936, was to be collected; and all liens for taxes, civil penalties, or interest arising out of taxes under such provisions of law were cancelled and released.

§ 726. Omitted

CODIFICATION

Section, act June 6, 1934, ch. 409, 48 Stat. 911, related to administration of oaths for tax exemption certificates, and was rendered inoperative by repeal of sections 721 to 723 and 725 of this title by act Feb. 10, 1936, ch. 42, 49 Stat. 1106.

CHAPTER 28—TOBACCO INDUSTRY

§§ 751 to 766. Repealed. Feb. 10, 1936, ch. 42, 49 Stat. 1106

Sections, act June 28, 1934, ch. 866, §§1-16, 48 Stat. 1275-1280, as amended by act Aug. 24, 1935, ch. 641, § 44

to 54, 49 Stat. 778 to 780, related to marketing and taxation of tobacco.

COLLECTION OF UNPAID TAXES

Act Mar. 2, 1936, ch. 112, 49 Stat. 1155, amending act Feb. 10, 1936, ch. 42, 49 Stat. 1106, provided that no tax, civil penalty, or interest which accrued under any provision of law repealed by said act Feb. 10, 1936, and which was uncollected on date of enactment of said act Feb. 10, 1936, was to be collected; and all liens for taxes, civil penalties, or interest arising out of taxes under such provisions of law were canceled and released.

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, §1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, §1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, §1, 55 Stat. 219; Mar. 10, 1942, ch. 178, title I, §1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, §1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

CHAPTER 29—POTATO ACT OF 1935

§§ 801 to 833. Repealed. Feb. 10, 1936, ch. 42, 49 Stat. 1106

Sections, act Aug. 24, 1935, ch. 641, §§201-233, 49 Stat. 782-793, related to potato control.

COLLECTION OF UNPAID TAXES

Act Mar. 2, 1936, ch. 112, 49 Stat. 1155, amending act Feb. 10, 1936, ch. 42, 49 Stat. 1106, provided that no tax, civil penalty, or interest which accrued under any provision of law repealed by said act Feb. 10, 1936, and which was uncollected on date of enactment of said act Feb. 10, 1936, was to be collected; and all liens for taxes, civil penalties, or interest arising out of taxes under such provisions of law were canceled and released.

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, §1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, §1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, §1, 55 Stat. 218; Mar. 10, 1942, ch. 178, title I, §1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, §1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

CHAPTER 30—ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

Sec.	
851.	Declaration of policy.
852.	Marketing agreements with handlers; exemption from antitrust laws.
853.	Terms and conditions of marketing agreements.
854.	Order regulating handlers; issuance and terms.
855.	Applicability of other laws.

§ 851. Declaration of policy

It is declared to be the policy of Congress to insure the maintenance of an adequate supply of anti-hog-cholera serum and hog-cholera virus by regulating the marketing of such serum and virus in interstate and foreign commerce, and to prevent undue and excessive fluctuations and unfair methods of competition and unfair trade practices in such marketing.

(Aug. 24, 1935, ch. 641, §56, 49 Stat. 781.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 852, 853, 855 of this title.

§ 852. Marketing agreements with handlers; exemption from antitrust laws

In order to effectuate the policy declared in section 851 of this title the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and others engaged in the handling of anti-hog-cholera serum and hog-cholera virus only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such serum and virus. Such persons are in section 854 of this title referred to as "handlers." The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful.

(Aug. 24, 1935, ch. 641, §57, 49 Stat. 781.)

REFERENCES IN TEXT

Antitrust laws of the United States, referred to in text, are classified generally to chapter 1 (§1 et seq.) of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 853, 854, 855 of this title.

§ 853. Terms and conditions of marketing agreements

Marketing agreements entered into pursuant to section 852 of this title shall contain such one or more of the following terms and conditions and no others as the Secretary finds, upon the basis of the hearing provided for in section 852 of this title, will tend to effectuate the policy declared in section 851 of this title:

(a) One or more of the terms and conditions specified in subsection (7) of section 608c of this title.

(b) Terms and conditions requiring each manufacturer to have in inventory in his own possession on April 1 of each year a reserve supply of completed serum equivalent to not less than 40 per centum of his previous year's sales of all serum, except that any marketing agreement may provide that upon written application by a manufacturer filed before September 1 of the preceding year, the Secretary may fix another date between January 1 and May 1 on which such manufacturer shall have such inventory if the Secretary finds that such actions will tend to effectuate the purposes of section 851 of this title. The Secretary may impose such terms and conditions upon granting any such application as he finds necessary to effectuate the purposes of section 851 of this title. Serum used in computing the required reserve supply of any manufacturer shall not again be used in computing the required reserve supply of any other manufacturer.

(Aug. 24, 1935, ch. 641, §58, 49 Stat. 781; July 31, 1958, Pub. L. 85-574, 72 Stat. 454.)

REFERENCES IN TEXT

Section 851 of this title, referred to in clause (b), was in the original "this Act", meaning act Aug. 24, 1935. For complete classification of act Aug. 24, 1935, to the Code, see Tables.

AMENDMENTS

1958—Cl. (b). Pub. L. 85-574 substituted "in inventory in his own possession on April 1" for "available on May 1", inserted exception provision for changing minimum inventory date under certain terms and conditions, and inserted prohibition against reusing serum in computation of required reserve supply for different manufacturers.

§ 854. Order regulating handlers; issuance and terms

Whenever all the handlers of not less than 75 per centum of the volume of anti-hog-cholera serum and hog-cholera virus which is handled in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, have signed a marketing agreement entered into with the Secretary of Agriculture pursuant to section 852 of this title, the Secretary of Agriculture shall issue an order which shall regulate only such handling in the same manner as, and contain only such terms and conditions as are contained in such marketing agreement, and shall from time to time amend such order in conformance with amendments to such marketing agreement. Such order shall terminate upon termination of such marketing agreement as provided in such marketing agreement.

(Aug. 24, 1935, ch. 641, § 59, 49 Stat. 781.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 852, 855 of this title.

§ 855. Applicability of other laws

Subject to the policy declared in section 851 of this title, the provisions of subsections (6) to (9) of section 608a and of subsections (14) and (15) of section 608c of this title, are made applicable in connection with orders issued pursuant to section 854 of this title, and the provisions of section 608d of this title are made applicable in connection with marketing agreements entered into pursuant to section 852 of this title and orders issued pursuant to section 854 of this title. The provisions of subsections (a), (b)(2), (c), (f), (h), and (i) of section 610 of this title, are made applicable in connection with the administration of this chapter.

(Aug. 24, 1935, ch. 641, § 60, 49 Stat. 782.)

FEDERAL RULES OF CIVIL PROCEDURE

Process, see rule 4, Title 28, Appendix, Judiciary and Judicial Procedure.

CHAPTER 31—RURAL ELECTRIFICATION AND TELEPHONE SERVICE

SUBCHAPTER I—RURAL ELECTRIFICATION

Sec.	
901.	Short title.
902.	Loans by Secretary of Agriculture; investigations and reports.
903.	Funds of Secretary of Agriculture. <ul style="list-style-type: none"> (a) Loans by Secretary of the Treasury.

Sec.	
	(b) Authorization of appropriations.
	(c) Allotment of funds for loans in States.
	(d) Loans of unallotted funds.
	(e) Unexpended funds; limitation on use.
904.	Loans by Secretary of Agriculture for electrical plants and transmission lines; preferences; consent of State authorities.
905.	Loans for electrical and plumbing equipment; persons eligible for loans.
906.	Authorization of appropriations; testimony by Secretary of Agriculture before Congressional committees in justification of budget requests.
906a.	Use of funds outside the United States or its territories prohibited.
907.	Acquisition of property pledged for loans; disposition; sale of pledged property by borrower.
908.	Transfer of functions of Administration created by Executive Order 7037.
909.	Administration on nonpolitical basis; dismissal of officers or employees for violating provision.
910.	Annual report.
911.	Acceptance of services of Federal or State officers; application of civil service laws; expenditures for supplies and equipment.
911a.	Repealed.
912.	Extension of time for repayment of loans.
912a.	Rescheduling and refinancing of loans.
913.	Definitions.
914.	Separability.
915.	Purchase of financial and credit reports.
916.	Criteria for loans.
917.	Repealed.
918.	General prohibitions. <ul style="list-style-type: none"> (a) No consideration of borrower's level of general funds. (b) Loan origination fees. (c) Consultants.

SUBCHAPTER II—RURAL TELEPHONE SERVICE

921.	Congressional declaration of policy.
921a.	Policy of financing of rural telephone program.
921b.	Policy of expansion of markets for debentures.
922.	Loans for rural telephone service.
923.	State regulation of telephone service.
924.	Definition of telephone service and rural area.
925.	Loan feasibility.
926.	Certain rural development investments by qualified telephone borrowers not treated as dividends or distributions. <ul style="list-style-type: none"> (a) In general. (b) "Qualified telephone borrower" defined.
927.	General duties and prohibitions. <ul style="list-style-type: none"> (a) Duties. (b) Prohibitions.
928.	Prompt processing of telephone loans.

SUBCHAPTER III—RURAL ELECTRIC AND TELEPHONE DIRECT LOAN PROGRAMS

930.	Congressional declaration of policy.
931.	Rural Electrification and Telephone Revolving Fund.
931a.	Level of loan programs under Rural Electrification and Telephone Revolving Fund.
932.	Liabilities and uses of Rural Electrification and Telephone Revolving Fund. <ul style="list-style-type: none"> (a) Liabilities and obligations of fund. (b) Uses of fund assets. (c) Separate electric and telephone accounts.
933.	Moneys in the Rural Electrification and Telephone Revolving Fund.

- | | |
|---|---|
| <p>Sec.
934. Authorized financial transactions; interim notes; purchase of obligations for resale; sale of notes and certificates; liens.</p> <p>935. Insured loans; interest rates and lending levels.
 (a) In general.
 (b) Insured loans.
 (c) Insured electric loans.
 (d) Insured telephone loans.</p> <p>936. Guaranteed loans; accommodation and subordination of liens; interest rates; assignability of guaranteed loans and related guarantees.</p> <p>936a. Prepayment of loans.
 (a) Conditions for prepayment.
 (b) Charges on prepayment prohibited.
 (c) Disqualification for prepayment on finding of adverse affect on Federal Financing Bank.
 (d) Amount of permissible prepayments; establishment of eligibility criteria.
 (e) Assignability and transferability of guarantees of loans.</p> <p>936b. Sale or prepayment of direct or insured loans.
 (a) Discounted prepayment by borrowers of electric loans.
 (b) Mergers of electric borrowers.</p> <p>936c. Refinancing and prepayment of FFB loans.
 (a) In general.
 (b) Penalty.
 (c) Loan terms and conditions after refinancing.
 (d) Maximum rate option.</p> <p>936d. Eligibility of distribution borrowers for loans, loan guarantees, and lien accommodations.</p> <p>936e. Administrative prohibitions applicable to certain electric borrowers.
 (a) In general.
 (b) Subordination or sharing of liens.
 (c) Issuance of regulations.
 (d) Authority of Secretary.</p> <p>937. Loans from other credit sources.</p> <p>938. Full faith and credit of the United States.</p> <p>939. Loan terms and conditions.
 (a) In general.
 (b) Telephone loans under this subchapter.</p> <p>940. Refinancing of rural development loans.</p> <p>940a. Privatization program.</p> <p>940b. Use of funds.</p> <p>940c. Cushion of credit payments program.
 (a) Establishment.
 (b) Uses of cushion of credit payments.</p> <p>940d. Limitations on authorization of appropriations.
 (a) "Adjustment percentage" defined.
 (b) Fiscal years 1994 through 1998.
 (c) Funding levels.
 (d) Availability of funds for insured loans.</p> | <p>Sec.</p> <p>(d) Appointment and compensation of personnel.
 (e) Tort claims and litigation.</p> <p>944. Governor of telephone bank; functions, powers, and duties.</p> <p>944a. Publication of rural telephone bank policies and regulations.</p> <p>945. Board of directors.
 (a) In general.
 (b) Membership.
 (c) Elections.
 (d) Compensation.
 (e) Succession.
 (f) Chairperson.
 (g) Bylaws.
 (h) Meetings.
 (i) Annual report.
 (j) Open meetings.</p> <p>946. Capitalization.
 (a) Federal and borrower subscriptions; Federal limitation; report to President, transmittal to Congress; net collection proceeds.
 (b) Stock classification; voting stock; one vote rule.
 (c) Class A stock; issuance to Secretary of Agriculture and redemption; cumulative return.
 (d) Class B stock; borrowers as holders; dividend prohibition; patronage refunds.
 (e) Class C stock; borrowers as purchasers; dividends.
 (f) Special fund equivalents.
 (g) Patronage refunds from remaining earnings after provision for operating expenses, reserves for losses, payments in lieu of taxes, and returns on class A and C stock.
 (h) Reserve for losses due to interest rate fluctuations.
 (i) Investment of RTB Equity Fund.</p> <p>947. Borrowing power; telephone debentures; issuance; interest rates; terms and conditions; ratio to paid-in capital and retained earnings; investments in debentures; debentures as security; purchase and sale of debentures by the Secretary of the Treasury; treatment as public debt transactions of the United States; exclusion of transactions from budget totals.</p> <p>948. Lending power.
 (a) Loans for prescribed purposes; requisite conditions.
 (b) Terms and conditions of loans; restrictions on loans.
 (c) Payment schedule; adjustment; loan period.
 (d) Borrowers to determine amortization period for rural telephone bank loans.
 (e) Interest on loans and advances.</p> <p>949. Telephone bank receipts; availability for obligations and expenditures.</p> <p>950. Conversion of ownership, control, and operation of telephone bank.
 (a) Transfer of powers and authority from Secretary of Agriculture to Telephone Bank Board; cessation of Presidential appointees as Board members and reduction in number of Board members; status of telephone bank.
 (b) Restrictions of section 948(a)(2) of this title inapplicable to loans upon redemption and retirement of class A stock.
 (c) Congressional review.</p> <p>950a. Liquidation or dissolution of telephone bank.</p> |
|---|---|
- SUBCHAPTER IV—RURAL TELEPHONE BANK

Sec.
950b. Borrower net worth.

SUBCHAPTER V—RURAL ECONOMIC
DEVELOPMENT

950aa. Additional powers and duties.
950aa-1. Rural Business Incubator Fund.
(a) Establishment and use.
(b) Application for assistance.
(c) Funding of local incubators.
(d) Repayments to Incubator Fund.
(e) Full use.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 950aaa-5, 1926, 1926-1, 2007a, 6941, 6942 of this title; title 16 sections 590z-7, 824k; title 43 sections 485h, 1464.

SUBCHAPTER I—RURAL ELECTRIFICATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 931, 939 of this title.

§ 901. Short title

This chapter may be cited as the “Rural Electrification Act of 1936”.

(May 20, 1936, ch. 432, title I, §1, 49 Stat. 1363; 1939 Reorg. Plan No. II, §5, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(1), 108 Stat. 3220.)

AMENDMENTS

1994—Pub. L. 103-354 added section catchline and text and struck out former text which read as follows: “There is hereby created and established an agency of the United States to be known as the ‘Rural Electrification Administration’, all of the powers of which shall be exercised by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of ten years, and who shall receive a salary of \$10,000 per year. This chapter may be cited as the ‘Rural Electrification Act of 1936’.”

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-129, §1, Nov. 1, 1993, 107 Stat. 1356, provided that: “This Act [enacting sections 936d, 936e, and 2008e of this title, amending sections 902, 904, 913, 918, 924, 935, 936c, 937, 939, 940d, 946, 948, 1926, and 2006f of this title, and enacting provisions set out as a note below] may be cited as the ‘Rural Electrification Loan Restructuring Act of 1993’.”

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-428, §1, Oct. 21, 1992, 106 Stat. 2183, provided that: “This Act [amending section 936b of this title] may be cited as the ‘Rural Electrification Administration Improvement Act of 1992’.”

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-624, title XXIII, §2351(a), Nov. 28, 1990, 104 Stat. 4038, provided that: “This subtitle [subtitle F (§§2351-2368) of title XXIII of Pub. L. 101-624, enacting sections 918 and 925 to 928 of this title, amending sections 924, 932, 935, 936, 939, 945, 946, 948, and 950 of this title, and enacting provisions set out as notes under this section and section 946 of this title] may be cited as the ‘Rural Telecommunications Improvements Act of 1990’.”

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-570, §1, Oct. 20, 1976, 90 Stat. 2701, provided: “That this Act [amending sections 931 and 935 of this

title and enacting provisions set out as a note under section 935 of this title] may be cited as the ‘Rural Electrification Administration Technical Amendments Act of 1976’.”

REGULATIONS

Pub. L. 103-129, §6, Nov. 1, 1993, 107 Stat. 1367, provided that: “Except as provided in section 2(b) of the Rural Electrification Act of 1936 [7 U.S.C. 902(b)] and section 370 of the Consolidated Farm and Rural Development Act [7 U.S.C. 2008e], as added by sections 2(c)(1)(C) and 5 of this Act, not later than 45 days after the date of enactment of this Act [Nov. 1, 1993], interim final regulations shall be issued by—

“(1) the Administrator of the Rural Electrification Administration to carry out the amendments made by this Act [see Short Title of 1993 Amendment note above] to programs administered by the Administrator;

“(2) the Administrator of the Rural Development Administration to carry out the amendments made by this Act to programs administered by the Administrator; and

“(3) the Secretary of Agriculture to carry out the amendments made by this Act to programs administered by the Farmers Home Administration.”

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.

Rural Electrification Administration and its functions and activities transferred to Department of Agriculture, to be administered therein by Administrator under general direction and supervision of Secretary of Agriculture, by 1939 Reorg. Plan No. II, set out in the Appendix to Title 5, Government Organization and Employees. See also sections 401 to 404 of that plan for provisions relating to transfer of functions, records, property, personnel, and funds.

FINDINGS; STATEMENT OF POLICY

Pub. L. 101-624, title XXIII, §2352, Nov. 28, 1990, 104 Stat. 4038, provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) making modern telecommunications technology and services available in rural areas in the United States promotes economic development and improves the quality of life in rural areas; and

“(2) the efficient operation of the Rural Telephone Bank and the Rural Electrification Administration telephone loan programs is essential to the continued development of the telecommunications infrastructure in rural areas in the United States.

“(b) STATEMENT OF POLICY.—It is the policy of the Congress that the Rural Telephone Bank and the Rural Electrification Administration make loans that facilitate the development and enhancement of the rural telecommunications infrastructure in order to make modern telecommunications technology and services available at reasonable rates to the greatest practicable number of people in rural areas in the United States.”

§ 902. Loans by Secretary of Agriculture; investigations and reports

(a) The Secretary of Agriculture is authorized and empowered to make loans in the several States and Territories of the United States for rural electrification and the furnishing of electric energy to persons in rural areas who are not receiving central station service and for the purpose of furnishing and improving electric and telephone service in rural areas, as provided in this chapter, and for the purpose of assisting

electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems; to make, or cause to be made, studies, investigations, and reports concerning the condition and progress of the electrification of and the furnishing of adequate telephone service in rural areas in the several States and Territories; and to publish and disseminate information with respect thereto.

(b) By January 1, 1994, the Secretary shall issue interim regulations to implement the authority contained in subsection (a) of this section to make loans for the purpose of assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems. If the regulations are not issued by January 1, 1994, the Secretary shall consider any demand side management, energy conservation, or renewable energy program, system, or activity that is approved by a State agency to be eligible for the loans.

(May 20, 1936, ch. 432, title I, §2, 49 Stat. 1363; Oct. 28, 1949, ch. 776, §§2, 3, 63 Stat. 948; Nov. 1, 1993, Pub. L. 103-129, §2(c)(1), 107 Stat. 1363; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(2), (13), 108 Stat. 3220, 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary of Agriculture” for “Administrator” in subsec. (a) and “Secretary” for “Administrator” in two places in subsec. (b).

1993—Pub. L. 103-129 designated existing provisions as subsec. (a), substituted “electric and telephone service in rural areas, as provided in this chapter, and for the purpose of assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems;” for “telephone service in rural areas, as hereinafter provided;”, and added subsec. (b).

1949—Act Oct. 28, 1949, authorized loans to furnish and improve rural telephone service; and inserted “title I,” in credit of act May 20, 1936.

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.

§ 903. Funds of Secretary of Agriculture

(a) Loans by Secretary of the Treasury

The Secretary of the Treasury is authorized and directed to make loans to the Secretary in such amounts in the aggregate for each fiscal year commencing with the fiscal year ending June 30, 1948, as the Congress may from time to time determine to be necessary, either without interest or at such rate of interest per annum, not in excess of the rate provided for in sections 904 and 905 of this title, as the Secretary of the Treasury may determine, upon the security of the obligations of borrowers from the Secretary. Interest rates on the unpaid balance of any loans made by the Reconstruction Finance Corporation to the Secretary prior to July 1, 1947, shall be adjusted to the interest rate, if any, established for loans made after June 30, 1947, in accordance with the foregoing provision: *Pro-*

vided, That such obligations incurred for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines, or systems and for the purpose of financing the improvement, expansion, construction, acquisition, and operation of facilities to render telephone service shall be fully amortized over a period not to exceed thirty-five years, and that the maturity of such obligations incurred for the purpose of financing the wiring of premises and the acquisition and installation of electrical and plumbing appliances and equipment shall not exceed two-thirds of the assured life thereof and not more than five years. The Secretary is authorized to make all such endorsements, to execute all such instruments, and to do all such acts and things as shall be necessary to effect the valid transfer and assignment to the Secretary of the Treasury of all such obligations, and to execute such trust instruments as shall be agreed upon by the Secretary and the Secretary of the Treasury providing for the holding in trust by the Secretary of all such obligations for the Secretary of the Treasury as security for loans to the Secretary heretofore made by the Reconstruction Finance Corporation or made or to be made by the Secretary of the Treasury. All rights, interest, obligations, and duties of the Reconstruction Finance Corporation arising out of loans made or authorized to be made to the Secretary are, as of the close of June 30, 1947, vested in the Secretary of the Treasury; the Reconstruction Finance Corporation is authorized and directed to transfer, as of the close of June 30, 1947, to the Secretary of the Treasury and the Secretary of the Treasury is authorized and directed to receive all loans outstanding on that date, plus accrued unpaid interest, theretofore made to the Secretary under the provisions of this chapter, and all notes and other evidences thereof and all obligations constituting the security therefor. The Secretary of the Treasury shall cancel notes of the Reconstruction Finance Corporation, and sums due and unpaid upon or in connection with such notes at the time of such cancellation, in an amount equal to the unpaid principal of the loans so transferred, plus accrued unpaid interest through June 30, 1947. Subsequent to June 30, 1947, the Reconstruction Finance Corporation shall make no further loans or advances to the Secretary; and the Secretary of the Treasury is authorized and directed, in lieu of the Reconstruction Finance Corporation, to lend or advance to the Secretary, in accordance with the provisions of this subsection, any unobligated or unadvanced balances of the sums which the Reconstruction Finance Corporation has theretofore been authorized and directed to lend to the Secretary. For the purpose of making loans or advances pursuant to this section, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such loans or advances to the Secretary. Repayments to the Secretary of the Treasury on such loans or advances shall be treated as a public-debt transaction of the United States.

(b) Authorization of appropriations

There are authorized to be appropriated such sums as the Congress may from time to time determine to be necessary for the purposes of this chapter as hereinafter provided.

(c) Allotment of funds for loans in States

Twenty-five per centum of the annual sums herein made available or appropriated for loans for rural electrification pursuant to sections 904 and 905 of this title shall be allotted yearly by the Secretary for loans in the several States in the proportion which the number of their farms not then receiving central station electric service bears to the total number of farms of the United States not then receiving such service: *Provided*, That if any part of such sums are not loaned or obligated during the first six months of the fiscal year for which they are made available, such part shall thereafter be available for loans by the Secretary without allotment: *Provided, however*, That not more than 25 per centum of said sums may be employed in any one State or in all of the Territories. The Secretary shall within ninety days after the beginning of each fiscal year determine for each State and for the United States the number of farms not then receiving such service.

(d) Loans of unallotted funds

The remaining 75 per centum of such annual sums shall be available for rural electrification loans in the several States and in the Territories, without allotment as hereinabove provided in such amounts for each State and Territory as, in the opinion of the Secretary, may be effectively employed for the purposes of this chapter, and to carry out the provisions of section 907 of this title: *Provided, however*, That not more than 25 per centum of said unallotted annual sums may be employed in any one State, or in all of the Territories.

(e) Unexpended funds; limitation on use

If any part of the annual sums made available for the purposes of this chapter are not loaned or obligated during the fiscal year for which they are made available, such unexpended or unobligated sums shall be available for loans by the Secretary in the following year or years without allotment: *Provided, however*, That not more than 25 per centum of said sums for rural electrification loans may be employed in any one State or in all of the Territories.

(May 20, 1936, ch. 432, title I, § 3, 49 Stat. 1364; June 21, 1938, ch. 554, title IV, § 401, 52 Stat. 818; Sept. 21, 1944, ch. 412, title V, §§ 501, 503, 504, 58 Stat. 739, 740; July 30, 1947, ch. 356, title I, § 1, 61 Stat. 546; Oct. 28, 1949, ch. 776, §§ 2, 4(a)–(d), 63 Stat. 948; June 15, 1955, ch. 139, § 1, 69 Stat. 131; May 7, 1971, Pub. L. 92–12, § 3(a), 85 Stat. 37; May 11, 1973, Pub. L. 93–32, § 3, 87 Stat. 70; Oct. 13, 1994, Pub. L. 103–354, title II, § 235(a)(3), (13), 108 Stat. 3220, 3221.)

CODIFICATION

In subsec. (a), “chapter 31 of title 31” and “that chapter” substituted for “the Second Liberty Bond Act, as amended” and “that Act”, respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1994—Pub. L. 103–354 substituted “Secretary” for “Administrator, upon the request and approval of the Secretary of Agriculture,” and for “Administrator appointed pursuant to the provisions of this chapter or from the Administrator of the Rural Electrification Administration established by Executive Order Numbered 7037” in first sentence of subsec. (a) and substituted “Secretary” for “Administrator” wherever appearing.

1973—Subsec. (f). Pub. L. 93–32 struck out subsec. (f) which made provision for the disposition of payments on loans that had been made by the Administrator.

1971—Subsec. (f). Pub. L. 92–12 inserted introductory text “Except as otherwise provided in sections 931 and 946(a) of this title”.

1955—Subsec. (c). Act June 15, 1955, reduced the funds which may be allotted for loans from fifty to twenty-five per centum of the available or appropriated sum, and inserted two provisos.

Subsec. (d). Act June 15, 1955, substituted “75 per centum” for “50 per centum”, and “25 per centum” for “10 per centum”.

Subsec. (e). Act June 15, 1955, substituted “25 per centum” for “10 per centum”.

1949—Act Oct. 28, 1949, § 2, inserted “title I,” in credit of act May 20, 1936.

Subsec. (a). Act Oct. 28, 1949, § 4(a), authorized loans for financing facilities to render telephone service.

Subsec. (c). Act Oct. 28, 1949, § 4(b), substituted “for loans for rural electrification pursuant to sections 904 and 905 of this title” for “for the purposes of this chapter”.

Subsec. (d). Act Oct. 28, 1949, § 4(c), inserted “rural electrification” after “available for”.

Subsec. (e). Act Oct. 28, 1949, § 4(d), inserted “for rural electrification loans” after “sums” in proviso.

1947—Subsec. (a). Act July 30, 1947, amended subsec. (a) generally, and among other things transferred from the Reconstruction Finance Corporation to the Secretary of the Treasury the power to make loans.

Subsec. (f). Act July 30, 1947, substituted Secretary of the Treasury for Reconstruction Finance Corporation.

1944—Subsec. (a). Act Sept. 21, 1944, struck out “The Reconstruction Finance Corporation is hereby authorized and directed to make loans to the Administrator, upon his request approved by the President, not exceeding in aggregate amounts \$50,000,000 for the fiscal year ending June 30, 1937, and \$100,000,000 for the fiscal year ending June 30, 1939, with interest at 3 per centum per annum” and inserted in lieu thereof “The Reconstruction Finance Corporation is hereby authorized and directed to make loans to the Administrator, upon the request and approval of the Secretary of Agriculture, in such amounts in the aggregate for each fiscal year commencing with the fiscal year ending June 30, 1945, as the Congress may from time to time determine to be necessary, with interest at a rate of 1¾ per centum per annum”, changed colon to period following “numbered 70037”, inserted “Interest rates on the unpaid balance of any loans made by the Reconstruction Finance Corporation to the Administrator prior to the effective date of this amendment shall be adjusted to a rate of 1¾ per centum per annum”, inserted sentence “The amount of the notes, bonds, debentures, and other such obligations which the Reconstruction Finance Corporation is authorized and empowered to issue and to have outstanding at any one time under existing law is hereby increased by an amount sufficient to carry out the provisions hereof”, and substituted “thirty-five years” for “twenty-five years” in second proviso.

Subsec. (b). Act Sept. 21, 1944, struck out subsec. (b) limiting amount of appropriation and renewal of appropriations to eight years after June 30, 1938, and inserted a new subsec. (b).

Subsec. (e). Act Sept. 21, 1944, struck out “and provided further, that no loans shall be made by the Reconstruction Finance Corporation to the Administrator after June 30, 1939”, and changed colon to period after “territories”.

1938—Subsecs. (a), (e). Act June 21, 1938, inserted “and \$100,000,000 for the fiscal year ending June 30, 1939” after “June 30, 1937,” in subsec. (a), and substituted “June 30, 1939” for “June 30, 1937” in subsec. (e).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as an Effective Date note under section 930 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-12 effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as an Effective Date note under section 921a of this title.

TRANSFER OF FUNCTIONS

Functions, property, and personnel of Rural Electrification Administration established by Executive Order Numbered 7037 of May 11, 1935, transferred by Executive Order 7458 of Sept. 26, 1936, to Rural Electrification Administration established by Rural Electrification Act of 1936 (49 Stat. 1363), which was transferred to Department of Agriculture by 1939 Reorg. Plan No. II, § 5, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, set out in the Appendix to Title 5, Government Organization and Employees.

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.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished Reconstruction Finance Corporation.

RESTRICTIONS ON BORROWER

Section 401 of act June 21, 1938, as amended by Pub. L. 103-182, title III, § 381(d), Dec. 8, 1993, 107 Stat. 2129; Pub. L. 103-354, title II, § 235(b)(3), Oct. 13, 1994, 108 Stat. 3221; Pub. L. 103-465, title III, § 342(g), Dec. 8, 1994, 108 Stat. 4954, in addition to amending subsecs. (a) and (e), provided in part as follows: “In making loans pursuant to this title [title IV of such act] and pursuant to the Rural Electrification Act of 1936 [this chapter], the Secretary of Agriculture shall require that, to the extent practicable and the cost of which is not unreasonable, the borrower agree to use in connection with the expenditure of such funds only such unmanufactured articles, materials, and supplies, as have been mined or produced in the United States or in any eligible country, and only such manufactured articles, materials, and supplies as have been manufactured in the United States or in any eligible country substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States or in any eligible country. For purposes of this section, an ‘eligible country’ is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and United States suppliers to the markets of that country, as determined by the United States Trade Representative.”

[Amendment by section 342(g) of Pub. L. 103-465 to section 401 of act June 21, 1938, set out above, effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 344(b) of Pub. L. 103-465, set out as an Effective Date of 1994 Amendment note under section 2512 of Title 19, Customs Duties.]

[Amendment by subsec. 381(d) of Pub. L. 103-182 to section 401 of act June 21, 1938, set out above, effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 381(e) of Pub. L. 103-182, set out as an Effective Date of 1993 Amendment note under section 2511 of Title 19, Customs Duties.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 904, 907, 912, 922, 931, 932, 946 of this title.

§ 904. Loans by Secretary of Agriculture for electrical plants and transmission lines; preferences; consent of State authorities

The Secretary is authorized and empowered, from the sums hereinbefore authorized, to make loans for rural electrification to persons, corporations, States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts and cooperative, nonprofit, or limited-dividend associations, organized under the laws of any State or Territory of the United States, for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing of electric energy to persons in rural areas who are not receiving central station service and for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems, and loans, from funds available under the provisions of sections 903(d) and 903(e) of this title but without regard to the 25 per centum limitation therein contained, to cooperative associations and municipalities for the purpose of enabling said cooperative associations, and municipalities to the extent that such indebtedness was incurred with respect to electric transmission and distribution lines or systems or portions thereof serving persons in rural areas, to discharge or refinance long-term debts owned by them to the Tennessee Valley Authority on account of loans made or credit extended under the terms of the Tennessee Valley Authority Act of 1933, as amended [16 U.S.C. 831 et seq.]: *Provided*, That the Secretary, in making such loans, shall give preference to States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts, and cooperative, nonprofit, or limited-dividend associations, the projects of which comply with the requirements of this chapter. Such loans shall be on such terms and conditions relating to the expenditure of the moneys loaned and the security therefor as the Secretary shall determine and may be made payable in whole or in part out of the income: *Provided, further*, That all such loans shall be self-liquidating within a period of not to exceed thirty-five years, and shall bear interest at the rate of 2 per centum per annum; interest rates on the unmatured and unpaid balance of any loans made pursuant to this section prior to September 21, 1944, shall be adjusted to 2 per centum per annum, and the maturity date of any such loans may be readjusted to occur at a date not beyond thirty-five years from the date of such loan: *And provided further*, That no loan for the construction, operation, or enlargement of any generating plant shall be made unless the consent of the State authority having jurisdiction in the premises is first obtained. Loans under this section and section 905 of this title shall not be made unless the Secretary finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed.

(May 20, 1936, ch. 432, title I, § 4, 49 Stat. 1365; Sept. 21, 1944, ch. 412, title V, §§ 502(a), 503, 58 Stat. 739, 740; Dec. 23, 1944, ch. 725, 58 Stat. 925; June 29, 1948, ch. 703, 62 Stat. 1070; Oct. 28, 1949, ch. 776, § 2, 4(e), 63 Stat. 948; June 15, 1955, ch. 139, § 2, 69 Stat. 132; Nov. 1, 1993, Pub. L. 103-129, § 2(c)(2), 107 Stat. 1363; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

REFERENCES IN TEXT

The Tennessee Valley Authority Act of 1933, as amended, referred to in text, is act May 18, 1933, ch. 32, 48 Stat. 58, as amended, which is classified generally to chapter 12A (§ 831 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 831 of Title 16 and Tables.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1993—Pub. L. 103-129 inserted “and for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems” after “central station service”.

1955—Act June 15, 1955, substituted “25 per centum” for “10 per centum”.

1949—Act Oct. 28, 1949, inserted “for rural electrification” after “to make loans” in first sentence, and inserted “title I,” in credit of act May 20, 1936.

1948—Act June 29, 1948, permitted certain municipalities to refinance with R.E.A. their indebtedness with T.V.A.

1944—Act Dec. 23, 1944, inserted provision authorizing loans to cooperative associations to enable them to discharge or refinance debts owed to the Tennessee Valley Authority.

Act Sept. 21, 1944, extended limit of self-liquidating period from 25 to 35 years and changing the rate of interest.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 903, 905, 907, 912, 922, 931, 932, 936b, 948 of this title; title 16 section 2708.

§ 905. Loans for electrical and plumbing equipment; persons eligible for loans

The Secretary is authorized and empowered, from the sums hereinbefore authorized, to make loans for the purpose of financing the wiring of the premises of persons in rural areas and the acquisition and installation of electrical and plumbing appliances and equipment. Such loans may be made to any of the borrowers of funds loaned under the provisions of section 904 of this title, or to any person, firm, or corporation supplying or installing the said wiring, appliances, or equipment. Such loans shall be for such terms, subject to such conditions, and so, secured as reasonably to assure repayment thereof, and shall be at a rate of interest of 2 per centum per annum; interest rates on the unmatured and unpaid balance of any loans made pursuant to this section prior to September 21, 1944, shall be adjusted to 2 per centum per annum.

(May 20, 1936, ch. 432, title I, § 5, 49 Stat. 1365; Sept. 21, 1944, ch. 412, title V, § 502(b), 58 Stat. 739; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

1944—Act Sept. 21, 1944, substituted a rate of interest of two per centum per annum for a former rate equal to the average rate of interest payable by the United States on certain of its obligations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 903, 904, 912, 931, 932 of this title.

§ 906. Authorization of appropriations; testimony by Secretary of Agriculture before Congressional committees in justification of budget requests

For the purpose of administering this chapter and for the purpose of making the studies, investigations, publications, and reports herein provided for, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as shall be necessary. On or before February 15, of each calendar year beginning with calendar year 1976, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purpose of administering this chapter and for the purpose of making the studies, investigations, publications, and reports herein authorized.

(May 20, 1936, ch. 432, title I, § 6, 49 Stat. 1365; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Nov. 4, 1975, Pub. L. 94-124, § 3, 89 Stat. 677; Nov. 2, 1994, Pub. L. 103-437, § 4(a)(3), 108 Stat. 4581.)

AMENDMENTS

1994—Pub. L. 103-437 substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry”.

1975—Pub. L. 94-124 inserted requirement that the Secretary of Agriculture testify before the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry each calendar year on or before February 15th or other date specified by the Committees to provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year.

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 911 of this title.

§ 906a. Use of funds outside the United States or its territories prohibited

No funds provided under this chapter shall be used outside the United States or any of its territories.

(Pub. L. 93-32, § 10, May 11, 1973, 87 Stat. 71.)

CODIFICATION

Section was not enacted as part of the Rural Electrification Act of 1936 which comprises this chapter.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

§ 907. Acquisition of property pledged for loans; disposition; sale of pledged property by borrower

The Secretary is authorized and empowered to bid for and purchase at any foreclosure or other sale, or otherwise to acquire, property pledged or mortgaged to secure any loan made pursuant to this chapter; to pay the purchase price and any costs and expenses incurred in connection therewith from the sums authorized in section 903 of this title; to accept title to any property so purchased or acquired in the name of the United States of America; to operate or lease such property for such period as may be deemed necessary or advisable to protect the investment therein, but not to exceed five years after the acquisition thereof; and to sell such property so purchased or acquired, upon such terms and for such consideration as the Secretary shall determine to be reasonable.

No borrower of funds under sections 904 or 922 of this title shall, without the approval of the Secretary, sell or dispose of its property, rights, or franchises, acquired under the provisions of this chapter, until any loan obtained from the Rural Electrification Administration, including all interest and charges, shall have been repaid. (May 20, 1936, ch. 432, title I, § 7, 49 Stat. 1365; Oct. 28, 1949, ch. 776, §§ 2, 4(f), 63 Stat. 948; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1949—Act Oct. 28, 1949, inserted “or section 922” after “904” in second par., and inserted “title I,” in credit of act May 20, 1936.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 903, 932 of this title.

§ 908. Transfer of functions of Administration created by Executive Order 7037

The administration of loans and contracts entered into by the Rural Electrification Administration established by Executive Order Numbered 7037, dated May 11, 1935, may be vested by the President in the Secretary; and in such event the provisions of this chapter shall apply to said loans and contracts to the extent that said provisions are not inconsistent therewith. The President may transfer to the Secretary the jurisdiction and control of the records, property (including office equipment), and personnel used or employed in the exercise and performance of the functions of the Rural Electrification Administration established by such Executive order.

(May 20, 1936, ch. 432, title I, § 8, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(4), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 in first sentence substituted “Secretary” for “Administrator authorized to be appointed by this chapter” and in second sentence substituted “Secretary” for “Rural Electrification Administration created by this chapter”.

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

TRANSFER OF FUNCTIONS

Functions, property, and personnel of Rural Electrification Administration established by Executive Order Numbered 7037 of May 11, 1935, transferred by Executive Order 7458 of Sept. 26, 1936, to Rural Electrification Administration established by Rural Electrification Act of 1936 (49 Stat. 1363), which was transferred to Department of Agriculture by 1939 Reorg. Plan No. II, § 5, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, set out in the Appendix to Title 5, Government Organization and Employees.

§ 909. Administration on nonpolitical basis; dismissal of officers or employees for violating provision

This chapter shall be administered entirely on a nonpartisan basis, and in the appointment of officials, the selection of employees, and in the promotion of any such officials or employees, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. If the Secretary herein provided for is found by the President of the United States to be guilty of a violation of this section, he shall be removed from office by the President, and any appointee or selection of officials or employees made by the Secretary who is found guilty of a violation of this chapter shall be removed by the Secretary.

(May 20, 1936, ch. 432, title I, § 9, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

§ 910. Annual report

The Secretary shall present annually to the Congress not later than the 20th day of April in each year a full report of his activities under this chapter.

(May 20, 1936, ch. 432, title I, § 10, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Apr. 21, 1976, Pub. L. 94-273, § 11(1), 90 Stat. 378; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1976—Pub. L. 94-273 substituted “April” for “January”.

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

§ 911. Acceptance of services of Federal or State officers; application of civil service laws; expenditures for supplies and equipment

In order to carry out the provisions of this chapter the Secretary may accept and utilize such voluntary and uncompensated services of Federal, State, and local officers and employees as are available, and he may appoint and fix the compensation of attorneys, engineers, and experts and he may, subject to the civil-service laws, appoint such other officers and employees

as he may find necessary and prescribe their duties. The Secretary is authorized, from sums appropriated pursuant to section 906 of this title, to make such expenditures (including expenditures for personal services; supplies and equipment; lawbooks and books of reference; directories and periodicals; travel expenses; rental at the seat of government and elsewhere; the purchase, operation, or maintenance of passenger-carrying vehicles; and printing and binding) as are appropriate and necessary to carry out the provisions of this chapter.

(May 20, 1936, ch. 432, title I, § 11, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

REFERENCES IN TEXT

The civil service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

Provisions which authorized the appointment and fixing of compensation of attorneys, engineers, and experts "without regard to the provisions of the civil service laws applicable to officers and employees of the United States" were omitted from the Code as obsolete and superseded. Such appointments are now subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to act Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees. As to the compensation of such personnel, sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89-554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5. Section 5102 of Title 5 now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

AMENDMENTS

1994—Pub. L. 103-354 substituted "Secretary" for "Administrator" in two places.

1949—Act Oct. 28, 1949, inserted "title I," in credit of act May 20, 1936.

§ 911a. Repealed. Pub. L. 103-354, title II, § 235(a)(5), Oct. 13, 1994, 108 Stat. 3221

Section, act May 20, 1936, ch. 432, title I, § 11A, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2350, 104 Stat. 4037; amended Dec. 13, 1991, Pub. L. 102-237, title VII, § 703(a), 105 Stat. 1881, related to Assistant Administrator for Economic Development.

§ 912. Extension of time for repayment of loans

(a) The Secretary is authorized and empowered to extend the time of payment of interest or principal of any loans made by the Secretary pursuant to this chapter: *Provided, however*, That with respect to any loan made under section 904 or 922 of this title, the payment of interest or principal shall not be extended more than five years after such payment shall have become due, and with respect to any loan made under section 905 of this title, the payment of principal

or interest shall not be extended more than two years after such payment shall have become due: *And provided further*, That the provisions of this section shall not apply to any obligations or the security therefor which may be held by the Reconstruction Finance Corporation under the provisions of section 903 of this title.

(b)(1) Subject to limitations established in appropriations Acts, the Secretary shall permit any borrower to defer the payment of principal and interest on any insured or direct loan made under this chapter under circumstances described in this subsection, notwithstanding any limitation contained in subsection (a) of this section, except that such deferment shall not be permitted based on the determination of the Secretary of the financial hardship of the borrower.

(2)(A) In the case of deferments made to enable the borrower to provide financing to local businesses, the deferment shall be repaid in equal installments, without the accrual of interest, over the 60-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

(B) In the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, and for other community, business, or economic development projects not included under subparagraph (A), the deferment shall be repaid in equal installments, without the accrual of interest, over the 120-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

(3)(A) A borrower may defer its debt service payments only in an amount equal to an investment made by such borrower as described in paragraph (2).

(B) The amount of the deferment shall not exceed 50 percent of the total cost of a community or economic development project for which a deferment is provided under this subsection.

(C) The total amount of deferments under this subsection during each of the fiscal years 1990 through 1993 shall not exceed 3 percent of the total payments due during such fiscal year from all borrowers on direct and insured loans made under this chapter and shall not exceed 5 percent of such total payments due in each subsequent fiscal year.

(D) At the time of a deferment, the borrower shall make a payment to a cushion of credit account established and maintained pursuant to section 940c of this title in an amount equal to the amount of the payment deferred. The balance of such account shall not be reduced by the borrower below the level of the unpaid balance of the payment deferred. Subject to limitations established in annual appropriations Acts, such cushion of credit amounts and any other cushion of credit and advance payments of any borrower shall be included in the interest differential calculation under section 940c(b)(2)(A) of this title.

(4) The Secretary shall undertake all reasonable efforts to permit the full amount of deferments authorized by this subsection during each fiscal year.

(May 20, 1936, ch. 432, title I, § 12, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 4(f), 63 Stat. 948; Nov.

28, 1990, Pub. L. 101-624, title XXIII, §2344, 104 Stat. 4028; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Subsecs. (a), (b)(1), (4). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1990—Pub. L. 101-624 designated existing provisions as subsec. (a) and added subsec. (b).

1949—Act Oct. 28, 1949, inserted “or section 922” after “904” in first proviso, and inserted “title I,” in credit of act May 20, 1936.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished Reconstruction Finance Corporation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 912a of this title.

§ 912a. Rescheduling and refinancing of loans

In addition to the loan extension authority provided in section 912 of this title, the Secretary of Agriculture is authorized to adjust and readjust the schedules for payment of principal and interest on loans to borrowers under programs administered by the Secretary under this chapter, and to extend the maturity date of any such loan to a date not beyond forty years from the date of such loan where he determines such action is necessary because of the impairment of the economic feasibility of the system, or the loss, destruction, or damage of the property of such borrowers as a result of a major disaster.

(Pub. L. 91-606, title II, §236(a), Dec. 31, 1970, 84 Stat. 1754; Pub. L. 103-354, title II, §235(b)(1), Oct. 13, 1994, 108 Stat. 3221.)

CODIFICATION

Section was enacted as part of the Disaster Relief Act of 1970, and not as part of the Rural Electrification Act of 1936 which constitutes this chapter. Section was formerly classified to section 4455(a) of Title 42, The Public Health and Welfare.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary under this chapter” for “Rural Electrification Administration”.

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

§ 913. Definitions

As used in this chapter the term “rural area”, except as provided in section 924(b) of this title, shall be deemed to mean any area of the United States not included within the boundaries of any urban area, as defined by the Bureau of the Census, and such term shall be deemed to include both the farm and nonfarm population thereof; the term “farm” shall be deemed to mean a farm as defined in the publications of the Bureau of the Census; the term “person” shall be deemed to mean any natural person, firm, corporation, or association; the term “Territory” shall be deemed to include any insular posses-

sion of the United States; and the term “Secretary” shall be deemed to mean the Secretary of Agriculture.

(May 20, 1936, ch. 432, title I, §13, 49 Stat. 1367; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; Nov. 1, 1993, Pub. L. 103-129, §2(c)(3), 107 Stat. 1363; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(6), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 inserted before period at end “; and the term ‘Secretary’ shall be deemed to mean the Secretary of Agriculture”.

1993—Pub. L. 103-129 inserted “, except as provided in section 924(b) of this title,” before “shall be deemed to mean” and substituted “urban area, as defined by the Bureau of the Census” for “city, village, or borough having a population in excess of fifteen hundred inhabitants.”

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

§ 914. Separability

If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(May 20, 1936, ch. 432, title I, §14, 49 Stat. 1367; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948.)

AMENDMENTS

1949—Act Oct. 28, 1949, inserted “title I,” in credit of act May 20, 1936.

§ 915. Purchase of financial and credit reports

The Secretary of Agriculture is authorized to purchase such financial and credit reports as may be necessary to carry out the Secretary’s authorized work: *Provided*, That purchases under this authority shall not be made unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein.

(Sept. 21, 1944, ch. 412, title V, §505, 58 Stat. 740; Oct. 13, 1994, Pub. L. 103-354, title II, §235(b)(2), 108 Stat. 3221.)

CODIFICATION

Section was enacted as part of the Department of Agriculture Organic Act of 1944, and not as part of the Rural Electrification Act of 1936 which constitutes this chapter.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary of Agriculture” for “Rural Electrification Administration” and “the Secretary’s” for “its”.

§ 916. Criteria for loans

In order to insure coordination of electric generation and transmission financing under this chapter with the national energy policy, the Secretary in making or guaranteeing loans for the construction, operation, or enlargement of generating plants or electric transmission lines or systems, shall consider such general criteria consistent with the provisions of this chapter as may be published by the Secretary of Energy.

(May 20, 1936, ch. 432, title I, §16, as added Aug. 4, 1977, Pub. L. 95-91, title VII, §709(f), 91 Stat.

608; amended Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” before “in making”.

§ 917. Repealed. Pub. L. 102-237, title VII, § 703(b), Dec. 13, 1991, 105 Stat. 1881

Section, act May 20, 1936, ch. 432, title I, § 17, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2343, 104 Stat. 4027, related to establishment of technical assistance unit to provide advice and technical assistance to electric and telephone borrowers under this chapter.

§ 918. General prohibitions

(a) No consideration of borrower’s level of general funds

The Secretary and the Governor of the telephone bank shall not deny or reduce any loan or loan advance under this chapter based on a borrower’s level of general funds.

(b) Loan origination fees

The Secretary and the Governor of the telephone bank may not charge any fee or charge not expressly provided in this chapter in connection with any loan made or guaranteed under this chapter.

(c) Consultants

(1) In general

To facilitate timely action on applications by borrowers for financial assistance under this chapter and for approvals required of the Rural Electrification Administration pursuant to the terms of outstanding loan or security instruments or otherwise, the Secretary may use consultants funded by the borrower, paid for out of the general funds of the borrower, for financial, legal, engineering, and other technical advice and services in connection with the review of the application by the Rural Electrification Administration.

(2) Conflicts of interest

The Secretary shall establish procedures for the selection and the provision of technical services by consultants to ensure that the consultants have no financial or other conflicts of interest in the outcome of the application of the borrower.

(3) Payment of costs

The Secretary may not, without the consent of the borrower, require, as a condition of processing an application for approval, that the borrower agree to pay the costs, fees, and expenses of consultants hired to provide technical or advisory services to the Secretary.

(4) Contracts, grants, and agreements

The Secretary may enter into such contracts, grants, or cooperative agreements as are necessary to carry out this section.

(5) Use of consultants

Nothing in this subsection shall limit the authority of the Secretary to retain the services of consultants from funds made available to the Secretary or otherwise.

(May 20, 1936, ch. 432, title I, § 18, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2353, 104

Stat. 4039; amended Nov. 1, 1993, Pub. L. 103-129, § 2(c)(4), 107 Stat. 1364; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-129 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

SUBCHAPTER II—RURAL TELEPHONE SERVICE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 931, 939 of this title.

§ 921. Congressional declaration of policy

It is declared to be the policy of the Congress that adequate telephone service be made generally available in rural areas through the improvement and expansion of existing telephone facilities and the construction and operation of such additional facilities as are required to assure the availability of adequate telephone service to the widest practicable number of rural users of such service.

(Oct. 28, 1949, ch. 776, § 1, 63 Stat. 948.)

CODIFICATION

Section is composed of the first sentence of section 1 of act Oct. 28, 1949. The second sentence of section 1 of that act, which provided that: “In order to effectuate this policy, the Rural Electrification Act of 1936 [this chapter] is amended as hereinafter provided”, is omitted from the Code.

Section was not enacted as part of title II of the Rural Electrification Act of 1936 which comprises subchapter II of this chapter.

§ 921a. Policy of financing of rural telephone program

It is hereby declared to be the policy of the Congress that the growing capital needs of the rural telephone systems require the establishment of a rural telephone bank which will furnish assured and viable sources of supplementary financing with the objective that said bank will become an entirely privately owned, operated, and financed corporation. The Congress further finds that many rural telephone systems require financing under the terms and conditions provided in this subchapter.

(Pub. L. 92-12, § 1, May 7, 1971, 85 Stat. 29.)

CODIFICATION

The last sentence of section 1 of Pub. L. 92-12 provided that: “In order to effectuate this policy, the Rural Electrification Act of 1936, as amended (7 U.S.C. 921-924), is amended as hereinafter provided.”

Section was not enacted as part of title II of the Rural Electrification Act of 1936 which comprises this subchapter.

EFFECTIVE DATE

Section 7 of Pub. L. 92-12 provided that: “This Act [enacting sections 921a, 931, 932, and 941 to 950b of this title and amending sections 903(f) and 922 of this title] shall take effect upon enactment [May 7, 1971].”

**RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND
PUB. L. 92-12**

Section 6 of Pub. L. 92-12 provided that: “The right to repeal, alter, or amend this Act [enacting sections 921a,

931, 932, and 941 to 950b of this title, amending sections 903 and 922 of this title and sections 856 and 868 of former Title 31, and enacting provisions set out as notes under sections 856 and 868 of former Title 31] is expressly reserved.”

§ 921b. Policy of expansion of markets for debentures

It is hereby declared to be the policy of the Congress that the Rural Telephone Bank should have the capability of obtaining adequate funds for its supplementary financing program at the lowest possible costs. In order to effectuate this policy, it will be necessary to expand the market for debentures to be issued by the Telephone Bank.

(Pub. L. 92-324, § 1, June 30, 1972, 86 Stat. 390.)

CODIFICATION

The last sentence of section 1 of Pub. L. 92-324 provided that: “The Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), is therefore further amended as hereinafter provided.”

Section was not enacted as part of the title II of the Rural Electrification Act of 1936 which comprises this subchapter.

EFFECTIVE DATE

Section 4 of Pub. L. 92-324 provided that: “This Act [enacting this section and amending section 947 of this title] shall take effect upon enactment [June 30, 1972].”

RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND PUB. L. 92-324

Section 3 of Pub. L. 92-324 provided that: “The right to repeal, alter, or amend this Act [enacting this section and amending section 947 of this title] is expressly reserved.”

§ 922. Loans for rural telephone service

From such sums as are from time to time made available by the Congress to the Secretary for such purpose, pursuant to section 903 of this title, the Secretary is authorized and empowered to make loans to persons now providing or who may hereafter provide telephone service in rural areas, to public bodies now providing telephone service in rural areas and to cooperative, nonprofit, limited dividend, or mutual associations. Except as otherwise provided by this subchapter, such loans shall be made under the same terms and conditions as are provided in section 904 of this title, for the purpose of financing the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems to furnish and improve telephone service in rural areas: *Provided, however,* That the Secretary, in making such loans, shall give preference to persons providing telephone service in rural areas, to public bodies now providing telephone service in rural areas, and to cooperative, nonprofit, limited, dividend, or mutual associations: *And provided further,* That for a period of one year from and after October 28, 1949, applications for loans received by the Secretary from persons who on October 28, 1949, are engaged in the operation of existing telephone service in rural areas shall be considered and acted upon before action is taken upon any application received from any other person for any loan to finance the furnishing or improvement of telephone service to substantially

the same subscribers. The Secretary in making such loans shall, insofar as possible, obtain assurance that the telephone service to be furnished or improved thereby will be made available to the widest practical number of rural users. When it is determined by the Secretary to be necessary in order to furnish or improve telephone service in rural areas, such loans may be made for the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems without regard to their geographical location. The Secretary is further authorized and empowered to make loans for the purpose of refinancing outstanding indebtedness of persons furnishing telephone service in rural areas: *Provided,* That such refinancing shall be determined by the Secretary to be necessary in order to furnish and improve telephone service in rural areas: *And provided further,* That such refinancing shall constitute not more than 40 per centum of any loan made under this subchapter. Loans under this section shall not be made unless the Secretary finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed, nor shall such loan be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service and to require certificates of convenience and necessity to the applicant unless such certificate from such agency is first obtained. In a State in which there is no such agency or regulatory body legally authorized to issue such certificates to the applicant, no loan shall be made under this section unless the Secretary shall determine (and set forth his reasons therefor in writing) that no duplication of lines, facilities, or systems, providing reasonably adequate services will result therefrom.

(May 20, 1936, ch. 432, title II, § 201, as added Oct. 28, 1949, ch. 776, § 5, 63 Stat. 948; amended May 7, 1971, Pub. L. 92-12, § 3(b), 85 Stat. 37; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1971—Pub. L. 92-12 inserted “, to public bodies now providing telephone service in rural areas” after “areas” in first sentence and after “areas” in first proviso of second sentence.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-12 effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as an Effective Date note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 907, 912, 927, 931, 932, 946, 948, 950b of this title.

§ 923. State regulation of telephone service

Nothing contained in this chapter shall be construed to deprive any State commission, board, or other agency of jurisdiction, under any State law, now or hereafter effective, to regulate telephone service which is not subject to regulation by the Federal Communications Commission, under the Communications Act of

1934 [47 U.S.C. 151 et seq.], including the rates for such service.

(May 20, 1936, ch. 432, title II, § 202, as added Oct. 28, 1949, ch. 776, § 5, 63 Stat. 948.)

REFERENCES IN TEXT

The Communications Act of 1934, referred to in text, is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (§ 151 et seq.) of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

§ 924. Definition of telephone service and rural area

(a) As used in this subchapter, the term “telephone service” shall be deemed to mean any communication service for the transmission or reception of voice, data, sounds, signals, pictures, writing, or signs of all kinds by wire, fiber, radio, light, or other visual or electromagnetic means, and shall include all telephone lines, facilities, or systems used in the rendition of such service; but shall not be deemed to mean message telegram service or community antenna television system services or facilities other than those intended exclusively for educational purposes, or radio broadcasting services or facilities within the meaning of section 153(o) of title 47.

(b) As used in this subchapter, the term “rural area” shall be deemed to mean any area of the United States not included within the boundaries of any incorporated or unincorporated city, village, or borough having a population in excess of 5,000 inhabitants.

(May 20, 1936, ch. 432, title II, § 203, as added Oct. 28, 1949, ch. 776, § 5, 63 Stat. 948; amended Oct. 23, 1962, Pub. L. 87-862, 76 Stat. 1140; Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2354, 104 Stat. 4039; Nov. 1, 1993, Pub. L. 103-129, § 2(c)(5), 107 Stat. 1364.)

AMENDMENTS

1993—Subsec. (b). Pub. L. 103-129 substituted “5,000” for “one thousand five hundred”.

1990—Subsec. (a). Pub. L. 101-624 inserted “or reception” after “transmission” and “data,” after “voice,” and substituted “by wire, fiber, radio, light, or other visual or electromagnetic means” for “through the use of electricity between the transmitting and receiving apparatus”.

1962—Subsec. (a). Pub. L. 87-862 included the transmission of sounds, signals, pictures, writing, or signs of all kinds within “telephone service”, and substituted “message telegram service or community antenna television system services or facilities other than those intended exclusively for educational purposes” for “telegraph services or facilities”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 913, 948, 950aaa-3, 950aaa-4 of this title.

§ 925. Loan feasibility

The Secretary and the Governor of the telephone bank may not, as a condition of making a telephone loan to an applicant therefor, require the applicant to—

- (1) increase the rates charged to the applicant’s customers or subscribers; or
- (2) increase the applicant’s ratio of—

(A) net income or margins before interest; to

(B) the interest requirements on all of the applicant’s outstanding and proposed loans.

(May 20, 1936, ch. 432, title II, § 204, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2355, 104 Stat. 4039; amended Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

§ 926. Certain rural development investments by qualified telephone borrowers not treated as dividends or distributions

(a) In general

The Secretary and the Governor of the telephone bank shall not—

(1) treat any amount invested by any qualified telephone borrower for any purpose described in section 2204b(c)(2) of this title (including any investment in, or extension of credit, guarantee, or advance made to, an affiliated company of the borrower, that is used by such company for such a purpose) as a dividend or distribution of capital to the extent that, immediately after such investment, the aggregate of such investments does not exceed $\frac{1}{3}$ of the net worth of the borrower; or

(2) require a qualified telephone borrower to obtain the approval of the Secretary or the Governor of the telephone bank in order to make an investment described in paragraph (1).

(b) “Qualified telephone borrower” defined

As used in subsection (a) of this section, the term “qualified telephone borrower” means a person—

(1) to whom a telephone loan has been made or guaranteed under this chapter; and

(2) whose net worth is at least 20 percent of the total assets of such person.

(May 20, 1936, ch. 432, title II, § 205, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2356, 104 Stat. 4039; amended Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-354 substituted “Secretary” for “Administrator” in two places.

§ 927. General duties and prohibitions

(a) Duties

The Secretary and the Governor of the telephone bank shall—

(1) notwithstanding section 553(a)(2) of title 5, cause to be published in the Federal Register, in accordance with subsections (b) through (e) of section 553 of such title, all rules, regulations, bulletins, and other written policy standards governing the operations of the telephone loan and loan guarantee programs administered under this chapter other than those relating to agency management and personnel;

(2) in evaluating the feasibility of a telephone loan to be made to a borrower for telephone services, use—

(A) with respect to items for which the regulatory authority with jurisdiction over the provision of such services has approved the depreciation rates used by the borrower, such approved rates; and

(B) with respect to other items, the average of the depreciation rates used by borrowers of telephone loans made under this chapter;

(3) annually determine and publish the average described in paragraph (2)(B); and

(4) make loans for all purposes for which telephone loans are authorized under section 922 or 948 of this title, to the extent of qualifying applications therefor.

(b) Prohibitions

The Secretary and the Governor of the telephone bank shall not—

(1) rescind an insured telephone loan, or a Rural Telephone Bank loan, made under this chapter without the consent of the borrower, unless all of the purposes for which telephone loans have been made to the borrower under this chapter have been accomplished with funds provided under this chapter;

(2) regulate the order or sequence of advances of funds under telephone loans made under this chapter to any borrower who has received any combination of telephone loans from the Secretary, the Rural Telephone Bank, or the Federal Financing Bank; or

(3) deny a loan or advance to, or take any other adverse action against, an applicant for, or a borrower of, a telephone loan under this chapter for any reason that is not based on a rule, regulation, bulletin, or other written policy standard that has not been published pursuant to section 553 of title 5.

(May 20, 1936, ch. 432, title II, § 206, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2357, 104 Stat. 4040; amended Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(7), (13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” in subsecs. (a) and (b) and “Secretary” for “Rural Electrification Administration” in subsec. (b)(2).

§ 928. Prompt processing of telephone loans

Within ten days after the end of the second and fourth calendar quarters of each year, the Secretary shall submit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, a report—

(1) identifying each completed application for a telephone loan under section 935 of this title, a guarantee of a telephone loan under section 936 of this title, or a loan under section 948 of this title, that has not been finally acted upon within ninety days after the date the completed application is submitted; and

(2) stating the reasons for the failure to finally act upon the completed applications within such ninety-day period.

(May 20, 1936, ch. 432, title II, § 207, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2358, 104

Stat. 4041; amended Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

SUBCHAPTER III—RURAL ELECTRIC AND TELEPHONE DIRECT LOAN PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 948, 950aa-1, 1926-1, 2008 of this title.

§ 930. Congressional declaration of policy

It is hereby declared to be the policy of the Congress that adequate funds should be made available to rural electric and telephone systems through direct, insured and guaranteed loans at interest rates which will allow them to achieve the objectives of this chapter and that such rural electric and telephone systems should be encouraged and assisted to develop their resources and ability to achieve the financial strength needed to enable them to satisfy their credit needs from their own financial organizations and other sources at reasonable rates and terms consistent with the loan applicant's ability to pay and achievement of this chapter's objectives.

(Pub. L. 93-32, § 1, May 11, 1973, 87 Stat. 65.)

CODIFICATION

The last sentence of section 1 of Pub. L. 93-32 provided that: “The Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), is therefore further amended as hereinafter provided.”

Section was not enacted as part of the Rural Electrification Act of 1936 which comprises this chapter.

EFFECTIVE DATE

Section 12 of Pub. L. 93-32 provided that: “This Act [enacting sections 906a, 930, and 933 to 940 of this title, amending sections 903, 931, 932, 945, 946, 947, and 948 of this title, and enacting provisions set out as notes under this section] shall take effect upon enactment [May 11, 1973].”

RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND
PUB. L. 93-32

Section 11 of Pub. L. 93-32 provided that: “The right to repeal, alter, or amend, this Act [enacting sections 906a, 930, and 933 to 940 of this title, amending sections 903, 931, 932, 945, 946, 947, and 948 of this title, and enacting provisions set out as notes under this section] is expressly reserved.”

§ 931. Rural Electrification and Telephone Revolving Fund

(a)¹ There is hereby established in the Treasury of the United States a fund, to be known as the Rural Electrification and Telephone Revolving Fund (hereinafter referred to as the “fund”), consisting of:

(1) all notes, bonds, obligations, liens, mortgages, and property delivered or assigned to the Secretary pursuant to loans heretofore or hereafter made under sections 904, 905, and 922 of this title and under this subchapter, as of May 11, 1973, and all proceeds from the sales hereunder of such notes, bonds, obligations,

¹ So in original. No subsec. (b) has been enacted.

liens, mortgages, and property, which shall be transferred to and be assets of the funds;

(2) undisbursed balances of electric and telephone loans made under sections 904, 905, and 922 of this title, which as of May 11, 1973, shall be transferred to and be assets of the fund;

(3) notwithstanding section 903(a) of this title, all collections of principal and interest received on and after July 1, 1972, on notes, bonds, judgments, or other obligations made or held under subchapters I and II of this chapter and under this subchapter, except for net collection proceeds previously appropriated for the purchase of class A stock in the Rural Telephone Bank, which shall be paid into and be assets of the fund;

(4) all appropriations for interest subsidies and losses required under this subchapter which may hereafter be made by the Congress and the unobligated balances of any funds made available for loans under the item "Rural Electrification Administration" in the Department of Agriculture and Agriculture-Environmental and Consumer Protection Appropriations Acts;

(5) moneys borrowed from the Secretary of the Treasury pursuant to section 934(a) of this title;

(6) shares of the capital stock of the Rural Telephone Bank purchased by the United States pursuant to section 946(a) of this title and moneys received from said bank upon retirement of said shares of stock in accordance with the provisions of subchapter IV of this chapter, which said shares and moneys shall be assets of the fund.

(May 20, 1936, ch. 432, title III, § 301, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 29; amended May 11, 1973, Pub. L. 93-32, § 2, 87 Stat. 66; Oct. 20, 1976, Pub. L. 94-570, § 2, 90 Stat. 2701; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-354 substituted "Secretary" for "Administrator".

1976—Subsec. (a)(4). Pub. L. 94-570 provided for inclusion in the fund the unobligated balances of any funds made available for loans under item "Rural Electrification Administration" in the Department of Agriculture and Agriculture-Environmental and Consumer Protection Appropriation Acts.

1973—Pub. L. 93-32 substituted provisions establishing the Rural Electrification and Telephone Revolving Fund and enumerating its constituent parts, for provisions establishing a rural telephone account in the United States Treasury.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-570 effective Oct. 20, 1976, see section 4 of Pub. L. 94-570, set out as a note under section 935 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as an Effective Date note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 946 of this title.

§ 931a. Level of loan programs under Rural Electrification and Telephone Revolving Fund

On and after October 28, 1991, no funds in this Act or any other Act shall be available to carry out loan programs under the Rural Electrification and Telephone Revolving Fund at levels other than those provided for in advance in appropriations Acts.

(Pub. L. 102-142, title III, Oct. 28, 1991, 105 Stat. 903.)

CODIFICATION

Section was enacted as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992, and not as part of the Rural Electrification Act of 1936 which comprises this chapter.

§ 932. Liabilities and uses of Rural Electrification and Telephone Revolving Fund

(a) Liabilities and obligations of fund

The notes of the Secretary to the Secretary of the Treasury to obtain funds for loans under sections 904, 905, and 922 of this title, and all other liabilities against the appropriations or assets in the fund in connection with electrification and telephone loan operations shall be liabilities of the fund, and all other obligations against such appropriations or assets in the fund arising out of electrification and telephone loan operations shall be obligations of the fund.

(b) Uses of fund assets

The assets of the fund shall be available only for the following purposes:

(1) loans which could be insured under this subchapter, and for advances in connection with such loans and loans previously made, as of May 11, 1973, under sections 904, 905, and 922 of this title;

(2) payment of principal when due (without interest) on outstanding loans to the Secretary from the Secretary of the Treasury for electrification and telephone purposes pursuant to section 903(a) of this title and payment of principal and interest when due on loans to the Secretary from the Secretary of the Treasury pursuant to section 934(a) of this title;

(3) payment of amounts to which the holder of notes is entitled on insured loans: *Provided*, That payments other than final payments need not be remitted to the holder until due or until the next agreed annual, semiannual, or quarterly remittance date;

(4) payment to the holder of insured notes of any defaulted installment or, upon assignment of the note of the Secretary at his request, the entire balance due on the note;

(5) purchase of notes in accordance with contracts of insurance entered into by the Secretary;

(6) payment in compliance with contracts of guarantee;

(7) payment of taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application, and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, expenses for necessary services, including construction, inspections, commercial appraisals,

loan servicing, consulting business advisory or other commercial and technical services, and other program services, and other expenses and advances authorized in section 907 of this title in connection with insured loans. Such items may be paid in connection with guaranteed loans after or in connection with the acquisition of such loans or security thereof after default, to the extent determined to be necessary to protect the interest of the Government, or in connection with any other activity authorized in this chapter;

(8) payment of the purchase price and any costs and expenses incurred in connection with the purchase, acquisition, or operation of property pursuant to section 907 of this title.

(c) Separate electric and telephone accounts

(1) The Secretary shall maintain two separate accounts within the fund, which shall be known as the electric account and the telephone account, respectively.

(2)(A) The Secretary shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to electrification loan operations in the electric account.

(B) The Secretary shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to telephone loan operations in the telephone account.

(3)(A) The assets accounted for in the electric account shall be available solely for electrification loan operations under this chapter.

(B) The assets accounted for in the telephone account shall be available solely for telephone loan operations under this chapter (other than under subchapter IV of this chapter).

(May 20, 1936, ch. 432, title III, §302, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 30; amended May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 66; Nov. 28, 1990, Pub. L. 101-624, title XXIII, §2359, 104 Stat. 4041; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Subsecs. (a), (b)(2), (4), (5), (c)(1), (2). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1990—Subsec. (c). Pub. L. 101-624 added subsec. (c).

1973—Pub. L. 93-32 substituted provisions setting out the liabilities of the Rural Electrification and Telephone Revolving Fund and the allowable purposes for which fund assets shall be available, for provisions, that the monies in the rural telephone account should remain on deposit in the Treasury of the United States until disbursed.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as an Effective Date note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 933. Moneys in the Rural Electrification and Telephone Revolving Fund

Moneys in the fund shall remain on deposit in the Treasury of the United States until disbursed.

(May 20, 1936, ch. 432, title III, §303, as added May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 67.)

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§ 934. Authorized financial transactions; interim notes; purchase of obligations for resale; sale of notes and certificates; liens

(a) The Secretary is authorized to make and issue interim notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations of the fund and for making loans, advances and authorized expenditures out of the fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be agreed upon by the Secretary and the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Secretary under this section. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which such securities may be issued under such chapter are extended to include the purchase of notes issued by the Secretary. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States: *Provided, however*, That such interim notes to the Secretary of the Treasury shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) The Secretary of the Treasury is authorized and directed to purchase for resale obligations insured through the fund when offered by the Secretary. Such resales shall be upon such terms and conditions as the Secretary of the Treasury shall determine. Purchases and resales by the Secretary of the Treasury hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and not lending (budget outlays) of the United States.

(c) The Secretary may, on an insured basis or otherwise, sell and assign any notes in the fund or sell certificates of beneficial ownership therein to the Secretary of the Treasury or in the private market. Any sale by the Secretary of notes individually or in blocks shall be treated as a sale of assets for the purposes of chapter 11 of title 31, notwithstanding the fact that the Secretary, under an agreement with the purchaser or purchasers, holds the debt instruments evidencing the loans and holds or reinvests payments thereon as trustee and custodian for the purchaser or purchasers of the individual note or of the certificate of beneficial ownership in a

number of such notes. Security instruments taken by the Secretary in connection with any notes in the fund may constitute liens running to the United States notwithstanding the fact that such notes may be thereafter held by purchasers thereof.

(May 20, 1936, ch. 432, title III, §304, as added May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 67; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

CODIFICATION

In subsecs. (a) and (c), “chapter 31 of title 31”, “such chapter”, and “chapter 11 of title 31” substituted for “the Second Liberty Bond Act, as amended”, “such Act, as amended”, and “the Budget and Accounting Act, 1921 [31 U.S.C. 1 et seq.]”, respectively, on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 931, 932, 939 of this title.

§ 935. Insured loans; interest rates and lending levels

(a) In general

The Secretary is authorized to make insured loans under this subchapter and at the interest rates hereinafter provided to the full extent of the assets available in the fund, subject only to limitations as to amounts authorized for loans and advances as may be from time to time imposed by the Congress of the United States for loans to be made in any one year, which amounts shall remain available until expended: *Provided*, That the Congress in the annual appropriation Act may also authorize the transfer of any excess cash in the fund for deposit into the Treasury as miscellaneous receipts: *And provided further*, That any such loans and advances shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) Insured loans

Loans made under this section shall be insured by the Secretary when purchased by a lender. As used in this chapter, an insured loan is one which is made, held, and serviced by the Secretary, and sold and insured by the Secretary hereunder; such loans shall be sold and insured by the Secretary without undue delay.

(c) Insured electric loans

(1) Hardship loans

(A) In general

The Secretary shall make insured electric loans, to the extent of qualifying applications for the loans, at an interest rate of 5

percent per year to any applicant for a loan who meets each of the following requirements:

(i) The average revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

(ii) The average residential revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average residential revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

(iii) The average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

(B) Severe hardship loans

In addition to hardship loans that are made under subparagraph (A), the Secretary may make an insured electric loan at an interest rate of 5 percent per year to an applicant for a loan if, in the sole discretion of the Secretary, the applicant has experienced a severe hardship.

(C) Limitation

Except as provided in subparagraph (D), the Secretary may not make a loan under this paragraph to an applicant for the purpose of furnishing or improving electric service to a consumer located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

(D) Extremely high rates

In addition to hardship loans that are made under subparagraphs (A) and (B), the Secretary shall make insured electric loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year to any applicant for a loan whose residential revenue exceeds 15.0 cents per kilowatt-hour sold. A qualifying application from such an applicant for the purpose of furnishing or improving electric service to a consumer located outside of an urbanized area shall not be subject to the conditions or limitation of subparagraph (A) or (C).

(2) Municipal rate loans

(A) In general

The Secretary shall make insured electric loans, to the extent of qualifying applications for the loans, at the interest rate described in subparagraph (B) for the term or terms selected by the applicant pursuant to subparagraph (C).

(B) Interest rate**(i) In general**

Subject to clause (ii), the interest rate described in this subparagraph on a loan to a qualifying applicant shall be—

(I) the interest rate determined by the Secretary to be equal to the current market yield on outstanding municipal obligations with remaining periods to maturity similar to the term selected by the applicant pursuant to subparagraph (C), but not greater than the rate determined under section 1927(a)(3)(A) of this title that is based on the current market yield on outstanding municipal obligations; plus

(II) if the applicant for the loan makes an election pursuant to subparagraph (D) to include in the loan agreement the right of the applicant to prepay the loan, a rate equal to the amount by which—

(aa) the interest rate on commercial loans for a similar period that afford the borrower such a right; exceeds

(bb) the interest rate on commercial loans for the period that do not afford the borrower such a right.

(ii) Maximum rate

The interest rate described in this subparagraph on a loan to an applicant for the loan shall not exceed 7 percent if—

(I) the average number of consumers per mile of line of the total electric system of the applicant is less than 5.50; or

(II)(aa) the average revenue per kilowatt-hour sold by the applicant is more than the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service; and

(bb) the average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

(iii) Exception

Clause (ii) shall not apply to a loan to be made to an applicant for the purpose of furnishing or improving electric service to consumers located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

(C) Loan term**(i) In general**

Subject to clause (ii), the applicant for a loan under this paragraph may select the term for which an interest rate shall be determined pursuant to subparagraph (B), and, at the end of the term (and any succeeding term selected by the applicant under this subparagraph), may renew the loan for another term selected by the applicant.

(ii) Maximum term**(I) Applicant**

The applicant may not select a term that ends more than 35 years after the beginning of the first term the applicant selects under clause (i).

(II) Secretary

The Secretary may prohibit an applicant from selecting a term that would result in the total term of the loan being greater than the expected useful life of the assets being financed.

(D) Call provision

The Secretary shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan on terms consistent with similar provisions of commercial loans.

(3) Other source of credit not required in certain cases

The Secretary may not require any applicant for a loan made under this subsection who is eligible for a loan under paragraph (1) to obtain a loan from another source as a condition of approving the application for the loan or advancing any amount under the loan.

(d) Insured telephone loans**(1) Hardship loans****(A) In general**

The Secretary shall make insured telephone loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year, to any applicant who meets each of the following requirements:

(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 4.

(ii) The applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 300 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(iii) The Secretary has approved a telecommunications modernization plan for the State under paragraph (3) and, if the plan was developed by telephone borrowers under this subchapter, the applicant is a participant in the plan.

(iv) The average number of subscribers per mile of line in the area included in the proposed loan is not more than 17.

(B) Authority to waive tier requirement

The Secretary may waive the requirement of subparagraph (A)(ii) in any case in which the Secretary determines (and sets forth the reasons for the waiver in writing) that the requirement would prevent emergency restoration of the telephone system of the applicant or result in severe hardship to the applicant.

(C) Effect of lack of funds

On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall

be considered to have applied for a loan under subchapter IV of this chapter.

(2) Cost-of-money loans

(A) In general

The Secretary may make insured telephone loans for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service, at an interest rate equal to the then current cost of money to the Government of the United States for loans of similar maturity, but not more than 7 percent per year, to any applicant for a loan who meets the following requirements:

(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 15, or the applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(ii) The Secretary has approved a telecommunications modernization plan for the State under paragraph (3) and, if the plan was developed by telephone borrowers under this subchapter, the applicant is a participant in the plan.

(B) Concurrent loan authority

On request of any applicant for a loan under this paragraph during any fiscal year, the Secretary shall—

(i) consider the application to be for a loan under this paragraph and a loan under section 948 of this title; and

(ii) if the applicant is eligible for a loan, make a loan to the applicant under this paragraph in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this paragraph and under section 948 of this title, as the amount made available for loans under this paragraph for the fiscal year bears to the total amount made available for loans under this paragraph and under section 948 of this title for the fiscal year.

(C) Effect of lack of funds

On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan guarantee under section 936 of this title.

(3) State telecommunications modernization plans

(A) Approval

If, not later than 1 year after final regulations are promulgated to carry out this paragraph, any State, either by statute or through the public utility commission of the State, develops a telecommunications modernization plan that meets the requirements of subparagraph (B), the Secretary shall ap-

prove the plan for the State. If a State does not develop a plan in accordance with the requirements of the preceding sentence, the Secretary shall approve any telecommunications modernization plan for the State that meets the requirements that is developed by a majority of the borrowers of telephone loans made under this subchapter who are located in the State.

(B) Requirements

For purposes of subparagraph (A), a telecommunications modernization plan must, at a minimum, meet the following objectives:

(i) The plan must provide for the elimination of party line service.

(ii) The plan must provide for the availability of telecommunications services for improved business, educational, and medical services.

(iii) The plan must encourage and improve computer networks and information highways for subscribers in rural areas.

(iv) The plan must provide for—

(I) subscribers in rural areas to be able to receive through telephone lines—

(aa) conference calling;

(bb) video images; and

(cc) data at a rate of at least 1,000,000 bits of information per second; and

(II) the proper routing of information to subscribers.

(v) The plan must provide for uniform deployment schedules to ensure that advanced services are deployed at the same time in rural and nonrural areas.

(vi) The plan must provide for such additional requirements for service standards as may be required by the Secretary.

(C) Finality of approval

A telecommunications modernization plan approved under subparagraph (A) may not subsequently be disapproved. Notwithstanding paragraphs (1)(A)(iii) and (2)(A)(iii),¹ and section 948(b)(4)(C)² of this title, the Secretary and the Governor of the telephone bank may make a loan to a borrower serving a State that does not have a telecommunications modernization plan approved by the Secretary if the loan is made less than 1 year after the Secretary has adopted final regulations implementing this paragraph.

(May 20, 1936, ch. 432, title III, §305, as added May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 68; amended Oct. 20, 1976, Pub. L. 94-570, §3, 90 Stat. 2701; Aug. 13, 1981, Pub. L. 97-35, title I, §165(a), 95 Stat. 379; Nov. 28, 1990, Pub. L. 101-624, title XXIII, §2361, 104 Stat. 4042; Nov. 1, 1993, Pub. L. 103-129, §2(a)(1), (c)(6), 107 Stat. 1356, 1364; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(8), (13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” in heading for subsec. (c)(2)(C)(ii)(II) and wherever appearing in text.

¹ So in original. Probably should be paragraph “(2)(A)(ii)”.

² So in original. Probably should be section “948(b)(4)(B)”.

1993—Pub. L. 103-129, §2(c)(6)(A), amended section catchline generally.

Subsec. (a). Pub. L. 103-129, §2(c)(6)(A), inserted heading.

Subsec. (b). Pub. L. 103-129, §2(a)(1)(A), (B), (c)(6)(B), redesignated subsec. (c) as (b), inserted heading, and struck out former subsec. (b) which read as follows: "Insured loans made under this subchapter shall bear interest at 5 per centum per annum, except that the Administrator may make insured loans to electric or telephone borrowers at a lesser interest rate, but not less than 2 per centum per annum, if, in the Administrator's sole discretion, the Administrator finds that the borrower—

"(1) has experienced extreme financial hardship; or

"(2) cannot, in accordance with generally accepted management and accounting principles and without charging rates to its customers or subscribers so high as to create a substantial disparity between such rates and the rates charged for similar service in the same or nearby areas by other suppliers, provide service consistent with the objectives of this chapter."

Subsec. (c). Pub. L. 103-129, §2(a)(1)(C), added subsec. (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 103-129, §2(a)(1)(A), (C), added subsec. (d) and struck out former subsec. (d) which read as follows: "The Administrator shall make a telephone loan under this subchapter to an applicant therefor who is otherwise qualified to receive such a loan at the highest interest rate (but not less than the lowest interest rate, nor higher than the highest interest rate, specified in subsection (b) of this section) at which the borrower would be capable of producing net income or margins before interest payments of at least 100 percent (but not more than 150 percent) of the interest requirements on all of the applicant's outstanding and proposed loans."

1990—Subsec. (d). Pub. L. 101-624 added subsec. (d).

1981—Subsec. (b). Pub. L. 97-35 substituted provisions establishing an interest rate at 5 per centum per annum and a lower rate, but not less than 2 per cent, under the enumerated criteria, for provisions establishing standard and special rates, with special rates applicable under enumerated criteria.

1976—Subsec. (b). Pub. L. 94-570 struck out from introductory text "meets either of the following conditions" after "borrower which"; limited par. (1) to the telephone borrowers, substituting provision for an average subscriber density of three or fewer per mile at the end of the most recent calendar year ending at least six months before approval of the loan for prior provision for an average consumer or subscriber density of two or fewer per mile; substituted in par. (2) provision, limited to electric borrowers, respecting having an average consumer density of two or fewer per mile or an average adjusted plant revenue ratio of over 9.0 at end of the most recent calendar year ending at least six months before approval of the loan, determination of such ratio, and defining sum of distribution plant and general plant, gross revenue, and cost of power for prior provision for and average gross revenue per mile which is at least \$450 below the average gross revenue per mile of REA-financed electric systems, in the case of electric borrowers, or at least \$300 below the average gross revenue per mile of REA-financed telephone systems, in the case of telephone borrowers; and inserted in proviso of par. (2) "to a telephone or electric borrower" after "make a loan".

EFFECTIVE DATE OF 1981 AMENDMENT

Section 165(d) of Pub. L. 97-35 provided that: "The amendments made by subsection (a) of this section [amending this section] shall apply to loans the applications for which are received by the Rural Electrification Administration after July 24, 1981."

EFFECTIVE DATE OF 1976 AMENDMENT; INTEREST RATE

Section 4 of Pub. L. 94-570 provided that: "This Act [amending this section and section 931 of this title]

shall take effect upon enactment [Oct. 20, 1976] except that insured loans made pursuant to applications for such loans which would otherwise lose eligibility for special rate financing upon such enactment, received by the Rural Electrification Administration and still pending on the date of enactment of this Act [Oct. 20, 1976], shall bear interest as determined under section 305(b) of the Rural Electrification Act of 1936 before its amendment by this Act [former provisions of subsec. (b) of this section]."

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 928, 936b, 939, 940, 940d, 948 of this title.

§ 936. Guaranteed loans; accommodations and subordination of liens; interest rates; assignability of guaranteed loans and related guarantees

The Secretary may provide financial assistance to borrowers for purposes provided in this chapter by guaranteeing loans, in the full amount thereof, made by the Rural Telephone Bank, National Rural Utilities Cooperative Finance Corporation, and any other legally organized lending agency, or by accommodating or subordinating liens or mortgages in the fund held by the Secretary as owner or as trustee or custodian for purchases of notes from the fund, or by any combination of such guarantee, accommodation, or subordination. The Secretary shall not provide such assistance to any borrower of a telephone loan under this chapter unless the borrower specifically applies for such assistance. No fees or charges shall be assessed for any such guarantee, accommodation, or subordination. With respect to guarantees issued by the Secretary under this section, on the request of the borrower of any such loan so guaranteed, the loan shall be made by the Federal Financing Bank and at a rate of interest that is not more than the rate of interest applicable to other similar loans then being made or purchased by the Bank. Guaranteed loans shall bear interest at the rate agreed upon by the borrower and the lender. Guaranteed loans, and accommodation and subordination of liens or mortgages, may be made concurrently with an insured loan. The amount of guaranteed loans shall be subject only to such limitations as to amounts as may be authorized from time to time by the Congress of the United States: *Provided*, That any amounts guaranteed hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States. As used in this subchapter a guaranteed loan is one which is initially made, held, and serviced by a legally organized lending agency and which is guaranteed by the Secretary hereunder. A guaranteed loan, including the related guarantee, may be assigned to the extent provided in the contract of guarantee executed by the Secretary under this subchapter; the assignability of such loan and guarantee shall be governed exclusively by said contract of guarantee.

(May 20, 1936, ch. 432, title III, §306, as added May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 69; amended Nov. 4, 1975, Pub. L. 94-124, §1, 89 Stat. 677; Aug. 13, 1981, Pub. L. 97-35, title I, §165(b), 95 Stat. 379; Nov. 28, 1990, Pub. L. 101-624, title XXIII, §2362, 104 Stat. 4042; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1990—Pub. L. 101-624 inserted provisions prohibiting Administrator from providing assistance to telephone borrower unless borrower specifically applies therefor.

1981—Pub. L. 97-35 inserted provisions relating to loans made by Federal Financing Bank with respect to guarantees issued under this section, and substituted “an insured loan” for “a loan insured at the standard rate”.

1975—Pub. L. 94-124 authorized assignment of guaranteed loans and their related guarantees and inserted “initially” before “made, held, and serviced” in provision defining guaranteed loans as that term is used in this subchapter.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

PREPAYMENT OF LOANS

Pub. L. 99-349, title I, July 2, 1986, 100 Stat. 713, relating to the prepayment of loans made by the Federal Financing Bank, and guaranteed by the Administrator of the Rural Electrification Administration, was repealed by Pub. L. 99-509, title I, §1011(b), Oct. 21, 1986, 100 Stat. 1876.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 928, 935, 936a, 936c, 939, 940a of this title.

§ 936a. Prepayment of loans

(a) Conditions for prepayment

Except as provided in subsection (c) of this section, a borrower of a loan made by the Federal Financing Bank and guaranteed under section 936 of this title may prepay such loan (or any loan advance thereunder) by paying the outstanding principal balance due on the loan (or advance), if—

- (1) the loan is outstanding on July 2, 1986;
- (2) private capital, with the existing loan guarantee, is used to replace the loan; and
- (3) the borrower certifies that any savings from such prepayment will be passed on to its customers or used to improve the financial strength of the borrower in cases of financial hardship.

(b) Charges on prepayment prohibited

No sums in addition to the payment of the outstanding principal balance due on the loan may be charged as the result of such prepayment against the borrower, the fund, or the Secretary.

(c) Disqualification for prepayment on finding of adverse affect on Federal Financing Bank

(1) A borrower will not qualify for prepayment under this section if, in the opinion of the Secretary of the Treasury, to prepay in such borrower's case would adversely affect the operation of the Federal Financing Bank.

(2) Paragraph (1) shall be effective in fiscal year 1987 only for any loan the prepayment of

the principal amount of which will cause the cumulative amount of net proceeds from all such prepayments made during such year to exceed \$2,017,500,000.

(d) Amount of permissible prepayments; establishment of eligibility criteria

(1) The Secretary shall permit, subject to subsection (a) of this section, prepayments of principal on loans in fiscal year 1987 under this section or Public Law 99-349 in such amounts as to realize net proceeds from all such prepayments in fiscal year 1987 in an amount not less than \$2,017,500,000.

(2) The Secretary shall establish—

(A) eligibility criteria to ensure that any loan prepayment activity required to be carried out under this subsection will be directed to those cooperative borrowers in greatest need of the benefits associated with prepayment, as determined by the Secretary; and

(B) such other eligibility criteria as the Secretary determines are necessary to carry out this subsection.

(e) Assignability and transferability of guarantees of loans

Any guarantee of a loan prepaid under this section shall be fully assignable under the provisions of section 936 of this title and transferable. However, the Secretary may require that any such guarantee, if transferred¹ or assigned, be transferred or assigned to a loan or security that, if sold, will be grouped with nonguaranteed loans or securities and sold in a manner to ensure that such sale will not unreasonably compete with the marketing of obligations of the United States.

(May 20, 1936, ch. 432, title III, §306A, as added Oct. 21, 1986, Pub. L. 99-509, title I, §1011(a), 100 Stat. 1875; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(7), (13), 108 Stat. 3221.)

REFERENCES IN TEXT

Public Law 99-349, referred to in subsec. (d)(1), is Pub. L. 99-349, July 2, 1986, 100 Stat. 710, known as the Urgent Supplemental Appropriations Act, 1986. Provisions of title I of Pub. L. 99-349 relating to prepayment of loans were set out as a note under section 936 of this title and were repealed by Pub. L. 99-509, title I, §1011(b), Oct. 21, 1986, 100 Stat. 1876. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Rural Electrification Administration” in subsec. (b) and “Secretary” for “Administrator” wherever appearing in subsecs. (d) and (e).

PREPAYMENT OF RURAL ELECTRIFICATION LOANS DURING FISCAL YEAR 1988

Pub. L. 100-203, title I, §1401, Dec. 22, 1987, 101 Stat. 1330-20, provided that:

“(a) ELIGIBILITY TO PREPAY.—Notwithstanding subsections (c), (d), and (e) of section 306A of the Rural Electrification Act of 1936 (7 U.S.C. 936a(c), (d), and (e)), during fiscal year 1988, a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with subsections (a) and (b) of section 306A of such Act, except that any prepay-

¹ So in original. Probably should be “transferred”.

ment that would cause the total amount of such prepayments during fiscal year 1988 to exceed \$2,000,000,000 shall be subject solely to the approval of the Secretary of the Treasury.

“(b) PRIORITY FOR APPROVAL.—In determining which borrowers shall be permitted to prepay loans under subsection (a):

“(1) The Administrator of the Rural Electrification Administration shall give priority to those 8 borrowers that were determined by the Administrator, prior to the date of the enactment of this Act [Dec. 22, 1987], to be eligible to prepay, or that prepaid, an advance under section 306A of such Act [7 U.S.C. 936a] (as in effect prior to the date of the enactment of this Act), except that to retain such priority a borrower shall—

“(A) notify the Administrator in writing, within 30 days after the issuance of regulations to carry out this section, of the intent of the borrower to prepay; and

“(B) complete such prepayment by disbursing funds to the Federal Financing Bank to prepay loan advances within 120 days after the issuance of such regulations.

“(2) In considering requests for prepayment under subsection (a) by borrowers not described in paragraph (1), the Administrator shall permit prepayment based on the order in which borrowers are prepared to disburse funds to the Federal Financing Bank to complete such prepayments. If more than 1 borrower is so prepared at the same time, and if the combined amount of such prepayments would cause the total amount of prepayments during fiscal year 1988, under this section, to exceed \$2,000,000,000, the Administrator shall—

“(A) base the determination on the date on which prepayment applications have been submitted; or

“(B) permit partial prepayment by two or more borrowers.

“(c) REGULATIONS.—Not later than 30 days after the date of enactment of this Act [Dec. 22, 1987], the Administrator of the Rural Electrification Administration shall issue such regulations as are necessary to carry out this section.

“(d) STUDY.—Not later than January 1, 1989, the Comptroller General of the United States shall—

“(1) study—

“(A) all benefits provided by Federal Financing Bank lending and the procedures and conditions for the prepayment of current Federal Financing Bank loans;

“(B) the benefits and costs to Federal Financing Bank borrowers of making prepayments; and

“(C) alternative conditions and procedures for prepayment of all Federal Financing Bank loans to balance Federal benefits with Federal costs; and

“(2) submit to Congress a report describing the results of such study, together with any appropriate recommendations.”

PREPAYMENT OF GUARANTEED LOANS; RESTRICTIONS

Pub. L. 100-202, §101(k) [title VI, §633], Dec. 22, 1987, 101 Stat. 1329-322, 1329-356, provided that: “Hereafter, notwithstanding section 306A(c), (d), and (e) of the Rural Electrification Act of 1936, as amended [7 U.S.C. 936a(c), (d), (e)], a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with section 306A(a) and (b) of such Act: *Provided*, That any prepayment in excess of \$2,500,000,000 shall be subject to the approval of the Secretary of the Treasury.”

Pub. L. 100-71, title I, July 11, 1987, 101 Stat. 429, provided in part that: “Hereafter, notwithstanding section 306A(d) of the Rural Electrification Act of 1936 (7 U.S.C. 936a(d)), a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with section 306A of such Act.”

REGULATIONS

Section 1011(c) of Pub. L. 99-509 provided that: “The Secretary of Agriculture shall issue regulations to implement this section [enacting sections 936a and 936b of this title and repealing provisions set out as a note under section 936 of this title] within 60 days after the date of enactment of this Act [Oct. 21, 1986]. Such regulations—

“(1) shall facilitate prepayment of loans under section 306A of the Rural Electrification Act of 1936 [this section], as added by subsection (a); and

“(2) may not require any rural utility that is a borrower of loans subject to section 306A to make unreasonable reductions in rates to its customers as a condition of such prepayment.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 501.

§ 936b. Sale or prepayment of direct or insured loans

(a) Discounted prepayment by borrowers of electric loans

(1) In general

Except as provided in paragraph (2), a direct or insured loan made under this chapter shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

(2) Exception

On request of the borrower, an electric loan made under this chapter, or a portion of such a loan, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

(A) the outstanding principal balance on the loan; or

(B) the present value of the loan discounted from the face value at maturity at the rate established by the Secretary.

(3) Discount rate

The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

(4) Tax exempt financing

If a borrower prepays a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Secretary may establish that are reasonable and necessary to carry out this subsection.

(5) Eligibility

(A) In general

A borrower that has prepaid an insured or direct loan shall under this chapter in the same manner as other borrowers, except that—

(i) a borrower that has prepaid a loan, either before or after October 21, 1992, at a

discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Secretary, to apply for or receive direct or insured loans under this chapter during the 120-month period beginning on the date of the prepayment; and

(ii) a borrower that prepaid a loan before October 21, 1992, at a discount rate greater than that provided by paragraph (3), shall not be eligible—

(I) except at the discretion of the Secretary, to apply for or receive direct or insured loans described in clause (i) during the 180-month period beginning on the date of the prepayment; or

(II) to apply for or receive direct or insured loans described in clause (i) until the borrower has repaid to the Federal Government the sum of—

(aa) the amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment; and

(bb) interest on the amount described in item (aa), for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury.

(B) Effect on existing agreements

If a borrower and the Secretary have entered into an agreement with respect to a prepayment occurring before October 21, 1992, this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this chapter.

(C) Distribution borrowers

A distribution borrower not in default on the repayment of loans made or insured under this chapter shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this chapter, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

(6) Definitions

As used in this subsection:

(A) Direct loan

The term “direct loan” means a loan made under section 904 of this title.

(B) Insured loan

The term “insured loan” means a loan made under section 935 of this title.

(b) Mergers of electric borrowers

Notwithstanding subsection (a) of this section, a direct or insured loan may be prepaid by an electric borrower at the lesser of the outstanding principal balance due thereon or the present

value thereof discounted from the face value at maturity at the rate set by the Secretary if the borrower is an electrical organization which resulted from a merger or consolidation between a borrower and an organization which, prior to October 1, 1987, prepaid its direct or insured loans pursuant to this section. Prepayments by a borrower hereunder shall be made not later than one year after the effective date of the merger, consolidation, or other transaction. The discount rate to be set by the Secretary for direct or insured loans prepayments hereunder shall be based on the current cost of funds to the Department of the Treasury for obligations of comparable maturity to those being prepaid. If a borrower prepays using tax exempt financing, the discount shall be adjusted to make the discount equivalent to fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Secretary may establish which are reasonable and necessary to implement this provision. As used in this section, the term “direct loan” means a loan made under section 904 of this title.

(May 20, 1936, ch. 432, title III, §306B, as added Oct. 21, 1986, Pub. L. 99-509, title I, §1011(a), 100 Stat. 1876; amended Nov. 28, 1990, Pub. L. 101-624, title XXIII, §2387, 104 Stat. 4051; Oct. 21, 1992, Pub. L. 102-428, §2, 106 Stat. 2183; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

CODIFICATION

October 21, 1992, referred to in subsec. (a)(5)(A), (B), was in the original “the date of enactment of this subsection”, which was translated as meaning the date of enactment of Pub. L. 102-428, which amended subsec. (a) generally, to reflect the probable intent of Congress.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1992—Subsec. (a). Pub. L. 102-428, §2(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “A direct or insured loan made under this chapter shall not be sold or prepaid at a value less than the face value of any outstanding principal balance on such loan, except when sold to or prepaid by the borrower at the lesser of the outstanding principal balance due on the loan or the loan’s present value discounted from the face value at maturity at the rate set by the Administrator. The exception contained in the preceding sentence shall be effective for the period ending September 30, 1987.”

Subsec. (b). Pub. L. 102-428, §2(b), inserted heading.

1990—Pub. L. 101-624 designated existing provisions as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 501.

§ 936c. Refinancing and prepayment of FFB loans

(a) In general

A borrower of a loan made by the Federal Financing Bank and guaranteed under section 936 of this title may, at the option of the borrower, refinance or prepay the loan or an advance on the loan, or any portion of the loan or advance.

(b) Penalty

(1) Determination of penalty

A penalty shall be assessed against a borrower that refinances or prepays a loan or loan

advance, or any portion of a loan or advance, under this section. Except as provided in paragraph (2), the penalty shall be equal to the lesser of—

(A) the difference between the outstanding principal balance of the loan being refinanced and the present value of the loan discounted at a rate equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid;

(B) 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance, or any portion of the loan or advance, being refinanced, multiplied by the ratio that—

(i) the number of quarterly payment dates between the date of the refinancing or prepayment and the maturity date for the loan advance; bears to

(ii) the number of quarterly payment dates between the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced was advanced and the maturity date of the loan advance; and

(C)(i) the present value of 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance, or any portion of the loan or advance, being refinanced or prepaid; plus

(ii) for the interval between the date of the refinancing or prepayment and the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced or prepaid was advanced, the present value of the difference between—

(I) each payment scheduled for the interval on the loan amount being refinanced or prepaid; and

(II) the payment amounts that would be required during the interval on the amounts being refinanced or prepaid if the interest rate on the loan were equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid.

(2) Limitation

(A) In general

Except as provided in subparagraph (B), the penalty provided by paragraph (1)(A) shall be required for refinancing or prepayment under this section.

(B) Exception

In the case of a loan advanced under an agreement that permits the refinancing or prepayment of the loan advance based on the payment of 1 year of interest on the outstanding principal balance of the loan advance, a borrower may, in lieu of the penalty required by paragraph (1)(A), pay a penalty as provided by—

(i) paragraph (1)(B), if the loan advance has reached the 12-year maturity required under the loan agreement for the refinancing or prepayment; or

(ii) paragraph (1)(C), if the loan advance has not reached the 12-year maturity required under the loan agreement for the refinancing or prepayment.

(3) Financing of penalty

(A) In general

In the case of a refinancing under this section, a borrower may, at the option of the borrower, meet the penalty requirements of paragraph (1) by—

(i) making a payment in the amount of the required penalty at the time of the refinancing; or

(ii) increasing the outstanding principal balance of the loan advance guaranteed by the Secretary that is being refinanced under this section by the amount of the penalty.

(B) Increased principal

If a borrower meets the penalty requirements of paragraph (1) by increasing the outstanding principal balance of the loan advance that is being refinanced, the borrower shall make a payment at the time of the refinancing equal to 2.5 percent of the amount of the penalty that is added to the outstanding principal balance of the loan.

(c) Loan terms and conditions after refinancing

(1) In general

On the payment of a penalty as provided by subsection (b) of this section, the loan or loan advance, or any portion of the loan or advance, shall be refinanced at the interest rate described in paragraph (2) for a term selected by the borrower pursuant to paragraph (3), except that this paragraph shall not apply if the loan advance, or any portion of the advance, is prepaid by the borrower.

(2) Interest rate

The interest rate on a loan refinanced under this section shall be determined to be equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to a term selected by the borrower pursuant to paragraph (3), except that such rate shall not be greater than 7 percent per year, subject to subsection (d) of this section.

(3) Loan term

Subject to paragraph (4), the borrower of a loan that is refinanced under this section—

(A) shall select the term for which an interest rate shall be determined pursuant to paragraph (2); and

(B) at the end of the term (and any succeeding term selected by the borrower under this paragraph), may renew the loan for another term selected by the borrower.

(4) Maximum term

The borrower may not select a term pursuant to paragraph (3) that ends after the maturity date set for the loan before the refinancing of the loan under this section.

(5) Existing loans

In the case of the refinancing of a loan of a borrower pursuant to this section and the in-

clusion of a penalty in the outstanding principal balance of the refinanced loan pursuant to subsection (b)(3) of this section—

(A) the refinancing and inclusion of the penalty shall not be subject to appropriations or limited by the amount provided during a fiscal year for new loans, loan guarantees, or other credit activity;

(B) the request of the borrower for the refinancing under this section may not be denied or delayed; and

(C) the borrower may not be limited in the selection of any refinancing or prepayment option provided by this section to the borrower.

(d) Maximum rate option

(1) In general

Except as provided in paragraphs (2), (3), and (4), a borrower of a loan or loan advance, or any portion of the loan or advance, that is refinanced under this section shall have the option of ensuring that the interest rate on such loan, loan advance, or portion thereof does not exceed 7 percent per year.

(2) Limitation

A borrower may not exercise the option under paragraph (1) in the case of a loan or loan advance, or portion thereof, if the total amount of such loans for which such option would be exercised exceeds 50 percent of the outstanding principal balance of the loans made to such borrower and guaranteed under section 936 of this title.

(3) Fee

A borrower that exercises the maximum rate option under paragraph (1) shall, at the time of exercising such option, pay a fee equal to 1 percent of the outstanding principal balance of such loan or loan advance, or portion thereof, for which such option is exercised. Such fee shall be in addition to the penalties and other payments required under subsection (b) of this section.

(4) Sunset

The option provided under paragraph (1) shall not be available in the case of any loan or loan advance, or portion thereof, unless a written request to exercise such option is sent to the Secretary not later than 1 year after the effective date of regulations issued to carry out the Rural Electrification Loan Restructuring Act of 1993.

(May 20, 1936, ch. 432, title III, §306C, as added Aug. 10, 1993, Pub. L. 103-66, title I, §1201(a), 107 Stat. 327; amended Nov. 1, 1993, Pub. L. 103-129, §2(c)(10), 107 Stat. 1365; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

REFERENCES IN TEXT

The Rural Electrification Loan Restructuring Act of 1993, referred to in subsec. (d)(4), is Pub. L. 103-129, Nov. 1, 1993, 107 Stat. 1356. Section 6 of Pub. L. 103-129 relates to the issuance of regulations to carry out amendments made by the Act and is set out as a note under section 901 of this title. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 901 of this title and Tables.

AMENDMENTS

1994—Subsecs. (b)(3)(A)(ii), (d)(4). Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1993—Subsec. (c)(2). Pub. L. 103-129, §2(c)(10)(A), inserted before period at end “, except that such rate shall not be greater than 7 percent per year, subject to subsection (d) of this section”.

Subsec. (d). Pub. L. 103-129, §2(c)(10)(B), added subsec. (d).

REGULATIONS

Section 1201(b) of Pub. L. 103-66 provided that: “Not later than 45 days after the date of enactment of this section [Aug. 10, 1993], the Administrator of the Rural Electrification Administration shall issue interim final regulations to carry out the amendment made by subsection (a) [enacting this section].”

§936d. Eligibility of distribution borrowers for loans, loan guarantees, and lien accommodations

For the purpose of determining the eligibility of a distribution borrower not in default on the repayment of a loan made or guaranteed under this chapter for a loan, loan guarantee, or lien accommodation under this subchapter, a default by a borrower from which the distribution borrower purchases wholesale power shall not—

(1) be considered a default by the distribution borrower;

(2) reduce the eligibility of the distribution borrower for assistance under this chapter; or

(3) be the cause, directly or indirectly, of imposing any requirement or restriction on the borrower as a condition of the assistance, except such requirements or restrictions as are necessary to implement a debt restructuring agreed on by the power supply borrower and the Government.

(May 20, 1936, ch. 432, title III, §306D, as added Nov. 1, 1993, Pub. L. 103-129, §2(c)(7), 107 Stat. 1364.)

§936e. Administrative prohibitions applicable to certain electric borrowers

(a) In general

For the purpose of relieving borrowers of unnecessary and burdensome requirements, the Secretary, guided by the practices of private lenders with respect to similar credit risks, shall issue regulations, applicable to any electric borrower under this chapter whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Secretary, to minimize those approval rights, requirements, restrictions, and prohibitions that the Secretary otherwise may establish with respect to the operations of such a borrower.

(b) Subordination or sharing of liens

At the request of a private lender providing financing to such a borrower for a capital investment, the Secretary shall, expeditiously, either offer to share the government’s lien on the borrower’s system or offer to subordinate the government’s lien on that property financed by the private lender.

(c) Issuance of regulations

In issuing regulations implementing this section, the Secretary may establish requirements, guided by the practices of private lenders, to ensure that the security for any loan made or guaranteed under this chapter is reasonably adequate.

(d) Authority of Secretary

Nothing in this section limits the authority of the Secretary to establish terms and conditions with respect to the use by borrowers of the proceeds of loans made or guaranteed under this chapter or to take any other action specifically authorized by law.

(May 20, 1936, ch. 432, title III, §306E, as added Nov. 1, 1993, Pub. L. 103-129, §2(c)(7), 107 Stat. 1365; amended Dec. 17, 1993, Pub. L. 103-201, §1, 107 Stat. 2342; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(8), (13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” in heading of subsec. (d) and wherever appearing in text.

1993—Pub. L. 103-201 inserted “certain” before “electric” in section catchline and amended text generally. Prior to amendment, text read as follows: “The Administrator may not require prior approval of, impose any requirement, restriction, or prohibition with respect to the operations of, or deny or delay the granting of a lien accommodation to, any electric borrower under this chapter whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.”

REGULATIONS

Section 2 of Pub. L. 103-201 provided that: “The Administrator of the Rural Electrification Administration shall issue interim final regulations implementing this Act [amending this section] not later than 180 days after enactment [Dec. 17, 1993]. If the regulations are not issued within such period of time, the Administrator may not, until the Administrator issues such regulations, require prior approval of, establish any requirement, restriction, or prohibition, with respect to the operations of any electric borrower under the Rural Electrification Act of 1936 [7 U.S.C. 90 et seq.] whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.”

§ 937. Loans from other credit sources

When it appears to the Secretary that the loan applicant is able to obtain a loan for part of his credit needs from a responsible cooperative or other credit source at reasonable rates and terms consistent with the loan applicant’s ability to pay and the achievement of this chapter’s objectives, he may request the loan applicant to apply for and accept such a loan concurrently with an insured loan, subject, however, to full use being made by the Secretary of the funds made available hereunder for such insured loans under this subchapter. The Secretary may not request any applicant for an electric loan under this chapter to apply for and accept a loan in an amount exceeding 30 percent of the credit needs of the applicant.

(May 20, 1936, ch. 432, title III, §307, as added May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 70; amended Aug. 13, 1981, Pub. L. 97-35, title I, §165(c), 95 Stat. 379; Nov. 1, 1993, Pub. L. 103-129, §2(c)(8), 107 Stat. 1365; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-129 inserted at end “The Administrator may not request any applicant for an electric

loan under this chapter to apply for and accept a loan in an amount exceeding 30 percent of the credit needs of the applicant.”

1981—Pub. L. 97-35 substituted “an insured loan” for “a loan insured at the standard rate”.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§ 938. Full faith and credit of the United States

Any contract of insurance or guarantee executed by the Secretary under this subchapter shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

(May 20, 1936, ch. 432, title III, §308, as added May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 70; amended Nov. 4, 1975, Pub. L. 94-124, §2, 89 Stat. 677; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1975—Pub. L. 94-124 substituted “of which the holder had actual knowledge at the time it became a holder” for “of which the holder has actual knowledge”.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§ 939. Loan terms and conditions**(a) In general**

Loans made from or insured through the fund shall be for the same purposes and on the same terms and conditions as are provided for loans in subchapters I and II of this chapter except as otherwise provided in sections 933 to 938 inclusive. The preceding sentence shall not be construed to make section 948(b)(2) or 950b of this title applicable to this subchapter.

(b) Telephone loans under this subchapter

The term of any telephone loan made under this subchapter shall be determined by the borrower at the time the loan application is submitted.

(May 20, 1936, ch. 432, title III, §309, as added May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 70; amended Nov. 28, 1990, Pub. L. 101-624, title XXIII, §2360, 104 Stat. 4042; Nov. 1, 1993, Pub. L. 103-129, §2(b)(2), 107 Stat. 1363.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-129 inserted at end “The preceding sentence shall not be construed to make section 948(b)(2) or 950b of this title applicable to this subchapter.”

1990—Pub. L. 101-624 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

§ 940. Refinancing of rural development loans

At the request of the borrower, the Secretary is authorized and directed to refinance with loans which will be insured under this chapter at the interest rates provided in section 935 of this title any loans made for rural electric and telephone facilities under any provision of the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.].

(May 20, 1936, ch. 432, title III, §310, as added May 11, 1973, Pub. L. 93-32, §2, 87 Stat. 70; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in text, is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§1921 et seq.) of this title. For complete classification of the Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

§ 940a. Privatization program

The Secretary shall establish a privatization demonstration program which shall permit borrowers to prepay loans made by the Federal Financing Bank and guaranteed under section 936 of this title by paying the outstanding principal balance due on the loans. No sums in addition to the payment of the outstanding principal balance due on the Federal Financing Bank loans may be charged as the result of such prepayment against the borrower, the fund, or the Secretary. Federal Financing Bank loans shall be refinanced using the existing section 936 loan guarantee, with private capital, in an amount not to exceed the outstanding principal amount prepaid: *Provided*, That such guarantee of private capital shall be 90% of the principal amount of the loan or any portion thereof plus accrued interest outstanding at any time during the maturity period of the loan and shall be fully transferable and assignable. Notwithstanding any other provision of law, borrowers may prepay Federal Financing Bank loans under this section, except that such borrowers shall be required to prepay all of their outstanding loans made or guaranteed under this chapter within one year of prepayment of the first loan. A direct or insured loan prepaid under this section shall be prepaid by the borrower at the lesser of the outstanding principal balance due on the loan or the loan's present value discounted from the face value at maturity at the rate set by the Secretary. A Rural Telephone Bank loan shall be prepaid by paying the outstanding principal balance on the loan. No guarantee or other financial assistance shall be available to the borrowers to refinance outstanding loans prepaid hereunder. In the case of an electric borrower prepaying under this section or otherwise prepaying a loan at less than the outstanding prin-

cipal balance due on the loan, after the date of prepayment, no loans, loan guarantees or other financial assistance shall be provided pursuant to this chapter to the borrower or its successors or for the purpose of financing the construction or operation of generating plants or bulk transmission lines for the purpose of furnishing electric energy in the area served on a retail or wholesale basis by such borrower. In the case of a telephone borrower prepaying under this section, or otherwise prepaying a loan at less than the outstanding principal balance due on the loan, after the date of prepayment, no loans, loan guarantees or other financial assistance shall be provided pursuant to this chapter to the borrower or its successors or for the purpose of furnishing or improving telephone service in the area served by such borrower. In determining the service area of electric borrowers, the Secretary shall make allowances and adjustments to avoid adversely affecting the eligibility of other borrowers for financial assistance under this chapter where such borrowers are currently providing electric supply services for retail loads in the same area and which are reasonably expected to continue providing electric supply services for retail loads in such areas. In the event that the borrower prepaying under this section shall be using a majority of its generating capacity to directly serve its retail consumers, other borrowers which are purchasing power from such borrower as of September 30, 1986, shall continue to remain eligible for financing under this chapter for needs in their service area. Nothing in this section shall prohibit a borrower which has prepaid pursuant to this section from participating in generation and transmission projects with borrowers which have not prepaid, so long as the borrower which has prepaid utilizes private capital financing without financial assistance under this chapter: *Provided further*, That nothing in this section shall prohibit short-term power purchases by borrowers which have prepaid under this section from borrowers which have not prepaid. The Secretary shall issue regulations to implement this section within 60 days.

(May 20, 1936, ch. 432, title III, §311, as added Oct. 18, 1986, Pub. L. 99-500, §101(m) [title VI, §623], 100 Stat. 1783-308, 1783-333, and Oct. 30, 1986, Pub. L. 99-591, §101(m) [title VI, §623], 100 Stat. 3341-308, 3341-333; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(7), (13), 108 Stat. 3221.)

CODIFICATION

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

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing and “Secretary” for “Rural Electrification Administration” in second sentence.

APPLICABILITY OF SECTION LIMITED TO ALASKA

Section 115 of Pub. L. 99-591, Oct. 30, 1986, 100 Stat. 3341-352, provided in part that: “notwithstanding this or any other provision of this Act, Section 623 of the Treasury, Postal Service, and General Government Appropriations Act as contained in this Act [enacting this section] shall apply only to the rural electrification program in the State of Alaska.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 501.

§ 940b. Use of funds

A borrower of an insured or guaranteed electric loan under this chapter may, without restriction or prior approval of the Secretary, invest its own funds or make loans or guarantees, not in excess of 15 percent of its total utility plant.

(May 20, 1936, ch. 432, title III, §312, as added Dec. 22, 1987, Pub. L. 100-203, title I, §1402, 101 Stat. 1330-21; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950aa of this title.

§ 940c. Cushion of credit payments program**(a) Establishment****(1) In general**

The Secretary shall develop and promote a program to encourage borrowers to voluntarily make deposits into cushion of credit accounts established within the Rural Electrification and Telephone Revolving Fund.

(2) Interest

Amounts in each cushion of credit account shall accrue interest to the borrower at a rate of 5 percent per annum.

(3) Balance

A borrower may reduce the balance of its cushion of credit account only if the amount obtained from the reduction is used to make scheduled payments on loans made or guaranteed under this chapter.

(b) Uses of cushion of credit payments**(1) In general****(A) Cash balance**

Cushion of credit payments shall be held in the Rural Electrification and Telephone Revolving Fund as a cash balance in the cushion of credit accounts of borrowers.

(B) Interest

All cash balance amounts (obtained from cushion of credit payments, loan payments, and other sources) held by the Fund shall bear interest to the Fund at a rate equal to the weighted average rate on outstanding certificates of beneficial ownership issued by the Fund.

(C) Credits

The amount of interest accrued on the cash balances shall be credited to the Fund as an offsetting reduction to the amount of interest paid by the Fund on its certificates of beneficial ownership.

(2) Rural economic development subaccount**(A) Maintenance of account**

The Secretary shall maintain a subaccount within the Rural Electrification and Telephone Revolving Fund to which shall be

credited, on a monthly basis, a sum determined by multiplying the outstanding cushion of credit payments made after October 1, 1987, by the difference (converted to a monthly basis) between the average weighted interest rate paid on outstanding certificates of beneficial ownership issued by the Fund and the 5 percent rate of interest provided to borrowers on cushion of credit payments.

(B) Grants

The Secretary is authorized, from the interest differential sums credited this subaccount and from any other funds made available thereto, to provide grants or zero interest loans to borrowers under this chapter for the purpose of promoting rural economic development and job creation projects, including funding for project feasibility studies, start-up costs, incubator projects, and other reasonable expenses for the purpose of fostering rural development.

(C) Repayments

In the case of zero interest loans, the Secretary shall establish such reasonable repayment terms as will ensure borrower participation.

(D) Proceeds

All proceeds from the repayment of such loans shall be returned to the subaccount.

(E) Number of grants

Such loans and grants shall be made during each fiscal year to the full extent of the amounts held by the rural economic development subaccount, subject only to limitations as may be from time-to-time imposed by law.

(May 20, 1936, ch. 432, title III, §313, as added Dec. 22, 1987, Pub. L. 100-203, title I, §1403, 101 Stat. 1330-21; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Subsecs. (a)(1), (b)(2)(A) to (C). Pub. L. 103-354 substituted “Secretary” for “Administrator”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 912, 6944 of this title.

§ 940d. Limitations on authorization of appropriations**(a) “Adjustment percentage” defined**

As used in this section, the term “adjustment percentage” means, with respect to a fiscal year, the percentage (if any) by which—

(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of title 26) for the 1-year period ending on July 31 of the immediately preceding fiscal year; exceeds

(2) the average of the Consumer Price Index (as so defined) for the 1-year period ending on July 31, 1993.

(b) Fiscal years 1994 through 1998

In the case of each of fiscal years 1994 through 1998, there are authorized to be appropriated to the Secretary such sums as may be necessary for

the cost of loans in the following amounts, for the following purposes:

(1) Electric hardship loans

For loans under section 935(c)(1) of this title—

- (A) for fiscal year 1994, \$125,000,000; and
- (B) for each of fiscal years 1995 through 1998, \$125,000,000, increased by the adjustment percentage for the fiscal year.

(2) Electric municipal rate loans

For loans under section 935(c)(2) of this title—

- (A) for fiscal year 1994, \$600,000,000; and
- (B) for each of fiscal years 1995 through 1998, \$600,000,000, increased by the adjustment percentage for the fiscal year.

(3) Telephone hardship loans

For loans under section 935(d)(1) of this title—

- (A) for fiscal year 1994, \$125,000,000; and
- (B) for each of fiscal years 1995 through 1998, \$125,000,000, increased by the adjustment percentage for the fiscal year.

(4) Telephone cost-of-money loans

For loans under section 935(d)(2) of this title—

- (A) for fiscal year 1994, \$198,000,000; and
- (B) for each of fiscal years 1995 through 1998, \$198,000,000, increased by the adjustment percentage for the fiscal year.

(c) Funding levels

The Secretary shall make insured loans under this subchapter for the purposes, in the amounts, and for the periods of time specified in subsection (b) of this section, as provided in advance in appropriations Acts.

(d) Availability of funds for insured loans

Amounts made available for loans under section 935 of this title are authorized to remain available until expended.

(May 20, 1936, ch. 432, title III, §314, as added Nov. 5, 1990, Pub. L. 101-508, title I, §1201, 104 Stat. 1388-7; amended Nov. 1, 1993, Pub. L. 103-129, §2(b)(1), 107 Stat. 1362; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Subsecs. (b), (c). Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1993—Pub. L. 103-129 amended section generally, substituting provisions authorizing appropriations for the cost of electric hardship loans, electric municipal rate loans, telephone hardship loans, and telephone cost-of-money loans under section 935 of this title for fiscal years 1994 through 1998 for provisions directing the Administrator to make insured loans from the Rural Electrification and Telephone Revolving Fund under section 931 of this title for fiscal years 1991 through 1995, to reduce the amounts of such loans to obtain funds to guarantee the loans, and to guarantee the loans upon request of the borrower at 90 percent of the principal and interest.

EFFECTIVE DATE

Section effective Nov. 29, 1990, see section 1301 of Pub. L. 101-508, set out as an Effective Date of 1990 Amendment note under section 511r of this title.

SUBCHAPTER IV—RURAL TELEPHONE BANK

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 931, 932, 935 of this title.

§ 941. Telephone Bank

(a) Establishment

There is hereby established a body corporate to be known as the Rural Telephone Bank (hereinafter called the telephone bank).

(b) General purposes

The general purposes of the telephone bank shall be to obtain an adequate supply of supplemental funds to the extent feasible from non-Federal sources, to utilize said funds in the making of loans under section 948 of this title, and to conduct its operations to the extent practicable on a self-sustaining basis.

(c) Status; payments in lieu of property taxes

The telephone bank shall be deemed to be an instrumentality of the United States, and shall, for the purposes of jurisdiction and venue, be deemed a citizen and resident of the District of Columbia. The telephone bank is authorized to make payments to State, territorial, and local governments in lieu of property taxes upon real property and tangible personal property which was subject to State, territorial, and local taxation before acquisition by the telephone bank. Such payment may be in the amounts, at the times, and upon such terms as the telephone bank deems appropriate but the telephone bank shall be guided by the policy of making payments not in excess of the taxes which would have been payable upon such property in the condition in which it was acquired.

(May 20, 1936, ch. 432, title IV, §401, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 30.)

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 942. General powers

To carry out the specific powers herein authorized, the telephone bank shall have power to (a) adopt, alter, and use a corporate seal; (b) sue and be sued in its corporate name; (c) make contracts, leases, and cooperative agreements, or enter into other transactions as may be necessary in the conduct of its business, and on such terms as it may deem appropriate; (d) acquire, in any lawful manner, hold, maintain, use, and dispose of property: *Provided*, That the telephone bank may only acquire property needed in the conduct of its banking operations or pledged or mortgaged to secure loans made hereunder or in temporary operation or maintenance thereof: *Provided further*, That any such pledged or mortgaged property so acquired shall be disposed of as promptly as is consistent with prudent liquidation practices, but in no event later than five years after such acquisition; (e) accept gifts or donations of services or of property in aid of any of the purposes herein authorized; (f) appoint such officers, attorneys, agents, and employees, vest them with such powers and duties,

fix and pay such compensation to them for their services as the telephone bank may determine; (g) determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid; (h) execute, in accordance with its by-laws, all instruments necessary or appropriate in the exercise of any of its powers; (i) collect or compromise all obligations assigned to or held by it and all legal or equitable rights accruing to it in connection with the payment of such obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and (j) exercise all such other powers as shall be necessary or incidental to carrying out its functions under this subchapter.

(May 20, 1936, ch. 432, title IV, §402, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 30.)

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 943. Special provisions governing telephone bank as a Federal agency until conversion of ownership, control, and operation

Until the ownership, control, and operation of the telephone bank is converted as provided in section 950(a) of this title and not thereafter—

(a) Supervision and direction of Secretary of Agriculture; free postage and priority of debts restrictions

the telephone bank shall be an agency of the United States and shall be subject to the supervision and direction of the Secretary of Agriculture (hereinafter called the Secretary): *Provided, however,* That the telephone bank shall at no time be entitled to transmission of its mail free of postage, nor shall it have the priority of the United States in the payment of debts out of bankrupt, insolvent, and decedents' estates;

(b) Use of facilities and services of employees of Secretary of Agriculture

in order to perform its responsibilities under this subchapter, the telephone bank may partially or jointly utilize the facilities and the services of employees of the Secretary, without cost to the telephone bank;

(c) Wholly owned Government corporation

the telephone bank shall be subject to the provisions of chapter 91 of title 31, in the same manner and to the same extent as if it were included in the definition of "wholly owned Government corporation" as set forth in section 9101 of title 31;

(d) Appointment and compensation of personnel

the telephone bank may without regard to the civil service¹ classification laws appoint and fix the compensation of such officers and employees of the telephone bank as it may deem necessary;

¹ So in original. The word "and" probably should appear after "civil service".

(e) Tort claims and litigation

the telephone bank shall be subject to the provisions of sections 517, 519, and 2679 of title 28.

(May 20, 1936, ch. 432, title IV, §403, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 31; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(9), 108 Stat. 3221.)

REFERENCES IN TEXT

The civil service classification laws, referred to in subsec. (d), probably should refer to civil service and classification laws. The civil service laws are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5. The classification laws are set forth in chapter 51 and subchapter III of chapter 53 of Title 5.

CODIFICATION

In subsec. (c), "chapter 91 of title 31" and "section 9101 of title 31" substituted for "the Government Corporation Control Act, as amended (31 U.S.C. 841 et seq.)" and "section 101 of said Act (31 U.S.C. 846)", respectively, on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-354 substituted "Secretary" for "Rural Electrification Administration or of any other agency of the Department of Agriculture".

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 944. Governor of telephone bank; functions, powers, and duties

Subject to the provisions of section 950 of this title, the Secretary shall designate an official of the Department of Agriculture who shall serve as the chief executive officer of the telephone bank (herein called the Governor of the telephone bank). Except as to matters specifically reserved to the Telephone Bank Board in this subchapter, the Governor of the telephone bank shall exercise and perform all functions, powers, and duties of the telephone bank.

(May 20, 1936, ch. 432, title IV, §404, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 31; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(10), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted "the Secretary shall designate an official of the Department of Agriculture who" for "the Administrator of the Rural Electrification Administration".

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 944a. Publication of rural telephone bank policies and regulations

Notwithstanding the exemption contained in section 553(a)(2) of title 5, the Governor of the telephone bank shall cause to be published in the Federal Register, in accordance with section 553 of title 5, all rules, regulations, bulletins, and other written policy standards governing the operation of the telephone bank's programs

relating to public property, loans, grants, benefits, or contracts. After September 30, 1988, the telephone bank may not deny a loan or advance to, or take any other adverse action against, any applicant or borrower for any reason which is based upon a rule, regulation, bulletin, or other written policy standard which has not been published pursuant to such section.

(Pub. L. 100-203, title I, §1414, Dec. 22, 1987, 101 Stat. 1330-27.)

CODIFICATION

Section was enacted as part of the Agricultural Reconciliation Act of 1987 and as part of the Omnibus Budget Reconciliation Act of 1987, and not as part of the Rural Electrification Act of 1936 which comprises this chapter.

§ 945. Board of directors

(a) In general

The management of the telephone bank, within the limitations prescribed by law, shall be vested in a board of directors (in this subchapter referred to as the "Telephone Bank Board").

(b) Membership

The Telephone Bank Board shall consist of thirteen individuals, as follows:

(1) Presidential appointees

The President shall appoint seven individuals to serve on the Telephone Bank Board who shall serve at the pleasure of the President—

(A) five of whom shall be officers or employees of the Department of Agriculture and not officers or employees of the Secretary; and

(B) two of whom shall be from the general public and not officers or employees of the Federal Government.

(2) Cooperative members

The cooperative-type entities, and organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

(3) Commercial members

The commercial-type entities, and the organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

(c) Elections

(1) Validity

An election under paragraph (2) or (3) of subsection (b) of this section shall not be considered valid unless a majority of the stockholders eligible to vote in the election have voted in the election.

(2) Balloting

Balloting in an election under paragraph (2) or (3) of subsection (b) of this section shall be conducted by mail pursuant to the procedures authorized in the bylaws of the telephone bank.

(3) No cumulative voting

Cumulative voting shall not be permitted in any election under paragraph (2) or (3) of subsection (b) of this section.

(d) Compensation

(1) In general

Except as provided in paragraph (2), each member of the Telephone Bank Board shall receive \$100 per day for each day or part thereof, not to exceed fifty days per year, spent in the performance of their official duties, and shall be reimbursed for travel and other expenses in such manner and subject to such limitations as the Telephone Bank Board may prescribe.

(2) Exceptions

The five members of the Telephone Bank Board appointed under subsection (b)(1)(A) of this section shall not receive compensation by reason of their service on the Telephone Bank Board.

(e) Succession

A member of the Telephone Bank Board may serve after the expiration of the term of office of such member until the successor for such member has taken office.

(f) Chairperson

The members of the Telephone Bank Board shall elect one of such members to be the Chairperson of the Board, in accordance with the bylaws of the telephone bank. The Chairperson shall preside at all meetings of the Board and may vote on a matter before the Board unless the vote would result in a tie vote on the matter.

(g) Bylaws

The Telephone Bank Board shall prescribe bylaws, not inconsistent with law, regulating the manner in which the telephone bank's business shall be conducted, its directors and officers elected, its stock issued, held, and disposed of, its property transferred, its bylaws amended, and the powers and privileges granted to it by law exercised and enjoyed.

(h) Meetings

The Telephone Bank Board shall meet at such times and places as it may fix and determine, but shall hold at least four regularly scheduled meetings a year, and special meetings may be held on call in the manner specified in the bylaws of the telephone bank.

(i) Annual report

The Telephone Bank Board shall make an annual report to the Secretary for transmittal to the Congress on the administration of this subchapter and any other matters relating to the effectuation of the policies of this subchapter, including recommendations for legislation.

(j) Open meetings

For purposes of section 552b of title 5, the Telephone Bank Board shall be treated as an agency within the meaning of subsection (a)(1) of such section.

(May 20, 1936, ch. 432, title IV, §405, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 32; amended May 11, 1973, Pub. L. 93-32, §4, 87 Stat. 70;

Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2363(a), (b)(1), (c), 104 Stat. 4042-4044; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(7), 108 Stat. 3221.)

AMENDMENTS

1994—Subsec. (b)(1)(A). Pub. L. 103-354 substituted “Secretary” for “Rural Electrification Administration”.

1990—Pub. L. 101-624, § 2363(a), substituted “Board of directors” for “Telephone Bank Board” in section catchline.

Subsecs. (a) to (f). Pub. L. 101-624, § 2363(a), struck out subsecs. (a) to (f) and inserted new subsecs. (a) to (f): in subsec. (a) struck out provisions relating to size of board, in subsec. (b) substituted provisions relating to size of board and to appointment and election of all board members for provisions naming Administrator of Rural Electrification Administration and Governor of Farm Credit Administration to board, and authorizing presidential appointment of 5 other members, in subsec. (c) substituted provisions relating to election of 6 cooperative and commercial members for provisions authorizing presidential appointment of initial 6 cooperative and commercial members, in subsec. (d) substituted provisions relating to compensation for provisions relating to interim election of 6 cooperative and commercial members, in subsec. (e) substituted provisions relating to succession for provisions relating to regular election of 6 cooperative and commercial members, and in subsec. (f) substituted provisions relating to chairperson for provisions relating to service after expiration of term, compensation and expenses.

Subsecs. (g) to (i). Pub. L. 101-624, § 2363(b)(1), inserted headings.

Subsec. (j). Pub. L. 101-624, § 2363(c), added subsec. (j).

1973—Subsec. (e). Pub. L. 93-32 substituted provisions directing that the cooperative-type entities and organizations holding class B and class C stock, voting as a separate class, elect three directors to represent their class by a majority of the stockholders voting in such class and that the commercial-type entities and organizations holding class B and class C stock, voting as a separate class, elect three directors to represent their class by a majority of the stockholders voting in such class, for provisions that three directors be elected from among the directors, managers, and employees of cooperative-type entities and organizations controlled by such entities holding class B or class C stock and that three directors be elected from among the directors, managers, and employees of commercial-type entities and organizations controlled by such entities holding class B or class C stock, and inserted provisions prohibiting cumulative voting.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as an Effective Date note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950 of this title.

§ 946. Capitalization

(a) Federal and borrower subscriptions; Federal limitation; report to President, transmittal to Congress; net collection proceeds

The telephone bank's capital shall consist of capital subscribed by the United States, by borrowers from the telephone bank, by corporations and public bodies eligible to become borrowers from the telephone bank, and by organizations

controlled by such borrowers, corporations, and public bodies. Beginning with the fiscal year 1971 and for each fiscal year thereafter but not later than fiscal year 1991, the United States shall furnish capital for the purchase of class A stock and there are hereby authorized to be appropriated such amounts, not to exceed \$30,000,000 annually, for such purchase until such class A stock shall equal \$600,000,000: *Provided*, That on or before July 1, 1975, the Secretary shall make a report to the President for transmittal to the Congress on the status of capitalization of the telephone bank by the United States with appropriate recommendations. As used in this section and section 931 of this title, the term “net collection proceeds” shall be deemed to mean payments from and after July 1, 1969, of principal and interest on loans heretofore or hereafter made under section 922 of this title, less an amount representing interest payable to the Secretary of the Treasury on loans to the Secretary for telephone purposes pursuant to section 903(a) of this title.

(b) Stock classification; voting stock; one vote rule

The capital stock of the telephone bank shall consist of three classes, class A, class B, and class C, the rights, powers, privileges, and preferences of the separate classes to be as specified, not inconsistent with law, in the bylaws of the telephone bank. Class B and class C stock shall be voting stock, but no holder of said stock shall be entitled to more than one vote, nor shall class B and class C stockholders, regardless of their number, which are owned or controlled by the same person, group of persons, firm, association, or corporation, be entitled in any event to more than one vote.

(c) Class A stock; issuance to Secretary of Agriculture and redemption; cumulative return

Class A stock shall be issued only to the Secretary on behalf of the United States in exchange for capital furnished to the telephone bank pursuant to subsection (a) of this section, and such class A stock shall be redeemed and retired by the telephone bank as soon as practicable after September 30, 1995, but not to the extent that the Telephone Bank Board determines that such retirement will impair the operations of the telephone bank: *Provided*, That the minimum amount of class A stock that shall be retired each year after said date shall equal the amount of class B stock sold by the telephone bank during such year. Class A stock shall be entitled to a return, payable from income, at the rate of 2 per centum per annum on the amounts of said class A stock actually paid into the telephone bank. Such return shall be cumulative and shall be payable annually into miscellaneous receipts of the Treasury.

(d) Class B stock; borrowers as holders; dividend prohibition; patronage refunds

Class B stock shall be held only by recipients of loans under section 948 of this title. Borrowers receiving loan funds pursuant to section 948(a)(1) or (2) of this title shall be required to invest in class B stock 5 per centum of the amount of loan funds so provided, by paying an amount equal to 5 per centum of the amount of

each loan advance, at the time of such advance. No dividends shall be payable on class B stock. All holders of class B shall be entitled to patronage refunds in class B stock under terms and conditions to be specified in the bylaws of the telephone bank.

(e) Class C stock; borrowers as purchasers; dividends

Class C stock shall be available for purchase and shall be held only by borrowers, or by corporations and public bodies eligible to borrow under section 948 of this title, or by organizations controlled by such borrowers, corporations and public bodies, and shall be entitled to dividends in the manner specified in the bylaws of the telephone bank. Such dividends shall be payable only from income and, until all class A stock is retired, shall not exceed the current average rate payable on its telephone debentures.

(f) Special fund equivalents

If a firm, association, corporation, or public body is not authorized under the laws of the jurisdiction in which it is organized to acquire stock of the telephone bank, the telephone bank shall, in lieu thereof, permit such organization to pay into a special fund of the telephone bank a sum equivalent to the amount of stock to be purchased. Each reference in this subchapter to capital stock, or to class B, or class C stock, shall include also the special fund equivalents of such stock, and to the extent permitted under the laws of the jurisdiction in which such organization is organized, a holder of special fund equivalents of class B, or class C stock, shall have the same rights and status as a holder of class B or class C stock, respectively. The rights and obligations of the telephone bank in respect of such special fund equivalent shall be identical to its rights and obligations in respect of class B or class C stock, respectively.

(g) Patronage refunds from remaining earnings after provision for operating expenses, reserves for losses, payments in lieu of taxes, and returns on class A and C stock

After payment of all operating expenses of the telephone bank, including interest on its telephone debentures, setting aside appropriate funds for the reserve for loan losses, and making payments in lieu of taxes, and returns on class A stock as provided in subsection (c) of this section, and on class C stock, the Telephone Bank Board shall annually set aside the remaining earnings of the telephone bank for patronage refunds in accordance with the bylaws of the telephone bank. The telephone bank may not establish any reserve other than the reserves referred to in this subsection and in subsection (h) of this section.

(h) Reserve for losses due to interest rate fluctuations

There is hereby established in the telephone bank a reserve for losses due to interest rate fluctuations. Within 30 days after December 22, 1987, the Governor of the telephone bank shall transfer to the reserve for losses due to interest rate fluctuations all amounts in the reserve for contingencies as of December 22, 1987. All amounts so transferred shall not be transferred,

directly or indirectly, to the reserve for contingencies. Amounts in the reserve for interest rate fluctuations may be expended only to cover operating losses of the telephone bank (other than losses attributable to loan defaults) and only after taking into consideration any recommendations made by the General Accounting Office under section 1413(b) of the Omnibus Budget Reconciliation Act of 1987.

(i) Investment of RTB Equity Fund

(i) The Governor of the telephone bank may invest in obligations of the United States the amounts in the account in the Treasury of the United States numbered 12X8139 (known as the "RTB Equity Fund").

(May 20, 1936, ch. 432, title IV, §406, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 33; amended May 11, 1973, Pub. L. 93-32, §5, 87 Stat. 70; Apr. 21, 1976, Pub. L. 94-273, §2(2), 90 Stat. 375; Dec. 22, 1981, Pub. L. 97-98, title XVI, §1607, 95 Stat. 1347; Dec. 22, 1987, Pub. L. 100-203, title I, §1413(a), (c), 101 Stat. 1330-26; Nov. 28, 1990, Pub. L. 101-624, title XXIII, §§2364, 2367(a), 104 Stat. 4044; Nov. 1, 1993, Pub. L. 103-129, §2(c)(9), 107 Stat. 1365; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(11), (13), 108 Stat. 3221.)

REFERENCES IN TEXT

Section 1413(b) of the Omnibus Budget Reconciliation Act of 1987, referred to in subsec. (h), is section 1413(b) of Pub. L. 100-203, title I, Dec. 22, 1987, 101 Stat. 1330-26, which is not classified to the Code, and which mandated a study by the General Accounting Office of the operations of the telephone bank and directed that GAO report recommendations to Congress within 180 days of Dec. 22, 1987.

AMENDMENTS

1994—Pub. L. 103-354 substituted "Secretary" for "Administrator" in last sentence of subsec. (a) and "Secretary" for "Administrator of the Rural Electrification Administration" in subsec. (c).

1993—Subsec. (i). Pub. L. 103-129 added subsec. (i).

1990—Subsec. (d). Pub. L. 101-624, §2364, inserted before period at end of second sentence " , by paying an amount equal to 5 per centum of the amount of each loan advance, at the time of such advance".

Subsec. (h). Pub. L. 101-624, §2367(a), inserted after second sentence "All amounts so transferred shall not be transferred, directly or indirectly, to the reserve for contingencies." and substituted "Omnibus Budget Reconciliation" for "Rural Telephone Bank Borrowers Fairness".

1987—Subsec. (g). Pub. L. 100-203, §1413(c), substituted "the reserve for loan losses" for "reserves for losses", and inserted at end "The telephone bank may not establish any reserve other than the reserves referred to in this subsection and in subsection (h) of this section."

Subsec. (h). Pub. L. 100-203, §1413(a), added subsec. (h).

1981—Subsec. (a). Pub. L. 97-98, §1607(1), inserted "but not later than fiscal year 1991" after "thereafter," and substituted "\$600,000" for "\$300,000".

Subsec. (c). Pub. L. 97-98, §1607(2), substituted "September 30, 1995" for "September 30, 1985", and struck out "and after the amount of class A and class B stock totals \$400,000,000" after "said date".

1976—Subsec. (c). Pub. L. 94-273 substituted "September" for "June".

1973—Subsec. (a). Pub. L. 93-92 struck out "from net collection proceeds in the rural telephone account created under subchapter III of this chapter" after "appropriated".

EFFECTIVE DATE OF 1990 AMENDMENT

Section 2368 of Pub. L. 101-624 provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle [subtitle F (§§ 2351–2368) of title XXIII of Pub. L. 101–624, enacting sections 918 and 925 to 928 of this title, amending this section and sections 924, 932, 935, 936, 939, 945, 948, and 950 of this title and enacting provisions set out as notes under section 901 of this title] shall take effect on the date of enactment of this Act [Nov. 28, 1990].

“(b) TECHNICAL AMENDMENTS.—The amendments made by section 2367 [amending this section and section 948 of this title] shall take effect as if such amendments had been included in chapter 2 [§§ 1411–1414] of subtitle D of title I of the Omnibus Budget Reconciliation Act of 1987 [Pub. L. 100–203] on the date of enactment of such chapter [Dec. 22, 1987].”

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as an Effective Date note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 931, 948, 950 of this title.

§ 947. Borrowing power; telephone debentures; issuance; interest rates; terms and conditions; ratio to paid-in capital and retained earnings; investments in debentures; debentures as security; purchase and sale of debentures by the Secretary of the Treasury; treatment as public debt transactions of the United States; exclusion of transactions from budget totals

(a) The telephone bank is authorized to obtain funds through the public or private sale of its bonds, debentures, notes, and other evidences of indebtedness (herein collectively called telephone debentures). Telephone debentures shall be issued at such times, bear interest at such rates, and contain such other terms and conditions as the Telephone Bank Board shall determine: *Provided, however*, That the amount of the telephone debentures which may be outstanding at any one time pursuant to this section shall not exceed twenty times the paid-in capital and retained earnings of the telephone bank. Telephone debentures shall not be exempt, either as to principal or interest, from any taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State or local taxing authority. Telephone debentures shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority and control of the United States or any officer or officers thereof.

(b) The Telephone Bank is also authorized to issue telephone debentures to the Secretary of the Treasury, and the Secretary of the Treasury may in his discretion purchase any such debentures, and for such purpose the Secretary of the Treasury is authorized to use as a public debt

transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, as now or hereafter in force, and the purposes for which securities may be issued under chapter 31 of title 31 as now or hereafter in force are extended to include such purchases. Each purchase of telephone debentures by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the telephone debentures acquired by him under this subsection. All purchases and sales by the Secretary of the Treasury of such debentures under this subsection shall be treated as public debt transactions of the United States.

(c) Purchases and resales by the Secretary of the Treasury as authorized in subsection (b) of this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(May 20, 1936, ch. 432, title IV, § 407, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 34; amended June 30, 1972, Pub. L. 92–324, § 2, 86 Stat. 390; May 11, 1973, Pub. L. 93–32, §§ 6, 7, 87 Stat. 70.)

CODIFICATION

In subsec. (b), “chapter 31 of title 31” substituted for “the Second Liberty Bond Act” on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–32, § 6, increased from eight times the paid-in capital and retained earnings of the telephone bank to twenty times the paid-in capital and retained earnings of the telephone bank the amount of telephone debentures which may be outstanding at any one time and struck out provisions directing the insertion by the telephone bank in all its telephone debentures of appropriate language indicating that such telephone debentures together with interest thereon are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the telephone bank.

Subsec. (c). Pub. L. 93–32, § 7, added subsec. (c).

1972—Pub. L. 92–324 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 92–32, set out as an Effective Date note under section 930 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–324 effective June 30, 1972, see section 4 of Pub. L. 92–324, set out as an Effective Date note under section 921b of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 948 of this title.

§ 948. Lending power**(a) Loans for prescribed purposes; requisite conditions**

The Governor of the telephone bank shall make loans on behalf of the telephone bank, to the extent that there are qualifying applications therefor, subject only to limitations as to amounts authorized for loans and advances as may be imposed by law enacted by the Congress of the United States for loans to be made in any one year, and in conformance with policies approved by the Telephone Bank Board, to corporations and public bodies which have received a loan or loan commitment pursuant to section 922 of this title, or which have been certified by the Secretary to be eligible for such a loan or loan commitment, (1) for the same purposes and under the same limitations for which loans may be made under section 922 of this title, (2) for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service, and (3) for the purchase of class B stock required to be purchased under section 946(d) of this title but not for the purchase of class C stock, subject, as to the purposes set forth in (2) hereof, to the following provisos: That in the case of any such loan for the acquisition of telephone lines, facilities, or systems, the acquisition shall be approved by the Secretary, the location and character thereof shall be such as to improve the efficiency, effectiveness, or financial stability of the telephone system of the borrower, and in respect of exchange facilities for local services, the size of each acquisition shall not be greater than the borrower's existing system at the time it receives its first loan from the telephone bank, taking into account the number of subscribers served, miles of line, and plant investment. Loans and advances made under this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) Terms and conditions of loans; restrictions on loans

Loans under this section shall be on such terms and conditions as the Governor of the telephone bank shall determine, subject, however, to the following restrictions:

(1) Amortization period

All loans made under this section shall be fully amortized over a period not to exceed fifty years.

(2) Preference in loans; election of loans for telephone system with certain subscriber density per mile

Funds to be loaned under this chapter to any borrower shall be loaned under this section in preference to section 922 of this title if the borrower is eligible for such a loan and funds are available therefor. Notwithstanding the foregoing or any other provision of law, all

loans made pursuant to this chapter for facilities for telephone systems with an average subscriber density of three or fewer per mile shall be made under section 922 of this title; but this provision shall not preclude the making of such loans from the telephone bank at the election of the borrower.

(3) Interest rate

(A) Loans under this section shall bear interest at the "cost of money rate". The cost of money rate is defined as the average cost of moneys to the telephone bank as determined by the Governor, but not less than 5 per centum per annum.

(B) On and after December 22, 1987, advances made on or after December 22, 1987, under loan commitments made on or after October 1, 1987, shall bear interest at the rate determined under subparagraph (C), but in no event at a rate that is less than 5 percent per annum.

(C) The rate determined under this subparagraph shall be—

(i) for the period beginning on the date the advance is made and ending at the close of the fiscal year in which the advance is made, the average yield (on the date of the advance) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the advance; and

(ii) after the fiscal year in which the advance is made, the cost of money rate for such fiscal year, as determined under subparagraph (D).

(D) Within 30 days after the end of each fiscal year, the Governor shall determine to the nearest 0.01 percent the cost of money rate for the fiscal year, by calculating the sum of the results of the following calculations:

(i) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class A stock, multiplied by the rate of return payable by the telephone bank during the fiscal year, as specified in section 946(c) of this title, to holders of class A stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(ii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class B stock, multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, as specified in section 946(d) of this title, to holders of class B stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year. For purposes of the calculation under this subparagraph, such rate shall be zero.

(iii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class C stock, multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, under section 946(e) of this title, to holders of class C stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(iv)(I) The sum of the results of the calculations described in subclause (II).

(II) The amounts received by the telephone bank during the fiscal year from each issue of telephone debentures and other obligations of the telephone bank, multiplied, respectively, by the rates at which interest is payable during the fiscal year by the telephone bank to holders of each issue, each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(v)(I) The amount by which the aggregate of the amounts advanced by the telephone bank during the fiscal year exceeds the aggregate of the amounts received by the telephone bank from the issuance of class A stock, class B stock, class C stock, and telephone debentures and other obligations of the telephone bank during the fiscal year, multiplied by the historic cost of money rate as of the close of the fiscal year immediately preceding the fiscal year, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(II) For purposes of this clause, the term "historic cost of money rate", with respect to the close of a preceding fiscal year, means the sum of the results of the following calculations: The amounts advanced by the telephone bank in each fiscal year during the period beginning with fiscal year 1974 and ending with the preceding fiscal year, multiplied, respectively, by the cost of money rate for the fiscal year (as set forth in the table in subparagraph (E)) for fiscal years 1974 through 1987, and as determined by the Governor under this subparagraph for fiscal years after fiscal year 1987), each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the period.

(E) For purposes of subparagraph (D)(II), the cost of money rate for the fiscal years in which each advance was made shall be as set forth in the following table:

For advances made in—	The cost of money rate shall be—
Fiscal year 1974.....	5.01 percent
Fiscal year 1975.....	5.85 percent
Fiscal year 1976.....	5.33 percent
Fiscal year 1977.....	5.00 percent
Fiscal year 1978.....	5.87 percent
Fiscal year 1979.....	5.93 percent
Fiscal year 1980.....	8.10 percent
Fiscal year 1981.....	9.46 percent
Fiscal year 1982.....	8.39 percent
Fiscal year 1983.....	6.99 percent
Fiscal year 1984.....	6.55 percent
Fiscal year 1985.....	5.00 percent
Fiscal year 1986.....	5.00 percent
Fiscal year 1987.....	5.00 percent.

For purposes of this paragraph, the term "fiscal year" means the 12-month period ending on September 30 of the designated year.

(F)(i) Notwithstanding subparagraph (B), if a borrower holds a commitment for a loan under this section made on or after October 1, 1987, and before December 22, 1987, part or all of the proceeds of which have not been advanced as

of December 22, 1987, the borrower may, until the later of the date the next advance under the loan commitment is made or 90 days after December 22, 1987, elect to have the interest rate specified in the loan commitment apply to the unadvanced portion of the loan in lieu of the rate which (but for this clause) would apply to the unadvanced portion under this paragraph. If any borrower makes an election under this clause with respect to a loan, the Governor shall adjust the interest rate which applies to the unadvanced portion of the loan accordingly.

(ii)(I) If the telephone bank, pursuant to section 947(b) of this title, issues telephone debentures on any date to refinance telephone debentures or other obligations of the telephone bank, the telephone bank shall, in addition to any interest rate reduction required by any other provision of this paragraph, for the period applicable to the advance, reduce the interest rate charged on each advance made under this section during the fiscal year in which the refinanced debentures or other obligations were originally issued by the amount applicable to the advance.

(II) For purposes of subclause (I), the term "the period applicable to the advance" means the period beginning on the issue date described in subclause (I) and ending on the earlier of the date the advance matures or is completely prepaid.

(III) For purposes of subclause (I), the term "the amount applicable to the advance" means an amount which fully reflects that percentage of the funds saved by the telephone bank as a result of the refinancing which is equal to the percentage representation of the advance in all advances described in subclause (I).

(IV) Within 60 days after any issue date described in subclause (I), the Governor shall amend the loan documentation for each advance described in subclause (I), as necessary, to reflect any interest rate reduction applicable to the advance by reason of this clause, and shall notify each affected borrower of the reduction.

(G) Within 30 days after the publication of any determination made under subparagraph (D), any affected borrower may obtain review of the determination, or any other equitable relief as may be determined appropriate, by the United States court of appeals for the judicial circuit in which the borrower does business by filing a written petition requesting the court to set aside or modify such determination. On receipt of such a petition, the clerk of the court shall transmit a copy of the petition to the Governor. On receipt of a copy of such a petition from the clerk of the court, the Governor shall file with the court the record on which the determination is based. The court shall have jurisdiction to affirm, set aside, or modify the determination.

(H) Within 5 days after determining the cost of money rate for a fiscal year, the Governor shall—

(i) cause the determination to be published in the Federal Register in accordance with section 552 of title 5; and

(ii) furnish a copy of the determination to the Comptroller General of the United States.

(I) The Comptroller General shall review, on an expedited basis, each determination a copy of which is received from the Governor and, within 15 days after the date of such receipt, furnish Congress a report on the accuracy of the determination.

(J) The telephone bank shall not sell or otherwise dispose of any loan made under this section, except as provided in this paragraph.

(4) Required qualifications of applicants

The Governor of the telephone bank may make a loan under this section only to an applicant for the loan who meets the following requirements:

(A) The average number of subscribers per mile of line in the service area of the applicant is not more than 15, or the applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(B) The Secretary has approved, under section 935(d)(3) of this title, a telecommunications modernization plan for the State in which the applicant is located and, if the plan was developed by telephone borrowers under subchapter III of this chapter, the applicant is a participant in the plan.

(5) Certificate of convenience and necessity required from State regulatory agency or statement of telephone bank's Governor of nonduplication of lines, facilities, or systems

No loan shall be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service and to require certificates of convenience and necessity to the applicant unless such certificate from such agency is first obtained. In a State in which there is no such agency or regulatory body legally authorized to issue such certificates to the applicant, no loan shall be made under this section unless the Governor of the telephone bank shall determine (and set forth his reasons therefor in writing) that no duplication of lines, facilities, or systems, providing reasonably adequate services will result therefrom.

(6) Definitions: telephone service; telephone lines, facilities, or systems

As used in this section, the term telephone service shall have the meaning prescribed for this term in section 924(a) of this title, and the term telephone lines, facilities, or systems shall mean lines, facilities, or systems used in the rendition of such telephone service.

(7) Sale or disposal of property, rights, or franchises prior to repayment of loan

No borrower of funds under this section shall, without approval of the Governor of the telephone bank under rules established by the Telephone Bank Board, sell or dispose of its property, rights, or franchises, acquired under the provisions of this chapter, until any loan

obtained from the telephone bank, including all interest and charges, shall have been repaid.

(8) Prepayment without penalty

(A) A borrower with a loan from the Rural Telephone Bank may prepay such loan (or any part thereof) by paying the face amount thereof without being required to pay the prepayment penalty set forth in the note covering such loan, except for any prepayment penalty provided for in a loan agreement entered into before November 1, 1993.

(B) If a borrower prepays part or all of a loan made under this section, then, notwithstanding section 947(b) of this title, the Governor of the telephone bank shall—

(i) use the full amount of the prepayment to repay obligations of the telephone bank issued pursuant to section 947(b) of this title before October 1, 1991, to the extent any such obligations are outstanding; and

(ii) in repaying the obligations, first repay the advances bearing the greatest rate of interest.

(9) Applications considered under this section and section 935(d)(2)

On request of any applicant for a loan under this section during any fiscal year, the Governor of the telephone bank shall—

(A) consider the application to be for a loan under this section and a loan under section 935(d)(2) of this title; and

(B) if the applicant is eligible for a loan, make a loan to the applicant under this section in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this section and under section 935(d)(2) of this title, as the amount made available for loans under this section for the fiscal year bears to the total amount made available for loans under this section and under section 935(d)(2) of this title for the fiscal year.

(10) Applications considered under section 935(d)(2)

On request of any applicant who is eligible for a loan under this section for which funds are not available, the applicant shall be considered to have applied for a loan under section 935(d)(2) of this title.

(c) Payment schedule; adjustment; loan period

The Governor of the telephone bank is authorized under rules established by the Telephone Bank Board to adjust, on an amortized basis, the schedule of payments of interest or principal of loans made under this section upon his determination that with such readjustment there is reasonable assurance of repayment: *Provided, however,* That no adjustment shall extend the period of such loans beyond fifty years.

(d) Borrowers to determine amortization period for rural telephone bank loans

(1) Except as provided in paragraph (2), the term of any loan made under this subchapter shall be determined by the borrower at the time the application for the loan is submitted.

(2) The term of any loan made under this subchapter shall not exceed the maximum term for

which a loan may be made under section 904 of this title.

(e) Interest on loans and advances

Loans and advances made under this section on or after November 5, 1990, shall bear interest at a rate determined under this section, taking into account all assets and liabilities of the telephone bank. This subsection shall not apply to loans obligated before November 1, 1993. Funds are not authorized to be appropriated to carry out this subsection until the funds are appropriated in advance to carry out this subsection.

(May 20, 1936, ch. 432, title IV, §408, as added May 7, 1971, Pub. L. 92-12, §2, 85 Stat. 35; amended May 11, 1973, Pub. L. 93-32, §§8, 9, 87 Stat. 70, 71; Dec. 22, 1987, Pub. L. 100-203, title I, §§1411(b)(1), (c), 1412, 101 Stat. 1330-22, 1330-23, 1330-26; Nov. 28, 1990, Pub. L. 101-624, title XXIII, §§2365, 2366, 2367(b), 104 Stat. 4044; Nov. 1, 1993, Pub. L. 103-129, §2(a)(2), 107 Stat. 1361; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Subsecs. (a), (b)(4)(B). Pub. L. 103-354 substituted "Secretary" for "Administrator".

1993—Subsec. (a)(2). Pub. L. 103-129, §2(a)(2)(A), substituted "acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service" for "purposes of financing, or refinancing, the construction, improvement, expansion, acquisition, and operation of telephone lines, facilities, or systems, in order to improve the efficiency, effectiveness, or financial stability of borrowers financed under section 922 of this title and this section".

Subsec. (b)(4). Pub. L. 103-129, §2(a)(2)(B)(i), added par. (4) and struck out former par. (4) which related to adequacy of security and capacity for repayment of loans made under this section.

Subsec. (b)(8)(A). Pub. L. 103-129, §2(a)(2)(B)(ii), designated existing provisions as subpar. (A), substituted "except for any prepayment penalty provided for in a loan agreement entered into before November 1, 1993" for "if such prepayment is not made later than September 30, 1988", and added subpar. (B).

Subsec. (b)(9), (10). Pub. L. 103-129, §2(a)(2)(B)(iii), added pars. (9) and (10).

Subsec. (e). Pub. L. 103-129, §2(a)(2)(C), added subsec. (e).

1990—Subsec. (a). Pub. L. 101-624, §2365, substituted "shall make loans on behalf of the telephone bank, to the extent that there are qualifying applications therefor, subject only to limitations as to amounts authorized for loans and advances as may be imposed by law enacted by the Congress of the United States for loans to be made in any one year, and" for "is authorized on behalf of the telephone bank to make loans,".

Subsec. (b)(3)(B). Pub. L. 101-624, §2367(b)(1), substituted "the date of enactment of this subparagraph" for "the date of enactment of this paragraph" in the original text before "advances", which was translated as "December 22, 1987", requiring no change in text.

Subsec. (b)(3)(D)(ii). Pub. L. 101-624, §2367(b)(2), inserted "For purposes of the calculation under this subparagraph, such rate shall be zero."

Subsec. (b)(3)(E). Pub. L. 101-624, §2367(b)(3), substituted "paragraph" for "subparagraph" after "of this".

Subsec. (d). Pub. L. 101-624, §2366, added subsec. (d).

1987—Subsec. (b)(3). Pub. L. 100-203, §1411(c), designated existing provisions as subpar. (A) and added subpars. (B) to (J).

Subsec. (b)(4). Pub. L. 100-203, §1412, inserted at end "For purposes of determining the creditworthiness of a borrower for a loan under this paragraph, the Governor shall assume that the loan, if made, would bear interest at a rate equal to the average yield (on the date of the determination) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the loan."

Subsec. (b)(8). Pub. L. 100-203, §1411(b)(1), added par. (8).

1973—Subsec. (a). Pub. L. 93-32, §8, inserted "or which have been certified by the Administrator to be eligible for such a loan or loan commitments," preceding cl. (1) and inserted provision that loans and advances not be included in the totals of the budget of the United States Government and that such loans and advances be exempt from any general limitation imposed by statute expenditures and net lending (budget outlays) of the United States.

Subsec. (b)(3). Pub. L. 93-32, §9, substituted provisions for a "cost of money rate" of interest with a "not less than 5 per centum per annum" limit on such rate, for provisions for interest "at the highest rate which meets the requirements set forth in paragraph (4), consistent with the borrower's ability to pay such interest rate and with achievement of the objectives of this chapter" with a "not less than 4 per centum per annum" limit on such rate.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 2367(b) of Pub. L. 101-624 effective as if included in chapter 2 [§§1411-1414] of subtitle D of title I of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, see section 2368(b) of Pub. L. 101-624, set out as a note under section 946 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as an Effective Date note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

CONGRESSIONAL FINDINGS COVERING INTEREST RATES AND LOAN PREPAYMENTS

Section 1411(a) of Pub. L. 100-203 provided that: "Congress finds that—

"(1) overcharging of Rural Telephone Bank borrowers has resulted in \$179,000,000 in excess profits and has imperiled borrowers by raising costs to ratepayers;

"(2) borrowers will be able to seek redress under section 408(b)(3)(G) of the Rural Electrification Act of 1936 [subsec. (b)(3)(G) of this section], as added by subsection (c), or may leave the Rural Telephone Bank, but in no case may the Governor of the Bank issue regulations requiring any penalty from borrowers seeking to retire debt prior to maturity; and

"(3) any reduction in Federal Government expenditures in the operation of the Rural Telephone Bank, from borrowers' conduct resulting from the implementation of the amendments made by subsections (b) and (c) [amending this section], should be included in all calculations of the budget of the United States Government, authorized under the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 [title I of Pub. L. 100-119, see Short Title of 1987 Amendment note set out under section 901 of Title 2, The Congress]."

PREPAYMENT REGULATIONS

Section 1411(b)(2) of Pub. L. 100-203 provided that: "The Governor of the Rural Telephone Bank shall issue regulations to carry out the amendment made by paragraph (1) [amending this section] within 30 days after the date of enactment of this Act [Dec. 22, 1987]. Such regulations shall implement the amendment made by

paragraph (1) without the addition of any restrictions not set forth in such amendment.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 927, 928, 935, 939, 941, 946, 950, 950b of this title.

§ 949. Telephone bank receipts; availability for obligations and expenditures

Any receipts from the activities of the telephone bank shall be available for all obligations and expenditures of the telephone bank.

(May 20, 1936, ch. 432, title IV, § 409, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 36.)

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 950. Conversion of ownership, control, and operation of telephone bank

(a) Transfer of powers and authority from Secretary of Agriculture to Telephone Bank Board; cessation of Presidential appointees as Board members and reduction in number of Board members; status of telephone bank

Whenever fifty-one per centum of the maximum amount of class A stock issued to the United States and outstanding at any time after September 30, 1985, has been fully redeemed and retired pursuant to section 946(c) of this title—

(1) the powers and authority of the Governor of the telephone bank granted to the Secretary by this subchapter shall vest in the Telephone Bank Board, and may be exercised and performed through the Governor of the telephone bank, to be selected by the Telephone Bank Board, and through such other employees as the Telephone Bank Board shall designate;

(2) the five members of the Telephone Bank Board designated by the President pursuant to section 945(b)(1)(A) of this title shall cease to be members, and the number of Board members shall be accordingly reduced to eight unless other provision is thereafter made in the bylaws of the telephone bank;

(3) the telephone bank shall cease to be an agency of the United States, but shall continue in existence in perpetuity as an instrumentality of the United States and as a banking corporation with all of the powers and limitations conferred or imposed by this subchapter except such as shall have lapsed pursuant to the provisions of this subchapter.

(b) Restrictions of section 948(a)(2) of this title inapplicable to loans upon redemption and retirement of class A stock

When all class A stock has been fully redeemed and retired, loans made by the telephone bank shall not continue to be subject to the restrictions prescribed in the provisos to section 948(a)(2) of this title.

(c) Congressional review

Congress reserves the right to review the continued operations of the telephone bank after all class A stock has been fully redeemed and retired.

(May 20, 1936, ch. 432, title IV, § 410, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 36; amend-

ed Apr. 21, 1976, Pub. L. 94-273, § 2(2), 90 Stat. 375; Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2363(b)(2), 104 Stat. 4043; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(11), 108 Stat. 3221.)

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-354 substituted “Secretary” for “Administrator of the Rural Electrification Administration”.

1990—Subsec. (a)(2). Pub. L. 101-624 substituted “section 945(b)(1)(A) of this title” for “section 945(b) of this title”.

1976—Subsec. (a). Pub. L. 94-273 substituted “September” for “June”.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 943, 944 of this title; title 31 sections 9101, 9108.

§ 950a. Liquidation or dissolution of telephone bank

In the case of liquidation or dissolution of the telephone bank, after the payment or retirement, as the case may be, first, of all liabilities; second, of all class A stock at par; third, of all class B stock at par; fourth, of all class C stock at par; then any surpluses and contingency reserves existing on the effective date of liquidation or dissolution of the telephone bank shall be paid to the holders of class A and class B stock issued and outstanding before the effective date of such liquidation or dissolution, pro rata.

(May 20, 1936, ch. 432, title IV, § 411, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 37.)

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 950b. Borrower net worth

Except as provided in subsection (b)(2) of section 948 of this title, notwithstanding any other provision of law, a loan shall not be made under section 922 of this title to any borrower which during the immediately preceding year had a net worth in excess of 20 per centum of its assets unless the Secretary finds that the borrower cannot obtain such a loan from the telephone bank or from other reliable sources at reasonable rates of interest and terms and conditions.

(May 20, 1936, ch. 432, title IV, § 412, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 37; amended Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

SUBCHAPTER V—RURAL ECONOMIC
DEVELOPMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6944 of this title.

§ 950aa. Additional powers and duties

The Secretary shall—

(1) provide advice and guidance to electric borrowers under this chapter concerning the effective and prudent use by such borrowers of the investment authority under section 940b of this title to promote rural development;

(2) provide technical advice, troubleshooting, and guidance concerning the operation of programs or systems that receive assistance under this chapter;

(3) establish and administer various pilot projects through electric and telephone borrowers that the Secretary determines are useful or necessary, and recommend specific rural development projects for rural areas;

(4) act as an information clearinghouse and conduit to provide information to electric and telephone borrowers under this chapter concerning useful and effective rural development efforts that such borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;

(5) provide information to electric and telephone borrowers under this chapter concerning the eligibility of such borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts;

(6) promote local partnerships and other coordination between borrowers under this chapter and community organizations, States, counties, or other entities, to improve rural development; and

(7) administer a Rural Business Incubator Fund (as established under section 950aa-1 of this title) that shall provide technical assistance, advice, loans, or capital to business incubator programs or for the creation or operation of small business incubators in rural areas.

(May 20, 1936, ch. 432, title V, § 501, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2345, 104 Stat. 4029; amended Dec. 13, 1991, Pub. L. 102-237, title VII, § 703(c), 105 Stat. 1881; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(12), (13), 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103-354 struck out “of REA Administrator” at end of section catchline and substituted “Secretary” for “Administrator” in introductory provisions and par. (3).

1991—Pars. (6) to (8). Pub. L. 102-237 inserted “and” at end of par. (6), redesignated par. (8) as (7), and struck out former par. (7) which read as follows: “review the advice and recommendations of the Rural Educational Opportunities Board as established under section 601(f); and”.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-237 effective as if included in the provision of the Food, Agriculture, Conservation,

and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, see section 1101(b)(8) of Pub. L. 102-237, set out as a note under section 1421 of this title.

§ 950aa-1. Rural Business Incubator Fund

(a) Establishment and use

(1) Establishment

There is established in the Treasury of the United States a revolving fund to be known as the Rural Business Incubator Fund (in this subchapter referred to as the “Incubator Fund”) to be administered by the Secretary.

(2) Use

The Incubator Fund shall be used to make grants and reduced interest loans to electric and telephone borrowers under this chapter or to other nonprofit entities that meet the requirements of this section, to promote business incubator programs or for the creation or operation of business incubators in rural areas, and the interest rate on such loans shall not exceed 5 percent.

(3) Business incubator

Any business incubator that receives assistance under this subchapter shall be a facility in which small businesses can share premises, support staff, computers, software, hardware, telecommunications terminal equipment, machinery, janitorial services, utilities, or other overhead expenses, and where such businesses can receive technical assistance, financial advice, business planning services, or other support. Business incubator programs that provide assistance of the type described in this paragraph shall be eligible for assistance under this subchapter even if such programs do not involve the sharing of premises.

(b) Application for assistance

(1) Eligibility to submit

Borrowers under this chapter that operate business incubators or that desire to operate such incubators or business incubator programs, and that meet the requirements established by the Secretary for obtaining grants or reduced interest loans under this section, may submit applications for such grants or loans at such time, in such form, and containing such information as the Secretary shall require. Nonprofit entities that are not borrowers under subchapter III of this chapter shall be considered eligible borrowers for the purpose of this section if such entities are located in a State in which not more than one electric borrower is headquartered in such State.

(2) Requirements

Applications submitted under paragraph (1) shall, at a minimum—

(A) contain an assurance that any incubator established or operated pursuant to this section will be operated on a not-for-profit basis; and

(B) contain an assurance that the policy of such incubator is to encourage and assist businesses in graduating from the incubator and becoming viable business entities in the community and to inform participating businesses of this policy.

(3) Review

In reviewing applications for assistance, the Secretary shall consider—

(A) how effectively the incubator project will assist in the formation, growth, or improved efficiency of small businesses that will help diversify and develop the local economy; and

(B) the amount of local support likely to exist for the incubator and the businesses to be assisted by such incubator, taking into account local contributions of business, financial, technical, technological, or managerial expertise, and contributions of equipment or materials, local financial assistance, and other factors as determined appropriate by the Secretary.

(c) Funding of local incubators**(1) By borrower establishing incubator****(A) In general**

A borrower that establishes or assists a business incubator under this section shall purchase Capital Term Certificates issued by the Incubator Fund in amounts equal to 10 percent of the amount of the grant, or 5 percent of the amount of the reduced interest loan, provided by the Secretary under this section.

(B) Redemption of certificates

Each calendar year for the 10-year period beginning on the date that a grant or reduced interest loan is provided under this section, the Secretary shall redeem an amount equal to 10 percent of the Capital Term Certificates purchased by the borrower under subparagraph (A), without any payment of interest.

(2) By the Secretary of the Treasury

The Secretary of the Treasury shall, subject to the limitations contained in annual appropriations Acts, provide funds for the capitalization of the Incubator Fund, and there are authorized to be appropriated for such capitalization not to exceed \$10,000,000 annually until the total of such capitalization equals \$60,000,000. Such amounts shall remain available until expended by the Incubator Fund for the purposes of this section.

(d) Repayments to Incubator Fund

All payments made on loans under this section, and all amounts provided under subsection (c) of this section, shall be placed in the Incubator Fund established by subsection (a) of this section and shall be available to carry out the purposes of this section.

(e) Full use

The Secretary shall undertake all reasonable efforts to make full use, during each fiscal year, of any funds contained in the Incubator Fund established under subsection (a) of this section, consistent with the requirement that the Incubator Fund redeem Capital Term Certificates as provided by subsection (c) of this section. During each fiscal year, 10 percent of the amount contained in the Incubator Fund shall be made available to nonprofit entities described in subsection (b) of this section that are not borrowers

under subchapter III of this chapter, except that if qualified applications from such entities are not received in an amount or at such times sufficient to use such 10 percent amount during any fiscal year, the Secretary shall make the remainder of such amount available to other eligible borrowers during such fiscal year.

(May 20, 1936, ch. 432, title V, § 502, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2345, 104 Stat. 4030; amended Dec. 13, 1991, Pub. L. 102-237, title VII, § 703(d), 105 Stat. 1881; Oct. 13, 1994, Pub. L. 103-354, title II, § 235(a)(13), 108 Stat. 3221.)

AMENDMENTS

1994—Subsecs. (a)(1), (b)(1), (3), (c)(1), (e). Pub. L. 103-354 substituted “Secretary” for “Administrator” in subsec. (a)(1) and in two places in subsecs. (b)(1), (3), (c)(1), and (e).

1991—Subsec. (a)(2). Pub. L. 102-237 struck out “as defined in this chapter” after “in rural areas”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950aa of this title.

CHAPTER 31A—DISTANCE LEARNING AND MEDICAL LINK PROGRAMS

Sec.	Purpose.
950aaa.	Goal.
950aaa-1.	Definitions.
950aaa-2.	Provisions relevant to telecommunications programs.
950aaa-3.	(a) Administration.
	(b) Rulemaking.
	(c) Priority.
	(d) Waivers.
	(e) Expediting coordinated telephone loans.
	(f) Grant approval process.
	(g) Joint use of telecommunications transmissions facilities.
	(h) Expedited loans for telephone transmission facilities.
950aaa-4.	Rural community access to advanced telecommunications.
	(a) Purpose.
	(b) Grants.
	(c) Regulations.
950aaa-5.	Special health care and distance learning program for qualified service areas.
	(a) Development of consortia.
	(b) Special program for qualified local exchange carrier service areas.
	(c) Expedited telephone loans.
	(d) “Qualified local exchange carrier service area” defined.

TERMINATION OF CHAPTER

For termination of chapter by section 1(b) of Pub. L. 102-551, see note set out under section 950aaa of this title.

§ 950aaa. Purpose

The purposes of this chapter are to provide incentives for local telephone exchange carriers, rural community facilities and rural residents to improve the quality of phone service, to provide access to advanced telecommunications services and computer networks, and to improve rural opportunities.

(Pub. L. 101-624, title XXIII, §2331, Nov. 28, 1990, 104 Stat. 4017.)

TERMINATION OF SECTION

For termination of section by section 1(b) of Pub. L. 102-551, see Termination of Chapter note set out below.

TERMINATION OF CHAPTER

Pub. L. 102-551, §1(b), Oct. 28, 1992, 106 Stat. 4100, provided that: "Notwithstanding any other provision of law, chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), including the amendments made by this section [enacting section 950aaa-5 of this title and amending section 950aaa-4 of this title], shall be effective until September 30, 1997."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950aaa-4 of this title.

§ 950aaa-1. Goal

It is a goal of the Federal Government to make affordable advanced telecommunications available to rural residents, including services such as reliable facsimile document and data transmission, multifrequency tone signaling services, 911 emergency service with automatic number identification, interactive audio and visual transmissions, voicemail services designed to record, store, and retrieve voice messages, and other advanced telecommunications services.

(Pub. L. 101-624, title XXIII, §2332, Nov. 28, 1990, 104 Stat. 4017; Pub. L. 102-237, title VII, §702(g), Dec. 13, 1991, 105 Stat. 1880.)

TERMINATION OF SECTION

For termination of section by section 1(b) of Pub. L. 102-551, see Termination of Chapter note set out under section 950aaa of this title.

AMENDMENTS

1991—Pub. L. 102-237 substituted "Federal Government" for "Federal government".

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, see section 1101(b)(7) of Pub. L. 102-237, set out as a note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950aaa-4 of this title.

§ 950aaa-2. Definitions

As used in this chapter:

(1) Communication satellite ground station complex

The term "communication satellite ground station complex" includes transmitters, receivers, and communications antennas at the Earth station site together with the interconnecting terrestrial transmission facilities (cables, line, or microwave facilities) and modulating and demodulating equipment necessary for processing traffic received from the terrestrial distribution system prior to transmission via satellite and the traffic received

from the satellite prior to transfer to terrestrial distribution systems.

(2) Comprehensive rural telecommunications plan

The term "comprehensive rural telecommunications plan" means a plan submitted by an applicant for a grant under this chapter. Each such plan shall include—

(A) a detailed explanation of the proposed rural telecommunications system, how such system is to be funded, and a description of the intended uses for grants received from the Secretary under this chapter;

(B) an explanation of the manner in which such plan complies with any requirements imposed by the Secretary under this chapter or otherwise imposed under section 950aaa-3 of this title;

(C) a listing of the proposed purchases or leases of telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, interactive video equipment, computer hardware and software systems, and components that process data for transmission via telecommunications, computer network components, communication satellite ground station equipment, or any other elements of the telecommunications system designed to further the purposes of this chapter, that the applicant intends to build or fund using the grant funds;

(D) an explanation of the special financial or other needs of the affected rural communities and of the applicants for such grant assistance;

(E) an analysis of the relative costs and benefits of proposals for leasing or purchasing of facilities, equipment, components, hardware and software, or other items; and

(F) a description of the consultations with the appropriate local telephone exchange carrier or carriers and with a wide variety of additional telecommunications service providers (including other interexchange carriers, cable television operators, enhanced service providers, providers of satellite services and telecommunications equipment manufacturers and distributors), and the anticipated role of such providers in the proposed telecommunications system.

(3) Computer networks

The term "computer networks" refers to computer hardware and software, terminals, signal conversion equipment including both modulators and demodulators, or related devices, used to communicate with other computers to process and exchange data through a telecommunication network in which signals are generated, modified, or prepared for transmission, or received, via telecommunications terminal equipment and telecommunications transmission facilities.

(4) Data terminal equipment

The term "data terminal equipment" refers to equipment that converts user information into data signals for transmission, or reconverts the received data signals into user information, and is normally found on the terminal

of a circuit and on the premises of the end user.

(5) End user

The term “end user” means rural community facilities or persons associated with those facilities who participate in the programs established under this chapter.

(6) Fiber-optic cable

The term “fiber-optic cable” means a bundle of optical transmission elements or waveguides usually consisting of a fiber core and fiber cladding that can guide a lightwave and that are incorporated into an assembly of materials that provide tensile strength and external protection.

(7) Interactive video equipment

The term “interactive video equipment” refers to equipment used to produce and prepare for transmission audio and visual signals from at least two distant locations such that individuals at such locations can verbally and visually communicate with each other, and such equipment includes monitors, other display devices, cameras or other recording devices, audio pickup devices, and other related equipment.

(8) Secretary

The term “Secretary” means the Secretary of Agriculture.

(9) Telecommunications transmission facilities

The term “telecommunications transmission facilities” refers to those facilities that transmit, receive, or carry data between the telecommunications terminal equipment at each end of a telecommunications circuit or path. Such facilities include microwave antennae, relay stations and towers, other telecommunications antennae, fiber-optic cables and repeaters, coaxial cables, communication satellite ground station complexes, copper cable electronic equipment associated with telecommunications transmissions, and similar items as defined by the Secretary.

(10) Telecommunications terminal equipment

The term “telecommunications terminal equipment” refers to the assembly of telecommunications equipment at the end of a circuit, normally located on the premises of the end user, that interfaces with telecommunications transmission facilities, and that is used to modify, convert, encode, or otherwise prepare signals to be transmitted via such telecommunications facilities, or that is used to modify, reconvert or carry signals received from such facilities, the purpose of which is to accomplish the goal for which the circuit was established.

(Pub. L. 101-624, title XXIII, § 2333, Nov. 28, 1990, 104 Stat. 4017; Pub. L. 103-354, title II, § 235(b)(4)(A), (C), Oct. 13, 1994, 108 Stat. 3221, 3222.)

TERMINATION OF SECTION

For termination of section by section 1(b) of Pub. L. 102-551, see Termination of Chapter note set out under section 950aaa of this title.

AMENDMENTS

1994—Pub. L. 103-354 redesignated pars. (2) to (11) as (1) to (10), respectively, struck out former par. (1) which defined “Administrator” as meaning Administrator of the Rural Electrification Administration, and substituted “Secretary” for “Administrator” in pars. (2)(A), (B), and (9).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 950aaa-3, 950aaa-4 of this title.

§ 950aaa-3. Provisions relevant to telecommunications programs

(a) Administration

The Secretary shall be responsible for the administration of this chapter.

(b) Rulemaking

Not later than 160 days after November 28, 1990, the Secretary shall promulgate final regulations, under the notice and comment rulemaking requirements described in section 553 of title 5 that establish the telecommunications programs authorized in this chapter.

(c) Priority

The Secretary shall establish procedures to target the benefits of this chapter to the rural areas and grant applicants that demonstrate the need for such assistance, taking into consideration the relative needs of all applicants, the needs of the affected rural communities, and the financial ability of the applicants to otherwise secure or create telecommunications systems.

(d) Waivers

If the Secretary determines that a compelling need is present, the Secretary may modify any of the definitions in section 950aaa-2 of this title.

(e) Expediting coordinated telephone loans

The Secretary shall establish and implement procedures to ensure that expedited consideration and determination is given to applications for loans and advances of funds submitted by local exchange carriers under this chapter—

(1) to enable such exchange carriers to provide advanced telecommunications services in rural areas; and

(2) that contain elements of any telecommunications project approved by the Secretary under this chapter that will be completed by such local telephone exchange carriers but that is not covered by any grant made under this chapter.

(f) Grant approval process

(1) Modifications

The Secretary may request modifications or changes in any proposal described in a grant application submitted under this chapter.

(2) Levels of funding

(A) In general

The Secretary may offer to fund grant applications under this chapter at any levels that the Secretary considers appropriate but not exceeding any percentage levels described in this chapter.

(B) Considerations

After taking into consideration the nationwide demands for grant assistance and

the costs and benefits of any proposed purchases or leases of telecommunications transmission facilities, telecommunications terminal equipment, computer network components, and other equipment or facilities, the Secretary shall make grants based on—

- (i) the worthiness of the application;
- (ii) the financial needs of the applicant;
- (iii) the need of the affected rural communities for the proposed projects; and
- (iv) other factors determined appropriate by the Secretary.

(g) Joint use of telecommunications transmission facilities

In issuing regulations implementing this chapter, and in requesting changes in, or approving applications for grants, the Secretary shall give a priority, to the extent reasonable and appropriate, to provide funding for such facilities that can be jointly shared by projects established under this chapter.

(h) Expedited loans for telephone transmission facilities

(1) In general

Grants to cover the costs of installing telecommunication transmission facilities shall not be provided to approved end users if the local telephone exchange carrier providing telephone service, as defined in section 924(a) of this title, will install such facilities through the use of expedited telephone loans as described in subsection (e) of this section under the conditions and deadlines described in this section or through other financing procedures.

(2) Notification of local exchange carrier

Each applicant for a grant for a rural telecommunications program established under this chapter shall notify the appropriate local telephone exchange carrier regarding the application filed with the Secretary for such grant and shall attempt to work with such carrier in developing the rural telecommunications project. The Secretary shall publish notice of applications received for grants under this chapter for rural telecommunications programs and shall make such applications available for inspection by any provider described in section 950aaa-2(2)(F) of this title.

(3) Deadline imposed on Secretary

Not later than 45 days after the receipt of a completed application for an expedited telephone loan, the Secretary shall respond to the application. The Secretary shall notify the applicant in writing of its decision regarding each such expedited loan application.

(Pub. L. 101-624, title XXIII, §2334, Nov. 28, 1990, 104 Stat. 4019; Pub. L. 103-354, title II, §235(b)(4)(B), (C), Oct. 13, 1994, 108 Stat. 3221, 3222.)

TERMINATION OF SECTION

For termination of section by section 1(b) of Pub. L. 102-551, see Termination of Chapter note set out under section 950aaa of this title.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing and “section

950aaa-2(2)(F)” for “section 950aaa-2(3)(F)” in subsec. (h)(2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 950aaa-2, 950aaa-4 of this title.

§ 950aaa-4. Rural community access to advanced telecommunications

(a) Purpose

(1) In general

It is the purpose of the program established under this chapter to encourage and improve the use of telecommunications, computer networks, and related advanced technologies, by persons associated with end users, including students and teachers, medical professionals, small businesses, and other residents living in rural areas associated with rural community facilities in rural areas.

(2) Grants

Grants shall be made under this chapter to end users to fund up to 100 percent of each comprehensive rural telecommunications plan as approved by the Secretary.

(b) Grants

(1) General authorization

The Secretary may make grants to accomplish the purposes of the program established under this chapter in amounts that shall not exceed the levels set forth in paragraph (3).

(2) Disbursement

In order to facilitate appropriate planning for, and continuity of, the program established under this chapter, the Secretary may obligate funds appropriated during a particular year for disbursement in a subsequent year or years, and the total of funds so appropriated and obligated during a year may exceed the limitations described in paragraph (1).

(3) Limitations on authorization of appropriations

To carry out this chapter, there are authorized to be appropriated \$25,000,000 for fiscal year 1991, \$50,000,000 for each of fiscal years 1992 and 1993, and \$60,000,000 for each of the fiscal years 1994 and 1995. Amounts appropriated under this paragraph shall remain available until expended.

(4) Use of funds

Grants under this chapter shall be made available to end users to be used for facilities, equipment, activities, and other uses as described in the approved rural telecommunications plan to achieve the purpose of this chapter, including—

(A) the development and acquisition of instructional programming;

(B) the development and acquisition, through lease or purchase, of computer hardware and software, audio and visual equipment, computer network components, telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, or interactive video equipment, and other facilities that would further the purposes of the programs authorized by this chapter;

(C) providing technical assistance and instruction for the development or use of such programming, equipment, or facilities; or

(D) other uses that are consistent with achieving the purposes of this chapter as approved by the Secretary.

(5) Local exchange carriers

Under the conditions described in section 950aaa-3(h) of this title, expedited loans may also be made, to carry out any project authorized in this chapter, to local exchange carriers providing telephone service (as defined in section 924(a)¹ of this title), to cover the costs of telecommunications transmission facilities.

(6) Informational efforts

The Secretary shall establish and implement procedures to carry out informational efforts to advise potential end users located in rural areas of each State about the program authorized by this chapter.

(7) Limits on grants

Grants awarded under this chapter for an end user shall not be used for the salaries or expenses of an end user.

(8) Use of appropriated funds

(A) In general

Subject to subparagraph (B), the Secretary shall make available—

(i) 50 percent of the funds made available pursuant to paragraph (3) for grants for end users that are consortia participating in the special program established under section 950aaa-5 of this title; and

(ii) 50 percent of the funds made available pursuant to paragraph (3) to provide funds for the programs, and end users participating in the programs, authorized by sections 950aaa through 950aaa-4 of this title.

(B) Release of funds

Not earlier than April 1 and not later than May 1 of each year, the Secretary shall make such funds described in subparagraph (A) as remain unobligated, available for any purpose described in subparagraph (A).

(c) Regulations

Not later than 160 days after November 28, 1990, the Secretary shall, in addition to promulgating the regulations described in section 950aaa-3(b) of this title, establish a priority system for awarding grants to end users located in rural areas that are most in need of enhanced communications to carry out the purposes of this chapter.

(Pub. L. 101-624, title XXIII, §2335, Nov. 28, 1990, 104 Stat. 4021; Pub. L. 102-551, §1(c), Oct. 28, 1992, 106 Stat. 4100; Pub. L. 103-354, title II, §235(b)(4)(C), Oct. 13, 1994, 108 Stat. 3222.)

TERMINATION OF SECTION

For termination of section and amendment to section by section 1(b) of Pub. L. 102-551, see Termination of Chapter note set out under section 950aaa of this title.

¹ See References in Text note below.

REFERENCES IN TEXT

Section 924(a) of this title, referred to in subsec. (b)(5), was in the original "section 2333(a) of the Rural Electrification Act of 1936 (7 U.S.C. 924(a))", and was translated as reading "section 203(a) of the Rural Electrification Act of 1936", as the probable intent of Congress.

AMENDMENTS

1994—Pub. L. 103-354 substituted "Secretary" for "Administrator" wherever appearing.

1992—Subsec. (b)(8). Pub. L. 102-551, §1(b), (c), temporarily added par. (8). See Effective and Termination Dates of 1992 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1992 AMENDMENT

Amendment by Pub. L. 102-551 effective until Sept. 30, 1997, see section 1(b) of Pub. L. 102-551, set out as a Termination of Chapter note under section 950aaa of this title.

Section 1(d) of Pub. L. 102-551 provided that: "The amendments made by this section [enacting section 950aaa-5 of this title and amending this section] shall not apply to funds appropriated for fiscal year 1993 to carry out subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) [Pub. L. 101-624, enacting this chapter, amending section 1932 of this title, and enacting provisions set out as a note under section 1932 of this title] or require the revision of any regulation proposed to carry out such subtitle during fiscal year 1993."

ANALYSIS BY OFFICE OF TECHNOLOGY ASSESSMENT

Section 2385 of Pub. L. 101-624 provided that:

"(a) IN GENERAL.—The Office of Technology Assessment shall include, in a study of the effects of information age technology on rural America, an analysis of the feasibility of ensuring that rural citizens in their homes and schools have the ability to acquire, by computer, information in a national library.

"(b) CONTENTS.—In conducting the analysis under subsection (a), the Office of Technology Assessment shall—

"(1) evaluate, in consultation with the Librarian of Congress, the costs and benefits of establishing a national library whose volumes, periodicals, instructional materials, sound and video resources, and other data are accessible to individuals through their personal computers;

"(2) assess the technological, regulatory, or other impediments to the establishment of the library and information retrieval system described in paragraph (1), and the length of time required to establish such a library and retrieval system;

"(3) describe the potential for the library and information described in paragraph (1) to provide rural citizens the opportunity to study and explore foreign languages, geography, math, science, history, or other interests, and to exchange scholarly information and ideas with other users, and otherwise to engage in interactive study; and

"(4) recommend to the Congress the measures that should be taken to establish the library and retrieval system described in paragraph (1)."

§ 950aaa-5. Special health care and distance learning program for qualified service areas

(a) Development of consortia

The Secretary shall encourage the development of consortia to provide health care services or educational services through telecommunications in rural areas of a qualified local exchange carrier service area. Each consortium shall be composed of—

(1) a tertiary care facility, rural referral center, medical teaching institution, or educational institution accredited by the State;

(2) any number of institutions that provide health care services or educational services; and

(3) not less than¹ three rural hospitals, clinics, community health centers, migrant health centers, local health departments, or similar facilities, or not less than three educational institutions accredited by the State.

(b) Special program for qualified local exchange carrier service areas

(1) Regulations and special program

Through regulations issued not later than 190 days after October 28, 1992, the Secretary shall establish a program under which qualified consortia described in subsection (a) of this section located within qualified local exchange carrier service areas may apply to the Secretary for grants to support the costs of activities involved in the sending and receiving of information that will improve the delivery of health care services or educational services through telecommunications in rural areas.

(2) Selection of grantees

The Secretary shall—

(A) establish application procedures;

(B) review the applications submitted under this subsection in a timely manner; and

(C) make grants in accordance with this subsection and with regulations issued by the Secretary.

(3) Priorities

(A) In general

Priority for grants under this subsection shall be accorded applicants whose applications and plans demonstrate—

(i) the greatest likelihood of successfully and efficiently carrying out the activities described in the application and the plan of the applicant;

(ii) the greatest likelihood of improving health care services or educational services in the rural areas;

(iii) coordination between local exchange carriers to carry out activities as described in the application; and

(iv) unconditional financial support from each affected local community.

(B) Geographic diversity

In awarding grants, the Secretary shall seek to achieve geographic diversity among the grantees.

(4) Maximum amount of grant

The amount of each grant awarded under this subsection shall not exceed \$1,500,000.

(5) Distribution of grants

Grants to a qualified consortium under this subsection shall be disbursed over a period of not more than 3 years.

(6) Use of funds

(A)² In general

Grants under this subsection may be used to support the costs of activities involving

the sending and receiving of information to improve health care services or educational services in rural areas, including—

(i) in the case of grants to improve health care services—

(I) consultations between health care providers;

(II) transmitting and analyzing x rays,³ lab slides, and other images;

(III) developing and evaluating automated claims processing, and transmitting automated patient records; and

(IV) developing innovative health professions education programs;

(ii) in the case of grants to improve educational services—

(I) developing innovative education programs and expanding curriculum offerings;

(II) providing continuing education to all members of the community;

(III) providing means for libraries of educational institutions or public libraries to share resources;

(IV) providing the public with access to State and national data bases;

(V) conducting town meetings; and

(VI) covering meetings of agencies of State government; and

(iii) in all cases—

(I) transmitting financial information; and

(II) such other related activities as the Secretary considers to be consistent with the purposes of this section.

(7) Limitation on acquisition of interactive telecommunications equipment

Not more than 40 percent of the amount of any grant made under this subsection may be used to acquire interactive telecommunications end user equipment.

(8) Limitation on use of consultants

Not more than 5 percent of the amount of any grant made under this subsection may be used to employ or contract with any consultant or similar person.

(9) Prohibitions

Grants made under this subsection may not be used, in whole or in part, to establish or operate a telecommunications network or to provide any telecommunications services for hire.

(c) Expedited telephone loans

Local exchange carriers located in a qualified local exchange carrier service area shall be eligible to apply for expedited loans under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.). The Secretary shall respond to a completed application for such a loan no later than 45 days after receipt. The Secretary shall notify the applicant in writing of its decision regarding each such application.

(d) “Qualified local exchange carrier service area” defined

As used in this section, the term “qualified local exchange carrier service area” means the

¹ So in original. Probably should be “than”.

² So in original. No subpar. (B) has been enacted.

³ So in original. Probably should be “x-rays”.

service area of a local telephone exchange carrier in which the local exchange carrier has a plan approved by the Secretary for upgrading and modernizing the rural telecommunications infrastructure of the service area. The plan shall—

(1) provide for eliminating party line service within the local exchange carrier service area and for other improvements and modernization in rural telephone service;

(2) provide for the enhancement of the availability of educational opportunities or the availability of improved medical care through telecommunications;

(3) encourage and improve the use of telecommunications, computer networks, and related advanced technologies to provide educational and medical benefits to people in rural areas; and

(4) provide for the achievement of the goals described in subparagraphs (A) through (C)⁴ not later than 10 years after the approval of the plan.

(Pub. L. 101-624, title XXIII, §2335A, as added Pub. L. 102-551, §1(a), Oct. 28, 1992, 106 Stat. 4098; amended Pub. L. 103-354, title II, §235(b)(4)(C), Oct. 13, 1994, 108 Stat. 3222.)

TERMINATION OF SECTION

For termination of section by section 1(b) of Pub. L. 102-551, see Termination of Chapter note set out under section 950aaa of this title.

REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in subsec. (c), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§901 et seq.) of this title. For complete classification of this Act to the Code, see section 901 of this title and Tables.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

EFFECTIVE DATE

Section not to apply to funds appropriated for fiscal year 1993 to carry out subtitle D of title XXIII of Pub. L. 101-624, which enacted this chapter, amended section 1932 of this title, and enacted provisions set out as a note under section 1932 of this title, or to require revision of any regulation proposed to carry out such subtitle during fiscal year 1993, see section 1(d) of Pub. L. 102-551, set out as an Effective and Termination Dates of 1992 Amendment note under section 950aaa-4 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950aaa-4 of this title.

CHAPTER 32—PEANUT STATISTICS

Sec.	
951.	Collection and publication; facts required; submission of report.
952.	Repealed.
953.	Reports; by whom made; penalties.
954.	Grades and standards for classification.
955.	Limitation on use of statistical information.
956.	Rules and regulations; cooperation with departments, etc.; officers and employees; expenses of administration; authorization of appropriations.

⁴So in original. Probably should be “paragraphs (1) through (3)”.

Sec.

957.

Definitions.

958.

Report on origin of exports of peanuts.

(a) Exporters of peanuts.

(b) Collection of information.

(c) Confidentiality of information.

§ 951. Collection and publication; facts required; submission of report

The Secretary of Agriculture is authorized and directed to collect and publish statistics of raw peanuts, shelled, unshelled, and crushed, and peanut oil, in the United States, received, processed, shipped, and owned by or in the possession of warehousemen, brokers, cleaners, shellers, dealers, growers' cooperative associations, crushers, salters, manufacturers of peanut products, and owners other than the original producers of peanuts: *Provided*, That the Secretary may, in his discretion, omit for any period of time to collect such statistics from any or all salters of peanuts or manufacturers of peanut products who used, during the calendar year preceding that for which statistics are being collected, less than thirty thousand pounds of shelled and unshelled peanuts. Such statistics shall show the quality of peanuts in such details as to kinds—Virginias, Runners, Spanish, and imported varieties—as the Secretary shall deem necessary for the purposes of this chapter. All reports shall be submitted monthly in each year, except as otherwise prescribed by the Secretary.

(June 24, 1936, ch. 745, §1, 49 Stat. 1898; May 12, 1938, ch. 199, §1, 52 Stat. 348; July 17, 1957, Pub. L. 85-105, §1, 71 Stat. 306.)

AMENDMENTS

1957—Pub. L. 85-105 struck out “except those required from persons owning or operating peanut picking or threshing machines” after “All reports” in last sentence and inserted “except as otherwise prescribed by the Secretary”.

1938—Act May 12, 1938, among other changes, inserted proviso.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2276 of this title.

§ 952. Repealed. Pub. L. 85-105, § 2, July 17, 1957, 71 Stat. 306

Section, acts June 24, 1936, ch. 745, §2, 49 Stat. 1899; May 12, 1938, ch. 199, §2, 52 Stat. 349, related to collection and publication of statistics as to quantity of peanuts picked or threshed by any person owning or operating peanut picking or threshing machines.

§ 953. Reports; by whom made; penalties

It shall be the duty of each warehouseman, broker, cleaner, sheller, dealer, growers' cooperative association, crusher, salter, manufacturer of peanut products, and owner other than the original producer of peanuts to furnish reports, complete and correct to the best of his knowledge, on the quantity of peanuts and peanut oil received, processed, shipped, and owned by him or in his possession. Such reports, when and as requested by the Secretary, shall be furnished within the time prescribed and in accordance with forms provided by him for the purpose. Any person required by this chapter, or the regulations promulgated thereunder, to furnish reports

or information, and any officer, agent, or employee thereof, who shall refuse to give such reports or information or shall willfully give answers that are false and misleading, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$300 nor more than \$1,000, or imprisoned not more than one year, or be subject to both such fine and imprisonment.

(June 24, 1936, ch. 745, § 3, 49 Stat. 1899; May 12, 1938, ch. 199, § 3, 52 Stat. 349; July 17, 1957, Pub. L. 85-105, § 3, 71 Stat. 306.)

AMENDMENTS

1957—Pub. L. 85-105 amended section generally, and, among other changes, divided first sentence into two sentences, substituting “owner other than the original producer of peanuts” for “owner or operator of peanut picking or threshing machines,” and inserted “to give such reports or information” in last sentence.

1938—Act May 12, 1938, among other changes, inserted “crusher, salter, manufacturer of peanut products” after “cooperative association”.

§ 954. Grades and standards for classification

The Secretary is authorized to establish and promulgate grades and standards for the classification of peanuts, whenever in his discretion he may see fit.

(June 24, 1936, ch. 745, § 4, 49 Stat. 1899.)

§ 955. Limitation on use of statistical information

The information furnished under the provisions of this chapter shall be used only for the statistical purposes for which it is supplied. No publication shall be made by the Secretary whereby the data furnished by any person can be identified nor shall the Secretary permit anyone other than the sworn employees of the Department of Agriculture to examine the individual reports.

(June 24, 1936, ch. 745, § 5, 49 Stat. 1899.)

§ 956. Rules and regulations; cooperation with departments, etc.; officers and employees; expenses of administration; authorization of appropriations

The Secretary may make rules and regulations as may be necessary in the administration of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, law books, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress; and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose.

(June 24, 1936, ch. 745, § 6, 49 Stat. 1899.)

§ 957. Definitions

When used in this chapter—

(1) The term “person” includes individuals, partnerships, corporations, and associations;

(2) The term “Secretary” means the Secretary of Agriculture.

(June 24, 1936, ch. 745, § 7, 49 Stat. 1899.)

§ 958. Report on origin of exports of peanuts

(a) Exporters of peanuts

Any exporter of raw peanuts, shelled or in shell, shall indicate the country of origin of such peanuts on the export documentation that such exporter is required to complete under other provisions of law.

(b) Collection of information

The Secretary of Agriculture shall collect the information contained on such export documentation and annually report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the country of origin of all such peanuts exported from the United States during the calendar year.

(c) Confidentiality of information

The personally identifiable information contained in reports under this section may be withheld in accordance with section 552(b)(4) of title 5. Any officer or employee of the Department of Agriculture who knowingly discloses confidential information as defined by section 1905 of title 18 shall be subject to section 1905 of title 18. Nothing in this subsection shall be construed to authorize the withholding of information from Congress.

(Pub. L. 101-624, title XV, § 1558, Nov. 28, 1990, 104 Stat. 3699.)

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of act June 24, 1936, which comprises this chapter.

CHAPTER 33—FARM TENANCY

Sec.

1000. Short title.

SUBCHAPTER I—TENANT PURCHASE LOANS AND MORTGAGE INSURANCE

1001 to 1006. Repealed.

1006a. Loans to homestead or desertland entrymen and purchasers of lands in reclamation projects; security; first repayment installment.

1006b. Cancellation of entry or purchase upon loan default; entry or resale; conditions; satisfaction of indebtedness.

1006c to 1006e. Repealed.

SUBCHAPTER II—OPERATING LOANS

1007 to 1009. Repealed or Omitted.

SUBCHAPTER III—LAND CONSERVATION AND LAND UTILIZATION

1010. Land conservation and land utilization.

1010a. Soil, water, and related resource data.

1011. Powers of Secretary of Agriculture.

1012. Payments to counties.

1012a. Townsites.

- Sec.
1013. Omitted.
1013a. Benefits extended to Puerto Rico and Virgin Islands; "county" defined; payments to Governor or fiscal agent of county.

SUBCHAPTER IV—GENERAL PROVISIONS

- 1014 to 1029. Repealed.
1030. Consolidation of agricultural credit and service offices.
1031. Conveyance of mineral rights with land.
1032. Transfer of rights and duties of Reconstruction Finance Corporation arising out of rehabilitation and farm tenancy loans to Secretary of the Treasury.
1032a. Disbursing and certifying officers; exemption from liability for advances to defense relocation corporations.
1033. Sale of reserved mineral interests.
1034. Persons to whom mineral interests sold; conveyances.
1035. Sale of mineral interests; consideration; transfer of unsold interests to Secretary of the Interior.
1036. Repealed.
1037. Sale of reserved mineral interests; disposition of proceeds.
1038. Regulations; delegations of authority.
1039. Time for filing purchase applications.
1040. Farmers' Home Administration funds account.

§ 1000. Short title

Sections 1001 to 1006, 1006c to 1006e, 1007, 1008 to 1010, 1011, 1012, and 1013 to 1029 of this title may be cited as "The Bankhead-Jones Farm Tenant Act."

(July 22, 1937, ch. 517, 50 Stat. 522.)

REPEALS

Pub. L. 87-128, title III, §341(a), Aug. 8, 1961, 75 Stat. 318, repealed titles I, II, and IV of the Bankhead-Jones Farm Tenant Act, sections 1001 to 1006, 1006c to 1006e, 1007, 1008, 1009, 1014 to 1025, and 1027 to 1029 of this title. Section 341(a) of Pub. L. 87-128 also provided that reference to any provision of the Bankhead-Jones Farm Tenant Act superseded by any provision of title III of Pub. L. 87-128 shall be construed as referring to the appropriate provision of such title. See section 1921 et seq. of this title. Section 1013 expired by its own terms and has been omitted.

ACT REFERRED TO IN OTHER SECTIONS

The Bankhead-Jones Farm Tenant Act is referred to in sections 1006a, 1981 of this title; title 12 section 1150a; title 16 section 441i; title 18 section 433; title 25 section 621; title 26 section 126; title 43 section 451f.

SUBCHAPTER I—TENANT PURCHASE
LOANS AND MORTGAGE INSURANCE

AMENDMENTS

1946—Act Aug. 14, 1946, ch. 964, §5, 60 Stat. 1072, amended subchapter heading to read as now set out.

§§ 1001 to 1006. Repealed. Pub. L. 87-128, title III,
§ 341(a), Aug. 8, 1961, 75 Stat. 318

Section 1001, acts July 22, 1937, ch. 517, title I, §1, 50 Stat. 522; Aug. 14, 1946, ch. 964, §5, 60 Stat. 1072; June 30, 1953, ch. 174, §2, 67 Stat. 132; Aug. 1, 1956, ch. 829, §1(a)-(c), 70 Stat. 801; Sept. 2, 1958, Pub. L. 85-857, §13(j), 72 Stat. 1265, related to power of Secretary of Agriculture, persons, eligible, preferences, and conditions for loan or mortgage.

Section 1002, acts July 22, 1937, ch. 517, title I, §2, 50 Stat. 523; Aug. 14, 1946, ch. 964, §5, 60 Stat. 1072; Aug. 1,

1956, ch. 829, §1(d), 70 Stat. 801, related to examination, appraisal, and certification of loans and insurance by county committee.

Section 1003, acts July 22, 1937, ch. 517, title I, §3, 50 Stat. 523; Aug. 14, 1946, ch. 964, §5, 60 Stat. 1072; June 19, 1948, ch. 551, §1, 62 Stat. 534; July 22, 1954, ch. 562, §1(a), (b), 68 Stat. 525; Aug. 1, 1956, ch. 829, §1(e), 70 Stat. 801, related to terms of loans.

Section 1004, acts July 22, 1937, ch. 517, title I, §4, 50 Stat. 524; Aug. 14, 1946, ch. 964, §5, 60 Stat. 1072; Aug. 23, 1951, ch. 344, §1, 65 Stat. 197; Aug. 3, 1956, ch. 950, §9(a) 70 Stat. 1034, provided for equitable distribution of loans.

Section 1005, acts July 22, 1937, ch. 517, title I, §5, 50 Stat. 524; Aug. 14, 1946, ch. 964, §5, 60 Stat. 1072, authorized appropriations for carrying out provisions with respect to tenant-purchase loans and insured mortgages.

Section 1005a, act July 22, 1937, ch. 517, title I, §11, as added Aug. 14, 1946, ch. 964, §5, 60 Stat. 1072; amended Aug. 30, 1954, ch. 1076, §1(5), 68 Stat. 966, created the farm tenant mortgage insurance fund, authorized appropriation for such fund, provided for disposition of excess and use of funds.

Sections 1005b, act July 22, 1937, ch. 517, title I, §12, as added Aug. 14, 1946, ch. 964, §5, 60 Stat. 1072; amended June 19, 1948, ch. 551, §§2-5, 62 Stat. 534; Aug. 23, 1951, ch. 344, §1, 65 Stat. 197; July 22, 1954, ch. 562, §1(c), 68 Stat. 525; Aug. 9, 1955, ch. 633, §§2, 3, 69 Stat. 544; Aug. 1, 1956, ch. 829, §1(f), (g), 70 Stat. 802, authorized the Secretary to insure mortgages, provided for aggregate amount of mortgages, eligibility provisions, payment of initial fees and disposition thereof, collection of initial charge and disposition thereof, payment of sums to mortgagees, payment of full amount, repayment to fund, insurance contract as incontestable, release of mortgagor, assignment of mortgage, repurchase of insured mortgages, agreements and determination of value.

Section 1005c, act July 22, 1937, ch. 517, title I, §13, as added Aug. 14, 1946, ch. 964, §5, 60 Stat. 1072; amended Aug. 9, 1955, ch. 633, §4, 69 Stat. 554; Aug. 25, 1958, Pub. L. 85-748, §1(b), 72 Stat. 841, related to payment of insurance upon default, issuance of notes, purchase of notes by Treasury and assignment of mortgage.

Section 1005d, act July 22, 1937, ch. 517, title I, §14, as added Aug. 14, 1946, ch. 964, §5, 60 Stat. 1072; amended June 19, 1948, ch. 551, §§6, 7, 62 Stat. 536, related to procedure with respect to mortgages in default, disposition of realized amounts, and disbursements for preservation and protection.

Section 1006, act July 22, 1937, ch. 517, title I, §6, 50 Stat. 524, related to authorization of appropriations and administrative expenses.

For subject matter of sections 1001 to 1005d of this title, see section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections 1001 to 1006 effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of section 1921 et seq. of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87-128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note set out under section 1921 of this title.

SHORT TITLE

Act Aug. 14, 1946, ch. 964, §1, 60 Stat. 1062, provided: "This Act [enacting section 1032a of this title and amending this chapter and section 371 of Title 12, Banks and Banking] may be cited as the 'Farmers' Home Administration Act of 1946'."

DELAY IN LIQUIDATION OF MINERAL RIGHTS RESERVED
TO THE UNITED STATES

Act June 30, 1948, ch. 766, 62 Stat. 1166, provided: "That, notwithstanding any other provision of law, no

mineral interests reserved to the United States which are required to be liquidated under the terms of the Farmers' Home Administration Act of 1946 [see Short Title note above] shall be sold by the Secretary of Agriculture or transferred by him to appropriate agencies of the United States for disposition as surplus property of the United States until hereafter authorized by law. Nothing contained in this Act shall be construed to supersede or modify in any way the provisions of section 9 of the Farmers' Home Administration Act of 1946 [section 1031 of this title]."

TRANSFER AND DISPOSITION OF CERTAIN AGENCIES AND THEIR ASSETS, FUNCTIONS, AND PERSONNEL

Section 2 of act Aug. 14, 1946, as amended Apr. 28, 1947, ch. 43, § 1, 61 Stat. 55; Apr. 20, 1950, ch. 94, title II, § 205(a), 64 Stat. 73; May 3, 1950, ch. 152, § 7, 64 Stat. 100, provided that:

"(a) The following agencies, functions, powers, and duties are hereby abolished and the following laws relating thereto repealed:

"(1) The Farm Security Administration and all of its functions, powers, and duties.

"(2) All functions, powers, and duties of the Governor of the Farm Credit Administration which relate to the making, administration, and liquidation of (a) all loans to farmers under the Act entitled 'An Act to provide for loans to farmers for crop productions and harvesting during the year 1937, and for other purposes', approved January 29, 1937 [former sections 10201 to 1020n, and 1020o of Title 12, Banks and Banking]; (b) all loans identified or referred to in sections 5(b) all loans identified or referred to in sections 5(b), 5(c), and 5(d) of Executive Order Numbered 6084, dated March 27, 1933 [set out as a note preceding section 2241 of Title 12], and (c) all other emergency crop production, feed, seed, drought, and rehabilitation loans administered by the Farm Credit Administration on the effective date of this Act [Aug. 14, 1946].

"(3) All functions, powers, and duties of the National Housing Agency with respect to property, funds, and other assets which were formerly under the administration or supervision of the Farm Security Administration and were transferred to or consolidated with the National Housing Agency by Executive Order Numbered 9070 of February 24, 1942 except housing projects and except such other properties and assets as are now in the process of liquidation. [Functions of the National Housing Agency with respect to non-farm-housing projects and other properties remaining under its jurisdiction pursuant to this paragraph were transferred to the Public Housing Commissioner by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4983, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees.]

"(b) All assets, funds, contracts, property, and records and all liabilities of the agencies abolished by this Act [see Short Title note above] and all assets, funds, contracts, property, and records which the Secretary of Agriculture, the Governor of the Farm Credit Administration, and the National Housing Administrator have been using or have acquired primarily in the administration of any function, power, or duty so abolished and all liabilities chargeable thereto shall be collected or liquidated, as the case may be, by the Secretary of Agriculture, in accordance with this Act and the Bankhead-Jones Farm Tenant Act, as amended [see section 1000 of this Title]. The Secretary shall promptly transmit to the Treasurer of the United States for appropriate credits all collections or other proceeds realized from the assets, funds, contracts and property which are authorized to be administered, collected or liquidated by this Act, except that (1) the Secretary may retain so much of the personal property, such as office furniture, equipment, machines, automobiles, stationery, and office supplies, as he finds will be necessary in carrying out his duties under this Act and the Bankhead-Jones Farm Tenant Act, as amended; (2) until the loans obtained by the Secretary of Agriculture or the War Food Administrator [terminated by

Executive Order 9577 of June 29, 1945, effective June 30, 1945] from the Reconstruction Finance Corporation [abolished by Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647] for carrying on the Farm Security Programs have been paid, the Secretary shall pay to the Reconstruction Finance Corporation, as collected, in accordance with the terms of the applicable loan agreements, the proceeds of all assets transferred to him for administration and liquidation which are pledged as security for such loans; and (3) the proceeds from collections on farmers' crop production and harvesting loans [former sections 1020i to 1020n and 1020o of Title 12] made available by the paragraph entitled 'Farmers' crop production and harvesting loans' under the item 'Farm Credit Administration' in the Department of Agriculture Appropriation Act, 1947 [act June 22, 1946, ch. 445, 60 Stat. 270], shall be available to the Secretary of Agriculture for the fiscal year 1947 for making loans under title II of the Bankhead-Jones Farm Tenant Act, as amended [former sections 1007, 1008 and 1009 of this title].

"(c) The funds appropriated, authorized to be borrowed, and made available under the items 'Farmers' crop production and harvesting loans' (under the heading 'Farm Credit Administration'), 'Loans, Grants, and Rural Rehabilitation' and 'Farm Tenancy', in the Department of Agriculture Appropriation Act, 1947 [act June 22, 1946, ch. 445, 60 Stat. 270], shall be available for the making and servicing of loans under this Act, for servicing and collecting loans made under prior authority, liquidation of rural rehabilitation projects, and for administrative expenses in connection therewith, and to the extent that such funds are validly obligated and committed on June 30, 1947, shall be available for use by the Secretary in fulfilling such obligations and commitments subject to the limitations set forth in the Acts appropriating or authorizing such funds."

"(d) [Repealed. Apr. 20, 1950, ch. 94, title II, § 205(a), 64 Stat. 73.]

"(e) Any of the personnel that is being utilized on the effective date of this Act [Aug. 14, 1946] for the performance of functions, powers, or duties abolished or transferred by this Act, including, but not limited to those related to emergency crop and feed loans, shall be utilized by the Secretary of Agriculture in the performance of his duties and functions under this Act and the Bankhead-Jones Farm Tenant Act, as amended, to the extent that he determines that such personnel are qualified and necessary therefor."

"(f) [Repealed. May 3, 1950, ch. 152, § 7, 64 Stat. 100.]

"(g) With the approval of the Secretary of Agriculture, the consummation of the transfer of any function, power, duty, asset, or liability transferred by this Act may be delayed not in excess of ninety days after the effective date of this Act, during which time such function, power, or duty, and any function, power, or duty abolished by this Act, may be administered by such agency as the Secretary may designate and in accordance with such rules and regulations as the Secretary may prescribe. Such rules and regulations shall, however, conform as nearly as may be practicable to the provisions of this Act, the several appropriation Acts which are involved, or the Bankhead-Jones Farm Tenant Act, as amended whichever is appropriate."

APPROPRIATION FOR LOANS

The Department of Agriculture Appropriation Act of 1947, June 22, 1946, ch. 445, 60 Stat. 294, provided in part: "For loans to individual farmers in accordance with title I of said Act [former sections 1001 to 1005d, 1006, 1006c to 1006e of this title] and section 505(b) of the Servicemen's Readjustment Act of 1944 (38 U.S.C. 694e(b)) [former section 1001(b)(2) of this title], \$50,000,000, including \$25,000,000 for loans to eligible veterans which may be distributed, without regard to the provisions of section 4 of the Bankhead-Jones Farm Tenant Act [former section 1004 of this title], among the States and Territories in such amounts as are necessary to make such loans, which sums shall be borrowed from the [former] Reconstruction Finance Cor-

poration at an interest rate of not to exceed 3 per centum per annum and no loans, excepting those to eligible veterans, may be made for the acquisition or enlargement of farms which have a value, as acquired, enlarged, or improved, in excess of the average value of efficient family-size farm-management units, as determined by the Secretary, in the county, parish, or locality where the farm is located; and the [former] Reconstruction Finance Corporation is hereby authorized and directed to lend such sum to the Secretary upon the security of any obligations of borrowers from the Secretary under the provisions of title I of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 [former sections 1001 to 1005d, 1006, 1006c to 1006e of this title]: *Provided*, That the amount loaned by the [former] Reconstruction Finance Corporation shall not exceed 85 per centum of the principal amount outstanding of the obligations constituting the security therefor: *Provided further*, That the Secretary may utilize proceeds from payments of principal and interest on any loans made under such title I to repay the [former] Reconstruction Finance Corporation the amount borrowed therefrom under the authority of this paragraph.”

Similar provisions were contained in the following prior appropriation acts:

May 5, 1945, ch. 109, 59 Stat. 161.
 June 28, 1944, ch. 296, 58 Stat. 457.
 July 12, 1943, ch. 215, 57 Stat. 427.
 July 22, 1942, ch. 516, 56 Stat. 695.
 July 1, 1941, ch. 267, 55 Stat. 439.
 June 25, 1940, ch. 421, 54 Stat. 564.

§ 1006a. Loans to homestead or desertland entrymen and purchasers of lands in reclamation projects; security; first repayment installment

The Secretary of Agriculture is authorized to make a loan or loans for any purpose authorized by and in accordance with the terms of the Bankhead-Jones Farm Tenant Act, as amended, or the Act of August 28, 1937, as amended, to any person eligible for assistance under said Acts who has made or makes a homestead or desertland entry on public land or who has contracted for or contracts for the purchase of other land of the United States in a reclamation project pursuant to the applicable provisions of the homestead and reclamation laws. Any such loans required by the Secretary of Agriculture or by law to be secured by a real-estate mortgage may be secured by a mortgage contract which shall create a lien against the land in favor of the United States acting through the Secretary of Agriculture and any patent thereafter issued shall recite the existence of such lien. The first installment for the repayment of any such loan or any other loan made under the Bankhead-Jones Farm Tenant Act, as amended, or the Act of August 28, 1937, as amended, to the owner of a newly irrigated farm in a reclamation project or to an entryman under the desertland laws, may be deferred for a period of not to exceed two years from the date of the first advance under such loan.

(Oct. 19, 1949, ch. 697, §1, 63 Stat. 883; Aug. 30, 1972, Pub. L. 92-419, title VI, §602, 86 Stat. 675.)

REFERENCES IN TEXT

The Bankhead-Jones Farm Tenant Act, referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522, as amended, which is classified generally to this chapter (§1000 et seq.). For complete classification of this Act to the Code, see section 1000 of this title and Tables.

Act of August 28, 1937, as amended, referred to in text, was classified to sections 590r to 590x-4 of Title 16,

Conservation, and was repealed by Pub. L. 87-128, title III, §341(a), Aug. 8, 1961, 75 Stat. 318. See section 921 et seq. of this title.

The desertland laws, referred to in text, are classified generally to chapter 9 (§321 et seq.) of Title 43, Public Lands.

CODIFICATION

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

AMENDMENTS

1972—Pub. L. 92-419 authorized loans to desertland entrymen and provided for first repayment installment of a loan to an entryman under the desertland laws.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1006b, 1988 of this title; title 43 section 451f.

§ 1006b. Cancellation of entry or purchase upon loan default; entry or resale; conditions; satisfaction of indebtedness

Any entry or purchase contract land with respect to which a loan is made under the authority of this section and section 1006a of this title shall be subject to cancellation by the Secretary of the Interior as provided by existing law or upon request of the Secretary of Agriculture whenever default occurs in the terms, conditions, covenants, or obligations contained in the mortgage. After cancellation or relinquishment of an entry or purchase contract, land on which there is a mortgage lien, pursuant to the provisions of said sections, shall thereafter, except as hereinafter provided, only be open to entry or resale to persons eligible for both an original entry or purchase contract and an original loan. Such entry or resale shall be subject to the outstanding balance of any amounts due the United States with respect to such land or such portion thereof as may be determined by the Secretary of Agriculture and the Secretary of the Interior, or their delegates, to be within the entryman's or purchaser's ability to pay on the basis of the long-time earning capacity of the land. If no entry or purchase is made within one year after the cancellation or relinquishment of a prior entry or purchase of land on which there is such a mortgage lien, the land shall be disposed of by the Secretary of Agriculture on terms consistent with the provisions of section 1017¹ of this title, for the satisfaction of the indebtedness secured by the mortgage, subject, however, to other outstanding charges on the land due the United States, and the purchaser of such land shall be entitled to the issuance of patent or deed upon the completion of all requirements with respect to the payment of such charges.

(Oct. 19, 1949, ch. 697, §2, 63 Stat. 883.)

REFERENCES IN TEXT

Section 1017 of this title, referred to in text, was repealed by Pub. L. 87-128, title III, §341(a), Aug. 8, 1961, 75 Stat. 318.

CODIFICATION

Section was not enacted as part of the Bankhead-Jones Farm Tenant Act, which constitutes a major part of this chapter.

¹ See References in Text note below.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 451f.

§§ 1006c to 1006e. Repealed. Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section 1006c, act July 22, 1937, ch. 517, title I, § 16, as added Aug. 9, 1955, ch. 633, § 1, 69 Stat. 553; amended Aug. 1, 1956, ch. 829, § 1(h), 70 Stat. 802, provided for additional insurance of loans, mortgages and other security, lien, definitions of mortgage, insured mortgage, mortgagor and mortgagee, conversion to insured loan and rights of holder of insured note.

Section 1006d, act July 22, 1937, ch. 517, title I, § 17, as added Aug. 1, 1956, ch. 829, § 1(i), 70 Stat. 802; amended Sept. 21, 1959, Pub. L. 86-332, 73 Stat. 599, related to loans for refinancing indebtedness on farms of not more than family size and restrictions and limitations thereon.

Section 1006e, act July 22, 1937, ch. 517, title I, § 18, as added Aug. 25, 1958, Pub. L. 85-748, § 1(a), 72 Stat. 840, related to authorization of Secretary for execution, insurance and sale of loans, interest, insurance, appraisal and delinquency charges, computation of aggregate amount of principal obligations which may be insured, insurance of loans from funds advanced by lenders other than United States, provisions applicable to loans, conversion of loans to insured loans, expense funds, sale of loans on noninsured basis and assignment of loans.

For subject matter of sections 1006c to 1006e of this title, see section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of section 1921 et seq. of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87-128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note under section 1921 of this title.

SUBCHAPTER II—OPERATING LOANS

AMENDMENTS

1956—Act Aug. 1, 1956, ch. 829, § 2[6], 70 Stat. 802, substituted "OPERATING LOANS" for "PRODUCTION AND SUBSISTENCE LOANS".

1946—Act Aug. 14, 1946, ch. 964, § 4, 60 Stat. 1071, substituted "PRODUCTION AND SUBSISTENCE LOANS" for "REHABILITATION LOANS".

§ 1007. Repealed. Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section, acts July 22, 1937, ch. 517, title II, § 21, 50 Stat. 524; Aug. 14, 1946, ch. 964, § 4, 60 Stat. 1071; Aug. 23, 1951, ch. 344, § 2, 65 Stat. 197; Aug. 1, 1956, ch. 829, § 2[6], 70 Stat. 802; Mar. 29, 1961, Pub. L. 87-8, 75 Stat. 17, related to eligible borrowers for production and subsistence loans and terms thereof. See section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of section 1921 et seq. of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87-128, set out as a note under section 1921 of this title.

Section repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note under section 1921 of this title.

§ 1007a. Omitted

CODIFICATION

Section, act July 1, 1941, ch. 267, § 1, 55 Stat. 440, providing that rural rehabilitation loans should be subject

to the conditions and penalties prescribed by former sections 1020k and 1020n of Title 12, Banks and Banking, was superseded by the repeal of those sections by act Aug. 14, 1946, ch. 964, § 2(a)(2), 60 Stat. 1062. Section was not a part of the Bankhead-Jones Farm Tenant Act which constitutes major part of this chapter.

§§ 1008, 1009. Repealed. Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section 1008, acts July 22, 1937, ch. 517, title II, § 22, 50 Stat. 525; Aug. 14, 1946, ch. 964, § 4, 60 Stat. 1071, related to debt adjustment.

Section 1009, acts July 22, 1937, ch. 517, title II, § 23, 50 Stat. 525; Aug. 14, 1946, ch. 964, § 4, 60 Stat. 1071, authorized appropriations for production and subsistence.

For subject matter of sections 1008 and 1009 of this title, see section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of section 1921 et seq. of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87-128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note set out under section 1921 of this title.

SUBCHAPTER III—LAND CONSERVATION AND LAND UTILIZATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1931 of this title; title 16 sections 241e, 441h, 1609; title 30 section 601.

§ 1010. Land conservation and land utilization

The Secretary is authorized and directed to develop a program of land conservation and land utilization, in order thereby to correct maladjustments in land use, and thus assist in controlling soil erosion, reforestation, preserving natural resources, protecting fish and wildlife, developing and protecting recreational facilities, mitigating floods, preventing impairment of dams and reservoirs, developing energy resources, conserving surface and subsurface moisture, protecting the watersheds of navigable streams, and protecting the public lands, health, safety, and welfare, but not to build industrial parks or establish private industrial or commercial enterprises.

(July 22, 1937, ch. 517, title III, § 31, 50 Stat. 525; Sept. 27, 1962, Pub. L. 87-703, title I, § 102(a), 76 Stat. 607; Nov. 8, 1966, Pub. L. 89-796, § 1(a), 80 Stat. 1478; Dec. 22, 1981, Pub. L. 97-98, title XV, § 1513, 95 Stat. 1333.)

REPEALS

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

AMENDMENTS

1981—Pub. L. 97-98 inserted development of energy resources to the enumeration of aims for which the Secretary may develop programs of land conservation and land utilization.

1966—Pub. L. 89-796 inserted "developing and protecting recreational facilities," after "protecting fish and wildlife,".

1962—Pub. L. 87-703 struck out “including the retirement of lands which are submarginal or not primarily suitable for cultivation,” after “land utilization”, provided for assistance in protecting fish and wildlife and prohibited the building of industrial parks or establishment of private industrial or commercial enterprises.

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.

SAVINGS PROVISION

Repeal by Pub. L. 94-579, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this subchapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished, and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade.

EXISTING RIGHTS-OF-WAY

Provisions of section 706(a) of Pub. L. 94-579, except as pertaining to rights-of-way, not to be construed as affecting the authority of the Secretary of Agriculture under this section, see note set out under section 1701 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1011, 1033, 1931, 1981 of this title; title 16 sections 441h, 478a; title 26 section 126; title 30 section 601.

§ 1010a. Soil, water, and related resource data

In recognition of the increasing need for soil, water, and related source data for land conservation, use, and development, for guidance of community development for a balanced rural-urban growth, for identification of prime agriculture producing areas that should be protected, and for use in protecting the quality of the environment, the Secretary of Agriculture is directed to carry out a land inventory and monitoring program to include, but not be limited to, studies and surveys of erosion and sediment damages, flood plain identification and utilization, land use changes and trends, and degradation of the environment resulting from improper use of soil, water, and related resources.

(Pub. L. 92-419, title III, §302, Aug. 30, 1972, 86 Stat. 670; Pub. L. 96-470, title I, §102(c), Oct. 19, 1980, 94 Stat. 2237.)

CODIFICATION

Section was not enacted as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

AMENDMENTS

1980—Pub. L. 96-470 struck out provision that the Secretary issue at not less than five-year intervals a land inventory report reflecting soil, water, and related resource conditions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1602.

§ 1011. Powers of Secretary of Agriculture

To effectuate the program provided for in section 1010 of this title, the Secretary is authorized—

(a) Repealed. Pub. L. 87-703, title I, §102(b), Sept. 27, 1962, 76 Stat. 607.

(b) To protect, improve, develop, and administer any property so acquired and to construct such structures thereon as may be necessary to adapt it to its most beneficial use.

(c) To sell, exchange, lease, or otherwise dispose of, with or without a consideration, any property so acquired, under such terms and conditions as he deems will best accomplish the purposes of this subchapter, but any sale, exchange, or grant shall be made only to public authorities and agencies and only on condition that the property is used for public purposes: *Provided, however,* That an exchange may be made with private owners and with subdivisions or agencies of State governments in any case where the Secretary of Agriculture finds that such exchange would not conflict with the purposes of the Act, and that the value of the property received in exchange is substantially equal to that of the property conveyed. The Secretary may recommend to the President other Federal, State, or Territorial agencies to administer such property, together with the conditions of use and administration which will best serve the purposes of a land-conservation and land-utilization program, and the President is authorized to transfer such property to such agencies.

(d) With respect to any land, or any interest therein, acquired by, or transferred to, the Secretary for the purposes of this subchapter, to make dedications or grants, in his discretion, for any public purpose, and to grant licenses and easements upon such terms as he deems reasonable.

(e) To cooperate with Federal, State, territorial, and other public agencies and local nonprofit organizations in developing plans for a program of land conservation and land utilization or plans for the conservation, development and utilization of water for aquacultural purposes, to assist in carrying out such plans by means of loans to State and local public agencies and local nonprofit organizations designated by the State legislature or the Governor, to conduct surveys and investigations relating to conditions and factors affecting, and the methods of accomplishing most effectively the purposes of this subchapter, and to disseminate information concerning these activities. As used in this subsection, the term “aquaculture” means the culture or husbandry of aquatic animals or plants. Loans to State and local public agencies and to local nonprofit organizations shall be made only if such plans have been submitted to, and not disapproved within 45 days by, the State agency having supervisory respon-

sibility over such plans, or by the Governor if there is no such State agency. No appropriation shall be made for any single loan under this subsection in excess of \$500,000 unless such loan has been approved by resolutions adopted by the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. Loans under this subsection shall be made under contracts which will provide, under such terms and conditions as the Secretary deems appropriate, for the repayment thereof in not more than 30 years, with interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury on its marketable public obligations outstanding at the beginning of the fiscal year in which the loan is made, which are neither due nor callable for redemption for 15 years from date of issue. Repayment of principal and interest on such loans shall begin within 5 years. In providing assistance for carrying out plans developed under this subchapter, the Secretary shall be authorized to bear such proportionate share of the costs of installing any works of improvement applicable to public water-based fish and wildlife or recreational development as is determined by him to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs: *Provided*, That all engineering and other technical assistance costs relating to such development may be borne by the Secretary: *Provided further*, That when a State or other public agency or local nonprofit organization participating in a plan developed under this subchapter agrees to operate and maintain any reservoir or other area included in a plan for public waterbased fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed one-half of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the State or other public agency or local nonprofit organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes: *Provided further*, That in no event shall the Secretary share any portion of the cost of installing more than one such work of improvement for each seventy-five thousand acres in any project; and that any such public waterbased fish and wildlife or recreational development shall be consistent with any existing comprehensive statewide outdoor recreation plan found adequate for purposes of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) [16 U.S.C. 4601-4 et seq.]; and that such cost-sharing assistance for any such development shall be authorized only if the Secretary determines that it cannot be provided under other existing authority.

The Secretary shall also be authorized in providing assistance for carrying out plans developed under this subchapter:

(1) To provide technical and other assistance, and to pay for any storage of water for present or anticipated future demands or needs for rural community water supply included in any reservoir structure constructed or modified pursuant to such plans: *Provided*, That the cost of water storage to meet future demands may not

exceed 30 per centum of the total estimated cost of such reservoir structure and the public agency or local nonprofit organization shall give reasonable assurances, and there is evidence, that such demands for the use of such storage will be made within a period of time which will permit repayment of the cost of such water supply storage within the life of the reservoir structure: *Provided further*, That the public agency or local nonprofit organization prior to initiation or construction or modification of any reservoir structure including water supply storage, make provision satisfactory to the Secretary to pay for not less than 50 per centum of the cost of storage for present water supply demands, and all of the cost of storage for anticipated future demands: *And provided further*, That the cost to be borne by the public agency or local nonprofit organization for anticipated future demands may be repaid within the life of the reservoir structure but in no event to exceed fifty years after the reservoir structure is first used for the storage of water for anticipated future water supply demands except that (1) no payment on account of such cost need be made until such supply is first used, and (2) no interest shall be charged on such cost until such supply is first used, but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing the interest on the unpaid balance shall be the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which the advancement for such water supply is first made, which are neither due nor callable for redemption for fifteen years from date of issue;

(2) To provide, for the benefit of rural communities, technical and other assistance and such proportionate share of the costs of installing measures and facilities for water quality management, for the control and abatement of agriculture-related pollution, for the disposal of solid wastes, and for the storage of water in reservoirs, farm ponds, or other impoundments, together with necessary water withdrawal appurtenances, for rural fire protection, as is determined by the Secretary to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs.

(f) To make such rules and regulations as he deems necessary to prevent trespasses and otherwise regulate the use and occupancy of property acquired by, or transferred to, the Secretary for the purposes of this subchapter, in order to conserve and utilize it or advance the purposes of this subchapter. Any violation of such rules and regulations shall be punished by a fine of not more than \$500 or imprisonment for not more than six months, or both. Any person charged with the violation of such rules and regulations may be tried and sentenced by any United States magistrate judge specially designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401(b) to (e) of title 18.

(July 22, 1937, ch. 517, title III, §32, 50 Stat. 525; July 28, 1942, ch. 531, 56 Stat. 725; Sept. 27, 1962,

Pub. L. 87-703, title I, §102(b), (c), 76 Stat. 607; Oct. 23, 1962, Pub. L. 87-869, §7, 76 Stat. 1157; Aug. 31, 1964, Pub. L. 88-537, 78 Stat. 745; Nov. 8, 1966, Pub. L. 89-796, §1(b), 80 Stat. 1478; Oct. 17, 1968, Pub. L. 90-578, title IV, §402(b)(2), 82 Stat. 1118; July 18, 1970, Pub. L. 91-343, 84 Stat. 439; Aug. 30, 1972, Pub. L. 92-419, title III, §301, 86 Stat. 669; Sept. 29, 1977, Pub. L. 95-113, title XV, §§1503(a), 1507, 91 Stat. 1021, 1022; Dec. 1, 1990, Pub. L. 101-650, title III, §321, 104 Stat. 5117; Nov. 2, 1994, Pub. L. 103-437, §4(a)(4), 108 Stat. 4581.)

REPEALS

Section repealed by Pub. L. 94-579, title VII, §706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

REFERENCES IN TEXT

The Act, referred to in subsec. (c), is the Bankhead-Jones Farm Tenant Act which is classified generally to this chapter (§1000 et seq.). For complete classification of the Act to the Code, see section 1000 of this title and Tables.

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (e), is Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§4601-4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 4601-4 of Title 16 and Tables.

AMENDMENTS

1994—Subsec. (e). Pub. L. 103-437 substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry”.

1977—Subsec. (e). Pub. L. 95-113 inserted reference to plans for the conservation, development, and utilization of water for aquacultural purposes, inserted definition of “aquaculture”, and substituted “\$500,000” for “\$250,000”.

1972—Subsec. (e). Pub. L. 92-419 inserted par. (1) and (2) provisions which authorized Secretary of Agriculture to provide Federal assistance for water storage and for water quality management, for control and abatement of agriculture-related pollution, for disposal of solid wastes, and for storage of water in reservoirs, farm ponds, or other impoundments, together with necessary water withdrawal appurtenances, for rural fire protection.

1970—Subsec. (e). Pub. L. 91-343 inserted provisions authorizing Secretary to bear an equitable share of the costs of installing works of improvement, to bear all engineering and other technical assistance costs, and to bear up to one half of the costs of land, easements or rights of way and minimum basic public facilities, and limited the Federal contribution to one work of improvement for each seventy-five thousand acres in any project where such assistance is not provided under any other authority.

1966—Pub. L. 89-796 inserted “local nonprofit organizations” to the enumerated public agencies to which this section is applicable.

1964—Subsec. (f). Pub. L. 88-537 provided that persons charged with violation of such rules and regulations may be tried and sentenced by any United States commissioner specially designated for that purpose by the court by which he was appointed, in the same manner as in section 3401(b) to (e) of Title 18, Crimes and Criminal Procedure.

1962—Subsec. (a). Pub. L. 87-703, §102(b), repealed authority of Secretary to acquire submarginal land and land not primarily suitable for cultivation, and interests in and options on such land.

Subsec. (e). Pub. L. 87-703, §102(c), authorized Secretary to assist in carrying out the plans by means of

loans to State and local public agencies, conditioned loans on absence of disapproval of plans within 45 days, prescribed a \$250,000 limitation on appropriation for a single loan without prior committee approval and provided for loan contracts and interest and repayment of principal and interest.

Subsec. (f). Pub. L. 87-869 substituted “by a fine of not more than \$500 or imprisonment for not more than six months, or both” for “as prescribed in section 104 of title 18”.

1942—Subsec. (c). Act July 28, 1942, inserted proviso.

CHANGE OF NAME

“United States magistrate judge” substituted for “United States magistrate” in subsec. (f) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, “United States magistrate” substituted for “United States commissioner” pursuant to Pub. L. 90-578. See chapter 43 (§631 et seq.) of Title 28.

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.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this subchapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished, and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade.

Functions of Secretary of the Interior under section 402 of 1946 Reorg. Plan No. 3, with respect to use and disposal from lands under jurisdiction of Secretary of Agriculture of those mineral materials which Secretary of Agriculture is authorized to dispose of from other lands under his jurisdiction under sections 601 to 604 and 611 to 615 of Title 30, Mineral Lands and Mining, transferred to Secretary of Agriculture, see Pub. L. 86-509, June 11, 1960, 74 Stat. 205, set out as a note under section 2201 of this title.

Functions of Secretary of Agriculture with respect to uses of mineral deposits in lands under subsec. (c) of this section transferred to Secretary of the Interior by 1946 Reorg. Plan No. 3, §402, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1099, set out in the Appendix to Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Authority of President under subsec. (c) of this section to transfer to Federal, State, or Territorial agencies lands acquired by Secretary of Agriculture under subsec. (a) of this section delegated to Administrator of General Services, see section 1(14) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SAVINGS PROVISION

Repeal by Pub. L. 94-579, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

EXISTING RIGHTS-OF-WAY

Provisions of section 706(a) of Pub. L. 94-579, except as pertaining to rights-of-way, not to be construed as affecting the authority of the Secretary of Agriculture under this section, see note set out under section 1701 of Title 43, Public Lands.

ADJUSTMENT OF SEBASTIAN MARTIN GRANT BOUNDARY DISPUTES

Act Aug. 11, 1945, ch. 366, 59 Stat. 532, provided for the adjustment of the Sebastian Martin grant boundary disputes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1012, 1033, 1931, 1981, 1988 of this title; title 16 sections 441h, 478a; title 30 section 601.

§ 1012. Payments to counties

As soon as practicable after the end of each calendar year, the Secretary shall pay to the county in which any land is held by the Secretary under this subchapter, 25 per centum of the net revenues received by the Secretary from the use of the land during such year. In case the land is situated in more than one county, the amount to be paid shall be divided equitably among the respective counties. Payments to counties under this section shall be made on the condition that they are used for school or road purposes, or both. This section shall not be construed to apply to amounts received from the sale of land.

(July 22, 1937, ch. 517, title III, § 33, 50 Stat. 526.)

REPEALS

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

SAVINGS PROVISION

Repeal by Pub. L. 94-579, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

EXISTING RIGHTS-OF-WAY

Provisions of section 706(a) of Pub. L. 94-579, except as pertaining to rights-of-way, not to be construed as affecting the authority of the Secretary of Agriculture under this section, see note set out under section 1701 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1013a, 1033, 1931, 1981 of this title; title 16 sections 441h, 478a; title 30 section 601; title 31 section 6903.

§ 1012a. Townsites

When the Secretary of Agriculture determines that a tract of National Forest System land in Alaska or in the eleven contiguous Western States is located adjacent to or contiguous to an established community, and that transfer of such land would serve indigenous community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership, he may,

upon application, set aside and designate as a townsite an area of not to exceed six hundred and forty acres of National Forest System land for any one application. After public notice, and satisfactory showing of need therefor by any county, city, or other local governmental subdivision, the Secretary may offer such area for sale to a governmental subdivision at a price not less than the fair market value thereof: *Provided, however,* That the Secretary may condition conveyances of townsites upon the enactment, maintenance, and enforcement of a valid ordinance which assures any land so conveyed will be controlled by the governmental subdivision so that use of the area will not interfere with the protection, management, and development of adjacent or contiguous National Forest System lands.

(Pub. L. 85-569, July 31, 1958, 72 Stat. 438; Pub. L. 94-579, title II, § 213, Oct. 21, 1976, 90 Stat. 2760.)

CODIFICATION

Section, which is also set out as section 478a of Title 16, Conservation, was not enacted as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

AMENDMENTS

1976—Pub. L. 94-579 substituted provisions setting forth procedures applicable to designation of townsites of tracts of National Forest System lands in Alaska or the eleven contiguous Western States, for provisions setting forth procedures applicable to designation of townsites from any national forest lands or lands administered by Secretary of Agriculture under the Bankhead-Jones Farm Tenant Act.

SAVINGS PROVISION

Amendment by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 1013. Omitted

CODIFICATION

Section, act July 22, 1937, ch. 517, title III, § 34, 50 Stat. 526, related to appropriations and expired by its own limitations at end of fiscal year 1940.

§ 1013a. Benefits extended to Puerto Rico and Virgin Islands; “county” defined; payments to Governor or fiscal agent of county

The provisions of this subchapter shall extend to Puerto Rico and the Virgin Islands. In the case of Alaska, Puerto Rico, and the Virgin Islands, the term “county” as used in this subchapter may be the entire area, or any subdivision thereof as may be determined by the Secretary, and payments under section 1012 of this title shall be made to the Governor or to the fiscal agent of such subdivision.

(July 22, 1937, ch. 517, title III, § 35, as added Aug. 8, 1961, Pub. L. 87-128, title III, § 342, 75 Stat. 318.)

EFFECTIVE DATE

Section effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note set out under section 1921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1931, 6942 of this title; title 25 section 492.

SUBCHAPTER IV—GENERAL PROVISIONS

§§ 1014 to 1025. Repealed. Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section 1014, act July 22, 1937, ch. 517, title IV, § 40, 50 Stat. 527, created the Farmers' Home Corporation and provided for its location, delegation of power by Secretary of Agriculture, capital stock, board of directors, personnel, quorum, compensation, expenses, selection of administrator, powers of corporation, compensation to injured employees, deposit of monies, tax exemption, records and annual report.

Section 1015, acts July 22, 1937, ch. 517, title IV, § 41, 50 Stat. 528; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; July 26, 1947, ch. 339, § 1(a), 61 Stat. 493; Oct. 15, 1949, ch. 695, § 6(a), 63 Stat. 881; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; Aug. 30, 1954, ch. 1076, § 1(4), 68 Stat. 966; July 31, 1956, ch. 804, title I, § 107(a), 70 Stat. 739; Aug. 1, 1956, ch. 829, § 3(a), 70 Stat. 803, related to powers of Secretary of Agriculture.

Section 1016, acts July 22, 1937, ch. 517, title IV, § 42, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; Aug. 1, 1956, ch. 829, § 3(b), 70 Stat. 804, provided for county or area committee appointments, compensation, meetings and duties.

Section 1017, acts July 22, 1937, ch. 517, title IV, § 43, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; Apr. 20, 1950, ch. 94, title II, § 205(a), 64 Stat. 73; Aug. 1, 1956, ch. 829, § 3(c), 70 Stat. 804, related to resettlement projects, their liquidation, determination of lands suitable for farm management units, report to Congress, sale of lands, disposition of public facilities and conditions thereof, disposition of surplus property and sale of properties of defense relocation corporation, etc.

Section 1018, acts July 22, 1937, ch. 517, title IV, § 44, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; Aug. 23, 1951, ch. 344, § 3, 65 Stat. 198, related to special conditions and limitations on loans.

Section 1019, acts July 22, 1937, ch. 517, title IV, § 45, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to transfer of lands to Secretary.

Section 1020, acts July 22, 1937, ch. 517, title IV, § 46, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; July 22, 1954, ch. 562, § 1(d), 68 Stat. 525, related to transactions with private corporations.

Section 1021, acts July 22, 1937, ch. 517, title IV, § 47, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to surveys and investigations.

Section 1022, acts July 22, 1937, ch. 517, title IV, § 48, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; Aug. 23, 1951, ch. 344, § 4, 65 Stat. 198, related to variable payments on obligations and discretionary scheduling of initial payment.

Section 1023, acts July 22, 1937, ch. 517, title IV, § 49, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to set-off.

Section 1024, acts July 22, 1937, ch. 517, title IV, § 50, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to taxation.

Section 1025, acts July 22, 1937, ch. 517, title IV, § 51, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; July 22, 1954, ch. 562, § 1(e), 68 Stat. 525; Aug. 1, 1956, ch. 829, § 3(d), 70 Stat. 804, related to protection of investment and security and purchase at foreclosure sale.

For subject matter of sections 1014 to 1025 of this title, see section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of chapter 50 of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87-128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, except that the provisions of section 1018 of this title, as existing prior to amendment by act Aug. 14, 1946, which require mineral reservations in lands disposed of under

sections 1010 to 1012 of this title shall not become effective until Dec. 7, 1961, see Effective Date note set out under section 1921 of this title.

§ 1026. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section, acts July 22, 1937, ch. 517, title IV, § 52, 50 Stat. 532; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to penalties. See sections 657, 658, 1006, and 1014 of Title 18, Crimes and Criminal Procedure.

§§ 1027 to 1029. Repealed. Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section 1027, acts July 22, 1937, ch. 517, title IV, § 53, 50 Stat. 532; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to fees and commissions.

Section 1028, acts July 22, 1937, ch. 517, title IV, § 54, 50 Stat. 532; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; July 26, 1947, ch. 339, § 1(b), 61 Stat. 493, related to application of provisions to territories.

Section 1029, acts July 22, 1937, ch. 517, title IV, § 55, 50 Stat. 533; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to separability of provisions.

For subject matter of sections 1027 to 1029 of this title, see section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of chapter 50 of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87-128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note set out under section 1921 of this title.

§ 1030. Consolidation of agricultural credit and service offices

The Secretary of Agriculture and the Governor of the Farm Credit Administration are directed, wherever practicable, to make suitable arrangements whereby all field offices under their supervision or direction extending agricultural credit or furnishing agricultural services to farmers to utilize the same or adjacent offices to the end that eligible farmers in each locality will be enabled to obtain their agricultural credit and services at one central point.

(Aug. 14, 1946, ch. 964, § 7, 60 Stat. 1079.)

CODIFICATION

Section was enacted as part of the Farmers' Home Administration Act of 1946, and not as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of the Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of the said Administration were 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.

§ 1031. Conveyance of mineral rights with land

Any conveyance of real estate by the Government or any Government agency under this Act shall include all mineral rights.

(Aug. 14, 1946, ch. 964, §9, 60 Stat. 1080.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 14, 1946, ch. 964, 60 Stat. 1062, as amended, known as the Farmers' Home Administration Act of 1946. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Farmers' Home Administration Act of 1946, and not as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

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.

CROSS REFERENCES

Sale of reserved mineral interests, see sections 1033 to 1035, 1037 to 1039 of this title.

§ 1032. Transfer of rights and duties of Reconstruction Finance Corporation arising out of rehabilitation and farm tenancy loans to Secretary of the Treasury

All rights, interests, obligations, and duties of the Reconstruction Finance Corporation arising out of loans made or authorized to be made to the Secretary of Agriculture for the purpose of making rural rehabilitation and farm tenancy loans in accordance with the Department of Agriculture Appropriation Act of 1947 and prior appropriations and loans under the Farmers Home Administration Act of 1946 are, as of the close of June 30, 1947, vested in the Secretary of the Treasury; the Reconstruction Finance Corporation is authorized and directed to transfer, as of the close of June 30, 1947, to the Secretary of the Treasury and the Secretary of the Treasury is authorized and directed to receive all loans outstanding on that date, plus accrued unpaid interest, theretofore made to the Secretary under the provisions of the Acts named above, and all notes and other evidences thereof and all obligations constituting the security therefor. The Secretary of the Treasury shall cancel notes of the Reconstruction Finance Corporation, and sums due and unpaid upon or in connection with such notes at the time of such cancellation, in an amount equal to the unpaid principal of the loans so transferred, plus accrued unpaid interest through June 30, 1947. Subsequent to June 30, 1947, the Reconstruction Finance Corporation shall make no further loans or advances to the Secretary and the Secretary of the Treasury is authorized and directed, in lieu of the Reconstruction Finance Corporation, to lend or advance to the Secretary, in accordance with the provisions of said Acts to any unobligated or unadvanced balances of the sums which the Reconstruction Finance Corporation has theretofore been authorized and directed to lend to the Secretary. For the purpose of making such loans or advances, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chap-

ter are extended to include such loans or advances to the Secretary of Agriculture. Repayments to the Secretary of Treasury on such loans or advances shall be treated as a public-debt transaction of the United States.

(July 30, 1947, ch. 356, title I, §1, 61 Stat. 545.)

REFERENCES IN TEXT

The Department of Agriculture Appropriation Act of 1947, referred to in text, is act June 22, 1946, ch. 445, 60 Stat. 270, as amended. For complete classification of this Act to the Code, see Tables.

The Farmers Home Administration Act of 1946, referred to in text, is act Aug. 14, 1946, ch. 964, 60 Stat. 1062, as amended. For complete classification of this Act to the Code, see Tables.

CODIFICATION

"Chapter 31 of title 31" and "that chapter" substituted in text for "the Second Liberty Bond Act, as amended" and "that Act", respectively, on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was not enacted as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished Reconstruction Finance Corporation.

§ 1032a. Disbursing and certifying officers; exemption from liability for advances to defense relocation corporations

The Comptroller General of the United States is authorized and directed to allow credit in the accounts of disbursing and certifying officers for advances made in good faith on behalf of the Department of Agriculture to defense relocation corporations and land purchasing associations.

(Aug. 14, 1946, ch. 964, §6, 60 Stat. 1079.)

CODIFICATION

Section was formerly classified to section 82h of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 877. Section was not enacted as a part of the Bankhead-Jones Farm Tenant Act, which constitutes a major part of this chapter.

§ 1033. Sale of reserved mineral interests

Notwithstanding any other provisions of law, the Secretary of Agriculture (referred to in sections 1033 to 1035 and 1037 to 1039 of this title as the "Secretary") is authorized and directed to sell, as provided in said sections, all mineral interests now owned by the United States, which have been reserved or acquired by it under any program heretofore administered by the Resettlement Administration, or the Farm Security Administration, or now administered by the Farmers Home Administration, except the program administered pursuant to sections 1010 to 1012 of this title and the program for the liquidation of labor camps pursuant to Public Law 298, Eightieth Congress.

(Sept. 6, 1950, ch. 897, §1, 64 Stat. 769.)

REFERENCES IN TEXT

Public Law 298, Eightieth Congress, referred to in text, means act July 31, 1947, ch. 413, 61 Stat. 694, which

was set out as a note under section 1017 of this title and was repealed by act Apr. 20, 1950, ch. 94, title II, §205(a), 64 Stat. 73.

CODIFICATION

Section was not enacted as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

AUTHORIZATION OF APPROPRIATIONS

Section 8 of act Sept. 6, 1950, ch. 897, 64 Stat. 770, provided that: "There is authorized to be appropriated to the Secretary such sums as Congress may from time to time determine to be necessary to enable the Secretary to carry out the provisions of this Act [sections 1033 to 1039 of this title]."

CROSS REFERENCES

Conveyances under 1946 amendment to this chapter to include all mineral rights, see section 1031 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1035, 1037, 1038, 1039 of this title.

§ 1034. Persons to whom mineral interests sold; conveyances

Such mineral interests shall be sold only to private persons who shall apply therefor and who at the time of application are the owners of the surface of the land covered by the application. Applicants shall establish their title to the surface of the land covered by the application to the satisfaction of the Secretary at their own expense. Conveyances of mineral interests shall be by quitclaim deed executed by the Secretary or his delegate.

(Sept. 6, 1950, ch. 897, §2, 64 Stat. 769.)

CODIFICATION

Section was not enacted as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1035, 1037, 1038, 1039 of this title.

§ 1035. Sale of mineral interests; consideration; transfer of unsold interests to Secretary of the Interior

In areas where the Secretary determines after consultation with the Department of the Interior and competent local authorities that there is no active mineral development or leasing, the mineral interests covered by a single application shall be sold for a consideration of \$1. In other areas the mineral interests shall be sold at the fair market value thereof as determined by the Secretary after taking into consideration such appraisals as he deems necessary or appropriate. Area determinations made by the Secretary pursuant to this section may be revised from time to time and the consideration to be obtained for the mineral interests in connection with any particular tract of land shall be determined by the rule applicable to the area in which the tract is located at the time of the application therefor: *Provided*, That, in the event any mineral interests covered by sections 1033 to 1039 of this title are not sold as provided herein pursu-

ant to application filed within seven years from September 6, 1950, or within seven years from the date of acquisition of the mineral interests of the United States, whichever date is later, the Secretary shall forthwith transfer title to such mineral interests, with the exception of those which were a part of or derived from the assets transferred pursuant to transfer agreements with State rural rehabilitation corporations, to the Secretary of the Interior to be administered under the mineral laws of the United States.

(Sept. 6, 1950, ch. 897, §3, 64 Stat. 769.)

CODIFICATION

Section was not enacted as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1037, 1038, 1039 of this title.

§ 1036. Repealed. Pub. L. 87-353, §3(m), Oct. 4, 1961, 75 Stat. 774

Section, act Sept. 6, 1950, ch. 897, §4, 64 Stat. 769, related to authorization of Federal Farm Mortgage Corporation to sell and convey its mineral interests.

§ 1037. Sale of reserved mineral interests; disposition of proceeds

All proceeds from sales made under sections 1033 to 1039 of this title of mineral interests described in section 1033 of this title shall be covered into the Treasury of the United States as miscellaneous receipts, except that the proceeds from sales of mineral interests which were a part of or derived from the assets transferred pursuant to the transfer agreements with State rural rehabilitation corporations shall be credited to the appropriate corporation account.

(Sept. 6, 1950, ch. 897, §5, 64 Stat. 770.)

CODIFICATION

Section was not enacted as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1035, 1038, 1039 of this title.

§ 1038. Regulations; delegations of authority

The Secretary may make such rules and regulations and such delegations of authority as he may deem necessary to carry out the provisions of sections 1033 to 1039 of this title.

(Sept. 6, 1950, ch. 897, §6, 64 Stat. 770.)

CODIFICATION

Section was not enacted as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1035, 1037, 1039 of this title.

§ 1039. Time for filing purchase applications

No application for the purchase of mineral interests under sections 1033 to 1039 of this title

shall be filed until ninety days after September 6, 1950.

(Sept. 6, 1950, ch. 897, § 7, 64 Stat. 770.)

CODIFICATION

Section was not enacted as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1035, 1037, 1038 of this title.

§ 1040. Farmers' Home Administration funds account

When authorized by appropriation or other law, funds of the Farmers' Home Administration available for administrative expenses may be placed in a single account.

(Aug. 3, 1956, ch. 950, §9(b), 70 Stat. 1034.)

CODIFICATION

Section was enacted as part of the Department of Agriculture Organic Act of 1956, and not as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

CHAPTER 34—SUGAR PRODUCTION AND CONTROL

§ 1100. Omitted

CODIFICATION

Section, act Aug. 8, 1947, ch. 519, § 1, 61 Stat. 922, provided that this chapter may be cited as the Sugar Act of 1948, and expired on Dec. 31, 1974.

A prior section, act Sept. 1, 1937, ch. 898, § 1, 50 Stat. 903, provided that this chapter may be cited as the Sugar Act of 1937, and expired on Dec. 31, 1947.

TERMINATION DATE

Section 412, formerly §411, of act Aug. 8, 1947, ch. 519, 61 Stat. 933, as amended by act Sept. 1, 1951, ch. 379, § 5, 65 Stat. 320; renumbered §412 and amended by act May 29, 1956, ch. 342, §§17, 18, 70 Stat. 221; July 6, 1960, Pub. L. 86-592, § 1, 74 Stat. 330; Mar. 31, 1961, Pub. L. 87-15, § 1, 75 Stat. 40; July 13, 1962, Pub. L. 87-535, § 16, 76 Stat. 166; Nov. 8, 1965, Pub. L. 89-331, § 12(5), 79 Stat. 1280; Oct. 14, 1971, Pub. L. 92-138, § 18(a), 85 Stat. 390; Oct. 22, 1986, Pub. L. 99-514, § 2, 100 Stat. 2095, provided that: "The powers vested in the Secretary under this Act [this chapter] shall terminate on December 31, 1974, or on March 31 of the year of termination of the tax imposed by section 4501(a) of the Internal Revenue Code of 1986 [formerly IRC 1954] [section 4501(a) of Title 26] whichever is the earlier date, except that the Secretary shall have power to make payments under title III [subchapter III of this chapter]—

"(1) under programs applicable to the crop year 1974 and previous crop years, if the powers vested in the Secretary otherwise terminate on December 31, 1974, or

"(2) under programs applicable to the crop years preceding the calendar year in which the tax imposed under section 4501(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] terminates, if the powers vested in the Secretary otherwise terminate before December 31, 1974."

SUBCHAPTER I—DEFINITIONS

§ 1101. Omitted

CODIFICATION

Section, acts Aug. 8, 1947, ch. 519, title I, § 101, 61 Stat. 922; May 29, 1956, ch. 342, §§1-4, 70 Stat. 217; June 25,

1959, Pub. L. 86-70, § 4, 73 Stat. 141; July 6, 1960, Pub. L. 86-592, § 4, 74 Stat. 331; Oct. 14, 1971, Pub. L. 92-138, § 2, 85 Stat. 379, related to definitions and expired on Dec. 31, 1974.

A prior section, act Sept. 1, 1937, ch. 898, title I, § 101, 50 Stat. 903, relating to similar subject matter, expired on Dec. 31, 1947.

SUBCHAPTER II—QUOTA PROVISIONS

§§ 1111 to 1122. Omitted

CODIFICATION

Section 1111, acts Aug. 8, 1947, ch. 519, title II, § 201, 61 Stat. 923; May 29, 1956, ch. 342, § 5, 70 Stat. 217; July 13, 1962, Pub. L. 87-535, § 2, 76 Stat. 156; Nov. 8, 1965, Pub. L. 89-331, § 2, 79 Stat. 1271; Oct. 14, 1971, Pub. L. 92-138, § 3, 85 Stat. 379, related to annual consumption estimate in the continental United States, the price of objective, and definitions of parity index and wholesale price index and expired on Dec. 31, 1974.

A prior section 1111, acts Sept. 1, 1938, ch. 898, title II, § 201, 50 Stat. 904; Oct. 10, 1940, ch. 839, § 2, 54 Stat. 1093, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1112, acts Aug. 8, 1947, ch. 519, title II, § 202, 61 Stat. 924; Sept. 1, 1951, ch. 379, § 1, 65 Stat. 318; May 29, 1956, ch. 342, §§6-8, 70 Stat. 217-219; July 13, 1962, Pub. L. 87-535, § 3, 76 Stat. 156; July 19, 1962, Pub. L. 87-539, § 2(a), (b), 76 Stat. 169; Nov. 8, 1965, Pub. L. 89-331, § 3, 79 Stat. 1271; Oct. 14, 1971, Pub. L. 92-138, § 4, 85 Stat. 380, related to establishment or revision of quotas and expired on Dec. 31, 1974.

A prior section 1112, act Sept. 1, 1937, ch. 898, title II, § 202, 50 Stat. 905, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1113, acts Aug. 8, 1947, ch. 519, title II, § 203, 61 Stat. 925; July 6, 1960, Pub. L. 86-592, § 4, 74 Stat. 331, related to consumption estimate in Hawaii and Puerto Rico and to quotas and expired on Dec. 31, 1974.

A prior section 1113, act Sept. 1, 1937, ch. 898, title II, § 203, 50 Stat. 905, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1114, acts Aug. 8, 1947, ch. 519, title II, § 204, 61 Stat. 925; Sept. 1, 1951, ch. 379, § 2, 65 Stat. 319; May 29, 1956, ch. 342, § 9, 70 Stat. 219; July 13, 1962, Pub. L. 87-535, § 4, 76 Stat. 160; July 19, 1962, Pub. L. 87-539, § 2(c), 76 Stat. 169; Nov. 8, 1965, Pub. L. 89-331, § 4, 79 Stat. 1275; Oct. 14, 1971, Pub. L. 92-138, § 5, 85 Stat. 383, related to revision of proration upon productive deficiency of quota area and expired on Dec. 31, 1974.

A prior section 1114, act Sept. 1, 1937, ch. 898, title II, § 204, 50 Stat. 905, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1115, acts Aug. 8, 1947, ch. 519, title II, § 205, 61 Stat. 926; May 29, 1956, ch. 342, § 10, 70 Stat. 219; Aug. 28, 1958, Pub. L. 85-791, § 28, 72 Stat. 950; July 6, 1960, Pub. L. 86-592, § 4, 74 Stat. 331; July 13, 1962, Pub. L. 87-535, § 5, 76 Stat. 160; Nov. 8, 1965, Pub. L. 89-331, § 5, 79 Stat. 1276; Oct. 14, 1971, Pub. L. 92-138, § 6, 85 Stat. 384, related to allotments of quotas or prorations and expired on Dec. 31, 1974.

A prior section 1115, act Sept. 1, 1937, ch. 898, title II, § 205, 50 Stat. 906, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1116, acts Aug. 8, 1947, ch. 519, title II, § 206, 61 Stat. 927; July 13, 1962, Pub. L. 87-535, § 6, 76 Stat. 161; Nov. 8, 1965, Pub. L. 89-331, § 6, 79 Stat. 1277; Oct. 14, 1971, Pub. L. 92-138, § 7, 85 Stat. 384, related to products and mixtures containing sugar and expired on Dec. 31, 1974.

A prior section 1116, act Sept. 1, 1937, ch. 898, title II, § 206, 50 Stat. 907, related to temporary sugar quotas until sugar quotas for calendar year 1937 could be established, which was to be within 60 days after enactment of section.

Section 1117, acts Aug. 8, 1947, ch. 519, title II, § 207, 61 Stat. 927; Sept. 1, 1951, ch. 379, § 3, 65 Stat. 319; May 29, 1956, ch. 342, §§11, 12, 70 Stat. 219, 220; July 13, 1962, Pub. L. 87-535, § 7, 76 Stat. 161; July 19, 1962, Pub. L. 87-539,

§2(d), 76 Stat. 170; Nov. 8, 1965, Pub. L. 89-331, §7, 79 Stat. 1277; Oct. 14, 1971, Pub. L. 92-138, §8, 85 Stat. 385, related to amount of quota to be filled by direct-consumption sugar and expired on Dec. 31, 1974.

A prior section 1117, acts Sept. 1, 1937, ch. 898, title II, §207, 50 Stat. 908; Oct. 15, 1940, ch. 887, §§4, 5, 54 Stat. 1178, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1118, acts Aug. 8, 1947, ch. 519, title II, §208, 61 Stat. 928; Sept. 1, 1951, ch. 379, §4, 65 Stat. 319; July 13, 1962, Pub. L. 87-535, §8, 76 Stat. 162, related to liquid sugar foreign quotas and expired on Dec. 31, 1974.

A prior section 1118, act Sept. 1, 1937, ch. 898, title II, §208, 50 Stat. 908, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1119, acts Aug. 8, 1947, ch. 519, title II, §209, 61 Stat. 928; July 6, 1960, Pub. L. 86-592, §4, 74 Stat. 331; July 13, 1962, Pub. L. 87-535, §9, 76 Stat. 162; Nov. 8, 1965, Pub. L. 89-331, §8, 79 Stat. 1278; Oct. 14, 1971, Pub. L. 92-138, §9, 85 Stat. 386, related to prohibited acts and expired on Dec. 31, 1974.

A prior section 1119, act Sept. 1, 1937, ch. 898, title II, §209, 50 Stat. 908, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1120, act Aug. 8, 1947, ch. 519, title II, §210, 61 Stat. 928, related to terminology of determinations and expired on Dec. 31, 1974.

A prior section 1120, act Sept. 1, 1937, ch. 898, title II, §210, 50 Stat. 908, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1121, acts Aug. 8, 1947, ch. 519, title II, §211, 61 Stat. 928; July 13, 1962, Pub. L. 87-535, §10, 76 Stat. 162; Oct. 14, 1971, Pub. L. 92-138, §10, 85 Stat. 386, related to credit against quota and expired on Dec. 31, 1974.

A prior section 1121, act Sept. 1, 1937, ch. 898, title II, §211, 50 Stat. 909, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1122, acts Aug. 8, 1947, ch. 519, title II, §212, 61 Stat. 929; July 13, 1962, Pub. L. 87-535, §11, 76 Stat. 163; Nov. 8, 1965, Pub. L. 89-331, §9(a), 79 Stat. 1278; Oct. 14, 1971, Pub. L. 92-138, §11, 85 Stat. 386, related to exceptions to quota provisions and expired on Dec. 31, 1974.

A prior section 1122, act Sept. 1, 1937, ch. 898, title II, §212, 50 Stat. 909, relating to similar subject matter, expired on Dec. 31, 1947.

§ 1123. Repealed. Pub. L. 89-331, § 10, Nov. 8, 1965, 79 Stat. 1278

Section, act Aug. 8, 1947, ch. 519, title II, §213, as added July 13, 1962, Pub. L. 87-535, §12, 76 Stat. 163; amended July 19, 1962, Pub. L. 87-539, §2(e), 76 Stat. 170, made provision for import fees and set the amount and basis for such fees.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1965, pursuant to section 14 of Pub. L. 89-331.

SUBCHAPTER III—CONDITIONAL-PAYMENT PROVISIONS

§§ 1131 to 1137. Omitted

CODIFICATION

Section 1131, acts Aug. 8, 1947, ch. 519, title III, §301, 61 Stat. 929; May 29, 1956, ch. 342, §13, 70 Stat. 220; July 13, 1962, Pub. L. 87-535, §13(a), 76 Stat. 163, related to conditions of production and expired on Dec. 31, 1974.

A prior section 1131, acts Sept. 1, 1937, ch. 898, title III, §301, 50 Stat. 909; June 25, 1940, ch. 423, 54 Stat. 571; Dec. 26, 1941, ch. 638, §2, 55 Stat. 872, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1132, acts Aug. 8, 1947, ch. 519, title III, §302, 61 Stat. 930; May 29, 1956, ch. 342, §14, 70 Stat. 220; July 13, 1962, Pub. L. 87-535, §13(b), (c), 76 Stat. 163; Nov. 8, 1965, Pub. L. 89-331, §11, 79 Stat. 1278; Oct. 14, 1971, Pub. L. 92-138, §12, 85 Stat. 386, related to quantity of sugar and time for payments and expired on Dec. 31, 1974.

A prior section 1132, act Sept. 1, 1937, ch. 898, title III, §302, 50 Stat. 910, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1133, acts Aug. 8, 1947, ch. 519, title III, §303, 61 Stat. 930; Oct. 14, 1971, Pub. L. 92-138, §13, 85 Stat. 388, related to acreage abandonment and crop deficiency and expired on Dec. 31, 1974.

A prior section 1133, act Sept. 1, 1937, ch. 898, title III, §303, 50 Stat. 911, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1134, act Aug. 8, 1947, ch. 519, title III, §304, 61 Stat. 931, related to computation of payments and recipients thereof and expired on Dec. 31, 1974.

A prior section 1134, acts Sept. 1, 1937, ch. 898, title III, §304, 50 Stat. 911; Dec. 26, 1941, ch. 638, §3, 55 Stat. 873, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1135, act Aug. 8, 1947, ch. 519, title III, §305, 61 Stat. 932, related to cooperation with Secretary by certain agencies and expired on Dec. 31, 1974.

A prior section 1135, act Sept. 1, 1937, ch. 898, title III, §305, 50 Stat. 912, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1136, act Aug. 8, 1947, ch. 519, title III, §306, 61 Stat. 932, related to finality of Secretary's determinations and expired on Dec. 31, 1974.

A prior section 1136, act Sept. 1, 1937, ch. 898, title III, §306, 50 Stat. 912, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1137, acts Aug. 8, 1947, ch. 519, title III, §307, 61 Stat. 932; July 6, 1960, Pub. L. 86-592, §4, 74 Stat. 331; Oct. 14, 1971, Pub. L. 92-138, §14, 85 Stat. 388, related to territorial application of former subchapter III and expired on Dec. 31, 1974.

A prior section 1137, acts Sept. 1, 1937, ch. 898, title III, §307, 50 Stat. 912; Dec. 26, 1941, ch. 638, §4(a), 55 Stat. 873, relating to similar subject matter, expired on Dec. 31, 1947.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

§§ 1151 to 1161. Omitted

CODIFICATION

Section 1151, act Aug. 8, 1947, ch. 519, title IV, §401, 61 Stat. 932, related to expenditures by Secretary and expired Dec. 31, 1974.

A prior section 1151, act Sept. 1, 1937, ch. 898, title IV, §401, 50 Stat. 912, relating to definitions with respect to excise taxes on sugar, expired on Dec. 31, 1947.

Section 1152, act Aug. 8, 1947, ch. 519, title IV, §402, 61 Stat. 932; Nov. 8, 1965, Pub. L. 89-331, §12(1), 79 Stat. 1279, related to authorization of appropriations and to availability of funds and expired on Dec. 31, 1974.

A prior section 1152, act Sept. 1, 1937, ch. 898, title IV, §402, 50 Stat. 913, relating to tax on the manufacture of sugar, expired on Dec. 31, 1947.

Section 1153, acts Aug. 8, 1947, ch. 519, title IV, §403, 61 Stat. 932; Oct. 14, 1971, Pub. L. 92-138, §15, 85 Stat. 388, related to rules and regulations, violations, publication of determinations, and independent weighmasters and expired on Dec. 31, 1974.

A prior section 1153, act Sept. 1, 1937, ch. 898, title IV, §403, 50 Stat. 913, relating to an import compensating tax, expired on Dec. 31, 1947.

Section 1154, acts Aug. 8, 1947, ch. 519, title IV, §404, 61 Stat. 932; June 25, 1948, ch. 646, §1, 62 Stat. 909; July 13, 1962, Pub. L. 87-535, §14, 76 Stat. 166; Oct. 14, 1971, Pub. L. 92-138, §16, 85 Stat. 389, related to court jurisdiction and expired on Dec. 31, 1974.

A prior section 1154, act Sept. 1, 1937, ch. 898, title IV, §404, 50 Stat. 914, relating to exportation of manufactured sugar and use of manufactured sugar in livestock feed or for distillation of alcohol, expired on Dec. 31, 1947.

Section 1155, acts Aug. 8, 1947, ch. 519, title IV, §405, 61 Stat. 933; May 29, 1956, ch. 342, §15, 70 Stat. 220, related to forfeitures and expired on Dec. 31, 1974.

A prior section 1155, act Sept. 1, 1937, ch. 898, title IV, §405, 50 Stat. 914, relating to collection of taxes, expired on Dec. 31, 1947.

Section 1156, act Aug. 8, 1947, ch. 519, title IV, §406, 61 Stat. 933, related to duty to furnish information and penalty for noncompliance and expired on Dec. 31, 1974.

A prior section 1156, act Sept. 1, 1937, ch. 898, title IV, §406, 50 Stat. 914, relating to effective date of said title IV, expired on Dec. 31, 1947.

Section 1157, acts Aug. 8, 1947, ch. 519, title IV, §407, 61 Stat. 933; May 29, 1956, ch. 342, §16, 70 Stat. 220, related to prohibition of and penalty for sugar investments by officials and expired on Dec. 31, 1974.

Section 1158, acts Aug. 8, 1947, ch. 519, title IV, §408, 61 Stat. 933; July 6, 1960, Pub. L. 86-592, §3, 74 Stat. 330; Mar. 31, 1961, Pub. L. 87-15, §3, 75 Stat. 40; July 13, 1962, Pub. L. 87-535, §15, 76 Stat. 166; Nov. 8, 1965, Pub. L. 89-331, §512(2)-(4), 79 Stat. 1279, 1280; Oct. 14, 1971, Pub. L. 92-138, §17, 85 Stat. 389, related to suspension of quota and authorization provisions and expired on Dec. 31, 1974.

Section 1159, act Aug. 8, 1947, ch. 519, title IV, §409, 61 Stat. 933, related to surveys and investigations by Secretary and to producer-processor and producer-labor contracts and expired on Dec. 31, 1974.

Section 1160, act Aug. 8, 1947, ch. 519, title IV, §410, 61 Stat. 933, related to general conditions and factors affecting accomplishment of purposes of this chapter and publication of information and expired on Dec. 31, 1974.

Section 1161, act Aug. 8, 1947, ch. 519, title IV, §411, added May 29, 1956, ch. 342, §17, 70 Stat. 221, related to regulations to carry out international agreements restricting sugar importations and expired on Dec. 31, 1974.

SUBCHAPTER V—GENERAL PROVISIONS

§ 1171. Repealed. Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 649

Section, act Sept. 1, 1937, ch. 898, title V, §501, 50 Stat. 915, authorized Secretary of Agriculture to appoint and fix compensation of employees and make expenditures necessary to carry out Sugar Act of 1937, which expired on Dec. 31, 1947.

§§ 1172 to 1183. Omitted

CODIFICATION

Section 1172, act Sept. 1, 1937, ch. 898, title V, §502, 50 Stat. 915, related to annual appropriation and availability of funds, expired on Dec. 31, 1947, and was covered by section 402 of the Sugar Act of 1948, which was set out as former section 1152 of this title.

Section 1173, acts Sept. 1, 1937, ch. 898, title V, §503, 50 Stat. 915; Oct. 15, 1940, ch. 887, §3, 54 Stat. 1178; Dec. 26, 1941, ch. 638, §6, 55 Stat. 873; June 20, 1944, ch. 266, §2, 58 Stat. 284, related to appropriation of funds for transfer to Commonwealth of Philippine Islands for use in economic adjustment and expired Dec. 31, 1947.

Section 1174, act Sept. 1, 1937, ch. 898, title V, §504, 50 Stat. 915, related to rules and regulations and fines for violations, expired on Dec. 31, 1947, and was covered by section 403 of the Sugar Act of 1948, which was set out as former section 1153 of this title.

Section 1175, act Sept. 1, 1937, ch. 898, title V, §505, 50 Stat. 915, related to court jurisdiction, expired on Dec. 31, 1947, and was covered by section 404 of the Sugar Act of 1948, which was set out as former section 1154 of this title.

Section 1176, act Sept. 1, 1937, ch. 898, title V, §506, 50 Stat. 915, related to forfeitures, expired on Dec. 31, 1947, and was covered by section 405 of the Sugar Act of 1948, which was set out as former section 1155 of this title.

Section 1177, act Sept. 1, 1937, ch. 898, title V, §507, 50 Stat. 916, related to duty to furnish information and to penalty for noncompliance, expired on Dec. 31, 1947, and was covered by section 406 of the Sugar Act of 1948, which was set out as former section 1156 of this title.

Section 1178, act Sept. 1, 1937, ch. 898, title V, §508, 50 Stat. 916, related to prohibition of and penalty for

sugar investments by officials, expired on Dec. 31, 1947, and was covered by section 407 of the Sugar Act of 1948, which was set out as former section 1157 of this title. See section 7240 of Title 26, Internal Revenue Code.

Section 1179, act Sept. 1, 1937, ch. 898, title V, §509, 50 Stat. 916, related to Presidential powers during an emergency, expired on Dec. 31, 1947, and was covered by section 408 of the Sugar Act of 1948, which was set out as former section 1158 of this title.

Section 1180, act Sept. 1, 1937, ch. 898, title V, §510, 50 Stat. 916, specified laws which would become inapplicable to sugar on enactment of Sugar Act of 1937, and expired on Dec. 31, 1947.

Section 1181, act Sept. 1, 1937, ch. 898, title V, §511, 50 Stat. 916, related to surveys and investigations of producer-processor and producer-laborer contracts, expired on Dec. 31, 1947, and was covered by section 409 of the Sugar Act of 1948, which was set out as former section 1159 of this title.

Section 1182, act Sept. 1, 1937, ch. 898, title V, §512, 50 Stat. 916, related to general conditions and factors affecting accomplishment of purposes of the Sugar Act of 1937, expired on Dec. 31, 1947, and was covered by section 410 of the Sugar Act of 1948, which was set out as former section 1160 of this title.

Section 1183, acts Sept. 1, 1937, ch. 898, title V, §513, 50 Stat. 916; Oct. 15, 1940, ch. 887, §1, 54 Stat. 1178; Dec. 26, 1941, ch. 638, §1, 55 Stat. 872; June 20, 1944, ch. 266, §1, 58 Stat. 283; July 27, 1946, ch. 685, §1, 60 Stat. 706, specified that the powers of the Secretary under the Sugar Act of 1937 were to terminate on Dec. 31, 1947. Similar provisions as to termination under the Sugar Act of 1948 are contained in section 412 of act Aug. 8, 1947, ch. 519, 61 Stat. 933, set out as a note under former section 1100 of this title.

CHAPTER 35—AGRICULTURAL ADJUSTMENT ACT OF 1938

GENERAL PROVISIONS

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| Sec.
1281. | Short title. |
| 1282. | Declaration of policy. |
| 1282a. | Emergency supply of agricultural products <ul style="list-style-type: none"> (a) Establishment of prices to insure orderly, adequate and steady supply of products. (b) Adjustments in maximum price of products subject to any price control or freeze order or regulation to increase supply. (c) "Agricultural products" defined. (d) Implementation of policies to encourage full production in periods of short supply at fair and reasonable prices. |

SUBCHAPTER I—ADJUSTMENT IN FREIGHT RATES, NEW USES AND MARKETS, AND DISPOSITION OF SURPLUSES

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| 1291. | Adjustments in freight rates. <ul style="list-style-type: none"> (a) Complaints by Secretary of Agriculture; notice of hearings. (b) Secretary as party to proceedings. (c) Utilization of records, services, etc., of Department of Agriculture. (d) Cooperation with complaining farm associations. |
| 1292. | New uses and markets for commodities. <ul style="list-style-type: none"> (a) Regional research laboratories. (b) Acquisition of land for laboratories; donations. (c) Cooperation with governmental agencies, associations, etc. (d) Appropriation for purposes of subsection (a). (e) Repealed. |

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| <p>Sec. (f) Appropriation to Secretary of Commerce.</p> <p>(g) Duty of Secretary.</p> <p>1293. Transferred.</p> <p>SUBCHAPTER II—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES</p> <p>PART A—DEFINITIONS, LOANS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS</p> <p>1301. Definitions.</p> <p>(a) General definitions.</p> <p>(b) Definitions applicable to one or more commodities.</p> <p>(c) Use of Federal statistics.</p> <p>(d) Exclusion of stocks of certain commodities.</p> <p>1301a. References to parity prices, etc., in other laws after January 1, 1950.</p> <p>1301b, 1302. Repealed.</p> <p>1303. Parity payments.</p> <p>1304. Consumer safeguards.</p> <p>1305. Transfer of acreage allotments or feed grain bases on public lands upon request of State agencies.</p> <p>1306. Projected yields; determination; base period.</p> <p>1307. Limitation on payments under wheat, feed grains, and cotton programs for 1974 through 1977 crops.</p> <p>1308. Limitation on payments under wheat, feed grains, upland cotton, extra long staple cotton, honey, and rice programs for 1987 through 1997 crops.</p> <p>1308-1. Prevention of creation of entities to qualify as separate persons; payments limited to active farmers.</p> <p>(a) Prevention of creation of entities to qualify as separate persons.</p> <p>(b) Payments limited to active farmers.</p> <p>1308-2. Schemes or devices.</p> <p>1308-3. Foreign persons made ineligible for program benefits.</p> <p>(a) In general.</p> <p>(b) Corporations or other entities.</p> <p>(c) Prospective application.</p> <p>1308-4. Education program.</p> <p>(a) In general.</p> <p>(b) Training.</p> <p>(c) Administration.</p> <p>(d) Commodity Credit Corporation.</p> <p>1308-5. Treatment of multiyear program contract payments.</p> <p>(a) In general.</p> <p>(b) Limitation.</p> <p>1308a. Cost reduction options.</p> <p>(a) Authority of Secretary to take action.</p> <p>(b) Reservation of Secretary's right to reopen or change contracts if producer agrees.</p> <p>(c) Purchase from other sources of commodities covered by nonrecourse loans.</p> <p>(d) Reduction in settlement price of nonrecourse loans.</p> <p>(e) Reopening of production control or loan programs to allow for payment in kind.</p> <p>(f) Other authorities of Secretary not affected.</p> <p>1309. Normally planted acreage and target prices.</p> <p>(a) Authorized planted acreage for 1982 through 1995 crops of wheat and feed grains as prerequisite for loan, etc.; eligibility; determinations; records.</p> <p>(b) Established price payments.</p> <p>(c) Marketing quotas in effect for 1987 through 1995 crops of wheat; reduction in normally planted acreage as condition prerequisite for loan, etc.</p> | <p>Sec. 1310. American agriculture protection program.</p> <p>(a) Determination of short supply; suspension of commercial export sales; parity price.</p> <p>(b) Duration of loan level.</p> <p>(c) "Commodity" defined.</p> <p>1310a. Normal supply of commodity for 1986 through 1995 crops.</p> <p>PART B—MARKETING QUOTAS</p> <p>SUBPART I—MARKETING QUOTAS—TOBACCO</p> <p>1311. Legislative findings.</p> <p>1312. National marketing quota.</p> <p>(a) Proclamation of quota.</p> <p>(b) Announcement of amount of quota.</p> <p>(c) Referendum on quotas.</p> <p>1313. Apportionment of national marketing quota.</p> <p>(a) Apportionment among States.</p> <p>(b) Allotment of quota among producing farms.</p> <p>(c) Allotment to previous nonproducing farms and small farms.</p> <p>(d) Transfer of farm marketing quotas.</p> <p>(e) Quota for 1938; minimum State allotments.</p> <p>(f) Increase of 1938 quota.</p> <p>(g) Conversion of national marketing quota into national acreage allotment.</p> <p>(h) Repealed.</p> <p>(i) Increase of marketing quotas and acreage allotments to meet demand.</p> <p>(j) Tobacco acreage allotments for 1956, 1957, and 1958.</p> <p>(j) Old farm tobacco acreage allotment.</p> <p>1314. Penalties.</p> <p>(a) Persons liable.</p> <p>(b) Collection and deposit.</p> <p>(c) Lien in favor of United States.</p> <p>1314-1. Limitation on sale of tobacco floor sweepings.</p> <p>(a) Penalty.</p> <p>(b) Assessment; notice and opportunity for hearing; determination.</p> <p>(c) Relation to other law.</p> <p>(d) Definitions.</p> <p>1314a. Repealed.</p> <p>1314b. Lease or sale of acreage allotments.</p> <p>(a) Conditions for permission from Secretary; false statements; exceptions.</p> <p>(b) Term of years; terms and conditions.</p> <p>(c) Filing with county committees; calculation of normal yield for transfer.</p> <p>(d) Allotments for other years unaffected; inclusion of amount in transferors' plantings; referendum voting rights.</p> <p>(e) Limitation on amount of acreage allotment; "tillable cropland" defined.</p> <p>(f) Regulations.</p> <p>(g) Sale of allotment or quota by one active Flue-cured tobacco producer to another; definition.</p> <p>(h) Sale or forfeiture of allotment or quota; notice and opportunity for hearing; determination; review.</p> <p>(h) Transfer authority.</p> <p>1314b-1. Mandatory sale of certain Flue-cured tobacco acreage allotments and marketing quotas.</p> <p>(a) Sale or forfeiture of acreage allotment or marketing quota by institutional farmowners not later than the later of December 1, 1984, or December 1 of year after year in which farm acquired.</p> <p>(b) Forfeiture of acreage allotment or marketing quota by farmowners on or after December 1, 1983.</p> |
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| Sec. | | Sec. | |
| | (c) Notice and opportunity for hearing; determination; review. | | (a) Sale or lease of acreage allotments and acreage-poundage quotas. |
| 1314b-2. | Mandatory sale of certain Burley tobacco acreage allotments and marketing quotas. | | (b) Conditions for transfers. |
| | (a) Sale or forfeiture of marketing quota by institutional farmowners not later than the later of December 1, 1984, or December 1 of year after year in which farm acquired. | | (c) Transfer of acreage history and marketing quota. |
| | (b) Notice and opportunity for hearing; determination; review. | | (d) Five-year restriction on new farm allotments or quotas. |
| | (c) Sale or forfeiture of allotment or quota by subsequent purchaser; notice and opportunity for hearing; determination; review. | | (e) Allotment adjustment. |
| 1314c. | Acreage-poundage quotas. | | (f) Lease term. |
| | (a) Definitions. | | (g) Acreage transfer maximums. |
| | (b) National marketing quota, acreage allotment and average yield goal for Flue-cured tobacco; referendum. | | (h) Future allotments; referendum voting eligibility. |
| | (c) Tobacco having marketing quotas on acreage basis; determination of Secretary of program on acreage-poundage basis; announcement of national marketing quota, acreage allotment and average yield goal; referendum. | | (i) Land utilization agreements; payment adjustments. |
| | (d) Proclamation of national marketing quota for three years following last year of three years of acreage-poundage quotas; referendum; notice of farm marketing quota to farm operators. | 1314e. | (j) Rules and regulations. |
| | (e) Nonestablishment of farm acreage allotment or farm yield for farms without tobacco production for five years; reserve; "new farms" defined; acreage allotment and farm yield basis of new farms. | | Farm poundage quotas for certain kinds of tobacco. |
| | (f) Acreage reduction penalties applicable to acreage-poundage programs; farm marketing quota reductions; filing false reports; increases or decreases in acreage allotments and farm yields for other farms of owner displaced by agency acquisition of farms; leases and sales of acreage allotments and farm marketing quotas; ratification of transfers of acreage allotments. | | (a) Proclamations and referenda regarding burley tobacco. |
| | (g) Marketing penalties. | | (b) Proclamations and referenda regarding dark air-cured tobacco and types 22 and 23 fire-cured tobacco. |
| | (h) Burley tobacco; acreage-poundage basis: farm acreage allotment and farm marketing quota, adjustments for overmarketing or undermarketing, reductions for violations; acreage and quota additional to national acreage allotment and national marketing quota; acreage basis: acreage allotment, amendment of clause (1) and proviso of section 1315. | | (c) Amount of national marketing quota, determination; national reserve, establishment. |
| | (i) Consultations with industry representatives respecting a program for each kind of tobacco, studies of Flue-cured tobacco acreage-poundage program, report and recommendations to congressional committees, upon referendum approval of Flue-cured tobacco acreage-poundage program. | | (d) Farm yields; determination; limitation. |
| | (j) Treatment of falsely identified tobacco for purposes of establishing future farm marketing quotas. | | (e) Farm marketing quotas; preliminary quotas, determination, limitation; succeeding years, quota computation, limitations, increase and reduction of quotas; new farms, limitation. |
| | (k) Forfeiture of allotment and quota. | | (f) Reductions for false information. |
| | (l) Determination of Flue-cured tobacco planted acreage. | | (g) Leases and transfers of farm quotas; limitations. |
| 1314d. | Fire-cured, dark air-cured, and Virginia sun-cured tobacco. | | (h) Loss of quotas through underplanting. |
| | | | (i) Marketing penalties. |
| | | | (j) Regulations. |
| | | | (k) Lease and transfer of burley tobacco quota assigned. |
| | | | (l) Lease and transfer of burley tobacco quotas in Tennessee and Virginia. |
| | | 1314f. | Nonquota tobacco subject to quota. |
| | | 1314g. | Submission of purchase intentions by cigarette manufacturers. |
| | | | (a) Quantity of intended purchases; aggregation not to allow identification. |
| | | | (b) Failure to submit; determination of quantity of intended purchases by Secretary. |
| | | | (c) Confidentiality of information; disclosure; publication of identity of violators; penalties. |
| | | | (d) Exemption from public disclosure. |
| | | 1314h. | Purchase requirements; penalty. |
| | | | (a) Statement of quantity purchased during marketing year. |
| | | | (b) Failure to purchase at least 90 percent of quantity of intended purchases; reduction in quantity of intended purchases. |
| | | | (c) Penalty for failure to purchase specified amount. |
| | | | (d) Transmission of penalty by Secretary; deposit in No Net Cost Fund or Account. |
| | | | (e) Confidentiality of information submitted; disclosure; publication of identity of violators; exemption from public disclosure; penalties. |
| | | | (f) "Quota tobacco" defined. |
| | | 1314i. | Domestic marketing assessment. |
| | | | (a) Certification. |
| | | | (b) Penalties. |
| | | | (c) Domestic marketing assessment. |
| | | | (d) Purchase of Burley tobacco. |
| | | | (e) Purchase of Flue-cured tobacco. |

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| <p>Sec.</p> <p>(f) Crop losses due to disasters.
(g) Effective date.</p> <p>1315. Burley tobacco acreage allotments.</p> <p>1316. Transfer of allotments subsequent to 1965.</p> <p>SUBPART II—ACREAGE ALLOTMENTS—CORN</p> <p>1321. Legislative finding of effect on interstate and foreign commerce and necessity of regulation.</p> <p>1322 to 1325. Repealed.</p> <p>1326. Adjustment of farm marketing quotas.</p> <p>1327 to 1329. Omitted.</p> <p>1329a. Discontinuance of acreage allotments on corn.</p> <p>1330. Omitted.</p> <p>SUBPART III—MARKETING QUOTAS—WHEAT</p> <p>1331. Legislative finding of effect on interstate and foreign commerce and necessity of regulation.</p> <p>1332. National marketing quota.
(a) Proclamation; duration of program.
(b) Amount; minimum.
(c) National emergencies or material increase in demand; investigation; increase or termination.
(d) Farm marketing quotas for wheat crops planted in calendar years 1966-1970.</p> <p>1333. National acreage allotment.</p> <p>1334. Apportionment of national acreage allotment.
(a) Apportionment among States; special acreage reserve.
(b) Apportionment among counties.
(c) Apportionment among farms; overplanted allotments; reductions; notice.
(d) Repealed.
(e) Increase in acreage allotments and marketing quotas for class II durum wheat.
(f) Voluntary surrender of acreage allotment.
(g) Plantings in excess of allotments or where no allotment is established.
(h) Omitted.
(i) Increase in acreage allotments for any kind of wheat in short supply; storage reduction and land-use provisions inapplicable to such wheat.
(j) Increased durum wheat acreage allotments to Tulelake area, California, for 1970 and subsequent years; factors determinative; effect of increased allotments on marketing allocations and diversion payments.
(k) Transfer of farm wheat acreage allotments in case of natural disasters.</p> <p>1334a. Omitted.</p> <p>1334a-1. Summer fallow farms; upper limit on required set aside acreage for 1971 through 1977 wheat, feed grain, and cotton crops.</p> <p>1334b. Designation of States outside commercial wheat-producing areas.</p> <p>1335. Small-farm exemption; small-farm base acreage; election; acreage allotment; land-use provisions; price support; wheat marketing certificates.</p> <p>1336. Referendum.</p> <p>1337. Repealed.</p> <p>1338. Transfer of quotas.</p> <p>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.</p> | <p>Sec.</p> <p>(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.</p> <p>(c) Adjustment of payments.</p> <p>(d) Advance payments.</p> <p>(e) Diverted acreage used for production of certain crops; rate of payment; limitation on rate.</p> <p>(f) Additional terms and conditions.</p> <p>(g) Regulations.</p> <p>(h) Commodity Credit Corporation funds and authorization of appropriations for payments and administrative expenses.</p> <p>1339a. Good faith reliance.</p> <p>1339b. Wheat diversion programs; credits in establishment of State, county and farm acreage allotments for wheat.</p> <p>1339c. Feed grains diversion programs for 1964 and subsequent years; feed grain acreage considered wheat acreage and wheat acreage considered feed grain acreage.</p> <p>1339d. Hay production on set-aside or diverted acreage; storage; emergency use; loans.</p> <p>1340. Supplemental provisions relating to wheat marketing quotas; marketing penalty for rice; crop loans on cotton, wheat, rice, tobacco, and peanuts.</p> <p>SUBPART IV—MARKETING QUOTAS—COTTON</p> <p>1341. Legislative findings.</p> <p>1342. National marketing quota; proclamation; amount; date of proclamation.</p> <p>1342a. National cotton production goal.</p> <p>1343. Referendum.</p> <p>1344. Apportionment of national acreage allotments.
(a) Basis.
(b) Apportionment among States for year 1953 and subsequent years; adjustment; national acreage reserve.
(c) Apportionment among States for years 1950 and 1951; computation and adjustment.
(d) Apportionment for year 1952; adjustment.
(e) Apportionment among counties; reservation of acreage; additional acreage for establishing minimum farm allotments.
(f) Apportionment among farms.
(g) Law and conditions governing establishment of acreage allotments and yields.
(h) Repealed.
(i) Excess planting; old and new farm allotment.
(j) Availability of records for inspection.
(k) Minimum allotments to States.
(l) Administration of law governing war crops.
(m) Acreage allotments, 1954; increases; apportionments; limitations; unallotted farm acreage; reapportionment of surrendered acreage; extra long staple cotton; reserve acreage.
(n) Transfer of farm cotton acreage allotments in case of natural disasters; eligibility for allotment.</p> |
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| <p>Sec.
1344a. Exclusion of 1949 acreage in computation of future allotments.</p> <p>1344b. Sale, lease, or transfer of cotton acreage allotments.</p> <p style="padding-left: 20px;">(a) Authority for calendar years 1966 through 1970; transfer periods.</p> <p style="padding-left: 20px;">(b) Requisite conditions for transfer of acreage allotments.</p> <p style="padding-left: 20px;">(c) Extent of estate transferred.</p> <p style="padding-left: 20px;">(d) Period of ineligibility of land for new allotment.</p> <p style="padding-left: 20px;">(e) Transfer of allotments established under minimum allotment provisions.</p> <p style="padding-left: 20px;">(f) Rules and regulations.</p> <p style="padding-left: 20px;">(g) Adjustment upon transfer of land covered by conservation reserve contract.</p> <p style="padding-left: 20px;">(h) Exchange of cotton acreage allotments for rice acreage allotments.</p> <p style="padding-left: 20px;">(i) Applicability to cotton restricted to upland cotton.</p> <p>1345. Farm marketing quotas; farm marketing excess.</p> <p>1346. Penalties.</p> <p>1347. Repealed.</p> <p>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.</p> <p>1349. Export market acreage.</p> <p style="padding-left: 20px;">(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.</p> <p style="padding-left: 20px;">(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.</p> <p>1350. National base acreage allotment.</p> <p style="padding-left: 20px;">(a) Establishment.</p> <p style="padding-left: 20px;">(b) Apportionment to States.</p> <p style="padding-left: 20px;">(c) Apportionment to counties.</p> <p style="padding-left: 20px;">(d) Adjustment of apportionment bases for counties.</p> <p style="padding-left: 20px;">(e) Apportionment to farms.</p> <p style="padding-left: 20px;">(f) Surrender of farm base acreage allotments.</p> <p style="padding-left: 20px;">(g) Compliance with set-aside requirements.</p> <p style="padding-left: 20px;">(h) Transfer of farm base acreage allotments not planted because of natural disaster or conditions beyond control of producer.</p> <p>1350a. Repealed.</p> <p style="padding-left: 40px;">SUBPART V—MARKETING QUOTAS—RICE</p> <p>1351 to 1356. Omitted or Repealed.</p> <p style="padding-left: 40px;">SUBPART VI—MARKETING QUOTAS—PEANUTS</p> <p>1357. Legislative findings.</p> <p>1358. National marketing quota.</p> <p style="padding-left: 20px;">(a) Proclamation; amount.</p> <p style="padding-left: 20px;">(b) Referendum.</p> | <p>Sec.</p> <p>(c) Apportionment of national acreage allotment.</p> <p>(d) Farm acreage allotments.</p> <p>(e) County acreage allotments.</p> <p>(f) New farm allotments.</p> <p>(g) Release and reapportionment of farm-acreage allotments.</p> <p>(h) Repealed.</p> <p>(i) Production on farms with no allotments.</p> <p>(j) Transfer of acreage allotment.</p> <p>1358-1. National poundage quotas and acreage allotments for 1991 through 1997 crops of peanuts.</p> <p style="padding-left: 20px;">(a) National poundage quotas.</p> <p style="padding-left: 20px;">(b) Farm poundage quotas.</p> <p style="padding-left: 20px;">(c) Farm yields.</p> <p style="padding-left: 20px;">(d) Referendum respecting poundage quotas.</p> <p style="padding-left: 20px;">(e) Definitions.</p> <p style="padding-left: 20px;">(f) Crops.</p> <p>1358a. Transfer of peanut acreage allotments.</p> <p style="padding-left: 20px;">(a) Authority to permit transfers.</p> <p style="padding-left: 20px;">(b) Conditions upon transfer; adjustment of allotment.</p> <p style="padding-left: 20px;">(c) Transfer of acreage history and marketing quota; transfer by lease.</p> <p style="padding-left: 20px;">(d) Eligibility of transferred land for new allotment.</p> <p style="padding-left: 20px;">(e) Duration of lease; terms and conditions.</p> <p style="padding-left: 20px;">(f) Lease of part of acreage allotment; determination of future allotments; eligibility for referendum.</p> <p style="padding-left: 20px;">(g) Regulations; limitations on transfers.</p> <p style="padding-left: 20px;">(h) Adjustment of rates for land utilization agreements.</p> <p>1358b. Sale, lease, or transfer of farm poundage quota for 1991 through 1995 crops of peanuts.</p> <p style="padding-left: 20px;">(a) In general.</p> <p style="padding-left: 20px;">(b) Conditions.</p> <p style="padding-left: 20px;">(c) Crops.</p> <p>1358c. Experimental and research programs for peanuts.</p> <p style="padding-left: 20px;">(a) In general.</p> <p style="padding-left: 20px;">(b) Quantity.</p> <p style="padding-left: 20px;">(c) Limitation.</p> <p style="padding-left: 20px;">(d) Crops.</p> <p>1359. Marketing penalties.</p> <p>1359a. Marketing penalties and disposition of additional peanuts for 1991 through 1997 crops of peanuts.</p> <p style="padding-left: 20px;">(a) Marketing penalties.</p> <p style="padding-left: 20px;">(b) Use of quota and additional peanuts.</p> <p style="padding-left: 20px;">(c) Marketing peanuts with excess quantity, grade, or quality.</p> <p style="padding-left: 20px;">(d) Handling and disposal of additional peanuts.</p> <p style="padding-left: 20px;">(e) Special export credits.</p> <p style="padding-left: 20px;">(f) Contracts for purchase of additional peanuts.</p> <p style="padding-left: 20px;">(g) Marketing of peanuts owned or controlled by Commodity Credit Corporation.</p> <p style="padding-left: 20px;">(h) Administration.</p> <p style="padding-left: 20px;">(i) Crops.</p> <p style="padding-left: 40px;">SUBPART VII—MARKETING QUOTAS—SUGAR AND CRYSTALLINE FRUCTOSE</p> <p>1359aa. Information reporting.</p> <p style="padding-left: 20px;">(a) Duty of processors, refiners and manufacturers to report.</p> <p style="padding-left: 20px;">(b) Duty of producers to report.</p> <p style="padding-left: 20px;">(c) Penalty.</p> <p style="padding-left: 20px;">(d) Monthly reports.</p> <p>1359bb. Marketing allotments for sugar and crystalline fructose.</p> <p style="padding-left: 20px;">(a) Sugar estimates.</p> <p style="padding-left: 20px;">(b) Sugar allotments.</p> |
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- Sec.
1387. Photographic reproductions and maps.
1388. Utilization of local agencies.
 (a) Designation of local agencies and local administrative areas.
 (b) Payments to county committees for administrative expenses.
 (c) Travel expenses.
1389. Personnel.
1390. Separability.

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.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 511r, 1428, 1442, 1444a, 1446c, 1745, 2279 of this title.

GENERAL PROVISIONS

§ 1281. Short title

This chapter may be cited as the “Agricultural Adjustment Act of 1938”.

(Feb. 16, 1938, ch. 30, § 1, 52 Stat. 31.)

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-577, § 1, Nov. 15, 1990, 104 Stat. 2856, provided: “That this Act [amending sections 1314e and 1379 of this title] may be cited as the ‘Farm Poundage Quota Revisions Act of 1990’.”

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-198, title XVIII, § 1801, Dec. 23, 1985, 99 Stat. 1660, provided that: “Except as otherwise provided in this Act, this Act and the amendments made by this Act [see Tables for classification] shall become effective on the date of the enactment of this Act [Dec. 23, 1985].”

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-260, § 1, Mar. 20, 1986, 100 Stat. 45, provided that: “This Act [enacting section 1433c-1 of this title, amending sections 259, 1431, 1441-1, 1444-1, 1444e, 1445b-3, 1446, 1464, 1466, 1736-1, 1736s, and 1736v of this title, section 5312 of Title 5, Government Organization and Employees, and section 714b of Title 15, Commerce and Trade, enacting provisions set out as notes under sections 608c, 1441-1, and 1446 of this title, and amending provisions set out as a note under section 2025 of this title] may be cited as the ‘Food Security Improvements Act of 1986’.”

SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99-198, § 1, Dec. 23, 1985, 99 Stat. 1354, provided that: “This Act [see Tables for classification] may be cited as the ‘Food Security Act of 1985’.”

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97-218, § 1, July 20, 1982, 96 Stat. 197, provided that: “This Act [enacting sections 1314-1, 1314b-1, 1314b-2, 1445-1, and 1445-2 of this title, amending sections 1301, 1314, 1314b, 1314c, 1314e, 1314f, 1316, 1373, and 1445 of this title, and enacting provisions set out as notes under sections 1314, 1314b, 1445, 1445-1, and 1445-2 of this title, and under section 590h of Title 16, Conservation] may be cited as the ‘No Net Cost Tobacco Program Act of 1982’.”

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97-98, § 1, Dec. 22, 1981, 95 Stat. 1213, provided in part that Pub. L. 97-98 [see Tables for classification] be cited as the “Agriculture and Food Act of 1981”.

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-113, § 1, Sept. 29, 1977, 91 Stat. 913, provided: “That this Act [enacting sections 1308 to 1310, 1444c, 1445b to 1445f, 1715, 2027, 2266, 2267, 2281 to 2289, 2669, 2670, 3101 to 3103, 3121 to 3128, 3151 to 3154, 3171 to 3178, 3191 to 3201, 3221, 3222, 3241, 3251, 3252, 3261 to 3263, 3271, 3281, 3282, 3291, 3301 to 3304, 3311 to 3316, and 3401 to 3417 of this title and section 590q-3 of Title 16, Conservation, amending sections 75 to 79b, 84, 87 to 87b, 87e, 87f-1, 87f-2, 87h, 341 to 343, 361c, 390 to 390j, 427, 4501, 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, amend-

ing sections 1301, 1334, 1336, 1339, 1344, 1376, 1377, 1379b, 1379c, 1379d, 1385, 1421, 1427, 1444, 1445a, enacting provisions set out as notes under sections 1332 and 1379b, and amending provisions set out as a note under section 1441 of this title] may be cited as the 'Agricultural Act of 1964'."

SHORT TITLE OF 1962 AMENDMENT

Section 1 of Pub. L. 87-703 provided: "That this Act [enacting sections 1334b, 1339 to 1339c, 1379a to 1379j, 1431d, 1445a and 1991 of this title and section 713a-13 of Title 15, Commerce and Trade, amending sections 608c, 1010, 1011, 1301, 1331 to 1334, 1335, 1336, 1340, 1371, 1385, 1427, 1431, 1431b, 1444b, 1697, 1731 to 1733, 1735, 1736, 1923, 1926, 1929, and 1942 of this title and sections 590g, 590h, 590p, 1004 and 1005 of Title 16, Conservation, repealing section 1337 of this title, enacting provisions set out as notes under sections 1281, 1301, 1334, and 1441 of this title and section 590p of Title 16] may be cited as the 'Food and Agriculture Act of 1962'."

SHORT TITLE OF 1958 AMENDMENT

Pub. L. 85-835, § 1, Aug. 28, 1958, 72 Stat. 988, provided that: "This Act [enacting sections 1344 note, 1378, 1431a, 1441 note, 1443, 1444, 1853 note, amending sections 1313, 1334, 1342, 1344, 1347, 1353, 1358, 1423, 1425, 1427, 1441, 1446, 1446a, 1782 to 1784, and repealing section 1301b of this title] may be cited as the 'Agricultural Act of 1958'."

SHORT TITLE OF 1956 AMENDMENT

Act May 28, 1956, ch. 327, § 1, 70 Stat. 188, provided: "That this Act [see Tables for classification] may be cited as the 'Agricultural Act of 1956'."

SHORT TITLE OF 1948 AMENDMENT

Act July 3, 1948, ch. 827, 62 Stat. 1247, provided: "That this Act [see Tables for classification] may be cited as the 'Agricultural Act of 1948'."

SEPARABILITY

Section 405 of Pub. L. 87-703 provided that: "If any provision of this Act [see Short Title of 1962 Amendment note above] is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby."

§ 1282. Declaration of policy

It is declared to be the policy of Congress to continue the Soil Conservation and Domestic Allotment Act, as amended [16 U.S.C. 590a et seq.], for the purpose of conserving national resources, preventing the wasteful use of soil fertility, and of preserving, maintaining, and rebuilding the farm and ranch land resources in the national public interest; to accomplish these purposes through the encouragement of soil-building and soil-conserving crops and practices; to assist in the marketing of agricultural commodities for domestic consumption and for export; and to regulate interstate and foreign commerce in cotton, wheat, corn, tobacco, and rice to the extent necessary to provide an orderly, adequate, and balanced flow of such commodities in interstate and foreign commerce through storage of reserve supplies, loans, marketing quotas, assisting farmers to obtain insofar as practicable, parity prices for such commodities and parity of income, and assisting consumers to obtain an adequate and steady supply of such commodities at fair prices.

(Feb. 16, 1938, ch. 30, § 2, 52 Stat. 31.)

REFERENCES IN TEXT

The Soil Conservation and Domestic Allotment Act, as amended, referred to in text, is act Apr. 27, 1935, ch.

85, 49 Stat. 163, as amended, which is classified generally to chapter 3B (§590a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 590q of Title 16 and Tables.

TRANSFER OF FUNCTIONS

Functions of Agricultural Adjustment Administration transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 610 of this title.

Soil Conservation Service and Agricultural Adjustment Administration consolidated with other agencies into Agricultural Conservation and Adjustment Administration for duration of war, see Ex. Ord. No. 9069, set out in note under section 601 of Appendix to Title 50, War and National Defense.

Functions of Soil Conservation Service in Department of Agriculture with respect to soil and moisture conservation operations conducted on lands under jurisdiction of Department of the Interior transferred to Department of the Interior, to be administered under direction and supervision of Secretary of the Interior through such agency or agencies in Department of the Interior as Secretary shall designate, by 1940 Reorg. Plan No. IV, §6, eff. June 30, 1940, set out in the Appendix to Title 5, Government Organization and Employees. See, also, sections 13 to 15 of said plan for provisions relating to transfer of functions of department heads, records, property, personnel, and funds.

CONGRESSIONAL DECLARATION OF POLICY UNDER AGRICULTURAL ACT OF 1961

Section 2 of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 294, provided that: "In order more fully and effectively to improve, maintain, and protect the prices and incomes of farmers, to enlarge rural purchasing power, to achieve a better balance between supplies of agricultural commodities and the requirements of consumers therefor, to preserve and strengthen the structure of agriculture, and to revitalize and stabilize the overall economy at reasonable costs to the Government, it is hereby declared to be the policy of Congress to—

"(a) afford farmers the opportunity to achieve parity of income with other economic groups by providing them with the means to develop and strengthen their bargaining power in the Nation's economy;

"(b) encourage a commodity-by-commodity approach in the solution of farm problems and provide the means for meeting varied and changing conditions peculiar to each commodity;

"(c) expand foreign trade in agricultural commodities with friendly nations, as defined in section 107 of Public Law 480, 83d Congress, as amended (7 U.S.C. 1707), and in no manner either subsidize the export, sell, or make available any subsidized agricultural commodity to any nations other than such friendly nations and thus make full use of our agricultural abundance;

"(d) utilize more effectively our agricultural productive capacity to improve the diets of the Nation's needy persons;

"(e) recognize the importance of the family farm as an efficient unit of production and as an economic base for towns and cities in rural areas and encourage, promote, and strengthen this form of farm enterprise;

"(f) facilitate and improve credit services to farmers by revising, expanding, and clarifying the laws relating to agricultural credit;

"(g) assure consumers of a continuous, adequate, and stable supply of food and fiber at fair and reasonable prices;

"(h) reduce the cost of farm programs, by preventing the accumulation of surpluses; and

"(i) use surplus farm commodities on hand as fully as practicable as an incentive to reduce production as may be necessary to bring supplies on hand and firm demand in balance."

CONGRESSIONAL DECLARATION OF POLICY FOR YEAR
1949

Section 1(d) of act July 3, 1948, ch. 827, title I, 62 Stat. 1248, provided that: "It is hereby declared to be the policy of the Congress that the lending and purchase operations of the Department of Agriculture (other than those referred to in subsections (a), (b), and (c) hereof [subsections (a) and (b) are set out as notes under this section and subsection (c) is set out as a note under section 713a-8 of Title 15, Commerce and Trade]) shall be carried out until January 1, 1950, so as to bring the price and income of the producers of other agricultural commodities not covered by subsections (a), (b), and (c) to a fair parity relationship with the commodities included under subsections (a), (b), and (c), to the extent that funds for such operations are available after taking into account the operations with respect to the commodities covered by subsections (a), (b), and (c). In carrying out the provisions of this subsection the Secretary of Agriculture shall have the authority to require compliance with production goals and marketing regulations as a condition to eligibility of producers for price support."

STUDY OF PARITY INCOME POSITION OF FARMERS;
REPORT TO CONGRESS BY JUNE 30, 1966

Section 705 of Pub. L. 89-321, title VII, Nov. 3, 1965, 79 Stat. 1210, directed the Secretary of Agriculture to make a study of the parity income position of farmers, and report the results of such study to the Congress not later than June 30, 1966.

PRICE STABILIZATION DURING YEAR 1950

Section 1(a), (b) of act July 3, 1948, ch. 827, title I, 62 Stat. 1247, as amended June 10, 1949, ch. 191, 63 Stat. 169, authorized the Secretary of Agriculture through any instrumentality or agency within or under the direction of the Department of Agriculture, by loans, purchases, or other operations to support prices received by producers of cotton, wheat, corn, tobacco, rice, and peanuts marketed before June 30, 1950 (September 30, 1950, in the case of Maryland and the cigar-leaf types of tobacco), if producers had not disapproved marketing quotas for such commodity for the marketing year beginning in the calendar year in which the crop is harvested.

Section 2 of act July 3, 1948, ch. 827, title I, 62 Stat. 1248, authorized the Secretary, from any funds available to the Department of Agriculture or any agency operating under its direction for price support operations or for the disposal of agricultural commodities, to use such sums as may be necessary to carry out the provisions of section 1 of the Act.

Section 6 of act July 3, 1948, ch. 827, title I, 62 Stat. 1250, provided in part that sections 1 and 2 of the act were to become effective Jan. 1, 1949.

§ 1282a. Emergency supply of agricultural products

(a) Establishment of prices to insure orderly, adequate and steady supply of products

Notwithstanding any other provision of law, the Secretary of Agriculture shall assist farmers, processors, and distributors in obtaining such prices for agricultural products that an orderly, adequate and steady supply of such products will exist for the consumers of this nation.

(b) Adjustments in maximum price of products subject to any price control or freeze order or regulation to increase supply

The President shall make appropriate adjustments in the maximum price which may be charged under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive Order for any agricultural products (at

any point in the distribution chain) as to which the Secretary of Agriculture certifies to the President that the supply of the product will be reduced to unacceptably low levels as a result of any price control or freeze order or regulation and that alternative means for increasing the supply are not available.

(c) "Agricultural products" defined

Under this section, the term "agricultural products" shall include meat, poultry, vegetables, fruits and all other agricultural commodities in raw or processed form, except forestry products or fish or fishery products.

(d) Implementation of policies to encourage full production in periods of short supply at fair and reasonable prices

The Secretary of Agriculture is directed to implement policies under this Act which are designed to encourage American farmers to produce to their full capabilities during periods of short supply to assure American consumers with an adequate supply of food and fiber at fair and reasonable prices.

(Pub. L. 91-524, title VIII, §815, as added Pub. L. 93-86, §1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

REFERENCES IN TEXT

Executive Order 11723 (dated June 13, 1973), referred to in subsec. (b), was revoked by Ex. Ord. No. 11788, June 18, 1974, 39 F.R. 22113, formerly set out as a note under section 1904 of Title 12, Banks and Banking.

This Act, referred to in subsec. (d), is Pub. L. 91-524, Nov. 30, 1970, 84 Stat. 1358, known as the Agricultural Act of 1970. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

SUBCHAPTER I — ADJUSTMENT IN
FREIGHT RATES, NEW USES AND
MARKETS, AND DISPOSITION OF SUR-
PLUSES

§ 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 Interstate Commerce Commission with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, and to prosecute the same before the Commission. 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 Commission 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 Commission shall make the Secretary a party to the proceeding. In such case the Secretary shall

have the rights of a party before the Commission and the rights of a party to invoke and pursue original and appellate judicial proceedings involving the Commission'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 Interstate Commerce Commission 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 Interstate Commerce Commission 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.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 section 474.

§ 1292. New uses and markets for commodities

(a) Regional research laboratories

The Secretary is authorized and directed to establish, equip, and maintain four regional research laboratories, one in each major farm producing area, and, at such laboratories, to conduct researches into and to develop new scientific, chemical, and technical uses and new and extended markets and outlets for farm commodities and products and byproducts thereof. Such research and development shall be devoted primarily to those farm commodities in which there are regular or seasonal surpluses, and their products and byproducts.

(b) Acquisition of land for laboratories; donations

For the purposes of subsection (a) of this section, the Secretary is authorized to acquire land and interests therein, and to accept in the name of the United States donations of any property, real or personal, to any laboratory established pursuant to this section, and to utilize voluntary or uncompensated services at such laboratories. Donations to any one of such laboratories shall not be available for use by any other of such laboratories.

(c) Cooperation with governmental agencies, associations, etc.

In carrying out the purposes of subsection (a) of this section, the Secretary is authorized and directed to cooperate with other departments or agencies of the Federal Government, States, State agricultural experiment stations, and other State agencies and institutions, counties, municipalities, business or other organizations, corporations, associations, universities, scientific societies, and individuals, upon such terms and conditions as he may prescribe.

(d) Appropriation for purposes of subsection (a)

To carry out the purposes of subsection (a) of this section, the Secretary is authorized to utilize in each fiscal year, beginning with the fiscal

year beginning July 1, 1938, a sum not to exceed \$4,000,000 of the funds appropriated pursuant to section 1391 of this title, or section 5900 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 5900 of title 16 the sum of \$1,000,000 to be expended for the promotion of the sale of farm commodities and products thereof in such manner as he shall direct. Of the sum allocated under this subsection to the Secretary of Commerce for the fiscal year beginning July 1, 1938, \$100,000 shall be devoted to making a survey and investigation of the cause or causes of the reduction in exports of agricultural commodities from the United States, in order to ascertain methods by which the sales in foreign countries of basic agricultural commodities produced in the United States may be increased.

(g) Duty of Secretary

It shall be the duty of the Secretary to use available funds to stimulate and widen the use of all farm commodities in the United States and to increase in every practical way the flow of such commodities and the products thereof into the markets of the world.

(Feb. 16, 1938, ch. 30, title II, § 202, 52 Stat. 37; Aug. 30, 1954, ch. 1076, § 1(3), 68 Stat. 966.)

AMENDMENTS

1954—Subsec. (e). Act Aug. 30, 1954, repealed subsec. (e) which required reports to Congress of the activities of, expenditures by, and donations to, the laboratories established pursuant to subsec. (a).

WHEAT RESEARCH AND PROMOTION ACT

Pub. L. 91-430, Sept. 26, 1970, 84 Stat. 885, provided: "[Section 1. Short Title]. That this Act shall be known as the 'Wheat Research and Promotion Act.'"

"SEC. 2 [Contract authority; sale of export marketing certificates and pro rata share of such certificates for financing agreements; rules and regulations]. The Secretary of Agriculture is authorized to enter into agreements with organizations of wheat growers, farm organizations, and such other organizations as he may deem appropriate to carry out a program of research and promotion designed to expand domestic and foreign markets and increase utilization for United States wheat and to carry out any other such program which he deems will benefit wheat producers in the United States. Notwithstanding any other provision of law, the Secretary shall use the total net proceeds from the sale of export marketing certificates during the marketing year ending June 30, 1969, to finance the cost of such agreements, except that he shall provide for the issuance of a pro rata share of export marketing certificates for such marketing year to any producer eligible therefor under section 379c of the Agricultural Adjustment Act of 1938, as amended [section 1379c of this title], who applies for such certificates not later than ninety days after the date of enactment of this Act [Sept. 26, 1970]. The Secretary is authorized to prescribe such rules and regulations as may be necessary to carry out the provisions of this Act."

CROSS REFERENCES

Agricultural research generally, see sections 361a et seq. and 427 of this title.

Development of new uses for cotton, see section 724 of this title.

Marketing of agricultural products and control or eradication of plant and animal diseases and pests, cooperation with State agencies in administration and enforcement of laws relating to, see section 450 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5925 of this title.

§ 1293. Transferred

CODIFICATION

Section, act Feb. 16, 1938, ch. 30, title II, § 204, 52 Stat. 38, which provided for annual report of Federal Surplus Commodities Corporation, was transferred to section 713c-1 of Title 15, Commerce and Trade.

SUBCHAPTER II—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1428 of this title.

PART A—DEFINITIONS, LOANS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS

§ 1301. Definitions**(a) General definitions**

For the purposes of this subchapter and the declaration of policy—

(1)(A) The “parity price” for any agricultural commodity, as of any date, shall be determined by multiplying the adjusted base price of such commodity as of such date by the parity index as of such date.

(B) The “adjusted base price” of any agricultural commodity, as of any date, shall be (i) the average of the prices received by farmers for such commodity, at such times as the Secretary may select during each year of the ten-year period ending on the 31st of December last before such date, or during each marketing season beginning in such period if the Secretary determines use of a calendar year basis to be impracticable, divided by (ii) the ratio of the general level of prices received by farmers for agricultural commodities during such period to the general level of prices received by farmers for agricultural commodities during the period January 1910 to December 1914, inclusive. As used in this subparagraph, the term “prices” shall include wartime subsidy payments made to producers under programs designed to maintain maximum prices established under the Emergency Price Control Act of 1942.

(C) The “parity index”, as of any date, shall be the ratio of (i) the general level of prices for articles and services that farmers buy, wages paid hired farm labor, interest on farm indebtedness secured by farm real estate, and taxes on farm real estate, for the calendar month ending last before such date to (ii) the general level of such prices, wages, rates, and taxes

during the period January 1910 to December 1914, inclusive.

(D) The prices and indices provided for herein, and the data used in computing them, shall be determined by the Secretary, whose determination shall be final.

(E) Notwithstanding the provisions of subparagraph (A) of this paragraph, the transitional parity price for any agricultural commodity, computed as provided in this subparagraph, shall be used as the parity price for such commodity until such date after January 1, 1950, as such transitional parity price may be lower than the parity price, computed as provided in subparagraph (A) of this paragraph, for such commodity. The transitional parity price for any agricultural commodity as of any date shall be—

(i) its parity price determined in the manner used prior to the effective date of the Agricultural Act of 1948, less

(ii) 5 per centum of the parity price so determined multiplied by the number of full calendar years (not counting 1956 in the case of basic agricultural commodities) which, as of such date, have elapsed after January 1, 1949, in the case of non-basic agricultural commodities, and after January 1, 1955, in the case of the basic agricultural commodities.

(F) Notwithstanding the provisions of subparagraphs (A) and (E) of this paragraph, if the parity price for any agricultural commodity, computed as provided in subparagraphs (A) and (E) of this paragraph, appears to be seriously out of line with the parity prices of other agricultural commodities, the Secretary may, and upon the request of a substantial number of interested producers shall, hold public hearings to determine the proper relationship between the parity price of such commodity and the parity prices of other agricultural commodities. Within sixty days after commencing such hearing the Secretary shall complete such hearing, proclaim his findings as to whether the facts require a revision of the method of computing the parity price of such commodity, and put into effect any revision so found to be required.

(G) Notwithstanding the foregoing provisions of this section, the parity price for any basic agricultural commodity, as of any date during the six-year period beginning January 1, 1950, shall not be less than its parity price computed in the manner used prior to October 31, 1949.

(2) “Parity”, as applied to income, shall be that gross income from agriculture which will provide the farm operator and his family with a standard of living equivalent to those afforded persons dependent upon other gainful occupation. “Parity” as applied to income from any agricultural commodity for any year, shall be that gross income which bears the same relationship to parity income from agriculture for such year as the average gross income from such commodity for the preceding ten calendar years bears to the average gross income from agriculture for such ten calendar years.

(3) The term “interstate and foreign commerce” means sale, marketing, trade, and

traffic between any State or Territory or the District of Columbia or Puerto Rico, and any place outside thereof; or between points within the same State or Territory or within the District of Columbia or Puerto Rico, through any place outside thereof; or within any Territory or within the District of Columbia or Puerto Rico.

(4) The term "affect interstate and foreign commerce" means, among other things, in such commerce, or to burden or obstruct such commerce or the free and orderly flow thereof; or to create or tend to create a surplus of any agricultural commodity which burdens or obstructs such commerce or the free and orderly flow thereof.

(5) The term "United States" means the several States and Territories and the District of Columbia and Puerto Rico.

(6) The term "State" includes a Territory and the District of Columbia and Puerto Rico.

(7) The term "Secretary" means the Secretary of Agriculture, and the term "Department" means the Department of Agriculture.

(8) The term "person" means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State.

(9) The term "corn" means field corn.

(b) Definitions applicable to one or more commodities

For the purposes of this subchapter—

(1)(A) "Actual production" as applied to any acreage of corn means the number of bushels of corn which the local committee determines would be harvested as grain from such acreage if all the corn on such acreage were so harvested. In case of a disagreement between the farmer and the local committee as to the actual production of the acreage of corn on the farm, or in case the local committee determines that such actual production is substantially below normal, the local committee, in accordance with regulations of the Secretary, shall weigh representative samples of ear corn taken from the acreage involved, make proper deductions for moisture content, and determine the actual production of such acreage on the basis of such samples.

(B) "Actual production" of any number of acres of cotton, rice or peanuts on a farm means the actual average yield for the farm times such number of acres.

(2) "Bushel" means in the case of ear corn that amount of ear corn, including not to exceed 15½ per centum of moisture content, which weighs seventy pounds, and in the case of shelled corn, means that amount of shelled corn including not to exceed 15½ per centum of moisture content, which weighs fifty-six pounds.

(3)(A) "Carry-over", in the case of corn, rice, and peanuts for any marketing year shall be the quantity of the commodity on hand in the United States at the beginning of such marketing year, not including any quantity which was produced in the United States during the calendar year then current.

(B) "Carry-over" of cotton for any marketing year shall be the quantity of cotton on

hand in the United States at the beginning of such marketing year, not including any part of the crop which was produced in the United States during the calendar year then current.

(C) "Carry-over" of tobacco for any marketing year shall be the quantity of such tobacco on hand in the United States at the beginning of such marketing year (or on January 1 of such marketing year in the case of Maryland tobacco), which was produced in the United States prior to the beginning of the calendar year in which such marketing year begins, except that in the case of cigar-filler and cigar-binder tobacco the quantity of type 46 on hand and theretofore produced in the United States during such calendar year shall also be included.

(D) "Carry-over" of wheat, for any marketing year shall be the quantity of wheat on hand in the United States at the beginning of such marketing year, not including any wheat which was produced in the United States during the calendar year then current, and not including any wheat held by the Federal Crop Insurance Corporation under the Federal Crop Insurance Act [7 U.S.C. 1501 et seq.].

(4)(A) "Commercial corn-producing area" shall include all counties in which the average production of corn (excluding corn used as silage) during the ten calendar years 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, tobacco, and wheat, means to dispose of, in raw or processed form, by voluntary or involuntary sale, barter, or exchange, or by gift *inter vivos*, and, in the case of corn and wheat, by feeding (in any form) to poultry or livestock which, or the products of which, are sold, bartered, or exchanged, or to be so disposed of, but does not include disposing of any such commodities as premium to the Federal Crop Insurance Corporation under the Federal Crop Insurance Act [7 U.S.C. 1501 et seq.].

(B) "Marketed", "marketing", and "for market" shall have corresponding meanings to the term "market" in the connection in which they are used.

(C) "Market", in the case of peanuts, means to dispose of peanuts, including farmers' stock peanuts, shelled peanuts, cleaned peanuts, or peanuts in processed form, by voluntary or involuntary sale, barter, or exchange, or by gift *inter vivos*.

(7) "Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

- Corn, September 1–August 31;
- Cotton, August 1–July 31;
- Rice, August 1–July 31;
- Tobacco (flue-cured), July 1–June 30;
- Tobacco (other than flue-cured), October 1–September 30;
- Wheat, June 1–May 31.

(8)(A) "National average yield" as applied to cotton or wheat shall be the national average yield per acre of the commodity during the ten calendar years in the case of wheat, and during the five calendar years in the case of cotton, preceding the year in which such national average yield is used in any computation authorized in this subchapter, adjusted for abnormal weather conditions and, in the case of wheat, but not in the case of cotton, for trends in yields.

(B) "Projected national yield" as applied to any crop of wheat shall be determined on the basis of the national yield per harvested acre of the commodity during each of the five calendar years immediately preceding the year in which such projected national yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices.

(9) "Normal production" as applied to any number of acres of corn or rice means the normal yield for the farm times such number of acres. "Normal production" as applied to any number of acres of cotton or wheat means the projected farm yield times such number of acres.

(10)(A) "Normal supply" in the case of corn, rice, wheat, and peanuts for any marketing

year shall be (i) the estimated domestic consumption of the commodity for the marketing year ending immediately prior to the marketing year for which normal supply is being determined, plus (ii) the estimated exports of the commodity for the marketing year for which normal supply is being determined, plus (iii) an allowance for carry-over. The allowance for carry-over shall be the following percentage of the sum of the consumption and exports used in computing normal supply: 15 per centum in the case of corn; 10 per centum in the case of rice; 20 per centum in the case of wheat; and 15 per centum in the case of peanuts. In determining normal supply the Secretary shall make such adjustments for current trends in consumption and for unusual conditions as he may deem necessary.

(B) "Normal supply" in the case of tobacco shall be a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports as an allowance for a normal carry-over.

(C) The "normal supply" of cotton for any marketing year shall be the estimated domestic consumption of cotton for the marketing year for which such normal supply is being determined, plus the estimated exports of cotton for such marketing year, plus, 30 per centum of the sum of such consumption and exports as an allowance for carry-over.

(11)(A) "Normal year's domestic consumption", in the case of corn and wheat, shall be the yearly average quantity of the commodity, wherever produced, that was consumed¹ in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(B) "Normal year's domestic consumption", in the case of cotton and tobacco, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(C) "Normal year's domestic consumption", in the case of rice, shall be the yearly average quantity of rice produced in the United States that was consumed in the United States during the five marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(12) "Normal year's exports" in the case of corn, cotton, rice, tobacco, and wheat shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years (or, in the case of rice, the five marketing years) immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

(13)(A) Repealed. Pub. L. 87-703, title III, § 320(1), Sept. 26, 1962, 76 Stat. 625.

¹ So in original. Probably should be "consumed".

(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 uncontrol-

lable natural cause, the yield for any year of such five-year period is less than 75 per centum of the average, 75 per centum of such average shall be substituted therefor in calculating the normal yield per acre. If, on account of abnormally favorable weather conditions, the yield for any year of such five-year period is in excess of 125 per centum of the average, 125 per centum of such average shall be substituted therefor in calculating the normal yield per acre.

(G) "Normal yield" for any farm, in the case of corn or peanuts, shall be the average yield per acre of corn or peanuts, as the case may be, for the farm, adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined. For 1942, the normal yield for any farm, in the case of peanuts, shall be the average yield per acre of peanuts for the farm, adjusted for abnormal conditions, during the years 1936-1940, inclusive, except that for any county in which the years 1935-1939, inclusive, are equally as representative, such period may be used in determining normal yields for farms in the county. If for any such year the data are not available or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations of the Secretary, taking into consideration abnormal weather conditions, the normal yield for the county, and the yield in years for which data are available.

(H) "Normal yield" for any county, for any crop of cotton, shall be the average yield per acre of cotton for the county, adjusted for abnormal weather conditions and any significant changes in production practices during the five calendar years immediately preceding the year in which the national marketing quota for such crop is proclaimed. If for any such year the data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, shall be used as the actual yield for such year.

(I) "Normal yield" for any farm, for any crop of cotton, shall be the average yield per acre of cotton for the farm, adjusted for abnormal weather conditions and any significant changes in production practices during the three calendar years immediately preceding the year in which such normal yield is determined. If for any such year the data are not available, or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations of the Secretary, taking into consideration abnormal weather conditions, the normal yield for the county, changes in production practices, and the yield in years for which data are available.

(J) "Projected county yield" for any crop of wheat shall be determined on the basis of the yield per harvested acre of such commodity on the county during each of the five calendar years immediately preceding the year in which such projected county yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices.

(K) "Projected farm yield" for any crop of wheat shall be determined on the basis of the yield per harvested acre of such commodity in the farm during each of the three calendar years immediately preceding the year in which such projected farm yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices, but in no event shall such projected farm yield be less than the normal yield for such farm as provided in subparagraph (E) of this paragraph.

(L) "Projected national, State, and county yields" for any crop of cotton shall be determined on the basis of the yield per harvested acre of such crop in the United States, the State and the county, respectively, during each of the five calendar years immediately preceding the year in which such projected yield for the United States, the State, and the county, respectively, is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields, and for any significant changes in production practices.

(M) "Projected farm yield" for any crop of cotton shall be determined on the basis of the yield per harvested acre of such crop on the farm during each of the three calendar years immediately preceding the year in which such projected farm yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields, and for any significant changes in production practices, but in no event shall such projected farm yield be less than the normal yield for such farm as provided in subparagraph (I) of this paragraph.

(14)(A) "Reserve supply level", in the case of corn, shall be a normal year's domestic consumption and exports of corn plus 10 per centum of a normal year's domestic consumption and exports, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

(B) "Reserve supply level" of tobacco shall be the normal supply plus 5 per centum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

(C) "Reserve stock level", in the case of Flue-cured tobacco, shall be the greater of—

(i) 100,000,000 pounds (farm sales weight); or

(ii) 15 percent of the national marketing quota for Flue-cured tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

(D) "Reserve stock level", in the case of Burley tobacco, shall be the greater of—

(i) 50,000,000 pounds (farm sales weight); or

(ii) 15 percent of the national marketing quota for Burley tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

(15) "Tobacco" means each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regu-

latory Announcement Numbered 118 of the Bureau of Agricultural Economics of the Department.

Flue-cured tobacco, comprising types 11, 12, 13, and 14;

Fire-cured tobacco comprising types 21, 22, 23, and 24;

Dark air-cured tobacco, comprising types 35 and 36;

Virginia sun-cured tobacco, comprising type 37;

Burley tobacco, comprising type 31;

Maryland tobacco, comprising type 32;

Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, and 55;

Cigar-filler tobacco, comprising type 41.

The provisions of this subchapter shall apply to each of such kinds of tobacco severally: *Provided*, That any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of this chapter and sections 590h and 590o of title 16 if the Secretary finds there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand: *Provided further*, That with respect to the 1958 and subsequent crops, type 21 (Virginia) fire-cured tobacco shall be treated as a "kind of tobacco" for the purposes of all of the provisions of this subchapter, except that for the purposes of section 1312(c) of this title, types 21, 22, and 23, fire-cured tobacco shall be treated as one "kind of tobacco": *And provided further*, That for purposes of section 1314e of this title, types 22 and 23, fire-cured tobacco shall be treated as one "kind of tobacco".

(16)(A) "Total supply" of wheat, corn, rice, and peanuts for any marketing year shall be the carry-over of the commodity for such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports of the commodity into the United States during such marketing year.

(B) "Total supply" of tobacco for any marketing year shall be the carry-over at the beginning of such marketing year (or on January 1 of such marketing year in the case of Maryland tobacco) plus the estimated production thereof in the United States during the calendar year in which such marketing year begins, except that the estimated production of type-46 tobacco during the marketing year with respect to which the determination is being made shall be used in lieu of the estimated production of such type during the calendar year in which such marketing year begins in determining the total supply of cigar-filler and cigar-binder tobacco.

(C) "Total supply" of cotton for any marketing year shall be the carry-over at the beginning of such marketing year, plus the estimated production of cotton in the United States during the calendar year in which such marketing year begins and the estimated imports of cotton into the United States during such marketing year.

(17) "Domestic manufacturer of cigarettes" means a person that produces and sells more than 1 percent of the cigarettes produced and sold in the United States.

(c) Use of Federal statistics

The latest available statistics of the Federal Government shall be used by the Secretary in making the determinations required to be made by the Secretary under this chapter.

(d) Exclusion of stocks of certain commodities

In making any determination under this chapter or under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] with respect to the carryover of any agricultural commodity, the Secretary shall exclude from such determination the stocks of any commodity acquired pursuant to, or under the authority of, the Strategic and Critical Materials Stock Piling Act (60 Stat. 596) [50 U.S.C. 98 et seq.].

(Feb. 16, 1938, ch. 30, title III, §301, 52 Stat. 38; Apr. 7, 1938, ch. 107, §§2-4, 52 Stat. 202; June 13, 1940, ch. 360, §1, 54 Stat. 392; July 2, 1940, ch. 521, §§3-5, 54 Stat. 727, 728; Nov. 22, 1940, ch. 914, §§1, 3, 4, 54 Stat. 1209, 1210; Nov. 25, 1940, ch. 917, 54 Stat. 1211; Apr. 3, 1941, ch. 39, §§2, 3, 55 Stat. 91, 92; July 9, 1942, ch. 497, §1(4), (5), 56 Stat. 654; July 3, 1948, ch. 827, title II, §201(a), (b), (d), (e), 62 Stat. 1250; Aug. 29, 1949, ch. 518, §2(a), 63 Stat. 675; Oct. 31, 1949, ch. 792, title IV, §§409(a)-(d), 415(c)-(e), 418(b), (c), 63 Stat. 1056, 1057, 1958, 1062; July 8, 1952, ch. 587, 66 Stat. 442; July 17, 1952, ch. 933, §1, 66 Stat. 758; July 14, 1953, ch. 194, §6, 67 Stat. 152; Aug. 28, 1954, ch. 1041, title III, §§301, 302, 68 Stat. 902; May 28, 1956, ch. 327, title V, §502, title VI, §602, 70 Stat. 212, 213; July 10, 1957, Pub. L. 85-92, §1, 71 Stat. 284; Sept. 27, 1962, Pub. L. 87-703, title III, §320, 76 Stat. 625; Apr. 11, 1964, Pub. L. 88-297, title I, §106(5)-(7), 78 Stat. 177; Nov. 3, 1965, Pub. L. 89-321, title IV, §403, title V, §§509, 511(a), 79 Stat. 1197, 1204, 1205; Nov. 30, 1970, Pub. L. 91-524, title IV, §405(b), as added Aug. 10, 1973, Pub. L. 93-86, §1(12), 87 Stat. 229; July 25, 1975, Pub. L. 94-61, §1, 89 Stat. 302; July 20, 1982, Pub. L. 97-218, title III, §303(a), 96 Stat. 211; Dec. 23, 1985, Pub. L. 99-198, title X, §1020, 99 Stat. 1459; Apr. 7, 1986, Pub. L. 99-272, title I, §1103(a), 100 Stat. 85.)

REFERENCES IN TEXT

Emergency Price Control Act of 1942, referred to in subsec. (a)(1)(B), was act Jan. 30, 1942, ch. 26, 56 Stat. 23, as amended, which was classified to section 901 et seq. of Title 50, Appendix, War and National Defense, and which terminated June 30, 1947.

For effective date of the Agricultural Act of 1948, referred to in subsec. (a)(1)(E)(i), see Effective Date of 1948 Amendment note set out under section 624 of this title with reference to title I of said act, and Effective Date of 1948 Amendment note set out below with reference to titles II and III of said Act.

The Federal Crop Insurance Act, referred to in subsec. (b)(3)(D), (6)(A), is title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, as amended, which is classified generally to chapter 36 (§1501 et seq.) of this title. For complete classification of this Act to the Code, see section 1501 of this title and Tables.

The Agricultural Act of 1949, referred to in subsec. (d), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Strategic and Critical Materials Stock Piling Act, referred to in subsec. (d), is act June 7, 1939, ch. 190, as revised generally by Pub. L. 96-41, §2, July 30, 1979, 93 Stat. 319, which is classified generally to subchapter III (§98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 98 of Title 50 and Tables.

AMENDMENTS

1986—Subsec. (b)(14)(C), (D). Pub. L. 99-272, §1103(a)(1), added subpars. (C) and (D).

Subsec. (b)(17). Pub. L. 99-272, §1103(a)(2), added par. (17).

1985—Subsec. (b)(7). Pub. L. 99-198 substituted "Corn, September 1–August 31" for "Corn, October 1–September 30".

1982—Subsec. (b)(15). Pub. L. 97-218 inserted proviso that for purposes of section 1314e of this title, types 22 and 23, fire-cured tobacco shall be treated as one "kind of tobacco".

1975—Subsec. (b)(7). Pub. L. 94-61 substituted "Wheat, June 1–May 31" for "Wheat, July 1–June 30".

1973—Subsec. (b)(13)(K). Pub. L. 91-524, §405(b), as added by Pub. L. 93-86, temporarily inserted "(five calendar years in the case of wheat)" after "three calendar years". See Effective and Termination Dates of 1973 Amendment note below.

1965—Subsec. (b)(8). Pub. L. 89-321, §509(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b)(9). Pub. L. 89-321, §511(a), struck out "cotton" and "wheat" in first sentence, and inserted definition of normal production when applied to any number of acres of cotton or wheat.

Subsec. (b)(13). Pub. L. 89-321, §§403, 509(2), added subpars. (J), (K), (L), and (M).

1964—Subsec. (b)(13). Pub. L. 88-297, §106(5)-(7), struck out "cotton or" before "peanuts" in subpar. (B) in two places, struck out "cotton," after "corn" in subpar. (G) in two places, and added subpars. (H) and (I), respectively.

1962—Subsec. (b)(13). Pub. L. 87-703 struck out par. (A) which defined "normal yield" for any county in the case of corn or wheat; inserted in pars. (D) and (E) "and wheat" after "in the case of rice", "or wheat, as the case may be," after "per acre of rice", and "in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat" after "determined"; and struck out from par. (G) "wheat," after "corn," in two places, "and, in the case of wheat, but not in the case of corn, cotton, or peanuts, for trends in yields" after "abnormal weather conditions", "ten calendar years in the case of wheat, and" before "five calendar years" and "in the case of corn, cotton, or peanuts" after "five calendar years".

1957—Subsec. (b)(15). Pub. L. 85-92 inserted proviso relating to treatment of type 21 fire-cured tobacco as a "kind of tobacco".

1956—Subsec. (a)(1)(E). Act May 28, 1956, §602, inserted "(not counting 1956 in the case of basic agricultural commodities)" after "full calendar years".

Subsec. (b)(13). Act May 28, 1956, §502, limited determination of normal yield provided for in subpar. (D) only to counties and authorized adjustments for abnormal weather conditions and for trends in yields, added subpars. (E) and (F), and redesignated subpar. (E) as (G).

1954—Subsec. (a)(1)(E). Act Aug. 28, 1954, §301, changed definition of "transitional parity price" as applied to basic agricultural commodities so as to make it "old parity" less 5 per centum for each full year elapsed since Jan. 1, 1955, instead of Jan. 1, 1949.

Subsec. (b). Act Aug. 28, 1954, §302, increased 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 representative, such period may be used in determining normal yields for farms in the county”.

1941—Subsec. (b)(1)(B). Act April 3, 1941, § 2, inserted “or peanuts” after “cotton”.

Subsec. (b)(6)(C). Act Apr. 3, 1941, § 3, added subpar. (C).

1940—Subsec. (a)(1). Act Nov. 22, 1940, § 3, inserted “and, in the case of Burley and flue-cured tobacco,

shall be the period August 1934 to July 1939; except that the August 1919–July 1929 base period shall be used in allocating any funds appropriated prior to September 1, 1940” after “July, 1929” in last sentence.

Subsec. (b)(3)(C). Act June 13, 1940, inserted exception.

Former subsec. (b)(6)(C), (D) were omitted in amendment to subsec. (b)(6) by act July 2, 1940.

Subsec. (b)(13)(A). Act July 2, 1940, § 4, among other changes inserted “or wheat” after “corn” wherever appearing and substituted “county” for “farm” wherever appearing.

Subsec. (b)(13)(B). Act July 2, 1940, § 5, among other changes, struck out “or wheat” before “cotton” and “and, in the case of wheat but not in the case of cotton, for trends in yields, during the ten calendar years in the case of wheat, and” after “weather conditions”.

Subsec. (b)(13)(E). Act Nov. 25, 1940, in first sentence substituted “in which such normal yield is determined” for “with respect to such normal yield is used in any computation authorized under this title”.

Subsec. (b)(15). Act Nov. 22, 1940, §§ 1, 4, among other changes substituted “Fire-cured tobacco comprising types 21, 22, 23, and 24; Dark air-cured tobacco comprising types 35 and 36” for “Fire-cured and dark air cured tobacco comprising types 21, 22, 23, 24, 35, 36, and 37” and inserted proviso at end of last sentence.

1938—Subsec. (b)(13). Act Apr. 7, 1938, substituted “county” for “farm” in subpars. (A) and (B) and added subpar. (E).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 2 of Pub. L. 94–61 provided that: “The amendment made by the first section of this Act [amending this section] shall become effective June 1, 1975”.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 405(b) of Pub. L. 91–524, as added by section 1(12) of Pub. L. 93–86, provided that the amendment made by that section is effective with respect to 1974 through 1977 crops.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 511(a) of Pub. L. 89–321 provided that the amendment made by that section is effective beginning with the crop planted for harvest in 1966.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 323 of Pub. L. 87–703 provided that: “The amendments to the Agricultural Adjustment Act of 1938, as amended, and to Public Law 74, Seventy-seventh Congress, as amended, made by sections 310 through 322 of this Act [enacting sections 1334b and 1339 of this title, amending this section and sections 1331 to 1336, 1340, 1371 and 1385 of this title, and repealing section 1337 of this title] shall be in effect only with respect to programs applicable to the crops planted for harvest in the calendar year 1964 or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year”.

EFFECTIVE DATE OF 1949 AMENDMENT

Section 415(a), (b) of act Oct. 31, 1949, provided that: “(a) Except as modified by this Act or by Public Law 272 [see Tables for classification], Eighty-first Congress, sections 201(b), 201(d), 201(e), 203, 207(a), and 208 of the Agricultural Act of 1948 [amending this section and sections 1312, 1322, and 1328 of this title] shall be effective for the purpose of taking any action with respect to the 1950 and subsequent crops upon the enactment of this Act [Oct. 31, 1949]. If the time within which any such action is required to be taken shall have elapsed prior to the enactment of this Act, such action shall be taken within thirty days after the enactment of the Act.

“(b) No provision of the Agricultural Act of 1948 shall be deemed to supersede any provision of Public Law 272, Eighty-first Congress.”

EFFECTIVE DATE OF 1948 AMENDMENT

Section 303 of act July 3, 1948, provided that: "Titles II and III of this Act [amending this section and sections 602, 608c, 612c, 672, 1301a, 1302, 1312, 1322, 1328, 1333, 1335, 1336, 1343, 1345, 1355, and 1385 of this title and repealing sections 608e and 1322a of this title] shall take effect on January 1, 1950."

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Bureau of Agricultural Economics transferred to other units of Department of Agriculture under Secretary's memorandum 1320, supp. 4, of Nov. 2, 1953.

RULEMAKING PROCEDURES

Section 1108(c) of Pub. L. 99-272 provided that: "The Secretary of Agriculture shall implement sections 1102 through 1109, and the amendments made by such sections [enacting sections 1314g, 1314h, and 1445-3 of this title, amending this section and sections 1312, 1314c, 1314e, 1372, 1445, 1445-1, and 1445-2 of this title, and enacting provisions set out as notes under sections 1314c, 1314e, 1314g, 1314h, 1372, 1445, 1445-1, and 1445-2 of this title], without regard to the provisions requiring notice and other procedures for public participation in rule-making contained in section 553 of title 5, United States Code, or in any directive of the Secretary."

STUDY OF METHODS OF IMPROVING PARITY FORMULA

Section 602 of act May 28, 1956, required the Secretary to make a thorough study of the possible methods of improving the parity formula and report thereon, with specific recommendations, including drafts of necessary legislation to carry out such recommendations, to Congress not later than January 31, 1957.

TOBACCO DEFINITION UNAFFECTED BY ACREAGE-POUNDRAGE MARKETING QUOTAS AND PRICE SUPPORT PROVISIONS

Authority or responsibility of Secretary of Agriculture under subsec. (b)(15) of this section with respect to treatment of different types of tobacco as different kinds of tobacco unaffected by acreage-poundage quotas and price support provisions, see note set out under section 1314c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 1111, 1301a, 1340, 1359jj, 1445, 1445-2, 1782 of this title; title 43 section 620c.

§ 1301a. References to parity prices, etc., in other laws after January 1, 1950

All references in other laws to—

- (1) parity,
- (2) parity prices,
- (3) prices comparable to parity prices, or
- (4) prices to be determined in the same manner as provided by this chapter prior to January 1, 1950 for the determination of parity prices,

with respect to prices for agricultural commodities and products thereof, shall after January 1, 1950 be deemed to refer to parity prices as determined in accordance with the provisions of section 1301(a)(1) of this title.

(July 3, 1948, ch. 827, title III, §302(f), 62 Stat. 1258.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1948, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

EFFECTIVE DATE

Section effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as an Effective Date of 1948 Amendment note under section 1301 of this title.

§ 1301b. Repealed. Pub. 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

Section 108 of Pub. L. 85-835 provided that the repeal of this section is effective with 1961 crop.

§ 1302. Repealed. Oct. 31, 1949, ch. 792, title IV, § 414, 63 Stat. 1057

Section, acts Feb. 16, 1938, ch. 30, title III, §302, 52 Stat. 43; June 21, 1938, ch. 554, title V, § 502, 52 Stat. 820; July 3, 1948, ch. 827, title II, §202(a), 62 Stat. 1252, related to price support of agricultural commodities.

§ 1303. Parity payments

If and when appropriations are made therefor, the Secretary is authorized and directed to make payments to producers of corn, wheat, cotton, rice, or tobacco, on their normal production of such commodities in amounts which, together with the proceeds thereof, will provide a return to such producers which is as nearly equal to parity price as the funds so made available will permit. All funds available for such payments with respect to these commodities shall unless otherwise provided by law, be apportioned to these commodities in proportion to the amount by which each fails to reach the parity income. Such payments shall be in addition to and not in substitution for any other payments authorized by law.

(Feb. 16, 1938, ch. 30, title III, §303, 52 Stat. 45.)

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

Rental or benefit payments, see section 608 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1150a.

§ 1304. Consumer safeguards

The powers conferred under this chapter shall not be used to discourage the production of supplies of foods and fibers sufficient to maintain normal domestic human consumption as determined by the Secretary from the records of domestic human consumption in the years 1920 to 1929, inclusive, taking into consideration increased population quantities of any commodity that were forced into domestic consumption by decline in exports during such period, current trends in domestic consumption and exports of particular commodities, and the quantities of

substitutes available for domestic consumption within any general class of food commodities. In carrying out the purposes of this chapter it shall be the duty of the Secretary to give due regard to the maintenance of a continuous and stable supply of agricultural commodities from domestic production adequate to meet consumer demand at prices fair to both producers and consumers.

(Feb. 16, 1938, ch. 30, title III, § 304, 52 Stat. 45.)

§ 1305. Transfer of acreage allotments or feed grain bases on public lands upon request of State agencies

Notwithstanding any other provision of law, the Secretary, upon the request of any agency of any State charged with the administration of the public lands of the State, may permit the transfer of acreage allotments or feed grain bases together with relevant production histories which have been determined pursuant to this chapter, or section 590p of title 16, from any farm composed of public lands to any other farm or farms in the same county composed of public lands: *Provided*, That as a condition for the transfer of any allotment or base an acreage equal to or greater than the allotment or base transferred prior to adjustment, if any, shall be devoted to and maintained in permanent vegetative cover on the farm from which the transfer is made. The Secretary shall prescribe regulations which he deems necessary for the administration of this section, which may provide for adjusting downward the size of the allotment or base transferred if the farm to which the allotment or base is transferred normally has a higher yield per acre for the commodity for which the allotment or base is determined, for reasonable limitations on the size of the resulting allotments and bases on farms to which transfers are made, taking into account the size of the allotments and bases on farms of similar size in the community, and for retransferring allotments or bases and relevant histories if the conditions of the transfers are not fulfilled.

(Pub. L. 89-321, title VII, § 706, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 91-524, title IV, § 405(a), formerly § 405, title VI, § 606, Nov. 30, 1970, 84 Stat. 1366, 1378, renumbered § 405(a) and amended Pub. L. 93-86, § 1(12), Aug. 10, 1973, 87 Stat. 229.)

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1965, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1973—Pub. L. 93-86 struck out provision that term “acreage allotments” as used in this section includes the domestic allotment for wheat.

1970—Pub. L. 91-524 temporarily inserted reference to the Agricultural Act of 1949, as amended, and provided that “acreage allotments” includes farm base acreage allotments for upland cotton and domestic allotment for wheat. See Effective and Termination Dates of 1970 Amendment note below.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(12) of Pub. L. 93-86 provided that the amendment made by that section is effective with 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 405(a) and 606 of Pub. L. 91-524, as amended by section 1(12), (22) of Pub. L. 93-86, provided that the amendments made by those sections are effective only with respect to 1971 through 1977 crops.

§ 1306. Projected yields; determination; base period

Notwithstanding any other provision of law, in the determination of farm yields the Secretary may use projected yields in lieu of normal yields. In the determination of such yields the Secretary shall take into account the actual yield proved by the producer for the base period used in determining the projected yield, and the projected yield shall not be less than such actual yield proved by the producer.

(Pub. L. 89-321, title VII, § 708, Nov. 3, 1965, 79 Stat. 1211; Pub. L. 91-524, title IV, § 405(b), as added Pub. L. 93-86, § 1(12), Aug. 10, 1973, 87 Stat. 229.)

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1965, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1973—Pub. L. 91-524, § 405(b), as added by Pub. L. 93-86, temporarily inserted “(except that in the case of wheat, if the yield is abnormally low in any one of the calendar years of the base period because of drought, flood, or other natural disaster, the Secretary shall take into account the actual yield proved by the producer in the other four years of such base period)” after “determining the projected yield”. See Effective and Termination Dates of 1973 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 405(b) of Pub. L. 91-524, as added by section 1(12) of Pub. L. 93-86, provided that the amendment made by that section is effective with respect to 1974 through 1977 crops.

§ 1307. Limitation on payments under wheat, feed grains, and cotton programs for 1974 through 1977 crops

Notwithstanding any other provision of law—

(1) The total amount of payments which a person shall be entitled to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1976 crops of the commodities and by titles IV and V of the Food and Agriculture Act of 1977 and titles IV, V, and VI of this Act for the 1977 crop of the commodities shall not exceed \$20,000.

(2) The term “payments” as used in this section shall not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for resource adjustment or public access for recreation.

(3) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such person will be sharing in payments earned under such program shall be reduced to such ex-

tent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

(4) The Secretary shall issue regulations defining the term "person" and prescribing such rules as he determines necessary to assure a fair and reasonable application of such limitation: *Provided*, That the provisions of this Act which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary. The rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970.

(Pub. L. 91-524, title I, §101, Nov. 30, 1970, 84 Stat. 1358; Pub. L. 93-86, §1(1), Aug. 10, 1973, 87 Stat. 221; Pub. L. 95-113, title I, §104, Sept. 29, 1977, 91 Stat. 919.)

REFERENCES IN TEXT

This Act, referred to in pars. (1) and (4), is Pub. L. 91-524, Nov. 30, 1970, 84 Stat. 1358, as amended, known as the Agricultural Act of 1970. Title IV of that Act enacted section 1334a-1 of this title, amended sections 1301, 1305, 1306, 1378, 1379, 1379b, 1379c, 1379d, 1379e, 1379g, 1385, 1427, 1428, and 1445a of this title, and enacted provisions set out as notes under sections 1301, 1305, 1306, 1330 to 1334, 1335, 1336, 1338, 1339, and 1379c of this title. Title V of that Act amended section 1444b of this title and provisions set out as a note under section 1444b of this title. Title VI of that Act enacted sections 1342a, 1350a, and 2119 of this title, amended sections 1305, 1344b, 1350, 1374, 1378, 1379, 1385, 1427, 1428, 1444, and 1444a of this title, and enacted provisions set out as notes under sections 1305, 1342, 1342a, 1343, 1344, 1344b, 1345, 1346, 1377, 1378, 1379, 1385, 1427, 1428, 1444, and 1446d of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

The Food and Agriculture Act of 1977, referred to in par. (1), is Pub. L. 95-113, Sept. 29, 1977, 91 Stat. 913. Title IV of the Food and Agriculture Act of 1977 enacted section 1445b of this title, amended sections 1385, 1427, and 1428 of this title, and enacted provisions set out as notes under sections 1330, 1331, 1379d, 1385, 1427, 1428, 1445a, and 1445b of this title. Title V of the Food and Agriculture Act of 1977 enacted section 1444c of this title and enacted provisions set out as notes under sections 1444b and 1444c of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1977—Par. (1). Pub. L. 95-113 substituted "to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1976 crops of the commodities and by titles IV and V of the Food and Agriculture Act of 1977 and titles IV, V, and VI of this Act for the 1977 crop" for "to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1977 crops".

1973—Par. (1). Pub. L. 93-86 substituted "one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1977 crops of the Commodities shall not exceed \$20,000" for "each of the

annual programs established by titles IV, V, and VI of this Act for the 1971, 1972, or 1973 crop of the commodity shall not exceed \$55,000".

Par. (2). Pub. L. 93-86 substituted "shall not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for resource adjustment or public access for recreation" for "includes price-support payments, set-aside payments, diversion payments, public access payments, and marketing certificates, but does not include loans or purchases".

Par. (3). Pub. L. 93-86 reenacted par. (3) without change.

Par. (4). Pub. L. 93-86 inserted provision that the rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1901 of Pub. L. 95-113 provided that: "Except as otherwise provided herein, the provisions of this Act [see Short Title of 1977 Amendment note set out under section 1281 of this title] shall become effective October 1, 1977."

EXEMPTION OF DISASTER PAYMENT LIMITATIONS RESPECTING 1977 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Pub. L. 95-156, Nov. 8, 1977, 91 Stat. 1264, provided: "That, notwithstanding any other provision of law, the term 'payments' as used in section 101 of the Agricultural Act of 1970, as amended [this section], and section 101(g)(13) of the Agricultural Act of 1949, as amended [section 1441(g)(13) of this title], shall not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss with respect to the 1977 crops of wheat, feed grains, upland cotton, and rice."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1308 of this title; title 16 section 3834.

§ 1308. Limitation on payments under wheat, feed grains, upland cotton, extra long staple cotton, honey, and rice programs for 1987 through 1997 crops

Notwithstanding any other provision of law:

(1)(A) Subject to sections 1308-1 through 1308-3 of this title, for each of the 1987 through 1997 crops, the total amount of deficiency payments (excluding any deficiency payments described in paragraph (2)(B)(I)(iv) of this section) and land diversion payments that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, and rice may not exceed \$50,000.

(B) Subject to sections 1308-1 through 1308-3 of this title for each of the 1991 through 1997 crops, the total amount of payments specified in clauses (iii), (iv), and (v) of paragraph (2)(B) that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, rice, and oilseeds (as defined in section 205(a) of the Agricultural Act of 1949 [7 U.S.C. 1446f(a)]) may not exceed \$75,000.

(2)(A) Subject to sections 1308-1 through 1308-3 of this title, for each of the 1991 through 1997 crops, the total amount of payments set

forth in subparagraph (B) that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 for wheat, feed grains, upland cotton, extra long staple cotton, rice, and other commodities, when combined with payments for such crop described in paragraph (1), shall not exceed \$250,000.

(B) As used in subparagraph (A), the term "payments" means—

(i) any part of any payment that is determined by the Secretary of Agriculture to represent compensation for resource adjustment (excluding land diversion payments) or public access for recreation;

(ii) any disaster payments under one or more of the annual programs for a commodity established under the Agricultural Act of 1949;

(iii) any gain realized by a producer from repaying a loan for a crop of any commodity (other than honey) at a lower level than the original loan level established under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.];

(iv) any deficiency payment received for a crop of wheat or feed grains under section 107B(c)(1) or 105B(c)(1), respectively, of the Agricultural Act of 1949 [7 U.S.C. 1445b-3a(c)(1) or 1444f(c)(1)] as the result of a reduction of the loan level for such crop under section 107B(a)(3) or 105B(a)(3) of such Act [7 U.S.C. 1445b-3a(a)(3) or 1444f(a)(3)];

(v) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, rice, or oilseeds under section 107B(b), 105B(b), 103B(b), 101B(b), or 205(e), respectively, of the Agricultural Act of 1949 [7 U.S.C. 1445b-3a(b), 1444f(b), 1444-2(b), 1441-2(b), or 1446f(e)]; and

(vi) any inventory reduction payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107B(f), 105B(f), 103B(f), or 101B(f), respectively, of the Agricultural Act of 1949 [7 U.S.C. 1445b-3a(f), 1444f(f), 1444-2(f), or 1441-2(f)].

Such terms shall not include loans or purchases, except as specifically provided for in this paragraph.

(C) No certificate redeemable for stocks of a commodity held by the Commodity Credit Corporation may be redeemed for honey held by the Corporation.

(3) Notwithstanding the foregoing provisions of this section, if the Secretary of Agriculture determines that any of the limitations provided for in paragraph (2) will result in a substantial increase in the number or dollar amount of loan forfeitures for a crop of a commodity, will substantially reduce the acreage taken out of production under an acreage reduction program for a crop of a commodity, or will cause the market prices for a crop of a commodity to fall substantially below the effective loan rate for the crop, the Secretary shall adjust upward such limitation, under such terms and conditions as the Secretary determines appropriate, as necessary to eliminate such adverse effect on the program involved.

(4) If the Secretary determines that the total amount of payments that will be earned

by any person under the program in effect for any crop will be reduced under this section, any acreage requirement established under a set-aside or acreage limitation program for the farm or farms on which such person will be sharing in payments earned under such program shall be adjusted 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.

(5)(A) The Secretary shall issue regulations—

(i) defining the term "person"; and

(ii) prescribing such rules as the Secretary determines necessary to assure a fair and reasonable application of the limitation established under this section.

Such regulations shall incorporate the provisions in subparagraphs (B) through (E) of this paragraph, paragraphs (6) and (7), and sections 1308-1 through 1308-3 of this title.

(B)(i) For the purposes of the regulations issued under subparagraph (A), subject to clause (ii), the term "person" means—

(I) an individual, including any individual participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity (as determined by the Secretary);

(II) a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity (as determined by the Secretary), including any such entity or organization participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar entity (as determined by the Secretary); and

(III) a State, political subdivision, or agency thereof.

(ii)(I) Such regulations shall provide that the term "person" does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers.

(II) In defining the term "person" as it will apply to irrevocable trusts and estates, the Secretary shall ensure that fair and equitable treatment is given to trusts and estates and the beneficiaries thereof.

(III) Notwithstanding any other provision of law, to be considered a separate person under this section, an irrevocable trust (other than a trust established prior to January 1, 1987) must not allow for modification or termination of the trust by the grantor, allow for the grantor to have any future, contingent, or remainder interest in the corpus of the trust, or provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years from the date the trust is established except in cases where the transfer is contingent on the remainder beneficiary achieving at least the age of majority or is contingent on the death of the grantor or income beneficiary.

(iii) The regulations shall provide that, with respect to any married couple, the husband

and wife shall be considered to be one person, except that, for the purpose of the application of the limitations established under this section—

(I) in the case of any married couple consisting of spouses who, prior to their marriage, were separately engaged in unrelated farming operations, each spouse shall be treated as a separate person with respect to the farming operation brought into the marriage by the spouse so long as the operation remains as a separate farming operation; and

(II) at the option of the Secretary, in the case of any married couple consisting of spouses who do not hold, directly or indirectly, a substantial beneficial interest in more than one entity (including the spouses themselves) engaged in farm operations that also receives farm program payments (as described in paragraphs (1) and (2)) as separate persons, the spouses may be considered as separate persons if each spouse meets the other requirements established under this section and section 1308-1 of this title to be considered to be a separate person.

(C) The regulations issued by the Secretary on December 18, 1970, under section 1307 of this title shall be used to establish the percentage ownership of a corporation by the stockholders of such corporation for the purpose of determining whether such corporation and stockholders are separate persons under this section.

(D) Any person that conducts a farming operation to produce a crop subject to limitations under this section as a tenant that rents the land for cash (or a crop share guaranteed as to the amount of the commodity to be paid in rent) and that makes a significant contribution of active personal management but not of personal labor shall be ineligible to receive any payment specified in paragraph (1) or (2) or subtitle D of title XII [16 U.S.C. 3831 et seq.] with respect to such land unless the tenant makes a significant contribution of equipment used in the farming operation.

(E) The Secretary may not approve (for purposes of the application of the limitations under this section) any change in a farming operation that otherwise will increase the number of persons to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive. In the implementation of the preceding sentence, the addition of a family member to a farming operation under the criteria set out in section 1308-1(b)(1)(B) of this title shall be considered a bona fide and substantive change in the farming operation.

(6) The provisions of this section that limit payments to any person shall not be applicable to land owned by a public school district or land owned by a State that is used to maintain a public school.

(7) Regulations of the Secretary shall establish time limits for the various steps involved with notice, hearing, decision, and the appeals procedure in order to ensure expeditious handling and settlement of payment limitation disputes. Notwithstanding any other provision

of law, actions taken by an individual or other entity in good faith on action or advice of an authorized representative of the Secretary may be accepted as meeting the requirement under this section or section 1308-1 of this title, to the extent the Secretary deems it desirable in order to provide fair and equitable treatment.

(Pub. L. 99-198, title X, §1001, Dec. 23, 1985, 99 Stat. 1444; Pub. L. 99-500, §108(a), Oct. 18, 1986, 100 Stat. 1783-346, and Pub. L. 99-591, §108(a), Oct. 30, 1986, 100 Stat. 3341-346; Pub. L. 100-71, title I, July 11, 1987, 101 Stat. 428; Pub. L. 100-203, title I, §§1301(a)(1), (2), 1303, 1305(c), 1307, Dec. 22, 1987, 101 Stat. 1330-12, 1330-16, 1330-18, 1330-19; Pub. L. 101-217, §§1, 2, Dec. 11, 1989, 103 Stat. 1857; Pub. L. 101-624, title XI, §1111(a), (c), (e), Nov. 28, 1990, 104 Stat. 3497-3499; Pub. L. 102-237, title I, §118(b), Dec. 13, 1991, 105 Stat. 1841; Pub. L. 103-66, title I, §1101(b)(3)(A), Aug. 10, 1993, 107 Stat. 314.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in pars. (1) and (2)(A), (B)(ii), (iii), 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.

Subtitle D of title XII, referred to in par. (5)(D), means subtitle D of title XII of the Food Security Act of 1985, Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended, which is classified generally to subchapter IV (§3831 et seq.) of chapter 58 of Title 16, Conservation.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

PRIOR PROVISIONS

A prior section 1308, Pub. L. 97-98, title XI, §1101, Dec. 22, 1981, 95 Stat. 1263; Pub. L. 98-88, §6, Aug. 26, 1983, 97 Stat. 499, related to programs for 1982 through 1985 crops.

Another prior section 1308, Pub. L. 95-113, title I, §101, Sept. 29, 1977, 91 Stat. 917; Pub. L. 96-213, §5, Mar. 18, 1980, 94 Stat. 120, related to programs for 1978 through 1981 crops.

AMENDMENTS

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 subparagraphs (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 subparagraphs (B) and (C). See Effective and Termination Dates of 1986 Amendment note below.

Par. (3). Pub. L. 99-500 and Pub. L. 99-591, §108(a)(1), temporarily substituted provision authorizing the Secretary, if he determines that a limitation will have an adverse effect on a program, to adjust upward such limitation as appropriate or necessary for provision specifying what is not included within the term "payments" as used in this section. See Effective and Termination Dates of 1986 Amendment note below.

Par. (5)(A). Pub. L. 99-500 and Pub. L. 99-591, §108(a)(2), temporarily inserted provision that the term "person" not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers. See Effective and Termination Dates of 1986 Amendment note below.

Par. (6). Pub. L. 99-500 and Pub. L. 99-591, §108(a)(3), temporarily substituted "lands or animals owned" for "lands owned" and inserted "or animals are husbanded". See Effective and Termination Dates of 1986 Amendment note below.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 1 of Pub. L. 101-217 provided that the amendment made by that section is effective only for 1989 crops.

Section 2 of Pub. L. 101-217, as amended by Pub. L. 101-624, title XI, §1111(i), Nov. 28, 1990, 104 Stat. 3500, provided that the amendment made by that section is effective beginning with 1990 crops.

EFFECTIVE DATE OF 1987 AMENDMENT

Sections 1301(a) and 1303 of Pub. L. 100-203 provided that the amendments made by sections 1301(a)(1), (2) and 1303 of Pub. L. 100-203 are effective beginning with 1989 crops.

EFFECTIVE AND TERMINATION DATES OF 1986 AMENDMENT

Section 108(a) of Pub. L. 99-500 and Pub. L. 99-591 provided that the amendment made by that section is effective with respect to each of 1987 through 1990 crops.

Section 108(b) of Pub. L. 99-500 and Pub. L. 99-591 provided that: "The amendments made by subsection (a) [amending this section] shall not apply with respect to any payment or loan received under any agreement or contract made before the date of enactment of this Act [Oct. 18, 1986]."

EQUITABLE RELIEF

Section 3 of Pub. L. 101-217 provided that: "Nothing in this Act [amending this section and enacting provisions set out as notes under this section] shall be construed in any way to limit the authority of the Secretary of Agriculture to provide equitable relief under any provision of law."

PAYMENT PROVISIONS EDUCATION PROGRAM

Section 1304(a) of Pub. L. 100-203 provided that:

"(1) IN GENERAL.—The Secretary of Agriculture shall implement a payment provisions education program for appropriate personnel of the Department of Agriculture and members and other personnel of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), for the purpose of fostering more effective and uniform application of the payment limitations and restrictions under sections 1001 through 1001C of the Food Security Act of 1985 [sections 1808 to 1308-3 of this title].

"(2) TRAINING.—The education program shall provide training to such personnel in the fair, accurate, and uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1001 through 1001C of the Food Security Act of 1985. Particular emphasis shall be given to the changes in the law made by sections 1301, 1302, and 1303 of this Act [enacting section 1308-1 of this title, amending this section, and enacting provisions set out as notes under this section and section 1308-1 of this title].

"(3) IMPLEMENTATION.—The education program shall be fully implemented, and the training completed, not later than 30 days after the date final regulations are issued to carry out the amendments made by this subtitle [enacting sections 1308-1 to 1308-3 of this title and amending this section and section 1308-1 of this title].

"(4) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program provided under this subsection through the Commodity Credit Corporation."

REGULATIONS TO CARRY OUT 1987 AMENDMENTS; TRANSITION RULES; EQUITABLE ADJUSTMENTS

Section 1305(a), (b) of Pub. L. 100-203 provided that:

"(a) REGULATIONS.—

"(1) ISSUANCE.—The Secretary of Agriculture shall issue—

"(A) proposed regulations to carry out the amendments made by this subtitle [enacting sections 1308-1 to 1308-3 of this title and amending this section and section 1308-1 of this title] not later than April 1, 1988; and

"(B) final regulations to carry out such amendments not later than August 1, 1988.

"(2) FIELD INSTRUCTIONS.—Any field instructions relating to, or other supplemental clarifications of, the

regulations issued under sections 1001 through 1001C of the Food Security Act of 1985 [sections 1308 to 1308-3 of this title] shall not be used in resolving issues involved in the application of the payment limitations or restrictions under such sections or regulations to individuals, other entities, or farming operations until copies of the publication are made available to the public.

"(b) ALLOWANCE FOR EQUITABLE REORGANIZATIONS.—To allow for the equitable reorganization of farming operations to conform to the limitations and restrictions contained in the amendments made to the Food Security Act of 1985 by this subtitle [enacting sections 1308-1 to 1308-3 of this title and amending this section and section 1308-1 of this title] in cases in which the application of such limitations and restrictions will reduce payments to the farming operation (as determined by the Secretary), the Secretary may waive the application of the substantive change rule under section 1001(5)(E) [section 1308(5)(E) of this title], as added by section 1303 of this Act, or any regulation of the Secretary containing a comparable rule, to any reorganization applied for prior to the final date when producers are eligible to enter into contracts to participate in the commodity programs established for the 1989 crop year, to the extent the Secretary determines appropriate to facilitate any such equitable reorganizations that does not increase such payments."

CONSERVATION RESERVE APPLICATION

Section 1305(d) of Pub. L. 100-203 provided that: "Notwithstanding section 1234(f)(2) of the Food Security Act of 1985 (16 U.S.C. 3834(f)), paragraphs (5) through (7) of section 1001 [section 1308(5)-(7) of this title], as amended by this subtitle, and sections 1001A through 1001C, of the Food Security Act of 1985 [sections 1308-1 to 1308-3 of this title] shall apply to the conservation reserve program under subtitle D of title XII of such Act (16 U.S.C. 3831 et seq.) with respect to rental payments to persons under contracts entered into after the date of the enactment of this Act [Dec. 22, 1987], except with respect to landlords that receive cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land."

REVISION OF REGULATIONS

Section 108(c) of Pub. L. 99-500 and Pub. L. 99-591 provided that:

"(1)(A) The Secretary of Agriculture shall review the regulations in effect on the date of enactment of this Act [Oct. 18, 1986] that define 'person' under section 1001 of the Food Security Act of 1985 [this section] and related regulations in effect on such date otherwise affecting the payment limitations under such section, to determine ways in which such regulations can be revised to better ensure the fair and reasonable application of limitations and eliminate fraud and abuse in the application of such payment limitations.

"(B) The Secretary also shall review the amendments to section 1001 of the Food Security Act of 1985 made by this section.

"(2) Based on the reviews conducted under paragraph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, not later than March 1, 1987, a report on such reviews and—

"(A) with respect to the matters reviewed under paragraph (1)(A), proposed regulations or amendments to regulations, to take effect not earlier than October 1, 1987, that will meet the object with respect to limitations specified in paragraph (1)(A); and

"(B) with respect to the matters reviewed under paragraph (1)(B), recommendations on legislative changes to section 1001 of the Food Security Act of 1985 that the Secretary determines are necessary or appropriate."

SEPARATE PERSON STATUS AMONG FAMILY MEMBERS

Pub. L. 99-198 (last sentence), as added by Pub. L. 99-500, §101(a) [title VI, §636], Oct. 18, 1986, 100 Stat.

1783, 1783-34, and Pub. L. 99-591, §101(a) [title VI, §636], Oct. 30, 1986, 100 Stat. 3341, 3341-34, provided that: "Effective for each of the 1987 through 1990 crops, the Secretary may not deny a person status as a separate person solely on the ground that a family member cosigns for, or makes a loan to, such person and leases, loans, or gives such person equipment, land or labor, if such family members were organized as separate units prior to December 31, 1985."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308-1, 1308-2, 1308-4, 1308a, 1441, 1471g, 1519, 1783 of this title; title 16 section 2106a.

§ 1308-1. Prevention of creation of entities to qualify as separate persons; payments limited to active farmers

(a) Prevention of creation of entities to qualify as separate persons

For the purposes of preventing the use of multiple legal entities to avoid the effective application of the payment limitations under section 1308 of this title:

(1) In general

A person (as defined in section 1308(5)(B)(i) of this title) that receives farm program payments (as described in paragraphs (1) and (2) of this section as being subject to limitation) for a crop year under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) may not also hold, directly or indirectly, substantial beneficial interests in more than two entities (as defined in section 1308(5)(B)(i)(II) of this title) engaged in farm operations that also receive such payments as separate persons, for the purposes of the application of the limitations under section 1308 of this title. A person that does not receive such payments for a crop year may not hold, directly or indirectly, substantial beneficial interests in more than three entities that receive such payments as separate persons, for the purposes of the application of the limitations under section 1308 of this title.

(2) Minimal beneficial interests

For the purpose of this subsection, a beneficial interest in any entity that is less than 10 percent of all beneficial interests in such entity combined shall not be considered a substantial beneficial interest, unless the Secretary determines, on a case-by-case basis, that a smaller percentage should apply to one or more beneficial interests to ensure that the purpose of this subsection is achieved.

(3) Notification by entities

To facilitate administration of this subsection, each entity receiving such payments as a separate person shall notify each individual or other entity that acquires or holds a substantial beneficial interest in it of the requirements and limitations under this subsection. Each such entity receiving payments shall provide to the Secretary of Agriculture, at such times and in such manner as prescribed by the Secretary, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest.

(4) Notification of interest

(A) In general

If a person is notified that the person holds substantial beneficial interests in more than the number of entities receiving payments that is permitted under this subsection for the purposes of the application of the limitations under section 1308 of this title, the person immediately shall notify the Secretary, designating those entities that should be considered as permitted entities for the person for purposes of applying the limitations. Each remaining entity in which the person holds a substantial beneficial interest shall be subject to reductions in the payments to the entity subject to limitation under section 1308 of this title in accordance with this subparagraph. Each such payment applicable to the entity shall be reduced by an amount that bears the same relation to the full payment that the person's beneficial interest in the entity bears to all beneficial interests in the entity combined. Before making such reductions, the Secretary shall notify all individuals or entities affected thereby and permit them to adjust among themselves their interests in the designated entity or entities.

(B) Notice not provided

If the person does not so notify the Secretary, all entities in which the person holds substantial beneficial interests shall be subject to reductions in the per person limitations under section 1308 of this title in the manner described in subparagraph (A). Before making such reductions, the Secretary shall notify all individuals or entities affected thereby and permit them to adjust among themselves their interests in the designated entity or entities.

(b) Payments limited to active farmers

(1) In general

To be separately eligible for farm program payments (as described in paragraphs (1) and (2) of section 1308 of this title as being subject to limitation) under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] with respect to a particular farming operation (whether in the person's own right or as a partner in a general partnership, a grantor of a revocable trust, a participant in a joint venture, or a participant in a similar entity (as determined by the Secretary) that is the producer of the crops involved), a person must be an individual or entity described in section 1308(5)(B)(i) of this title and actively engaged in farming with respect to such operation, as provided under paragraphs (2), (3), and (4).

(2) General classes actively engaged in farming

For the purposes of paragraph (1), except as otherwise provided in paragraph (3):

(A) Individuals

An individual shall be considered to be actively engaged in farming with respect to a farm operation if—

- (i) the individual makes a significant contribution (based on the total value of the farming operation) of—

- (I) capital, equipment, or land; and
 - (II) personal labor or active personal management;
- to the farming operation; and
- (i) the individual's share of the profits or losses from the farming operation is commensurate with the individual's contributions to the operation; and
 - (iii) the individual's contributions are at risk.

(B) Corporations or other entities

A corporation or other entity described in section 1308(5)(B)(i)(II) of this title shall be considered as actively engaged in farming with respect to a farming operation if—

- (i) the entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;
- (ii) the stockholders or members collectively make a significant contribution of personal labor or active personal management to the operation; and
- (iii) the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity.

(C) Entities making significant contributions

If a general partnership, joint venture, or similar entity (as determined by the Secretary) separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, and the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity, the partners or members making a significant contribution of personal labor or active personal management shall be considered to be actively engaged in farming with respect to the farming operation involved.

(D) Equipment and personal labor

In making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by farm operators in the area involved to produce program crops.

(3) Special classes actively engaged in farming

Notwithstanding paragraph (2), the following persons shall be considered to be actively engaged in farming with respect to a farm operation:

(A) Landowners

A person that is a landowner contributing the owned land to the farming operation if the landowner receives rent or income for such use of the land based on the land's production or the operation's operating results, and the person meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A).

(B) Family members

With respect to a farming operation conducted by persons, a majority of whom are individuals who are family members, an adult family member who makes a significant contribution (based on the total value

of the farming operation) of active personal management or personal labor and, with respect to such contribution, who meets the standards provided in clauses (ii) and (iii) of paragraph (2)(A). For the purposes of the preceding sentence, the term "family member" means an individual to whom another family member in the farming operation is related as lineal ancestor, lineal descendant, or sibling (including the spouses of those family members who do not make a significant contribution themselves).

(C) Sharecroppers

A sharecropper who makes a significant contribution of personal labor to the farming operation and, with respect to such contribution, who meets the standards provided in clauses (ii) and (iii) of paragraph (2)(A).

(4) Persons not actively engaged in farming

For the purposes of paragraph (1), except as provided in paragraph (3), the following persons shall not be considered to be actively engaged in farming with respect to a farm operation:

(A) Landlords

A landlord contributing land to the farming operation if the landlord receives cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for such use of the land.

(B) Other persons

Any other person, or class of persons, determined by the Secretary as failing to meet the standards set out in paragraphs (2) and (3).

(5) Custom farming services

A person receiving custom farming services will be considered separately eligible for payment limitation purposes if such person is actively engaged in farming based on paragraphs (1) through (3). No other rules with respect to custom farming shall apply.

(6) Growers of hybrid seed

To determine whether a person growing hybrid seed under contract shall be considered to be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.

(Pub. L. 99–198, title X, §1001A, as added and amended Pub. L. 100–203, title I, §§1301(a)(3), 1302, Dec. 22, 1987, 101 Stat. 1330–12, 1330–14; Pub. L. 101–624, title XI, §1111(d), (f), Nov. 28, 1990, 104 Stat. 3498, 3499; Pub. L. 102–237, title I, §118(c), Dec. 13, 1991, 105 Stat. 1841.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsecs. (a)(1) and (b)(1), 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 Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1991—Subsec. (a)(2). Pub. L. 102-237 struck out “0 to” after “less than”.

1990—Subsec. (a)(2). Pub. L. 101-624, §1111(f), substituted “0 to 10 percent” for “10 percent”.

Subsec. (b)(6). Pub. L. 101-624, §1111(d), added par. (6).

1987—Subsec. (b). Pub. L. 100-203, §1302, added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 1302 of Pub. L. 100-203 provided that the amendment made by that section is effective beginning with 1989 crops.

EFFECTIVE DATE

Section 1301(a) of Pub. L. 100-203 provided that this section is effective beginning with 1989 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 1308-2, 1308-4, 1783 of this title.

§ 1308-2. Schemes or devices

If the Secretary of Agriculture determines that any person has adopted a scheme or device to evade, or that has the purpose of evading, section 1308, 1308-1, or 1308-3 of this title, such person shall be ineligible to receive farm program payments (as described in paragraphs (1) and (2) of section 1308 of this title as being subject to limitation) applicable to the crop year for which such scheme or device was adopted and the succeeding crop year.

(Pub. L. 99-198, title X, §1001B, as added Pub. L. 100-203, title I, §1304(b), Dec. 22, 1987, 101 Stat. 1330-17.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

EFFECTIVE DATE

Section 1304(b) of Pub. L. 100-203 provided that this section is effective beginning with the 1989 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1308, 1308-4, 1783 of this title.

§ 1308-3. Foreign persons made ineligible for program benefits

Notwithstanding any other provision of law:

(a) In general

For each of the 1991 through 1997 crops, 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 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.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or subtitle D of title XII of the Food Security Act

of 1985 (16 U.S.C. 3831 et seq.), or under any contract entered into under title XII [16 U.S.C. 3801 et seq.] during the 1989 through 1997 crop years, 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.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsecs. (a) and (b), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The Agricultural 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.

The Commodity Credit Corporation Charter Act, referred to in subsec. (a), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

The Food Security Act of 1985, referred to in subsec. (a), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as

amended. Title XII of the Act, popularly known as the “Sodbuster Law”, is classified principally to chapter 58 (§3801 et seq.) of Title 16, Conservation. Subtitle D of title XII of the Act is classified generally to subchapter IV (§3831 et seq.) of chapter 58 of Title 16. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-66 substituted “1997” for “1995” in two places.

1990—Subsec. (a). Pub. L. 101-624 substituted “1991 through 1995 crops” for “1989 and 1990 crops” and inserted “, or under any contract entered into under title XII during the 1989 through 1995 crop years,” after “(16 U.S.C. 3831 et seq.)”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as a note under section 1421 of this title.

EFFECTIVE DATE

Section 1306 of Pub. L. 100-203 provided that this section is effective beginning with 1989 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 1308-2, 1308-4 of this title.

§ 1308-4. Education program

(a) In general

The Secretary shall carry out a payment provisions education program for appropriate personnel of the Department of Agriculture and members and other personnel of county and State committees established under section 590h(b) of title 16, for the purpose of fostering more effective and uniform application of the payment limitations and restrictions established under sections 1308 through 1308-3 of this title.

(b) Training

The education program shall provide training to the personnel in the fair, accurate, and uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1308 through 1308-3 of this title.

(c) Administration

The State office of the Agricultural Stabilization and Conservation Service shall make the initial determination concerning the application of payment limitations and restrictions established under sections 1308 through 1308-3 of this title to farm operations consisting of more than 5 persons, subject to review by the Secretary.

(d) Commodity Credit Corporation

The Secretary shall carry out the program provided under this section through the Commodity Credit Corporation.

(Pub. L. 99-198, title X, §1001D, as added Pub. L. 101-624, title XI, §1111(g), Nov. 28, 1990, 104 Stat. 3499.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§ 1308-5. Treatment of multiyear program contract payments

(a) In general

Notwithstanding any other provision of law, in the event of a transfer of ownership of land (or an ownership interest in land) by way of devise or descent, the Secretary of Agriculture may, if the new owner succeeds to the prior owner's contract entered into under title XII,¹ make payments to the new owner under such contract without regard to the amount of payments received by the new owner under any contract entered into under title XII¹ executed prior to such devise or descent.

(b) Limitation

Payments made pursuant to this section shall not exceed the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the death of the prior owner.

(Pub. L. 99-198, title X, §1001E, as added Pub. L. 101-624, title XI, §1111(h), Nov. 28, 1990, 104 Stat. 3499.)

REFERENCES IN TEXT

Title XII, referred to in subsec. (a), is title XII of the Food Security Act of 1985, Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1504, as amended, popularly known as the “Sodbuster Law”, which is classified principally to chapter 58 (§3801 et seq.) of Title 16, Conservation. For complete classification of title XII to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§ 1308a. Cost reduction options

(a) Authority of Secretary to take action

Notwithstanding any other provision of law, whenever the Secretary of Agriculture determines that an action authorized under subsection (c), (d), or (e) of this section will reduce the total of the direct and indirect costs to the Federal Government of a commodity program administered by the Secretary without adversely affecting income to small- and medium-sized producers participating in such program, the Secretary shall take such action with respect to the commodity program involved.

¹ See References in Text note below.

(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 of \$50,000 per person established under section 1308 of this title, but shall be limited to a total

\$20,000 per year per producer for any one commodity.

(f) Other authorities of Secretary not affected

The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary under any other provision of law.

(Pub. L. 99-198, title X, §1009, Dec. 23, 1985, 99 Stat. 1453; Pub. L. 101-134, §3, Oct. 30, 1989, 103 Stat. 781.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1989—Subsec. (d). Pub. L. 101-134, in introductory provisions, inserted “(including the program authorized by section 1445e of this title)” after “nonrecourse loan program” and substituted “benefits” for “savings” and struck out concluding provisions which read as follows: “but the Secretary may not reduce the settlement price to less than the principal due on the loan”.

§ 1309. Normally planted acreage and target prices

(a) Authorized planted acreage for 1982 through 1995 crops of wheat and feed grains as prerequisite for loan, etc.; eligibility; determinations; records

Notwithstanding any other provision of law, whenever a set-aside program is in effect for one or more of the 1982 through 1995 crops of wheat and feed grains, the Secretary of Agriculture may require, as a condition of eligibility for loans, purchases, and payments for such crops under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary, adjusted as deemed necessary by the Secretary to be fair and equitable among producers and reduced by any set-aside or diverted acreage. Such normal crop acreage for any crop year shall be determined as provided by the Secretary. The Secretary may require producers participating in the program to keep such records as the Secretary determines necessary to assist in making such determination.

(b) Established price payments

Notwithstanding any other provision of law—

- (1) Whenever the Secretary, for one or more of the 1982 through 1995 crops of wheat and feed grains, requires that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary in accordance with subsection (a) of this section, the Secretary may increase the established price payments for any such commodity by such amount (or if there are no such payments in effect for such crop by providing for payments in such amount) as the Secretary determines appropriate to compensate producers for not exceeding the acreage on the farm normally planted to crops designated by the Secretary and participation in any required set-aside with respect to such commodity.
- (2) In determining the amount of any payments for any commodity under this sub-

section, 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) of such Act [7 U.S.C. 1445b-3a(d)(3)(A)].

(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.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1977, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1990—Subsecs. (a), (b)(1), (c). Pub. L. 101-624, §1141(1), substituted “1995” for “1990”.

Subsec. (c)(2). Pub. L. 101-624, §1141(2), substituted “section 107B(d)(3)(A)” for “section 107D(d)(3)(A)”.

1985—Subsecs. (a), (b)(1). Pub. L. 99-198 substituted “1982 through 1990” for “1982 through 1985”.

Subsec. (c). Pub. L. 99-198 added subsec. (c).

1981—Subsec. (a). Pub. L. 97-98 substituted provision authorizing the Secretary, whenever a set-aside program is in effect for one or more of the 1982 through

1985 crops of wheat and feed grains, to require as a condition of eligibility for loans, purchases, and payments for such crops that the producers not exceed the acreage on the farm normally planted to crops designated by the Secretary and permitting the Secretary to require producers participating in the program to keep records necessary to assist the Secretary in determining normal crop acreage for any crop year for provision authorizing the Secretary, effective for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, to require as a condition of eligibility for loans, purchases, and payments that the producers not exceed the acreage on the farm normally planted to crops designated by the Secretary.

Subsec. (b). Pub. L. 97-98 substituted provision relating to established price increase for one or more of the 1982 through 1985 crops of wheat and feed grains for provision relating to established price increase for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice.

Subsec. (c). Pub. L. 97-98 struck out subsec. (c) which related to loans, purchases, and payments for producers of the 1980 crop of any commodity who exceeded the authorized acreage.

1980—Subsec. (a). Pub. L. 96-213 amended subsec. (a) generally, temporarily substituting provisions relating to requiring producers not to exceed the acreage on the farm normally planted to designated crops, as reduced, for the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, for provisions relating to reduction of acreage normally planted to designated crops by the acreage set-aside or diversion for the 1978 through 1981 crops of wheat, feed grains, upland cotton, and rice. See Effective and Termination Dates of 1980 Amendment note below.

Subsec. (b). Pub. L. 96-213 amended subsec. (b) generally, temporarily substituting provisions relating to increases of the established price as compensation to producers for not exceeding the acreage in accordance with subsection (a) and participating in set-asides for 1980 and 1980 crops for provisions relating to increases of the established prices to compensate producers for participation in set-asides for 1978 through 1981 crops. See Effective and Termination Dates of 1980 Amendment note below.

Subsec. (c). Pub. L. 96-213, in amending section generally, temporarily added subsec. (c). See Effective and Termination Dates of 1980 Amendment note below.

1978—Subsec. (b). Pub. L. 95-334 added applicability to rice.

Pub. L. 95-279 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97-98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE AND TERMINATION DATES OF 1980 AMENDMENT

Section 6 of Pub. L. 96-213 provided that the amendment made by that section is effective for 1980 and 1981 crops.

EFFECTIVE DATE OF 1978 AMENDMENTS

Section 501(b) of Pub. L. 95-334 provided that: “This section [amending this section] shall become effective October 1, 1978, and any producers who, prior to such date, receive payments on the 1978 crop of rice as computed under the Agricultural Act of 1949 [see Short Title note set out under section 1421 of this title], as amended by the Food and Agriculture Act of 1977 [see Short Title of 1977 Amendment note set out under sec-

tion 1281 of this title], may elect after September 30, 1978, to receive payments as computed under section 1001(b) of the Food and Agriculture Act of 1977, as amended by this section.”

Section 103 of title I of Pub. L. 95-279 provided that: “Sections 101 and 102 [amending this section and 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 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

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1361, 1372 of this title.

SUBPART I—MARKETING QUOTAS—TOBACCO

§ 1311. Legislative findings

(a) The marketing of tobacco constitutes one of the greatest basic industries of the United States with ramifying activities which directly affect interstate and foreign commerce at every point, and stable conditions therein are necessary to the general welfare. Tobacco produced for market is sold on a Nation-wide market and, with its products, moves almost wholly in interstate and foreign commerce from the producer to the ultimate consumer. The farmers producing such commodity are subject in their operations to uncontrollable natural causes, are widely scattered throughout the Nation, in many cases such farmers carry on their farming operations on borrowed money or leased lands, and are not so situated as to be able to organize effectively, as can labor and industry through unions and corporations enjoying Government protection and sanction. For these reasons among others, the farmers are unable without Federal assistance to control effectively the orderly marketing of such commodity with the result that abnormally excessive supplies thereof are produced and dumped indiscriminately on the Nation-wide market.

(b) The disorderly marketing of such abnormally excessive supplies affects, burdens, and obstructs interstate and foreign commerce by (1) materially affecting the volume of such commodity marketed therein, (2) disrupting the orderly marketing of such commodity therein, (3) reducing the price for such commodity with consequent injury and destruction of interstate and foreign commerce in such commodity, and (4) causing a disparity between the prices for such commodity in interstate and foreign commerce and industrial products therein, with a consequent diminution of the volume of interstate and foreign commerce in industrial products.

(c) Whenever an abnormally excessive supply of tobacco exists, the marketing of such commodity by the producers thereof directly and substantially affects interstate and foreign commerce in such commodity and its products, and the operation of the provisions of this subpart becomes necessary and appropriate in order to promote, foster, and maintain an orderly flow of such supply in interstate and foreign commerce.

(Feb. 16, 1938, ch. 30, title III, §311, 52 Stat. 45.)

§ 1312. National marketing quota

(a) Proclamation of quota

The Secretary shall, not later than December 1 of any marketing year with respect to flue-cured tobacco, February 1 of any marketing year with respect to Burley tobacco, and March 1 of any marketing year with respect to other kinds of tobacco, proclaim a national marketing quota for any kind of tobacco for each of the next three succeeding marketing years whenever he determines with respect to such kind of tobacco—

(1) that a national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefor;

(2) that such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect;

(3) that amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) that a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers in a referendum held pursuant to subsection (c) of this section: *Provided*, That if such producers have disapproved national marketing quotas in referenda held in three successive years subsequent to 1952, thereafter a national marketing quota shall not be proclaimed hereunder which would be in effect for any marketing year within the three-year period for which national marketing quotas previously proclaimed were disapproved by producers in a referendum, unless prior to November 10 of the marketing year one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition the Secretary, in accordance with such regulations as he may prescribe, to proclaim a na-

tional marketing quota for each of the next three succeeding marketing years.

(b) Announcement of amount of quota

The Secretary shall also determine and announce, not later than the first day of December with respect to flue-cured tobacco, not later than the first day of February with respect to Burley tobacco, and not later than the first day of March with respect to other kinds of tobacco, the amount of the national marketing quota proclaimed pursuant to subsection (a) of this section which is in effect for the next marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of tobacco equal to the reserve supply level. The amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 per centum if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

(c) Referendum on quotas

Within thirty days after the proclamation of national marketing quotas under subsection (a) of this section, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to such quotas for the next three succeeding marketing years. If more than one-third of the farmers voting oppose the national marketing quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but such results shall in no wise affect or limit the subsequent proclamation and submission to a referendum, as otherwise provided in this section, of a national marketing quota.

(Feb. 16, 1938, ch. 30, title III, §312, 52 Stat. 46; Mar. 26, 1938, ch. 54, 52 Stat. 120; Aug. 7, 1939, ch. 562, 563, 53 Stat. 1261; June 13, 1940, ch. 360, §§2, 3, 54 Stat. 392; Nov. 22, 1940, ch. 914, §§2, 5, 54 Stat. 1209, 1210; Feb. 28, 1942, ch. 123, 56 Stat. 121; July 3, 1948, ch. 827, title II, §208, 62 Stat. 1257; Aug. 9, 1955, ch. 639, 69 Stat. 557; June 22, 1956, ch. 427, 70 Stat. 330; Apr. 7, 1986, Pub. L. 99-272, title I, §1104(a), 100 Stat. 89.)

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-272, §1104(a)(1), substituted “February 1 of any marketing year with respect to Burley tobacco, and March 1 of any marketing year with respect to other kinds of tobacco” for “and February 1 of any marketing year with respect to other kinds of tobacco”.

Subsec. (b). Pub. L. 99-272, §1104(a)(2), substituted “not later than the first day of February with respect to Burley tobacco, and not later than the first day of March with respect to other kinds of tobacco” for “and not later than the first day of February with respect to other kinds of tobacco”.

1956—Subsec. (a). Act June 22, 1956, inserted “with respect to flue-cured tobacco, and February 1 of any marketing year with respect to other kinds of tobacco” after “December 1 of any marketing year”.

Subsec. (b). Act June 22, 1956, substituted “not later than the first day of December with respect to flue-

cured tobacco and not later than the first day of February with respect to other kinds of tobacco” for “prior to the first day of December”.

1955—Subsec. (a). Act Aug. 9, 1955, restated and amended provisions generally to provide that quotas shall not be proclaimed oftener than once every 3 years for any kind of tobacco for which producers have disapproved marketing quotas in 3 successive years subsequent to 1952 (unless at least one-fourth of the producers of such tobacco petition the Secretary to proclaim quotas).

Subsec. (b). Act Aug. 9, 1955, amended and substituted former provisions of subsec. (a) as to announcement of quota for former provisions of this subsec. as to referendum on quotas.

Subsec. (c). Act Aug. 9, 1955, provided that referendum on quotas which formerly appeared in subsec. (b) should be determinative for the next three succeeding years, rather than each succeeding year, and eliminated provisions as to submission of question of whether tobacco quotas would be favored for a period of three years.

1948—Subsec. (a). Act July 3, 1948, inserted proviso at end of first sentence.

1942—Subsec. (a). Act Feb. 28, 1942, substituted “the following March 1” for “December 31” in last sentence.

1940—Subsec. (a). Act June 13, 1940, substituted “20” for “10” in last sentence and inserted last clause.

Subsecs. (b) to (f). Act Nov. 22, 1940, struck out subsecs. (b), (d), (e), and (f), struck out second sentence of subsec. (c) which related to referendum on burley, fire-cured, and dark air-cured tobacco, and redesignated subsec. (c) as (b).

Act June 13, 1940, amended subsec. (c) by inserting provisions relating to referendum on tobacco marketing quotas for three-year period.

1939—Subsec. (a). Act Aug. 7, 1939, amended first sentence and inserted last sentence.

1938—Subsec. (f). Act Mar. 26, 1938, added subsec. (f).

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99-272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99-272, set out as a note under section 1301 of this title.

BURLEY TOBACCO MARKETING YEARS 1971, 1972, AND 1973

Pub. L. 92-10, § 4, Apr. 14, 1971, 85 Stat. 27, provided that any action taken by the Secretary pursuant to section 312 of the Agricultural Adjustment Act of 1938, as amended [this section], for burley tobacco for any of the three marketing years beginning October 1, 1971, prior to Apr. 14, 1971, was to be of no effect.

DEFERMENT OF PROCLAMATION OF MARKETING QUOTAS FOR BURLEY TOBACCO

Pub. L. 92-1, Mar. 1, 1971, 85 Stat. 3, provided that, notwithstanding any other provision of law, the Secretary of Agriculture could defer any proclamation under section 312 of the Agricultural Adjustment Act of 1938, as amended [this section], with respect to national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, until the date he determined was necessary to permit growers to be notified of their farm marketing quotas and the referendum to be held prior to normal planting time.

EXTENSION OF TIME FOR PROCLAMATION OF MARKETING QUOTAS FOR THREE MARKETING YEARS BEGINNING OCT. 1, 1971

Pub. L. 91-641, Dec. 31, 1970, 84 Stat. 1879, authorized the Secretary of Agriculture to defer until March 1,

1971, any proclamation under this section with respect to national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971.

FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO; AMOUNT OF PRICE SUPPORT

Section 2 of Joint Res. July 28, 1945, ch. 330, 59 Stat. 506, as amended by Pub. L. 85-92, § 2, July 10, 1957, 71 Stat. 284, which authorized the Commodity Credit Corporation to make loans or other price support available beginning with the 1945 crop, was repealed by Pub. L. 86-389, § 2, Feb. 20, 1960, 74 Stat. 7. See section 1445 of this title.

1956 MARYLAND ALLOTMENTS

Joint Res. Mar. 2, 1956, ch. 80, 70 Stat. 35, provided for increase and redetermination of 1956 Maryland tobacco acreage allotments.

1956 FIRE-CURED AND DARK AIR-CURED TOBACCO ALLOTMENTS

Joint Res. Mar. 2, 1956, ch. 79, 70 Stat. 34, provided for increase and redetermination of 1956 fire-cured and dark air-cured tobacco acreage allotments.

1956 BURLEY ALLOTMENTS

Joint Res. Mar. 2, 1956, ch. 78, 70 Stat. 34, provided for increase and redetermination of 1956 acreage allotments of burley tobacco.

1955-1956 BURLEY TOBACCO QUOTA

Section 1 of act Mar. 31, 1955, ch. 21, 69 Stat. 23, provided for redetermination of national marketing quota for burley tobacco for the 1955-1956 marketing year.

QUOTAS FOR BURLEY AND FLUE-CURED TOBACCO FOR MARKETING YEARS 1944-45 THROUGH 1947-48

Joint Res. July 7, 1943, ch. 195, 57 Stat. 387, as amended by Joint Res. Mar. 31, 1944, ch. 149, 58 Stat. 136; act Feb. 19, 1946, ch. 31, § 1, 60 Stat. 21, provided for quotas for burley and flue-cured tobacco for marketing years 1944-45 through 1947-48. The second par. of section 1 of said act Feb. 19, 1946, provided that amendment made by such section to Joint Res. July 7, 1943, should not apply to flue-cured tobacco for 1946-47 marketing year.

PROCLAMATIONS AFFIRMED

Act Apr. 7, 1938, ch. 107, § 19, 52 Stat. 205, provided that proclamations issued by Secretary of Agriculture under sections 1312(a), 1327, 1328, and 1345 of this title should be effective as provided in those sections, and no provision of any amendment made by that act should be construed as requiring any further action under section 1312(c) or 1347 of this title with respect to marketing years beginning in 1938.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

Referendum on orders regulating handling of commodities, see section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1301, 1313, 1314c, 1314e, 1314f of this title.

§ 1313. Apportionment of national marketing quota

(a) Apportionment among States

The national marketing quota for tobacco established pursuant to the provisions of section 1312 of this title, less the amount to be allotted under subsection (c) of this section, shall be apportioned by the Secretary among the several States on the basis of the total production of tobacco in each State during the five calendar

years immediately preceding the calendar year in which the quota is proclaimed (plus, in applicable years, the normal production on the acreage diverted under previous agricultural adjustment and conservation programs), with such adjustments as are determined to be necessary to make correction for abnormal conditions of production, for small farms, and for trends in production, giving due consideration to seed bed and other plant diseases during such five-year period. Notwithstanding any other provision of this section and section 1312 of this title, except the provisions in subsection (g) of this section relating to reduction of allotments, for any of the three marketing years, 1941–1942 to 1943–1944, in which a national marketing quota is in effect for burley or flue-cured tobacco, such national marketing quota shall not be reduced below the 1940–1941 national marketing quota by more than 10 per centum and the farm-acreage allotments (other than allotments established in each year under subsection (g) of this section for farms on which no tobacco was produced in the last five years) shall be determined by increasing or decreasing the farm-acreage allotments established in the last preceding year in which marketing quotas were in effect in the same ratio as such national marketing quota is increased or decreased above or below the last preceding national marketing quota: *Provided*, That in the case of flue-cured tobacco no allotment shall be decreased below the 1940 allotment if such allotment was two acres or less, and in the case of burley tobacco no allotment shall be decreased below the 1939 allotment if such allotment was one-half acre or less, or below the 1940 allotment if such allotment was over one-half acre and not over one acre: *And provided further*, That an additional acreage not in excess of 2 per centum of the total acreage allotted to all farms in each State in 1940 shall be allotted by the local committees, without regard to the ratio aforesaid, among farms in the State in accordance with regulations prescribed by the Secretary so as to establish allotments which the committees find will be fair and equitable in relation to the past acreage of tobacco (harvested and diverted); land, labor, and equipment available for the production of tobacco; and crop-rotation practices: *And provided further*, That the burley tobacco acreage allotment which would otherwise be established for any farm having a burley acreage allotment in 1942 shall not be less than one-half acre, and the acreage required for apportionment under this proviso shall be in addition to the National and State acreage allotments.

(b) Allotment of quota among producing farms

The Secretary shall provide, through the local committees, for the allotment of the marketing quota for any State among the farms on which tobacco is produced, on the basis of the following: Past marketing of tobacco, making due allowance for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided*, That, except for farms on which for the first

time in five years tobacco is produced to be marketed in the marketing year for which the quota is effective, the marketing quota for any farm shall not be less than the smaller of either (1) three thousand two hundred pounds, in the case of flue-cured tobacco, and two thousand four hundred pounds, in the case of other kinds of tobacco, or (2) the average tobacco production for the farm during the preceding three years, plus the average normal production of any tobacco acreage diverted under agricultural adjustment and conservation programs during such preceding three years.

(c) Allotment to previous nonproducing farms and small farms

The Secretary shall provide, through local committees, for the allotment of not in excess of 5 per centum of the national marketing quota (1) to farms in any State whether it has a State quota or not on which for the first time in five years tobacco is produced to be marketed in the year for which the quota is effective and (2) for further increase of allotments to small farms pursuant to the proviso in subsection (b) of this section on the basis of the following: Land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided*, That farm marketing quotas established pursuant to this subsection for farms on which tobacco is produced for the first time in five years shall not exceed 75 per centum of the farm marketing quotas established pursuant to subsection (b) of this section for farms which are similar with respect to the following: Land, labor, and equipment available for the production of tobacco, crop-rotation practices, and the soil and other physical factors affecting the production of tobacco.

(d) Transfer of farm marketing quotas

Farm marketing quotas may be transferred only in such manner and subject to such conditions as the Secretary may prescribe by regulations.

(e) Quota for 1938; minimum State allotments

In case of flue-cured tobacco, the national quota for 1938 is increased by a number of pounds required to provide for each State in addition to the State poundage allotment a poundage not in excess of 4 per centum of the allotment which shall be apportioned in amounts which the Secretary determines to be fair and reasonable to farms in the State receiving allotments under this chapter which the Secretary determines are inadequate in view of past production of tobacco, and for each year by a number of pounds sufficient to assure that any State receiving a State poundage allotment of flue-cured tobacco shall receive a minimum State poundage allotment of flue-cured tobacco equal to the average national yield for the preceding five years of five hundred acres of such tobacco.

(f) Increase of 1938 quota

In the case of fire-cured and dark air-cured and burley tobacco, the national quota for 1938 is increased by a number of pounds required to provide for each State in addition to the State poundage allotment a poundage not in excess of

2 per centum of the allotment which shall be apportioned in amounts which the Secretary determines to be fair and reasonable to farms in the State receiving allotments under this section which the Secretary determines are inadequate in view of past production of tobacco.

(g) Conversion of national marketing quota into national acreage allotment

Notwithstanding any other provision of this section, the Secretary may convert the national marketing quota into a national acreage allotment by dividing the national marketing quota by the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed, and may apportion the national acreage allotment, less a reserve of not to exceed 1 per centum thereof for new farms, for making corrections in old farm acreage allotments, and for adjusting inequities in old farm acreage allotments, through the local committees among farms on the basis of the factors set forth in subsection (b) of this section, using past farm acreage and past farm acreage allotments for tobacco in lieu of past marketing of tobacco; and the Secretary on the basis of the factors set forth in subsection (c) of this section and the past tobacco experience of the farm operator, shall through the local committees allot that portion of the national acreage allotment reserved for new farms among farms on which no tobacco was produced or considered produced during the last five years. Any acreage of tobacco harvested in excess of the farm acreage allotment for the year 1955, or any subsequent crop shall not be taken into account in establishing State and farm acreage allotments. Except for farms last mentioned or a farm operated, controlled, or directed by a person who also operates, controls, or directs another farm on which tobacco is produced, the farm-acreage allotment shall be increased by the smaller of (1) 20 per centum of such allotment or (2) the percentage by which the normal yield of such allotment (as determined through the local committees in accordance with regulations prescribed by the Secretary) is less than three thousand two hundred pounds, in the case of flue-cured tobacco, and two thousand four hundred pounds in the case of other kinds of tobacco: *Provided*, That the normal yield of the estimated number of acres so added to farm acreage allotments in any State shall be considered as a part of the State marketing quota in applying the proviso in subsection (a) of this section. The actual production of the acreage allotment established for a farm pursuant to this subsection shall be the amount of the farm marketing quota. If any amount of tobacco shall be marketed as having been produced on the acreage allotment for any farm which in fact was produced on a different farm, the acreage allotments next established for both such farms shall be reduced by that percentage which such amount was of the respective farm marketing quota, except that such reduction for any such farm shall not be made if the Secretary through the local committees finds that no person connected with such farm caused, aided, or acquiesced in such marketing; and if proof of the disposition of any amount of tobacco is not fur-

nished as required by the Secretary or if any producer on the farm files, or aids or acquiesces in the filing of, any false report with respect to the acreage of tobacco grown on the farm required by regulations issued pursuant to this chapter, the acreage allotment next established for the farm on which such tobacco is produced shall be reduced by a percentage similarly computed. If in any calendar year more than one crop of tobacco is grown from (1) the same tobacco plants or (2) different tobacco plants, and is harvested for marketing from the same acreage of a farm, the acreage allotment next established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco has been so grown and harvested.

(h) Repealed. Feb. 16, 1938, ch. 30, title III, § 378(d), as added Pub. L. 85-835, title V, § 501, Aug. 28, 1958, 72 Stat. 996

(i) Increase of marketing quotas and acreage allotments to meet demand

Notwithstanding any other provision of this chapter, whenever after investigation the Secretary determines with respect to any kind of tobacco that a substantial difference exists in the usage or market outlets for any one or more of the types comprising such kind of tobacco and that the quantity of tobacco of such type or types to be produced under the marketing quotas and acreage allotments established pursuant to this section would not be sufficient to provide an adequate supply for estimated market demands and carry-over requirements for such type or types of tobacco, the Secretary shall increase the marketing quotas and acreage allotments for farms producing such type or types of tobacco in the preceding year to the extent necessary to make available a supply of such type or types of tobacco adequate to meet such demands and carry-over requirements. The increases in farm marketing quotas and acreage allotments shall be made on the basis of the production of such type or types of tobacco during the period of years considered in establishing farm marketing quotas and acreage allotments for such kind of tobacco. The additional production authorized by this subsection shall be in addition to the national marketing quota established for such kind of tobacco pursuant to section 1312 of this title. The increase in acreage under this subsection shall not be considered in establishing future State or farm acreage allotments.

(j) Tobacco acreage allotments for 1956, 1957, and 1958

In establishing farm acreage allotments for burley tobacco crops for the years 1956, 1957, and 1958 the acreage allotment for any farm which has not been retired from agricultural production shall not be reduced below the acreage allotment which would otherwise be established because the harvested acreage was less than the allotted acreage unless the acreage harvested was less than 50 per centum of the allotted acreage in each of the preceding five years, in which event it shall not be reduced for such reason to less than the largest acreage harvested in any year in such five-year period.

(j)¹ Old farm tobacco acreage allotment

The production of tobacco on a farm in 1955 or any subsequent year for which no farm acreage allotment was established shall not make the farm eligible for an allotment as an old farm under subsections (b) and (g) of this section or section 1314c of this title: *Provided, however*, That by reason of such production the farm need not be considered as ineligible for a new farm allotment under subsections (c) and (g) of this section or section 1314c of this title, but such production shall not be deemed past tobacco experience for any producer on the farm.

(Feb. 16, 1938, ch. 30, title III, §313, 52 Stat. 47; Apr. 7, 1938, ch. 107, §5, 52 Stat. 202; May 31, 1938, ch. 292, §2, 52 Stat. 586; Aug. 7, 1939, ch. 564, 53 Stat. 1261; June 13, 1940, ch. 360, §4, 54 Stat. 392; Feb. 6, 1942, ch. 44, §1, 56 Stat. 51; Apr. 29, 1943, ch. 80, 57 Stat. 69; Oct. 17, 1951, ch. 511, 65 Stat. 422; Mar. 31, 1955, ch. 21, §§3, 4, 69 Stat. 24; Aug. 11, 1955, ch. 789, 69 Stat. 670; Aug. 11, 1955, ch. 799, 69 Stat. 684; July 2, 1958, Pub. L. 85-489, §1, 72 Stat. 291; Feb. 16, 1938, ch. 30, title III, §378(d), as added Aug. 28, 1958, Pub. L. 85-835, title V, §501, 72 Stat. 995; Apr. 16, 1965, Pub. L. 89-12, §2, 79 Stat. 72; Oct. 12, 1967, Pub. L. 90-106, 81 Stat. 275.)

AMENDMENTS

1967—Subsec. (g). Pub. L. 90-106 changed manner in which tobacco acreage allotments are computed by providing for conversion of national marketing quota for tobacco into a national acreage allotment to be apportioned among farms instead of apportioning the national quota among the States, based on past State production, and then converting into State acreage allotments for apportionment among farms.

1965—Subsec. (j). Pub. L. 89-12 inserted in old farm tobacco acreage allotment provisions reference to section 1314c of this title in two places.

1958—Subsec. (g). Pub. L. 85-489 required reduction of acreage allotment if in any calendar year more than one crop of tobacco is grown from same tobacco plants or different tobacco plants, and is harvested for marketing from same acreage of a farm.

Subsec. (h). Act Feb. 16, 1938, §378(d), as added by Pub. L. 85-835, repealed subsec. (h) which related to adjustment of allotment upon acquisition of part of farms by United States for defense.

1955—Subsec. (g). Act Mar. 31, 1955, §§3, 4, provided that excess tobacco acreage for years 1955 and thereafter should not be taken into consideration as part of farm history in establishing future acreage allotments, and that if a producer makes a false report of acreage of tobacco grown on his farm, the amount of misstatement should be deducted from his next year's allotment.

Subsec. (j). Act Aug. 11, 1955, ch. 789, added subsec. (j) relating to tobacco acreage allotments for 1956, 1957, and 1958.

Act Aug. 11, 1955, ch. 799, added subsec. (j) relating to old farm tobacco acreage allotment.

1951—Subsec. (i). Act Oct. 17, 1951, added subsec. (i).

1943—Subsec. (a). Act Apr. 29, 1943, inserted proviso beginning "That the Burley tobacco acreage".

1942—Subsec. (h). Act Feb. 6, 1942, added subsec. (h).

1940—Subsec. (a). Act June 13, 1940, inserted all following first sentence.

1939—Subsec. (g). Act Aug. 7, 1939, added subsec. (g).

1938—Subsec. (a). Act Apr. 7, 1938, struck out "net".

Subsec. (e). Act May 31, 1938, substituted "4 per centum" for "2 per centum".

Act Apr. 7, 1938, added subsec. (e).

Subsec. (f). Act May 31, 1938, added subsec. (f).

EFFECTIVE DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85-489 provided that: "The amendment made by this Act [amending this section] shall become effective beginning with the 1958 crop of tobacco".

SAVINGS PROVISION

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (h), see note set out under section 1378 of this title.

INCREASE OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS TO MEET DEMAND UNAFFECTED BY ACREAGE-POUNDRAGE MARKETING QUOTAS AND PRICE SUPPORT PROVISIONS

Authority or responsibility of Secretary of Agriculture under subsec. (i) of this section with respect to increasing allotments or quotas for farms producing certain types of tobacco unaffected by acreage-poundage quotas and price support provisions, see note set out under section 1314c of this title.

FIRE-CURED, DARK AIR-CURED AND VIRGINIA SUN-CURED TOBACCO

Amount of price support for fire-cured, dark air-cured, and Virginia sun-cured tobacco, see note set out under section 1312 of this title.

APPORTIONMENT OF BURLEY ACREAGE ALLOTMENT

Joint Res. Mar. 31, 1944, ch. 149, 58 Stat. 136, provided that notwithstanding the provisions of this section the burley tobacco acreage allotment which would otherwise be established for any farm having a burley acreage allotment in 1943 should be less than one acre, or 25 per centum of the cropland, whichever is the smaller, and the acreage required for apportionment under the resolution should be in addition to the National and State acreage allotments.

CROSS REFERENCES

Agreements for adjustment of acreage or production of basic agricultural commodities, see section 608 et seq. of this title.

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314c of this title.

§ 1314. Penalties**(a) Persons liable**

The marketing of (1) any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced, or (2) any kind of tobacco that is not eligible for price support under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] because a producer on the farm has not agreed to make contributions or pay assessments to the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account as required by sections 106A(d)(1) and 106(B)(d)(1)¹ of that Act [7 U.S.C. 1445-1(d)(1) and 1445-2(d)(1)], if marketing quotas for that kind of tobacco are in effect, shall be subject to a penalty of 75 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year. Such penalty shall be paid by the person who ac-

¹ So in original. A reference to section 106B(d)(1) was probably intended.

¹ So in original. Probably should be "(k)".

quired such tobacco from the producer but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale; or, if the tobacco is marketed by the producer through a warehouseman or other agent, such penalty shall be paid by such warehouseman or agent who may deduct an amount equivalent to the penalty from the price paid to the producer: *Provided*, That in case any tobacco is marketed directly to any person outside the United States the penalty shall be paid and remitted by the producer. If any producer falsely identifies or fails to account for the disposition of any tobacco, an amount of tobacco equal to the normal yield of the number of acres harvested in excess of the farm-acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer. Tobacco carried over by the producer thereof from one marketing year to another may be marketed without payment of the penalty imposed by this section if the total amount of tobacco available for marketing from the farm in the marketing year from which the tobacco is carried over did not exceed the farm marketing quota established for the farm for such marketing year (or which would have been established if marketing quotas had been in effect for such marketing year), or if the tobacco so carried over does not exceed the normal production of that number of acres by which the harvested acreage of tobacco in the calendar year in which the marketing year begins is less than the farm-acreage allotment. Tobacco produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though it is marketed prior to the date on which such marketing year begins.

(b) Collection and deposit

The Secretary shall require collection of the penalty upon a proportion of each lot of tobacco marketed from the farm equal to the proportion which the tobacco available for marketing from the farm in excess of the farm marketing quota is of the total amount of tobacco available for marketing from the farm if satisfactory proof is not furnished as to the disposition to be made of such excess tobacco prior to the marketing of any tobacco from the farm. All funds collected pursuant to this section shall be deposited in a special deposit account with the Treasurer of the United States until the end of the marketing year next succeeding that in which the funds are collected, and upon certification by the Secretary there shall be paid out of such special deposit account to persons designated by the Secretary the amount by which the penalty collected exceeds the amount of penalty due upon tobacco marketed in excess of the farm marketing quota for any farm. Such special account shall be administered by the Secretary, and the basis for, the amount of, and the person entitled to receive a payment from such account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive.

(c) Lien in favor of United States

Until the amount of the penalty provided by this section is paid, a lien on the tobacco with respect to which such penalty is incurred, and on any subsequent tobacco subject to marketing quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States for the amount of the penalty.

(Feb. 16, 1938, ch. 30, title III, §314, 52 Stat. 48; Aug. 7, 1939, ch. 565, 53 Stat. 1262; June 13, 1940, ch. 360, §5, 54 Stat. 393; Feb. 19, 1946, ch. 31, §2, 60 Stat. 21; June 22, 1954, ch. 339, 68 Stat. 270; Mar. 31, 1955, ch. 21, §5, 69 Stat. 24; July 20, 1982, Pub. L. 97-218, title I, §103, title II, §206(a), 96 Stat. 201, 206.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1982—Subsec. (a). Pub. L. 97-218, §103, inserted “(1)” before “any kind of tobacco”, and inserted cl. (2), regarding marketing of any kind of tobacco that is not eligible for price support under the Agricultural Act of 1949 because a producer on a farm has not agreed to make the required contributions or pay assessments to the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account, if marketing quotas for that kind of tobacco are in effect.

Subsec. (c). Pub. L. 97-218, §206(a), added subsec. (c).
1955—Subsec. (a). Act Mar. 31, 1955, substituted “75 per centum” for “50 per centum” in first sentence.

1954—Subsec. (a). Act June 22, 1954, substituted “50 per centum” for “40 per centum” in first sentence.

1946—Subsec. (a). Act Feb. 19, 1946, struck out “10 cents per pound in the case of flue-cured, Maryland, or Burley tobacco and 5 cents per pound in the case of all other kinds of tobacco.” and inserted in lieu thereof “40 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year” in first sentence.

1940—Act June 13, 1940, designated existing provisions as subsec. (a), inserted last three sentences to subsec. (a), and added subsec. (b).

1939—Subsec. (a). Act Aug. 7, 1939, struck out first sentence and inserted in lieu thereof “The marketing of any tobacco in excess of the marketing quota for the farm on which the tobacco is produced shall be subject to a penalty of 10 cents per pound in the case of flue-cured, Maryland, or Burley tobacco and 5 cents per pound in the case of all other kinds of tobacco”.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 103 of Pub. L. 97-218 provided that the amendment made by that section is effective for 1983 and subsequent crops of tobacco.

Amendment by section 206(a) of Pub. L. 97-218 effective July 20, 1982, but not to apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before that date, see section 207 of Pub. L. 97-218, set out as a note under section 1314b of this title.

EFFECTIVE DATE OF 1955 AMENDMENT

Act Mar. 31, 1955, provided that the amendment made by that act is effective July 1, 1955, with respect to flue-cured tobacco, and Oct. 1, 1955, with respect to other kinds of tobacco.

EFFECTIVE DATE OF 1954 AMENDMENT

Act June 22, 1954, provided that the amendment made by that act is effective Oct. 1, 1954, except that in the case of flue-cured tobacco such amendment is effective July 1, 1955.

EFFECTIVE DATE OF 1946 AMENDMENT

The second par. of section 2 of act Feb. 19, 1946, provided: "The amendment made by this section [amending this section] shall become effective July 1, 1946, except that in the case of flue-cured tobacco such amendment shall become effective May 1, 1947."

REVISION OF THIRD SENTENCE AND APPLICATION OF FOURTH SENTENCE OF SUBSEC. (a) DURING ACREAGE-POUNDRAGE QUOTA PERIODS

Section 317(g)(2), (3) of act Feb. 16, 1938, as added by Pub. L. 89-12, §1, Apr. 16, 1965, 79 Stat. 71, and classified to section 1314c(g)(2), (3) of this title, provided that:

"(2) When marketing quotas established under this section [section 1314c of this title] are in effect the provisions with respect to penalties contained in the third sentence of subsection 314(a) [subsec. (a) of this section] shall be revised to read: 'If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota plus the farm yield of the number of acres harvested in excess of the farm acreage allotment and the penalty in respect thereof shall be paid and remitted by the producer'.

"(3) For the first year a marketing quota program established under the provisions of this section [section 1314c of this title] is in effect, the words 'normal production' where they appear in the fourth sentence of subsection (a) of such section [subsec. (a) of this section] shall be read 'farm yield' and the said fourth sentence shall otherwise be applicable. For the second and succeeding years for which a program established under the provisions of this section [section 1314c of this title] is in effect, the provisions of subsection (a)(8) [section 1314c(a)(8) of this title] shall apply when penalties, if any, on carryover tobacco are computed, and the provisions contained in the fourth sentence of subsection 314(a) [subsec. (a) of this section] shall not be applicable."

REVISION OF THIRD SENTENCE AND APPLICATION OF FOURTH SENTENCE OF SUBSEC. (a) DURING BURLEY TOBACCO POUNDRAGE QUOTA PERIODS

Section 319(i)(2), (3) of act Feb. 16, 1938, as added by Pub. L. 92-10, §1, Apr. 14, 1971, 85 Stat. 23, and classified to section 1314e(i)(2), (3) of this title, provided that:

"(2) The provisions with respect to penalties contained in the third sentence of section 1314(a) of this title shall be revised to read: 'If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota (after adjustments) and the penalty in respect thereof shall be paid and remitted by the producer'.

"(3) The provisions contained in the fourth sentence of section 1314(a) of this title shall not be applicable. For the first year a marketing quota program established under the provisions of this section [section 1314e of this title] is in effect, the farm marketing quota determined under the provisions of subsection (e) of this section shall receive a temporary upward adjustment equal to the amount of carryover penalty-free burley tobacco for the farm. For subsequent years, the provisions of subsection (c) of this section shall apply."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314c, 1314e, 1445 of this title.

§ 1314-1. Limitation on sale of tobacco floor sweepings**(a) Penalty**

Effective for the 1982 and subsequent crops of tobacco, the marketing of floor sweepings of any kind of tobacco in excess of allowable floor sweepings shall be subject to a civil penalty of 150 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year. Such penalty shall be paid by any person found by the Secretary to have marketed such floor sweepings in excess of the allowable amount.

(b) Assessment; notice and opportunity for hearing; determination

The penalty provided for in subsection (a) of this section shall be assessed by the Secretary only after the person alleged to have marketed floor sweepings in excess of allowable floor sweepings has been given notice and an opportunity for hearing and the Secretary has determined by decision incorporating the Secretary's findings of fact that a violation did occur and the amount of the penalty.

(c) Relation to other law

The provisions of section 1376 of this title shall apply to penalties under this section.

(d) Definitions

As used in this section—

(1) the term "floor sweepings" means the scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business; and

(2) the term "allowable floor sweepings" means the quantity of floor sweepings determined by multiplying 0.24 per centum times the total first sales of tobacco at auction for the season for the warehouse involved.

(Feb. 16, 1938, ch. 30, title III, §314A, as added July 20, 1982, Pub. L. 97-218, title III, §306, 96 Stat. 215.)

§ 1314a. Repealed. Pub. L. 90-51, § 2, July 7, 1967, 81 Stat. 121

Section, act Feb. 16, 1938, ch. 30, title III, §315, as added Aug. 21, 1958, Pub. L. 85-705, 72 Stat. 703, provided for a referendum among producers of type 21 (Virginia) fire-cured tobacco and type 37 Virginia sun-cured tobacco on the question of a single combined tobacco acreage allotment and provided for establishment and subsequent increases and decreases in allotments. See section 1314d of this title.

§ 1314b. Lease or sale of acreage allotments**(a) Conditions for permission from Secretary; false statements; exceptions**

(1) Notwithstanding any other provision of law—

(A)(i) The Secretary, if the Secretary determines that it will not impair the effective operation of the tobacco marketing quota or price support program, may permit the owner and operator of any farm for which a tobacco acreage allotment (other than a Burley, Flue-cured, dark air-cured, Fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 to-

bacco acreage allotment) is established under this chapter to lease and transfer all or any part of such allotment to any other owner or operator of a farm in the same county for use in such county on a farm having a current tobacco allotment of the same kind.

(i) The Secretary shall, only with respect to the 1984 through 1986 crops of Flue-cured tobacco, permit the owner of a farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this chapter to lease and transfer all or any part of such allotment or quota to any other owner or operator of a farm in the same county for use in such county on a farm having a current Flue-cured tobacco acreage allotment or quota except that for the 1985 and 1986 crops such lease and transfer shall be permitted only if (except as otherwise provided in paragraph (2)(A)) the parties to the lease file a copy of the lease agreement with the county committee for the county in which the farms are located, together with a written statement certifying that none of the consideration for the lease has been or will be paid to the lessor, either directly or indirectly in any form including a loan by the lessee to the lessor, the endorsement of a note by the lessee for the lessor, or any other similar arrangement which represents the anticipated income for the lease, prior to the marketing of the tobacco produced under the lease and that the lease and transfer is otherwise in compliance with the provisions of this section. Beginning with the 1985 crop, the Secretary shall promulgate regulations establishing, insofar as is reasonably practicable, a similar requirement providing that none of the consideration for the lease of any Flue-cured tobacco acreage allotment and quota may be paid to the lessor prior to the marketing of the tobacco produced under the lease. The Secretary shall also require that any seller of a Flue-cured tobacco allotment and quota grant to the buyer an option to make payment therefore in equal annual installments payable each fall for a period not to exceed five years from the year in which the sale is made. With respect to the 1987 and subsequent crops of Flue-cured tobacco, the Secretary shall not permit the lease and transfer of Flue-cured tobacco acreage allotments and quotas.

(B) If, after notice and opportunity for a hearing, the county committee determines that the lessee or the lessor of a Flue-cured tobacco acreage allotment or quota knowingly made a false statement in the written statement filed under subparagraph (A), (i) in the case of a false statement knowingly made by the lessee, the lease agreement for purposes of the Flue-cured tobacco marketing quota program with respect to the lessee's farm shall be considered null and void as of the date approved by the county committee or (ii) in the case of a false statement knowingly made by the lessor, the Flue-cured tobacco allotment and quota next established for the farm of the lessor shall be reduced by the percentage which the leased allotment or quota was of the total Flue-cured tobacco allotment or quota for the farm. Notice of any determination made by the county committee under the pre-

ceding provision shall be mailed as soon as practicable to the lessee or lessor involved. If the lessee or lessor is dissatisfied with such determination, the lessee or lessor may request, within fifteen days after notice of such determination is mailed, a review of such determination by a local review committee under section 1363 of this title.

(2) Repealed. Pub. L. 98-180, title II, §206(b)(1), Nov. 29, 1983, 97 Stat. 1147.

(b) Term of years; terms and conditions

Any lease may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions, except as otherwise provided in this section, as the parties thereto agree.

(c) Filing with county committees; calculation of normal yield for transfer

The lease and transfer or sale and transfer of any allotment shall not be effective until a copy of the lease or sale agreement, as the case may be, is filed with and determined by the county committee of the county in which the farms involved are located to be in compliance with the provisions of this section. The transfer shall be approved acre for acre.

(d) Allotments for other years unaffected; inclusion of amount in transferors' plantings; referendum voting rights

The lease and transfer of any part of a tobacco acreage allotment determined for a farm shall not affect the allotment for the farm from which such acreage allotment is transferred or the farm to which it is transferred, except with respect to the crop year specified in the lease. The amount of acreage allotment which is leased from a farm shall be considered for purpose of determining future allotments to have been planted to tobacco on the farm from which such allotment is transferred and the production pursuant to the lease and transfer shall not be taken into account in establishing allotments for subsequent years for the farm to which such allotment is transferred. The lessor shall be considered to have been engaged in the production of tobacco for the purpose of eligibility to vote in the referendum.

(e) Limitation on amount of acreage allotment; "tillable cropland" defined

(1) The total acreage allotted to any farm after the transfer by lease or sale of tobacco acreage allotment to the farm under the provisions of this section shall not exceed 50 per centum of the acreage of cropland in the farm or, in the case of the sale of a Flue-cured tobacco acreage allotment or poundage quota, of the acreage of tillable cropland (as defined in paragraph (2)) in the farm: *Provided*, That in the case of cigar-filler tobacco types 42, 43, or 44, not more than 10 acres of allotment may be leased and transferred to any farm.

(2) For purposes of this section, the term "tillable cropland" means cleared land that can be planted to crops without unusual cultivation or other preparation.

(f) Regulations

The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section.

(g) Sale of allotment or quota by one active Flue-cured tobacco producer to another; definition

(1) The Secretary shall permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell, for use on another farm in the same county, all or any part of such allotment or quota to any person who is or intends to become an active Flue-cured tobacco producer. For purposes of this section, the term "active Flue-cured tobacco producer" means any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than one of the three years preceding the year involved, or any person who certifies to the Secretary, in such form and manner as the Secretary shall by regulation prescribe, his or her intent to become a Flue-cured tobacco producer.

(2) For purposes of this section, a person shall be considered to have shared in the risk of producing a crop of Flue-cured tobacco if—

(A) the investment of such person in the production of such crop is not less than 20 percent of the proceeds of the sale of such crop;

(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

(C) such person may not receive any of such return before the sale of such crop.

(h)¹ Sale or forfeiture of allotment or quota; notice and opportunity for hearing; determination; review

(1) Any person who—

(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

(B) with respect to any crop of Flue-cured tobacco planted after the date of such acquisition, fails to share in the risk of producing tobacco under such allotment or quota in the manner specified in subsection (g)(2) of this section;

shall sell such allotment or quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

(2) Any person who—

(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

(B) disposes of an acreage of tillable cropland (as defined in subsection (e)(2) of this section) which results in the total acreage of Flue-cured tobacco allotted to such person's farm exceeding 50 per centum of the tillable cropland owned by such person;

shall, before July 1 of the year after the year of such disposal, take steps which will result in the total acreage of Flue-cured tobacco allotted to such farm not exceeding 50 per centum of the tillable cropland owned by such person. If such person fails to take such steps, then any such excess allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

¹ So in original. Two subssecs. (h) have been enacted.

(3)(A) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with paragraph (1) or (2) of this subsection, then such person shall forfeit to the Secretary the allotment or quota specified in such paragraph. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in subsection (g)(1) of this section) in the county involved.

(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 1363 of this title.

(h)¹ Transfer authority

(1) Notwithstanding any other provision of this section, the Secretary may permit, after June 30 of any crop year, the lease and transfer of flue-cured tobacco quota assigned to a farm if—

(A) the planted acreage of flue-cured tobacco on the farm to which the quota is assigned is determined by the Secretary to be equal to or greater than 90 percent of the farm's acreage allotment, or the planted acreage is determined to be sufficient to produce the farm marketing quota under average conditions; and

(B) the farm's expected production of flue-cured tobacco is less than 80 percent of the farm's effective marketing quota as a result of a natural disaster condition.

(2) Any lease and transfer of quota under this paragraph may be made to any other farm within the same State in accordance with regulations issued by the Secretary.

(Feb. 16, 1938, ch. 30, title III, §316, as added Sept. 6, 1961, Pub. L. 87-200, 75 Stat. 469; amended July 10, 1962, Pub. L. 87-530, 76 Stat. 151; Oct. 15, 1962, Pub. L. 87-824, 76 Stat. 947; July 19, 1963, Pub. L. 88-68, 77 Stat. 81; July 30, 1963, Pub. L. 88-80, 77 Stat. 114; Aug. 20, 1964, Pub. L. 88-469, §§1, 2, 78 Stat. 581; May 27, 1965, Pub. L. 89-29, 79 Stat. 118; Nov. 3, 1965, Pub. L. 89-321, title VII, §703, 79 Stat. 1210; June 24, 1966, Pub. L. 89-471, 80 Stat. 220; Mar. 29, 1967, Pub. L. 90-6, 81 Stat. 6; July 7, 1967, Pub. L. 90-52, 81 Stat. 121; Oct. 11, 1968, Pub. L. 90-559, §1(1), 82 Stat. 996; June 19, 1970, Pub. L. 91-284, §§1-4, 84 Stat. 314; June 6, 1972, Pub. L. 92-311, 86 Stat. 215; Aug. 1, 1973, Pub. L. 93-80, 87 Stat. 178; Oct. 24, 1974, Pub. L. 93-464, 88 Stat. 1416; Oct. 1, 1976, Pub. L. 94-445, 90 Stat. 1489; June 25, 1977, Pub. L. 95-54, 91 Stat. 250; July 20, 1982, Pub. L. 97-218, title II, §201, 96 Stat. 201; Nov. 29, 1983, Pub. L. 98-180, title II, §§205(a), 206, 97 Stat. 1145, 1147; Dec. 22, 1987, Pub. L. 100-203, title I, §1112(a), 101 Stat. 1330-7; Oct. 30, 1989, Pub. L. 101-134, §2(b), 103 Stat. 781.)

REFERENCES IN TEXT

The written statement described in subsection (c) of this section, referred to in subsec. (a)(2)(A), was eliminated by the amendment to subsec. (c) by section 206(a) of Pub. L. 98-180. See 1983 Amendment note below.

AMENDMENTS

1989—Subsec. (c). Pub. L. 101-134 substituted “The transfer shall be approved acre for acre.” for “If the normal yield established by the county committee for the farm to which the allotment is transferred by lease or sale does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established by the farm to which the allotment is transferred.”

1987—Subsec. (h). Pub. L. 100-203 added subsec. (h) relating to transfer authority.

1983—Subsec. (a)(1). Pub. L. 98-180, §205(a), designated existing provision as subpar. (A)(i), substituted “The Secretary, if the Secretary” for “the Secretary, if he”, “Fire-cured” for “fire-cured”, and “lease and transfer all” for “, to lease all” and struck out “shall permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this chapter and” before “may permit” and “or quota” after “such allotment” and “tobacco allotment” and added subpars. (A)(ii) and (B).

Subsec. (a)(2). Pub. L. 98-180, §206(b)(1), struck out par. (2) which read as follows:

“(A) No lease of any Flue-cured tobacco allotment or quota assigned to a farm may be filed under subsection (c) of this section after June 15 of the crop year specified in such lease, except that the Secretary may allow a lease to be so filed after June 15 of such crop year if the Secretary determines that, as a result of flood, hail, wind, tornado, or other natural disaster—

“(i) the county in which such farm is located has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest in such crop year;

“(ii) the lessor involved has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest on such farm in such crop year; and

“(iii) such lease will not impair the effective operation of the tobacco marketing quota or price support program.

If the Secretary makes such determination, then the Secretary may permit the lessor to lease all or any part of such allotment or quota to any other owner or operator of a farm in the same county or in an adjoining county within the same State for use in such county on a farm having a current Flue-cured tobacco allotment or quota. If permitted, such lease and transfer shall not be effective until a copy of such lease and a written statement described in subsection (c) of this section are filed with and determined by the county committee of such county to be in compliance with the provisions of this section.

“(B) No agreement or arrangement may be made in connection with the making of any lease with respect to any Flue-cured tobacco allotment or quota under paragraph (1) of this subsection except—

“(i) between the lessor and lessee; or

“(ii) between the lessor or lessee and any attorney, trustee, bank, or other agent or representative, who regularly represents the lessor or lessee, as the case may be, in business transactions unrelated to the production or marketing of tobacco.

“(C) No sublease or other transfer of such allotment or quota may be made by such lessee during the period of such lease.”

Subsec. (c). Pub. L. 98-180, §206(a), struck out provisions requiring the lessor and lessee, in addition to a copy of the lease, to file with the county committee a

written statement certifying compliance with the provisions of this section, authorizing the county committee, after notice and opportunity for hearing, to determine that a knowingly false statement was made in such written statement, specifying penalties for such false statement, directing that notice of the determination be mailed to the lessor or lessee, and permitting the lessor or lessee, if dissatisfied with such determination, to review such determination under section 1363 of this title.

Subsec. (e)(1). Pub. L. 98-180, §206(b)(2), substituted “the sale of a Flue-cured tobacco acreage allotment or poundage quota” for “Flue-cured tobacco”.

Subsec. (g)(2). Pub. L. 98-180, §206(b)(3), struck out last sentence which read as follows: “Any person who owns any Flue-cured tobacco allotment or quota and leases such allotment or quota to another person for use in producing a crop shall be considered to have shared in the risk of producing such crop if, under the terms of such lease, subparagraphs (B) and (C) of this paragraph are satisfied with regard to such owner.”

1982—Subsec. (a). Pub. L. 97-218, §201(a), designated existing provisions as par. (1), substituted “shall permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this chapter and may permit the owner and operator” for “may permit the owner and operator”, and substituted “(other than a Burley, Flue-cured, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment) is established under this chapter, to lease” for “(other than a Burley, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment) is established under this chapter to lease”, and added par. (2).

Subsec. (c). Pub. L. 97-218, §201(b), inserted references to sales of acreage allotments in provision requiring the filing of agreements with the county committee of the county in which the farms involved are located, substituted provisions that in the case of a lease and transfer of any Flue-cured tobacco allotment or quota regarding any crop, a lease under this section shall take effect only after the lessor and lessee each file with the county committee a copy of the lease together with a written statement of compliance, and provisions for penalties, after notice and opportunity for hearing, in the event a county committee determines that either the lessor or the lessee knowingly made a false statement in the written statement of compliance, together with provisions for review of any unfavorable determination upon request, for former provisions that any lease of Flue-cured tobacco acreage-pounding marketing quotas from any farm with an acreage-pounding marketing quota in excess of two thousand pounds filed on or after June 15 in any year was not effective unless the acreage planted on both the lessor and the lessee farms during the current marketing year was as much as 80 per centum of the farm acreage allotment in effect for such year, and inserted references to transfers by sale in the provisions for the acre by acre approval of transfers when the transfer/transferee normal yield differential is 10 percent or less.

Subsec. (e). Pub. L. 97-218, §201(c), designated existing provisions as par. (1), substituted “transfer by lease or sale” for “transfer by lease” and “cropland in the farm or, in the case of Flue-cured tobacco, of the acreage of tillable cropland (as defined in paragraph (2)) in the farm” for “cropland in the farm”, and added par. (2).

Subsec. (g). Pub. L. 97-218, §201(d), added subsec. (g). Former subsec. (g), which related to emergency allotment leases and transfers for 1973 in certain disaster areas in Georgia and South Carolina, was struck out.

Subsec. (h). Pub. L. 97-218, §201(d), added subsec. (h). Former subsec. (h), which related to emergency allotment leases and transfers for 1974 in certain disaster areas in North Carolina, was struck out.

Subsec. (i). Pub. L. 97-218, §201(d), struck out subsec. (i) which related to emergency allotment leases and transfers for 1976 in certain disaster areas in Georgia and South Carolina.

1977—Subsec. (c). Pub. L. 95-54 substituted provision allowing leasing of flue-cured tobacco acreage-pounding

age quotas after June 15 of any year only between farms on which at least 80 per centum of the farm acreage allotment was planted for such year for provision which had formerly required only a 50 per centum planting.

1976—Subsec. (i). Pub. L. 94-445 added subsec. (i).

1974—Subsec. (h). Pub. L. 93-464 added subsec. (h).

1973—Subsec. (g). Pub. L. 93-80 added subsec. (g).

1972—Subsec. (c). Pub. L. 92-311 substituted provisions that leases of Flue-cured tobacco acreage-poundage marketing quotas from any farm with an acreage-poundage marketing quota in excess of 2,000 pounds filed on or after June 15 in any year will not be effective unless the acreage planted on lessor and lessee farms during that year was 50 per centum of the farm acreage allotment in effect for such year, for provisions that such lease and transfer shall not be effective unless a copy of the lease was filed with the county committee prior to a closing date, not later than the normal planting time in the county, established by the Secretary.

1970—Subsec. (a). Pub. L. 91-284, §1, authorized leases without limitation to crop years 1962 through 1970, prescribed conditions for permission from Secretary, substituted as excepted from allotment "Burley, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment" for "Burley tobacco acreage allotment or a cigar-filler and cigar binder (types 42, 43, 44, 53, 54, and 55) tobacco acreage allotment", authorized lease of all of such allotment or quota, and deleted provision for recognition and consideration of lease and transfer of allotment as valid by the county committee upon compliance with conditions of this section.

Subsec. (b). Pub. L. 91-284, §2, provided for execution of leases for term of years not exceeding five rather than on an annual basis.

Subsec. (e). Pub. L. 91-284, §3, prescribed 10 acre limitation on the amount of cigar-filler tobacco types 42, 43, or 44 allotment acreage which may be leased and transferred to any farm.

Subsec. (g). Pub. L. 91-284, §4, repealed provision for filing of leases for 1965 crop year.

1968—Subsec. (a). Pub. L. 90-559 provided for a one year extension through 1970.

1967—Subsec. (a). Pub. L. 90-6 struck out provision which restricted leasing and transferring of a Maryland tobacco allotment unless at least 75 percent of the allotment for the farm had been actually planted on such farm during each of the two immediately preceding years.

Subsec. (e). Pub. L. 90-52 removed 5 acre limitation on amount of tobacco allotment acreage which may be leased and transferred to any farm.

1966—Subsec. (c). Pub. L. 89-471 inserted proviso which allowed lease and transfer of an allotment notwithstanding failure to file a copy of the lease with the county committee prior to closing date if the Secretary finds that the lease was agreed upon prior to the closing date and the terms of the lease are reduced to writing and filed not later than the 31st day of July of the crop year to which the lease relates.

1965—Subsec. (a). Pub. L. 89-321 extended from 1965 to 1969 the lease privilege for tobacco acreage allotments as well as the prohibition against lease eligibility for Maryland tobacco acreage allotments unless at least 75 per centum of the allotment for the farm was actually planted on such farm during each of the two immediately preceding years.

Subsec. (g). Pub. L. 89-29 substituted "1965 crop year" for "1964 crop year" and "June 15, 1965" for "June 15, 1964", and changed the date of filing from within twenty days of August 20, 1964, to within twenty days of May 27, 1965.

1964—Subsec. (g). Pub. L. 88-469, §1, substituted "1964 crop year" for "1962 crop year" and "June 15, 1964" for "June 15, 1962", and changed the date of filing from within twenty days of July 10, 1962 to within twenty days of August 20, 1964.

Subsec. (h). Pub. L. 88-469, §2, repealed subsec. (h) which related to filing of leases for 1963 crop year.

1963—Subsec. (a). Pub. L. 88-68, §1(1), extended to crop years 1964 and 1965 provisions permitting lease of tobacco acreage allotments, substituted "or" for "and" for the 1963 crop year, other than", inserted "1962 or 1963" before "allotment" in the Maryland tobacco provision and precluded the leasing of 1964 or 1965 Maryland tobacco allotment from the farm unless at least 75 per centum of the allotment for the farm was actually planted on such farm during each of the two immediately preceding years.

Subsec. (b). Pub. L. 88-68, §1(2), required annual basis for leases and eliminated provisions against leases for any period exceeding 1 year and for renewal of 1963 crop year leases, except renewal of 1963 crop year leases for cigar-filler and cigar-binder (types 42, 43, 44, 53, 54, and 55).

Subsec. (h). Pub. L. 88-80 added subsec. (h).

1962—Subsec. (a). Pub. L. 87-824 excepted for the 1963 crop year cigar-filler and cigar-binder (types 42, 43, 44, 53, 54, and 55) tobacco acreage allotments.

Subsec. (b). Pub. L. 87-824 inserted proviso prohibiting renewal of lease for 1963 for cigar-filler and cigar-binder (types 42, 43, 44, 53, 54, and 55) tobacco.

Subsec. (g). Pub. L. 87-530 added subsec. (g).

EFFECTIVE DATE OF 1983 AMENDMENT

Section 205(a) of Pub. L. 98-180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

Section 206(a) of Pub. L. 98-180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

Section 206(b) of Pub. L. 98-180 provided that the amendment made by that section is effective for 1987 and subsequent crops of tobacco.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 207 of title II of Pub. L. 97-218 provided that: "(a) Except as provided in subsection (b), this title [enacting section 1314b-1 of this title and amending this section and sections 1314, 1314c, 1314f, and 1316 of this title] shall take effect on the date of the enactment of this Act [July 20, 1982]."

"(b) The amendments made by this title [enacting section 1314b-1 of this title and amending this section and sections 1314, 1314c, 1314f, and 1316 of this title] shall not apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before the date of the enactment of this Act [July 20, 1982]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314b-1, 1314c, 1316 of this title.

§ 1314b-1. Mandatory sale of certain Flue-cured tobacco acreage allotments and marketing quotas

(a) Sale or forfeiture of acreage allotment or marketing quota by institutional farmowners not later than the later of December 1, 1984, or December 1 of year after year in which farm acquired

Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual, any partnership, any family farm corporation, any trust, estate or similar fiduciary account with respect to which the beneficial interest is in one or more individuals, or any educational institution that uses a Flue-cured acreage allotment or quota for instructional or demonstration purposes) which, on or after July 20, 1982—

(1) owns a farm for which a Flue-cured acreage allotment or marketing quota is established under this chapter; and

(2) is not significantly involved in the management or use of land for agricultural purposes;

shall sell such allotment or quota in accordance with section 1314b(g) of this title not later than December 1, 1984, or December 1 of the year after the year in which the farm is acquired, whichever is later, or shall forfeit such allotment or quota under the procedure specified in subsection (c) of this section.

(b) Forfeiture of acreage allotment or marketing quota by farmowners on or after December 1, 1983

Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution) who, on or after December 1, 1983, owns a farm for which the total acreage allotted¹ for the production of Flue-cured tobacco under this chapter exceeds 50 per centum of such farm's tillable cropland, as defined in section 1314b(e)(2) of this title, shall forfeit any acreage allotment or marketing quota representing the excess under the procedure specified in subsection (c) of this section. In the case of any person who acquires a farm after December 1, 1983, the acreage allotment or marketing quota representing the excess shall not be subject to forfeiture until July 1 of the year after the year of acquisition.

(c) Notice and opportunity for hearing; determination; review

(1) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with subsection (a) or (b) of this section, then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated in the manner provided for in section 1314b(h)(3)(A) of this title.

(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person, within fifteen days after notice of such determination is so mailed, may request review of such determination under section 1363 of this title.

(Feb. 16, 1938, ch. 30, title III, §316A, as added July 20, 1982, Pub. L. 97-218, title II, §202, 96 Stat. 205; amended Nov. 29, 1983, Pub. L. 98-180, title II, §207(a), 97 Stat. 1148.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 98-180 inserted “, any partnership, any family farm corporation, any trust, estate or similar fiduciary account with respect to which the beneficial interest is in one or more individuals, or any educational institution that uses a Flue-cured acreage allotment or quota for instructional or demonstration purposes” after “any individual” and substituted “1984” for “1983”.

EFFECTIVE DATE

Section effective July 20, 1982, but not to apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before that date, see section 207 of Pub. L. 97-218, set out as an Effective Date of 1982 Amendment note under section 1314b of this title.

¹ So in original. Probably should be “allotted”.

§ 1314b-2. Mandatory sale of certain Burley tobacco acreage allotments and marketing quotas

(a) Sale or forfeiture of marketing quota by institutional farmowners not later than the later of December 1, 1984, or December 1 of year after year in which farm acquired

Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on or after July 20, 1982—

(1) owns a farm for which a Burley tobacco marketing quota is established under this chapter; and

(2) does not use the land on the farm for agricultural purposes, or does not use its Burley marketing quota for educational, instructional, or demonstration purposes;

shall sell, not later than December 1, 1984, or December 1 of the year after the year in which the farm is acquired, whichever is later, such quota to an active Burley tobacco producer or any person who intends to become an active Burley tobacco producer, as defined by the Secretary, for use on another farm in the same county or shall forfeit such quota under the procedure specified in subsection (b) of this section. Notwithstanding the foregoing provisions of this subsection, any person to whom this subsection, as in effect prior to November 29, 1983, applies and who—

(A) is required to sell or forfeit the marketing quota by December 1, 1983, because the person was not significantly involved in the management or use of the land for agricultural purposes, but

(B) would be eligible to retain the marketing quota under this subsection, as amended by the Tobacco Adjustment Act of 1983,

may, if the person elects to do so, sell such person's marketing quota if a record of the transfer is filed with the county committee by February 1, 1984.

(b) Notice and opportunity for hearing; determination; review

(1) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) of this section determines that any person knowingly failed to comply with such subsection, then the quota specified in such subsection shall be forfeited and shall be reallocated by such county committee to other active Burley tobacco producers or those intending to become active Burley tobacco producers as defined by the Secretary, for use in such county.

(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 1363 of this title.

(c) Sale or forfeiture of allotment or quota by subsequent purchaser; notice and opportunity for hearing; determination; review

(1) Any person who—

(A) acquires any Burley tobacco marketing quota by purchase under subsection (a) of this section; and

(B) with respect to any crop of Burley tobacco planted after the date of such acquisition, fails for the five-year period immediately subsequent to the year of such acquisition to share in the risk of producing Burley tobacco under such allotment or quota in the manner specified in paragraph (2) of this subsection;

shall sell such quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such quota shall be subject to forfeiture under the procedures specified in paragraph (3) of this subsection.

(2) For purposes of this subsection, a person shall be considered to have shared in the risk of producing a crop of Burley tobacco if—

(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

(C) such person may not receive any of such return before the sale of such crop.

(3)(A) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) of this section determines that any person knowingly failed to comply with this subsection, then the quota specified in this subsection shall be forfeited and shall be reallocated by such county committee for use by active Burley tobacco producers or those intending to become active Burley tobacco producers, as defined by the Secretary, for use in such county.

(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 1363 of this title.

(Feb. 16, 1938, ch. 30, title III, §316B, as added July 20, 1982, Pub. L. 97-218, title III, §302, 96 Stat. 210; amended Nov. 29, 1983, Pub. L. 98-180, title II, §207(b), 97 Stat. 1148.)

REFERENCES IN TEXT

The Tobacco Adjustment Act of 1983, referred to in subsec. (a), is title II of Pub. L. 98-180, Nov. 29, 1983, 97 Stat. 1143. For amendment of subsec. (a) of this section by section 207(b) of Pub. L. 98-180, see 1983 Amendment note below.

AMENDMENTS

1983—Subsec. (a). Pub. L. 98-180 substituted in par. (2) “does not use the land on the farm for agricultural purposes, or does not use its Burley marketing quota for educational, instructional, or demonstration purposes” for “is not significantly involved in the management or use of land for agricultural purposes” and in provision following par. (2) “1984” for “1983” and inserted in provision following par. (2) provision permitting any person subject to this subsection as in effect prior to Nov. 29, 1983, who would be required to sell or forfeit the marketing quota by Dec. 1, 1983, but would be eligible

to retain the marketing quota under this subsection, as amended by the Tobacco Adjustment Act of 1983, to elect to sell the marketing quota if a record of the transfer is filed with the county committee by Feb. 1, 1984.

§ 1314c. Acreage-poundage quotas

(a) Definitions

For purposes of this section—

(1)(A) Except as provided in subparagraph (B), “national marketing quota” for any kind of tobacco for a marketing year means the amount of the kind of tobacco produced in the United States which the Secretary estimates will be utilized during the marketing year in the United States and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 15 per centum of such estimated utilization and exports.

(B) For the 1986 and each subsequent crop of Flue-cured tobacco, “national marketing quota” for a marketing year means the quantity of Flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

(i) the aggregate of the quantities of Flue-cured tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 1314g of this title;

(ii) the average annual quantity of Flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

(iii) the quantity, if any, of Flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco to establish or maintain such inventory at the reserve stock level for Flue-cured tobacco.

(C) Notwithstanding any other provision of law—

(i) the national marketing quota for Flue-cured tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

(ii) the national marketing quota for Flue-cured tobacco for each of the 1990 through 1996 marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year, except that, in the case of each of the 1995 and 1996 crops of Flue-cured tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that

the requirements would likely result in inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 1314h(a)(2) of this title to exceed 150 percent of the reserve stock level for Flue-cured tobacco.

(2) "National average yield goal" for any kind of tobacco means the yield per acre which on a national average basis the Secretary determines will improve or insure the usability of the tobacco and increase the net return per pound to the growers. In making this determination the Secretary shall give consideration to such Federal-State production research data as he deems relevant. Notwithstanding the preceding sentence, in 1983,¹ the national average yield goal for Flue-cured tobacco shall be adjusted by the Secretary to the past five years' moving national average yield.

(3) "National acreage allotment" means the acreage determined by dividing the national marketing quota by the national average yield goal.

(4) "Farm acreage allotment" for a tobacco farm, other than a new tobacco farm, means the acreage allotment determined by adjusting uniformly the acreage allotment established for such farm for the immediately preceding year, prior to any increase or decrease in such allotment due to undermarketings or overmarketings and prior to any reduction under subsection (f) of this section, so that the total of all allotments is equal to the national acreage allotment less the reserve provided in subsection (e) of this section with a further downward or upward adjustment to reflect any adjustment in the farm marketing quota for overmarketing or undermarketing and to reflect any reduction required under subsection (f) of this section, and including any adjustment for errors or inequities from the reserve. In determining farm acreage allotments for Flue-cured tobacco for 1965, the 1965 farm allotment determined under section 1313 of this title shall be adjusted in lieu of the acreage allotment for the immediately preceding year. Notwithstanding the preceding provisions of this subsection, in 1983,¹ farm acreage allotments for Flue-cured tobacco for farms in each county shall be adjusted by the Secretary to reflect the increases or decreases in the past five years' moving county average yield per acre, as determined by the Secretary on the basis of actual yields of farms in the county, or, if such information is not available, on such other data on yields as the Secretary may deem appropriate.

(5) The "community average yield" means for Flue-cured tobacco the average yield per acre in the community designated by the Secretary as a local administrative area under the provisions of section 590h(b) of title 16 which is determined by averaging the yields per acre for the three highest years of the five years 1959 to 1963, inclusive, except that if the yield for any of the three highest years is less than 80 per centum of the average for the three years then that year or years shall be eliminated and the average of the remaining years shall be the community aver-

age yield. Community average yields for other kinds of tobacco shall be determined in like manner, except that the five years 1960 to 1964, inclusive, may be used instead of the period 1959 to 1963, as determined by the Secretary.

(6)(A) "Preliminary farm yield" for Flue-cured tobacco means a farm yield per acre determined by averaging the yield per acre for the three highest years of the five consecutive crop years beginning with the 1959 crop year except that if that average exceeds 120 per centum of the community average yield the preliminary farm yield shall be the sum of 50 per centum of the average of the three highest years and 50 per centum of the national average yield goal but not less than 120 per centum of the community average yield, and if the average of the three highest years is less than 80 per centum of the community average yield the preliminary farm yield shall be 80 per centum of the community average yield. In counties where less than five hundred acres of Flue-cured tobacco were allotted for 1964, the county may be considered as one community. If Flue-cured tobacco was not produced on the farm for at least three years of the five-year period the average of the yields for the years in which tobacco was produced shall be used instead of the three-year average. If no Flue-cured tobacco was produced on the farm in the five-year period but the farm is eligible for an allotment because Flue-cured tobacco was considered to have been produced under applicable provisions of law, a preliminary farm yield for the farm shall be determined under regulations of the Secretary taking into account preliminary farm yields of similar farms in the community. Notwithstanding the preceding provisions of this subsection, in 1983, preliminary farm yields for Flue-cured tobacco farms in each county shall be adjusted by the Secretary by the reciprocal of the factor computed in paragraph (4) of this subsection to adjust farm acreage allotments to reflect increases or decreases in the past five years' moving county average yields.

(B) "Preliminary farm yield" for kinds of tobacco, other than Flue-cured, means a farm yield per acre determined in accordance with subparagraph (A) of this paragraph (6) except that in lieu of the five consecutive crop years beginning with 1959 the immediately preceding 5 crop years shall be used by the Secretary. In counties where less than five hundred acres of the kind of tobacco for which the determination is being made were allotted in the last year of the five-year period the county may be considered as one community. If tobacco of the kind for which the determination is being made was not produced on the farm for at least three years of the five-year period, the average of the yields for the years in which the kind of tobacco was produced shall be used instead of the three-year average. If no tobacco of the kind for which the determination is being made was produced on the farm in the five-year period but the farm is eligible for an allotment because such tobacco was considered to have been produced under applicable provisions of law, a preliminary farm yield for the farm shall be determined under regulations of the Secretary taking into account preliminary farm yields of similar farms in the community.

¹ So in original.

(7) "Farm yield" means the yield of tobacco per acre for a farm determined by multiplying the preliminary farm yield by a national yield factor which shall be obtained by dividing the national average yield goal by a weighted national average yield computed by multiplying the preliminary farm yield for each farm by the acreage allotment determined pursuant to paragraph (4) for the farm prior to adjustments for overmarketing, undermarketing, or reductions required under subsection (f) of this section and dividing the sum of the products by the national acreage allotment.

(8) "Farm marketing quota" for any farm for any marketing year shall be the number of pounds of tobacco obtained by multiplying the farm yield by the acreage allotment prior to any adjustment for undermarketing or overmarketing, increased for undermarketing or decreased for overmarketing by the number of pounds by which marketings of tobacco from the farm during the immediately preceding marketing year, if marketing quotas were in effect under the program established by this section, is less than or exceeds the farm marketing quota for such year: *Provided*, That the farm marketing quota for any marketing year shall not be increased for undermarketing by an amount in excess of the number of pounds determined by multiplying the acreage allotment for the farm for the immediately preceding year prior to any increase or decrease for undermarketing or overmarketing by the farm yield. If on account of excess marketings in the preceding marketing year the farm marketing quota for the marketing year is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made for the subsequent marketing year or years. The farm marketing quota will be increased or decreased for the second succeeding marketing year in the case of Maryland tobacco, and for any other kind of tobacco for which the Secretary determines it is impracticable because of the lack of adequate marketing data, to make the increases or decreases applicable to the immediately succeeding marketing year.

(b) National marketing quota, acreage allotment and average yield goal for Flue-cured tobacco; referendum

Within thirty days after April 16, 1965 the Secretary pursuant to the provisions of subsection (a) of this section shall determine and announce the amount of the national marketing quota for Flue-cured tobacco for the marketing year beginning July 1, 1965, and the national acreage allotment and national average yield goal for the 1965 crop of Flue-cured tobacco, and within thirty days after the announcement of the amount of such national marketing quota shall conduct a special referendum of the farmers engaged in the production of Flue-cured tobacco of the 1964 crop to determine whether they favor or oppose the establishment of marketing quotas on an acreage-poundage basis as provided in this section for the marketing years beginning July 1, 1965, July 1, 1966, and July 1, 1967, in lieu of quotas on an acreage basis in effect for those marketing years. If the Secretary determines that more than 66⅔ per centum of the farmers

voting in the special referendum approve marketing quotas on an acreage-poundage basis, marketing quotas on an acreage-poundage basis as provided in this section shall be in effect for those marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period.

(c) Tobacco having marketing quotas on acreage basis; determination of Secretary of program on acreage-poundage basis; announcement of national marketing quota, acreage allotment and average yield goal; referendum

Whenever, during the first or second marketing year of the three-year period for which marketing quotas on an acreage basis are in effect for any kind of tobacco, including Flue-cured tobacco, the Secretary, in his discretion, determines with respect to that kind of tobacco that acreage-poundage quotas under this section would result in a more effective marketing quota program for that kind of tobacco he shall at the time² the next announcement of the amount of the national marketing quota under section 1312(b) of this title determine and announce the amount of the national quota for that kind of tobacco under this section and at the same time announce the national acreage allotment and national average yield goal and within forty-five days thereafter conduct a special referendum of farmers engaged in the production of the kind of tobacco of the most recent crop to determine whether they favor the establishment of marketing quotas on an acreage-poundage basis as provided in this section for the next three marketing years: *Provided, however*, That the Secretary shall not make any such determination with respect to any kind of tobacco except Flue-cured tobacco unless prior thereto he shall conduct public hearings in the areas where such tobacco is produced for the purpose of ascertaining and taking into consideration the attitudes of producers and other interested persons with respect to acreage-poundage quotas. If the Secretary determines that more than 66⅔ per centum of the farmers voting in the special referendum approve marketing quotas on an acreage-poundage basis as provided in this section, quotas on that basis shall be in effect for the next three marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on an acreage-poundage basis are not approved by more than 66⅔ per centum of the farmers voting in such referendum, the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under section 1312(a) of this title.

(d) Proclamation of national marketing quota for three years following last year of three years of acreage-poundage quotas; referendum; notice of farm marketing quota to farm operators

If marketing quotas have been made effective for a kind of tobacco on an acreage-poundage basis pursuant to subsections (b) or (c) of this section the Secretary shall, not later than De-

² So in original.

ember 15 of any marketing year with respect to Flue-cured tobacco, and March 1 with respect to other kinds of tobacco, proclaim a national marketing quota for that kind of tobacco for the next three succeeding marketing years if the marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect. Notwithstanding the foregoing sentence, the proclamation of the national marketing quota for the 1986 crop of Flue-cured tobacco may be made not later than December 31, 1985. The Secretary, in his discretion, may proclaim the quota on an acreage-poundage basis as provided in this section or on an acreage allotment basis, whichever he determines would result in a more effective marketing quota for that kind of tobacco, and shall conduct a referendum in accordance with the provisions of section 1312(c) of this title. Notwithstanding the foregoing sentence or section 1312(c) of this title, the referendum with respect to national marketing quotas for Flue-cured tobacco for the 1986 through 1988 marketing years may be conducted not later than the earlier of (1) thirty days after any proclamation of the national marketing quota for Flue-cured tobacco for the 1986 marketing year made after January 30, 1986, or (2) March 15, 1986. If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas the results shall be proclaimed and the national marketing quota so proclaimed shall not be in effect. If the Secretary proclaims the quotas on an acreage-poundage basis he shall determine and proclaim at the same time the national marketing quota, national acreage allotment, and national average yield goal for the first year of the three years for which quotas are proclaimed. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by the referendum insofar as practicable shall be mailed to the farm operator prior to the holding of any special referendum under subsection (b) of this section or a referendum on acreage-poundage quotas under this subsection, and at least 15 days prior to the holding of any special referendum under subsection (c) of this section. The Secretary shall determine and announce the national marketing quota, national acreage allotment and national average yield goal for the second and third marketing years of any three-year period for which national marketing quotas on an acreage-poundage basis are in effect on or before the December 15 with respect to Flue-cured tobacco and the March 1 with respect to other kinds of tobacco immediately preceding the beginning of the marketing year to which they apply. Whenever a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of farm acreage allotments and farm marketing quotas under the provisions of this section for the crop and marketing year covered by the determinations. Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Flue-cured tobacco not later than 21 days after April 7, 1986. Any proclamation with respect to the national marketing quota for the 1986 mar-

keting year for Flue-cured tobacco made by the Secretary prior to April 7, 1986, shall become void on April 7, 1986.

(e) Nonestablishment of farm acreage allotment or farm yield for farms without tobacco production for five years; reserve; "new farms" defined; acreage allotment and farm yield basis of new farms

No farm acreage allotment or farm yield shall be established for a farm on which no tobacco was produced or considered produced under applicable provisions of law for the immediately preceding five years. For each marketing year for which acreage-poundage quotas are in effect under this section the Secretary in his discretion may establish a reserve from the national acreage allotment in an amount equivalent to not more than 3 per centum of the national acreage allotment to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which tobacco was not produced or considered produced during the immediately preceding five years (except that not less than two-thirds of such reserve shall be for new farms). The part of the reserve held for apportionment to new farms shall be allotted on the basis of land, labor, and equipment available for the production of tobacco, crop rotation practices, soil and other physical factors affecting the production of tobacco and the past tobacco-producing experience of the farm operator. The farm yield for any farm for which a new farm acreage allotment is established shall be determined on the basis of available productivity data for the land involved and farm yields for similar farms.

(f) Acreage reduction penalties applicable to acreage-poundage programs; farm marketing quota reductions; filing false reports; increases or decreases in acreage allotments and farm yields for other farms of owner displaced by agency acquisition of farms; leases and sales of acreage allotments and farm marketing quotas; ratification of transfers of acreage allotments

Only the provisions of the last two sentences of subsection (g) of section 1313 of this title shall apply with respect to acreage-poundage programs established under this section. The acreage reductions required under the last two sentences shall be in addition to any other adjustments made pursuant to this section, and when acreage reductions are made the farm marketing quota shall be reduced to reflect such reductions. The provisions of the next to the last sentence of such subsection pertaining to the filing of any false report with respect to the acreage of tobacco grown on the farm shall also be applicable to the filing of any false report with respect to the production or marketings of tobacco grown on a farm for which an acreage allotment and a farm yield are established as provided in this section. In establishing acreage allotments and farm yields for other farms owned by the owner displaced by acquisition of his land by any agency, as provided in section 1378 of this title, increases or decreases in such acreage allotments and farm yields as provided in this section shall be made on account of marketings

below or in excess of the farm marketing quota for the farm acquired by the agency. Acreage allotments and farm marketing quotas determined under this section may (except in the case of kinds of tobacco not subject to section 1314b of this title) be leased and sold under the terms and conditions contained in section 1314b of this title, except that (1) the adjustment provided for in the last sentence of subsection (c) of said section shall be based on farm yields rather than normal yields, and (2) any credit for undermarketing or charge for overmarketing shall be attributed to the farm to which transferred. Transfers of acreage allotments for 1965 under section 1314b of this title on the basis of leases executed prior to the effective date of a program for the 1965 crop of Flue-cured tobacco under this section may be approved or ratified by the county committee for the purposes of this section, but the amount of allotment transferred shall be increased or decreased in the same proportion that the allotment of the farm from which it is transferred is increased or decreased under this section.

(g) Marketing penalties

When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 1314 of this title shall apply, except that:

(1) No penalty on excess tobacco shall be due or collected until 103 per centum (120 per centum in the case of Burley tobacco for the first year for which marketing quotas are made effective under this section) of the farm marketing quota for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentage the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota will require a reduction in subsequent farm marketing quotas in accordance with subsection (a)(8) of this section: *Provided, however*, If the Secretary, in his discretion, determines it is desirable to encourage the marketing of grade N₂ tobacco, or any grade of tobacco not eligible for price support, in order to meet the normal demands of export and domestic markets, he may authorize the marketing of such tobacco in a marketing year without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced.

(2) When marketing quotas established under this section are in effect the provisions with respect to penalties contained in the third sentence of section 1314(a) of this title shall be revised to read: "If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota plus the farm yield of the number of acres harvested in excess of the farm acreage allotment and the penalty in respect thereof shall be paid and remitted by the producer."

(3) For the first year a marketing quota program established under the provisions of this section is in effect, the words "normal production" where they appear in the fourth sentence of subsection (a) of section 1314 of this title shall be read "farm yield" and the said fourth sentence shall otherwise be applicable. For the second and succeeding years for which a program established under the provisions of this section is in effect, the provisions of subsection (a)(8) of this section apply when penalties, if any, on carryover tobacco are computed, and the provisions contained in the fourth sentence of section 1314(a) of this title shall not be applicable.

(h) Burley tobacco; acreage-poundage basis: farm acreage allotment and farm marketing quota, adjustments for overmarketing or undermarketing, reductions for violations; acreage and quota additional to national acreage allotment and national marketing quota; acreage basis: acreage allotment, amendment of clause (1) and proviso of section 1315

Notwithstanding any other provision of this section, for any year subsequent to the first year for which marketing quotas are made effective under this section for Burley tobacco—

(1) the farm acreage allotment for Burley tobacco under this section shall not be less than the smallest of (A) the acreage allotment established for the farm for such first year, (B) five-tenths of an acre, or (C) 10 per centum of the cropland; and

(2) the farm marketing quota for Burley tobacco under this section shall not be less than the minimum allotment provided by clause (1) multiplied by the farm yield established for such first year for such farm.

Farm acreage allotments and marketing quotas to which the provisions of (1) and (2) are applicable shall be subject to adjustment for overmarketing or undermarketing or reductions required by subsection (f) of this section. The additional acreage and quotas required under the subsection shall be in addition to the national acreage allotment and national marketing quota.

Whenever the Secretary proclaims a quota on an acreage allotment basis (in lieu of on an acreage poundage basis)—

(A) the minimum acreage allotment for Burley tobacco for any farm shall be determined under the provisions of section 1315 of this title instead of under the preceding provisions of this subsection;

(B) clause (1) of section 1315 of this title shall for such purpose read as follows: "(1) the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis"; and

(C) the proviso of section 1315 of this title shall for such purpose read as follows: "*Provided, however*, That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre below the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis".

(i) Consultations with industry representatives respecting a program for each kind of tobacco, studies of Flue-cured tobacco acreage-poundage program, report and recommendations to congressional committees, upon referendum approval of Flue-cured tobacco acreage-poundage program

If an acreage-poundage program for Flue-cured tobacco is approved by growers voting in the special referendum under subsection (b) of this section, the Secretary shall not later than January 1, 1966—

(1) Consult with representatives of all segments of the tobacco industry, including growers, State farm organizations, and cooperative associations, in meetings held for each kind of tobacco, to receive their recommendations and to determine the need for a similar or modified program for that kind of tobacco.

(2) Conduct a study and report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry on experience with and operation of the program, and make recommendations for any modifications needed to improve the program, including alternatives adapted to the different needs of other kinds of tobacco.

(j) Treatment of falsely identified tobacco for purposes of establishing future farm marketing quotas

Notwithstanding any other provision of this section, if a producer falsely identifies tobacco as having been produced on or marketed from a farm, the quantity of tobacco so falsely identified shall be considered for purposes of establishing future farm marketing quotas, as having been produced on both the farm for which it was identified as having been produced and the farm of actual production, if known, or, as the case may be, shall be considered as actually marketed from the farm.

(k) Forfeiture of allotment and quota

(1) Notwithstanding any other provision of law, any person who, on or after January 1, 1986, owns a farm for which a Flue-cured tobacco acreage allotment or marketing quota is established under this chapter shall, subject to paragraph (2) of this subsection, forfeit such allotment or quota after February 15 of any year immediately following the last year of the three-year period immediately preceding the year for which the determination is being made in which Flue-cured tobacco has not been planted or considered planted on such farm during at least two years out of such three-year period.

(2) The allotment or quota specified in paragraph (1) of this subsection shall be forfeited if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture specified in such paragraph exist. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in section 1314b(g)(1) of this title) in the county involved.

(3) Notice of any determination made by the county committee under paragraph (2) of this subsection shall be mailed, as soon as practicable, to the person involved. If such person is

dissatisfied with such determination, such person may request, within fifteen days after notice of such determination is mailed, a review of such determination by a local review committee under section 1363 of this title.

(l) Determination of Flue-cured tobacco planted acreage

The Secretary shall determine the acreage planted to Flue-cured tobacco on each farm whenever an acreage-poundage program for Flue-cured tobacco is in effect under this section.

(Feb. 16, 1938, ch. 30, title III, §317, as added Apr. 16, 1965, Pub. L. 89-12, §1, 79 Stat. 66; amended June 19, 1970, Pub. L. 91-284, §5, 84 Stat. 314; July 20, 1982, Pub. L. 97-218, title II, §§203, 205(a), 206(b), 96 Stat. 205-207; Nov. 29, 1983, Pub. L. 98-180, title II, §§205(b), 208-210, 97 Stat. 1147-1149; Dec. 13, 1985, Pub. L. 99-182, §4, 99 Stat. 1173; Jan. 30, 1986, Pub. L. 99-241, §1, 100 Stat. 3; Apr. 7, 1986, Pub. L. 99-272, title I, §§1103(b), 1104(c), 1105(a)(1), 100 Stat. 86, 89, 90; Dec. 22, 1987, Pub. L. 100-203, title I, §1112(b), 101 Stat. 1330-8; Oct. 30, 1989, Pub. L. 101-134, §2(a)(2), 103 Stat. 781; Aug. 10, 1993, Pub. L. 103-66, title I, §1106(d)(2), 107 Stat. 323; Nov. 2, 1994, Pub. L. 103-437, §4(a)(5), 108 Stat. 4581.)

AMENDMENTS

1994—Subsec. (i)(2). Pub. L. 103-437 substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry”.

1993—Subsec. (a)(1)(C)(ii). Pub. L. 103-66 substituted “1996” for “1993” and inserted before period at end “, except that, in the case of each of the 1995 and 1996 crops of Flue-cured tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 1314h(a)(2) of this title to exceed 150 percent of the reserve stock level for Flue-cured tobacco.

1989—Subsec. (a)(6)(B). Pub. L. 101-134 substituted “immediately preceding 5 crop years shall be used by the Secretary” for “years 1960 to 1964, inclusive, may be used, as determined by the Secretary”.

1987—Subsec. (a)(2), (4), (6)(A). Pub. L. 100-203, which directed that subsec. (a) “is amended by striking out ‘and at five-year intervals thereafter’ each place it appears in paragraphs (2), (4), and (6)(A)” was executed by striking out “and at five-year intervals thereafter” after “in 1983,” in pars. (2) and (4), and after “in 1983” in par. (6)(A), as the probable intent of Congress.

1986—Subsec. (a)(1). Pub. L. 99-272, §1103(b), designated existing provisions as subpar. (A), substituted “Except as provided in subparagraph (B), ‘national marketing quota’” for “‘National marketing quota’”, and added subpars. (B) and (C).

Subsec. (d). Pub. L. 99-272, §1104(c), inserted provisions relating to the proclamation of the national marketing quota for Flue-cured tobacco not later than 21 days after Apr. 7, 1986, and declaring as void any quota by proclamation prior to that date.

Pub. L. 99-241 inserted provision that the referendum with respect to national marketing quotas for Flue-cured tobacco for 1986 through 1988 marketing years may be conducted not later than the earlier of 30 days after any proclamation of the national marketing quota for Flue-cured tobacco for the 1986 marketing year made after Jan. 30, 1986, or Mar. 15, 1986.

Subsec. (g)(1). Pub. L. 99-272, §1105(a)(1), substituted “103 per centum” for “110 per centum”.

1985—Subsec. (d). Pub. L. 99-182 inserted “Notwithstanding the foregoing sentence, the proclamation of the national marketing quota for the 1986 crop of Flue-

cured tobacco may be made not later than December 31, 1985.”

1983—Subsec. (d). Pub. L. 98-180, §208, substituted “December 15” for “December 1” and “March 1” for “February 1” wherever appearing.

Subsec. (e). Pub. L. 98-180, §209, substituted “3 per centum” for “1 per centum” and “five years (except that not less than two-thirds of such reserve shall be for new farms)” for “five years” and struck out “, and shall not exceed the community average yield” after “similar farms”.

Subsec. (k). Pub. L. 98-180, §205(b), added subsec. (k). Subsec. (l). Pub. L. 98-180, §210, added subsec. (l).

1982—Subsec. (a)(2). Pub. L. 97-218, §203(1), inserted provision that notwithstanding the preceding sentence of this subsection, during 1983 and at five-year intervals thereafter, the national average yield goal for Flue-cured tobacco shall be adjusted by the Secretary to the past five years’ moving national average yield.

Subsec. (a)(4). Pub. L. 97-218, §203(2), inserted provision that notwithstanding the preceding provisions of subsec. (a), in 1983, and at five-year intervals thereafter, farm acreage allotments for Flue-cured tobacco for farms in each county shall be adjusted by the Secretary to reflect the increases or decreases in the past five years’ moving county average yield per acre, as determined by the Secretary on the basis of actual yields of farms in the county or, if not available, on such other data on yields as the Secretary may deem appropriate.

Subsec. (a)(6)(A). Pub. L. 97-218, §203(3), inserted provision that notwithstanding the preceding provisions of this subsection, in 1983 and at five-year intervals thereafter, preliminary farm yields for Flue-cured tobacco farms in each county shall be adjusted by the Secretary by the reciprocal of the factor computed in subsec. (a)(4) to adjust farm acreage allotments to reflect increases or decreases in the past five years’ moving county average yields.

Subsec. (f). Pub. L. 97-218, §205(a), substituted “be leased and sold under the terms and conditions” for “be leased under the terms and conditions” in fifth sentence.

Subsec. (j). Pub. L. 97-218, §206(b), added subsec. (j). 1970—Subsec. (f). Pub. L. 91-284 struck out “Burley tobacco or other” before “kinds of tobacco” in fifth sentence.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1105(a) of Pub. L. 99-272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 205(b) of Pub. L. 98-180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-218 effective July 20, 1982, but not to apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before that date, see section 207 of Pub. L. 97-218, set out as a note under section 1314b of this title.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99-272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99-272, set out as a note under section 1301 of this title.

TOBACCO DEFINITION AND INCREASE OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS TO MEET DEMAND UNAFFECTED BY ACREAGE-POUNDAGE MARKETING QUOTAS AND PRICE SUPPORT PROVISIONS

Section 4 of Pub. L. 89-12 provided that: “Nothing in this Act [enacting this section and amending sections

1313 and 1445 of this title] shall be construed as affecting the authority or responsibility of the Secretary of Agriculture under section 301(b)(15) [section 1301(b)(15) of this title] or section 313(i) [section 1313(i) of this title] of the Agricultural Adjustment Act of 1938 with respect to providing that different types of tobacco shall be treated as different kinds of tobacco, or with respect to increasing allotments or quotas for farms producing certain types of tobacco.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1313, 1316, 1445 of this title.

§ 1314d. Fire-cured, dark air-cured, and Virginia sun-cured tobacco

(a) Sale or lease of acreage allotments and acreage-poundage quotas

Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the tobacco marketing quota or price support programs, (1) may permit the owner and operator of any farm for which a Fire-cured, dark air-cured, or Virginia sun-cured tobacco acreage allotment or acreage-poundage quota is established under this chapter to sell or lease all or any part or the right to all or any part of such allotment or quota to any other owner or operator of a farm for transfer to such farm; and (2) may permit the owner of a farm to transfer all or any part of such allotment or quota to any other farm owned or controlled by him.

(b) Conditions for transfers

Transfers under this section shall be subject to the following conditions: (1) except as provided in section 1379(b) of this title, no allotment or quota shall be transferred to a farm in another county: *Provided*, That in the case of Virginia fire-cured tobacco type 21 and Virginia sun-cured tobacco type 37, any such transfer may be made to a farm in another county in the same State; (2) no transfer other than by annual lease of an allotment or quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders; (3) no sale of a farm allotment or quota from a farm shall be permitted if any sale of allotment or quota to the same farm has been made within the three immediately preceding crop years; and (4) no transfer of allotment or quota shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section.

(c) Transfer of acreage history and marketing quota

The transfer of an allotment or quota under this section shall have the effect of transferring also the acreage history and marketing quota attributable to such allotment or quota and if the transfer is made prior to the determination of the allotment or quota for any year the transfer shall include the right of the owner or operator to have an allotment or quota determined for the farm for such year: *Provided*, That in the case of a transfer by lease the amount of the allotment or quota shall be considered for purposes of determining allotments or quotas after

the expiration of the lease to have been planted on the farm from which such allotment is transferred.

(d) Five-year restriction on new farm allotments or quotas

The land in the farm from which the entire tobacco allotment or quota has been transferred shall not be eligible for a new farm tobacco allotment or quota during the five years following the year in which such transfer is made.

(e) Allotment adjustment

The transfer of an allotment or quota under this section shall be approved acre for acre.

(f) Lease term

Any lease under this section may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions except as otherwise provided in this section as the parties thereto agree.

(g) Acreage transfer maximums

Under the provisions of this section not more than ten acres of allotment may be transferred to any farm: *Provided*, That the total acreage allotted to any farm after such transfer shall not exceed 50 per centum of the acreage of cropland in the farm.

(h) Future allotments; referendum voting eligibility

The lease of any part of a tobacco acreage allotment or acreage-poundage quota under this section determined for a farm shall not affect the allotment or quota for the farm from which such allotment or quota is transferred or the farm to which it is transferred, except with respect to the crop year or years specified in the lease. The amount of the acreage allotment and acreage-poundage quota which is leased from a farm shall be considered for purposes of determining future allotments and quotas to have been planted to tobacco on the farm from which such allotment or quota is leased and the production pursuant to the lease shall not be taken into account in establishing allotments or quotas for subsequent years for the farm to which such allotment is leased. The lessor shall be considered to have been engaged in the production of tobacco for purposes of eligibility to vote in the referendum.

(i) Land utilization agreements; payment adjustments

If the sale or transfer under this section occurs during a period in which the farm is covered, by a conservation reserve contract, cropland conversion agreement, or other similar land utilization agreement the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the transfer is made.

(j) Rules and regulations

The Secretary shall prescribe such regulations and other terms and conditions as he deems necessary for the administration of this section.

(Feb. 16, 1938, ch. 30, title III, § 318, as added July 7, 1967, Pub. L. 90-51, § 1, 81 Stat. 120; amended

July 5, 1968, Pub. L. 90-387, 82 Stat. 293; Oct. 23, 1971, Pub. L. 92-144, 85 Stat. 393; Nov. 29, 1983, Pub. L. 98-180, title II, § 212(a), 97 Stat. 1149; Oct. 28, 1992, Pub. L. 102-566, § 1, 106 Stat. 4269.)

AMENDMENTS

1992—Subsec. (e). Pub. L. 102-566 added subsec. (e) and struck out former subsec. (e) which read as follows: "If the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established for the farm to which the allotment is transferred."

1983—Subsec. (b). Pub. L. 98-180 inserted "except as provided in section 1379(b) of this title," after "(1)".

1971—Subsec. (b)(1). Pub. L. 92-144 inserted proviso referring to Virginia fire-cured tobacco type 21 and Virginia sun-cured tobacco type 37.

1968—Subsec. (b)(2). Pub. L. 90-387 inserted "other than by annual lease" after "no transfer".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314e of this title.

§ 1314e. Farm poundage quotas for certain kinds of tobacco

(a) Proclamations and referenda regarding burley tobacco

Notwithstanding any other provision of law, the Secretary shall, within thirty days following April 14, 1971, proclaim national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, and determine and announce the amount of the marketing quota for burley tobacco for the marketing year beginning October 1, 1971, as provided in this section.

Within thirty days following such proclamation, the Secretary shall conduct a referendum of the farmers engaged in the production of the 1970 crop of burley tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis as provided in this section for the three marketing years beginning October 1, 1971. If the Secretary determines that two-thirds or more of the farmers voting in such referendum approve marketing quotas on a poundage basis, marketing quotas as provided in this section shall be in effect for those three marketing years. If marketing quotas on a poundage basis are not approved by at least two-thirds of the farmers voting in such referendum, no marketing quotas or price support for burley tobacco shall be in effect for the marketing year beginning October 1, 1971. Thereafter, the provisions of section 1312 of this title shall apply: *Provided*, That national marketing quotas for burley tobacco for any marketing year subsequent to the marketing year beginning October 1, 1971, shall be proclaimed as provided in this section.

The Secretary shall determine and announce, not later than the February 1 preceding the second and third marketing years of any three-year period for which marketing quotas on a poundage basis are in effect for burley tobacco under this section, the amount of the national marketing quota for each of such years. If marketing quotas have been made effective on a poundage basis for burley tobacco under this section, the Secretary shall, not later than February 1 of the last year of three consecutive marketing years for which marketing quotas are in effect for burley tobacco under this section, proclaim national marketing quotas for burley tobacco for the next three succeeding marketing years as provided in this section. Notwithstanding the foregoing sentence, the proclamation of national marketing quotas for Burley tobacco for the 1986 through 1988 marketing years may be made not later than March 1, 1986. Within thirty days following such proclamation, the Secretary shall conduct a referendum in accordance with section 1312(c) of this title. If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas, he shall announce the results and no marketing quotas or price support shall be in effect for burley tobacco for the first marketing year of such three-year period. Thereafter, the provisions of section 1312 of this title shall apply: *Provided*, That the national marketing quota and farm marketing quotas shall be determined for burley tobacco as provided in this section. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by any referendum under this section shall, insofar as practicable, be mailed to the farm operator in sufficient time to be received prior to the referendum. Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Burley tobacco not later than 21 days after April 7, 1986, or February 1, 1986, whichever is later. Any proclamation with respect to the national marketing quota for the 1986 marketing year for Burley tobacco made by the Secretary prior to April 7, 1986, shall become void on April 7, 1986.

(b) Proclamations and referenda regarding dark air-cured tobacco and types 22 and 23 fire-cured tobacco

Notwithstanding any other provision of law, the Secretary shall, not later than February 1, 1983, proclaim national marketing quotas for dark air-cured tobacco and for fire-cured tobacco, types 22 and 23 (hereinafter in this section referred to as "fire-cured tobacco") for the three marketing years beginning October 1, 1983, and determine and announce the amount of the marketing quota for dark air-cured and for fire-cured tobacco for the marketing year beginning October 1, 1983, as provided in this section. Within thirty days following such proclamation, the Secretary shall conduct a referendum of the farmers engaged in the production of the 1982 crop of each of such kinds of tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the three marketing years be-

ginning October 1, 1983, in lieu of quotas on an acreage basis in effect for the two marketing years beginning October 1, 1983. If the Secretary determines that one-half or more of the farmers voting in such referendum approve marketing quotas on a poundage basis for such kind of tobacco, then marketing quotas as provided in this section shall be in effect for such kind of tobacco for the three marketing years beginning October 1, 1983, and marketing quotas on an acreage basis shall cease to be in effect for such kind of tobacco for the two marketing years beginning on October 1, 1983. If marketing quotas on a poundage basis are not approved for such kind of tobacco by at least one-half of the farmers voting in such referendum, then quotas on an acreage basis shall be in effect for such kind of tobacco for the two marketing years beginning October 1, 1983.

If marketing quotas on an acreage basis are in effect for any such kind of tobacco, if, for a period of not less than three marketing years, a referendum has not been held under this section to determine whether producers of such kind of tobacco favor marketing quotas on a poundage basis for such kind of tobacco, and if the Secretary, after conducting public hearings in the area in which such kind of tobacco is produced, ascertains that producers and other interested persons favor marketing quotas on a poundage basis for such kind of tobacco, then the Secretary shall, at the time of the next announcement of the amount of the national marketing quota, announce national marketing quotas for the next three succeeding marketing years under this section. Within thirty days of such proclamation, the Secretary shall conduct a referendum of farmers engaged in the production of the most recent crop of such kind of tobacco to determine whether they favor the establishment of marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the next three succeeding marketing years. If the Secretary determines that more than one-half of the farmers voting in such referendum approve marketing quotas on a poundage basis under this section, then quotas on that basis shall be in effect for the next three succeeding marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on a poundage basis are not approved by more than one-half of the farmers voting in such referendum, then the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under this chapter.

The Secretary shall determine and announce, not later than the March 1 preceding the second and third marketing years of any three-year period for which marketing quotas on a poundage basis are in effect for any such kind of tobacco under this section, the amount of the national marketing quota for such kind of tobacco for each of such years. If marketing quotas on a poundage basis have been made effective for such kind of tobacco under this section, then the Secretary shall, not later than March 1 of the last of three consecutive marketing years for which marketing quotas are in effect for such kind of tobacco under this section, proclaim a national marketing quota for such kind of to-

bacco for the next three succeeding marketing years as provided in this section. The Secretary shall conduct extensive hearings in the area in which such kind of tobacco is produced to ascertain whether producers favor marketing quotas on an acreage basis or on a poundage basis and shall proclaim the quota on the basis he determines most producers of such kind of tobacco favor. Within thirty days following such proclamation, the Secretary shall conduct a referendum in accordance with section 1312(c) of this title. If more than one-half of the farmers voting in such referendum oppose the national marketing quotas, then the Secretary shall announce the results and no marketing quotas or price support shall be in effect for such kind of tobacco and the national marketing quota so proclaimed shall not be in effect for the next three succeeding marketing years. Thereafter the provisions of section 1312 of this title shall apply: *Provided*, That the national marketing quota and farm marketing quotas for such kind of tobacco shall be determined for such kind of tobacco as provided in this section.

(c) Amount of national marketing quota, determination; national reserve, establishment

(1) Except as provided in paragraph (3), the national marketing quota determined under this section for any kind of tobacco for which poundage quotas may be established for any marketing year shall be the amount of such kind of tobacco produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level.

(2) For each marketing year for which marketing quotas are in effect for a kind of tobacco under this section, the Secretary in his discretion may establish a reserve with respect to such kind of tobacco (hereinafter referred to as the "national reserve") from the national marketing quota for such kind of tobacco in an amount not in excess of 1 per centum of such national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established).

(3)(A) For the 1986 and each subsequent crop of Burley tobacco, the national marketing quota for any marketing year shall be the quantity of Burley tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

(i) the aggregate of the quantities of Burley tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 1314g of this title;

(ii) the average annual quantity of Burley tobacco exported from the United States during the 3 marketing years immediately preced-

ing the marketing year for which the determination is being made; and

(iii) the quantity, if any, of Burley tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventories of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco to establish or maintain such inventories, in the aggregate, at the reserve stock level for Burley tobacco.

(B) In determining the quantity of Burley tobacco necessary to establish or maintain the inventories of the producer associations at the reserve stock level under subparagraph (A)(iii)—

(i) the Secretary shall provide for initially attaining the reserve stock level over a period of 5 years; and

(ii) any downward adjustment in such inventories of Burley tobacco may not exceed the greater of—

(I) 35,000,000 pounds; or

(II) 50 percent of the quantity by which—

(aa) the total inventories of Burley tobacco of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco; exceed

(bb) the reserve stock level for Burley tobacco.

(C) Notwithstanding any other provision of law—

(i) the national marketing quota for Burley tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

(ii) the national marketing quota for Burley tobacco for each of the 1990 through 1996 marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year, except that, in the case of each of the 1995 and 1996 crops of Burley tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 1314h(a)(2) of this title to exceed 150 percent of the reserve stock level for Burley tobacco.

(d) Farm yields; determination; limitation

When a national marketing quota is first proclaimed for a kind of tobacco under this section, the Secretary shall through local committees determine a farm yield for each farm for which an acreage allotment for such kind of tobacco was established for the marketing year beginning October 1, 1970, in the case of burley tobacco, and for the previous marketing year, in the case of dark air-cured tobacco and fire-cured tobacco. Such yield shall be determined by averaging the yield per acre for the four highest

years of the five consecutive years beginning with the 1966 crop year, in the case of burley tobacco, and the immediately preceding 5 crop years, in the case of dark air-cured tobacco and fire-cured tobacco: *Provided*, That if the kind of tobacco involved was produced on the farm in fewer than five of such years, the farm yield shall be the simple average of the yields obtained in the years during such period that such kind of tobacco was produced on the farm: *Provided further*, That if no such kind of tobacco was produced on the farm but the farm was considered as having planted such kind of tobacco during the immediately preceding five years, the farm yield will be appraised on the basis of the yields established for similar farms in the area on which such kind of tobacco was produced during such five-year period: *And provided further*, That the farm yield established for any farm shall not exceed three thousand five hundred pounds per acre, in the case of burley tobacco, and three thousand pounds per acre, in the case of dark air-cured tobacco and fire-cured tobacco: *And provided further*, That, when a marketing quota program for dark air-cured tobacco or for fire-cured tobacco is first established under this section, farm yields so determined with respect to dark air-cured tobacco or fire-cured tobacco, as the case may be, shall be adjusted proportionately so that the weighted average of such farm yields is equal to the national average yield goal for dark air-cured tobacco or fire-cured tobacco, as the case may be.

(e) Farm marketing quotas; preliminary quotas, determination, limitation; succeeding years, quota computation, limitations, increase and reduction of quotas; new farms, limitation

A preliminary farm marketing quota shall be determined for each farm for which a burley tobacco acreage allotment was established for the marketing year beginning October 1, 1970, by multiplying the farm yield determined under subsection (d) of this section by the farm acreage allotment (prior to any reduction for violation of regulations issued pursuant to the chapter) established for such farm for the marketing year beginning October 1, 1970. A preliminary farm marketing quota shall be determined for each farm for which a dark air-cured tobacco or fire-cured tobacco acreage allotment was established for the previous marketing year, by multiplying the farm yield determined under such subsection by the farm acreage allotment (prior to any such reduction) established for such farm for the previous marketing year. For each farm for which such a preliminary farm marketing quota is determined, a farm marketing quota for the first year shall be determined by multiplying the preliminary farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of all preliminary farm marketing quotas as determined under this subsection: *Provided*, That such national factor shall not be less than 95 per centum.

The farm marketing quota for each succeeding year shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national market-

ing quota determined under subsection (c) of this section (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which marketing quotas for the kind of tobacco involved will be determined for such succeeding marketing year: *Provided*, That, except in the case of Burley tobacco, such national factor shall not be less than 90 per centum: *Provided further*, That for the marketing years beginning October 1, 1972, and October 1, 1973, the farm marketing quota for any farm shall not be less than the smaller of (1) one-half acre times the farm yield times one-half the sum of the figure one and the national factor for the current year, or (2) the farm marketing quota for the immediately preceding marketing year times one-half the sum of the figure one and the national factor for the current year. The farm marketing quota so computed for any farm for any year shall be increased by the number of pounds by which marketings from the farm during the immediately preceding year were less than the farm marketing quota (after adjustments): *Provided*, That any such increase shall not exceed the amount of the farm marketing quota (including leased pounds) for the immediately preceding marketing year prior to any increase for undermarketings or decrease for overmarketings. The farm marketing quota so computed for each farm for any year shall be reduced by the number of pounds by which marketing from the farm during the immediately preceding year exceeded the farm marketing quota (after adjustments): *Provided*, That if, on account of excess marketings in the preceding year, the farm marketing quota is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made in subsequent marketing years.

The farm marketing quota for a new farm shall be the number of pounds determined by the county committee with approval of the State committee to be fair and reasonable for the farm on the basis of the past experience of the farm operator with respect to the kind of tobacco involved: the land, labor, and equipment available for the production of such kind of tobacco; crop rotation practices, and the soil and other physical factors affecting the production of such kind of tobacco: *Provided*, That the farm marketing quota for any such new farm shall not exceed 50 per centum of the average of the farm marketing quotas for similar farms for which farm marketing quotas are otherwise established: *Provided further*, That the number of pounds allocated to all new farms shall not exceed that portion of the national reserve provided by the Secretary for establishing quotas for new farms.

(f) Reductions for false information

When a poundage program is in effect for any kind of tobacco under this section, the farm marketing quota next established for any farm shall be reduced by the amount of such kind of tobacco produced on any farm (1) which is marketed as having been produced on a different farm; (2) for which proof of disposition is not furnished as required by the Secretary; and (3) as to which any producer on the farm files, or

aids or acquiesces in the filing of, any false report with respect to the production or marketings of tobacco: *Provided*, That if the Secretary through the local committee finds that no person connected with such farm caused, aided, or acquiesced in any such irregularity, the next established farm marketing quota shall not be reduced under this subsection. The reductions required under this subsection shall be in addition to any other adjustments made pursuant to this section.

(g) Leases and transfers of farm quotas; limitations

(1) When a poundage program is in effect for any kind of tobacco under this section, farm marketing quotas (after adjustments) for such kind of tobacco may be leased and transferred to other farms in the same county under the terms and conditions contained in section 1314d of this title: *Provided*, That such leases and transfers shall be on a pound for pound basis: *Provided further*, That any adjustment for undermarketings or overmarketings shall be attributed to the farm to which leased and transferred: *Provided further*, That not more than thirty thousand pounds of Burley tobacco quota may be leased and transferred to any farm under this section: *Provided further*, That a lease and transfer of Burley tobacco quota shall not be effective for any crop year unless a record of the transfer is filed with the county committee not later than July 1 of that crop year or, if such record of the transfer is filed with the county committee after July 1, the county committee determines with the concurrence of the State committee that all interested parties agreed to such lease and transfer before July 1 and that the failure to file such record of the transfer did not result from gross negligence on the part of any party to such lease and transfer: *And provided further*, That the marketing quota determined for any farm subsequent to such lease and transfer shall not exceed an amount determined by multiplying the farm yield established under subsection (d) of this section by 50 per centum of the acreage of cropland in the farm.

(2) Effective for the 1991 and subsequent crop years, the Secretary may, during any one year, and subject to such rules as the Secretary deems appropriate, permit the sale of a burley tobacco quota from one farm to another farm in the same county if the buyer, who is an active burley tobacco producer, is not buying an amount larger than 30 percent of the existing quota for the buyer's farm, or 20,000 pounds whichever is greater. For purposes of this subsection, the term "active burley tobacco producer" means any person who shared in the risk of producing a crop of burley tobacco in not less than one of the three years preceding the year involved, or any person who certified to the Secretary, in such form and manner as the Secretary shall by regulation prescribe, their intent to become an active burley tobacco producer. A person shall be considered to have shared in the risk of producing a crop of burley tobacco if—

(A) the investment of such person in the production of such crop is not less than 20 percent of the proceeds of the sale of such crop;

(B) the investment of such person's return on such investment is dependent solely on the sale price of such crop; and

(C) such person may not receive any of such return before the sale of such crop.

(3) No sale of burley tobacco quota from a farm shall be permitted, under paragraph (2), if any sale of quota to the same farm has been made within the three immediately preceding crop years. A sale of burley tobacco quota shall not be effective for a crop year unless a record of the sale is filed with the county committee not later than July 1 of the crop year. The marketing quota determined for any farm subsequent to such sale shall not exceed an amount determined by multiplying the farm yield established under subsection (d) of this section by 50 percent of the acreage of cropland in the farm.

(h) Loss of quotas through underplanting

Effective with the marketing year beginning October 1, 1994, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any two of the three years immediately preceding the year for which farm marketing quotas are being established.

(i) Marketing penalties

When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 1314 of this title shall apply, except that:

(1) No penalty on excess tobacco shall be due or collected until 103 per centum of the farm marketing quota (after adjustments) for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentage the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota (after adjustments) will require a reduction in subsequent farm marketing quotas in accordance with subsection (e) of this section: *Provided*, That if the Secretary, in his discretion, determines it is desirable to encourage additional marketings of any grades of the kind of tobacco involved during any marketing year to insure traditional market patterns to meet the normal demands of export and domestic markets, he may authorize the marketing of such grades without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced, and such marketings shall be eligible for price support.

(2) The provisions with respect to penalties contained in the third sentence of section 1314(a) of this title shall be revised to read: "If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota (after adjustments) and the pen-

alty in respect thereof shall be paid and remitted by the producer.”

(3) The provisions contained in the fourth sentence of section 1314(a) of this title shall not be applicable. For the first year a marketing quota program established under the provisions of this section is in effect with respect to burley tobacco, the farm marketing quota determined under the provisions of subsection (e) of this section shall receive a temporary upward adjustment equal to the amount of carryover penalty-free burley tobacco for the farm. For subsequent years, the provisions of subsection (c) of this section shall apply.

(j) Regulations

The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section.

(k) Lease and transfer of burley tobacco quota assigned

(1) Notwithstanding any other provision of this section, the Secretary may permit, after July 1 of any crop year, the lease and transfer of burley tobacco quota assigned to a farm if—

(A) the planted acreage of burley tobacco on the farm to which the quota is assigned is determined by the Secretary to be sufficient to produce the effective farm marketing quota under average conditions; and

(B) the farm’s expected production of burley tobacco is less than 80 percent of the farm’s effective marketing quota as a result of a natural disaster condition.

(2) Any lease and transfer of quota under this subsection may be made to any other farm within the same State in accordance with regulations issued by the Secretary.

(l) Lease and transfer of burley tobacco quotas in Tennessee and Virginia

Notwithstanding any other provision of this section, the Secretary may permit the lease and transfer of a burley tobacco quota from one farm in a State to any other farm in the State if a majority of active burley tobacco producers within the State approve such lease and transfer by a state-wide referendum to be conducted by the Secretary. This subsection shall apply only to the States of Tennessee and Virginia.

(Feb. 16, 1938, ch. 30, title III, § 319, as added Apr. 14, 1971, Pub. L. 92-10, § 1, 85 Stat. 23; amended July 20, 1982, Pub. L. 97-218, title III, § 303(b)-(j), 96 Stat. 211-214; July 25, 1983, Pub. L. 98-59, § 2, 97 Stat. 296; Nov. 29, 1983, Pub. L. 98-180, title II, § 211, 97 Stat. 1149; Jan. 30, 1986, Pub. L. 99-241, § 2, 100 Stat. 3; Apr. 7, 1986, Pub. L. 99-272, title I, §§ 1103(c), 1104(b), (d), 1105(a)(2), 1107, 100 Stat. 86, 89-91; Aug. 11, 1988, Pub. L. 100-387, title III, § 304(a)(1), 102 Stat. 948; Oct. 30, 1989, Pub. L. 101-134, § 2(a)(1), 103 Stat. 781; Nov. 15, 1990, Pub. L. 101-577, § 2(a), (b), (d), (e), 104 Stat. 2856, 2857; Dec. 13, 1991, Pub. L. 102-237, title I, § 116(1), 105 Stat. 1840; Aug. 10, 1993, Pub. L. 103-66, title I, § 1106(d)(1), 107 Stat. 323.)

REFERENCES IN TEXT

The chapter, referred to in subsection (e), was in the original “the Act” meaning act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, known as the Agricultural Ad-

justment Act of 1938, which is classified principally to this chapter (§ 1281 et seq.).

AMENDMENTS

1993—Subsec. (c)(3)(C)(ii). Pub. L. 103-66 substituted “1996” for “1993” and inserted before period at end “, except that, in the case of the 1995 and 1996 crops of Burley tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 1314h(a)(2) of this title to exceed 150 percent of the reserve stock level for Burley tobacco”.

1991—Subsec. (l). Pub. L. 102-237 inserted “in a State” after “one farm”, struck out “of Tennessee” after “in the State”, and inserted at end “This subsection shall apply only to the States of Tennessee and Virginia.”

1990—Subsec. (g). Pub. L. 101-577, § 2(a), designated existing provisions as par. (1) and added pars. (2) and (3).

Pub. L. 101-577, § 2(d), substituted “thirty thousand pounds” for “fifteen thousand pounds”.

Subsec. (h). Pub. L. 101-577, § 2(b), substituted “1994” for “1976” and “two of the three” for “of the five”.

Subsec. (l). Pub. L. 101-577, § 2(e), added subsec. (l).

1989—Subsec. (d). Pub. L. 101-134, § 2(a)(1)(A), substituted “for the previous marketing year” for “October 1, 1982” and “immediately preceding 5 crop years” for “1978 crop year”.

Subsec. (e). Pub. L. 101-134, § 2(a)(1)(B), substituted “previous marketing year” for “October 1, 1982” wherever appearing in second sentence.

1988—Subsec. (k). Pub. L. 100-387 added subsec. (k).

1986—Subsec. (a). Pub. L. 99-272, § 1104(d), inserted provisions in third par. relating to the proclamation of the national marketing quota for Burley tobacco not later than 21 days after Apr. 7, 1986, or Feb. 1, 1986, whichever is later, and declaring as void any quota by proclamation prior to that date.

Pub. L. 99-241 inserted in third par. provision that the proclamation of national marketing quotas for Burley tobacco for the 1986 through 1988 marketing years may be made not later than Mar. 1, 1986.

Subsec. (b). Pub. L. 99-272, § 1104(b), which directed the substitution of “March 1” for “February 1” wherever appearing in the fourth paragraph, was executed by making the substitution in the third paragraph, as the probable intent of Congress.

Subsec. (c). Pub. L. 99-272, § 1103(c)(1), designated existing provisions as pars. (1) and (2), and in par. (1) as so designated, substituted “Except as provided in paragraph (3), the” for “The”, struck out “With respect to burley tobacco, any such downward adjustment shall not exceed 10 per centum of such estimated utilization and exports.”, and added par. (3).

Subsec. (e). Pub. L. 99-272, § 1103(c)(2), inserted in second par. “, except in the case of Burley tobacco,” after “Provided, That”.

Subsec. (g). Pub. L. 99-272, § 1107, inserted provisions relating to filing of record of transfer after July 1 with the concurrence of the State committee that all parties agreed to such lease and transfer before July 1, and that failure to file did not result from gross negligence.

Subsec. (i)(1). Pub. L. 99-272, § 1105(a)(2), substituted “103 per centum” for “110 per centum”.

1983—Subsec. (c). Pub. L. 98-59, § 2(1), substituted “10 per centum” for “5 per centum” after “downward adjustment shall not exceed”.

Subsec. (e). Pub. L. 98-59, § 2(2), substituted in second par. “90 per centum” for “95 per centum” after “Provided, That such national factor shall not be less than”.

Subsec. (g). Pub. L. 98-180 substituted provisos that not more than fifteen thousand pounds of Burley tobacco quota be leased and transferred to any farm under this section and that a lease or transfer of Burley tobacco quota not be effective for any crop year unless a record of the transfer is filed with the county committee not later than July 1 of that crop year for proviso that not more than thirty thousand pounds of burley tobacco be leased and transferred to any farm under this section.

1982—Subsec. (a). Pub. L. 97-218, §303(b), transferred former provisions of subsec. (b) into subsec. (a), as unlettered third paragraph of subsec. (a), and, in that paragraph, substituted “shall be in effect for burley tobacco” for “shall be in effect for such kind of tobacco” in fourth sentence thereof, inserted “for burley tobacco” before “under this section” wherever appearing in first and second sentences thereof, and before “as provided in this section” in second proviso.

Subsec. (b). Pub. L. 97-218, §303(c), added subsec. (b). Former subsec. (b) was transferred into subsec. (a) as an unlettered paragraph and amended.

Subsec. (c). Pub. L. 97-218, §303(d), substituted “The national marketing quota determined under this section for any kind of tobacco for which poundage quotas may be established for any marketing year shall be the amount of such kind of tobacco produced” for “The national marketing quota determined under this section for burley tobacco for any marketing year shall be the amount produced”, substituted “With respect to burley tobacco, any such downward adjustment” for “Any such downward adjustment”, substituted “marketing quotas are in effect for a kind of tobacco under this section” for “marketing quotas are in effect under this section”, and substituted “from the national marketing quota for such kind of tobacco in an amount not in excess of 1 per centum of such national marketing quota” for “from the national marketing quota in an amount not in excess of 1 per centum of the national marketing quota”.

Subsec. (d). Pub. L. 97-218, §303(e), substituted “first proclaimed for a kind of tobacco under this section” for “first proclaimed under this section”, substituted “for which an acreage allotment for such kind of tobacco was established” for “for which a burley tobacco acreage allotment was established”, inserted “, in the case of burley tobacco, and October 1, 1982, in the case of dark air-cured tobacco and fire-cured tobacco” following “beginning October 1, 1970”, substituted “the 1966 crop year, in the case of burley tobacco, and the 1978 crop year, in the case of dark air-cured tobacco and fire-cured tobacco” for “the 1966 crop year”, substituted “Provided, That if the kind of tobacco involved was produced” for “Provided, That if burley tobacco was produced”, substituted “such kind of tobacco” for “burley tobacco” wherever appearing in the remainder of the first proviso and in the second proviso, in the third proviso substituted “And provided further, That the farm yield established for any farm shall not exceed three thousand five hundred pounds per acre, in the case of burley tobacco, and three thousand pounds per acre, in the case of dark air-cured tobacco and fire-cured tobacco:” for “And provided further, That the farm yield established for any farm shall not exceed three thousand five hundred pounds per acre”, and inserted fourth proviso.

Subsec. (e). Pub. L. 97-218, §303(f), inserted provision regarding the determination of preliminary farm marketing quotas for each farm for which a dark air-cured tobacco or fire-cured tobacco acreage allotment was established for the marketing year beginning October 1, 1982, in fourth sentence substituted “for all farms for which marketing quotas for the kind of tobacco involved will be determined” for “for all farms for which burley tobacco marketing quotas will be determined”, and in seventh sentence substituted “experience of the farm operator with respect to the kind of tobacco involved; the land, labor, and equipment available for the production of such kind of tobacco; crop rotation practices, and the soil and other physical factors affecting the production of such kind of tobacco” for “burley tobacco experience of the farm operator; the land, labor, and equipment available for the production of burley tobacco; crop rotation practices, and the soil and other physical factors affecting the production of burley tobacco”.

Subsec. (f). Pub. L. 97-218, §303(g), substituted “When a poundage program is in effect for any kind of tobacco under this section, the farm marketing quota next established for any farm shall be reduced by the amount

of such kind of tobacco” for “When a poundage program is in effect under this section, the farm marketing quota next established for any farm shall be reduced by the amount of burley tobacco”.

Subsec. (g). Pub. L. 97-218, §303(h), substituted “When a poundage program is in effect for any kind of tobacco under this section, farm marketing quotas (after adjustments) for such kind of tobacco” for “When a poundage program is in effect under this section, farm marketing quotas (after adjustments) for burley tobacco”, and substituted “Provided further, That not more than thirty thousand pounds may be leased and transferred to any farm under this section with respect to burley tobacco” for “Provided further, That not more than fifteen thousand pounds may be leased and transferred to any farm under this section”.

Subsec. (i)(1). Pub. L. 97-218, §303(i)(1), substituted “to encourage additional marketings of any grades of the kind of tobacco involved” for “to encourage additional marketings of any grades of burley tobacco” in proviso.

Subsec. (i)(3). Pub. L. 97-218, §303(i)(2), substituted “is in effect with respect to burley tobacco” for “is in effect”.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1105(a) of Pub. L. 99-272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

Section 1107 of Pub. L. 99-272 provided that the amendment made by that section is effective with respect to 1985 and subsequent crops of Burley tobacco.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 211 of Pub. L. 98-180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

BURLEY TOBACCO QUOTA ADJUSTMENT

Section 304(b) of Pub. L. 100-387 provided that: “Notwithstanding any other provision of law, if a producer has produced burley tobacco in 1988 in an amount less than the producer’s farm marketing quota for 1988 due to natural disaster, the Secretary may adjust the producer’s burley tobacco farm marketing quota for the 1989 crop, as established under section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314(e) [7 U.S.C. 1314e]), by adding the accumulated undermarketings of the basic quota for 1988 crop, including undermarketings of leased quota, to the producer’s basic quota for the 1989 crop, except that such adjustment may not exceed 125 percent of the producer’s basic quota.”

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99-272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99-272, set out as a note under section 1301 of this title.

BURLEY TOBACCO MARKETING YEARS 1971, 1972, AND 1973

Action of Secretary under section 1312 of this title for burley tobacco for marketing years 1971, 1972, and 1973, prior to Apr. 14, 1971, without any effect, see section 4 of Pub. L. 92-10, set out as a note under section 1312 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1301, 1378, 1445 of this title.

§ 1314f. Nonquota tobacco subject to quota

(a) Notwithstanding any other provision of law, effective with respect to the 1982 and subse-

quent crops of tobacco, any kind of tobacco for which marketing quotas are not in effect that is produced in an area where marketing quotas are in effect for any kind of tobacco shall be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that area. If marketing quotas are in effect in an area for more than one kind of quota tobacco, nonquota tobacco produced in the area shall be subject to the quota for the kind of quota tobacco produced in the area having the highest price support under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.].

(b) Subsection (a) of this section shall not apply to—

(1) Maryland (type 32) tobacco when it is nonquota tobacco and produced in a quota area on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for such kind of tobacco were last in effect;

(2) cigar-filler (type 41) tobacco when it is nonquota tobacco and produced in Pennsylvania;

(3) cigar-wrapper (type 61) tobacco when it is nonquota tobacco and produced in Connecticut and Massachusetts, and cigar-wrapper (type 62) tobacco when it is nonquota tobacco and produced in Georgia and Florida;

(4) tobacco produced in a quota area that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and identification of tobacco; and

(5) tobacco when it is nonquota tobacco and produced in a quota area in which the total of the acreage allotments for quota tobacco established for farms is less than twenty acres. Notwithstanding the provisions of section 1312(c) of this title, producers of such nonquota tobacco shall not be eligible to vote in the first referendum for such nonquota tobacco conducted by the Secretary under such section after July 20, 1982.

(Feb. 16, 1938, ch. 30, title III, §320, as added Sept. 3, 1974, Pub. L. 93-411, 88 Stat. 1089; amended Nov. 4, 1978, Pub. L. 95-592, §17, 92 Stat. 2534; Dec. 22, 1981, Pub. L. 97-98, title XI, §1108, 95 Stat. 1266; July 20, 1982, Pub. L. 97-218, title II, §204, 96 Stat. 206.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1982—Subsec. (b)(5). Pub. L. 97-218 added par. (5).

1981—Pub. L. 97-98 designated existing provision as subsec. (a), provided that application of this section be to the 1982 and subsequent crops instead of crops beginning with the 1975 crop, substituted provision that any kind of tobacco grown in an area where marketing quotas are in effect be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that area for provision that any tobacco produced in an area where producers who are engaged in the produc-

tion of a kind of tobacco traditionally produced in the area have approved marketing quotas be subject to the quota for the kind of tobacco traditionally produced in the area, and struck out provisions exempting nonquota tobacco from this section if the Secretary or designee finds that such nonquota tobacco is readily and distinguishably different from any kind of tobacco produced under quota and providing that no marketing quota penalty be assessed as a result of the marketing of 1975 crop Maryland tobacco (Type 32) which is determined to be Burley tobacco (Type 31), and added subsec. (b).

1978—Pub. L. 95-592 inserted provision relating to nonassessment of marketing quota penalties as a result of marketing of 1975 crop Maryland tobacco (Type 32) which was determined to be Burley tobacco (Type 31) under provisions of this section.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-218 effective July 20, 1982, but not to apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before that date, see section 207 of Pub. L. 97-218, set out as a note under section 1314b of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 1108 of Pub. L. 97-98 provided that the amendment made by that section is effective beginning with the 1982 crop of tobacco.

§ 1314g. Submission of purchase intentions by cigarette manufacturers

(a) Quantity of intended purchases; aggregation not to allow identification

(1) Not later than December 1 of any marketing year with respect to Flue-cured tobacco (or, in the case of the 1986 crop, 14 days after April 7, 1986) and January 15 of any marketing year with respect to Burley tobacco (or, in the case of the 1986 crop, 14 days after April 7, 1986, or January 15, 1986, whichever is later), each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured tobacco and Burley tobacco (for which a national marketing quota is in effect or for which the Secretary has proclaimed a national marketing quota for the next succeeding marketing year) that the manufacturer intends to purchase, directly or indirectly, on the United States auction markets or from producers during the next succeeding marketing year (hereafter in this section referred to as the "quantity of intended purchases").

(2) The Secretary shall aggregate the quantities of intended purchases in a manner that will not allow the identification of the quantity of intended purchases of any manufacturer.

(b) Failure to submit; determination of quantity of intended purchases by Secretary

If any domestic manufacturer of cigarettes fails to submit to the Secretary a statement of the quantity of intended purchases of the manufacturer, as required by this section, the Secretary shall establish the quantity of intended purchases to be attributed to such manufacturer for purposes of this chapter, based on—

(1) the quantity of intended purchases submitted by such manufacturer under this section for the marketing year immediately preceding the marketing year for which the determination is being made; or

(2) if such manufacturer did not submit a statement of the quantity of intended pur-

chases of the manufacturer for the marketing year immediately preceding the marketing year for which the determination is being made, the most recent information available to the Secretary.

(c) Confidentiality of information; disclosure; publication of identity of violators; penalties

(1) All information relating to the quantity of intended purchases that is submitted by domestic manufacturers of cigarettes under this section shall be kept confidential by all officers and employees of the Department of Agriculture.

(2) Such information may only be disclosed by such officers or employees in a suit or administrative hearing—

(A)(i) brought at the direction, or on the request, of the Secretary; or

(ii) to which the Secretary or any officer of the United States is a party; and

(B) involving enforcement of this chapter.

(3) Nothing in this section shall be considered to prohibit the publication, by direction of the Secretary, of the name of any person violating this chapter, together with a statement of the particular provisions of the chapter violated by such person.

(4) Any officer or employee of the Department of Agriculture who violates this subsection, on conviction, shall be—

(A) subject to a fine of not more than \$1,000 or to imprisonment for not more than 1 year, or to both; and

(B) removed from office.

(d) Exemption from public disclosure

Notwithstanding any other provision of law, a statement of the quantity of intended purchases that is submitted under this section shall be exempt from disclosure under section 552 of title 5.

(Feb. 16, 1938, ch. 30, title III, §320A, as added Apr. 7, 1986, Pub. L. 99-272, title I, §1103(d), 100 Stat. 88.)

EFFECTIVE DATE

Section 1103(d) of Pub. L. 99-272 provided that this section is effective for 1986 and each subsequent crop of tobacco.

RULEMAKING PROCEDURES

For implementation of this section by the Secretary of Agriculture without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99-272, set out as a note under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314c, 1314e, 1314h, 1314i, 1445-3 of this title.

§ 1314h. Purchase requirements; penalty

(a) Statement of quantity purchased during marketing year

(1) At the conclusion of each marketing year, on or before a date prescribed by the Secretary, each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured and Burley quota tobacco purchased, directly or indirectly, by such manufacturer during such marketing year.

(2) The statement shall include, but not be limited to, the quantity of each such kind of tobacco purchased by the manufacturer on the United States auction markets, from producers, and from the inventories of tobacco from the 1985 and subsequent crops of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco.

(b) Failure to purchase at least 90 percent of quantity of intended purchases; reduction in quantity of intended purchases

(1) Except as otherwise provided in this subsection, any domestic manufacturer of cigarettes that fails, as determined by the Secretary after notice and opportunity for a hearing, to purchase during a marketing year on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in subsection (a)(2) of this section a quantity of Flue-cured quota tobacco and a quantity of Burley quota tobacco equal to at least 90 percent of the quantity of the intended purchases of Flue-cured tobacco and Burley tobacco, respectively, submitted by such manufacturer or established by the Secretary for such manufacturer for that marketing year under section 1314g of this title (as that quantity may be reduced under paragraph (2)) shall be subject to a penalty as prescribed in subsection (c) of this section.

(2)(A) If the total quantity of Flue-cured or Burley quota tobacco, respectively, marketed by producers at auction in the United States during the marketing year in question is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for that marketing year, the quantity of intended purchases of each domestic manufacturer of cigarettes, for purposes of paragraph (1), shall be reduced by a percentage equal to the percentage by which the total quantity marketed at auction in the United States during the marketing year is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for the marketing year.

(B) For purposes of this section, the term “marketed” shall include disposition of tobacco by consigning the tobacco to a producer association described in subsection (a)(2) of this section for a price support advance.

(c) Penalty for failure to purchase specified amount

The amount of any penalty to be imposed on a manufacturer under this section shall be determined by multiplying—

(1) twice the per pound assessment (as determined under section 1445-1 or 1445-2 of this title) for the kind of tobacco involved; by

(2) the quantity by which—

(A) the purchases by such manufacturer on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in sub-

section (a)(2) of this section of Flue-cured and Burley quota tobacco, respectively, for the marketing year; are less than

(B) 90 percent of the quantity of intended purchases of such kinds of tobacco, respectively, submitted by the manufacturer or established by the Secretary for such manufacturer for that marketing year under section 1314g of this title (as that quantity may be reduced under subsection (b)(2) of this section).

(d) Transmission of penalty by Secretary; deposit in No Net Cost Fund or Account

(1) An amount equivalent to the penalty collected by the Secretary under this section shall be transmitted by the Secretary to the appropriate producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco, as the case may be.

(2) Each association to which amounts are transmitted by the Secretary under this section shall deposit such amounts in the No Net Cost Fund or Account of such association in accordance with section 1445-1 or 1445-2 of this title.

(e) Confidentiality of information submitted; disclosure; publication of identity of violators; exemption from public disclosure; penalties

The limitations on disclosure set forth in subsections (c) and (d) of section 1314g of this title shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to the quantity of purchases of Flue-cured and Burley quota tobacco during a marketing year. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 1314g(c)(4) of this title.

(f) "Quota tobacco" defined

As used in this section, the term "quota tobacco" means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers. (Feb. 16, 1938, ch. 30, title III, § 320B, as added Apr. 7, 1986, Pub. L. 99-272, title I, § 1106(a), 100 Stat. 90.)

EFFECTIVE DATE

Section 1106(a) of Pub. L. 99-272 provided that this section is effective for 1986 and subsequent crops of tobacco.

RULEMAKING PROCEDURES

For implementation of this section by the Secretary of Agriculture without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99-272, set out as a note under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314c, 1314e, 1314i, 1372 of this title.

§ 1314i. Domestic marketing assessment

(a) Certification

A domestic manufacturer of cigarettes shall certify to the Secretary, for each calendar year,

the percentage of the quantity of tobacco used by the manufacturer to produce cigarettes during the year that is produced in the United States.

(b) Penalties

(1) In general

Subject to subsection (f) of this section, a domestic manufacturer of cigarettes that has failed, as determined by the Secretary after notice and opportunity for a hearing, to use in the manufacture of cigarettes during a calendar year a quantity of tobacco grown in the United States that is at least 75 percent of the total quantity of tobacco used by the manufacturer, or to comply with subsection (a) of this section, shall be subject to the requirements of subsections (c), (d), and (e) of this section.

(2) Failure to certify

For purposes of this section, if a manufacturer fails to comply with subsection (a) of this section, the manufacturer shall be presumed to have used only imported tobacco in the manufacture of cigarettes produced by the manufacturer.

(3) Reports and records

(A) In general

The Secretary shall require manufacturers of domestic cigarettes to make such reports and maintain such records as are necessary to carry out this section. If the reports and records are insufficient, the Secretary may request other persons to provide supplemental information.

(B) Examinations

For the purpose of ascertaining the correctness of any report or record required under this section, or of obtaining further information required under this section, the Secretary and the Office of Inspector General may examine such records, books, and other materials as the Secretary has reason to believe may be relevant. In the case of a manufacturer of domestic cigarettes, the Secretary may charge a fee to the manufacturer to cover the reasonable costs of any such examination.

(C) Penalties

Any person who fails to provide information required under this paragraph or who provides false information under this paragraph shall be subject to section 1001 of title 18.

(D) Confidentiality

Section 1314g(c) of this title shall apply to information submitted by manufacturers of domestic cigarettes and other persons under this paragraph.

(E) Disclosure

Notwithstanding any other provision of law, information on the percentage or quantity of domestic or imported tobacco in cigarettes or on the volume of cigarette production that is submitted under this section shall be exempt from disclosure under section 552 of title 5.

(c) Domestic marketing assessment**(1) In general**

A domestic manufacturer of cigarettes described in subsection (b) of this section shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in accordance with this subsection.

(2) Amount

The amount of an assessment imposed on a manufacturer under this subsection shall be determined by multiplying—

(A) the quantity by which the quantity of imported tobacco used by the manufacturer to produce cigarettes during a preceding calendar year exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year; by

(B) the difference between—

(i) $\frac{1}{2}$ of the sum of—

(I) the average price per pound received by domestic producers for Burley tobacco during the preceding calendar year; and

(II) the average price per pound received by domestic producers for Flue-cured tobacco during the preceding calendar year; and

(ii) the average price per pound of unmanufactured imported tobacco during the preceding calendar year, as determined by the Secretary.

(3) Collection

An assessment imposed under this subsection shall be—

(A) collected by the Secretary and transmitted to the Commodity Credit Corporation; and

(B) enforced in the same manner as provided in section 1314h of this title.

(d) Purchase of Burley tobacco**(1) In general**

A domestic manufacturer of cigarettes described in subsection (b) of this section shall purchase from the inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 1314h(a)(2) of this title, at the applicable list price published by the association, the quantity of tobacco described in paragraph (2).

(2) Quantity

Subject to paragraph (3), the quantity of Burley tobacco required to be purchased by a manufacturer during a calendar year under this subsection shall equal $\frac{1}{2}$ of the quantity of imported tobacco used by the manufacturer to produce cigarettes during the preceding calendar year that exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year.

(3) Limitation

If the total quantity of Burley tobacco required to be purchased by all manufacturers under paragraph (2) would reduce the inventories of the producer-owned cooperative mar-

keting associations for Burley tobacco to less than the reserve stock level for Burley tobacco, the Secretary shall reduce the quantity of tobacco required to be purchased by manufacturers under paragraph (2), on a pro rata basis, to ensure that the inventories will not be less than the reserve stock level for Burley tobacco.

(4) Noncompliance

If a manufacturer fails to purchase from the inventories of the producer-owned cooperative marketing associations the quantity of Burley tobacco required under this subsection, the manufacturer shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for Burley tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(5) Purchase requirements

Tobacco purchased by a manufacturer under this subsection shall not be included in determining the quantity of tobacco purchased by the manufacturer under section 1314h of this title.

(e) Purchase of Flue-cured tobacco**(1) In general**

A domestic manufacturer of cigarettes described in subsection (b) of this section shall purchase from the inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 1314h(a)(2) of this title, at the applicable list price published by the association, the quantity of tobacco described in paragraph (2).

(2) Quantity

Subject to paragraph (3), the quantity of Flue-cured tobacco required to be purchased by a manufacturer during a calendar year under this subsection shall equal $\frac{1}{2}$ of the quantity of imported tobacco used by the manufacturer to produce cigarettes during the preceding calendar year that exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year.

(3) Limitation

If the total quantity of Flue-cured tobacco required to be purchased by all manufacturers under paragraph (2) would reduce the inventories of the producer-owned cooperative marketing association for Flue-cured tobacco to less than the reserve stock level for Flue-cured tobacco, the Secretary shall reduce the quantity of tobacco required to be purchased by manufacturers under paragraph (2), on a pro rata basis, to ensure that the inventories will not be less than the reserve stock level for Flue-cured tobacco.

(4) Noncompliance

If a manufacturer fails to purchase from the inventories of the producer-owned cooperative marketing association the quantity of Flue-cured tobacco required under this subsection, the manufacturer shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for Flue-

cured tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(5) Purchase requirements

Tobacco purchased by a manufacturer under this subsection shall not be included in determining the quantity of tobacco purchased by the manufacturer under section 1314h of this title.

(f) Crop losses due to disasters

(1) In general

If the Secretary, in consultation with producer-owned cooperative marketing associations, determines that because of drought, insect or disease infestation, or other natural disaster, or other condition beyond the control of producers, the total quantity of a crop of domestic Burley tobacco or Flue-cured tobacco that is harvested and suitable for marketing is substantially less than the expected yield for the crop, and that pool inventories for the kind of tobacco involved have been depleted, effective for the calendar year following the year in which the crop loss occurs, the Secretary may reduce the minimum percentage of domestic tobacco specified in subsection (a) of this section to a percentage below 75 percent, as determined by the Secretary, that reflects the reduced availability of domestic supplies of the kind of tobacco involved.

(2) Determination of expected yield

For purposes of paragraph (1), the Secretary shall determine the expected yield for a crop of Burley tobacco or Flue-cured tobacco by taking into consideration—

- (A) the total acreage planted to the crop (including acreage that the producers were prevented from planting because of a condition referred to in paragraph (1)); and
- (B) normal farm yields established for the crop.

(3) Deadline for determinations

The Secretary shall make determinations under paragraph (1) about crop losses and announce the reduced percentage of the domestic tobacco pool not later than November 30 of the year in which the applicable crop of Burley tobacco or Flue-cured tobacco is harvested.

(g) Effective date

This section shall be effective only for calendar year 1994.

(Feb. 16, 1938, ch. 30, title III, §320C, as added Aug. 10, 1993, Pub. L. 103-66, title I, §1106(a), 107 Stat. 318; amended Dec. 8, 1994, Pub. L. 103-465, title IV, §422(a), 108 Stat. 4964.)

AMENDMENTS

1994—Subsec. (g). Pub. L. 103-465 added subsec. (g).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 422(e) of Pub. L. 103-465 provided that: "This section [amending this section, section 1445 of this title, and section 1313 of Title 19, Customs Duties, and enacting provisions set out as a note under section 1445 of this title] and the amendments made by this section shall be effective beginning on the effective date of the Presidential proclamation, authorized under section 421

[set out as a note under section 2135 of Title 19], establishing a tariff-rate quota pursuant to Article XXVIII of the GATT 1947 or the GATT 1994 with respect to tobacco."

§ 1315. Burley tobacco acreage allotments

The farm acreage allotment for burley tobacco for any year shall not be less than the smallest of (1) the allotment established for the farm for the immediately preceding year, (2) five-tenths of an acre, or (3) 10 per centum of the cropland: *Provided, however*, That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre in any one year. The additional acreage required under this section shall be in addition to the State acreage allotments and the production on such acreage shall be in addition to the national marketing quota.

(July 12, 1952, ch. 709, 66 Stat. 597; Mar. 31, 1955, ch. 21, §2, 69 Stat. 24.)

CODIFICATION

Section was not enacted as a part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1955—Act Mar. 31, 1955, amended section generally by reducing minimum acreage allotments.

EFFECTIVE DATE OF 1955 AMENDMENT

Act Mar. 31, 1955, provided that the amendment made by that act is effective for the 1956 and subsequent crops of burley tobacco.

ACREAGE ALLOTMENT BASIS OF QUOTA; AMENDMENT OF CLAUSE (1) AND PROVISO

Part of section 317(h) of act Feb. 16, 1938, ch. 30, title III, as added by Pub. L. 89-12, §1, Apr. 16, 1965, 79 Stat. 72, and classified as part of section 1314c(h) of this title, provided that: "Whenever the Secretary proclaims a quota on an acreage allotment basis (in lieu of on an acreage poundage basis)—

"(A) the minimum acreage allotment for Burley tobacco for any farm shall be determined under the provisions of the Act of July 12, 1952, as amended (7 U.S.C. 1315) instead of under the preceding provisions of this subsection [section 1314c(h) of this title];

"(B) clause (1) of the Act of July 12, 1952 [this section], shall for such purpose read as follows: '(1) the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis'; and

"(C) the proviso of that Act [this section] shall for such purpose read as follows: '*Provided, however*, That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre below the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314c of this title.

§ 1316. Transfer of allotments subsequent to 1965

Notwithstanding the provisions of sections 1314b(c) and 1314c(b) of this title, relating to transfer of allotments for years subsequent to 1965, whenever acreage-poundage quotas are in effect for any kind of tobacco as provided in section 1314c of this title, the transfer shall be on a pound for pound basis and the acreage allotment for the transferee farm shall be increased by an amount determined by dividing the num-

ber of pounds transferred by the farm yield for the transferee farm, and the acreage allotment for the transferor farm shall be reduced by an amount determined by dividing the number of pounds transferred by the farm yield for the transferor farm.

(Pub. L. 89-321, title VII, §703, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 91-284, §6, June 19, 1970, 84 Stat. 314; Pub. L. 97-218, title II, §205(b), July 20, 1982, 96 Stat. 206.)

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act of 1938 which comprises this chapter. The first sentence of section 703 of Pub. L. 89-321 amended section 1314b(a) of this title.

AMENDMENTS

1982—Pub. L. 97-218 substituted “transfer” for “lease and transfer”, “transferee” for “lessee”, “transferor” for “lessor”, and “transferred” for “leased”, wherever appearing.

1970—Pub. L. 91-284 struck out “except in the case of burley tobacco, and other kinds of tobacco not subject to section 1314b of this title,” after “any kind of tobacco as provided in section 1314c of this title.”.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-218 effective July 20, 1982, but not to apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before that date, see section 207 of Pub. L. 97-218, set out as a note under section 1314b of this title.

SUBPART II—ACREAGE ALLOTMENTS—CORN

AMENDMENTS

1954—Act Aug. 28, 1954, ch. 1041, title III, §303, 68 Stat. 902, substituted “Acreage Allotments—Corn” for “Marketing Quotas—Corn” in subpart II heading.

§ 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.)

§ 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.

REPEALS

Act Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902, repealed this section insofar as it is applicable to corn. Section has been made applicable to wheat by sections 1330(6) and 1340(6) of this title.

CROSS REFERENCES

Wheat marketing quotas, effect of increased acreage allotments, see section 1334 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1340 of this title.

§§ 1327 to 1329. Omitted

CODIFICATION

Sections provided for establishment of a commercial corn-producing area and corn acreage allotments, which were discontinued. See sections 1329a, 1444a, and 1444b of this title.

Section 1327, acts Feb. 16, 1938, ch. 30, title III, § 327, 52 Stat. 51; Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 903, provided for proclamation of commercial corn-producing area not later than February 1 of each year.

Section 1328, acts Feb. 16, 1938, ch. 30, title III, § 328, 52 Stat. 52; Apr. 7, 1938, ch. 107, § 6, 52 Stat. 202; July 3, 1948, ch. 827, title II, § 207(a), 62 Stat. 1257; Oct. 31, 1949, ch. 792, title IV, § 409(f), 63 Stat. 1057; Aug. 28, 1954, ch. 1041, title III, § 305, 68 Stat. 903, provided for establishment of acreage allotment of corn for each calendar year and proclamation of such acreage allotment not later than February 1 of each year.

Section 1329, acts Feb. 16, 1938, ch. 30, title III, § 329, 52 Stat. 52; Aug. 28, 1954, ch. 1041, title III, § 306, 68 Stat. 903, provided for apportionment of acreage allotment for corn.

§ 1329a. Discontinuance of acreage allotments on corn

Notwithstanding any other provision of law, acreage allotments and a commercial corn-producing area shall not be established for the 1959 and subsequent crops of corn.

(Feb. 16, 1938, ch. 30, title III, § 330, as added Oct. 31, 1949, ch. 792, title I, § 104(b)(1), as added Aug. 28, 1958, Pub. L. 85-835, title II, § 201, 72 Stat. 994.)

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; Sept. 27, 1962, Pub. L. 87-703, title III, §310, 76 Stat. 618.)

AMENDMENTS

1962—Pub. L. 87-703 provided additional findings respecting the addition of wheat to total supply of wheat and effect of such addition on price of wheat and supply and price of livestock and livestock products, the need to prevent the use of acreage diverted from wheat production to produce other commodities in surplus supply and the consequences of a small or large change in the supply of a commodity and the necessity of a cooperative plan to wheat producers to provide for flow of wheat at fair and reasonable prices to farmers and consumers and to prevent diverted acreage from production of wheat from adversely affecting other commodities in interstate and foreign commerce.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF WHEAT

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."

INAPPLICABILITY TO 1986 THROUGH 1990 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."

INAPPLICABILITY TO 1982 THROUGH 1985 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."

INAPPLICABILITY TO 1978 THROUGH 1981 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."

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF
WHEAT

Pub. L. 91-524, title IV, §404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, §1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

§ 1332. National marketing quota

(a) Proclamation; duration of program

Whenever prior to April 15 in any calendar year the Secretary determines that the total supply of wheat in the marketing year beginning in the next succeeding calendar year will, in the absence of a marketing quota program, likely be excessive, the Secretary shall proclaim that a national marketing quota for wheat shall be in effect for such marketing year and for either the following marketing year or the following two marketing years, if the Secretary determines and declares in such proclamation that a two- or three-year marketing quota program is necessary to effectuate the policy of the chapter.

(b) Amount; minimum

If a national marketing quota for wheat has been proclaimed for any marketing year, the Secretary shall determine and proclaim the amount of the national marketing quota for such marketing year not earlier than January 1 or later than April 15 of the calendar year preceding the year in which such marketing year begins. The amount of the national marketing quota for wheat for any marketing year shall be an amount of wheat which the Secretary estimates (i) will be utilized during such marketing year for human consumption in the United States as food, food products, and beverages, composed wholly or partly of wheat, (ii) will be utilized during such marketing year in the United States for seed, (iii) will be exported either in the form of wheat or products thereof, and (iv) will be utilized during such marketing year in the United States as livestock (including poultry) feed, excluding the estimated quantity of wheat which will be utilized for such purpose

as a result of the substitution of wheat for feed grains under section 1339c of this title; less (A) an amount of wheat equal to the estimated imports of wheat into the United States during such marketing year and, (B) if the stocks of wheat owned by the Commodity Credit Corporation are determined by the Secretary to be excessive, an amount of wheat determined by the Secretary to be a desirable reduction in such marketing year in such stocks to achieve the policy of the chapter: *Provided*, That if the Secretary determines that the total stocks of wheat in the Nation are insufficient to assure an adequate carryover for the next succeeding marketing year, the national marketing quota otherwise determined shall be increased by the amount the Secretary determines to be necessary to assure an adequate carryover: *And provided further*, That the national marketing quota for wheat for any marketing year shall be not less than one billion bushels.

(c) National emergencies or material increase in demand; investigation; increase or termination

If, after the proclamation of a national marketing quota for wheat for any marketing year, the Secretary has reason to believe that, because of a national emergency or because of a material increase in the demand for wheat, the national marketing quota should be terminated or the amount thereof increased, he shall cause an immediate investigation to be made to determine whether such action is necessary in order to meet such emergency or increase in the demand for wheat. If, on the basis of such investigation, the Secretary finds that such action is necessary, he shall immediately proclaim such finding and the amount of any such increase found by him to be necessary and thereupon such national marketing quota shall be so increased or terminated. In case any national marketing quota is increased under this subsection, the Secretary shall provide for such increase by increasing acreage allotments established under this subpart by a uniform percentage.

(d) Farm marketing quotas for wheat crops planted in calendar years 1966-1970

Notwithstanding any other provision of this chapter, the Secretary shall proclaim a national marketing quota for the crops of wheat planted for harvest in the calendar years 1966 through 1970, and farm marketing quotas shall not be in effect for such crops of wheat.

(Feb. 16, 1938, ch. 30, title III, §332, 52 Stat. 53; Aug. 28, 1954, ch. 1041, title III, §307, 68 Stat. 903; Sept. 27, 1962, Pub. L. 87-703, title III, §311, 76 Stat. 619; Nov. 3, 1965, Pub. L. 89-321, title V, §501(1), 79 Stat. 1199; Oct. 11, 1968, Pub. L. 90-559, §1(1), 82 Stat. 996; Dec. 23, 1985, Pub. L. 99-198, title III, §302, 99 Stat. 1378.)

AMENDMENTS

1985—Pub. L. 99-198 temporarily substituted "Proclamation of marketing quotas" for "National marketing quota" in section catchline. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (a). Pub. L. 99-198 amended subsec. (a) generally, temporarily substituting provisions defining the terms "base period" and "marketing quota period" for

provisions which authorized the Secretary to proclaim a national marketing quota for wheat for either a two- or three-year period. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (b). Pub. L. 99-198 amended subsec. (b) generally, temporarily substituting provisions authorizing the proclamation of a national marketing quota for each marketing year, not later than June 15, 1986, in an amount which the Secretary determines is required to meet anticipated needs during such marketing year, and the conducting of a marketing quota referendum not later than Aug. 1, 1986 for provisions which had authorized the proclamation of a national marketing quota upon a determination made between Jan. 1 and Apr. 15 of the calendar year preceding the year in which the marketing year began, which determination had to provide a minimum of one billion bushels for any marketing year, and investigation of stocks to adjust for imports and excessive or insufficient amounts generally. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (c). Pub. L. 99-198 amended subsec. (c) generally, temporarily substituting provisions requiring the Secretary to adjust or terminate the national marketing quota in the event of a national emergency or material change in the demand for wheat for provisions which had required the Secretary to cause an immediate investigation to be made to determine whether termination or increase in the quota was necessary in order to meet such emergency or increase in demand, and struck out provisions requiring the Secretary to proclaim such findings and the amount of any increase, with any such increase to be based on a uniform percentage. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (d). Pub. L. 99-198 amended section generally, temporarily striking out subsec. (d) which provided for farm marketing quotas for wheat crops planted in calendar years 1969-1970. See Effective and Termination Dates of 1985 Amendment note below.

1968—Subsec. (d). Pub. L. 90-559 provided for a one year extension through 1970.

1965—Subsec. (b). Pub. L. 89-321 changed item (iv) from the average amount of wheat which was used for livestock feed during 1959-60 to the amount which will be utilized during the marketing year for which the quota is being determined for livestock feed, excluding the estimated quantity of wheat which will be utilized for such purpose as a result of the substitution of wheat for feed grains under section 1339c of this title.

Subsec. (d). Pub. L. 89-321 added subsec. (d).

1962—Pub. L. 87-703 substituted provisions for proclamation of a national marketing quota upon a determination made prior to April 15 in any calendar year, the duration of such a program, the amount of, including the minimum, quota, and investigation of stocks to increase or terminate the quota during national emergencies or material increase in demand for provision for proclamation, not later than May 15 of each calendar year, of a national marketing quota for the crop produced in the next calendar year.

1954—Act Aug. 28, 1954, struck out proclamations relating to supplies, and changed proclamation date from July 15 to May 15.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 302 of Pub. L. 99-198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 501 of Pub. L. 89-321 provided that the amendments made by that section [amending this section and sections 1333, 1334, 1335, and 1339 of this title] are "effective beginning with the crop planted for harvest in the calendar year 1966".

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to crops planted for har-

vest 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 TO 1991 THROUGH 1995 CROPS OF WHEAT

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."

INAPPLICABILITY TO 1986 CROP OF WHEAT

Section 310(a) of Pub. L. 99-198 provided that: "Sections 332, 333, 334, 335, 336, and 338 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1332-1336 and 1338) shall not be applicable to the 1986 crop of wheat."

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS 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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1971 THROUGH 1977 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.

1965 CROP NATIONAL MARKETING QUOTA AND CROP ACREAGE ALLOTMENT

Section 201 of Pub. L. 88-297, title II, Apr. 11, 1964, 78 Stat. 178, directed Secretary to not proclaim a national marketing quota for 1965 crop of wheat and that farm marketing quotas shall not be in effect for such crop of wheat, and required Secretary to proclaim a national acreage allotment for 1965 crop of wheat which shall be the number of acres which he determined would make available an adequate supply of wheat, but not less than forty-nine million five hundred thousand acres.

DEFERRAL OF PROCLAMATION FOR 1963 CROP

Pub. L. 87-485, June 15, 1962, 76 Stat. 103, authorized Secretary of Agriculture to defer until July 15, 1962, any proclamation under this section with respect to a national acreage allotment for 1963 crop of wheat and any proclamation under section 1335 of this title with respect to marketing quotas for such crop of wheat.

Pub. L. 87-450, May 15, 1962, 76 Stat. 69, authorized Secretary of Agriculture to defer until June 15, 1962, any proclamation under this section with respect to a national acreage allotment for 1963 crop of wheat and any proclamation under section 1335 of this title for such crop of wheat.

DEFERRAL OF PROCLAMATION FOR 1960 CROP

Pub. L. 86-27, May 15, 1959, 73 Stat. 25, authorized Secretary of Agriculture to defer until June 1, 1959, any proclamation under this section with respect to a 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; Sept. 27, 1962, Pub. L. 87-703, title III, §312, 76 Stat. 620; Nov. 3, 1965, Pub. L. 89-321, title V, §501(2), 79 Stat. 1199; Dec. 23, 1985, Pub. L. 99-198, title III, §303, 99 Stat. 1379.)

AMENDMENTS

1985—Pub. L. 99-198 amended section generally, temporarily substituting provisions relating to the establishment and determination of a marketing quota apportionment factor for each crop of wheat for which a national marketing quota is proclaimed under section 1332 of this title for provisions relating to the proclamation and determination of a national acreage allotment for each crop of wheat. See Effective and Termination Dates of 1985 Amendment note below.

1965—Pub. L. 89-321 substituted projected national yield for expected yield in the determination of the basis to be used in arriving at the national acreage allotment, inserted limiting parenthetical reference to acreage other than that harvested because of program incentives, and struck out references to expected production on the increases in acreage allotments for farms based upon small-farm base acreages pursuant to section 1335 of this title and to the expected production on the increased acreages resulting from the small-farm exemption pursuant to section 1335 of this title.

1962—Pub. L. 87-703 substituted provision for proclamation of a national acreage allotment at the time of proclamation of the national marketing quota in an amount that would be the number of acres which on the basis of expected yields would, together with the expected production on increases in acreage allotments for small farms and on increased acreages resulting from the small-farm exemption, make available a supply equal to the national marketing quota for provision for determination of the national acreage allotment as such acreage as on the basis of the national average yield would produce an amount, which, with estimated carryover and imports, would make available a supply equal to a normal year's domestic consumption and exports plus 30 per centum and prescribing a national acreage allotment for wheat for 1938 at sixty-two million five hundred thousand acres and for any year at not less than fifty-five million acres.

1948—Act July 3, 1948, required the Secretary to take imports into consideration in determining acreage allotments for the purposes of marketing quotas.

1939—Act July 26, 1939, amended last sentence.

1938—Act June 20, 1938, inserted last sentence.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 303 of Pub. L. 99-198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. 89-321 effective beginning with crop planted for harvest in calendar year 1966, see section 501 of Pub. L. 89-321, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1986 CROP OF WHEAT

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.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS 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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1972 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91-524, title IV, §404(2), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, §1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1972 through 1977 crops of wheat.

1965 CROP ACREAGE ALLOTMENT

Proclamation of a national acreage allotment for 1965 crop of wheat that will make available an adequate supply of wheat but shall not be less than forty-nine million five hundred thousand acres, see section 201 of Pub. L. 88-297, set out as a note under section 1332 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1334. Apportionment of national acreage allotment

(a) Apportionment among States; special acreage reserve

The national allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment as provided in this subsection and less the special acreage reserve provided for in this subsection, shall be apportioned by the Secretary among the States on the basis of the preceding year's allotment for each such State, including all amounts allotted to the State and including for 1967 the increased acreage in the State allotted for 1966 under section 1335 of this title, adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop rotation practices, estimated decrease in farm allot-

ments because of loss of history, and other relevant factors. The reserve acreage set aside herein for apportionment by the Secretary shall be used (1) to make allotments to counties in addition to the county allotments made under subsection (b) of this section, on the basis of the relative needs of counties for additional allotments because of reclamation and other new areas coming into production of wheat, or (2) to increase the allotment for any county, in which wheat is the principal grain crop produced, on the basis of its relative need for such increase if the average ratio of wheat acreage allotment to cropland on old wheat farms in such county is less by at least 20 per centum than such average ratio on old wheat farms in an adjoining county or counties in which wheat is the principal grain crop produced or if there is a definable contiguous area consisting of at least 10 per centum of the cropland acreage in such county in which the average ratio of wheat acreage allotment to cropland on old wheat farms is less by at least 20 per centum than such average ratio on the remaining old wheat farms in such county, provided that such low ratio of wheat acreage allotment to cropland is due to the shift prior to 1951 from wheat to one or more alternative income-producing crops which, because of plant disease or sustained loss of markets, may no longer be produced at a fair profit and there is no other alternative income-producing crop suitable for production in the area or county. The increase in the county allotment under clause (2) of the preceding sentence shall be used to increase allotments for old wheat farms in the affected area to make such allotments comparable with those on similar farms in adjoining areas or counties but the average ratio of increased allotments to cropland on such farms shall not exceed the average ratio of wheat acreage allotment to cropland on old wheat farms in the adjoining areas or counties. There also shall be made available a special acreage reserve of not in excess of one million acres as determined by the Secretary to be desirable for the purposes hereof which shall be in addition to the national acreage reserve provided for in this subsection. Such special acreage reserve shall be made available to the States to make additional allotments to counties on the basis of the relative needs of counties, as determined by the Secretary, for additional allotments to make adjustments in the allotments on old wheat farms (that is, farms on which wheat has been seeded or regarded as seeded to one or more of the three crops immediately preceding the crop for which the allotment is established) on which the ratio of wheat acreage allotment to cropland on the farm is less than one-half the average ratio of wheat acreage allotment to cropland on old wheat farms in the county. Such adjustments shall not provide an allotment for any farm which would result in an allotment-cropland ratio for the farm in excess of one-half of such county average ratio and the total of such adjustments in any county shall not exceed the acreage made available therefor in the county. Such apportionment from the special acreage reserve shall be made only to counties where wheat is a major income-producing crop, only to farms on which there is limited opportunity for

the production of an alternative income-producing crop, and only if an efficient farming operation on the farm requires the allotment of additional acreage from the special acreage reserve. For the purposes of making adjustments hereunder the cropland on the farm shall not include any land developed as cropland subsequent to the 1963 crop year.

(b) Apportionment among counties

The State acreage allotment for wheat, less a reserve of not to exceed 3 per centum thereof for apportionment as provided in subsection (c) of this section, shall be apportioned by the Secretary among the counties in the State, on the basis of the preceding year's wheat allotment in each such county, including for 1967 the increased acreage in the county allotted for 1966 pursuant to section 1335 of this title, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors.

(c) Apportionment among farms; overplanted allotments; reductions; notice

(1) The allotment to the county shall be apportioned by the Secretary, through the local committees, among the farms within the county on the basis of past acreage of wheat, tillable acres, crop-rotation practices, type of soil, and topography. Not more than 3 per centum of the State allotment shall be apportioned to farms on which wheat has not been planted during any of the three marketing years immediately preceding the marketing year in which the allotment is made. For the purpose of establishing farm acreage allotments—(i) the past acreage of wheat on any farm for 1958 or 1965 shall be the base acreage determined for the farm under the regulations issued by the Secretary for determining 1958 or 1965 farm wheat acreage allotments; (ii) if subsequent to the determination of such base acreage the 1958 or 1965 wheat acreage allotment for the farm is increased through administrative, review, or court proceedings, the 1958 or 1965 farm base acreage shall be increased in the same proportion; and (iii) the past acreage of wheat for 1959 and any subsequent year except 1965 shall be the wheat acreage on the farm which is not in excess of the farm wheat acreage allotment, plus, in the case wheat acreage on the farm which is not in excess of wheat acreage allotment, the acreage diverted under such wheat allotment programs: *Provided*, That for 1959 and subsequent years in the case of any farm on which the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty, the past acreage of wheat for the year in which such farm marketing excess is so delivered or stored shall be the farm base acreage of wheat determined for the farm under the regulations issued by the Secretary for determining farm wheat acreage allotments for such year, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion, for the purpose of establishing farm wheat acreage allotments subse-

quent to such depletion the past acreage of wheat for the farm for the year in which the excess was produced shall be reduced to the farm wheat acreage allotment for such year.

(2) Notwithstanding any other provision of law, each old or new farm acreage allotment for the 1962 crop of wheat as determined on the basis of a minimum national acreage allotment of fifty-five million acres shall be reduced by 10 per centum. In the event notices of farm acreage allotments for the 1962 crop of wheat have been mailed to farm operators prior to the effective date of this subparagraph (2), new notices showing the required reduction shall be mailed to farm operators as soon as practicable.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, the past acreage of wheat for 1967 and any subsequent year shall be the acreage of wheat planted, plus the acreage regarded as planted, for harvest as grain on the farm which is not in excess of the farm acreage allotment.

(4) Notwithstanding any other provision of this subsection (c), the farm acreage allotment for the 1967 and any subsequent crop of wheat shall be established for each old farm by apportioning the county wheat acreage allotment among farms in the county on which wheat has been planted, or is considered to have been planted, for harvest as grain in any one of the three years immediately preceding the year for which allotments are determined on the basis of past acreage of wheat and the farm acreage allotment for the year immediately preceding the year for which the allotment is being established, adjusted as hereinafter provided. For purposes of this paragraph, the acreage allotment for the immediately preceding year may be adjusted to reflect established crop-rotation practices, may be adjusted downward to reflect a reduction in the tillable acreage on the farm, and may be adjusted upward to reflect such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable allotment: *Provided*, That (i) for the purposes of computing the allotment for any year, the acreage allotment for the farm for the immediately preceding year shall be decreased by 7 per centum if for the year immediately preceding the year for which such reduction is made neither a voluntary diversion program nor a voluntary certificate program was in effect and there was noncompliance with the farm acreage allotment for such year; (ii) for purposes of clause (i), any farm on which the entire amount of farm marketing excess is delivered to the Secretary, stored, or adjusted to zero in accordance with applicable regulations to avoid or postpone payment of the penalty when farm marketing quotas are in effect, shall be considered in compliance with the allotment, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion, the allotment for such farm next computed after determination of such depletion shall be reduced by reducing the allotment for the immediately preceding year by 7 per centum; and (iii) for purposes of clause (i) if the Secretary determines that the reduction in the allotment does not provide fair and equitable treatment to producers on farms following

special crop rotation practices, he may modify such reduction in the allotment as he determines to be necessary to provide fair and equitable treatment to such producers.

(d) Repealed. Pub. L. 89-321, title V, § 501(6), Nov. 3, 1965, 79 Stat. 1201

(e) Increase in acreage allotments and marketing quotas for class II durum wheat

If, with respect to the 1962 and 1963 crops of wheat, the Secretary determines that the acreage allotments of farms producing durum wheat are inadequate to provide for the production of a sufficient quantity of durum wheat to satisfy the demands therefor (but not including export demand involving a subsidy by, or a loss to, the Federal Government), he shall increase the farm marketing quotas and acreage allotments for such crop of wheat for farms located in counties in the States of North Dakota, Minnesota, Montana, South Dakota, and California, designated by the Secretary as counties which (1) are capable of producing durum wheat (class II), and (2) have produced such wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested. The Secretary shall determine the percentage factor by which the average acreage of durum wheat (class II) produced during the last two-year period for which statistics are available (excluding any increases in durum wheat acreage as a result of increases in wheat acreage allotments authorized by this subsection) must be increased to satisfy such demand. The wheat acreage allotment for any farm established for such crop without regard to this subsection, after reduction in the case of the 1962 crop as required by subsection (c)(2) of this section (hereinafter referred to as the "original allotment"), shall be increased by an acreage computed by multiplying the average acreage of durum wheat (class II) on the farm during such two-year period (excluding any increase in the acreage of durum wheat as a result of an increase in the wheat acreage allotment for the farm authorized by this subsection) by such percentage factor: *Provided*, That such increased allotment shall not exceed the cropland on the farm well suited to wheat. The increase in the wheat acreage allotment for any farm shall be conditioned upon the production of an acreage of durum wheat (class II) at least equal to the average acreage of such wheat produced during such two-year period plus the number of acres by which the allotment is increased. Any increases in wheat acreage allotments authorized by this subsection shall be in addition to the National, State, and county wheat acreage allotments, and such increases shall not be considered in establishing future State, county, and farm allotments. The provisions of sections 1326(b) and 1340(6) of this title, relating to the reduction of the storage amount of wheat shall apply to the allotment for the farm established without regard to this subsection and not to the increased allotment under this subsection. As used in this subsection the term "durum wheat" means durum wheat (class II) other than the varieties known as "Golden Ball" and "Peliss". Any farm receiving an increased allotment under this subsection shall not be required as a

condition of eligibility for price support, or permitted, to participate in the special 1962 wheat program formulated under section 124 of the Agricultural Act of 1961, or section 307 of the Food and Agriculture Act of 1962. The Secretary shall give growers and millers of durum wheat and manufacturers of semolina products an opportunity to present their views and recommendations, prior to making any determination hereunder.

(f) Voluntary surrender of acreage allotment

Any part of any 1955, 1956, or 1957 farm wheat acreage allotment on which wheat will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of wheat tillable acres, crop rotation practices, type of soil, and topography. If all of the allotted acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used for the same purposes as the State acreage reserve under subsection (c) of this section. Any allotment transferred under this provision shall be regarded for the purposes of subsection (c) of this section as having been planted on the farm from which transferred rather than on the farm to which transferred, except that this shall not operate to make the farm from which the allotment was transferred eligible for an allotment as having wheat planted thereon during the three-year base period: *Provided*, That notwithstanding any other provisions of law, any part of any 1955, 1956, or 1957 farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein. Acreage surrendered, reapportioned under this subsection, and planted shall be credited to the State and county in determining future acreage allotments.

(g) Plantings in excess of allotments or where no allotment is established

Notwithstanding any other provision of law, no acreage in the commercial wheat-producing area seeded to wheat for harvest as grain in 1958 or thereafter except 1965 in excess of acreage allotments shall be considered in establishing future State and county acreage allotments. The planting on a farm in the commercial wheat-producing area of wheat of the 1958 or any subsequent crop for which no farm wheat acreage allotment was established shall not make the farm eligible for an allotment as an old farm pursuant to the first sentence of subsection (c) of this section nor shall such farm by reason of such planting be considered ineligible for an allotment as a new farm under the second sentence of such subsection.

(h) Omitted

(i) Increase in acreage allotments for any kind of wheat in short supply; storage reduction and land-use provisions inapplicable to such wheat

If, with respect to any crop of wheat, the Secretary finds that the acreage allotments of

farms producing any type of wheat are inadequate to provide for the production of a sufficient quantity of such type of wheat to satisfy the demand therefor, the wheat acreage allotment for such crop for each farm located in a county designated by the Secretary as a county which (1) is capable of producing such type of wheat, and (2) has produced such type of wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested, shall be increased by such uniform percentage as he deems necessary to provide for such quantity. No increase shall be made under this subsection in the wheat acreage allotment of any farm for any crop if any wheat other than such type of wheat is planted on such farm for such crop. Any increases in wheat acreage allotments authorized by this subsection shall be in addition to the National, State, and county wheat acreage allotments, and such increases shall not be considered in establishing future State, county, and farm allotments. The provisions of sections 1326(b) and 1340(6) of this title, relating to the reduction of the storage amount of wheat shall apply to the allotment for the farm established without regard to this subsection and not to the increased allotment under this subsection. The land-use provisions of section 1339 of this title shall not be applicable to any farm receiving an increased allotment under this subsection and the producers on such farms shall not be required to comply with such provisions as a condition of eligibility for price support.

(j) Increased durum wheat acreage allotments to Tulalake 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 Tulalake 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 Durum¹ wheat. The Secretary shall apportion

¹ So in original. Probably should not be capitalized.

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 Durum¹ wheat on the original allotment and on the increased acreage. The producers on a farm receiving an increased allotment under this subsection shall not be eligible for diversion payments under section 1339 of this title.

(k) Transfer of farm wheat acreage allotments in case of natural disasters

Notwithstanding any other provision of this chapter, if the Secretary determines that because of a natural disaster a portion of the farm wheat acreage allotments in a county cannot be timely planted or replanted, he may authorize the transfer of all or a part of the wheat acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of wheat and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be planted on the farm from which it was transferred for the purposes of acreage history credits under this chapter.

(Feb. 16, 1938, ch. 30, title III, §334, 52 Stat. 53; Apr. 7, 1938, ch. 107, §7, 52 Stat. 203; Feb. 6, 1942, ch. 44, §2, 56 Stat. 52; July 14, 1953, ch. 194, §1, 67 Stat. 151; Jan. 30, 1954, ch. 2, §4, 68 Stat. 6; Aug. 28, 1954, ch. 1041, title III, §308, 68 Stat. 903; Feb. 19, 1955, ch. 8, 69 Stat. 9; Mar. 16, 1956, ch. 86, 70 Stat. 50; May 28, 1956, ch. 327, title III, §301, 70 Stat. 203; Aug. 7, 1956, ch. 1030, §2, 70 Stat. 1117; Apr. 2, 1957, Pub. L. 85-13, 71 Stat. 10; Aug. 28, 1957, Pub. L. 85-203, §2, 71 Stat. 477; Apr. 4, 1958, Pub. L. 85-366, 72 Stat. 78; May 1, 1958, Pub. L. 85-390, 72 Stat. 101; Feb. 16, 1938, ch. 30, title III, §378(d), as added Aug. 28, 1958, Pub. L. 85-835, title V, §501, 72 Stat. 996; Feb. 20, 1960, Pub. L. 86-385, 74 Stat. 4; Apr. 9, 1960, Pub. L. 86-419, 74 Stat. 39; Aug. 8, 1961, Pub. L. 87-128, title I, §§121, 125, 75 Stat. 296, 300; Oct. 4, 1961, Pub. L. 87-357, 75 Stat. 778; Sept. 27, 1962, Pub. L. 87-703, title III, §§308(a), 313, 76 Stat. 618, 620; July 17, 1963, Pub. L. 88-64, 77 Stat. 79; Apr. 11, 1964, Pub. L. 88-297, title II, §202(1)-(5), 78 Stat. 178, 179; Nov. 3, 1965, Pub. L. 89-321, title V, §501(3)-(7), 79 Stat. 1199-1201; Jan. 2, 1968, Pub. L. 90-243, 81 Stat. 781; Mar. 31, 1970, Pub. L. 91-220, 84 Stat. 86; Dec. 23, 1985, Pub. L. 99-198, title III, §304, 99 Stat. 1379.)

REFERENCES IN TEXT

Section 124 of the Agricultural Act of 1961, referred to in subsec. (e), is section 124 of Pub. L. 87-128 which was set out below.

Section 307 of the Food and Agriculture Act of 1962, referred to in subsec. (e), is section 307 of Pub. L. 87-703 which was set out below.

CODIFICATION

For omission of subsec. (h), see 1963 Amendment note below.

AMENDMENTS

1985—Pub. L. 99-198, in amending section generally, temporarily substituted "Farm marketing quotas" for "Apportionment of national acreage allotment" in section catchline. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (a). Pub. L. 99-198 amended subsec. (a) generally, temporarily substituting provisions requiring the Secretary to establish, for each crop of wheat for which a national marketing quota under section 1332 of this title has been proclaimed, a farm marketing quota for each farm on which wheat was planted, or considered planted, for harvest during the base period for provisions which required the Secretary to apportion the national acreage allotment for wheat, less a national acreage reserve and a special reserve which were provided for herein, among the States on the basis of each State's allotment for the preceding year, adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (b). Pub. L. 99-198 amended subsec. (b) generally, temporarily substituting provisions establishing a formula for determination of the farm marketing quota for provisions which required the Secretary to apportion each State's acreage allotment for wheat among the counties of the State, less a reserve not to exceed 3 per centum thereof, on the basis of the preceding year's wheat allotment in each such county, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (c). Pub. L. 99-198 amended subsec. (c) generally, temporarily substituting provisions defining the circumstances under which wheat shall be considered to have been planted for harvest on the farm in any crop year for provisions relating to the apportionment among farms of each county's allotment under this section. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (d). Pub. L. 99-198, in amending section generally, temporarily added subsec. (d).

Subsecs. (e) to (k). Pub. L. 99-198, in amending section generally, temporarily struck out subsecs. (e) to (k) as follows:

Subsec. (e) related to increase in acreage allotments and marketing quotas for class II durum wheat.

Subsec. (f) related to voluntary surrender of acreage allotments for 1955, 1956, and 1957 crops of wheat.

Subsec. (g) related to plantings in excess of allotments or where no allotment was established, in the case of 1958 and subsequent crops of wheat.

Subsec. (h). There is no subsec. (h) for 1964 and subsequent crop years. Subsec. (h) was omitted pursuant to the 1963 amendment to this section by Pub. L. 88-64. See 1963 Amendments note set out under this section.

Subsec. (i) related to an increase in acreage allotments for any kind of wheat in short supply, and enumerated provisions of law inapplicable to such wheat.

Subsec. (j) related to increased durum wheat acreage allotments to the Tulelake area in California for 1970 and subsequent crops of wheat.

Subsec. (k) related to transfer of farm wheat acreage allotments in case of natural disasters. See Effective and Termination Dates of 1985 Amendment note below.

1970—Subsec. (j). Pub. L. 91-220 removed the 1963 deadline on the Secretary's power to increase acreage

allotments, empowering him to do so for the 1970 and subsequent wheat crops, made the area increase for each crop determinable, among other factors, by the extent to which applications are received therefor, removed requirement that acreage planted to wheat pursuant to increased allotments be considered in establishing future state, county and farm acreage allotments except where such consideration may be desirable in providing increased allotments for production of Durum wheat in subsequent years, conditioned wheat acreage allotments upon the production of Durum wheat on the original and increased acreage allotment, prohibited consideration of the increased acreage allotment in computing the farm wheat marketing allocation under section 1379b of this title, made producers on farms receiving increased allotments ineligible for diversion payments under section 1339 of this title, and struck out provisions prohibiting such producers from receiving price support, provisions making land use rules of section 1339 of this title inapplicable to farms receiving additional allotments, and provisions relating to 1962 and 1963 wheat crops.

1968—Subsec. (a). Pub. L. 90-243 inserted provisions allowing the Secretary to make additional use, with specified limitations, of the 1 percent national wheat acreage allotment reserve in counties which have wheat as the principal grain crop, an average ratio of wheat acreage allotment to cropland on old wheat farms at least 20 percent below that in an adjoining county or alternative ratio, a low ratio caused by a shift prior to 1951 from wheat to an alternative crop or crops which have become unprofitable because of plant disease or sustained loss of markets, and no alternative income-producing crop.

1965—Subsec. (a). Pub. L. 89-321, §501(3), substituted the preceding year's allotment for the acreage seeded for the production of wheat over the preceding ten-year period as the basis for determining the state's apportioned share of the national acreage allotment and made provision for a special acreage reserve to be apportioned only to counties where wheat is a major income-producing crop.

Subsec. (b). Pub. L. 89-321, §501(4), substituted the county's allotment covering the preceding year for the acreage seeded for the production of wheat during the ten calendar years immediately preceding the calendar year in which the national acreage allotment is determined as the basis for determining the county's allotment.

Subsec. (c)(3), (4). Pub. L. 89-321, §501(5), added pars. (3) and (4).

Subsec. (d). Pub. L. 89-321, §501(6), repealed subsec. (d) dealing with farms on which the entire amount of the farm marketing excess has been delivered to the Secretary or stored in accordance with applicable provisions.

Subsec. (g). Pub. L. 89-321, §501(7), struck out "except as prescribed in the provisos to the first sentence of subsections (a) and (b) respectively of this section" after "county acreage allotments."

1964—Subsec. (a). Pub. L. 88-297, §202(1), provided (1) for the apportionment among the States of the national acreage allotment for wheat less the special acreage reserve; (2) that in establishing State acreage allotments, the acreage seeded for the production of wheat plus the acreage diverted for 1965 for any farm shall be the base acreage of wheat determined for the farm under regulations for determining farm wheat acreage allotments for 1965; and (3) beginning with the 1965 crop, a special acreage reserve and uses of such reserve and apportionment to counties of such reserve.

Subsec. (b). Pub. L. 88-297, §202(2), provided that in establishing county acreage allotments, the acreage seeded for the production of wheat plus the acreage diverted for 1965 for any farm shall be the base acreage of wheat determined for the farm under regulations for determining farm wheat acreage allotments for 1965.

Subsec. (c)(1). Pub. L. 88-297, §202(3), inserted in third sentence, cls. (i) and (ii), "or 1965" after "1958" wherever appearing and in third sentence, cl. (iii), "except 1965" after "any subsequent year."

Subsec. (g). Pub. L. 88-297, §202(4), inserted in first sentence "except 1965" after "in 1958 or thereafter".

Subsec. (k). Pub. L. 88-297, §202(5), added subsec. (k). 1963—Subsec. (h). There is no subsec. (h) for 1964 and Subsequent Wheat Crops. Pub. L. 87-703, §313(2), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (h). Pub. L. 88-64, §1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j).

Subsec. (i). Pub. L. 88-64, §1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j). Pub. L. 87-703, §313(4), added subsec. (i) (effective with the 1964 Wheat Crop). See 1962 Amendment note hereunder.

Subsec. (j). Pub. L. 88-64 redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j), inserted "privately owned" before "farms" in first and second sentences and increased from eight to twelve thousand acres the total acreage allotment for each crop.

1962—Subsec. (e). Pub. L. 87-703, §§308(a), 313(1), inserted provision respecting participation in the special wheat program formulated under section 307 of the Food and Agriculture Act of 1962 and substituted "the 1962 and 1963 crops" for "any of the 1962, 1963, and 1964 crops", respectively.

Subsec. (g). Pub. L. 87-703, §313(2), redesignated former subsec. (h) as (g). Former subsec. (g), which related to weather conditions, underplanting, and subnormal production affecting acreage allotments, was repealed by such section 313(2). See section 1377 of this title.

Subsec. (h). Pub. L. 87-703, §313 (2), (3), redesignated former subsec. (i) as (h) and inserted the sentence "The land-use provisions of section 1339 of this title shall not be applicable to any farm receiving an additional allotment under this subsection." Former subsec. (h) redesignated (g). See Effective Date of 1962 Amendment note below making the changes effective with the 1964 Wheat Crop. Pub. L. 88-64, §1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j). There is no subsec. (h) for 1964 and Subsequent Wheat Crops. See 1963 Amendment note above.

Subsec. (i). Pub. L. 87-703, §313(4), added subsec. (i). Former subsec. (i) redesignated (h).

1961—Subsec. (c). Pub. L. 87-128, §121, designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 87-128, §125, authorized the Secretary to increase durum wheat acreage allotment during 1962, 1963, and 1964 crops of wheat when he determines that acreage allotments established for durum wheat farms will be inadequate to produce a sufficient quantity of durum wheat to meet demand therefor, not including export demand involving a subsidy by or loss to the Federal Government, by such percentage factor as is determined to be necessary to provide for the increase in quantity the increase not to exceed the cropland on the farm well suited to wheat and to be conditioned upon the production of an acreage of durum wheat (class II) at least equal to the average acreage of such wheat produced during prescribed two-year period plus the number of acres by which the allotment is increased, provided that any farm receiving an increased durum wheat allotment shall not be required as a condition of price support, or permitted, to participate in the special 1962 wheat diversion program, and required the Secretary to become familiar with the views and recommendations of durum wheat grower and millers and manufacturers of semolina products prior to making any determinations. Former provisions of the subsection related to increase in allotment for durum wheat farms for 1957 crop of wheat, conditioned upon the production of durum wheat (class II) on the increased acreage and determined by adding to the allotment established without regard to subsec. (e) an acreage equal to the acreage by which the original allotment exceeded the 1957 acreage on the farm of classes of wheat other than durum wheat (class II), but not exceeding the smaller of the cropland on the farm well suited to wheat or the wheat acreage on the farm.

Subsec. (i). Pub. L. 87-357 substituted "1958 through 1963" for "1958 through 1961", and excluded from any general reduction in farm acreage allotments or farm acreage diversion program for the 1962 or 1963 wheat crop, the farms for which acreage allotments are increased under the provisions hereof, unless such reduction is specifically made applicable.

1960—Subsec. (d). Pub. L. 86-419 added subsec. (d).

Subsec. (i). Pub. L. 86-385 substituted "1958 through 1961" for "1958 and 1959".

1958—Subsec. (a). Pub. L. 85-366, §1(1), inserted proviso that in establishing State acreage allotments acreage seeded plus acreage diverted for 1959 and subsequent years for farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty shall be base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, farm's seeded plus diverted acreage for year excess was produced shall be reduced to acreage allotment for such year.

Subsec. (b). Pub. L. 85-366, §1(2), inserted proviso that in establishing county acreage allotments acreage seeded plus acreage diverted for 1959 and subsequent years for farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty shall be base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, farm's seeded plus diverted acreage for year excess was produced shall be reduced to acreage for such year.

Subsec. (c). Pub. L. 85-366, §1(3), inserted sentence relating to establishment of farm acreage allotment for 1958 and past acreage for 1959 and subsequent years, with the proviso that for 1959 and subsequent years, any farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty, the past acreage for the year of delivery or storage shall be the base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, past acreage of wheat for year excess was produced shall be reduced to farm allotment for such year.

Subsec. (d). Act Feb. 16, 1938, §378(d), as added by Pub. L. 85-835, repealed subsec. (d) which related to adjustment of allotment upon acquisition of part of farms by United States for defense.

Subsec. (h). Pub. L. 85-366, §1(4), substituted "future State and county acreage allotments except as prescribed in the provisos to the first sentence of subsections (a) and (b), respectively, of this section" for "future State, county, and farm acreage allotments".

Subsec. (i). Pub. L. 85-390 added subsec. (i).

1957—Subsec. (e). Pub. L. 85-13 substituted "1957" for "1956" in two places, substituted "1952 through 1956" for "1951 through 1955", prohibited increase of acreage allotment under subsec. (e) by more than 60 acres, inserted clause providing for fixing "farm acreage allotment" as allotment established without regard to subsec. (e) and clause providing for counting each acre planted to durum wheat as one-half acre of wheat for application of section 1821(a)(1) of this title, and inserted provision that "wheat acreage on the farm" includes acreage in the wheat acreage report.

Subsec. (h). Pub. L. 85-203 added subsec. (h).

1956—Subsec. (e). Act Mar. 16, 1956, extended increased durum allotment to the 1956 crop and to certain counties in California, shortened the production history from 10 to 5 years and advanced it 1 year to include 1955, and made increased durum allotment dependent upon reduced planting of other wheat.

Subsec. (f). Act May 28, 1956, substituted "1955, 1956, or 1957" for "1955", in two places.

Subsec. (g). Act Aug. 7, 1956, added subsec. (g).

1955—Subsec. (e). Act Feb. 19, 1955, removed for 1955, requirements restricting increased acreage allotments to producers who devote a normal share of their original allotment to durum and who have produced durum in 1 or more of the preceding 3 years.

1954—Subsec. (e). Act Jan. 30, 1954, added subsec. (e).

Subsec. (f). Act Aug. 28, 1954, added subsec. (f).

1953—Subsec. (a). Act July 14, 1953, provided a reserve of up to 1 percent of the national acreage allotment for counties in which new areas have come into production.

Subsec. (b). Act July 14, 1953, provided for a 3 percent reserve of State acreage allotments for new farms.

Subsec. (c). Act July 14, 1953, recognized the use of past acreage as a factor in making farm allotments and placed the reserves for new farms on a State basis instead of a county basis.

Subsec. (d). Act July 14, 1953, made the provision relating to farms acquired for national-defense purposes apply to farms acquired in 1950 or thereafter instead of 1940 or thereafter.

1942—Subsec. (d). Act Feb. 6, 1942, added subsec. (d).

1938—Subsec. (b). Act Apr. 7, 1938, struck out "net" before "acreage diverted" from parenthetical provision.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 304 of Pub. L. 99-198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-321 effective beginning with crop planted for harvest in calendar year 1966, see section 501 of Pub. L. 89-321, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 313 of Pub. L. 87-703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Act Aug. 7, 1956, provided that the amendment made by that act is effective beginning with 1957 crop of wheat.

EFFECTIVE DATE OF 1955 AMENDMENT

Act Feb. 19, 1955, provided that the amendment made by that act is effective beginning with 1955 crop of wheat.

EFFECTIVE DATE OF 1953 AMENDMENT

Section 5 of act July 14, 1953, provided that: "Sections 1, 2, and 3 of this Act [amending this section and sections 1339 and 1340 of this title] shall become effective with respect to the 1954 and subsequent crops of wheat."

SAVINGS PROVISION

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (d), see note set out under section 1378 of this title.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1986 CROP OF WHEAT

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.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS 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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF
WHEAT

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.

INAPPLICABILITY TO 1972 THROUGH 1977 CROPS OF
WHEAT

Pub. L. 91-524, title IV, §404(2), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, §1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1972 through 1977 crops of wheat.

FARM ACREAGE ALLOTMENTS FOR 1966 CROP OF WHEAT

Section 512 of Pub. L. 89-321 required the national, State, county, and farm acreage allotments for 1966 crop of wheat to be established in accordance with the provisions of law in effect prior to Nov. 3, 1965.

1963 DIVERTED WHEAT ACREAGE PROGRAM

Section 307 of Pub. L. 87-703 provided that payments were authorized to be made in cash or wheat by the Commodity Credit Corporation to producers on any farm, except farms with new farm wheat allotments, if marketing quotas were in effect for the 1963 wheat crop, if they diverted certain acreage from wheat production, and if they devoted such acreage to conservation uses; that such acreage was to be in addition to acreage diverted to conservation uses for which payment was made under other federal programs although cost-sharing payments under the agricultural conservation program or the Great Plains program were not precluded; that advance payments up to fifty per cent could be made; that wheat stored to avoid a marketing quota penalty was not to be released for underplanting based on such diverted acreage; that the Secretary could promulgate regulations; and that the Commodity Credit Corporation could use its capital funds and assets to make payments.

APPLICABILITY OF 1963 DIVERTED WHEAT ACREAGE
PROGRAM TO INCREASED ALLOTMENT FARMS

Section 308(b) of Pub. L. 87-703 provided that the special wheat program formulated under section 307 of Pub. L. 87-703 [set out above] was not applicable to any farm receiving an additional acreage allotment for wheat in short supply under section 334(i) of the Agricultural Adjustment Act of 1938, as amended [subsec. (i) of this section].

1962 DIVERTED WHEAT ACREAGE PROGRAM

Section 124 of Pub. L. 87-128, as amended by Pub. L. 87-410, Mar. 3, 1962, 76 Stat. 19; Pub. L. 87-451, §§1-3, May 15, 1962, 76 Stat. 70, provided that producers on any farm, except farms with a new farm wheat allotment, were entitled to payments if marketing quotas were in effect for the 1962 wheat crop, if they diverted certain acreage from wheat production, and if such diverted acreage were devoted to conservation uses; that the payments were to be made by the Commodity Credit Corporation in cash or wheat and computed as therein provided; that additional acreage could be diverted and payments made with respect thereto; that any diverted acreage was to be in addition to acreage diverted for conservation uses for which payment is made under any other federal program except that cost-sharing payments under the agricultural conservation program or the Great Plains program were not precluded; that advance payments up to 50 per cent could be made; that wheat stored to avoid a marketing quota penalty was not to be released for underplanting based on such diverted acreage; that the Secretary could promulgate regulations; and that the Commodity Credit Corporation could use its capital funds and assets to make payments.

ACREAGE ALLOTMENT FOR 1954 CROP

Section 4(a) of act July 14, 1953, provided that the National acreage allotment for 1954 crop of wheat shall not be less than sixty-two million acres.

ACREAGE ALLOTMENT FOR 1950 CROP

Section 5 of act Aug. 29, 1949, ch. 518, 63 Stat. 677, provided that the farm acreage allotment of wheat for 1950 crop for any farm was not to be less than the larger of—

(A) 50 per centum of—

(1) the acreage on the farm seeded for the production of wheat in 1949, and

(2) any other acreage seeded for the production of wheat in 1948 which was fallowed and from which no crop was harvested in the calendar year 1949, or

(B) 50 per centum of—

(1) the acreage on the farm seeded for the production of wheat in 1948, and

(2) any other acreage seeded for the production of wheat in 1947 which was fallowed and from which no crop was harvested in the calendar year 1948,

adjusted in the same ratio as the national average seedings for the production of wheat during the ten calendar years 1939-1948 (adjusted as provided by this chapter) bore to the national acreage allotment for wheat for the 1950 crop: *Provided*, That no acreage was to be included under (A) or (B) which the Secretary, by appropriate regulations, determined would become an undue erosion hazard under continued farming. To the extent that the allotment to any county was insufficient to provide for such minimum farm allotments, the Secretary was to allot such county such additional acreage (which was to be in addition to the county, State, and national acreage allotments otherwise provided for under the Agricultural Adjustment Act of 1938, as amended [this chapter]) as was necessary in order to provide for such minimum farm allotments.

EMERGENCY FARM ACREAGE ALLOTMENT

Act Feb. 28, 1945, ch. 15, 59 Stat. 9, provided for farm acreage allotment during national emergency proclaimed by the President on Sept. 8, 1939, and May 27, 1941. Such emergencies terminated on July 25, 1947, by the provisions of Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1334a. Omitted

CODIFICATION

Section, act Aug. 28, 1954, ch. 1041, title III, §314, 68 Stat. 905, related to 1955 wheat acreage allotment in areas where a summer fallow crop rotation of wheat was a common practice.

§ 1334a-1. Summer fallow farms; upper limit on required set aside acreage for 1971 through 1977 wheat, feed grain, and cotton crops

Notwithstanding any other provision of law, for the 1971 through 1977 crops of wheat, feed grains and cotton, if in any year at least 55 per centum of the cropland acreage on an established summer fallow farm is devoted to a summer fallow use, no further acreage shall be required to be set aside under the wheat, feed grain and cotton programs for such year.

(Pub. L. 91-524, title IV, §410, Nov. 30, 1970, 84 Stat. 1367; Pub. L. 93-86, §1(17), Aug. 10, 1973, 87 Stat. 230.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1973—Pub. L. 93-86 substituted "1971 through 1977" for "1971, 1972, and 1973".

§ 1334b. Designation of States outside commercial wheat-producing areas

If the acreage allotment for any State for any crop of wheat is twenty-five thousand acres or less, the Secretary, in order to promote efficient administration of this chapter and the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], may designate such State as outside the commercial wheat-producing area for the marketing year for such crop. If such State is so designated, acreage allotments for such crop and marketing quotas for the marketing year therefor shall not be applicable to any farm in such State. Acreage allotments in any State shall not be increased by reason of such designation.

(Feb. 16, 1938, ch. 30, title III, § 334a, as added Sept. 27, 1962, Pub. L. 87-703, title III, § 314, 76 Stat. 620.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

EFFECTIVE DATE

Section effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as an Effective Date of 1962 Amendment note under section 1301 of this title.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF WHEAT

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 allot-

ment for the crop is reduced below fifty-five million acres, or (2) the acreage allotment determined without regard to (1) above. If the operator of any such farm fails to make such election with respect to any crop of wheat, (i) for the purposes of section 1340 of this title, the farm acreage allotment for such crop of wheat shall be deemed to be the larger of (A) the small-farm base acreage or (B) the acreage allotment for the farm, (ii) the land-use provisions of section 1339 of this title shall be inapplicable to the farm, (iii) such crop of wheat shall not be eligible for price support, and (iv) wheat marketing certificates applicable to such crop shall not be issued with respect to the farm. The additional acreage required to provide acreage allotments for farms based upon small-farm base acreages under this section shall be in addition to National, State, and county acreage allotments. This section shall not be applicable to the crops planted for harvest in 1967 and subsequent years.

(Feb. 16, 1938, ch. 30, title III, § 335, 52 Stat. 54; July 26, 1939, ch. 379, 53 Stat. 1126; June 6, 1940, ch. 237, 54 Stat. 232; July 3, 1948, ch. 827, title II, § 204(a), 62 Stat. 1256; Aug. 28, 1954, ch. 1041, title III, § 309, 68 Stat. 903; Aug. 28, 1957, Pub. L. 85-203, § 1, 71 Stat. 477; Aug. 8, 1961, Pub. L. 87-128, title I, § 122(e), 75 Stat. 297; Sept. 27, 1962, Pub. L. 87-703, title III, § 315, 76 Stat. 621; Nov. 3, 1965, Pub. L. 89-321, title V, § 501(8), 79 Stat. 1201; Dec. 23, 1985, Pub. L. 99-198, title III, § 305, 99 Stat. 1380.)

AMENDMENTS

1985—Pub. L. 99-198 amended section generally, temporarily substituting provisions relating to marketing penalties for provisions for small-farm exemptions from marketing quotas. See Effective and Termination Dates of 1985 Amendment note below.

1965—Pub. L. 89-321 made section inapplicable to crops planted for harvest in 1967 and subsequent years.

1962—Pub. L. 87-703 substituted provisions for small-farm exemption from marketing quotas for provisions of subsecs. (a), (b), (c), (e), and (f), respecting the establishment of marketing quotas, the amount of national and farm marketing quotas, designation of States outside commercial wheat-producing areas (now covered by section 1334b of this title), and feed wheat exemption permitting any producer to harvest up to 30 acres of wheat without penalty if the entire crop is used on the farm where produced.

1961—Subsec. (d). Pub. L. 87-128 repealed subsec. (d) which provided that no farm marketing quota with respect to wheat shall be applicable in any marketing year to any farm on which the normal production of the acreage planted to wheat of the current crop is less than 200 bushels.

1957—Subsec. (f). Pub. L. 85-203 added subsec. (f).

1954—Subsec. (a). Act Aug. 28, 1954, § 309(a), substituted "May 15" for "July 1".

Subsec. (e). Act Aug. 28, 1954, § 309(b), added subsec. (e).

1948—Subsec. (a). Act July 3, 1948, changed conditions which must be determined by the Secretary to exist before marketing quotas can be imposed.

1940—Subsec. (d). Act June 6, 1940, substituted "two hundred" for "one hundred".

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 305 of Pub. L. 99-198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-321 effective beginning with the crop planted for harvest in calendar year 1966,

see section 501 of Pub. L. 89-321, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 122(e) of Pub. L. 87-128 provided that the amendment made by that section is effective with 1962 crop of wheat.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1986 CROP OF WHEAT

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.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS 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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1971 THROUGH 1977 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.

CROSS REFERENCES

Agreements for adjustment of acreage or production of basic agricultural commodities, see section 608 et seq. of this title.

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

Price support levels, see section 1441 of this title.

Supplemental provisions relating to corn and wheat marketing quotas, see section 1340 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1336, 1339, 1379c, 1441, 1445a of this title; title 16 section 590p.

§ 1336. Referendum

If a national marketing quota for wheat for one, two, or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in

any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 1335 of this title to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum, and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period. Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1986, may be conducted not later than thirty-one days after December 20, 1985.

(Feb. 16, 1938, ch. 30, title III, §336, 52 Stat. 55; July 3, 1948, ch. 827, title II, §204(b), 62 Stat. 1256; July 25, 1961, Pub. L. 87-104, 75 Stat. 220; Aug. 8, 1961, Pub. L. 87-128, title I, §122(f), 75 Stat. 297; July 19, 1962, Pub. L. 87-540, 76 Stat. 170; Sept. 27, 1962, Pub. L. 87-703, title III, §316, 76 Stat. 621; Apr. 11, 1964, Pub. L. 88-297, title II, §202(6), 78 Stat. 179; July 24, 1965, Pub. L. 89-82, 79 Stat. 258; July 23, 1970, Pub. L. 91-348, 84 Stat. 448; Oct. 15, 1970, Pub. L. 91-455, 84 Stat. 969; July 10, 1973, Pub. L. 93-68, 87 Stat. 161; June 17, 1977, Pub. L. 95-48, 91 Stat. 229; July 23, 1981, Pub. L. 97-24, §1, 95 Stat. 143; Oct. 14, 1981, Pub. L. 97-62, 95 Stat. 1010; Oct. 20, 1981, Pub. L. 97-67, §2, 95 Stat. 1039; Nov. 13, 1981, Pub. L. 97-77, §2(b), 95 Stat. 1069; July 11, 1985, Pub. L. 99-63, 99 Stat. 119; Dec. 23, 1985, Pub. L. 99-198, title III, §306, 99 Stat. 1382.)

CODIFICATION

“December 20, 1985” substituted in text for “adjournment sine die of the first session of the Ninety-ninth Congress”.

AMENDMENTS

1985—Pub. L. 99-198, temporarily amended section generally. Prior to amendment, section read as follows: “If a national marketing quota for wheat for one, two, or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 1335 of this title to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum, and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the cal-

endar 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

Section 306 of Pub. L. 99-198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1986 CROP OF WHEAT

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.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS 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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1971 THROUGH 1977 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.

DATE OF REFERENDUM FOR 1954 CROP

Act July 14, 1953, ch. 194, §4(b), 67 Stat. 152, provided that the referendum with respect to 1954 crop of wheat could be held as late as Aug. 15, 1953.

CROSS REFERENCES

Referendum on orders regulating handling of commodities, see section 608c of this title.

§ 1337. Repealed. Pub. L. 87-703, title III, § 317, Sept. 27, 1962, 76 Stat. 622

Section, act Feb. 16, 1938, ch. 30, title III, §337, 52 Stat. 55, related to adjustment and suspension of quotas.

EFFECTIVE DATE OF REPEAL

Repeal effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

§ 1338. Transfer of quotas

Farm marketing quotas for wheat shall not be transferable, but, in accordance with regulations prescribed by the Secretary for such purpose, any farm marketing quota in excess of the supply of wheat for such farm for any marketing year may be allocated to other farms on which the acreage allotment has not been exceeded.

(Feb. 16, 1938, ch. 30, title III, §338, 52 Stat. 55; Dec. 23, 1985, Pub. L. 99-198, title III, §307, 99 Stat. 1382.)

AMENDMENTS

1985—Pub. L. 99-198 amended section generally, temporarily substituting provisions for voluntary surrender of any part of a farm marketing quota by the producer and reallocation by the Secretary to other farms having farm marketing quotas for provisions authorizing allocation of excess quotas to other farms on which the acreage allotment had not been exceeded. See Effective and Termination Dates of 1985 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 307 of Pub. L. 99-198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1986 CROP OF WHEAT

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.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS 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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1971 THROUGH 1977 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.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1339. Land use

(a) Penalties: computation, lien, joint and several liability and interest; exceptions: nonsurplus supply crops, substantial impairment, and nonproduction of wheat; diverted acreage: amount, annual identity, and grazing; crops available for marketing

(1) During any year in which marketing quotas for wheat are in effect, the producers on any farm (except a new farm receiving an allotment from the reserve for new farms) on which any crop is produced on acreage required to be diverted from the production of wheat shall be subject to a penalty on such crop, in addition to any marketing quota penalty applicable to such crops, as provided in this subsection unless (1) the crop is designated by the Secretary as one which is not in surplus supply and will not be in surplus supply if it is permitted to be grown on the diverted acreage, or as one the production of which will not substantially impair the purpose of the requirements of this section, or (2) no wheat is produced on the farm, and the producers have not filed an agreement or a statement of intention to participate in the payment program formulated pursuant to subsection (b) of this section. The acreage required to be diverted from the production of wheat on the farm shall be an acreage of cropland equal to the number of acres determined by multiplying the farm acreage allotment by the diversion factor determined by dividing the number of acres by which the national acreage allotment (less an acreage equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title) is reduced below fifty-five million acres by the number of acres in the national acreage allotment (less an acreage equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title). The actual production of any crop subject to penalty under this subsection shall be regarded as available for marketing and the penalty on such crop shall be computed on the actual acreage of such crop at the rate of 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which such crop is harvested, multiplied by the normal yield of wheat per acre established for the farm. Until the producers on any farm pay the penalty on such crop, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty. Each producer having an interest in the crop or crops on acreage diverted or required to be diverted from the production of wheat shall be jointly and severally liable for the entire amount of the penalty. The persons liable for the payment or collection of the penalty under

this section shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(2) The Secretary may require that the acreage on any farm diverted from the production of wheat be land which was diverted from the production of wheat in the previous year, to the extent he determines that such requirement is necessary to effectuate the purposes of this part.

(3) The Secretary may permit the diverted acreage to be grazed in accordance with regulations prescribed by the Secretary.

(b) Payment program for 1964 through 1970 crops; terms and conditions; amount; additional diverted acreage; conservation and soil-conserving uses; adjustment; knowledge of exceeding acreage allotment; acreage allotment not exceeded by delivery to Secretary of farm marketing excess or storage in accordance with regulations to avoid or postpone payment of penalty or by farms exempt from marketing quota; new farms ineligible for payments; sharing and medium of payments

The Secretary is authorized to formulate and carry out a program with respect to the crops of wheat planted for harvest in the calendar years 1964 through 1970 under which, subject to such terms and conditions as he determines are desirable to effectuate the purposes of this section, payments may be made in amounts not in excess of 50 per centum of the estimated basic county support rate for wheat not accompanied by marketing certificates on the normal production of the acreage diverted taking into account the income objectives of the chapter, determined by the Secretary to be fair and reasonable with respect to acreage diverted pursuant to subsection (a) of this section. Any producer who complies with his 1964 farm acreage allotment for wheat and with the other requirements of the program shall be eligible to receive payments under the program for the 1964 crop of wheat. The Secretary may permit producers on any farm to divert from the production of wheat an acreage, in addition to the acreage diverted pursuant to subsection (a) of this section, equal to 50 per centum of the farm acreage allotment for wheat: *Provided*, That the producers on any farm may, at their election, divert such acreage in addition to the acreage diverted pursuant to subsection (a) of this section, as will bring the total acreage diverted on the farm to twenty-five acres. Such program shall require (1) that the diverted acreage shall be devoted to conservation uses approved by the Secretary; (2) that the total acreage of cropland on the farm devoted to soil-conserving uses, including summer fallow and idle land but excluding the acreage diverted as provided above, shall be not less than the total average acreage of cropland devoted to soil-conserving uses including summer fallow and idle land on the farm during a representative period, as determined by the Secretary, adjusted to the extent the Secretary determines appropriate for (i) abnormal weather conditions or other factors affecting production, (ii) established crop-rotation practices on the farm, (iii) participation in other Federal farm programs, (iv) unusually

high percentage of land on the farm devoted to conserving uses, and (v) other factors which the Secretary determines should be considered for the purpose of establishing a fair and equitable soil-conserving acreage for the farm; and (3) that the producer shall not knowingly exceed (i) any farm acreage allotment in effect for any commodity produced on the farm, and (ii) except as the Secretary may by regulations prescribe, with the farm acreage allotments on any other farm for any crop in which the producer has a share: *Provided*, That no producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty: *And provided further*, That no producer shall be deemed to have exceeded a farm acreage allotment for any crop of wheat if the farm is exempt from the farm marketing quota for such crop under section 1335 of this title. The producers on a new farm shall not be eligible for payments hereunder. The Secretary shall provide for the sharing of payment among producers on the farm on a fair and equitable basis. Payments may be made in cash or in wheat.

(c) Adjustment of payments

The Secretary may provide for adjusting any payment on account of failure to comply with the terms and conditions of the land-use program formulated under subsection (b) of this section.

(d) Advance payments

Not to exceed 50 per centum of any payment to producers under subsection (b) of this section may be made in advance of determination of performance.

(e) Diverted acreage used for production of certain crops; rate of payment; limitation on rate

The Secretary may permit all or any part of the diverted acreage to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, and flaxseed, if he determines that such production of the commodity is needed to provide an adequate supply, is not likely to increase the cost of the price-support program and will not adversely affect farm income, subject to the condition that payment with respect to diverted acreage devoted to any such crop shall be at a rate determined by the Secretary to be fair and reasonable taking into consideration the use of such acreage for the production of such crops: *Provided*, That in no event shall the payment exceed one-half the rate which otherwise would be applicable if such acreage were devoted to conservation uses.

(f) Additional terms and conditions

The program formulated pursuant to subsection (b) of this section may include such terms and conditions, including provision for the control of erosion, in addition to those specifically provided for herein, as the Secretary determines are desirable to effectuate the purposes of this section.

(g) Regulations

The Secretary is authorized to promulgate such regulations as may be desirable to carry out the provisions of this section.

(h) Commodity Credit Corporation funds and authorization of appropriations for payments and administrative expenses

The Commodity Credit Corporation is authorized to utilize its capital funds and other assets for the purpose of making the payments authorized in this section and to pay administrative expenses necessary in carrying out this section during the period ending June 30, 1965. There is authorized to be appropriated such amounts as may be necessary thereafter to pay such administrative expenses.

(Feb. 16, 1938, ch. 30, title III, §339, as added Sept. 27, 1962, Pub. L. 87-703, title III, §318, 76 Stat. 622; amended Apr. 11, 1964, Pub. L. 88-297, title II, §202 (7)-(9), 78 Stat. 179; Nov. 3, 1965, Pub. L. 89-321, title V, §§501(9), (10), 507, 79 Stat. 1201, 1204; Oct. 11, 1968, Pub. L. 90-559, §1(1), 82 Stat. 996.)

PRIOR PROVISIONS

A prior section 1339, act Feb. 16, 1938, ch. 30, title III, §339, 52 Stat. 55, which related to penalties for marketing wheat in excess of quotas, was repealed by act July 14, 1953, ch. 194, §§2, 5, 67 Stat. 151, 152, effective with respect to the 1954 and subsequent crops of wheat. See section 1340(2) of this title.

AMENDMENTS

1968—Subsec. (b). Pub. L. 90-559 provided for a one year extension through 1970.

1965—Subsec. (a)(1). Pub. L. 89-321, §507, inserted “(less an acreage equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title)” after “national acreage allotment” wherever appearing.

Subsec. (b). Pub. L. 89-321, §501(9), substituted “crops of wheat planted for harvest in the calendar years 1964 through 1969” for “1964 and 1965 crops of wheat”, “50 per centum of the farm acreage allotment” for “20 per centum of the farm acreage allotment”, and “twenty-five acres” for “fifteen acres”.

Subsec. (e). Pub. L. 89-321, §501(10), authorized Secretary to permit all or part of diverted acreage to be devoted to mustardseed, crambe, and plantago ovato in addition to previously authorized guar, sesame, safflower, sunflower, castor beans, and flax, if he determines that such production of the commodity is needed, is not likely to increase cost of price-support program, and will not adversely affect farm income, and removed from proviso the prohibition against making available price supports for production of such crops on diverted acreage.

1964—Subsec. (a)(1). Pub. L. 88-297, §202(7), temporarily suspended land-use penalties and made the diversion of land from the production of wheat only a condition of eligibility for receiving wheat marketing certificates. See Effective and Termination Dates of 1964 Amendment note below.

Subsec. (b). Pub. L. 88-297, §202(8), inserted in first sentence “for wheat not accompanied by marketing certificates” after “basic county support rate” and inserted after first sentence “Any producer who complies with his 1964 farm acreage allotment for wheat and with the other requirements of the program shall be eligible to receive payments under the program for the 1964 crop of wheat.”

Subsec. (h). Pub. L. 88-297, §202(9), substituted “June 30, 1965” for “June 30, 1963”.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 501 of Pub. L. 89-321 effective beginning with crop planted for harvest in calendar

year 1966, see section 501 of Pub. L. 89-321, set out as a note under section 1332 of this title.

Section 507 of Pub. L. 89-321 provided that the amendment made by that section is effective beginning with crop planted for harvest in calendar year 1967.

EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Section 202(7) of Pub. L. 88-297, as amended by Pub. L. 89-321, title V, §505(1), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90-559, §1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective only with respect to crops planted for harvest in calendar years 1964 through 1970.

EFFECTIVE DATE

Section effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as an Effective Date of 1962 Amendment note under section 1301 of this title.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS 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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1971 THROUGH 1977 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.

DIVERSION PROGRAMS; GOOD FAITH PERFORMANCE; PAYMENTS

Performance in good faith as meeting requirements of this section and authorizing payments, see section 1339a of this title.

WHEAT DIVERSION PROGRAMS; CREDITS IN ESTABLISHMENT OF STATE, COUNTY AND FARM ACREAGE ALLOTMENTS FOR WHEAT

Credits to State, county and farm of acreage diverted from production of wheat as though actually devoted to such production, see section 1339b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1335, 1379c, 1445a of this title.

§ 1339a. Good faith reliance

Notwithstanding any other provision of law, to the extent the Secretary of Agriculture considers it desirable in order to provide fair and equitable treatment, the Secretary may make

price support or other payments available to farmers who have, in attempting to comply with the requirements of any price support or other program administered by the Secretary or any other requirements in law affecting such person's eligibility under such programs, taken actions in good faith in reliance on the action or advice of an authorized representative of the Secretary. The Secretary may provide such price support or other payments to the extent the Secretary determines such farmer has been injured by such good faith reliance and may require such farmer to take necessary actions designed to remedy any failure to comply with such programs. The authority provided in this section shall be in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990. This section shall not apply to a pattern of conduct where authorized representatives of the Secretary take actions or provide advice with respect to producers that the representatives and producers know are inconsistent with applicable laws and regulations.

(Pub. L. 87-703, title III, §326, Sept. 27, 1962, 76 Stat. 631; Pub. L. 88-26, §4, May 20, 1963, 77 Stat. 47; Pub. L. 89-321, title III, §303, Nov. 3, 1965, 79 Stat. 1192; Pub. L. 101-624, title XI, §1132(c), Nov. 28, 1990, 104 Stat. 3515; Pub. L. 102-237, title I, §118(d), Dec. 13, 1991, 105 Stat. 1842.)

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1991—Pub. L. 102-237 inserted at end “The authority provided in this section shall be in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990. This section shall not apply to a pattern of conduct where authorized representatives of the Secretary take actions or provide advice with respect to producers that the representatives and producers know are inconsistent with applicable laws and regulations.”

1990—Pub. L. 101-624 amended section generally. Prior to amendment, section read as follows: “Notwithstanding any other provision of law, performance rendered in good faith in reliance upon action or advice of an authorized representative of the Secretary may be accepted as meeting the requirements of any program under which price support is extended or payments are made to farmers, and price support may be extended or payments may be made therefor in accordance with such action or advice to the extent the Secretary deems it desirable in order to provide fair and equitable treatment.”

1965—Pub. L. 89-321 substituted “the requirements of any program under which price support is extended or payments are made to farmers, and price support may be extended or” for “the requirements of subsections (c), (d), (g), and (h) of section 590p of title 16, or of section 307 of the Food and Agriculture Act of 1962, section 1339 of this title, or of section 124 of the Agriculture Act of 1961”.

1963—Pub. L. 88-26 inserted reference to subsection (h) of section 590p of title 16.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-624 effective beginning with 1991 crop of an agricultural commodity, with pro-

vision for prior crops, see section 1171 of Pub. L. 101-624, set out as a note under section 1421 of this title.

SHORT TITLE OF 1963 AMENDMENT

Section 1 of Pub. L. 88-26 provided: “That this Act [amending this section and section 590p of Title 16 and provisions set out as note under section 1441 of this title] may be cited as the ‘Feed Grain Act of 1963’.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6998 of this title.

§ 1339b. Wheat diversion programs; credits in establishment of State, county and farm acreage allotments for wheat

In the establishment of State, county, and farm acreage allotments for wheat under this chapter, the acreage which is determined under regulations of the Secretary to have been diverted from the production of wheat under the special programs formulated pursuant to section 307 of this Act, section 1339 of this title, and section 124 of the Agricultural Act of 1961, shall be credited to the State, county, and farm as though such acreage had actually been devoted to the production of wheat.

(Pub. L. 87-703, title III, §327, Sept. 27, 1962, 76 Stat. 631.)

REFERENCES IN TEXT

Section 307 of this Act (the Food and Agriculture Act of 1962) and section 124 of the Agricultural Act of 1961, referred to in text, are set out as notes under section 1334 of this title.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

§ 1339c. Feed grains diversion programs for 1964 and subsequent years; feed grain acreage considered wheat acreage and wheat acreage considered feed grain acreage

Effective with the 1964 crop, during any year in which an acreage diversion program is in effect for feed grains, the Secretary shall, notwithstanding any other provision of law, permit producers of feed grains to have acreage devoted to the production of feed grains considered as devoted to the production of wheat and producers of wheat to have acreage devoted to the production of wheat considered as devoted to the production of feed grains to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program for feed grains or wheat. In establishing terms and conditions for permitting wheat to be planted in lieu of oats and rye, the Secretary may take into account the number of feed units per acre of wheat in relation to the number of feed units per acre of oats and rye.

(Pub. L. 87-703, title III, §328, Sept. 27, 1962, 76 Stat. 631; Pub. L. 89-321, title V, §514, Nov. 3, 1965, 79 Stat. 1206.)

AMENDMENTS

1965—Pub. L. 89-321 authorized the Secretary, in establishing terms and conditions for permitting wheat to be planted in lieu of oats and rye, to take into ac-

count the number of feed units per acre of wheat in relation to the number of feed units per acre of oats and rye.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1332 of this title; title 16 section 590p.

§ 1339d. Hay production on set-aside or diverted acreage; storage; emergency use; loans

(a) Notwithstanding any other provision of law, the Secretary shall permit any producer who is participating in the wheat program under title IV of this Act, in the feed grain program under title V of this Act, or in the cotton program under title VI of this Act, in any year in which an acreage diversion or set-aside program is in effect, under any such program in which such producer is participating, subject to the conditions prescribed in subsection (b) of this section, to plant and harvest hay from 25 per centum of the acreage on the farm diverted from production under such programs or twenty-five acres, whichever is greater.

(b) Any producer who elects to plant and harvest hay on diverted or set aside acreage pursuant to this section shall first agree not to use any such hay harvested from such acreage unless authorized to do so by the Secretary.

(c) When any diverted or set aside acreage has been planted and harvested under authority of this section, the hay harvested therefrom shall be baled and stored in sealed storage on the farm in accordance with such regulations as the Secretary may prescribe and shall be available only for use during periods of emergency declared by the Secretary. In order to avoid deterioration of such hay stored on the farm for emergency purposes pursuant to this section, the Secretary may permit such hay to be removed and used or sold from time to time so long as an amount of hay equal to the amount removed is previously placed in storage and sealed.

(d) Any farmer who has hay stored on his farm for emergency purposes pursuant to this section may remove such hay from storage and use it whenever the Secretary has (1) designated as an emergency area the area in which such farm is located, and (2) specifically authorized the use of emergency hay by farmers in the area.

(e) The Secretary of Agriculture is authorized to make or guarantee loans to farmers, both tenants and landowners, to assist such farmers in the construction of storage facilities on the farm for the storage of emergency hay pursuant to the provisions of this section if such farmers are unable to obtain loans from commercial sources at reasonable rates and on reasonable terms and conditions. Loans made by the Secretary under this subsection shall be made at the current rate of interest for periods not exceeding ten years, and on such other terms and conditions as the Secretary may prescribe.

(Pub. L. 91-524, title VIII, § 805, Nov. 30, 1970, 84 Stat. 1382.)

REFERENCES IN TEXT

The wheat program under title IV of this Act, the feed grain program under title V of this Act, and the cotton program under title VI of this Act, referred to in subsec. (a), mean the programs for such crops as set out in the Agricultural Act of 1970, Pub. L. 91-524, Nov. 30, 1970, 84 Stat. 1358, as amended. Title IV of that Act enacted section 1334a-1 of this title, amended sections 1301, 1305, 1306, 1378, 1379, 1379b, 1379c, 1379d, 1379e, 1379g, 1385, 1427, 1428, and 1445a of this title, and enacted provisions set out as notes under sections 1301, 1305, 1306, 1330 to 1334, 1335, 1336, 1338, 1339, and 1379c of this title. Title V of that Act amended section 1444b of this title and provisions set out as a note under section 1444b of this title. Title VI of that Act enacted sections 1342a, 1350a, and 2119 of this title, amended sections 1305, 1344b, 1350, 1374, 1378, 1379, 1385, 1427, 1428, 1444, and 1444a of this title, and enacted provisions set out as notes under sections 1305, 1342, 1342a, 1343, 1344, 1344b, 1345, 1346, 1377, 1378, 1379, 1385, 1427, 1428, 1444, and 1446d of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

§ 1340. Supplemental provisions relating to wheat marketing quotas; marketing penalty for rice; crop loans on cotton, wheat, rice, tobacco, and peanuts

Notwithstanding the other provisions of this chapter—

(1) The farm marketing quota for any crop of wheat shall be the actual production of the acreage planted to such crop of wheat on the farm less the farm marketing excess. The farm marketing excess shall be an amount equal to twice the projected farm yield multiplied by the number of acres of such crop of wheat on the farm in excess of the farm acreage allotment for such crop unless the producer, in accordance with regulations issued by the Secretary and within the time prescribed therein, establishes to the satisfaction of the Secretary the actual production of such crop of wheat on the farm. If such actual production is so established, the farm marketing excess shall be an amount equal to the actual production of the number of acres of wheat on the farm in excess of the farm acreage allotment for such crop. In determining the farm marketing quota and farm marketing excess, any acreage of wheat remaining after the date prescribed by the Secretary for the disposal of excess acres of wheat shall be included as acreage of wheat on the farm, and the production thereof shall be appraised in such manner as the Secretary determines will provide a reasonably accurate estimate of such production. Any acreage of wheat disposed of in accordance with regulations issued by the Secretary prior to such date as may be prescribed by the Secretary shall be excluded in determining the farm marketing quota and farm marketing excess. Self-seeded (volunteer) wheat shall be included in determining the acreage of wheat. Marketing quotas for any marketing year shall be in effect with respect to wheat harvested in the calendar year in which such marketing year begins notwithstanding that the wheat is 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 or any amount of wheat shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(12) If marketing quotas for wheat are not in effect for any marketing year, all previous marketing quotas applicable to wheat shall be terminated, effective as of the first day of such marketing year. Such termination shall not abate any penalty previously incurred by a producer or relieve any buyer of the duty to remit penalties previously collected by him.

(May 26, 1941, ch. 133, 55 Stat. 203; Dec. 26, 1941, ch. 626, § 2, 55 Stat. 860; Dec. 26, 1941, ch. 636, 55 Stat. 872; Aug. 29, 1949, ch. 518, § 3(b), 63 Stat. 676; July 14, 1953, ch. 194, § 3, 67 Stat. 151; Aug. 28, 1954, ch. 1041, title III, § 313, 68 Stat. 905; Aug. 8, 1961, Pub. L. 87-128, title I, § 122(d), 75 Stat. 297; Sept. 27, 1962, Pub. L. 87-703, title III, §§ 309, 319, 76 Stat. 618, 624; Oct. 11, 1962, Pub. L. 87-801, 76 Stat. 909; Nov. 3, 1965, Pub. L. 89-321, title V, § 511(b), 79 Stat. 1205.)

REFERENCES IN TEXT

Section 1302 of this title, referred to in par. (8), was repealed by act Oct. 31, 1949, ch. 792, title IV, § 414, 63 Stat. 1057.

Section 1323(b) of this title, referred to in par. (10), was repealed by act Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902, and had provided that no farm marketing quota with respect to any crop of corn shall be applicable to any farm on which the normal production of the acreage planted to corn is less than 300 bushels.

Section 1335(d) of this title, referred to in par. (10), was repealed by Pub. L. 87-129, title I, § 122(e), Aug. 8,

1961, 75 Stat. 297, and had provided that no farm marketing quota with respect to wheat shall be applicable in any marketing year to any farm on which the normal production of the acreage planted to wheat of the current crop is less than 200 bushels.

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

Par. (9), which directed the Commodity Credit Corporation to make loans upon the 1941 to 1946 cotton, wheat, rice, tobacco, and peanut crops for which producers did not disapprove marketing quotas at the rate of 85% of parity to cooperators and, to noncooperators, at the rate of 60% of the rate specified for cooperators and limited to that amount of the commodity as would be subject to penalty if marketed by the noncooperators, was omitted from the Code.

AMENDMENTS

1965—Par. (1). Pub. L. 89-321 substituted “projected farm yield” for “normal yield of wheat per acre established for the farm”.

1962—Par. (1). Pub. L. 87-703, §319(1), substituted requirement that computation of the farm marketing excess initially be double the farm normal yield of wheat times the excess acres, such excess acres being reduced to the actual yield times the excess acres, upon proof by the producer of the actual yield, for provision that the farm marketing excess could not be more than the actual production of wheat on the farm less the normal production of the farm acreage allotment and provided that the acreage of wheat not disposed of by the prescribed date would be considered wheat acreage, with the wheat production thereon appraised for the purposes of determining the farm marketing quota and farm marketing excess, that wheat acreage disposed of prior to the disposal date would not be considered acreage and that the acreage of volunteer wheat not disposed of would be considered wheat acreage.

Par. (2). Pub. L. 87-703, §319(2), increased from 45 to 65 per centum the rate of penalty on farm marketing excess and provided for joint and several liability for such penalty.

Par. (3). Pub. L. 87-703, §319(3), required computation of the farm marketing excess initially upon twice the normal yield and eliminated reference to corn. Act Aug. 28, 1954, had made the section in applicable to corn.

Par. (4). Pub. L. 87-703, §319(4), inserted “and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest” after “produced on the farm” and struck out reference to corn. Act Aug. 28, 1954, had made the section inapplicable to corn.

Pars. (5), (6). Pub. L. 87-703, §319(5), (6), struck out reference to corn. Act Aug. 28, 1954, had made section inapplicable to corn.

Par. (7). Pub. L. 87-703, §319(7), (8), redesignated par. (8) as (7), and inserted provision for joint and several liability for penalty and struck out reference to corn, respectively. Act Aug. 28, 1954, had made section inapplicable to corn. Provisions of former par. (7), which provided a 15-acre exemption but provided for a farm marketing quota on 1962 crop of wheat to any farm on which the acreage of wheat exceeded the smaller of (1) 13.5 acres, or (2) of the highest number of acres actually planted to, wheat on the farm for harvest in any of the calendar years 1959, 1960, or 1961 and provisions of former par. (7), added by Pub. L. 87-703, §309, which provided for a farm marketing quota on 1963 crop of wheat to any farm on which the acreage of wheat exceeded the smaller of (1) 15 acres, or (2) the highest number of acres actually planted to wheat on the farm for harvest in any of the calendar years 1959, 1960, or 1961 or 1963 (provided by Pub. L. 87-801), were repealed by such section 319(7) and are covered by section 1335 of this title.

Pars. (8) to (10). Pub. L. 87-703, §319(7), redesignated pars. (9) to (11) as (8) to (10). Former par. (8) redesignated (7).

Par. (11). Pub. L. 87-703, §319(9), added par. (11). Former par. (11) redesignated (10).

Par. (12). Pub. L. 87-703, §319(9), added par. (12). Former par. (12), which limited farm marketing excess for any crop of wheat and provided for return to producer of difference between amount of penalty or storage as computed upon farm marketing excess before adjustment and as computed upon adjusted farm marketing excess, where a downward adjustment in amount of farm marketing excess was made, was repealed by such section 319(9).

1961—Par. (7). Pub. L. 87-128 authorized Secretary to prescribe regulations relating to the exemption of farms from marketing quotas on any crop of wheat, specified the exemption for the 1962 crop and eliminated marketing penalty provisions relating to 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 TO CROPS OF WHEAT PLANTED FOR HARVEST IN CALENDAR YEARS 1991 THROUGH 1995

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.”

INAPPLICABILITY TO CROPS OF WHEAT PLANTED FOR HARVEST IN CALENDAR YEARS 1986 THROUGH 1990

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."

INAPPLICABILITY TO CROPS OF WHEAT PLANTED FOR HARVEST IN CALENDAR YEARS 1982 THROUGH 1985

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."

INAPPLICABILITY TO CROPS OF WHEAT PLANTED FOR HARVEST IN CALENDAR YEARS 1978 THROUGH 1981

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."

INAPPLICABILITY TO CROPS OF WHEAT PLANTED FOR HARVEST IN CALENDAR YEARS 1971 THROUGH 1977

Pub. L. 91-524, title IV, §406, Nov. 30, 1970, 84 Stat. 1367, as amended by Pub. L. 93-86, §1(13), Aug. 10, 1973, 87 Stat. 229, provided that: "Public Law 74, Seventy-seventh Congress (68 Stat. 905) [this section], shall not be applicable to the crops of wheat planted for harvest in the calendar years 1971 through 1977."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1335 of this title; title 16 section 590p.

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 nor-

mal carry-overs of cotton, and cannot provide for the orderly marketing of cotton in interstate and foreign commerce.

It is in the interest of the general welfare that interstate and foreign commerce in cotton be protected from the burdens caused by the marketing of excessive supplies of cotton in such commerce, that a supply of cotton be maintained which is adequate to meet domestic consumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of excessive supplies of cotton.

The provisions of this subpart affording a cooperative plan to cotton producers are necessary and appropriate to prevent the burdens on interstate and foreign commerce caused by the marketing in such commerce of excessive supplies, and to promote, foster, and maintain an orderly flow of an adequate supply of cotton in such commerce.

(Feb. 16, 1938, ch. 30, title III, §341, 52 Stat. 55.)

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; Aug. 28, 1958, Pub. L. 85-835, title I, §103(1), (2), 72 Stat. 989, 990.)

AMENDMENTS

1958—Pub. L. 85-835, §103(1), substituted proviso prescribing, beginning with the 1961 crop, a minimum national marketing quota for cotton equal to estimated domestic consumption and exports less imports subject to adjustment assuring maintenance of adequate but not excessive stocks, the adjustment not to reduce the national marketing quota for any year below the larger of (1) estimated domestic consumption and exports less one million bales or (2) ten million bales, for provisions prescribing for a national marketing quota not less than the smaller of ten million bales or one million bales less than estimated domestic consumption plus exports and providing for 1950 a national marketing quota based on a twenty-one million national acreage allotment.

Pub. L. 85-835, §103(2), provided for a national marketing quota for upland cotton for 1959 and subsequent years based on a sixteen million national acreage allotment.

1956—Act May 28, 1956, provided that national marketing quota for cotton for 1957 and 1958 shall not be less than the number of bales required to provide a national acreage allotment for 1957 and 1958 equal to national acreage allotment for 1956.

1949—Act Aug. 29, 1949, amended section generally to set up a national marketing quota and to provide for amount and proclamation of such quota.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF UPLAND COTTON

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."

INAPPLICABILITY TO 1986 THROUGH 1990 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."

INAPPLICABILITY TO 1984 AND SUBSEQUENT CROPS OF EXTRA LONG STAPLE 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."

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF UPLAND 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."

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF UPLAND COTTON

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."

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF UPLAND COTTON

Pub. L. 91-524, title VI, §601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, §1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section shall not be applicable to upland cotton of 1971 through 1977 crops.

PRELIMINARY ALLOTMENTS FOR 1996 CROP OF UPLAND COTTON

Pub. L. 101-624, title V, §505, Nov. 28, 1990, 104 Stat. 3440, provided that: "Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 1996 crop."

PRELIMINARY ALLOTMENTS FOR 1991 CROP OF UPLAND COTTON

Pub. L. 99-198, title V, §506, Dec. 23, 1985, 99 Stat. 1418, provided that: "Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 1991 crop."

PRELIMINARY ALLOTMENTS FOR 1986 CROP OF UPLAND COTTON

Pub. L. 97-98, title V, §506, Dec. 22, 1981, 95 Stat. 1241, provided that: "Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938, as amended [section 1379 of this title], shall again become effective as preliminary allotments for the 1986 crop."

PRELIMINARY ALLOTMENTS FOR 1982 CROP OF UPLAND
COTTON

Pub. L. 95-113, title VI, §606, Sept. 29, 1977, 91 Stat. 940, provided that: "Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938, as amended [section 1379 of this title], shall again become effective as preliminary allotments for the 1982 crop."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1343, 1344 of this title.

§ 1342a. National cotton production goal

The Secretary shall, not later than November 15, of the calendar years 1970 through 1976 proclaim a national cotton production goal for the 1971 and subsequent crops of upland cotton. The national cotton production goal for any year shall be the number of bales of upland cotton (standard bales of four hundred and eighty pounds net weight) equal to the estimated domestic consumption and estimated exports for the marketing year beginning in the calendar year for which such national cotton production goal is proclaimed, plus an allowance of not less than 5 per centum of such estimated consumption and estimated exports for market expansion except that the Secretary shall make such adjustments in the amount of such production goal as he determines necessary after taking into consideration the estimated stocks of upland cotton in the United States (including the qualities of such stocks) and stocks in foreign countries, which would be available for the marketing year, to assure the maintenance of adequate but not excessive carryover stocks in the United States (not less than 50 per centum of the average offtake for the three preceding marketing years) to provide a continuous and stable supply of the different qualities of upland cotton needed in the United States and in foreign 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 Nov. 30, 1970, Pub. L. 91-524, title VI, §601(2), 84 Stat. 1371; amended Aug. 10, 1973, Pub. L. 93-86, §1(19)(B), 87 Stat. 233.)

AMENDMENTS

1973—Pub. L. 93-86 substituted "1970 through 1976" for "1970, 1971, and 1972".

EFFECTIVE DATE

Section 601 of Pub. L. 91-524 provided that this section is effective beginning with the 1971 crop of upland cotton.

§ 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 pro-

claimed. If more than one-third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become ineffective upon proclamation of the results of the referendum. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum. Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for cotton for the marketing year beginning August 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.

(Feb. 16, 1938, ch. 30, title III, §343, 52 Stat. 56; Apr. 7, 1938, ch. 107, §8, 52 Stat. 203; July 26, 1939, ch. 376, 53 Stat. 1125; July 3, 1948, ch. 827, title II, §207(c), 62 Stat. 1257; Aug. 29, 1949, ch. 518, §1, 63 Stat. 670; Oct. 31, 1949, ch. 792, title IV, §415(e), 63 Stat. 1058; Nov. 13, 1981, Pub. L. 97-77, §2(c), 95 Stat. 1069; Nov. 15, 1985, Pub. L. 99-157, §4, 99 Stat. 818.)

CODIFICATION

Provision that if marketing quotas were proclaimed for the 1950 crop, farmers eligible to vote in the referendum with respect to such crop were to be those farmers who had produced cotton in the 1948 calendar year was omitted from the Code.

AMENDMENTS

1985—Pub. L. 99-157 amended last sentence generally, substituting "August 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress" for "August 1, 1982, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-seventh Congress, or (2) January 1, 1982".

1981—Pub. L. 97-77 inserted provision that the referendum with respect to the national marketing quota for cotton for the marketing year beginning Aug. 1, 1982, be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-seventh Congress, or (2) Jan. 1, 1982.

1949—Act Aug. 29, 1949, amended section generally by providing for a secret referendum. Former provisions of this section are now covered by section 1342 of this title.

Subsec. (a). Act Oct. 31, 1949, repealed amendatory provisions of act July 3, 1948.

1948—Subsec. (a). Act July 3, 1948, required Secretary to take imports into consideration in determining acreage allotments for purposes of marketing quotas.

1939—Subsec. (b). Act July 26, 1939, inserted last sentence.

1938—Subsec. (c). Act Apr. 7, 1938, substituted "for any year" for "for 1938 and 1939".

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1984 AND SUBSEQUENT CROPS OF
EXTRA LONG STAPLE COTTON

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.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF
UPLAND COTTON

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.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF
UPLAND COTTON

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.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF
UPLAND COTTON

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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF
UPLAND COTTON

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.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF
UPLAND COTTON

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 sub-

section so that the allotment to each farm under this paragraph together with the amount of the allotment to such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county or administrative area) of the acreage, during the preceding year, on the farm which is tilled annually or in regular rotation, excluding from such acreages the acres devoted to the production of sugarcane for sugar; sugar beets for sugar; wheat, tobacco, or rice for market; peanuts picked and threshed; wheat or rice for feeding to livestock for market; or lands determined to be devoted primarily to orchards or vineyards, and nonirrigated lands in irrigated areas: *Provided, however*, That if a farm would be allotted under this paragraph an acreage together with the amount of the allotment to such farm under paragraph (1)(A) of this subsection in excess of the largest acreage planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) to cotton during any of the preceding three years, the acreage allotment for such farm shall not exceed such largest acreage so planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) in any such year.

(3) The county committee may reserve not in excess of 15 per centum of the county allotment (15 per centum if the State's 1948 planted cotton acreage was in excess of one million acres and less than half its 1943 allotment) which, in addition to the acreage made available under the proviso in subsection (e) of this section, shall be used for (A) establishing allotments for farms on which cotton was not planted (or regarded as planted under Public Law 12, Seventy-ninth Congress) during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton, crop-rotation practices, and the soil and other physical facilities affecting the production of cotton; and (B) making adjustments of the farm acreage allotments established under paragraphs (1) and (2) of this subsection so as to establish allotments which are fair and reasonable in relation to the factors set forth in this paragraph and abnormal conditions of production on such farms, or in making adjustments in farm acreage allotments to correct inequities and to prevent hardship: *Provided*, That not less than 20 per centum of the acreage reserved under this subsection shall, to the extent required, be allotted, upon such basis as the Secretary deems fair and reasonable to farms (other than farms to which an allotment has been made under paragraph (1)(B) of this subsection), if any, to which an allotment of not exceeding fifteen acres may be made under other provisions of this subsection.

(4) Any part of the acreage allotted for 1950 to individual farms in any county under the provisions of this section which will not be planted to cotton and which is voluntarily surrendered to the county committee shall be deducted from the allotments to such farms and may be reapportioned by the county committee to other farms in the same county receiv-

ing allotments to the extent necessary to provide such farms with the allotments authorized under paragraph (5) of this subsection. If any acreage remains after providing such allotments, it may be apportioned in amounts determined by the county committee to be fair and reasonable to other farms in the same county receiving allotments which the county committee determines are inadequate and not representative in view of their past production of cotton and to new farms in such county. No allotment shall be made, or increased, by reason of this paragraph to an acreage in excess of 40 per centum of the acreage on the farm which is tilled annually or in regular rotation, as determined under regulations prescribed by the Secretary. Any transfer of allotment under this paragraph shall not operate to reduce the allotment for any subsequent year for the farm from which acreage is transferred, except in accordance with paragraph (1)(B) and the proviso in paragraph (2) of this subsection: *Provided*, That any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm and may be reapportioned in the manner set forth above. In any subsequent year, unless hereafter otherwise provided by law, acreage surrendered under this paragraph and reallocated pursuant to applications filed in accordance with the provisions of paragraph (5) of this section shall be credited to the State and county in determining acreage allotments.

(5) Notwithstanding any other provision of law and without reducing any farm acreage allotment determined pursuant to the foregoing provisions of this subsection, each farm acreage allotment for 1950 shall be increased by such amount as may be necessary to provide an allotment equal to the larger of 65 per centum of the average acreage planted to cotton (or regarded as planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) on the farm in 1946, 1947, and 1948, or 45 per centum of the highest acreage planted to cotton (or regarded as planted to cotton under Public Law 12, Seventy-ninth Congress) on the farm in any one of such three years; but no such allotment shall be increased by reason of this provision to an acreage in excess of 40 per centum of the acreage on the farm which is tilled annually or in regular rotation, as determined under regulations prescribed by the Secretary. An increase in any 1950 farm acreage allotment shall be made pursuant to this paragraph only upon application in writing by the owner or operator of the farm within such reasonable period of time (in no event less than fifteen days) as may be prescribed by the Secretary. The additional acreage required to be allotted to farms under this paragraph shall be in addition to the county, State, and national acreage allotments and the production from such acreage shall be in addition to the national marketing quota. The additional acreage authorized by this paragraph shall not be taken into account in establishing future State, county, and farm acreage allotments.

(6) Notwithstanding the provisions of paragraph (2) of the subsection, if the county com-

mittee 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 Great Plains program, 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 pro-

visions 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 shall be increased by an acreage equal to 15 per centum of the acreage allotted to it prior to January 30, 1954. Such acreage shall be used by the State committee as a reserve to make equitable adjustments in 1954 farm acreage allotments on the basis of land, labor, equipment available for the production of cotton, crop-rotation practices, past acreages of cotton, soil, and other physical factors affecting the production of cotton.

(n) Transfer of farm cotton acreage allotments in case of natural disasters; eligibility for allotment

Notwithstanding any other provision of this chapter, if the Secretary determines for any year that because of a natural disaster a portion of the farm cotton acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of the cotton acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this paragraph shall be deemed to be released acreage for purposes of acreage history credits under subsections (f)(8) and (m)(2) of this section, and section 1377 of this title: *Provided*, That, notwithstanding the provisions of subsection (m)(2) of this section, the transfer of any farm allotment under this subsection for any year shall operate to make the farm from which the allotment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period.

(Feb. 16, 1938, ch. 30, title III, §344, 52 Stat. 57; Apr. 7, 1938, ch. 107, §9, 52 Stat. 203; May 31, 1938, ch. 292, §1, 52 Stat. 586; Mar. 13, 1939, ch. 9, 53 Stat. 512; June 22, 1939, ch. 238, §§1-3, 53 Stat. 853; Feb. 6, 1942, ch. 44, §3, 56 Stat. 52; Aug. 29, 1949, ch. 518, §1, 63 Stat. 670; Oct. 31, 1949, ch. 792, title IV, §419, 63 Stat. 1062; Mar. 31, 1950, ch. 81, §1, 64 Stat. 40; Jan. 30, 1954, ch. 2, §§1-3, 68 Stat. 4-6; Aug. 28, 1954, ch. 1041, title III, §310, 68 Stat. 904; May 28, 1956, ch. 327, title III, §303(a)-(d), 70 Stat. 203; June 11, 1958, Pub. L. 85-456, 72 Stat. 186; Aug. 28, 1958, Pub. L. 85-835, title I, §§103(4), 104(a)-(d), 105-107, 72 Stat. 990-992; Feb. 16, 1938, ch. 30, title III, §378(d), as added Aug. 28, 1958,

Pub. L. 85-835 title V, §501, 72 Stat. 996; Aug. 18, 1959, Pub. L. 86-172, §2, 73 Stat. 393; May 20, 1961, Pub. L. 87-37, 75 Stat. 84; Apr. 27, 1962, Pub. L. 87-446, 76 Stat. 64; Apr. 26, 1963, Pub. L. 88-12, 77 Stat. 13; Apr. 11, 1964, Pub. L. 88-297, title I, §106(3), (8), 78 Stat. 177.)

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.

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

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

Section 104(e) of Pub. L. 85-835 provided that: "The amendments made by this section [amending this section] shall be effective beginning with the 1959 crop."

Section 105 of Pub. L. 85-835 provided that the amendment made by that section is effective beginning with 1959 crop.

EFFECTIVE AND TERMINATION DATES OF 1956 AMENDMENT

Section 303(e) of act May 28, 1956, provided that: "The amendments made by this section [amending this section] shall be effective only with respect to 1957 and 1958 crops. For the 1956 crop, an acreage in each State equal to the acreage allotted in such State which the Secretary determines will not be planted, placed in the acreage reserve or conservation reserve, or considered

as planted under section 377 of the Agricultural Adjustment Act of 1938, as amended [section 1377 of this title], may be apportioned by the Secretary among farms in such State having allotments of less than the smaller of the following: (1) four acres, or (2) the highest number of acres planted to cotton in any of the years 1953, 1954, and 1955."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 3 of act Jan. 30, 1954, provided that the amendments made by that section are effective beginning with 1955 crop. The amendments made by sections 1 and 2 of such act took effect on the date of approval of such act, Jan. 30, 1954.

SAVINGS PROVISION

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (h), see note set out under section 1378 of this title.

INAPPLICABILITY TO 1984 AND SUBSEQUENT CROPS OF EXTRA LONG STAPLE COTTON

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.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF UPLAND COTTON

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.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF UPLAND COTTON

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.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF UPLAND COTTON

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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF UPLAND COTTON

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.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF UPLAND COTTON

Pub. L. 91-524, title VI, §601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, §1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

EMERGENCY FARM ACREAGE ALLOTMENT

Act Feb. 28, 1945, ch. 15, 59 Stat. 9, provided for farm acreage allotment during national emergency proclaimed by the President on Sept. 8, 1939, and May 27, 1941, and which emergencies terminated on July 25, 1947, by the provisions of Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451.

COUNTY COMMITTEE ALLOTMENT

Act Mar. 13, 1939, in addition to amending former subsec. (h), contained the following: "Provided, That hereafter such allotment of acreage in counties shall be to such farms as the County Committee of such county may designate. In making such designation the County Committee shall consider only the character and adaptability of the soil and other physical facilities affecting the production of cotton and the need of operator for an additional allotment to meet the requirement of the families engaging in the production of cotton on the farm in such year."

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1346, 1349, 1350, 1377, 1428, 1444 of this title.

§ 1344a. Exclusion of 1949 acreage in computation of future allotments

Notwithstanding the provisions of subchapter III of this chapter, or of any other law, State, county, and farm acreage allotments and yields for cotton for any year after 1949 shall be computed without regard to yields or to the acreage planted to cotton in 1949.

(Mar. 29, 1949, ch. 38, 63 Stat. 17.)

CODIFICATION

Section was not enacted as part of the Agriculture Adjustment Act of 1938 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1344 of this title.

§ 1344b. Sale, lease, or transfer of cotton acreage allotments

(a) Authority for calendar years 1966 through 1970; transfer periods

Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the program involved, (1) may permit the owner and operator of any farm for which a cotton acreage allotment is established to sell or lease all or any part or the right to all or any part of such allotment (excluding that part of the allotment which the Secretary determines was apportioned to the farm from the national acreage reserve) to any other owner or operator of a farm for transfer to such farm; (2) may permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him; *Provided*, That the authority granted under this section may be exercised for the calendar years 1966 through 1970, but all transfers hereunder shall be for such period of years as the parties thereto may agree.

(b) Requisite conditions for transfer of acreage allotments

Transfers under this section shall be subject to the following conditions: (i) no allotment shall be transferred to a farm in another State or to a person for use in another State; (ii) no farm allotment may be sold or leased for transfer to a farm in another county unless the producers of cotton in the county from which transfer is being made have voted in a referendum within three years of the date of such transfer, by a two-thirds majority of the producers participating in such referendum, to permit the transfer of allotments to farms outside the county, which referendum, insofar as practicable, shall be held in conjunction with the marketing quota referendum for the commodity; (iii) no transfer of an allotment from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholder; (iv) no sale of a farm allotment shall be permitted if any sale

of cotton allotment to the same farm has been made within the three immediately preceding crop years; (v) the total cotton allotment for any farm to which allotment is transferred by sale or lease shall not exceed the farm acreage allotment (excluding reappropriated acreage) established for such farm for 1965 by more than one hundred acres; (vi) no cotton in excess of the remaining acreage allotment on the farm shall be planted on any farm from which the allotment (or part of an allotment) is sold for a period of five years following such sale, nor shall any cotton in excess of the remaining acreage allotment on the farm be planted on any farm from which the allotment (or part of an allotment) is leased during the period of such lease, and the producer on such farm shall so agree as a condition precedent to the Secretary's approval of any such sale or lease; and (vii) no transfer of allotment shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section. Such record may be filed with such committee only during the period beginning June 1 and ending December 31.

(c) Extent of estate transferred

The transfer of an allotment shall have the effect of transferring also the acreage history, farm base, and marketing quota attributable to such allotment and if the transfer is made prior to the determination of the allotment for any year the transfer shall include the right of the owner or operator to have an allotment determined for the farm for such year: *Provided*, That in the case of a transfer by lease, the amount of the allotment shall be considered for purposes of determining allotments after the expiration of the lease to have been planted on the farm from which such allotment is transferred.

(d) Period of ineligibility of land for new allotment

The land in the farm from which the entire cotton allotment and acreage history have been transferred shall not be eligible for a new farm cotton allotment during the five years following the year in which such transfer is made.

(e) Transfer of allotments established under minimum allotment provisions

The transfer of a portion of a farm allotment which was established under minimum farm allotment provisions for cotton or which operates to bring the farm within the minimum farm allotment provision for cotton shall cause the minimum farm allotment or base to be reduced to an amount equal to the allotment remaining on the farm after such transfer.

(f) Rules and regulations

The Secretary shall prescribe regulations for the administration of this section, which shall include provisions for adjusting the size of the allotment transferred if the farm to which the allotment is transferred has a substantially higher yield per acre and such other terms and conditions as he deems necessary.

(g) Adjustment upon transfer of land covered by conservation reserve contract

If the sale or lease occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, cropland adjustment agreement, or other similar land utilization agreement, the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the allotment is transferred.

(h) Exchange of cotton acreage allotments for rice acreage allotments

The Secretary shall by regulations authorize the exchange between farms in the same county, or between farms in adjoining counties within a State, of cotton acreage allotment for rice acreage allotment. Any such exchange shall be made on the basis of application filed with the county committee by the owners and operators of the farms, and the transfer of allotment between the farms shall include transfer of the related acreage history for the commodity. The exchange shall be acre for acre or on such other basis as the Secretary determines is fair and reasonable, taking into consideration the comparative productivity of the soil for the farms involved and other relevant factors. No farm from which the entire cotton or rice allotment has been transferred shall be eligible for an allotment of cotton or rice as a new farm within a period of five crop years after the date of such exchange.

(i) Applicability to cotton restricted to upland cotton

The provisions of this section relating to cotton shall apply only to upland cotton.

(Feb. 16, 1938, ch. 30, title III, §344a, as added Nov. 3, 1965, Pub. L. 89-321, title IV, §405, 79 Stat. 1197; amended Oct. 11, 1968, Pub. L. 90-559, §1(2), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title VI, §601(3)(1), 84 Stat. 1372; Aug. 10, 1973, Pub. L. 93-86, §1(19)(C), (D), 87 Stat. 233.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-86 struck out “for which a farm base acreage allotment is established (other than pursuant to section 1350(e)(1)(A) of this title)” after “to any other owner or operator of a farm” and substituted “1978” for “1974”.

1970—Subsec. (a). Pub. L. 91-524 temporarily directed Secretary to permit certain types of transfers of all or part of farm base acreage allotments between farms in same State. See Effective and Termination Dates of 1970 Amendment note below.

1968—Subsec. (a). Pub. L. 90-559 provided for a one year extension, substituting “1966 through 1970” for “1966, 1967, 1968, and 1969”.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(19)(C) of Pub. L. 93-86 provided that the amendment made by that section is effective beginning with 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 601(3) of Pub. L. 91-524, as amended by section 1(19)(A) of Pub. L. 93-86, provided that the amendment made by that section is effective only with respect to 1971 through 1977 crops.

INAPPLICABILITY TO THE 1984 AND SUBSEQUENT CROPS
OF EXTRA LONG STAPLE COTTON

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.

INAPPLICABILITY TO UPLAND COTTON OF THE 1971
THROUGH 1977 CROPS; TRANSFERS TO FARMS OUTSIDE
COUNTY

Section 601(3)(2) of Pub. L. 91-524, as amended by section 1(19)(A) of Pub. L. 93-86, provided that: "Subdivisions (ii), (iv), (v), and (vi) of subsection (b) [of this section], the last sentence of subsection (b) [of this section] and subsections (e) and (h) [of this section] shall not be applicable to the 1971 through 1977 crops: *Provided*, That no farm allotment may be sold or leased for transfer to a farm in another county unless the Agricultural Stabilization and Conservation Committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended [16 U.S.C. 590h(b)], for the county from which such transfers are being made (1) finds that a demand for such acreage allotments no longer exists in such county and (2) approves any transfers of allotments to farms outside such county."

**§ 1345. Farm marketing quotas; farm marketing
excess**

The farm marketing quota for any crop of cotton shall be the actual production of the acreage planted to cotton on the farm less the farm marketing excess. The farm marketing excess shall be the normal production of that acreage planted to cotton on the farm which is in excess of the farm acreage allotment: *Provided*, That such farm marketing excess shall not be larger than the amount by which the actual production of cotton on the farm exceeds the normal production of the farm acreage allotment, if the producer establishes such actual production to the satisfaction of the Secretary.

(Feb. 16, 1938, ch. 30, title III, §345, 52 Stat. 58; July 3, 1948, ch. 827, title II, §205, 62 Stat. 1256; Aug. 29, 1949, ch. 518, §1, 63 Stat. 674; Oct. 31, 1949, ch. 792, title IV, §415(e), 63 Stat. 1058.)

AMENDMENTS

1949—Act Oct. 31, 1949, repealed amendatory provisions of act July 3, 1948.

Act Aug. 29, 1949, stated what the farm marketing quota shall be and what the farm marketing excess shall be.

1948—Act July 3, 1948, changed conditions which must be determined by Secretary to exist before marketing quotas can be imposed.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1984 AND SUBSEQUENT CROPS OF
EXTRA LONG STAPLE COTTON

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.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF
UPLAND COTTON

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.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF
UPLAND COTTON

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.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF
UPLAND COTTON

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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF
UPLAND COTTON

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.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF
UPLAND COTTON

Pub. L. 91-524, title VI, §601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, §1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

PROCLAMATIONS AFFIRMED

Effect of act Apr. 7, 1938, ch. 107, 52 Stat. 202, see note set out under section 1312 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1346, 1349 of this title.

§ 1346. Penalties

(a) Whenever farm marketing quotas are in effect with respect to any crop of cotton, the producer shall be subject to a penalty on the farm marketing excess at a rate per pound equal to 50 per centum of the parity price per pound for cotton as of June 15 of the calendar year in which such crop is produced.

(b) The farm marketing excess of cotton shall be regarded as available for marketing and the amount of penalty shall be computed upon the normal production of the acreage on the farm planted to cotton in excess of the farm acreage allotment. If a downward adjustment in the amount of the farm marketing excess is made pursuant to the proviso in section 1345 of this title, the difference between the amount of the penalty computed upon the farm marketing excess before such adjustment and as computed upon the adjusted farm marketing excess shall be returned to or allowed the producer.

(c) The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(d) Until the penalty on the farm marketing excess is paid, all cotton produced on the farm and marketed by the producer shall be subject to the penalty provided by this section and a lien on the entire crop of cotton produced on the farm shall be in effect in favor of the United States.

(e) Notwithstanding any other provision of this chapter, for the 1966 through 1970 crops of upland cotton, if the farm operator elects to

forgo price support for any such crop of cotton by applying to the county committee of the county in which the farm is located for additional acreage under this subsection, he may plant an acreage not in excess of the farm acreage allotment established under section 1344 of this title plus the acreage apportioned to the farm from the national export market acreage reserve, and all cotton of such crop produced on the farm may be marketed for export free of any penalty under this section: *Provided*, That the foregoing shall be applicable only to farms which had upland cotton allotments for 1965 and are operated by the same operator as in 1965 or by his heir.

For the 1966 crop the national export market acreage reserve shall be 250,000 acres. For each subsequent crop—

If the carryover at the end of the marketing year for the preceding crop is estimated to be less than the carryover at the beginning of such marketing year by—	The national export market acreage reserve shall be—
At least 1,000,000 bales	250,000 acres.
At least 750,000 bales, but not as much as 1,000,000 bales.	187,500 acres.
At least 500,000 bales, but not as much as 750,000 bales.	125,000 acres.
At least 250,000 bales, but not as much as 500,000 bales.	62,500 acres.
Less than 250,000 bales	None.

The national export market acreage reserve shall be apportioned to farms by the Secretary on the basis of the applications therefor. No application shall be accepted for a greater acreage than is available on the farm for the production of upland cotton. After apportionments are thus made to farms, the Secretary shall provide farm operators a reasonable time in which to cancel their applications (and agreements to forgo price support) and surrender to the Secretary through the county committee the export market acreage assigned to the farm. Acreage so surrendered shall be available for reassignment by the Secretary to other eligible farms to which export market acreage has been apportioned on the basis of the applications remaining outstanding. The operator of any farm who elects to forgo price support for any such crop under this subsection shall not be eligible for price support on cotton of such crop produced on any other farm in which he has a controlling or substantial interest as determined by the Secretary. Acreage planted to cotton in excess of the farm acreage allotment established under section 1344 of this title shall not be taken into account in establishing future State, county, and farm acreage allotments. The operator of any farm to which export market acreage is apportioned, or the purchasers of cotton produced on such farm, shall, under regulations issued by the Secretary, furnish a bond or other undertaking prescribed by the Secretary, providing for the exportation, without benefit of any Government cotton export subsidy and within such time as the Secretary may specify, of all cotton produced on such farm for such year. The bond or other undertaking given pursuant to this subsection shall provide that, upon failure to comply with the terms and conditions thereof, the

person furnishing such bond or other undertaking shall be liable for liquidated damages in an amount which the Secretary determines and specifies in such undertaking will approximate the amount payable on excess cotton under subsection (a) of this section. The Secretary may, in lieu of the furnishing of a bond or other undertaking, provide for the payment of an amount equal to that which would be payable as liquidated damages under such bond or other undertaking. If such bond or other undertaking is not furnished, or if payment in lieu thereof is not made as provided herein, at such time and in the manner required by regulations of the Secretary, or if the acreage planted to cotton on the farm exceeds the sum of the farm acreage allotment established under section 1344 of this title and the acreage apportioned to the farm from the national export market acreage reserve, the acreage planted to cotton in excess of the farm acreage allotment established under section 1344 of this title shall be regarded as excess acreage for purposes of this section and section 1345 of this title. Amounts collected by the Secretary under this subsection shall be remitted to the Commodity Credit Corporation.

(Feb. 16, 1938, ch. 30, title III, §346, 52 Stat. 59; Aug. 29, 1949, ch. 518, §1, 63 Stat. 674; Nov. 3, 1965, Pub. L. 89-321, title IV, §401(2), 79 Stat. 1192; Oct. 11, 1968, Pub. L. 90-559, §1(2), 82 Stat. 996.)

AMENDMENTS

1968—Subsec. (e). Pub. L. 90-559 provided for a one year extension, substituting "1966 through 1970" for "1966, 1967, 1968, and 1969".

1965—Subsec. (e). Pub. L. 89-321 added subsec. (e).

1949—Act Aug. 29, 1949, amended section generally. Former provisions of section were covered by section 1345 of this title.

INAPPLICABILITY TO 1984 AND SUBSEQUENT CROPS OF EXTRA LONG STAPLE COTTON

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.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF UPLAND COTTON

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.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF UPLAND COTTON

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.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF UPLAND COTTON

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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF UPLAND COTTON

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.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF UPLAND COTTON

Pub. L. 91-524, title VI, §601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, §1(19)(A), Aug. 10,

1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

REMOVAL OF MARKETING PENALTIES ON CERTAIN LONG STAPLE COTTON

Act Jan. 9, 1951, ch. 1215, 64 Stat. 1237, provided that the marketing penalty provided in this section, shall not be applied to long staple cotton of the 1950 crop ginned on saw type gins where such action was necessary to conserve the cotton because of frost or weather damage.

CROSS REFERENCES

Agreement for adjustment of acreage or production of basic agricultural commodities, see section 608 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1349 of this title.

§ 1347. Repealed. Pub. L. 98-88, § 2, Aug. 26, 1983, 97 Stat. 494

Section, acts Feb. 16, 1938, ch. 30, title III, §347, 52 Stat. 59; Aug. 29, 1949, ch. 518, §1, 63 Stat. 675; July 17, 1952, ch. 933, §4, 66 Stat. 759; Aug. 28, 1958, Pub. L. 85-835, title I, § 103(3), 72 Stat. 990; Sept. 21, 1959, Pub. L. 86-341, title II, §203, 73 Stat. 611; June 30, 1960, Pub. L. 86-566, 74 Stat. 295; Aug. 11, 1968, Pub. L. 90-475, §§4, 6, 82 Stat. 701, 702, set out a program for long staple cotton. See section 1444(h) of this title.

EFFECTIVE DATE OF REPEAL

Section 2 of Pub. L. 98-88 provided that the repeal of this section is effective beginning with 1984 crop of extra long staple cotton.

§ 1348. Payments in kind to equalize cost of cotton to domestic and foreign users; rules and regulations; termination date; persons eligible; amount; terms and conditions; raw cotton in inventory

In order to maintain and expand domestic consumption of upland cotton produced in the United States and to prevent discrimination against the domestic users of such cotton, notwithstanding any other provision of law, the Commodity Credit Corporation, under such rules and regulations as the Secretary may prescribe, is authorized and directed for the period beginning with April 11, 1964 and ending July 31, 1966, to make payments through the issuance of payment-in-kind certificates to persons other than producers in such amounts and subject to such terms and conditions as the Secretary determines will eliminate inequities due to differences in the cost of raw cotton between domestic and foreign users of such cotton, including such payments as may be necessary to make raw cotton in inventory on April 11, 1964 available for consumption at prices consistent with the purposes of this section: *Provided*, That for the period beginning August 1 of the marketing year for the first crop for which price support is made available under section 1444(b) of this title, and ending July 31, 1966, such payments shall be made in an amount which will make upland cotton produced in the United States available for domestic use at a price which is not in excess of the price at which such cotton is made available for export. The Secretary may extend the period for performance of obligations incurred in connection with payments made for the period ending July 31, 1966, or may make

payments on raw cotton in inventory on July 31, 1966, at the rate in effect on such date. No payments shall be made hereunder with respect to 1966 crop cotton.

(Feb. 16, 1938, ch. 30, title III, §348, as added Apr. 11, 1964, Pub. L. 88-297, title I, §101, 78 Stat. 173; amended Nov. 3, 1965, Pub. L. 89-321, title IV, §401(1), 79 Stat. 1192.)

PRIOR PROVISIONS

A prior section 1348, acts Feb. 16, 1938, ch. 30, title III, §348, 52 Stat. 59; Aug. 29, 1949, ch. 518, §1, 63 Stat. 675; Aug. 28, 1954, ch. 1041, title III, §311(a), 68 Stat. 904, prohibited agricultural conservation program payments to any farmer who knowingly harvested any basic commodity in excess of his acreage allotment and was repealed by act May 23, 1955, ch. 45, 69 Stat. 65, effective with respect to 1955 and subsequent crops.

AMENDMENTS

1965—Pub. L. 89-321 authorized Secretary to extend period for performance of obligations incurred in connection with payments made for period ending July 31, 1966, or to make payments in raw cotton in inventory on July 31, 1966.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1385, 1444 of this title.

§ 1349. Export market acreage

(a) Supplementary allotments for 1964 and 1965; acreage limitation; apportionment among States and farms; "export market acreage" on any farm; farm acreage allotment for farms with export acreage; additional allotment; establishment of future allotments without regard to export acreage; exclusion of extra-long-staple cotton and farms receiving additional price support for 1964 and 1965

The acreage allotment established under the provisions of section 1344 of this title for each farm for the 1964 crop may be supplemented by the Secretary by an acreage equal to such percentage, but not more than 10 per centum, of such acreage allotment as he determines will not increase the carryover of upland cotton at the beginning of the marketing year for the next succeeding crop above one million bales less than the carryover on the same date one year earlier, if the carryover on such earlier date exceeds eight million bales. For the 1965 crop, the Secretary may, after such hearing and investigation as he finds necessary, announce an export market acreage which he finds will not increase the carryover of upland cotton at the beginning of the marketing year for the next succeeding crop above one million bales less than the carryover on the same date one year earlier, if the carryover on such earlier date exceeds eight million bales. Such export market acreage shall be apportioned to the States on the basis of the State acreage allotments established under section 1344 of this title and apportioned by the States to farms receiving allotments under section 1344 of this title, pursuant to regulations issued by the Secretary, after considering applications for such acreage filed with the county committee of the county in which the farm is located. The "export market acreage" on any farm shall be the number of acres, not

exceeding the maximum export market acreage for the farm established pursuant to this subsection, by which the acreage planted to cotton on the farm exceeds the farm acreage allotment. For purposes of sections 1345 and 1374 of this title and the provisions of any law requiring compliance with a farm acreage allotment as a condition of eligibility for price support or payments under any farm program, the farm acreage allotment for farms with export market acreage shall be the sum of the farm acreage allotment established under section 1344 of this title and the maximum export market acreage. Export market acreage shall be in addition to the county, State, and National acreage allotments and shall not be taken into account in establishing future State, county, and farm acreage allotments. The provisions of this section shall not apply to extra-long-staple cotton or to any farm which receives price support under section 1444(b) of this title.

(b) Bond, other undertaking, and lieu payments for exportation without subsidy and within specified period; terms and conditions; liquidated damages; farm acreage allotment upon noncompliance with conditions; remissions to CCC for defraying costs of encouraging export sales of cotton

The producers on any farm on which there is export market acreage or the purchasers of cotton produced thereon shall, under regulations issued by the Secretary, furnish a bond or other undertaking prescribed by the Secretary providing for the exportation, without benefit of any Government cotton export subsidy and within such period of time as the Secretary may specify, of a quantity of cotton produced on the farm equal to the average yield for the farm multiplied by the export market acreage as determined pursuant to regulations issued by the Secretary. The bond or other undertaking given pursuant to this section shall provide that, upon failure to comply with the terms and conditions thereof, the person furnishing such bond or other undertaking shall be liable for liquidated damages in an amount which the Secretary determines and specifies in such undertaking will approximate the amount payable on excess cotton under section 1346(a) of this title. The Secretary may, in lieu of the furnishing of a bond or other undertaking, provide for the payment of an amount equal to that which would be payable as liquidated damages under such bond or other undertaking. If such bond or other undertaking is not furnished, or if payment in lieu thereof is not made as provided herein, at such time and in the manner required by regulations of the Secretary, or if the acreage planted to cotton on the farm exceeds the farm acreage allotment established under the provisions of section 1344 of this title by more than the maximum export market acreage, the farm acreage allotment shall be the acreage so established under section 1344 of this title. Amounts collected by the Secretary under this section shall be remitted to the Commodity Credit Corporation and used by the Corporation to defray costs of encouraging export sales of cotton under section 1853¹ of this title.

¹ See References in Text note below.

(Feb. 16, 1938, ch. 30, title III, §349, as added Apr. 11, 1964, Pub. L. 88-297, title I, §106(1), 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).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1376 of this title.

§ 1350. National base acreage allotment

(a) Establishment

The Secretary shall establish for each of the 1971 through 1977 crops of upland cotton a national base acreage allotment. Such national base acreage allotment shall be announced not later than November 15 of the calendar year preceding the year for which the national base acreage allotment is to be effective. The national base acreage allotment for any crop of cotton shall be the number of acres which the Secretary determines on the basis of the expected national yield will produce an amount of cotton equal to the estimated domestic consumption of cotton (standard bales of four hundred and eighty pounds net weight) for the marketing year beginning in the year in which the crop is to be produced, plus not to exceed 25 per centum thereof if the Secretary, taking into consideration other actions he may take under the Agricultural Act of 1970, determines that such additional amount is necessary to provide for a production which will equal the national cotton production goal, except that such national base acreage allotment shall be eleven million five hundred thousand acres for the 1971 crop and in the case of the 1972 through 1977 crops shall be in such amount as the Secretary determines necessary to maintain adequate supplies. The national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.

(b) Apportionment to States

The national base acreage allotment for each crop of upland cotton shall be apportioned by the Secretary to the States on the basis of the acreage planted (including acreage regarded as having been planted) to upland cotton within the farm acreage allotment or the farm base acreage allotment, whichever is in effect, during the five calendar years immediately preceding the calendar year in which the national cotton production goal is proclaimed, with adjustments for abnormal weather conditions or other natural disaster during such period.

(c) Apportionment to counties

The State base acreage allotment for each crop of upland cotton shall be apportioned to

counties on the same basis as to years and conditions as is applicable to the State under subsection (b) of this section: *Provided*, That the State committee may reserve not to exceed 2 per centum of its State acreage allotment which shall be used to make adjustments in county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardships.

(d) Adjustment of apportionment bases for counties

The Secretary shall adjust the apportionment base for each county as may be necessary because of transfers of allotments across county lines.

(e) Apportionment to farms

(1) The county base acreage allotment for the 1971 crop shall be apportioned to old cotton farms in the county on the basis of the domestic acreage allotment established for the farm for the 1970 crop. For the 1972 and each subsequent crop of upland cotton the county base acreage allotment shall be apportioned to old cotton farms in the county on the basis of the farm base acreage allotment established for such farm for the preceding year. The county committee may reserve not in excess of 10 per centum of the county allotment which, in addition to the acreage made available under the proviso in subsection (c) of this section, shall be used for (A) establishing allotments for farms on which cotton was not planted (or regarded as planted) during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton, crop-rotation practices, and the soil and other physical facilities affecting the production of cotton; and (B) making adjustments of the farm allotments established under this paragraph so as to establish allotments which are fair and reasonable in relation to the factors set forth in this paragraph and abnormal conditions of production on such farms, or in making adjustments in farm allotments to correct inequities and to prevent hardships. No part of such reserve shall be apportioned to a farm to reflect new cropland brought into production after November 30, 1970.

(2) If for any crop the total acreage of cotton planted on a farm is less than the farm base acreage allotment, the farm base acreage allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than such farm base acreage allotment, but such reduction shall not exceed 20 per centum of the farm base acreage allotment for the preceding crop. If not less than 90 per centum of the base acreage allotment for the farm is planted to cotton, the farm shall be considered to have an acreage planted to cotton equal to 100 per centum of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to cotton because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be considered to be an acreage planted to cotton. For the

purpose of this paragraph, the Secretary shall, in the event producers of wheat or feed grains are permitted to do so, permit producers of cotton to have acreage devoted to soybeans, wheat, feed grains, guar, castor beans, triticale, oats, rye or such other crops as the Secretary may deem appropriate considered as devoted to the production of cotton to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the cotton or soybean program.

(3) If no acreage is planted to cotton for any three consecutive crop years on any farm which had a farm base acreage allotment for such years, such farm shall lose its base acreage allotment.

(f) Surrender of farm base acreage allotments

Effective for the 1971 through 1977 crops, any part of any farm base acreage allotment on which upland cotton will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the farm base acreage allotment for such farm and may be reapportioned by the county committee to other farms in the same county receiving farm base acreage allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of upland cotton, land, labor, equipment available for the production of upland cotton, crop rotation practices, and soil and other physical facilities affecting the production of upland cotton. If all of the acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used to make adjustments in farm base acreage allotments for other farms in the State adversely affected by abnormal conditions affecting plantings or to correct inequities or to prevent hardship. Any farm base acreage allotment released under this provision shall be regarded for the purpose of establishing future farm base acreage allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred: *Provided*, That, notwithstanding any other provision of law, any part of any farm base acreage allotment for any crop year may be permanently released in writing to the county committee by the owner and operator of the farm and reapportioned as provided herein. Acreage released under this subsection shall be credited to the State in determining future allotments.

(g) Compliance with set-aside requirements

Any farm receiving any base acreage allotment through release and reapportionment or sale, lease, or transfer shall, as a condition to the right to receive such allotment, comply with the set-aside requirements of section 1444(e)(4) of this title applicable to such acreage as determined by the Secretary.

(h) Transfer of farm base acreage allotments not planted because of natural disaster or conditions beyond control of producer

Notwithstanding any other provision of this chapter, if the Secretary determines for any year that because of drought, flood, other natural disaster, or a condition beyond the control of

the producer a portion of the farm base acreage allotment in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of such cotton acreage for any farm in the county so affected to another farm in the county or in any other nearby county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of upland cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm base acreage allotment transferred under this subsection shall be regarded as planted to upland cotton on the farm and in the county and State from which transfer is made for purposes of establishing future farm, county and State allotments.

(Feb. 16, 1938, ch. 30, title III, § 350, as added Apr. 11, 1964, Pub. L. 88-297, title I, § 105, 78 Stat. 175; amended Nov. 3, 1965, Pub. L. 89-321, title IV, § 401(3), 79 Stat. 1193; Oct. 11, 1968, Pub. L. 90-559, § 1(2), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title VI, § 601(4), 84 Stat. 1372; Aug. 10, 1973, Pub. L. 93-86, § 1(19) (A), (D)-(G), 87 Stat. 233.)

REFERENCES IN TEXT

The Agricultural Act of 1970, referred to in subsec. (a), is Pub. L. 91-524, Nov. 30, 1970, 84 Stat. 1358, as amended. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

PRIOR PROVISIONS

A prior section 1350, act Feb. 16, 1938, ch. 30, title III, § 350, 52 Stat. 60, was omitted by act Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670, which amended sections 342 to 350 of act Feb. 16, 1938, ch. 30, title III, 52 Stat. 56 to 60 (sections 1342 to 1344, 1345 to 1347, and prior sections 1348 to 1350 of this title) to be sections 342 to 348 of act Feb. 16, 1938 (sections 1342 to 1344, 1345 to 1347, and a prior section 1348 of this title). See section 1347 of this title.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-86, § 1(19)(A), (D), (E), substituted “1971 through 1977” for “1971, 1972, and 1973” and “1972 through 1977” for “1972 and 1973” and inserted requirement that the national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.

Subsec. (e)(2). Pub. L. 93-86, § 1(19)(F), substituted “soybeans, wheat, feed grains, guar, castor beans, triticale, oats, rye or such other crops as the Secretary may deem appropriate” for “soybeans, wheat or feed grains”.

Subsec. (f). Pub. L. 93-86, § 1(19)(A), substituted “1971 through 1977” for “1971, 1972, and 1973”.

Subsec. (h). Pub. L. 93-86, § 1(19)(G), substituted “to another farm in the county or in any other nearby county” for “to another farm in the county or in an adjoining county”.

1970—Pub. L. 91-524 designated existing provisions as subsec. (a), substituted provisions for the establishment of a national base acreage allotment covering each of the 1971, 1972, and 1973 crops of upland cotton for provisions authorizing the establishing of a national domestic allotment for the 1966 through 1970 crops of upland cotton, and added subsecs. (b) to (h).

1968—Pub. L. 90-559 provided for a one year extension, substituting “1966 through 1970” for “1966, 1967, 1968, and 1969”.

1965—Pub. L. 89-321 extended domestic acreage allotment program through the 1969 crop and otherwise amended section generally to authorize establishment of a national domestic allotment for each crop year

equal to the estimated domestic consumption for the marketing year beginning in year in which crop is to be produced and to authorize determination of a farm domestic acreage allotment percentage for each year by dividing national domestic allotment by total for all States of product of State acreage allotment and the projected State yield.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(19)(E)-(G) of Pub. L. 93-86 provided that the amendments made by that section are effective beginning with 1974 crop.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 601 of Pub. L. 91-524 provided that the amendment made by that section is effective beginning with 1971 crop.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 401(3) of Pub. L. 89-321 provided that the amendment made by that section is effective with 1966 crop.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1377, 1444 of this title.

§ 1350a. Repealed. Pub. L. 96-470, title I, § 102(e), Oct. 19, 1980, 94 Stat. 2237

Section, Pub. L. 91-524, title VI, § 609, Nov. 30, 1970, 84 Stat. 1378, required Secretary to file annually with President for transmission to Congress a complete report of programs carried out under title VI of Pub. L. 91-524.

SUBPART V—MARKETING QUOTAS—RICE

§ 1351. Omitted

CODIFICATION

Section, act Feb. 16, 1938, ch. 30, title III, § 351, 52 Stat. 60, set forth the legislative findings relating to rice marketing quotas pursuant to this subpart and was omitted in view of the repeal of the remaining sections of the subpart.

§§ 1352 to 1356. Repealed. Pub. L. 97-98, title VI, § 601, Dec. 22, 1981, 95 Stat. 1242

Section 1352, acts Feb. 16, 1938, ch. 30, title III, § 352, 52 Stat. 60; Aug. 9, 1955, ch. 648, 69 Stat. 576; Feb. 16, 1976, Pub. L. 94-214, title I, § 101, 90 Stat. 181; Sept. 29, 1977, Pub. L. 95-113, title VII, § 701, 91 Stat. 940, provided for a national acreage allotment and allocation for 1976 through 1981 crops of rice.

Section 1353, acts Feb. 16, 1938, ch. 30, title III, § 353, 52 Stat. 61; Oct. 31, 1949, ch. 792, title IV, § 418(a), 63 Stat. 1059; June 16, 1950, ch. 268, §§ 1, 2, 64 Stat. 232; Apr. 30, 1955, ch. 29, 69 Stat. 45; Apr. 30, 1955, ch. 30, 69 Stat. 45; May 5, 1955, ch. 31, 69 Stat. 45; Aug. 9, 1955, ch. 652, 69 Stat. 578; May 28, 1956, ch. 327, title III, § 304, 70 Stat. 205; June 4, 1958, Pub. L. 85-443, §§ 1, 2(a), (b), 3, 72 Stat. 177; Aug. 28, 1958, Pub. L. 85-835, title III, § 301, 72 Stat. 994; Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85-835, title V, § 501, 72 Stat. 996; Mar. 6, 1962, Pub. L. 87-412, 76 Stat. 20; Jan. 28, 1964, Pub. L. 88-261, 78 Stat. 6; Nov. 3, 1965, Pub. L. 89-321, title VIII, § 801, 79 Stat. 1212; Oct. 11, 1968, Pub. L. 90-559, § 1(8), 82 Stat. 996; Apr. 27, 1973, Pub. L. 93-27, 87 Stat. 27, related to allocation of national acreage allotment.

Section 1354, acts Feb. 16, 1938, ch. 30, title III, § 354, 52 Stat. 61; Oct. 31, 1949, ch. 792, title IV, § 418(a), 63 Stat. 1059; Apr. 4, 1960, Pub. L. 86-408, 74 Stat. 15, related to proclamation of marketing quotas and referendum by farmers on such quotas.

Section 1355, acts Feb. 16, 1938, ch. 30, title III, § 355, 52 Stat. 62; July 3, 1948, ch. 827, title II, § 206, 62 Stat. 1256; Oct. 31, 1949, ch. 792, title IV, §§ 415(e), 418(a), 63

Stat. 1058, 1059, related to amount of farm marketing quota.

Section 1356, acts Feb. 16, 1938, ch. 30, title III, §356, 52 Stat. 62; Oct. 31, 1949, ch. 792, title IV, §418(a), 63 Stat. 1059; June 4, 1958, Pub. L. 85-443, §4, 72 Stat. 178; Dec. 14, 1967, Pub. L. 90-191, 81 Stat. 578, related to penalties for farm marketing excess when farm marketing quotas are in effect and to avoidance or postponement of penalties by storage or other disposition.

EFFECTIVE DATE OF REPEAL

Section 601 of Pub. L. 97-98 provided that the repeal of sections 1352 to 1356 of this title is effective beginning with the 1982 crop of rice.

SUBPART VI—MARKETING QUOTAS—PEANUTS

§ 1357. Legislative findings

The production, marketing, and processing of peanuts and peanut products employs a large number of persons and is of national interest. The movement of peanuts from producer to consumer is preponderantly in interstate and foreign commerce, and, owing to causes beyond their control, the farmers producing such commodity and the persons engaged in the marketing and processing thereof are unable to regulate effectively the orderly marketing of the commodity. As the quantity of peanuts marketed in the channels of interstate and foreign commerce increases above the quantity of peanuts needed for cleaning and shelling, the prices at which all peanuts are marketed are depressed to low levels. These low prices tend to cause the quantity of peanuts available for marketing in later years to be less than normal, which in turn tends to cause relatively high prices. This fluctuation of prices and marketings of peanuts creates an unstable and chaotic condition in the marketing of peanuts for cleaning and shelling and for crushing for oil in the channels of interstate and foreign commerce. Since these unstable and chaotic conditions have existed for a period of years and are likely, without proper regulation, to continue to exist, it is imperative that the marketing of peanuts for cleaning and shelling and for crushing for oil in interstate and foreign commerce be regulated in order to protect producers, handlers, processors, and consumers.

(Feb. 16, 1938, ch. 30, title III, §357, as added Apr. 3, 1941, ch. 39, §1, 55 Stat. 88.)

MARKETING QUOTAS AND ACREAGE ALLOTMENTS FOR 1947

Joint Res. July 24, 1946, ch. 617, 60 Stat. 663, suspended marketing quotas and acreage allotments for 1947 in view of the critical shortage of high protein foods and feeds, and fats and oil.

§ 1358. National marketing quota

(a) Proclamation; amount

Between July 1 and December 1 of each calendar year the Secretary shall proclaim the amount of the national marketing quota for peanuts for the crop produced in the next succeeding calendar year in terms of the total quantity of peanuts which will make available for marketing a supply of peanuts from the crop with respect to which the quota is proclaimed equal to the average quantity of peanuts harvested for nuts during the five years imme-

diately preceding the year in which such quota is proclaimed, adjusted for current trends and prospective demand conditions, and the quota so proclaimed shall be in effect with respect to such crop. The national marketing quota for peanuts for any year shall be converted to a national acreage allotment by dividing such quota by the normal yield per acre of peanuts for the United States determined by the Secretary on the basis of the acreage yield per acre of peanuts in the five years preceding the year in which the quota is proclaimed, with such adjustments as may be found necessary to correct for trends in yields and for abnormal conditions of production affecting yields in such five years: *Provided*, That the national marketing quota established for the crop produced in the calendar year 1941 shall be a quantity of peanuts sufficient to provide a national acreage allotment of not less than one million six hundred and ten thousand acres, and that the national marketing quota established for any subsequent year shall be quantity of peanuts sufficient to provide a national acreage allotment of not less than that established for the crop produced in the calendar year 1941.

(b) Referendum

Not later than December 15 of each calendar year the Secretary shall conduct a referendum of farmers engaged in the production of peanuts in the calendar year in which the referendum is held to determine whether such farmers are in favor of or opposed to marketing quotas with respect to the crops of peanuts produced in the three calendar years immediately following the year in which the referendum is held, except that, if as many as two-thirds of the farmers voting in any referendum vote in favor of marketing quotas, no referendum shall be held with respect to quotas for the second and third years of the period. The Secretary shall proclaim the results of the referendum within thirty days after the date on which it is held, and, if more than one-third of the farmers voting in the referendum vote against marketing quotas, the Secretary also shall proclaim that marketing quotas will not be in effect with respect to the crop of peanuts produced in the calendar year immediately following the calendar year in which the referendum is held. Notwithstanding any other provisions of this section, the Secretary shall proclaim a national marketing quota with respect to the crop of peanuts produced in the calendar year 1941 equal to the minimum quota provided for said year in subsection (a) of this section and shall provide for the holding of a referendum on such quota within thirty days after April 3, 1941, and the State and farm acreage allotments established under the 1941 agricultural conservation program shall be the State and farm acreage allotments for the 1941 crop of peanuts. Notwithstanding any other provision hereof, the referendum with respect to marketing quotas for the crops of peanuts produced in the 1986, 1987, and 1988 calendar years may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.

(c) Apportionment of national acreage allotment

(1) The national acreage allotment for 1951, less the acreage to be allotted to new farms

under subsection (f) of this section, shall be apportioned among the States on the basis of the larger of the following for each State: (a) The acreage allotted to the State as its share of the 1950 national acreage allotment of two million one hundred thousand acres, or (b) the State's share of two million one hundred thousand acres apportioned to States on the basis of the average acreage harvested for nuts in each State in the five years 1945-1949: *Provided*, That any allotment so determined for any State which is less than the 1951 State allotment announced by the Secretary prior to February 16, 1938, shall be increased to such announced allotment and the acreage required for such increases shall be in addition to the 1951 national acreage allotment and shall be considered in determining State acreage allotments in future years. For any year subsequent to 1951, the national acreage allotment for that year shall be apportioned among the States on the basis of their share of the national acreage allotment for the most recent year in which such apportionment was made.

(2) Notwithstanding any other provision of law, if the Secretary of Agriculture determines, on the basis of the average yield per acre of peanuts by types during the preceding five years, adjusted for trends in yields and abnormal conditions of production affecting yields in such five years, that the supply of any type or types of peanuts for any marketing year, beginning with the 1951-1952 marketing year, will be insufficient to meet the estimated demand for cleaning and shelling purposes at prices at which the Commodity Credit Corporation may sell for such purposes peanuts owned or controlled by it, the State allotments for those States producing such type or types of peanuts shall be increased to the extent determined by the Secretary to be required to meet such demand but the allotment for any State may not be increased under this provision above the 1947 harvested acreage of peanuts for such State. The total increase so determined shall be apportioned among such States for distribution among farms producing peanuts of such type or types on the basis of the average acreage of peanuts of such type or types in the three years immediately preceding the year for which the allotments are being determined. The additional acreage so required shall be in addition to the national acreage allotment, the production from such acreage shall be in addition to the national marketing quota, and the increase in acreage allotted under this provision shall not be considered in establishing future State, county, or farm acreage allotments.

(d) Farm acreage allotments

The Secretary shall provide for the apportionment of the State acreage allotment for any State, less the acreage to be allotted to new farms under subsection (f) of this section, through local committees among farms on which peanuts were grown in any of the three years immediately preceding the year for which such allotment is determined. The State acreage allotment for 1952 and any subsequent year shall be apportioned among farms on which peanuts were produced in any one of the three calendar years immediately preceding the year for which

such apportionment is made, on the basis of the following: Past acreage of peanuts, taking into consideration the acreage allotments previously established for the farm; abnormal conditions affecting acreage; land, labor, and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts. Any acreage of peanuts harvested in excess of the allotted acreage for any farm for any year shall not be considered in the establishment of the allotment for the farm in succeeding years. The amount of the marketing quota for each farm shall be the actual production of the farm-acreage allotment, and no peanuts shall be marketed under the quota for any farm other than peanuts actually produced on the farm.

(e) County acreage allotments

Notwithstanding the foregoing provisions of this section, the Secretary may, if the State committee recommends such action and the Secretary determines that such action will facilitate the effective administration of the provisions of this chapter, provide for the apportionment of the State acreage allotment for 1952 and any subsequent year among the counties in the State on the basis of the past acreage of peanuts harvested for nuts (excluding acreage in excess of farm allotments) in the county during the five years immediately preceding the year in which such apportionment is made, with such adjustments as are deemed necessary for abnormal conditions affecting acreage, for trends in acreage, and for additional allotments for types of peanuts in short supply under the provisions of subsection (c) of this section. The county acreage allotment shall be apportioned among farms on the basis of the factors set forth in subsection (d) of this section.

(f) New farm allotments

Not more than 1 per centum of the State acreage allotment shall be apportioned among farms in the State on which peanuts are to be produced during the calendar year for which the allotment is made but on which peanuts were not produced during any one of the past three years, on the basis of the following: Past peanut-producing experience by the producers; land, labor, and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts.

(g) Release and reapportionment of farm-acreage allotments

Any part of the acreage allotted to individual farms under the provisions of this section on which peanuts will not be produced and which is voluntarily surrendered to the county committee shall be deducted from the allotments to such farms and may be reapportioned by the county committee to other farms in the same county receiving allotments, in amounts determined by the county committee to be fair and reasonable on the basis of land, labor, and equipment available for the production of peanuts, crop-rotation practices, and soil and other physical factors affecting the production of peanuts. Any transfer of allotments under this provision shall not operate to reduce the allotment for

any subsequent year for the farm from which acreage is transferred, except as the farm becomes ineligible for an allotment by failure to produce peanuts during a three-year period, and any such transfer shall not operate to increase the allotment for any subsequent year for the farm to which the acreage is transferred: *Provided*, That, notwithstanding any other provisions of this chapter, any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein.

(h) Repealed. Feb. 16, 1938, ch. 30, title III, § 378(d), as added Pub. L. 85-835, title V, § 501, Aug. 28, 1958, 72 Stat. 996

(i) Production on farms with no allotments

The production of peanuts on a farm in 1959 or any subsequent year for which no farm acreage allotment was established shall not make the farm eligible for an allotment as an old farm under subsection (d) of this section: *Provided, however*, That by reason of such production the farm need not be considered as ineligible for a new farm allotment under subsection (f) of this section, but such production shall not be deemed past experience in the production of peanuts for any producer on the farm.

(j) Transfer of acreage allotment

Notwithstanding any other provision of this chapter, if the Secretary determines for 1976 or a subsequent year that because of a natural disaster a portion of the farm peanut acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of the peanut acreage allotments for any farm in the county so affected to another farm in the county or in an adjoining county in the same or an adjoining State on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of peanuts and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be released acreage for the purpose of acreage history credits under subsection (g) of this section and section 1377 of this title: *Provided*, That notwithstanding the provisions of subsection (g) of this section, the transfer of any farm allotment under this subsection shall operate to make the farm from which the allotment was transferred eligible for an allotment as having peanuts planted thereon during the three-year base period.

(Feb. 16, 1938, ch. 30, title III, § 358, as added Apr. 3, 1941, ch. 39, § 1, 55 Stat. 88; amended July 9, 1942, ch. 497, § 1(1), 56 Stat. 653; July 26, 1946, ch. 677, 60 Stat. 705; Aug. 1, 1947, ch. 445, § 1, 61 Stat. 721; Aug. 29, 1949, ch. 518, § 4, 63 Stat. 676; Mar. 31, 1950, ch. 81, § 6(b), 64 Stat. 43; Apr. 12, 1951, ch. 28, § 1, 65 Stat. 29; Aug. 21, 1958, Pub. L. 85-717, § 1, 72 Stat. 709; Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85-835, title V, § 501, 72 Stat. 996; Aug. 3, 1971, Pub. L. 92-62, §§ 1-3, 85 Stat. 163, 164; Mar. 25, 1976, Pub. L. 94-247, 90 Stat. 285; Sept. 29, 1977, Pub. L. 95-113, title VIII,

§§ 801(b), 802, 91 Stat. 944; Dec. 22, 1981, Pub. L. 97-98, title VII, § 702, 95 Stat. 1248; Nov. 15, 1985, Pub. L. 99-157, § 5, 99 Stat. 818; Dec. 23, 1985, Pub. L. 99-198, title VII, § 702, 99 Stat. 1430; Dec. 13, 1991, Pub. L. 102-237, title I, § 117(b)(2)(A), 105 Stat. 1841.)

AMENDMENTS

1991—Subsec. (v)(3). Pub. L. 102-237 made a technical amendment to the reference to section 1359(c) of this title to reflect the renumbering of the corresponding section of the original act.

1985—Subsec. (b). Pub. L. 99-157 inserted at end “Notwithstanding any other provision hereof, the referendum with respect to marketing quotas for the crops of peanuts produced in the 1986, 1987, and 1988 calendar years may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.”

Subsecs. (q) to (v). Pub. L. 99-198 temporarily added subsecs. (q) to (v). See Effective and Termination Dates of 1985 Amendment note below.

1981—Subsecs. (k) to (p). Pub. L. 97-98 temporarily added subsecs. (k) to (p). See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (c)(1). Pub. L. 95-113, § 801(b), temporarily inserted proviso that the peanut acreage allotment for the State of New Mexico not be reduced below the 1977 acreage allotment as increased pursuant to subsec. (c)(2) of this section. See Effective and Termination Dates of 1977 Amendment note below.

Subsecs. (k) to (p). Pub. L. 95-113, § 802, temporarily added subsecs. (k) to (p). See Effective and Termination Dates of 1977 Amendment note below.

1976—Subsec. (j). Pub. L. 94-247 added subsec. (j).

1971—Subsec. (c)(1). Pub. L. 92-62, § 1, struck out “, less the acreage to be allotted to new farms under subsection (f) of this section,” after “For any year subsequent to 1951, the national acreage allotment for that year”.

Subsec. (d). Pub. L. 92-62, § 2, inserted in first sentence “the” before “apportionment” and “, less the acreage to be allotted to new farms under subsection (f) of this section.”

Subsec. (f). Pub. L. 92-62, § 3, substituted “1 per centum of the State acreage allotment shall be apportioned among farms in the State” for “one per centum of the national acreage allotment shall be apportioned among farms”.

1958—Subsec. (h). Act Feb. 16, 1938, § 378(d), as added by Pub. L. 85-835, repealed subsec. (h) which related to allotments for displaced farm owners, and is covered by section 1378(a), (b) of this title.

Subsec. (i). Pub. L. 85-717 added subsec. (i).

1951—Subsec. (c). Act Apr. 12, 1951, provided for allocation of 1951 national acreage allotment among the States.

Subsec. (d). Act Apr. 12, 1951, provided that the State acreage allotment for 1952 and subsequent years shall be apportioned among old peanut farms on basis of past acreage of peanuts.

Subsecs. (e) to (h). Act Apr. 12, 1951, added subsecs. (e) to (h).

1950—Subsec. (d). Act Mar. 31, 1950, provided that any acreage of peanuts harvested in excess of allotted acreage for any farm for any year shall not be considered in establishment of allotment for the farm in succeeding years.

1949—Subsec. (c). Act Aug. 29, 1949, provided that acreage allotment for any State after 1949 shall not be less than 60 percent of acreage of peanuts harvested for nuts in the State in 1948.

1947—Subsec. (d). Act Aug. 1, 1947, substituted last sentence for former last sentence which, as substituted by act July 9, 1942, provided that the amount of marketing quota for each farm should be a number of pounds of peanuts equal to the normal or actual production, which ever was greater, of the farm peanut acreage allotment.

1946—Subsec. (a). Act July 26, 1946, struck out of proviso “95 per centum of” in order to give States an allotment at least equal to 100 percent of the acreage in said State during 1941.

Subsec. (c). Act July 26, 1946, struck out of first proviso “95 per centum of” and inserted immediately preceding colon “and any additional acreage so required shall be in addition to the national allotment and the production from such acreage shall be in addition to the national marketing quota” in order to give States an allotment at least equal to 100 percent of the acreage in said State during 1941, and to protect other States against any loss of acreage by reason of this change.

1942—Subsec. (d). Act July 9, 1942, substituted last sentence for former last sentence.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 702 of Pub. L. 99-198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 702 of Pub. L. 97-98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 801(b) of Pub. L. 95-113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

Section 802 of Pub. L. 95-113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

SAVINGS PROVISION

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (h), see note set out under section 1378 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF PEANUTS

Pub. L. 101-624, title VIII, § 801(1), Nov. 28, 1990, 104 Stat. 3459, provided that subsections. (a) through (j) of this section are inapplicable to 1991 through 1995 peanut crops.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF PEANUTS

Section 701(1) of Pub. L. 99-198 provided that subsections. (a) through (j) of this section are inapplicable to 1986 through 1990 peanut crops.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF PEANUTS

Section 701(1) of Pub. L. 97-98 provided that subsections. (a) through (j) of this section are inapplicable to 1982 through 1985 peanut crops.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF PEANUTS

Section 801(a) of Pub. L. 95-113 provided that: “Subsections (a) and (e) [of this section] shall not be applicable to the 1978 through 1981 crops of peanuts.”

PEANUT ACREAGE ALLOTMENT FOR 1950

Section 7 of act Mar. 31, 1950, prohibited reduction of the peanut acreage allotment for any State by a percentage larger than the percentage by which the 1950 national acreage allotment is below the 1949 national acreage allotment and directed that the allotment for any State shall be increased to the extent required to provide such minimum State allotment and such acreage required shall be in addition to the national acreage allotment.

EMERGENCY FARM ACREAGE ALLOTMENT

Act Feb. 28, 1945, ch. 15, 59 Stat. 9, provided for farm acreage allotment during national emergency proclaimed by the President on Sept. 8, 1939, and May 27, 1941. Such emergencies terminated on July 25, 1947, by the provisions of Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451.

§ 1358-1. National poundage quotas and acreage allotments for 1991 through 1997 crops of peanuts

(a) National poundage quotas

(1) Establishment

The national poundage quota for peanuts for each of the 1991 through 1997 marketing years shall be established by the Secretary at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each such marketing year to domestic edible, seed, and related uses. Notwithstanding any other provision of this paragraph, the national poundage quota for a marketing year shall not be less than 1,350,000 tons.

(2) Announcement

The national poundage quota for a marketing year shall be announced by the Secretary not later than December 15 preceding the marketing year.

(3) Apportionment among States

The national poundage quota established under paragraph (1) shall be apportioned among the States so that the poundage quota allocated to each State shall be equal to the percentage of the national poundage quota allocated to farms in the State for 1990.

(b) Farm poundage quotas

(1) In general

(A) Establishment

A farm poundage quota for each of the 1991 through 1997 marketing years shall be established—

(i) for each farm that had a farm poundage quota for peanuts for the 1990 marketing year;

(ii) if the poundage quota apportioned to a State under subsection (a)(3) of this section for any such marketing year is larger than the quota for the immediately preceding marketing year, for each other farm on which peanuts were produced for marketing in at least 2 of the 3 imme-

diately preceding crop years, as determined by the Secretary; and

(iii) as approved and determined by the Secretary under section 1358c of this title, for each farm on which peanuts are produced in connection with experimental and research programs.

(B) Quantity

The farm poundage quota for each of the 1991 through 1997 marketing years for each farm described in subparagraph (A)(i) shall be the same as the farm poundage quota for the farm for the immediately preceding marketing year, as adjusted under paragraph (2), but not including—

(i) any increases for undermarketings from previous years; or

(ii) any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).

The farm poundage quota, if any, for each of the 1991 through 1997 marketing years for each farm described in subparagraph (A)(ii) shall be equal to the quantity of peanuts allocated to the farm for the year under paragraph (2).

(C) Transfers

For purposes of this subsection, if the farm poundage quota, or any part thereof, is permanently transferred in accordance with section 1358a or 1358b of this title, the receiving farm shall be considered as possessing the farm poundage quota (or portion thereof) of the transferring farm for all subsequent marketing years.

(2) Adjustments

(A) Allocation of increased quota generally

Except as provided in subparagraph (B) and subject to subparagraph (D), if the poundage quota apportioned to a State under subsection (a)(3) of this section for any of the 1991 through 1997 marketing years is increased over the poundage quota apportioned to farms in the State for the immediately preceding marketing year, the increase shall be allocated proportionately, based on farm production history for peanuts for the 3 immediately preceding years, among—

(i) all farms in the State for each of which a farm poundage quota was established for the marketing year immediately preceding the marketing year for which the allocation is being made; and

(ii) all other farms in the State on each of which peanuts were produced in at least 2 of the 3 immediately preceding crop years, as determined by the Secretary.

(B) Allocation of increased quota in Texas

(i) In general

In Texas, and subject to terms and conditions prescribed by the Secretary, beginning with the 1991 marketing year, 33 percent of the increased quota referred to in subparagraph (A) shall be allocated to farms having poundage quotas for the 1990 marketing year in any county in which the

production of additional peanuts exceeded the total quota allocated to the county for the 1989 marketing year.

(ii) Basis for allocation to counties

The allocation of the quota to eligible counties shall be based on the total production of additional peanuts in the respective counties for the 1988 crop, except that the total quota allocated to any county under this subparagraph and paragraph (6)(C) shall not be increased by more than 100 percent of the basic quota assigned to the county for the 1989 marketing year if that county had more than 10,000 tons of quota for the 1989 marketing year.

(iii) Allocation to other counties

If the total quota for any such county is so increased by 100 percent, all of the remaining quota percentage set aside under this subparagraph shall be allocated to farms in other counties otherwise meeting the requirements of this subparagraph.

(iv) Allocation to eligible farms

The percentage of increased quota in any county shall be allocated under this subparagraph only to quota farms from which additional peanuts were delivered under contract with handlers for the marketing year immediately preceding the marketing year for which the allocation is being made. The percentage of the increased quota in each county shall be allocated among the eligible farms in the county on the following basis:

(I) Factor

A factor shall be established for each such eligible farm by dividing the quantity of additional peanuts contracted and delivered to handlers from the farm by the total remaining peanuts produced on the farm for the marketing year immediately preceding the marketing year for which the allocation is being made.

(II) Allocation

Each such eligible farm shall be allocated the percentage of the increased quota for the county as its factor bears to the total of the factors for all eligible farms in the county.

(v) Remaining percentage

In Texas, the remaining 67 percent of the increased quota referred to in subparagraph (A) shall be allocated to farms in the State in accordance with subparagraph (A).

(C) Decrease

If the poundage quota apportioned to a State under subsection (a)(3) of this section for any of the 1991 through 1997 marketing years is decreased from the poundage quota apportioned to farms in the State under subsection (a)(3) of this section for the immediately preceding marketing year, the decrease shall be allocated among all the farms in the State for each of which a farm poundage quota was established for the mar-

keting year immediately preceding the marketing year for which the allocation is being made.

(D) Special rule on tenant's share of increased quota

Subject to terms and conditions prescribed by the Secretary, on farms that were leased to a tenant for peanut production, the tenant shall share equally with the owner of the farm in that percentage of the quota referred to in subparagraph (A) and otherwise allocated to the farm as the result of the tenant's production on the farm of additional peanuts. Not later than April 1 of each year or as soon as practicable, the tenant's share of any such quota shall be allocated to a farm within the county owned by the tenant or sold by the tenant to the owner of any farm within the county and permanently transferred to that farm. Any quota not so disposed of as provided in this subparagraph shall be allocated to other quota farms in the State under paragraph (6) as part of the quota reduced from farms in the State due to the failure to produce the quota.

(3) Quota not produced

(A) In general

Insofar as practicable and on such fair and equitable basis as the Secretary may by regulation prescribe, the farm poundage quota established for a farm for any of the 1991 through 1997 marketing years shall be reduced to the extent that the Secretary determines that the farm poundage quota established for the farm for any 2 of the 3 marketing years preceding the marketing year for which the determination is being made was not produced, or considered produced, on the farm.

(B) Exclusions

For the purposes of this paragraph, the farm poundage quota for any such preceding marketing year shall not include—

- (i) any increases for undermarketing of quota peanuts from previous years; or
- (ii) any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).

(4) Quota considered produced

For purposes of this subsection, the farm poundage quota shall be considered produced on a farm if—

(A) the farm poundage quota was not produced on the farm because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, as determined by the Secretary;

(B) the farm poundage quota for the farm was released voluntarily under paragraph (7) for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made; or

(C) the farm poundage quota was leased to another owner or operator of a farm within the same county for transfer to such farm for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made.

(5) Quota permanently released

Notwithstanding any other provision of law—

(A) the farm poundage quota established for a farm under this subsection, or any part of the quota, may be permanently released by the owner of the farm, or the operator with the permission of the owner; and

(B) the poundage quota for the farm for which the quota is released shall be adjusted downward to reflect the quota that is so released.

(6) Allocation of quotas reduced or released

(A) In general

Except as provided in subparagraphs (B) and (C), the total quantity of the farm poundage quotas reduced or voluntarily released from farms in a State for any marketing year under paragraphs (3) and (5) shall be allocated, as the Secretary may by regulation prescribe, to other farms in the State on which peanuts were produced in at least 2 of the 3 crop years immediately preceding the year for which the allocation is being made.

(B) Set-aside for farms with no quota

Not more than 25 percent of the total amount of farm poundage quota to be allocated in the State under subparagraph (A) shall be allocated to farms in the State for which no farm poundage quota was established for the immediately preceding year's crop. The allocation to any such farm shall not exceed the average farm production of peanuts for the 3 immediately preceding years during which peanuts were produced on the farm.

(C) Allocation of quotas reduced or released in Texas

(i) In general

In Texas, and subject to terms and conditions prescribed by the Secretary, beginning with the 1991 marketing year, the total quantity of the farm poundage quota, except the percentage allocated to new farms under subparagraph (B), shall be allocated to other farms having poundage quotas for the 1990 marketing year in all counties in which the production of additional peanuts exceeded the total quota allocated to the county for the 1989 marketing year.

(ii) Basis for allocation to counties

The allocation of the quota to eligible counties shall be based on the total production of additional peanuts in the respective county for the 1988 crop, except that the total quota allocated to any county under this subparagraph and paragraph (2)(B) shall not be increased by more than 100 percent of the basic quota allocated to the county for the 1989 marketing year, if that county had more than 10,000 tons of quota for the 1989 marketing year.

(iii) Allocation to other counties

If the total quota for any such county is so increased by 100 percent, all of the re-

maining quota set aside under this subparagraph shall be allocated to farms in other counties otherwise meeting the requirements of this subparagraph.

(iv) Allocation to eligible farms

The percentage of farm poundage quota available for allocation under this subparagraph shall be allocated only to quota farms from which additional peanuts were delivered under contract with handlers for the marketing year immediately preceding the marketing year for which the allocation is being made. The percentage of the increased quota in each county shall be allocated among the eligible farms in the county on the following basis:

(I) Factor

A factor shall be established for each such eligible farm by dividing the amount of additional peanuts contracted and delivered to handlers from the farm by the total remaining peanuts produced on the farm for the marketing year immediately preceding the marketing year for which the allocation is being made.

(II) Allocation

Each such eligible farm shall be allocated the percentage of the increased quota for the county as its factor bears to the total of the factors for all eligible farms in the county.

(7) Quota temporarily released

(A) In general

The farm poundage quota, or any portion thereof, established for a farm for a marketing year may be voluntarily released to the Secretary to the extent that the quota, or any part thereof, will not be produced on the farm for the marketing year. Any farm poundage quota so released in a State shall be allocated to other farms in the State on such basis as the Secretary may by regulation prescribe.

(B) Effective period

Except as otherwise provided in this section, any adjustment in the farm poundage quota for a farm under subparagraph (A) shall be effective only for the marketing year for which it is made and shall not be taken into consideration in establishing a farm poundage quota for the farm from which the quota was released for any subsequent marketing year.

(8) Increase for undermarketings in previous marketing years

(A) In general

Except as provided in subparagraph (B), the farm poundage quota for a farm for any marketing year shall be increased by the number of pounds by which the total marketings of quota peanuts from the farm during previous marketing years (excluding any marketing year before the marketing year for the 1989 crop) were less than the total amount of applicable farm poundage quotas (disregarding adjustments for under-

marketings from previous marketing years) for the marketing years.

(B) Quota not produced

For purposes of subparagraph (A), no increase for undermarketings in previous marketing years shall be made to the poundage quota for any farm to the extent that the poundage quota for the farm for the marketing year was reduced under paragraph (3) for failure to produce.

(C) National poundage quota

Any increases in farm poundage quotas under this paragraph shall not be counted against the national poundage quota for the marketing year involved.

(D) Transfer of additional peanuts

Any increase in the farm poundage quota for a farm for a marketing year under this paragraph may be used during the marketing year by the transfer of additional peanuts produced on the farm to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation prescribe.

(9) Limit on increases for undermarketings

Notwithstanding the foregoing provisions of this subsection, if the total of all increases in individual farm poundage quotas under paragraph (8) exceeds 10 percent of the national poundage quota for the marketing year in which the increases shall be applicable, the Secretary shall adjust the increases so that the total of all the increases does not exceed 10 percent of the national poundage quota.

(c) Farm yields

(1) In general

For each farm for which a farm poundage quota is established under subsection (b) of this section, and when necessary for purposes of this chapter, a farm yield of peanuts shall be determined for each such farm.

(2) Quantity

The yield shall be equal to the average of the actual yield per acre on the farm for each of the 3 crop years in which yields were highest on the farm out of the 5 crop years 1973 through 1977.

(3) Appraised yields

If peanuts were not produced on the farm in at least 3 years during the 5-year period or there was a substantial change in the operation of the farm during the period (including a change in operator, lessee who is an operator, or irrigation practices), the Secretary shall have a yield appraised for the farm. The appraised yield shall be that quantity determined to be fair and reasonable on the basis of yields established for similar farms that are located in the area of the farm and on which peanuts were produced, taking into consideration land, labor, and equipment available for the production of peanuts, crop rotation practices, soil and water, and other relevant factors.

(d) Referendum respecting poundage quotas

(1) In general

Not later than December 15 of each calendar year, the Secretary shall conduct a referen-

dum of producers engaged in the production of quota peanuts in the calendar year in which the referendum is held to determine whether the producers are in favor of or opposed to poundage quotas with respect to the crops of peanuts produced in the 5 calendar years immediately following the year in which the referendum is held, except that, if as many as two-thirds of the producers voting in any referendum vote in favor of poundage quotas, no referendum shall be held with respect to quotas for the second, third, fourth, and fifth years of the period.

(2) Proclamation

The Secretary shall proclaim the result of the referendum within 30 days after the date on which it is held.

(3) Vote against quotas

If more than one-third of the producers voting in the referendum vote against quotas, the Secretary also shall proclaim that poundage quotas will not be in effect with respect to the crop of peanuts produced in the calendar year immediately following the calendar year in which the referendum is held.

(e) Definitions

For the purposes of this subpart and title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.):

(1) Additional peanuts

The term “additional peanuts” means, for any marketing year—

(A) any peanuts that are marketed from a farm for which a farm poundage quota has been established and that are in excess of the marketings of quota peanuts from the farm for the year; and

(B) all peanuts marketed from a farm for which no farm poundage quota has been established in accordance with subsection (b) of this section.

(2) Crushing

The term “crushing” means the processing of peanuts to extract oil for food uses and meal for feed uses, or the processing of peanuts by crushing or otherwise when authorized by the Secretary.

(3) Domestic edible use

The term “domestic edible use” means use for milling to produce domestic food peanuts (other than those described in paragraph (2)) and seed and use on a farm, except that the Secretary may exempt from this definition seeds of peanuts that are used to produce peanuts excluded under section 1359(c) of this title, are unique strains, and are not commercially available.

(4) Quota peanuts

The term “quota peanuts” means, for any marketing year, any peanuts produced on a farm having a farm poundage quota, as determined in subsection (b) of this section, that—

(A) are eligible for domestic edible use as determined by the Secretary;

(B) are marketed or considered marketed from a farm; and

(C) do not exceed the farm poundage quota of the farm for the year.

(f) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1997 crops of peanuts.

(Feb. 16, 1938, ch. 30, title III, §358-1, as added Nov. 28, 1990, Pub. L. 101-624, title VIII, §802, 104 Stat. 3459; amended Dec. 13, 1991, Pub. L. 102-237, title I, §117(b)(2)(B), 105 Stat. 1841; Aug. 10, 1993, Pub. L. 103-66, title I, §1109(c)(1), 107 Stat. 326.)

REFERENCES IN TEXT

The Agricultural Act of 1949, as amended, referred to in subsec. (e), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended. Title I of the Act is classified generally to subchapter II (§1441 et seq.) of chapter 35A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1993—Pub. L. 103-66 substituted “1997” for “1995” in section catchline and wherever appearing in subsecs. (a)(1), (b)(1)(A), (B), (2)(A), (C), (3)(A), and (f).

1991—Subsec. (e)(3). Pub. L. 102-237 made a technical amendment to the reference to section 1359(c) of this title to reflect the renumbering of the corresponding section of the original act.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

REGULATIONS

Section 809 of title VIII of Pub. L. 101-624 provided that: “The Secretary of Agriculture shall issue such regulations as are necessary to carry out this title [enacting this section and sections 1358b, 1358c, 1359a, and 1445c-3 of this title, amending sections 1373 and 1445c-2 of this title, repealing sections 1445c and 1445c-1 of this title, and enacting provisions set out as notes under sections 1358, 1358a, 1359, prec. 1361, 1371, 1373, and 1441 of this title] and the amendments made by this title. In issuing the regulations, the Secretary—

“(1) is encouraged to comply with subchapter II of chapter 5 of title 5, United States Code;

“(2) shall provide public notice through the Federal Register of any such proposed regulations; and

“(3) shall allow adequate time for written public comment prior to the formulation and issuance of any final regulations.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1445c-3 of this title.

§ 1358a. Transfer of peanut acreage allotments

(a) Authority to permit transfers

Notwithstanding any other provision of law for the 1968 and succeeding crop years, the Secretary, if he determines that it will not impair the effective operation of the peanut marketing quota or price-support program, (1) may permit the owner and operator of any farm for which a peanut acreage allotment is established under this chapter to sell or lease all or any part or the right to all or any part of such allotment to any other owner or operator of a farm in the same county for transfer to such farm; and (2)

may permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him.

(b) Conditions upon transfer; adjustment of allotment

Transfers under this section shall be subject to the following conditions: (1) no allotment shall be transferred to a farm in another county; (2) no transfer of an allotment from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders; (3) no sale of a farm allotment from a farm shall be permitted if any sale of allotment to the same farm has been made within the three immediately preceding crop years; (4) no transfer of allotment shall be effective until a record thereof is filed with the county committee of the county in which such transfer is made and such committee determines that the transfer complies with the provisions of this section; and (5) if the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the lease or sale and transfer shall be approved acre for acre, but if the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established for the farm to which the allotment is transferred: *Provided*, That in the event an allotment is transferred to a farm which at the time of such transfer is not irrigated, but within five years subsequent to such transfer is placed under irrigation, the Secretary shall also make an annual downward adjustment in the allotment so transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the actual yield for the previous year, adjusted for abnormal weather conditions, on the farm to which the allotment is transferred: *Provided further*, That, notwithstanding any other provision of this chapter, the adjustment made in any peanut allotment because of the transfer to a higher producing farm shall not reduce or increase the size of any future National or State allotment and an acreage equal to the total of all such adjustments shall not be allotted to any other farms.

(c) Transfer of acreage history and marketing quota; transfer by lease

The transfer of an allotment shall have the effect of transferring also the acreage history and marketing quota attributable to such allotment and if the transfer is made prior to the determination of the allotment for any year the transfer shall include the right of the owner or operator to have an allotment determined for the farm for such year: *Provided*, That in the case of a transfer by lease the amount of the al-

lotment shall be considered, for the purpose of determining allotments after the expiration of the lease, to have been planted on the farm from which such allotment is transferred.

(d) Eligibility of transferred land for new allotment

The land in the farm from which the entire peanut allotment has been transferred shall not be eligible for a new farm peanut allotment during the five years following the year in which such transfer is made.

(e) Duration of lease; terms and conditions

Any lease may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions except as otherwise provided in this section as the parties thereto agree.

(f) Lease of part of acreage allotment; determination of future allotments; eligibility for referendum

The lease of any part of a peanut acreage allotment determined for a farm shall not affect the allotment for the farm from which such allotment is transferred or the farm to which it is transferred, except with respect to the crop year or years specified in the lease. The amount of the acreage allotment which is leased from a farm shall be considered for purposes of determining future allotments to have been planted to peanuts on the farm from which such allotment is leased and the production pursuant to the lease shall not be taken into account in establishing allotments for subsequent years for the farm to which such allotment is leased. The lessor shall be considered to have been engaged in the production of peanuts for purposes of eligibility to vote in the referendum.

(g) Regulations; limitations on transfers

The Secretary shall prescribe regulations for the administration of this section which may include reasonable limitation on the size of the resulting allotments on farms to which transfers are made and such other terms and conditions as he deems necessary, but the total peanut allotment transferred to any farm by sale or lease shall not exceed fifty acres.

(h) Adjustment of rates for land utilization agreements

If the sale or transfer occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, or other similar land utilization agreement the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the transfer is made.

(Feb. 16, 1938, ch. 30, title III, §358a, as added Dec. 18, 1967, Pub. L. 90-211, 81 Stat. 658; amended Nov. 21, 1969, Pub. L. 91-122, 83 Stat. 213; Dec. 22, 1970, Pub. L. 91-568, 84 Stat. 1499; Sept. 29, 1977, Pub. L. 95-113, title VIII, §803, 91 Stat. 946; Dec. 22, 1981, Pub. L. 97-98, title VII, §703, 95 Stat. 1251; Dec. 23, 1985, Pub. L. 99-198, title VII, §703, 99 Stat. 1434; Aug. 11, 1988, Pub. L. 100-387, title III, §304(a)(2), 102 Stat. 948.)

AMENDMENTS

1988—Subsec. (k)(1). Pub. L. 100-387 temporarily inserted at end “In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.” See Effective and Termination Dates of 1988 Amendment note below.

1985—Subsecs. (k), (l). Pub. L. 99-198 temporarily added subsecs. (k) and (l). See Effective and Termination Dates of 1985 Amendment note below.

1981—Subsecs. (i), (j). Pub. L. 97-98 temporarily added subsecs. (i) and (j). See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (a). Pub. L. 95-113, §803(1), temporarily struck out “, if he determines that it will not impair the effective operation of the peanut marketing quota or price support program,” after “the Secretary” and substituted “shall” for “may” wherever appearing. See Effective and Termination Dates of 1977 Amendment note below.

Subsec. (i). Pub. L. 95-113, §803(2), temporarily added subsec. (i). See Effective and Termination Dates of 1977 Amendment note below.

1970—Subsec. (a). Pub. L. 91-568 substituted “1968 and succeeding crop years” for “1968, 1969, and 1970 crop years”.

1969—Subsec. (a). Pub. L. 91-122 inserted provisions relating to the 1970 crop year.

EFFECTIVE AND TERMINATION DATES OF 1988
AMENDMENT

Section 304(a)(2) of Pub. L. 100-387 provided that the amendment made by that section is effective for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1985
AMENDMENT

Section 703 of Pub. L. 99-198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1981
AMENDMENT

Section 703 of Pub. L. 97-98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977
AMENDMENT

Section 803 of Pub. L. 95-113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF
PEANUTS

Pub. L. 101-624, title VIII, §801(2), Nov. 28, 1990, 104 Stat. 3459, provided that subsecs. (a) through (h) of this section are inapplicable to 1991 through 1995 crops of peanuts.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF
PEANUTS

Section 701(2) of Pub. L. 99-198 provided that subsecs. (a) through (h) of this section are inapplicable to 1986 through 1990 crops of peanuts.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF
PEANUTS

Section 701(2) of Pub. L. 97-98 provided that subsecs. (a) through (h) of this section are inapplicable to 1982 through 1985 crops of peanuts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1358-1 of this title.

§ 1358b. Sale, lease, or transfer of farm poundage quota for 1991 through 1995 crops of peanuts**(a) In general****(1) Authority**

Subject to such terms, conditions, or limitations as the Secretary may prescribe, the owner, or operator with the permission of the owner, of any farm for which a farm poundage quota has been established under this chapter may sell or lease all or any part of the poundage quota (including any applicable under marketings) to any other owner or operator of a farm within the same county for transfer to the farm, except that any such lease of poundage quota (including any applicable under marketings) may be entered into in the fall or after the normal planting season—

(A) if not less than 90 percent of the basic quota (the farm quota exclusive of undermarketings and temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased; and

(B) under such terms and conditions as the Secretary may by regulation prescribe.

In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or a transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.

(2) Transfers to other self-owned farms

The owner or operator of a farm may transfer all or any part of the farm poundage quota (including any applicable under marketings) to any other farm owned or controlled by the owner or operator that is in the same county or in a county contiguous to the county in the same State and that had a farm poundage quota for the preceding year's crop. Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if the transferred quota is produced or considered produced on the receiving farm.

(3) Transfers in States with small quotas

Notwithstanding paragraphs (1) and (2), in the case of any State for which the poundage quota allocated to the State was less than 10,000 tons for the preceding year's crop, all or any part of a farm poundage quota (including any applicable undermarketings) may be transferred by sale or lease or otherwise from a farm in one county to a farm in another county in the same State.

(b) Conditions

Transfers (including transfer by sale or lease) of farm poundage quotas under this section shall be subject to all of the following conditions:

(1) Lienholders

No transfer of the farm poundage quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders.

(2) Tillable cropland

No transfer of the farm poundage quota shall be permitted if the county committee established under section 590h(b) of title 16 determines that the receiving farm does not have adequate tillable cropland to produce the farm poundage quota.

(3) Record

No transfer of the farm poundage quota shall be effective until a record thereof is filed with the county committee of the county to which the transfer is made and the committee determines that the transfer complies with this section.

(4) Other terms

Such other terms and conditions that the Secretary may by regulation prescribe.

(c) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of peanuts.

(Feb. 16, 1938, ch. 30, title III, § 358b, as added Nov. 28, 1990, Pub. L. 101-624, title VIII, § 803, 104 Stat. 3466; amended Dec. 13, 1991, Pub. L. 102-237, title I, § 122, 105 Stat. 1844.)

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102-237, § 122(1), inserted “(including any applicable under marketings)” after “poundage quota” in two places in introductory provisions.

Subsec. (a)(2). Pub. L. 102-237, § 122(2), substituted “(including any applicable under marketings)” for “for the farm”.

Subsec. (a)(3). Pub. L. 102-237, § 122(3), inserted “(including any applicable undermarketings)” after “farm poundage quota”.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1358-1 of this title.

§ 1358c. Experimental and research programs for peanuts**(a) In general**

Notwithstanding any other provision of this chapter, the Secretary may permit a portion of the poundage quota for peanuts apportioned to any State to be allocated from the State's quota reserve to land-grant institutions identified in the Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.), and colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 419, chapter 84; 7 U.S.C. 321 et seq.), including Tuskegee Institute and, as appropriate, the Agricultural Research Service of the Department of Agriculture to be used for experimental and research purposes.

(b) Quantity

The quantity of the quota allocated to an institution under this section shall not exceed the quantity of the quota held by each such institu-

tion during the 1985 crop year, except that the total quantity allocated to all institutions in a State shall not exceed $\frac{1}{10}$ of 1 percent of the State's basic quota.

(c) Limitation

The director of the agricultural experiment station for a State shall be required to ensure, to the extent practicable, that farm operators in the State do not produce quota peanuts under subsection (a) of this section in excess of the quantity needed for experimental and research purposes.

(d) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of peanuts.

(Feb. 16, 1938, ch. 30, title III, § 358c, as added Nov. 28, 1990, Pub. L. 101-624, title VIII, § 805, 104 Stat. 3474.)

REFERENCES IN TEXT

Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.), referred to in subsec. (a), is known as the “Smith-Lever Act”, and also known as the “Agricultural Work Extension Act”, which is classified generally to subchapter IV (§341 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 341 of this title and Tables.

Act of August 30, 1890 (26 Stat. 419, chapter 84; 7 U.S.C. 321 et seq.), referred to in subsec. (a), is popularly known as the “Agricultural College Act of 1890” and also as the “Second Morrill Act”, which is classified generally to subchapter II (§321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1358-1 of this title.

§ 1359. Marketing penalties

(a) The marketing of any peanuts in excess of the marketing quota for the farm on which such peanuts are produced, or the marketing of peanuts from any farm for which no acreage allotment was determined, shall be subject to a penalty at a rate equal to 75 per centum of the support price for peanuts for the marketing year (August 1 to July 31). Such penalty shall be paid by the person who buys or otherwise acquires the peanuts from the producer, or, if the peanuts are marketed by the producer through an agent, the penalty shall be paid by such agent, and such person or agent may deduct an amount equivalent to the penalty from the price paid to the producer. The Secretary may require collection of the penalty upon a portion of each lot of peanuts marketed from the farm equal to the proportion which the acreage of peanuts in excess of the farm-acreage allotment is of the total acreage of peanuts on the farm. If the person required to collect the penalty fails to col-

lect such penalty, such person and all persons entitled to share in the peanuts marketed from the farm or the proceeds thereof shall be jointly and severally liable for the amount of the penalty. All funds collected pursuant to this section shall be deposited in a special deposit account with the Treasurer of the United States and such amounts as are determined, in accordance with regulations prescribed by the Secretary, to be penalties incurred shall be transferred to the general fund of the Treasury of the United States. Amounts collected in excess of determined penalties shall be paid to such producers as the Secretary determines, in accordance with regulations prescribed by him, bore the burden of the payment of the amount collected. Such special account shall be administered by the Secretary and the basis for, the amount of, and the producer entitled to receive a payment from such account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive. Peanuts produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though the peanuts are marketed prior to the date on which such marketing year begins. If any producer falsely identifies or fails to account for the disposition of any peanuts, an amount of peanuts equal to the normal yield of the number of acres harvested in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer. If any amount of peanuts produced on one farm is falsely identified by a representation that such peanuts were produced on another farm, the acreage allotments next established for both such farms shall be reduced by that percentage which such amount was of the respective farm marketing quotas, except that such reduction for any such farm shall not be made if the Secretary through the local committees finds that no person connected with such farm caused, aided, or acquiesced in such marketing; and if proof of the disposition of any amount of peanuts is not furnished as required by the Secretary, the acreage allotment next established for the farm on which such peanuts are produced shall be reduced by a percentage similarly computed. Notwithstanding any other provisions of this subpart, no refund of any penalty shall be made because of peanuts kept on the farm for seed or for home consumption.

(b) The provisions of this subpart shall not apply, beginning with the 1959 crop, to peanuts produced on any farm on which the acreage harvested for nuts is one acre or less provided the producers who share in the peanuts produced on such farm do not share in the peanuts produced on any other farm. If the producers who share in the peanuts produced on a farm on which the acreage harvested for nuts is one acre or less also share in the peanuts produced on other farm(s) the peanuts produced on such farm on acreage in excess of the allotment, if any, determined for the farm shall be considered as excess acreage and the marketing penalties provided by subsection (a) of this section shall apply.

(c) The word "peanuts" for the purposes of this chapter shall mean all peanuts produced,

excluding any peanuts which it is established by the producer or otherwise, in accordance with regulations of the Secretary, were not picked or threshed either before or after marketing from the farm, or were marketed by the producer before drying or removal of moisture from such peanuts either by natural or artificial means for consumption exclusively as boiled peanuts.

(d) The person liable for payment or collection of the penalty provided by this section shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(e) Until the amount of the penalty provided by this section is paid, a lien on the crop of peanuts with respect to which such penalty is incurred, and on any subsequent crop of peanuts subject to marketing quotas in which the person liable for payment or the penalty has an interest shall be in effect in favor of the United States.

(Feb. 16, 1938, ch. 30, title III, §358d, formerly §359, as added Apr. 3, 1941, ch. 39, §1, 55 Stat. 90; amended July 9, 1942, ch. 497, §1(2), (3), 56 Stat. 653; Aug. 1, 1947, ch. 445, §2, 61 Stat. 721; July 3, 1948, ch. 827, title II, §207(d), 62 Stat. 1257; Mar. 31, 1950, ch. 81, §6(a), 64 Stat. 42; Apr. 12, 1951, ch. 28, §2, 65 Stat. 31; Mar. 28, 1952, ch. 110, 66 Stat. 27; May 28, 1956, ch. 327, title III, §§305, 306, 70 Stat. 205; Aug. 13, 1957, Pub. L. 85-127, 71 Stat. 344; Aug. 21, 1958, Pub. L. 85-717, §2, 72 Stat. 709; Sept. 29, 1977, Pub. L. 95-113, title VIII, §804, 91 Stat. 946; July 7, 1979, Pub. L. 96-31, 93 Stat. 81; Dec. 22, 1981, Pub. L. 97-98, title VII, §704, 95 Stat. 1251; Dec. 23, 1985, Pub. L. 99-198, title VII, §704, 99 Stat. 1435; Aug. 14, 1989, Pub. L. 101-82, title VI, §601, 103 Stat. 586; renumbered §358d and amended Dec. 13, 1991, Pub. L. 102-237, title I, §117(a), (b)(2)(C), 105 Stat. 1841.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102-237, §117(b)(2)(C)(i), made a technical amendment to the reference to subsection (a) of this section to reflect a change in the reference to the corresponding provision of the original act.

Subsecs. (m)(1)(C), (i), (ii), (p)(1), (r)(2)(A). Pub. L. 102-237, §117(b)(2)(C)(ii), made a technical amendment to the reference to section 1445c-2 of this title to reflect the renumbering of the corresponding section of the original act.

1989—Subsec. (p)(2)(B)(i). Pub. L. 101-82, §601(1), which temporarily directed that "(less such reasonable allowances for shrinkage as the Secretary may prescribe)" be struck out was executed by striking out "(less such reasonable allowance for shrinkage as the Secretary may prescribe)" after "in all of the following quantities" to reflect the probable intent of Congress. See Effective and Termination Dates of 1989 Amendment note below.

Subsec. (p)(2)(B)(iv). Pub. L. 101-82, §601(2), added cl. (iv).

1985—Subsecs. (m) to (s). Pub. L. 99-198 temporarily added subsecs. (m) to (s). See Effective and Termination Dates of 1985 Amendment note below.

1981—Subsecs. (f) to (l). Pub. L. 97-98 temporarily added subsecs. (f) to (l). See Effective and Termination Dates of 1981 Amendment note below.

1979—Subsec. (k). Pub. L. 96-31 temporarily added subsec. (k). See Effective and Termination Dates of 1979 Amendment note below.

1977—Subsec. (a). Pub. L. 95-113, §804(1)-(3), temporarily substituted "penalty at a rate equal to 120 per

centum of the support price for quota peanuts" for "penalty at a rate equal to 75 per centum of the support price for peanuts" and "farm yield" for "normal yield" and inserted provision that the marketing of any additional peanuts from a farm be subject to the 120 per centum penalty unless the peanuts, in accordance with regulations established by the Secretary, are placed under loan at the additional loan rate under the loan program made available under section 1445c(b) of this title and not redeemed by the producers or are marketed under contracts between handlers and producers pursuant to the provisions of subsection (i) of this section. See Effective and Termination Dates of 1977 Amendment note below.

Subsecs. (f) to (j). Pub. L. 95-113, §804(4), temporarily added subsecs. (f) to (j). See Effective and Termination Dates of 1977 Amendment note below.

1958—Subsec. (b). Pub. L. 85-717 provided that after 1959 the one acre exemption applies only if producers do not share in peanuts produced on any other farm.

1957—Subsec. (c). Pub. L. 85-127 inserted ", or were marketed by the producer before drying or removal of moisture from such peanuts either by natural or artificial means for consumption exclusively as boiled peanuts".

1956—Subsec. (a). Act May 28, 1956, §305, substituted "75 per centum of the support price for peanuts for the marketing year (August 1-July 31)" for "50 per centum of the basic rate of the loan (calculated to the nearest tenth of a cent) for farm marketing quota peanuts for the marketing year August 1-July 31".

Subsecs. (d), (e). Act May 28, 1956, §306, added subsecs. (d) and (e). Former subsecs. (d) and (e) were repealed by act July 3, 1948.

1952—Subsecs. (f) to (i). Act Mar. 28, 1952, repealed subsecs. (f) to (i), which permitted farmers to grow peanuts for oil in excess of marketing quotas.

1951—Subsec. (a). Act Apr. 12, 1951, inserted sentence beginning "Notwithstanding any other".

Subsec. (g). Act Apr. 12, 1951, established 1948 as the year to be referred to in cases where no peanuts were harvested in 1947, and provided that the Secretary may authorize peanut buyers to purchase excess peanuts from producers at specified price levels.

1950—Subsecs. (g) to (i). Act Mar. 31, 1950, added subsecs. (g) to (i).

1948—Subsecs. (d), (e). Act July 3, 1948, repealed subsecs. (d) and (e) which related to referendums and appropriations.

1947—Act Aug. 1, 1947, amended section generally, changing the penalty for excess marketing of peanuts from a flat penalty of 3 cents per pound to 50 per cent of the basic loan rate and substituted last two sentences for former last sentence which provided a \$25 penalty per acre for falsely indemnifying or failing to account for peanuts produced in subsec. (a), striking out subsec. (b) exempting peanuts to be sold and crushed for oil or used for seed from excess marketing penalty, and redesignating subsecs. (c) to (g) as (b) to (f), respectively.

1942—Subsecs. (b), (d). Act July 9, 1942, amended subsecs. (b) and (d).

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 601 of Pub. L. 101-82 provided that the amendment made by that section is effective only for 1988 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 704 of Pub. L. 99-198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 704 of Pub. L. 97-98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1979 AMENDMENT

Pub. L. 96-31 provided that the amendment made by Pub. L. 96-31 is effective for 1978 through 1981 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 804 of Pub. L. 95-113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

EFFECTIVE DATE OF 1957 AMENDMENT

Pub. L. 85-127, as amended by Pub. L. 86-358, Sept. 22, 1959, 73 Stat. 642; Pub. L. 87-239, Sept. 14, 1961, 75 Stat. 512; Pub. L. 88-76 July 25, 1963, 77 Stat. 92; Pub. L. 89-321, title VII, §704, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 90-559, §1(1), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91-524, title VIII, §802, Nov. 30, 1970, 84 Stat. 1381, provided that the amendment made by Pub. L. 85-127 is effective for 1957 and subsequent crops of peanuts.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 305 of act May 28, 1956, provided that the amendment made by that section is effective beginning with 1956 crop.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

SAVINGS PROVISION

Act Mar. 28, 1952, which repealed subsecs. (f) to (i), also provided that the repeal should not affect rights or obligations arising under marketing-quota or price support operations with respect to 1951 or prior crops of peanuts.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, with certain exceptions, transferred to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Treasurer of the United States, referred to in this section, is an officer of Department of the Treasury.

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, §501, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF PEANUTS

Pub. L. 101-624, title VIII, §801(3), Nov. 28, 1990, 104 Stat. 3459, provided that subsecs. (a), (b), (d), and (e) of

this section are inapplicable to 1991 through 1995 crops of peanuts.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF
PEANUTS

Section 701(3) of Pub. L. 99-198 provided that subsecs. (a), (b), (d), and (e) of this section are inapplicable to 1986 through 1990 crops of peanuts.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF
PEANUTS

Section 701(3) of Pub. L. 97-98 provided that subsecs. (a), (b), (d), and (e) of this section are inapplicable to 1982 through 1985 peanut crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1358-1, 1359a, 1445c-3 of this title.

§ 1359a. Marketing penalties and disposition of additional peanuts for 1991 through 1997 crops of peanuts

(a) Marketing penalties

(1) In general

(A) Marketing peanuts in excess of quota

The marketing of any peanuts for domestic edible use in excess of the farm poundage quota for the farm on which the peanuts are produced shall be subject to penalty at a rate equal to 140 percent of the support price for quota peanuts for the marketing year in which the marketing occurs. The penalty shall not apply to the marketing of breeder or Foundation seed peanuts grown and marketed by a publicly owned agricultural experiment station (including a State operated seed organization) under such regulations as the Secretary may prescribe.

(B) Marketing year

For purposes of this section, the marketing year for peanuts shall be the 12-month period beginning August 1 and ending July 31.

(C) Marketing additional peanuts

The marketing of any additional peanuts from a farm shall be subject to the same penalty unless the peanuts, in accordance with regulations established by the Secretary, are—

- (i) placed under loan at the additional loan rate in effect for the peanuts under section 1445c-3 of this title and not deemed by the producers;
- (ii) marketed through an area marketing association designated pursuant to section 1445c-3(c)(1) of this title; or
- (iii) marketed under contracts between handlers and producers pursuant to subsection (f) of this section.

(2) Payer

The penalty shall be paid by the person who buys or otherwise acquires the peanuts from the producer or, if the peanuts are marketed by the producer through an agent, the penalty shall be paid by the agent. The person or agent may deduct an amount equivalent to the penalty from the price paid to the producer.

(3) Failure to collect

If the person required to collect the penalty fails to collect the penalty, the person and all

persons entitled to share in the peanuts marketed from the farm or the proceeds thereof shall be jointly and severally liable with such persons who failed to collect the penalty for the amount of the penalty.

(4) Application of quota

Peanuts produced in a calendar year in which farm poundage quotas are in effect for the marketing year beginning therein shall be subject to the quotas even though the peanuts are marketed prior to the date on which the marketing year begins.

(5) False information

If any producer falsely identifies, fails to accurately certify planted acres, or fails to account for the disposition of any peanuts produced on the planted acres, a quantity of peanuts equal to the greater of the farm's average or actual yield, as determined by the Secretary, times the planted acres, shall be deemed to have been marketed in violation of permissible uses of quota and additional peanuts. Any penalty payable under this paragraph shall be paid and remitted by the producer.

(6) Unintentional violations

The Secretary shall authorize, under such regulations as the Secretary shall issue, the county committees established under section 590h(b) of title 16 to waive or reduce marketing penalties provided for under this subsection in cases which the committees determine that the violations that were the basis of the penalties were unintentional or without knowledge on the part of the parties concerned.

(7) De minimis violations

Errors in weight that do not exceed one-tenth of 1 percent in the case of any one marketing document shall not be considered to be marketing violations except in cases of fraud or conspiracy.

(b) Use of quota and additional peanuts

(1) Quota peanuts

Only quota peanuts may be retained for use as seed or for other uses on a farm. When peanuts are so retained, such retention shall be considered as marketings of quota peanuts, except that the Secretary may exempt from consideration as marketings of quota peanuts seeds of peanuts for the quantity involved that are used to produce peanuts excluded under section 1359(c) of this title, are unique strains, and are not commercially available.

(2) Additional peanuts

Additional peanuts shall not be retained for use on a farm and shall not be marketed for domestic edible use, except as provided in subsection (g) of this section.

(3) Seed

Except as provided in paragraph (1), seed for planting of any peanut acreage in the United States shall be obtained solely from quota peanuts marketed or considered marketed for domestic edible use.

(c) Marketing peanuts with excess quantity, grade, or quality

On a finding by the Secretary that the peanuts marketed from any crop for domestic edible use by a handler are larger in quantity or higher in grade or quality than the peanuts that could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of the quota peanuts acquired by the handler from the crop for the marketing, the handler shall be subject to a penalty equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts that the Secretary determines are in excess of the quantity, grade, or quality of the peanuts that could reasonably have been produced from the peanuts so acquired.

(d) Handling and disposal of additional peanuts**(1) In general**

Except as provided in paragraph (2), the Secretary shall require that the handling and disposal of additional peanuts be supervised by agents of the Secretary or by area marketing associations designated pursuant to section 1445c-3(c)(1) of this title.

(2) Supervision by nonhandlers**(A) In general**

Supervision of the handling and disposal of additional peanuts by a handler shall not be required under paragraph (1) if the handler agrees in writing, prior to any handling or disposal of the peanuts, to comply with regulations that the Secretary shall issue.

(B) Regulations

The regulations issued by the Secretary under subparagraph (A) shall include the following provisions:

(i) Types of exported or crushed peanuts

Handlers of shelled or milled peanuts may export or crush peanuts classified by type in all of the following quantities:

(I) Sound split kernel peanuts

Sound split kernel peanuts purchased by the handler as additional peanuts to which, under price support loan schedules, a mandated deduction with respect to the price paid to the producer of the peanuts would be applied due to the percentage of the sound splits.

(II) Sound mature kernel peanuts

Sound mature kernel peanuts (which term includes sound split kernel peanuts and sound whole kernel peanuts) in an amount equal to the poundage of the peanuts purchased by the handler as additional peanuts, less the total poundage of sound split kernel peanuts described in subclause (I).

(III) Remainder

The remaining quantity of total kernel content of peanuts purchased by the handler as additional peanuts.

(ii) Documentation

Handlers shall ensure that any additional peanuts exported or crushed are evi-

denced by onboard bills of lading or other appropriate documentation as may be required by the Secretary, or both.

(iii) Loss of peanuts

If a handler suffers a loss of peanuts as a result of fire, flood, or any other condition beyond the control of the handler, the portion of the loss allocated to contracted additional peanuts shall not be greater than the portion of the handler's total peanut purchases for the year attributable to contracted additional peanuts purchased for export or crushing by the handler during the year.

(iv) Shrinkage allowance**(I) In general**

The obligation of a handler to export or crush peanuts in quantities described in this subparagraph shall be reduced by a shrinkage allowance, to be determined by the Secretary, to reflect actual dollar value shrinkage experienced by handlers in commercial operations, except that the allowance shall not be less than 4 percent, except as provided in subclause (II).

(II) Common industry practices

The Secretary may provide a lower shrinkage allowance for a handler who fails to comply with restrictions on the use of peanuts, as may be specified by the Commodity Credit Corporation, to take into account common industry practices.

(3) Adequate finances and facilities

A handler shall submit to the Secretary adequate financial guarantees, as well as evidence of adequate facilities and assets, with the facilities under the control and operation of the handler, to ensure the handler's compliance with the obligation to export peanuts.

(4) Commingling of like peanuts

Quota and additional peanuts of like type and segregation or quality may, under regulations issued by the Secretary, be commingled and exchanged on a dollar value basis to facilitate warehousing, handling, and marketing.

(5) Penalty**(A) In general**

Except as provided in subparagraph (B), the failure by a handler to comply with regulations issued by the Secretary governing the disposition and handling of additional peanuts shall subject the handler to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts involved in the violation.

(B) Nondelivery

A handler shall not be subject to a penalty for failure to export additional peanuts if the peanuts were not delivered to the handler.

(6) Reentry of exported peanuts**(A) Penalty**

If any additional peanuts exported by a handler are reentered into the United States

in commercial quantities as determined by the Secretary, the importer of the peanuts shall be subject to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts reentered.

(B) Records

Each person, firm, or handler who imports peanuts into the United States shall maintain such records and documents as are required by the Secretary to ensure compliance with this subsection.

(e) Special export credits

(1) In general

The Secretary shall, with due regard for the integrity of the peanut program, promulgate regulations that will permit any handler of peanuts who manufactures peanut products from domestic edible peanuts to export the products and receive credit for the fulfillment of export obligations for the peanut content of the products against which the export credits the handler may thereafter apply, up to the amount thereof, equivalent quantities of additional peanuts of the same type acquired by the handler and used in the domestic edible market. The peanuts so acquired for the domestic edible market as provided in this subsection shall be of the same crop year as the peanuts used in the manufacture of the products so exported.

(2) Certification

Under such regulations, the Secretary shall require all handlers who are peanut product manufacturers to submit annual certifications of peanut product content on a product-by-product basis. Any changes in peanut product formulas as affecting peanut content shall be recorded within 90 days of the changes. The Secretary shall conduct an annual review of the certifications. The Secretary shall pursue all available remedies with respect to persons who fail to comply with this paragraph.

(3) Records

The Secretary shall require handlers who are peanut product manufacturers to maintain and provide such documents as are necessary to ensure compliance with this subsection and to maintain the integrity of the peanut program.

(f) Contracts for purchase of additional peanuts

(1) In general

Handlers may, under such regulations as the Secretary may issue, contract with producers for the purchase of additional peanuts for crushing or export, or both.

(2) Submission to Secretary

(A) Contract deadline

Any such contract shall be completed and submitted to the Secretary (or if designated by the Secretary, the area marketing association) for approval not later than September 15 of the year in which the crop is produced.

(B) Extension of deadline

The Secretary may extend the deadline under subparagraph (A) by up to 15 days in

response to damaging weather or related condition (as defined in section 112 of the Disaster Assistance Act of 1989¹ (7 U.S.C. 1421 et seq.)). The Secretary shall announce the extension no later than September 5 of the year in which the crop is produced.

(3) Form

The contract shall be executed on a form prescribed by the Secretary. The form shall require such information as the Secretary determines appropriate to ensure the proper handling of the additional peanuts, including the identity of the contracting parties, the poundage, and category of the peanuts, the disclosure of any liens, and the intended disposition of the peanuts.

(4) Information for handling and processing additional peanuts

Notwithstanding any other provision of this section, any person wishing to handle and process additional peanuts as a handler shall submit to the Secretary (or if designated by the Secretary, the area marketing association), such information as may be required under subsection (d) of this section by such date as prescribed by the Secretary so as to permit final action to be taken on the application by July 1 of each marketing year.

(5) Terms

Each such contract shall contain the final price to be paid by the handler for the peanuts involved and a specific prohibition against the disposition of the peanuts for domestic edible or seed use.

(6) Suspension of restrictions on imported peanuts

Notwithstanding any other provision of this chapter, if the President issues a proclamation under section 3601(b) of title 19 expanding the quantity of peanuts subject to the in-quota rate of duty under a tariff-rate quota, or under section 624 of this title temporarily suspending restrictions on the importation of peanuts, the Secretary shall, subject to such terms and conditions as the Secretary may prescribe, permit a handler, with the written consent of the producer, to purchase additional peanuts from any producer who contracted with the handler and to offer the peanuts for sale for domestic edible use.

(g) Marketing of peanuts owned or controlled by Commodity Credit Corporation

(1) In general

Subject to section 1427 of this title, any peanuts owned or controlled by the Commodity Credit Corporation may be made available for domestic edible use, in accordance with regulations issued by the Secretary, so long as doing so does not result in substantially increased cost to the Commodity Credit Corporation. Additional peanuts received under loan shall be offered for sale for domestic edible use at prices not less than those required to cover all costs incurred with respect to the peanuts for such items as inspection, warehousing, shrinkage, and other expenses, plus—

¹ See References in Text note below.

(A) not less than 100 percent of the loan value of quota peanuts if the additional peanuts are sold and paid for during the harvest season on delivery by and with the written consent of the producer;

(B) not less than 105 percent of the loan value of quota peanuts if the additional peanuts are sold after delivery by the producer but not later than December 31 of the marketing year; or

(C) not less than 107 percent of the loan value of quota peanuts if the additional peanuts are sold later than December 31 of the marketing year.

(2) Acceptance of bids by area marketing associations

(A) In general

Except as provided in subparagraph (B), for the period from the date additional peanuts are delivered for loan to March 1 of the calendar year following the year in which the additional peanuts were harvested, the area marketing association designated pursuant to section 1445c-3(c)(1) of this title shall have sole authority to accept or reject lot list bids when the sales price, as determined under this subsection, equals or exceeds the minimum price at which the Commodity Credit Corporation may sell its stocks of additional peanuts.

(B) Modification

The area marketing association and the Commodity Credit Corporation may agree to modify the authority granted by subparagraph (A) to facilitate the orderly marketing of additional peanuts.

(3) Producer marketing and expenses

Notwithstanding any other provision of this chapter, the Secretary shall, in any determination required under subsections (a)(2) and (b)(1) of section 1445c-3 of this title, include any additional marketing expenses required by law, excluding the amount of any assessment required under the Omnibus Budget Reconciliation Act of 1990.

(h) Administration

(1) Interest

The person liable for payment or collection of any penalty provided for in this section shall be liable also for interest thereon at a rate per annum equal to the rate per annum of interest that was charged the Commodity Credit Corporation by the Treasury of the United States on the date the penalty became due.

(2) De minimis quantity

This section shall not apply to peanuts produced on any farm on which the acreage harvested for nuts is one acre or less if the producers who share in the peanuts produced on the farm do not share in the peanuts produced on any other farm.

(3) Liens

Until the amount of the penalty provided by this section is paid, a lien on the crop of peanuts with respect to which the penalty is in-

curred, and on any subsequent crop of peanuts subject to farm poundage quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States.

(4) Penalties

(A) Procedures

Notwithstanding any other provision of law, the liability for and the amount of any penalty assessed under this section shall be determined in accordance with such procedures as the Secretary by regulation may prescribe. The facts constituting the basis for determining the liability for or amount of any penalty assessed under this section, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

(B) Judicial review

Nothing in this section shall be construed as prohibiting any court of competent jurisdiction from reviewing any determination made by the Secretary with respect to whether the determination was made in conformity with the applicable law and regulations.

(C) Civil penalties

All penalties imposed under this section shall for all purposes be considered civil penalties.

(5) Reduction of penalties

(A) In general

Notwithstanding any other provision of law and except as provided in subparagraph (B), the Secretary may reduce the amount of any penalty assessed against handlers under this section by any appropriate amount, including, in an appropriate case, eliminating the penalty entirely, if the Secretary finds that the violation on which the penalty is based was minor or inadvertent, and that the reduction of the penalty will not impair the operation of the peanut program.

(B) Failure to export contracted additional peanuts

The amount of any penalty imposed on a handler under this section that resulted from the failure to export or crush contracted additional peanuts shall not be reduced by the Secretary.

(i) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1997 crops of peanuts.

(Feb. 16, 1938, ch. 30, title III, §358e, formerly §359a, as added Nov. 28, 1990, Pub. L. 101-624, title VIII, §804, 104 Stat. 3467; renumbered §358e and amended Dec. 13, 1991, Pub. L. 102-237, title I, §117(a), (b)(2)(D), 105 Stat. 1841; Aug. 10, 1993, Pub. L. 103-66, title I, §1109(c)(2), 107 Stat. 326; Dec. 8, 1993, Pub. L. 103-182, title III, §321(d)(1)(B), 107 Stat. 2110; Dec. 8, 1994, Pub. L. 103-465, title IV, §404(e)(6), 108 Stat. 4961.)

REFERENCES IN TEXT

Section 112 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 et seq.), referred to in subsec. (f)(2)(B), is

section 112 of Pub. L. 101-82, which is set out in a note under section 1421 of this title.

The Omnibus Budget Reconciliation Act of 1990, referred to in subsec. (g)(3), is Pub. L. 101-508, Nov. 5, 1990, 104 Stat. 1388. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1994—Subsec. (f)(6). Pub. L. 103-465 inserted “under section 3601(b) of title 19 expanding the quantity of peanuts subject to the in-quota rate of duty under a tariff-rate quota, or” after “issues a proclamation”.

1993—Pub. L. 103-66, §1109(c)(2)(A), substituted “1997” for “1995” in section catchline.

Subsec. (d). Pub. L. 103-182 amended par. (6) generally. Prior to amendment, par. (6) read as follows: “If any additional peanuts exported by a handler are reentered into the United States in commercial quantities as determined by the Secretary, the importer thereof shall be subject to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts reentered.”

Subsec. (i). Pub. L. 103-66, §1109(c)(2)(B), substituted “1997” for “1995”.

1991—Subsec. (b)(1). Pub. L. 102-237, §117(b)(2)(D), made a technical amendment to the reference to section 1359(c) of this title to reflect the renumbering of the corresponding section of the original act.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to the United States [Jan. 1, 1995], except as otherwise provided, see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE DATE

Section effective beginning with the 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1445c-3 of this title; title 19 section 3391.

SUBPART VII—MARKETING QUOTAS—SUGAR AND CRYSTALLINE FRUCTOSE

§ 1359aa. Information reporting

(a) Duty of processors, refiners and manufacturers to report

(1) Processors and refiners

All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

(2) Manufacturers of crystalline fructose

All manufacturers of crystalline fructose from corn (hereafter in this subpart referred to as “crystalline fructose”) shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the manufacturer’s distribution of crystalline fructose.

(b) Duty of producers to report

The Secretary may require a producer of sugarcane or sugar beets to report, in the man-

ner prescribed by the Secretary, the producer’s sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

(c) Penalty

Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than \$10,000 for each such violation.

(d) Monthly reports

Taking into consideration the information received under subsection (a) of this section, the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar and composite data on distributions of crystalline fructose.

(Feb. 16, 1938, ch. 30, title III, §359a, as added Nov. 28, 1990, Pub. L. 101-624, title IX, §902, 104 Stat. 3479; amended Dec. 13, 1991, Pub. L. 102-237, title I, §111(c), 105 Stat. 1830.)

CODIFICATION

Another section 359a of act Feb. 16, 1938, was renumbered section 359e and is classified to section 1359a of this title.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237, §111(c)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: “All cane sugar refiners and sugar beet processors and all manufacturers of crystalline fructose from corn (hereafter in this subpart referred to as ‘crystalline fructose’) shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the person’s importation, distribution, and stock levels of sugar or crystalline fructose, respectively.”

Subsecs. (b), (c). Pub. L. 102-237, §111(c)(2), (3), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Subsec. (d). Pub. L. 102-237, §111(c)(2), (4), redesignated subsec. (c) as (d), substituted “data on production, imports,” for “data on imports,” and inserted “composite data on distributions of” after “sugar and”.

EFFECTIVE DATE

Subpart effective beginning with the 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1359jj of this title.

§ 1359bb. Marketing allotments for sugar and crystalline fructose

(a) Sugar estimates

(1) In general

Before the beginning of each of the fiscal years 1992 through 1998, the Secretary shall estimate—

(A) the quantity of sugar that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) and the quantity of sugar that would provide for reasonable carryover stocks;

(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

(C) the quantity of sugar that will be imported for consumption in the United States during the year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in a refined form or in sugar containing products), based on the difference between—

(i) the sum of the quantity of estimated consumption and reasonable carryover stocks; and

(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

(2) Quarterly reestimates

The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.

(b) Sugar allotments

(1) In general

For any fiscal year in which the Secretary estimates, under subsection (a)(1)(C) of this section, that imports of sugar for consumption in the United States (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 1359cc of this title for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

(2) Products

The Secretary may include sugar products, whose majority content is sucrose or crystalline fructose for human consumption, derived from sugarcane, sugar beets, molasses or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this subpart.

(c) Crystalline fructose allotments

For any fiscal year in which the Secretary establishes allotments for the marketing of sugar under section 1359cc of this title, the Secretary shall establish for that year appropriate allotments for the marketing by manufacturers of crystalline fructose manufactured from corn, at a total level not to exceed the equivalent of 200,000 tons of sugar, raw value, during the fiscal year, in a manner that is fair, efficient, and equitable to manufacturers.

(d) Prohibitions

(1) In general

During any fiscal year or portion thereof for which marketing allotments have been established, no processor of sugar beets or sugar-

cane shall market a quantity of sugar in excess of the allocation established for such processor, except to enable another processor to fulfill an allocation established for such other processor or to facilitate the exportation of such sugar.

(2) Crystalline fructose

At any time crystalline fructose allotments are in effect for manufacturers under subsection (c) of this section, no manufacturer may market crystalline fructose in excess of the manufacturer's allotment. No restrictions or allotments shall be established on the marketings of any liquid fructose produced from corn.

(3) Civil penalty

Any processor who knowingly violates paragraph (1) or manufacturer who knowingly violates paragraph (2) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar or crystalline fructose involved in the violation.

(4) "Market" defined

For purposes of this subpart, the term "market" shall mean to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process).

(Feb. 16, 1938, ch. 30, title III, §359b, as added Nov. 28, 1990, Pub. L. 101-624, title IX, §902, 104 Stat. 3480; amended Dec. 13, 1991, Pub. L. 102-237, title I, §111(d), 105 Stat. 1831; Aug. 10, 1993, Pub. L. 103-66, title I, §1107(b), 107 Stat. 324.)

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103-66, §1107(b)(1), substituted "1998" for "1996".

Subsec. (d)(1). Pub. L. 103-66, §1107(b)(2)(A), added par. (1) and struck out former par. (1) which read as follows: "SUGAR.—

"(A) EXCEEDING ALLOCATION.—At any time allotments are in effect and allocated to processors under section 1359dd of this title, the total of—

"(i) the quantity of sugar marketed by a processor, plus

"(ii) the quantity of sugar pledged as collateral by the processor for a price support loan under section 1446g of this title,

shall not exceed the quantity of the allocation of the allotment made to the processor.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

"(i) to the marketing during a fiscal year of sugar pledged in that fiscal year as collateral for a price support loan under section 1446g of this title after the sugar has been subsequently redeemed; or

"(ii) to any sale of sugar by a processor to another processor made to enable the other processor to fulfill the quantity of the allocation of the allotment made to the other processor."

Subsec. (d)(3). Pub. L. 103-66, §1107(b)(2)(B), inserted "knowingly" after "who" in two places.

1991—Subsec. (a). Pub. L. 102-237, §111(d)(1), added subsec. (a) and struck out former subsec. (a) which read as follows:

"(1) IN GENERAL.—Before the beginning of each of the fiscal years 1992 through 1996, the Secretary shall estimate—

“(A) the quantity of sugar that will be consumed in the customs territory of the United States during the fiscal year (other than sugar imported for purposes other than human consumption);

“(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

“(C) the quantity of sugar that will be imported for consumption during the year (other than sugar imported for purposes other than human consumption), based on the difference between—

“(i) the quantity of estimated consumption; and

“(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

“(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, availability, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.”

Subsec. (b). Pub. L. 102-237, §111(d)(2), added subsec. (b) and struck out former subsec. (b) which read as follows:

“(1) IN GENERAL.—For any fiscal year in which the Secretary estimates, under subsection (a) of this section, that imports of sugar for consumption in the United States will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 1359cc of this title for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets in a manner that is fair, efficient, and equitable to producers, processors, and refiners, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

“(2) PRODUCTS.—The Secretary may include products of sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this subpart.”

Subsec. (d)(4). Pub. L. 102-237, §111(d)(3), inserted “(including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process)” after “United States”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359cc, 1359jj of this title.

§ 1359cc. Establishment of marketing allotments

(a) In general

The Secretary shall establish marketing allotments for sugar for any fiscal year in which the allotments are required under section 1359bb(b) of this title in accordance with this section.

(b) Overall allotment quantity

(1) In general

The Secretary shall establish the overall quantity of sugar to be allotted for the fiscal year (hereafter in this subpart referred to as the “overall allotment quantity”) by deducting from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the fiscal year) for the fiscal year, as determined under section 1359bb(a) of this title—

(A) 1,250,000 short tons, raw value; and

(B) carry-in stocks of sugar, including sugar in Commodity Credit Corporation inventory.

(2) Adjustment

The Secretary shall adjust the overall allotment quantity to the maximum extent practicable to avoid the forfeiture of sugar to the Commodity Credit Corporation.

(c) Allotment

The overall allotment quantity for the fiscal year shall be allotted among—

- (1) sugar derived from sugar beets; and
- (2) sugar derived from sugarcane.

(d) Percentage factors

(1) In general

The Secretary shall establish percentage factors for the overall beet sugar and cane sugar allotments applicable for a fiscal year. The Secretary shall establish the percentage factors in a fair and equitable manner on the basis of past marketings of sugar (considering for such purposes the marketings of sugar processed from sugarcane and sugar beets of any or all of the 1985 through 1989 crops), processing and refining capacity, and the ability of processors to market the sugar covered under the allotments.

(2) Publication

The Secretary shall publish these percentage factors in the Federal Register, along with a description of the Secretary’s reasons for establishing the factors, as provided in section 1359hh(c) of this title.

(e) Marketing allotment

The marketing allotment for sugar derived from sugarcane and the marketing allotment for sugar derived from sugar beets for a fiscal year, in each case, shall be a quantity equal to the product of multiplying the overall allotment quantity for the fiscal year by the percentage factor established by the Secretary under subsection (d)(1) of this section for the allotment.

(f) State cane sugar allotments

The allotment for sugar derived from sugarcane shall be further allotted, among the 5 States in the United States in which sugarcane is produced, in a fair and equitable manner on the basis of past marketings of sugar (considering for such purposes the average of marketings of sugar processed from sugarcane in the 2 highest years of production from each State from the 1985 through 1989 crops), processing capacity, and the ability of processors to market the sugar covered under the allotments.

(g) Adjustment of marketing allotments

(1) In general

The Secretary shall, based on reestimates under section 1359bb(a)(2) of this title—

(A) adjust upward or downward marketing allotments established under subsections (a) through (f) of this section in a fair and equitable manner;

(B) establish marketing allotments for the fiscal year or any portion of such fiscal year; or

(C) suspend the allotments,

as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.

(2) Allocation to processors

In the case of any increase or decrease in an allotment, each allocation to a processor of the allotment under section 1359dd of this title, and each proportionate share established

with respect to the allotment under section 1359ff(b) of this title, shall be increased or decreased by the same percentage that the allotment is increased or decreased.

(3) Reductions

Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this subsection, if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 1446g of this title, for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the allocation of an allotment, if any, next established for the processor shall be reduced by the quantity of the excess sugar marketed.

(h) Filling cane sugar and beet sugar allotments

Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment for beet sugar established under this section may only be filled with sugar processed from domestically grown sugar beets.

(Feb. 16, 1938, ch. 30, title III, §359c, as added Nov. 28, 1990, Pub. L. 101-624, title IX, §902, 104 Stat. 3481; amended Dec. 13, 1991, Pub. L. 102-237, title I, §111(e), 105 Stat. 1832.)

AMENDMENTS

1991—Subsec. (b)(1). Pub. L. 102-237, §111(e)(1), in introductory provisions, substituted “from the sum of the estimated sugar consumption and reasonable carry-over stocks (at the end of the fiscal year)” for “from the estimated sugar consumption” and in subpar. (A) struck out “(representing minimum imports of sugar for consumption in the United States during the fiscal year)” after “raw value”.

Subsec. (b)(2). Pub. L. 102-237, §111(e)(2), substituted “avoid the forfeiture of sugar to” for “prevent the accumulation of sugar acquired by”.

Subsec. (f). Pub. L. 102-237, §111(e)(3), in heading substituted “cane sugar allotments” for “sugarcane allotment” and in text substituted “allotted, among” for “allotted among” and “produced,” for “produced”.

Subsec. (g)(1). Pub. L. 102-237, §111(e)(4)(A), added par. (1) and struck out former par. (1) which read as follows: “The Secretary shall, based on reestimates under section 1359bb(a)(2) of this title, adjust upward or downward marketing allotments established under subsections (a) through (f) of this section in a fair and equitable manner, or suspend the allotments, as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, availability, or imports.”

Subsec. (g)(3). Pub. L. 102-237, §111(e)(4)(B), added par. (3) and struck out former par. (3) which read as follows: “Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this paragraph—

“(A) if the quantity of the sugar marketed, including sugar pledged as collateral for a price support loan under section 1446g of this title, for the fiscal year at the time of the reduction under the allotment by all processors covered by the allotment exceeds the reduced allotment, the quantity of the excess sugar marketed shall be deducted—

“(i) if beet sugar is involved, from the marketing allotment, if any, next established for beet sugar; or

“(ii) if cane sugar is involved, from the marketing allotment next established for the State; and

“(B) if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan

under section 1446g of this title, for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the quantity of the excess sugar marketed shall be deducted from the allocation of an allotment, if any, next established for the processor.”

Subsec. (h). Pub. L. 102-237, §111(e)(5), added subsec. (h) and struck out former subsec. (h) “Filling sugarcane and sugar beet allotments” which read as follows: “Except as otherwise provided in section 1359ee of this title, each marketing allotment of sugarcane established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment of sugar beets established under this section may only be filled with sugar processed from domestically grown sugar beets.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359bb, 1359dd, 1359ff, 1359jj of this title.

§ 1359dd. Allocation of marketing allotments

(a) In general

(1) Allocation to processors

Whenever marketing allotments are established for a fiscal year under section 1359cc of this title, in order to afford all interested persons an equitable opportunity to market sugar under an allotment, the Secretary shall allocate each such allotment among the processors covered by the allotment.

(2) Hearing and notice

(A) Cane sugar

The Secretary shall make allocations for cane sugar after a hearing, if requested by interested parties, and on such notice as the Secretary by regulation may prescribe, in such manner and in such quantities as to provide a fair, efficient, and equitable distribution of the allocations by taking into consideration processing capacity, past marketings of sugar, and the ability of each processor to market sugar covered by that portion of the allotment allocated. Each such allocation shall be subject to adjustment under section 1359cc(g) of this title.

(B) Beet sugar

The Secretary shall make allocations for beet sugar after a hearing, if requested by interested parties, and on such notice as the Secretary by regulation may prescribe, in such manner and in such quantities as to provide a fair, efficient, and equitable distribution of the allocations by taking into consideration processing capacity, past marketings of sugar (considering for the purposes the marketings of sugar processed from sugar beets of any or all of the 1985 through 1989 crops), and the ability of each processor to market sugar covered by that portion of the allotment allocated. Each such allocation shall be subject to adjustment under section 1359cc(g) of this title.

(b) Filling cane sugar allotments

Except as otherwise provided in section 1359ee of this title, a State cane sugar allotment established under section 1359cc(f) of this title for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.

(Feb. 16, 1938, ch. 30, title III, §359d, as added Nov. 28, 1990, Pub. L. 101-624, title IX, §902, 104 Stat. 3483; amended Dec. 13, 1991, Pub. L. 102-237, title I, §111(f), 105 Stat. 1833.)

AMENDMENTS

1991—Subsec. (a)(2)(A), (B). Pub. L. 102-237, §111(f)(1), substituted “after a hearing, if requested by interested parties,” for “after such hearing”.

Subsec. (b). Pub. L. 102-237, §111(f)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: “Except as otherwise provided in section 1359ee of this title, the marketing allotment established for cane sugar under this subpart for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359cc, 1359ff, 1359gg, 1359ii, 1359jj, 1446g of this title.

§ 1359ee. Reassignment of deficits

(a) Estimates of deficits

At any time allotments are in effect under this subpart, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

(b) Reassignment of deficits

(1) Cane sugar

If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the fiscal year—

(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors; and

(C) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

(2) Beet sugar

If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors; and

(B) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

(3) Corresponding increase

The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a fiscal year shall be increased to reflect the reassignment.

(Feb. 16, 1938, ch. 30, title III, §359e, as added Nov. 28, 1990, Pub. L. 101-624, title IX, §902, 104 Stat. 3484; amended Dec. 13, 1991, Pub. L. 102-237, title I, §111(g), 105 Stat. 1833.)

AMENDMENTS

1991—Pub. L. 102-237 amended section generally, substituting present provisions for provisions relating to assignment of deficits, estimates of production and marketing of sugar, and reassignment of deficits in case of undermarketing of cane and beet sugar.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359dd, 1359jj of this title.

§ 1359ff. Provisions applicable to producers

(a) Processor assurances

Whenever allotments for a fiscal year are allocated to processors under section 1359dd of this title, the Secretary shall obtain from the processors such assurances as the Secretary considers adequate that the allocation will be shared among producers served by the processor in a fair and equitable manner that adequately reflects producers' production histories. Any dispute between a processor and a producer, or group of producers, with respect to the sharing of the processor's allocation shall be resolved through arbitration by the Secretary on the request of either party.

(b) Proportionate shares of certain allotments

(1) In general

(A) States affected

In any case in which a State allotment is established under section 1359cc(f) of this title and there are in excess of 250 sugarcane producers in the State (other than Puerto Rico), the Secretary shall make a determination under subparagraph (B).

(B) Determination

The Secretary shall determine, for each State allotment described in subparagraph (A), whether the production of sugarcane, in the absence of proportionate shares, will be greater than the quantity needed to enable processors to fill the allotment and provide a normal carryover inventory of sugar.

(2) Establishment of proportionate shares

If the Secretary determines under paragraph (1) that the quantity of sugarcane produced by

producers in the area covered by a State allotment for a fiscal year will be in excess of the quantity needed to enable processors to fill the allotment for the fiscal year and provide a normal carryover inventory of sugar, the Secretary shall establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during the fiscal year the allotment is in effect as provided in this subsection. Each such proportionate share shall be subject to adjustment under paragraph (7) and section 1359cc(g) of this title.

(3) Method of determining

For purposes of determining proportionate shares for any crop of sugarcane:

(A) The Secretary shall establish the State's per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

(C) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

(4) Acreage base

For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding the fiscal year the proportionate share will be in effect.

(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

(5) Violation

(A) In general

Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the fiscal year, or otherwise violate proportionate share regulations issued by the Secretary under section 1359hh(a) of this title.

(B) Determination of violation

No producer shall be considered to have violated subparagraph (A) unless the processor of the sugarcane harvested by such producer from acreage in excess of the proportionate share of the farm markets an amount of sugar that exceeds the allocation of such processor for a fiscal year.

(C) Civil penalty

Any producer on a farm who violates subparagraph (A) by knowingly harvesting, or allowing to be harvested, an acreage of sugarcane in excess of the farm's proportionate share shall be liable to the Commodity Credit Corporation for a civil penalty equal to one and one-half times the United States market value of the quantity of sugar that is marketed by the processor of such sugarcane in excess of the allocation of such processor for the fiscal year. The Secretary shall prorate penalties imposed under this subparagraph in a fair and equitable manner among all the producers of sugarcane harvested from excess acreage that is acquired by such processor.

(6) Waiver

Notwithstanding the preceding subparagraph, the Secretary may authorize the county and State committees established under section 590h(b) of title 16 to waive or modify deadlines and other proportionate share requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of proportionate shares.

(7) Adjustments

Whenever the Secretary determines that, because of a natural disaster or other condition beyond the control of producers that adversely affects a crop of sugarcane subject to proportionate shares, the amount of sugarcane produced by producers subject to the proportionate shares will not be sufficient to enable processors in the State to meet the State's cane sugar allotment and provide a normal carryover inventory of sugar, the Secretary may uniformly allow producers to harvest an amount of sugarcane in excess of their proportionate share, or suspend proportionate shares entirely, as necessary to enable processors to meet the State allotment and provide a normal carryover inventory of sugar.

(Feb. 16, 1938, ch. 30, title III, §359f, as added Nov. 28, 1990, Pub. L. 101-624, title IX, §902, 104 Stat. 3484; amended Dec. 13, 1991, Pub. L. 102-237, title I, §111(h), 105 Stat. 1834; Oct. 27, 1992, Pub. L. 102-535, 106 Stat. 3526.)

AMENDMENTS

1992—Subsec. (b)(1)(B). Pub. L. 102-535, §3(a), substituted “production of sugarcane” for “production of sugar” and inserted “of sugar” before period at end.

Subsec. (b)(2). Pub. L. 102-535, §3(b), (c), substituted “sugarcane produced by producers in the area” for “sugar processed from all crops by all processors” and inserted “of sugar” after “provide a normal carryover inventory” and “paragraph (7) and” after “adjustment under”.

Subsec. (b)(5)(B), (C). Pub. L. 102-535, §1, added subpars. (B) and (C) and struck out former subpar. (B) which read as follows: “(B) CIVIL PENALTY.—Any producer who violates subparagraph (A) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of the quantity of sugar produced from that quantity of sugarcane involved in the violation. The quantity of sugarcane involved shall be determined based on the per-acre yield goal established under paragraph (3).”

Subsec. (b)(7). Pub. L. 102-535, §2, added par. (7).

1991—Subsec. (b)(1)(A). Pub. L. 102-237, §111(h)(1), substituted “250 sugarcane producers in the State (other than Puerto Rico)” for “250 producers in such State”.

Subsec. (b)(2)(A). Pub. L. 102-237, §111(h)(2), substituted “establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during” for “establish proportionate shares for the crop of sugarcane that is harvested during”.

Subsec. (b)(3). Pub. L. 102-237, §111(h)(3), added par. (3) and struck out former par. (3) which read as follows: “For purposes of determining proportionate shares for any crop of sugarcane:

“(A) The Secretary shall establish the State’s per-acre yield goal for a crop at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary deems relevant.

“(B) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A).

“(C) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (B), by the sum of all acreage bases in the State, as determined by the Secretary, that the Secretary estimates would otherwise be harvested for the production of the crop of sugarcane.

“(D) The uniform reduction percentage for the crop, as determined under subparagraph (C), shall be applied to the acreage base for each farm covered by the State allotment to determine the farm’s proportionate share for the crop.”

Subsec. (b)(4). Pub. L. 102-237, §111(h)(3), added par. (4) and struck out former par. (4) which read as follows: “For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

“(A) The acreage base for any crop shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding the crop year.

“(B) Acreage that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers shall be considered as harvested to sugarcane for sugar or seed for purposes of this paragraph.”

Subsec. (b)(5). Pub. L. 102-237, §111(h)(3), added par. (5) and struck out former par. (5) which read as follows:

“(A) IN GENERAL.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, no producer in the State knowingly may harvest for sugar or seed an acreage of sugarcane of the crop in excess of the farm’s proportionate share for the crop or otherwise violate proportionate share regulations issued by the Secretary under section 1359hh(a) of this title.

“(B) CIVIL PENALTY.—Any producer who violates subparagraph (A) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar involved in the violation. The quantity of sugar involved shall be determined based on the per-acre yield goal established under paragraph (3).”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359cc, 1359gg, 1359ii, 1359jj of this title.

§ 1359gg. Special rules

(a) Transfer of acreage base history

For the purpose of establishing proportionate shares for sugarcane farms under section 1359ff of this title, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

(b) Preservation of acreage base history

If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 1359ff of this title, the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 3 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share.

(c) Revisions of allocations and proportionate shares

The Secretary, after such notice as the Secretary by regulation may prescribe, may revise or amend any allocation of a marketing allotment under section 1359dd of this title, or any proportionate share established for a farm under section 1359ff of this title, on the same basis as the initial allocation or proportionate share was required to be established.

(Feb. 16, 1938, ch. 30, title III, §359g, as added Nov. 28, 1990, Pub. L. 101-624, title IX, §902, 104 Stat. 3486; amended Dec. 13, 1991, Pub. L. 102-237, title I, §111(i), 105 Stat. 1835.)

AMENDMENTS

1991—Subsecs. (a) and (b). Pub. L. 102-237, §111(i)(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

“(a) TRANSFER OF PRODUCTION HISTORY.—For the purpose of establishing proportionate shares for producers under section 1359ff of this title, the Secretary, on application of any producer, may transfer the production history of land owned, operated, or controlled by the producers to any other parcels of land of the applicant.

“(b) RESERVATION OF PRODUCTION HISTORY.—If for reasons beyond the control of an owner of a farm, the owner is unable to use all or a portion of the proportionate share established for the farm under section 1359ff of this title, the Secretary may reserve for a period of not more than 3 consecutive years the production history of the farm to the extent of the proportionate share involved. The proportionate share may be redistributed to other farm owners or operators, but no production history shall accrue to the other farm owners or operators, by virtue of the redistribution of the proportionate share so redistributed.”

Subsec. (c). Pub. L. 102-237, §111(i)(2), struck out “hearing and” before “notice” and inserted “required to be” after “proportionate share was”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1359jj of this title.

§ 1359hh. Regulations; violations; publication of Secretary's determinations; jurisdiction of courts; United States attorneys

(a) Regulations

The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this subpart.

(b) Violation

Any person knowingly violating any regulation of the Secretary issued under subsection (a) of this section shall be subject to a civil penalty of not more than \$5,000 for each violation.

(c) Publication in Federal Register

Each determination issued by the Secretary to establish, adjust, or suspend allotments under this subpart shall be promptly published in the Federal Register and shall be accompanied by a statement of the reasons for the determination.

(d) Jurisdiction of courts; United States attorneys

(1) Jurisdiction of courts

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this subpart or any regulation issued thereunder.

(2) United States attorneys

Whenever the Secretary shall so request, it shall be the duty of the several United States attorneys, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties provided for in this subpart. The Secretary may elect not to refer to a United States attorney any violation of this subpart or regulation when the Secretary determines that the administration and enforcement of this subpart would be adequately served by written notice or warning to any person committing the violation.

(e) Nonexclusivity of remedies

The remedies and penalties provided for in this subpart shall be in addition to, and not exclusive of, any remedies or penalties existing at law or in equity.

(Feb. 16, 1938, ch. 30, title III, §359h, as added Nov. 28, 1990, Pub. L. 101-624, title IX, §902, 104

Stat. 3486; amended Dec. 13, 1991, Pub. L. 102-237, title I, §111(j), 105 Stat. 1836.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

“(1) IN GENERAL.—The Secretary shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering the marketing allotment program under this subpart.

“(2) PRIOR CONSULTATIONS REQUIRED.—In addition to taking such other action as may be required under section 551 through 559 of title 5 prior to proposing any regulations under paragraph (1), the Secretary shall consult with representatives of domestic sugar processors and producers with regard to ensuring that the regulations achieve the objectives of this subpart. The results of the consultations shall be published in the Federal Register, along with the proposed regulations.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359cc, 1359ff, 1359jj of this title.

§ 1359ii. Appeals

(a) In general

An appeal may be taken to the Secretary from any decision under section 1359dd of this title establishing allocations of marketing allotments, or under section 1359ff of this title, by any person adversely affected by reason of any such decision.

(b) Procedure

(1) Notice of appeal

Any such appeal shall be taken by filing with the Secretary, within 20 days after the decision complained of is effective, notice in writing of the appeal and a statement of the reasons therefor. Unless a later date is specified by the Secretary as part of the Secretary's decision, the decision complained of shall be considered to be effective as of the date on which announcement of the decision is made. The Secretary shall deliver a copy of any notice of appeal to each person shown by the records of the Secretary to be adversely affected by reason of the decision appealed, and shall at all times thereafter permit any such person to inspect and make copies of appellant's reasons for the appeal and shall on application permit the person to intervene in the appeal.

(2) Hearing

The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.

(Feb. 16, 1938, ch. 30, title III, §359i, as added Nov. 28, 1990, Pub. L. 101-624, title IX, §902, 104 Stat. 3487; amended Dec. 13, 1991, Pub. L. 102-237, title I, §111(k), 105 Stat. 1836.)

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102-237 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The Secretary shall provide each appellant an opportunity for a hearing. The Secretary shall appoint an administrative law judge to conduct a hearing on the

record on each appeal under this section. In all other respects, each appeal under this section shall be subject to sections 551 through 559, and 701 through 706, of title 5.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1359jj of this title.

§ 1359jj. Administration

(a) Use of certain agencies

In carrying out this subpart, the Secretary may use the services of local committees of sugar beet or sugarcane producers, sugarcane processors, or sugar beet processors, State and county committees established under section 590h(b) of title 16, and the departments and agencies of the United States Government.

(b) Use of Commodity Credit Corporation

The Secretary shall use the services, facilities, funds, and authorities of the Commodity Credit Corporation to carry out sections 1359aa through 1359ii of this title.

(c) “United States” and “State” defined

Notwithstanding section 1301 of this title, for purposes of this subpart, the terms “United States” and “State” means¹ the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Feb. 16, 1938, ch. 30, title III, §359j, as added Nov. 28, 1990, Pub. L. 101-624, title IX, §902, 104 Stat. 3488.)

PART C—ADMINISTRATIVE PROVISIONS

SUBPART I—PUBLICATION AND REVIEW OF QUOTAS

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF PEANUTS

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.

INAPPLICABILITY TO 1986 THROUGH 1990 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.

INAPPLICABILITY TO 1982 THROUGH 1985 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 tobacco, corn, wheat, cotton, peanuts, and rice, established under part B of this subchapter.

(Feb. 16, 1938, ch. 30, title III, §361, 52 Stat. 62; Apr. 3, 1941, ch. 39, §4, 55 Stat. 92.)

REFERENCES IN TEXT

Part B of this subchapter, referred to in text, commences with section 1311 of this title.

¹ So in original. Probably should be “mean”.

AMENDMENTS

1941—Act Apr. 3, 1941, inserted “peanuts,” after “cotton.”

§ 1362. Publication of marketing quota; mailing of allotment notice

All acreage allotments, and the farm marketing quotas established for farms in a county or other local administrative area shall, in accordance with regulations of the Secretary, be made and kept freely available for public inspection in such county or other local administrative area. An additional copy of this information shall be kept available in the office of the county agricultural extension agent or with the chairman of the local committee. Notice of the farm marketing quota of his farm shall be mailed to the farmer.

Notice of the farm acreage allotment established for each farm shown by the records of the county committee to be entitled to such allotment shall insofar as practicable be mailed to the farm operator in sufficient time to be received prior to the date of the referendum.

(Feb. 16, 1938, ch. 30, title III, §362, 52 Stat. 62; Aug. 29, 1949, ch. 518, §2(c), 63 Stat. 676.)

AMENDMENTS

1949—Act Aug. 29, 1949, inserted paragraph providing for mailing of notice of allotment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1363 of this title.

§ 1363. Review of quota; review committee

Any farmer who is dissatisfied with his farm marketing quota may, within fifteen days after mailing to him of notice as provided in section 1362 of this title, have such quota reviewed by a local review committee composed of three farmers from the same or nearby counties appointed by the Secretary. Such committee shall not include any member of the local committee which determined the farm acreage allotment, the normal yield, or the farm marketing quota for such farm. Unless application for review is made within such period, the original determination of the farm marketing quota shall be final.

(Feb. 16, 1938, ch. 30, title III, §363, 52 Stat. 63; Apr. 12, 1951, ch. 28, §3, 65 Stat. 31.)

AMENDMENTS

1951—Act Apr. 12, 1951, provided that the Secretary appoint a local review committee composed of 3 farmers from the same or nearby counties.

REVIEW OF 1950 COTTON FARM ACREAGE ALLOTMENT

Section 2 of act Mar. 31, 1950, ch. 81, 64 Stat. 41, provided that any farmer dissatisfied with his farm acreage allotment for the 1950 cotton crop could have such allotment reviewed in accordance with the provisions of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314b, 1314b-1, 1314b-2, 1314c, 2279a of this title.

§ 1364. Compensation of review committee

The members of the review committee shall receive as compensation for their services the

same per diem as that received by the members of the committee utilized for the purposes of chapter 3B of title 16. The members of the review committee shall not be entitled to receive compensation for more than thirty days in any one year.

(Feb. 16, 1938, ch. 30, title III, § 364, 52 Stat. 63.)

REFERENCES IN TEXT

Chapter 3B [§590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

§ 1365. Institution of proceeding for court review of committee findings

If the farmer is dissatisfied with the determination of the review committee, he may, within fifteen days after a notice of such determination is mailed to him by registered mail or by certified mail, file a bill in equity against the review committee as defendant in the United States district court, or institute proceedings for review in any court of record of the State having general jurisdiction, sitting in the county or the district in which his farm is located, for the purpose of obtaining a review of such determination. Bond shall be given in an amount and with surety satisfactory to the court to secure the United States for the costs of the proceeding. The bill of complaint in such proceeding may be served by delivering a copy thereof to any one of the members of the review committee. Thereupon the review committee shall certify and file in the court a transcript of the record upon which the determination complained of was made, together with its findings of fact.

(Feb. 16, 1938, ch. 30, title III, § 365, 52 Stat. 63; June 11, 1960, Pub. L. 86-507, §1(5), 74 Stat. 200.)

AMENDMENTS

1960—Pub. L. 86-507 inserted “or by certified mail” after “registered mail”.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 1366. Court review

The review by the court shall be limited to questions of law, and the findings of fact by the review committee, if supported by evidence shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the review committee, the court may direct such additional evidence to be taken before the review committee in such manner and upon such terms and conditions as to the court may seem proper. The review committee may modify its findings of fact or its determination by reason of the additional evidence so taken, and it shall file with the court such modified findings or determination, which findings of fact shall be conclusive. The court shall hear and determine the case upon the original record of the hearing before the review committee, and upon such record as

supplemented if supplemented, by further hearing before the review committee pursuant to direction of the court. The court shall affirm the review committee's determination, or modified determination, if the court determines that the same is in accordance with law. If the court determines that such determination or modified determination is not in accordance with law, the court shall remand the proceeding to the review committee with direction either to make such determination as the court shall determine to be in accordance with law or to take such further proceedings as, in the court's opinion, the law requires.

(Feb. 16, 1938, ch. 30, title III, § 366, 52 Stat. 63; Nov. 8, 1984, Pub. L. 98-620, title IV, § 402(6), 98 Stat. 3357.)

AMENDMENTS

1984—Pub. L. 98-620 substituted “The court” for “At the earliest convenient time, the court, in term time or vacation,”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

§ 1367. Stay of proceedings and exclusive jurisdiction

The commencement of judicial proceedings under this subpart shall not, unless specifically ordered by the court, operate as a stay of the review committee's determination. Notwithstanding any other provision of law, the jurisdiction conferred by this subpart to review the legal validity of a determination made by a review committee pursuant to this subpart shall be exclusive. No court of the United States or of any State shall have jurisdiction to pass upon the legal validity of any such determination except in a proceeding under this subpart.

(Feb. 16, 1938, ch. 30, title III, § 367, 52 Stat. 64.)

§ 1368. Effect of increase on other quotas

Notwithstanding any increase of any farm marketing quota for any farm as a result of review of the determination thereof under this subpart, the marketing quotas for other farms shall not be affected.

(Feb. 16, 1938, ch. 30, title III, § 368, 52 Stat. 64.)

SUBPART II—ADJUSTMENT OF QUOTAS AND ENFORCEMENT

§ 1371. General adjustment of quotas

(a) Investigation and adjustment to maintain normal supply

If at any time the Secretary has reason to believe that in the case of cotton, rice, peanuts, or tobacco the operation of farm marketing quotas in effect will cause the amount of such commodity which is free of marketing restrictions to be less than the normal supply for the marketing year for the commodity then current, he shall cause an immediate investigation to be made with respect thereto. In the course of such investigation due notice and opportunity for hearing

shall be given to interested persons. If upon the basis of such investigation the Secretary finds the existence of such fact, he shall proclaim the same forthwith. He shall also in such proclamation specify such increase in, or termination of, existing quotas as he finds, on the basis of such investigation, is necessary to make the amount of such commodity which is free of marketing restrictions equal the normal supply.

(b) Adjustment because of emergency or export demand

If the Secretary has reason to believe that, because of a national emergency or because of a material increase in export demand, any national marketing quota or acreage allotment for cotton, rice, peanuts, or tobacco should be increased or terminated, he shall cause an immediate investigation to be made to determine whether the increase or termination is necessary to meet such emergency or increase in export demand. If, on the basis of such investigation, the Secretary finds that such increase or termination is necessary, he shall immediately proclaim such finding (and if he finds an increase is necessary, the amount of the increase found by him to be necessary) and thereupon such quota or allotment shall be increased, or shall terminate, as the case may be.

(c) Increase of farm quota on increase of national quota

In case any national marketing quota or acreage allotment for any commodity is increased under this section, each farm marketing quota for the commodity shall be increased in the same ratio.

(Feb. 16, 1938, ch. 30, title III, §371, 52 Stat. 64; Apr. 3, 1941, ch. 39, §5, 55 Stat. 92; Aug. 28, 1954, ch. 1041, title III, §312, 68 Stat. 904; Sept. 27, 1962, Pub. L. 87-703, title III, §321, 76 Stat. 626.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-703, §321(1), struck out “corn, wheat,” before “cotton”.

Subsec. (b). Pub. L. 87-703, §321(2), struck out “any national acreage allotment for corn, or” after “export demand,” “wheat,” before “cotton” and “in order to effect the declared policy of this chapter or” before “to meet such emergency”.

1954—Subsec. (b). Act Aug. 28, 1954, §312(a), inserted proviso relating to national acreage allotment for corn, and struck out corn from national marketing quota provision.

Subsec. (c). Act Aug. 28, 1954, §312(b), inserted “or acreage allotment” after “marketing quota” wherever appearing.

Subsec. (d). Act Aug. 28, 1954, §312(c), repealed subsec. (d) which related to the adjustment of corn storage regulations on change in marketing quotas.

1941—Subsecs. (a), (b). Act Apr. 3, 1941, inserted “peanuts,” after “rice,”.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964 or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF PEANUTS

Pub. L. 101-624, title VIII, §801(5), Nov. 28, 1990, 104 Stat. 3459, provided that this section is inapplicable to 1991 through 1995 crops of peanuts.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF PEANUTS

Pub. L. 99-198, title VII, §701(5), Dec. 23, 1985, 99 Stat. 1430, provided that this section is inapplicable to 1986 through 1990 crops of peanuts.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF PEANUTS

Pub. L. 97-98, title VII, §701(5), Dec. 22, 1981, 95 Stat. 1248, provided that this section is inapplicable to 1982 through 1985 crops of peanuts.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1372. Payment, collection, and refund of penalties

(a) The penalty with respect to the marketing, by sale, of wheat, cotton, or rice, if the sale is to any person within the United States, shall be collected by the buyer.

(b) All penalties provided for in part B of this subchapter shall be collected and paid in such manner, at such times, and under such conditions as the Secretary may by regulations prescribe. Such penalties shall be remitted to the Secretary by the person liable for the penalty, except that if any other person is liable for the collection of the penalty, such other person shall remit the penalty. Except as provided in section 1314h of this title, the amount of such penalties shall be covered into the general fund of the Treasury of the United States.

(c) Whenever, pursuant to a claim filed with the Secretary within two years after payment to him of any penalty collected from any person pursuant to this chapter, the Secretary finds that such penalty was erroneously illegally, or wrongfully collected and the claimant bore the burden of the payment of such penalty, the Secretary shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary finds the claimant is entitled to receive as a refund of such penalty.

Notwithstanding any other provision of law, the Secretary is authorized to prescribe by regulations for the identification of farms and it shall be sufficient to schedule receipts into special deposit accounts or to schedule such receipts for transfer therefrom, or directly, into the separate fund provided for in subsection (b) of this section by means of such identification without reference to the names of the producers on such farms.

The Secretary is authorized to prescribe regulations governing the filing of such claims and the determination of such refunds.

(d) No penalty shall be collected under this chapter with respect to the marketing of any agricultural commodity grown for experimental purposes only by any publicly owned agricultural experiment station. Effective with the 1978 crops, no penalty shall be collected under this chapter with respect to the marketing of any agricultural commodity grown on State prison farms for consumption within such State prison system.

(Feb. 16, 1938, ch. 30, title III, §372, 52 Stat. 65; Apr. 7, 1938, ch. 107, §11, 52 Stat. 204; July 2, 1940,

ch. 521, §6, 54 Stat. 728; Nov. 16, 1979, Pub. L. 96-113, 93 Stat. 850; Apr. 7, 1986, Pub. L. 99-272, title I, §1106(b), 100 Stat. 91.)

REFERENCES IN TEXT

Part B of this subchapter, referred to in subsec. (b), commences with section 1311 of this title.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99-272 substituted “Except as provided in section 1314h of this title, the” for “The”.

1979—Subsec. (d). Pub. L. 96-113 inserted provisions respecting exemption from marketing quota penalties for State prison farms.

1940—Subsec. (c). Act July 2, 1940, substituted “within two years” for “within one year” and inserted “and the claimant bore the burden of the payment of such penalty” after “wrongfully collected” in first par. and inserted second par. authorizing regulations for farm identification, etc.

1938—Subsecs. (c), (d). Act Apr. 7, 1938, added subsecs. (c) and (d).

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1106(b) of Pub. L. 99-272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99-272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99-272, set out as a note under section 1301 of this title.

CROSS REFERENCES

Agricultural experiment stations, see section 361a et seq. of this title.

§ 1373. Reports and records

(a) Persons reporting

This subsection shall apply to warehousemen, processors, and common carriers of corn, wheat, cotton, rice, peanuts, or tobacco, and all ginners of cotton, all persons engaged in the business of purchasing corn, wheat, cotton, rice, peanuts, or tobacco from producers, all persons engaged in the business of redrying, prizing, or stemming tobacco for producers, all producers engaged in the production of peanuts, all brokers and dealers in peanuts, all agents marketing peanuts for producers, or acquiring peanuts for buyers and dealers, and all peanut growers' cooperative associations, all persons engaged in the business of cleaning, shelling, crushing, and salting of peanuts and the manufacture of peanut products, and all persons owning or operating peanut-picking or peanut-threshing machines. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this subchapter. Such information shall be reported and such records shall be kept in accordance with forms which the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is authorized to exam-

ine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of such person. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required by this subsection within fifteen days after notice to him of such violation shall be subject to an additional fine of \$100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided*, That such fine shall not exceed \$5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by certified mail or by posting the same at any established place of business operated by him, or both.

(b) Proof of acreage yield

Farmers engaged in the production of corn, wheat, cotton, rice, peanuts, or tobacco for market shall furnish such proof of their acreage, yield, storage, and marketing of the commodity in the form of records, marketing cards, reports, storage under seal, or otherwise as the Secretary may prescribe as necessary for the administration of this subchapter.

(c) Data as confidential

All data reported to or acquired by the Secretary pursuant to this section shall be kept confidential by all officers and employees of the Department, and only such data so reported or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under this subchapter. Nothing in this section shall be deemed to prohibit the issuance of general statements based upon the reports of a number of parties which statements do not identify the information furnished by any person.

(Feb. 16, 1938, ch. 30, title III, §373, 52 Stat. 65; June 13, 1940, ch. 360, §6, 54 Stat. 394; Apr. 3, 1941, ch. 39, §§6, 7, 55 Stat. 92; June 11, 1960, Pub. L. 86-507, §1(6), 74 Stat. 200; Sept. 29, 1977, Pub. L. 95-113, title VIII, §805, 91 Stat. 947; Dec. 22, 1981, Pub. L. 97-98, title VII, §706, 95 Stat. 1256; July 20, 1982, Pub. L. 97-218, title III, §304, 96 Stat. 214; Dec. 23, 1985, Pub. L. 99-198, title VII, §706, 99 Stat. 1441; Nov. 28, 1990, Pub. L. 101-624, title VIII, §807, 104 Stat. 3478.)

AMENDMENT OF SECTION

For termination of amendment by section 807 of Pub. L. 101-624, see Effective and Termination Dates of 1990 Amendment note below.

AMENDMENTS

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 AND TERMINATION DATES OF 1990 AMENDMENT

Section 807 of Pub. L. 101-624 provided that the amendment made by that section is effective only for 1991 through 1995 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 706 of Pub. L. 99-198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 706 of Pub. L. 97-98 provided that the amendment made by that section is effective for 1982 through 1985 crop of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 805 of Pub. L. 95-113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

§ 1374. Measurement of farms and report of plantings; remeasurement

(a) The Secretary shall provide for ascertaining, by measurement or otherwise, the acreage of any agricultural commodity or land use on farms for which the ascertainment of such acreage is necessary to determine compliance under any program administered by the Secretary. Insofar as practicable, the acreage of the commodity and land use shall be ascertained prior to harvest, and, if any acreage so ascertained is not in compliance with the requirements of the program the Secretary, under such terms and conditions as he prescribes, may provide a reasonable time for the adjustment of the acreage of the commodity or land use to the requirements of the program. Where cotton is planted in skiprow patterns, the same rules that

were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1995 crops, except that, for the 1991 through 1995 crops, the rules shall allow 30 inch rows (or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows) to be taken into account for classifying the acreage planted to cotton and the area skipped. For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops.

(b) With respect to cotton, the Secretary, upon such terms and conditions as he may by regulation prescribe, shall provide, through the county and local committees for the measurement prior to planting of an acreage on the farm equal to the farm acreage allotment if so requested by the farm operator, and any farm on which the acreage planted to cotton does not exceed such measured acreage shall be deemed to be in compliance with the farm acreage allotment.

(c) The Secretary shall by appropriate regulations provide for the remeasurement upon request by the farm operator of the acreage planted to such commodity on the farm and for the measurement of the acreage planted to such commodity on the farm remaining after any adjustment of excess acreage hereunder and shall prescribe the conditions under which the farm operator shall be required to pay the county committee for the expense of the measurement of adjusted acreage or the expense of remeasurement after the initial measurement or the measurement of adjusted acreage. The regulations shall also provide for the refund of any deposit or payment made for the expense of the remeasurement of the initially determined acreage or the adjusted acreage when because of an error in the determination of such acreage the remeasurement brings the acreage within the allotment or permitted acreage or results in a change in acreage in excess of a reasonable variation normal to measurements of acreage of the commodity. Unless the requirements for measurement of adjusted acreage are met by the farm operator, the acreage prior to such adjustment as determined by the county committee shall be considered the acreage of the commodity on the farm in determining whether the applicable farm allotment has been exceeded.

(Feb. 16, 1938, ch. 30, title III, §374, 52 Stat. 65; Apr. 3, 1941, ch. 39, §8, 55 Stat. 92; Aug. 29, 1949, ch. 518, §2(b), 63 Stat. 676; Aug. 28, 1954, ch. 1041, title III, §311(b), 68 Stat. 904; June 30, 1960, Pub. L. 86-553, §§1, 2, 74 Stat. 258; Nov. 3, 1965, Pub. L. 89-321, title VII, §§701, 702, 79 Stat. 1210; Nov. 30, 1970, Pub. L. 91-524, title VI, §612, as added Aug. 10, 1973, Pub. L. 93-86, §1(25), 87 Stat. 236; Sept. 29, 1977, Pub. L. 95-113, title VI, §605, 91 Stat. 940; Dec. 22, 1981, Pub. L. 97-98, title V, §505, 95 Stat. 1241; Dec. 23, 1985, Pub. L. 99-198, title V, §505, 99 Stat. 1418; Nov. 28, 1990, Pub. L. 101-624, title V, §504, 104 Stat. 3440; Dec. 13, 1991, Pub. L. 102-237, title I, §116(2), 105 Stat. 1840.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237 inserted "(or, at the option of those cotton producers who had an estab-

lished 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1349 of this title.

§ 1375. Regulations

(a) The Secretary shall provide by regulations for the identification, wherever necessary, of corn, wheat, cotton, rice, peanuts, or tobacco so as to afford aid in discovering and identifying such amounts of the commodities as are subject to and such amounts thereof as are not subject to marketing restrictions in effect under this subchapter.

(b) The Secretary shall prescribe such regulations as are necessary for the enforcement of this subchapter.

(Feb. 16, 1938, ch. 30, title III, §375, 52 Stat. 66; Apr. 3, 1941, ch. 39, §9, 55 Stat. 92.)

AMENDMENTS

1941—Subsec. (a). Act Apr. 3, 1941, inserted "peanuts," after "rice,".

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1376. Court jurisdiction; duties of United States attorneys; remedies and penalties as additional

The several district courts of the United States are vested with jurisdiction specifically to enforce the provisions of this subchapter. If and when the Secretary shall so request, it shall be the duty of the several United States attorneys in their respective districts, under the direction of the Attorney General, to institute proceedings to collect the penalties provided in this subchapter. The remedies and penalties provided for herein shall be in addition to, and not exclusive of, any of the remedies or penalties under existing law. This section also shall be applicable to liquidated damages provided for pursuant to section 1349 of this title.

(Feb. 16, 1938, ch. 30, title III, §376, 52 Stat. 66; June 25, 1948, ch. 646, §1, 62 Stat. 869; Apr. 11, 1964, Pub. L. 88-297, title I, §106(2), 78 Stat. 176.)

AMENDMENTS

1964—Pub. L. 88-297 provided for application of this section to liquidated damages under section 1349 of this title.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorneys" for "district attorneys". See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

CROSS REFERENCES

Jurisdiction of district courts of actions for recovery of penalties, see section 1355 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314-1 of this title.

§ 1377. Preservation of unused acreage allotments

In any case in which, during any year beginning with 1956, the acreage planted to a commodity on any farm is less than the acreage allotment for such farm, the entire acreage allotment for such farm (excluding any allotment re-

leased from the farm or reapportioned to the farm and any allotment provided for the farm pursuant to subsection (f)(7)(A) of section 1344 of this title) shall, except as provided herein, be considered for the purpose of establishing future State, county and farm acreage allotments, to have been planted to such commodity in such year on such farm, but the 1956 acreage allotment of any commodity shall be regarded as planted under this section only if the owner or operator on such farm notified the county committee prior to the sixtieth day preceding the beginning of the marketing year for such commodity of his desire to preserve such allotment: *Provided*, That beginning with the 1960 crop, except for federally owned land, the current farm acreage allotment established for a commodity shall not be preserved as history acreage pursuant to the provisions of this section unless for the current year or either of the two preceding years as acreage equal to 75 per centum or more of the farm acreage allotment for such year or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for any such year, whichever is smaller was actually planted or devoted to the commodity on the farm (or was regarded as planted under provisions of the Soil Bank Act or the Great Plains program): *Provided further*, That this section shall not be applicable in any case, within the period 1956 to 1959, in which the amount of the commodity required to be stored to postpone or avoid payment of penalty has been reduced because the allotment was not fully planted. Acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this subchapter pertaining to the release and reapportionment of acreage allotments.

(Feb. 16, 1938, ch. 30, title III, § 377, as added May 28, 1956, ch. 327, title III, § 307, 70 Stat. 206; amended Sept. 2, 1957, Pub. L. 85-266, 71 Stat. 592; Aug. 18, 1959, Pub. L. 86-172, § 1, 73 Stat. 393; Apr. 11, 1964, Pub. L. 88-297, title I, § 106(4), 78 Stat. 177; Sept. 29, 1977, Pub. L. 95-113, title VIII, § 806, 91 Stat. 947.)

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.

AMENDMENTS

1977—Pub. L. 95-113 temporarily inserted “or, in the case of peanuts, an acreage sufficient to produce 75 per centum of the farm poundage quota” after “of the farm acreage allotment for such year”. See Effective and Termination Dates of 1977 Amendment note below.

1964—Pub. L. 88-297 inserted “or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for any such year, whichever is smaller” in first proviso after “75 per centum or more of the farm acreage allotment for such year” to protect the farm base of any

farm participating in the domestic allotment choice program if the acreage planted on the farm was at least 75 per centum of the farm domestic allotment.

1959—Pub. L. 86-172 excluded any allotment provided for a farm under section 1344(f)(7)(A) of this title from the entire acreage allotment for the farm which is considered as planted in the year for the purpose of establishing future acreage allotments and provided for the preservation of the current farm acreage allotment as history acreage under prescribed conditions.

1957—Pub. L. 85-266 struck out, for 1957, 1958, and 1959, requirement of filing notice of intention not to plant full acreage allotment and provided that acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this subchapter pertaining to the release and reapportionment of acreage allotments.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 806 of Pub. L. 95-113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF UPLAND COTTON

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.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF UPLAND COTTON

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.

INAPPLICABILITY TO 1984 AND SUBSEQUENT CROPS OF EXTRA LONG STAPLE COTTON

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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF RICE

Section inapplicable to 1978 through 1981 crops of rice, see section 703 of Pub. L. 95-113.

INAPPLICABILITY TO 1976 AND 1977 CROPS OF RICE

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.”

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF UPLAND COTTON

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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF UPLAND COTTON

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.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF UPLAND COTTON

Pub. L. 91-524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1358 of this title.

§ 1378. Transfer of acreage allotments ensuing from agency acquisition of farmlands

(a) Allotment pool

Notwithstanding any other provision of this chapter, the allotment determined for any commodity for any land from which the owner is displaced because of acquisition of the land for any purpose, other than for the continued production of allotted crops, by any Federal, State, or other agency having the right of eminent domain shall be placed in an allotment pool and shall be available only for use in providing allotments for other farms owned by the owner so displaced. Upon application to the county committee, within three years after the date of such displacement, any owner so displaced shall be entitled to have allotments established for other farms owned by him, taking into consideration the land, labor, and equipment available on such other farms for the production of the commodity, crop-rotation practices, and the soil and other physical factors affecting the production of the commodity: *Provided*, That the acreage used to establish or increase the allotments for such farms shall be transferred from the pool and shall not exceed the allotment most recently established for the farm acquired from the applicant and placed in the pool. During the period of eligibility for the making of allotments under this section for a displaced owner, acreage allotments for the farm from which the owner was so displaced shall be established in accordance with the procedure applicable to other farms, and such allotments shall be considered to have been fully planted. After such allotment is made under this section, the proportionate part, or all, as the case may be, of the past acreage used in establishing the allotment most recently placed in the pool for the farm from which the owner was so displaced shall be transferred to and considered for the purposes of future State, county, and farm acreage allotments to have been planted on the farm to which allotment is made under this section. Except where subsection (c) of this section requires the transfer of allotment to another portion of the same farm, for the purpose of this section (1) that part of any farm from which the owner is so displaced and that part from which he is not so displaced shall be considered as separate farms; and (2) an owner who voluntarily relinquishes possession of the land subsequent to its acquisition by an agency having the right of eminent domain shall be considered as having been displaced because of such acquisition. The former owner of land acquired as described in this subsection shall not be considered for the purposes hereof to have been displaced from such land during any period for which such land is leased to such former owner: *Provided*, That the occupancy of the former owner under the lease follows immediately after his occupancy as owner: *And provided further*, That if a former owner has been displaced prior to April 9, 1960, and no allotment from the land owned by such former owner has been transferred from the allotment pool and such former owner leases the land formerly owned by him prior to two years from April 9, 1960, such allotment shall be retransferred from the pool to such land and the

occupancy of such former owner under the lease for the purposes of this subsection shall be deemed to have begun immediately after his displacement as owner. During any year of the 3-year period the allotment from a farm may remain in the allotment pool, the displaced owner may, in accordance with regulations of the Secretary, release for one year at a time any part or all of such farm allotment to the county committee for reapportionment to other farms in the county having allotments for such commodity on the basis of the past acreage of the commodity, land, labor, equipment available for the production of the commodity, crop rotation practices, and soil and other physical facilities affecting the production of the commodity; and the allotment reapportioned shall, for purposes of establishing future farm allotments, not be regarded as planted on the farm to which the allotment was transferred.

(b) Circumstances precluding application of provisions

The provisions of this section shall not be applicable if (1) there is any marketing quota penalty due with respect to the marketing of the commodity from the farm acquired by the Federal, State, or other agency or by the owner of the farm; (2) any of the commodity produced on such farm has not been accounted for as required by the Secretary; or (3) the allotment next established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper identification of the commodity produced on or marketed from such farm or due to a false acreage report.

(c) Time of displacement determining application of provisions

This section shall not be applicable, in the case of cotton, tobacco, and peanuts, to any farm from which the owner was displaced prior to 1950, in the case of wheat and corn, to any farm from which the owner was displaced prior to 1954, and in the case of rice, to any farm from which the owner was displaced prior to 1955. In any case where the cropland acquired for non-farming purposes from an owner by an agency having the right of eminent domain represents less than 15 per centum of the total cropland on the farm, the allotment attributable to that portion of the farm so acquired shall be transferred to that portion of the farm not so acquired.

(d), (e) Omitted

(f) Burley tobacco marketing allotment and acreage as meaning marketing quota and poundage

In applying the provisions of this section to a farm for which a tobacco marketing quota has been determined under section 1314e of this title, the words "allotment" and "acreage", wherever they appear, shall be construed to mean "marketing quota" and "poundage", respectively, as required.

(Feb. 16, 1938, ch. 30, title III, § 378, as added Aug. 28, 1958, Pub. L. 85-835, title V, § 501, 72 Stat. 995; amended Apr. 9, 1960, Pub. L. 86-423, § 1, 74 Stat. 41; May 16, 1961, Pub. L. 87-33, 75 Stat. 78; Nov. 30, 1970, Pub. L. 91-524, title IV, § 404(3), title VI,

§ 605(1), 84 Stat. 1366, 1378; Apr. 14, 1971, Pub. L. 92-10, § 2, 85 Stat. 27; July 26, 1972, Pub. L. 92-354, 86 Stat. 499.)

CODIFICATION

Part of subsec. (d) of section 378 of act Feb. 16, 1938, as originally enacted, is set out as a Savings Clause note below. The remainder of such subsec. (d) repealed sections 1313(h), 1334(d), 1344(h), a prior section 1353(f), and section 1358(h) of this title.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-354 struck out the alternative time limitation for filing applications to the county committee and substituted provisions describing allotments for provisions requiring the allotments to be comparable with allotments determined for other farms in the same area which are similar except for the past acreage of the commodity.

1971—Subsec. (f). Pub. L. 92-10 added subsec. (f).

1970—Subsec. (d). Pub. L. 91-524, § 605(1), temporarily added subsec. (d). See Effective and Termination Dates of 1970 Amendment note below.

Subsec. (e). Pub. L. 91-524, § 404(3), temporarily added subsec. (e). See Effective and Termination Dates of 1970 Amendment note below.

1961—Pub. L. 87-33 substituted provisions permitting displaced owners to release part or all of any allotment remaining in the allotment pool for reapportionment to other farms in the county having allotments for such commodity, for provisions making sections 1344(m)(2), 1353(e), and 1358(g) of this title inapplicable to allotments held under the lease by a displaced owner.

1960—Subsec. (a). Pub. L. 86-423 inserted sentences providing that the former owner of land shall not be considered to have been displaced during any period for which such land is leased to him if his occupancy under the lease immediately follows after his occupancy as owner, authorizing retransfer of allotments in cases where a former owner leases land formerly owned by him prior to two years from April 9, 1960, and making sections 1344(m)(2), 1353(e), and 1358(g) of this title inapplicable to allotments on lands held under the lease by a displaced owner which are subject to the provisions of this amendment.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 404 and 605 of Pub. L. 91-524, as amended by Pub. L. 93-86, § 1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided that the amendments made by those sections are effective only with respect to 1971 through 1977 crops.

SAVINGS PROVISION

Section 378(d) of act Feb. 16, 1938, as added by Pub. L. 85-835, § 501, provided in part that: "but any transfer or reassignment of allotment heretofore made under the provisions of these sections [former sections 1313(h), 1334(d), 1344(h), 1353(f), and 1358(h) of this title] shall remain in effect, and any displaced farm owner for whom an allotment has been established under such repealed sections [such sections] shall not be eligible for additional allotment under subsection (a) of this section [subsec. (a) of this section] because of such displacement."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314c of this title.

§ 1379. Reconstitution of farms

(a) Transfers from parent farm

In any case in which the ownership of a tract of land is transferred from a parent farm, the acreage allotments, history acreages, and base

acreages for the farm shall be divided between such tract and the parent farm in the same proportion that the cropland acreage in such tract bears to the cropland acreage in the parent farm, except that the Secretary shall provide by regulation the method to be used in determining the division, if any, of the acreage allotments, histories, and bases in any case in which—

(1) the tract of land transferred from the parent farm has been or is being transferred to any agency having the right to acquire it by eminent domain;

(2) the tract of land transferred from the parent farm is to be used for nonagricultural purposes;

(3) the parent farm resulted from a combination of two or more tracts of land and records are available showing the contribution of each tract to the allotments, histories, and bases of the parent farm;

(4) the appropriate county committee determines that a division based on cropland proportions would result in allotments and bases not representative of the operations normally carried out on any transferred tract during the base period;

(5) the parent farm is divided among heirs in settling an estate; or

(6) neither the tract transferred from the parent farm nor the remaining portion of the parent farm receives allotments in excess of allotments for similar farms in the community having allotments of the commodity or commodities involved and such allotments are consistent with good land uses, but this clause (6) shall not be applicable in the case of burley tobacco.

(b) Combination of tracts in contiguous counties

In any case in which two or more tracts of land are located in contiguous counties in the same State and are owned by the same person, the Secretary shall permit such tracts to be combined as one farm if (1) a Burley tobacco poundage quota is established for one or more of such tracts, and (2) the relevant county committees determine that such tracts will be operated as a single farming unit.

(c) Burley tobacco poundage quotas

When a farm is divided through reconstitution, the burley tobacco poundage quota which transfers with the divided land shall not be less than 1,000 pounds (except when the reconstitution of the farm is among immediate family members or pursuant to probate proceedings).

(Feb. 16, 1938, ch. 30, title III, § 379, as added Nov. 3, 1965, Pub. L. 89-321, title VII, § 707, 79 Stat. 1211; amended Nov. 30, 1970, Pub. L. 91-524, title IV, § 404(4), title VI, § 605(2), 84 Stat. 1366, 1378; Nov. 29, 1983, Pub. L. 98-180, title II, § 212(b), 97 Stat. 1149; Nov. 15, 1990, Pub. L. 101-577, § 2(c), 104 Stat. 2856; Dec. 13, 1991, Pub. L. 102-237, title I, § 116(3), 105 Stat. 1841.)

AMENDMENTS

1991—Subsecs. (a)(4) to (7), (c). Pub. L. 102-237 struck out "or" at end of par. (4), substituted ";" or "or" for period at end of par. (5), substituted a period for ";" or "or" at end of par. (6), and redesignated par. (7) as subsec. (c) and moved subsec. (c) to follow subsec. (b).

1990—Subsec. (a)(7). Pub. L. 101-577 added par. (7).

1983—Pub. L. 98-180 designated existing provisions as subsec. (a) and added subsec. (b).

1970—Pub. L. 91-524 temporarily inserted provision that term “acreage allotments” include the farm base acreage allotments for upland cotton and the domestic allotment for wheat. See Effective and Termination Dates of 1970 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1970
AMENDMENT

Sections 404 and 605 of Pub. L. 91-524, as amended by Pub. L. 93-86, §1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided that the amendments made by those sections are effective only with respect to 1971 through 1977 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314d of this title.

PART D—WHEAT MARKETING ALLOCATION

§ 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 Sept. 27, 1962, Pub. L. 87-703, title III, §324(2), 76 Stat. 626.)

§ 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 alloca-

tion percentage which shall be the percentage which the national marketing allocation is of the national marketing quota. Each farm shall receive a wheat marketing allocation for such marketing year equal to the number of bushels obtained by multiplying the number of acres in the farm acreage allotment for wheat by the projected farm yield, and multiplying the resulting number of bushels by the national allocation percentage. If a noncommercial wheat-producing area is established for any marketing year, farms in such area shall be given wheat marketing allocations which are determined by the Secretary to be fair and reasonable in relation to the wheat marketing allocation given producers in the commercial wheat-producing area.

(Feb. 16, 1938, ch. 30, title III, §379b, as added Sept. 27, 1962, Pub. L. 87-703, title III, §324(2), 76 Stat. 626; amended Apr. 11, 1964, Pub. L. 88-297, title II, §202(10), (11), 78 Stat. 179, 180; Nov. 3, 1965, Pub. L. 89-321, title V, §§502, 503, 79 Stat. 1202; Oct. 11, 1968, Pub. L. 90-559, §1(1), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title IV, §402(a), (b)(B), (C), 84 Stat. 1362, as renumbered and amended Aug. 10, 1973, Pub. L. 93-86, §1(9), 87 Stat. 225.)

AMENDMENTS

1973—Subsec. (c)(1). Pub. L. 91-524, §402(b)(B)(i)-(vi), as added by Pub. L. 93-86, temporarily substituted “payments authorized by section 1445a(c) of this title” for “certificates on wheat”, “wheat allotment” for “domestic wheat allotment”, “thirteen and three-tenths million” for “13.3 million”, “1971 crop; plus, if required by the Secretary, (ii) the acreage” for “1971 crop or 15 million acres in the case of the 1972 or 1973 crop, plus (ii) the acreage”, “The Secretary is authorized for the 1974 through 1977 crops to limit” for “The Secretary is authorized for the 1971, 1972, and 1973 crops to limit”, “such percentage of the acreage allotment” for “such percentage of the domestic wheat allotment as he determines necessary to provide an orderly transition to the program provided for under this section”, “The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and” for “Grazing shall not be permitted during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of Title 16 and subject to this limitation (1) the Secretary shall permit producers to plant and graze on the set-aside acreage sweet sorghum, and (2) the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to”, and “flaxseed, triticale, oats, rye, or other commodity” for “flaxseed, or other commodity”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(2). Pub. L. 91-524, §402(b)(B)(i), as added by Pub. L. 93-86, temporarily substituted “payments authorized by section 1445a(c) of this title” for “certificates authorized in subsection (b) of this section”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(3). Pub. L. 91-524, §402(b)(B)(vii), as added by Pub. L. 93-86, temporarily inserted provisions authorizing the Secretary, in the case of programs for the 1974 through 1977 crops, to pay an appropriate share of the cost of practices designated to protect set-aside acreage against erosion, insects, weeds, and rodents and to devote such acreage to wildlife food plots or wildlife habitat. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(4). Pub. L. 91-524, §402(b)(B)(i), as added by Pub. L. 93-86, temporarily substituted “payments au-

thorized by section 1445a(c) of this title” for “marketing certificates”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (d). Pub. L. 91-524, §402(b)(C), as added by Pub. L. 93-86, temporarily struck out “certificates issued and of” before “payments made”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (e). Pub. L. 91-524, §402(b)(C), as added by Pub. L. 93-86, temporarily struck out references to the issuance of certificates. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (g). Pub. L. 91-524, §402(b)(C), as added by Pub. L. 93-86, temporarily reenacted subsec. (g) without change. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (i). Pub. L. 91-524, §402(b)(C), as added by Pub. L. 93-86, temporarily reenacted subsec. (i) without change. See Effective and Termination Dates of 1973 Amendment note below.

1970—Pub. L. 91-524, §402(a), formerly §402, temporarily substituted provisions covering the issuance of domestic certificates to producers and a voluntary set-aside program for wheat for provisions for a wheat marketing allocation program for the 1964 to 1970 crops. See Effective and Termination Dates of 1970 Amendment note below.

1968—Pub. L. 90-559 temporarily provided for a one year extension through 1970.

1965—Pub. L. 89-321, §502, temporarily amended section generally and, among other changes, extended the wheat marketing allocation program from 1964 and 1965 to 1966 through 1969, put a minimum limitation of five hundred million bushels on the amount of wheat included in the marketing allocation for food products for consumption in the United States, and required the cost of any domestic marketing certificates issued to producers in excess of the number of certificates acquired by processors as a result of the application of the five hundred million bushel minimum or an overestimate of the amount of wheat used during such year for food products for consumption in the United States to be borne by the Commodity Credit Corporation. See Effective and Termination Dates of 1965 Amendment note below.

Pub. L. 89-321, §503, substituted “projected farm yield” for “normal wheat for the farm as projected by the Secretary”.

1964—Pub. L. 88-297, §202(10), temporarily struck out introductory phrase “During any marketing year for which a marketing quota is in effect for wheat”, reduced the national allocation percentage by the expected production on the acreage allotments for farms which will not be in compliance with the requirements of the program, and struck out provisions for wheat marketing allocations to non-commercial wheat-producing areas reasonably related to such allocations to producers in commercial wheat-producing areas. See Effective and Termination Dates of 1964 Amendment note below.

Pub. L. 88-297, §202(11), substituted “food products for consumption in the United States” for “human consumption in the United States, as food, food products, and beverages, composed wholly or partly of wheat” in second sentence.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 402(b)(B) of Pub. L. 91-524, as added by section 1(9) of Pub. L. 93-86, provided that the amendment made by that section is effective with respect to 1974 through 1977 crops of wheat.

Section 402(b)(C) of Pub. L. 91-524, as added by section 1(9) of Pub. L. 93-86, provided that the amendment made by that section is effective for 1974 through 1977 crops.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 402(a), formerly section 402, of Pub. L. 91-524 provided that the amendment made by that section is

effective only with respect to 1971, 1972, and 1973 crops of wheat.

EFFECTIVE AND TERMINATION DATES OF 1965 AMENDMENT

Section 502 of Pub. L. 89-321, as amended by Pub. L. 90-559, §1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective only with respect to crops of wheat planted for harvest in calendar years 1966 through 1970, and marketing years for such crops.

Section 503 of Pub. L. 89-321 provided that the amendment made by that section is effective beginning with 1970 crop.

EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Section 202(10) of Pub. L. 88-297 provided that the amendment made by that section is effective only with respect to crops planted for harvest in 1964 and 1965.

Section 202(11) of Pub. L. 88-297 provided that the amendment made by that section is effective with respect to crops planted for harvest in calendar year 1966 and any subsequent year.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS 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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

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.

INAPPLICABILITY TO 1974 THROUGH 1977 WHEAT CROPS OF SUBSECS. (a), (b), (f), AND (h)

Section 402(b)(A) of Pub. L. 91-524, as added by section 1(9) of Pub. L. 93-86, provided that: “Section 379b of the Agricultural Adjustment Act of 1938 (which provides for a wheat marketing certificate program) [this section] shall not be applicable to the 1974 through 1977 crops of wheat, except as provided in paragraphs (B) and (C) of this subsection [amending this section and section 1379c of this title].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1334 of this title.

§ 1379c. Marketing certificates

(a) Issuance; amount; reduction; sharing among producers; domestic and export certificates

The Secretary shall provide for the issuance of wheat marketing certificates for each marketing year for which a wheat marketing allocation program is in effect for the purpose of enabling producers on any farm with respect to which certificates are issued to receive, in addition to the other proceeds from the sale of wheat, an amount equal to the value of such certificates. The wheat marketing certificates issued with

respect to any farm for any marketing year shall be in the amount of the farm wheat marketing allocation for such year, but not to exceed (i) the actual acreage of wheat planted on the farm for harvest in the calendar year in which the marketing year begins multiplied by the normal yield of wheat for the farm, plus (ii) the amount of wheat stored under subsection (b) of this section or to avoid or postpone a 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 chemists and other qualified technicians, to have undesirable milling or baking qualities and has made public announcement thereof.

(c) Face value

The Secretary shall determine and proclaim for each marketing year the face value per bushel of wheat marketing certificates. The face value per bushel of domestic certificates shall be the amount by which the level of price support for wheat accompanied by domestic certificates exceeds the level of price support for wheat not accompanied by certificates (noncertificate wheat).

(d) Statement or form of certificates and transfers

Marketing certificates and transfers thereof shall be represented by such documents, marketing cards, records, accounts, certifications, or other statements or forms as the Secretary may prescribe.

(e) Failure of producer to comply with programs; issuance of certificates

In any case in which the failure of a producer to comply fully with the term and conditions of the programs formulated under this chapter preclude the issuance of marketing certificates, the Secretary may, nevertheless, issue such certificates in such amounts as he determines to be equitable in relation to the seriousness of the default.

(Feb. 16, 1938, ch. 30, title III, §379c, as added Sept. 27, 1962, Pub. L. 87-703, title III, §324(2), 76 Stat. 627; amended Apr. 11, 1964, Pub. L. 88-297, title II, §202(12)-(14), 78 Stat. 180, 181; Aug. 6, 1965, Pub. L. 89-112, §3, 79 Stat. 447; Nov. 3, 1965, Pub. L. 89-321, title V, §§508, 510(a), 513(b), (c),

515, 517, 79 Stat. 1204-1206; June 17, 1966, Pub. L. 89-451, § 3, 80 Stat. 202; Nov. 30, 1970, Pub. L. 91-524, title IV, § 402(a), (b)(D), 84 Stat. 1364, as renumbered and amended Aug. 10, 1973, Pub. L. 93-86, § 1(9), 87 Stat. 225.)

AMENDMENTS

1973—Subsec. (a)(1). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86, temporarily substituted 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” before “acreage allotment” and “wheat allotment”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(3). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86, temporarily struck out “domestic” before “allotment” and “wheat allotment” wherever appearing and struck out provisions establishing special requirements to be met in determining the allotment for the 1971 crop of wheat. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(4), (5). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86, temporarily struck out “domestic” before “allotment” wherever appearing. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(6). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86, temporarily reenacted par. (6) without change. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (b)(1). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86, temporarily struck out “domestic” before “allotment” wherever appearing and inserted “, guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate” after “feed grains for which there is a set-aside program in effect”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (b)(2). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86, temporarily struck out “domestic” before “allotment” wherever appearing and substituted “payments” for “certificates” and “section 1445a(c) of this title” for “this chapter”. See Effective and Termination Dates of 1973 Amendment note below.

1970—Pub. L. 91-524, § 402(a), formerly § 402, temporarily substituted provisions for the apportionment of the farm domestic allotment for each crop of wheat among the States for provisions covering the marketing certificates program. See Effective and Termination Dates of 1970 Amendment note below.

1966—Subsec. (a). Pub. L. 89-451 substituted “any crop for which there are marketing quotas or voluntary adjustment programs in effect” for “any other income-producing crops during such year” in penultimate sentence.

1965—Subsec. (a). Pub. L. 89-321, §§ 508, 513(b), authorized the Secretary to provide for the sharing of wheat marketing certificates among producers on a fair and equitable basis even though such basis might be other than the basis of their respective shares in the wheat crop produced on the farm, provided that acreage not planted to wheat because of drought, flood, or other natural disaster be deemed, with certain conditions, be planted for harvest for purposes of this subsection, and expanded the reference to the issuance of export marketing certificates by requiring their issuance on a pro rata basis and providing for the determination of such certificate’s value per bushel.

Pub. L. 89-112 provided that the Secretary shall deem acreage on the farm which the Secretary finds was not planted to wheat for harvest in 1965 because of drought, flood, or other natural disaster, to be an actual acreage of wheat planted for harvest when that acreage was not subsequently planted to any other price supported crop for 1965.

Subsec. (b). Pub. L. 89-321, §§ 510(a), 517 substituted “projected farm yield” for “normal yield of wheat per acre established for the farm”, permitted delivery to the Secretary of the wheat produced on excess acreage as an additional means of disposing of excess wheat so as to allow a producer to be deemed not to have exceeded the farm acreage allotment for wheat for purposes of this section, and provided for the disposition of wheat delivered to the Secretary and the adjustment of certificates to a producer who has produced an undesirable variety of wheat following public announcement by the Secretary of its undesirable characteristics.

Subsec. (c). Pub. L. 89-321, § 513(c), struck out provisions that the face value per bushel of export certificates shall be the amount by which the level of price support for wheat accompanied by export certificates exceeds the level of price support for noncertificate wheat.

Subsec. (e). Pub. L. 89-321, § 515, added subsec. (e).

1964—Subsec. (a). Pub. L. 88-297, § 202(12), inserted “under subsection (b) of this section or” after “stored” in second sentence, added to such sentence provision for reduction of wheat marketing certificates from amount of export certificates, and inserted provision for issuance of domestic marketing certificates for wheat used for domestic consumption and export marketing certificates for wheat used for export.

Subsec. (b). Pub. L. 88-297, § 202(13), temporarily authorized producers who exceeded their wheat allotments to store their excess wheat in accordance with regulations issued by the Secretary and be eligible for wheat marketing certificates, prohibited wheat stored under this provision from being removed from storage until a subsequent year when acreage allotment was underplanted or the production on the acreage allotment was less than normal, required the producer (for removal of the wheat contrary to these conditions) to pay an amount one and one-half times the value of the wheat marketing certificates issued with respect to the farm for the year in which the wheat on the acreage in excess of the allotment was produced, and made producers who exceeded their allotment and stored their excess wheat ineligible for diversion payments. See Effective and Termination Dates of 1964 Amendment note below.

Subsec. (c). Pub. L. 88-297, § 202(14), struck out introductory phrase “Whenever a wheat marketing allocation program is in effect for any marketing year” from first sentence, substituted in such sentence “each marketing year” for “such marketing year”, inserted in such sentence “wheat” before “marketing certificates”, substituted in second sentence “domestic certificates shall be the amount” for “marketing certificates shall be equal to the amount” and “domestic certificates” for “certificates” before “exceeds”, and inserted to such sentence provision for face value per bushel of export certificates.

EFFECTIVE AND TERMINATION DATES OF 1973
AMENDMENT

Section 402(b)(D) of Pub. L. 91-524, as added by section 1(9) of Pub. L. 93-86, provided that the amendment made by that section is effective only with respect to 1974 through 1977 crops of wheat.

EFFECTIVE AND TERMINATION DATES OF 1970
AMENDMENT

Section 402(a), formerly section 402, of Pub. L. 91-524 provided that the amendment made by that section is effective only with respect to 1971, 1972, and 1973 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 508 of Pub. L. 89-321 provided that the amendment made by that section is effective beginning with crop planted for harvest in calendar year 1966.

Section 510(a) of Pub. L. 89-321 provided that the amendment made by that section is effective beginning with 1966 crop.

Section 515 of Pub. L. 89-321 provided that the amendment made by that section is effective beginning with crop planted for harvest in calendar year 1964.

EFFECTIVE AND TERMINATION DATES OF 1964
AMENDMENT

Section 202(13) of Pub. L. 88-297, as amended by Pub. L. 89-321, title V, §505(2), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90-559, §1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective with respect to crops planted for harvest in calendar years 1965 through 1970.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF
WHEAT

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.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF
WHEAT

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.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS 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.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF
WHEAT

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95-113, set out as a note under section 1331 of this title.

REDUCTION OF WHEAT STORED BY PRODUCERS PRIOR TO
1971 CROP

Section 407 of Pub. L. 91-524, as amended by section 1(14) of Pub. L. 93-86, provided that: "The amount of any wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended [subsection (b) of this section], prior to the 1971 crop of wheat may be reduced by the amount by which the actual total production of the 1971, 1972, or 1973 crop on the farm is less than the number of bushels determined by multiplying three times the domestic allotment for such crop on the farm by the yield established for the farm for the purpose of issuance of domestic marketing certificates. The provisions of such section shall continue to apply to the wheat so stored to the extent not inconsistent therewith. Notwithstanding the foregoing, the Secretary may authorize release of wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended [subsec. (b) of this

section], prior to the 1971 crop, whenever he determines such release will not significantly affect market prices for wheat. As a condition of release, the Secretary may require a refund of such portion of the value of certificates received in the crop year the excess wheat was produced as he deems appropriate considering the period of time the excess wheat has been in storage and the need to provide fair and equitable treatment among all wheat program participants."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1445a of this title.

§ 1379d. Marketing restrictions**(a) Transfers of certificates; purchases by Commodity Credit Corporation**

Marketing certificates shall be transferable only in accordance with regulations prescribed by the Secretary. Any unused certificates legally held by any person shall be purchased by Commodity Credit Corporation if tendered to the Corporation for purchase in accordance with regulations prescribed by the Secretary.

(b) Processor and exporter acquisition of domestic and export certificates; international trade, expansion; refunds or credits for certificates; exemptions from requirements

During any marketing year for which a wheat marketing allocation program is in effect, (i) all persons engaged in the processing of wheat into food products shall, prior to marketing any such food product or removing such food product for sale or consumption, acquire domestic marketing certificates equivalent to the number of bushels of wheat contained in such product and (ii) all persons exporting wheat shall, prior to such export, acquire export marketing certificates equivalent to the number of bushels so exported. The cost of the export marketing certificates per bushel to the exporter shall be that amount determined by the Secretary on a daily basis which would make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States. The Secretary may exempt from the requirements of this subsection wheat exported for donation abroad and other 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 Sept. 27, 1962, Pub. L. 87-703, title III, §324(2), 76 Stat. 628; amended Apr. 11, 1964, Pub. L. 88-297, title II, §202(15)-(17), 78 Stat. 181, 182; Nov. 3, 1965, Pub. L. 89-321, title V, §§504(a)-(c), 513(a), 79

Stat. 1202, 1203, 1205; Nov. 30, 1970, Pub. L. 91-524, title IV, §403(a)(1), (2), formerly §403(1), (2), 84 Stat. 1366, as renumbered Aug. 10, 1973, Pub. L. 93-86, §1(10), 87 Stat. 228.)

REFERENCES IN TEXT

This part, referred to in subsec. (d), commences with section 1379a of this title.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-524, temporarily struck out provision limiting the section to only those marketing years for which a wheat marketing allocation program is in effect and inserted provisions authorizing the Secretary to temporarily suspend the requirement for export marketing certificates for the period beginning July 1, 1971, and ending June 30, 1974. See Effective and Termination Dates of 1970 Amendment note below.

1965—Subsec. (b). Pub. L. 89-321, §§504(a), (c), 513(a), among other changes, amended second sentence, and also authorized the Secretary to exempt from the requirements of this subsection wheat produced by a State or agency thereof and processed for use by the State or agency thereof, wheat processed for donations, and wheat processed for uses determined by the Secretary to be noncommercial, permitted exemptions to be made applicable with respect to any wheat processed or exported beginning July 1, 1964, exempted from requirements of this subsection beverage distilled from wheat prior to July 1, 1964, required beverage distilled from wheat after July 1, 1964, to be deemed as being removed for sale or consumption at the time it is placed in barrels for aging, permitted upon the giving of a bond as prescribed by the Secretary, the purchase of and payment for such marketing certificates as may be required to be deferred until such beverage is bottled for sale, required wheat shipped to a Canadian port for storage in bond, or storage under a similar arrangement, and subsequent exportation, to be deemed as having been exported for purposes of this subsection when it is exported from the Canadian port, and, whenever the face value per bushel of domestic marketing certificates for a marketing year is different from the face value of domestic marketing certificates for the preceding marketing year, empowered the Secretary to require marketing certificates issued for the preceding marketing year to be acquired to cover all wheat processed into food products during such preceding marketing year even though the food product may be marketed or removed for sale or consumption after the end of the marketing year.

Subsec. (d). Pub. L. 89-321, §504(b), excluded four second clears not used for human consumption from term "food products", authorized the Secretary at his election to administer the exemption for wheat processed into flour second clears through refunds either to processors of such wheat or to the users of such clears, and permitted, for the purpose of such refunds, the wheat equivalent of flour second clears to be determined on the basis of conversion factors authorized by section 1379f of this title, even though certificates had been surrendered on the basis of the weight of the wheat.

1964—Subsec. (a). Pub. L. 88-297, §202(15), struck out provisions prohibiting persons from acquiring marketing certificates from the producer to whom such certificates were issued, unless such certificates were acquired in connection with acquisition from such producer of a number of bushels of wheat equivalent to the marketing certificates and authorizing the CCC to purchase from producers certificates not accompanied by wheat in cases where the Secretary determined that it would constitute an undue hardship to require the producer to transfer his certificates only in connection with the disposition of wheat and substituted "by any person" for "by persons other than the producer to whom such certificates are issued".

Subsec. (b). Pub. L. 88-297, §202(16), in cl. (i) substituted "marketing any such food product or removing such food product for sale or consumption" for "mar-

keting 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

Section 403(a) of Pub. L. 91-524 provided that the amendment made by that section is effective only with respect to marketing years beginning July 1, 1971, July 1, 1972, and July 1, 1973.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 504(a) of Pub. L. 89-321 provided that the amendment made by that section is effective November 3, 1965.

Section 504(b) of Pub. L. 89-321 provided in part that: “This subsection [amending this section] shall be effective as to products sold, or removed for sale or consumption on or after sixty days following enactment of this Act [Nov. 3, 1965], unless the Secretary shall by regulation designate an earlier effective date within such sixty-day period.”

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1991, THROUGH MAY 31, 1996

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.”

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1986, THROUGH MAY 31, 1991

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.”

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1982, THROUGH MAY 31, 1986

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.”

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JULY 1, 1973, THROUGH MAY 31, 1982

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.”

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING PERIOD JULY 1, 1973, THROUGH JUNE 30, 1978

Section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, Aug. 10, 1973, 87 Stat. 228, provided in part that: “Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379g, 1379i of this title.

§ 1379e. Assistance in purchase and sale of marketing certificates; regulations; administrative expenses; interest

For the purpose of facilitating the purchase and sale of marketing certificates, the Commodity Credit Corporation is authorized to issue, buy, and sell marketing certificates in accordance with regulations prescribed by the Secretary. Such regulations may authorize the Corporation to issue and sell certificates in excess of the quantity of certificates which it purchases. Such regulations may authorize the Corporation in the sale of marketing certificates to charge, in addition to the face value thereof, an amount determined by the Secretary to be appropriate to cover estimated administrative costs in connection with the purchase and sale of the certificates and estimated interest incurred on funds of the Corporation invested in certificates purchased by it.

(Feb. 16, 1938, ch. 30, title III, §379e, as added Sept. 27, 1962, Pub. L. 87-703, title III, §324(2), 76 Stat. 628; amended Nov. 3, 1965, Pub. L. 89-321, title V, §516, 79 Stat. 1206; Oct. 11, 1968, Pub. L. 90-559, §1(6), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title IV, §403(a)(3), 84 Stat. 1366.)

CODIFICATION

The sentence added by Pub. L. 89-321, as amended by Pub. L. 90-559, which directed the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1966 through 1970 wheat crops to persons processing food products at the face value thereof less any amount by which price support for wheat accompanied by domestic certificates exceeded \$2 per bushel, was omitted as executed.

AMENDMENTS

1970—Pub. L. 91-524, temporarily directed the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1971, 1972, and 1973 crops of wheat to persons engaged in the processing of food products but directed that, in determining the cost to processors of food products, the face value be 75 cents per bushel. See Effective and Termination Dates of 1970 Amendment note below.

1968—Pub. L. 90-559 provided for a one year extension of period for sale of marketing certificates, substituting “1966 through the 1970” for “1966 through the 1969” wheat crops.

1965—Pub. L. 89-321 required the Commodity Credit Corporation to sell marketing certificates for the mar-

keting 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 TO WHEAT PROCESSORS OR EXPORTERS
DURING PERIOD JUNE 1, 1991, THROUGH MAY 31, 1996

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS
DURING PERIOD JUNE 1, 1986, THROUGH MAY 31, 1991

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS
DURING PERIOD JUNE 1, 1982, THROUGH MAY 31, 1986

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS
DURING PERIOD JULY 1, 1973, THROUGH MAY 31, 1982

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.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED
DURING PERIOD JULY 1, 1973, THROUGH JUNE 30, 1978

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, set out as a note under section 1379d of this title.

§ 1379f. Conversion factors

The Secretary shall establish conversion factors which shall be used to determine the amount of wheat contained in any food product. The conversion factor for any such food product shall be determined upon the basis of the weight of wheat used in the manufacture of such product.

(Feb. 16, 1938, ch. 30, title III, §379f, as added Sept. 27, 1962, Pub. L. 87-703, title III, §324(2), 76 Stat. 629.)

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS
DURING PERIOD JUNE 1, 1991, THROUGH MAY 31, 1996

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS
DURING PERIOD JUNE 1, 1986, THROUGH MAY 31, 1991

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS
DURING PERIOD JUNE 1, 1982, THROUGH MAY 31, 1986

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS
DURING PERIOD JULY 1, 1973, THROUGH MAY 31, 1982

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.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED
DURING PERIOD JULY 1, 1973, THROUGH JUNE 30, 1978

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, set out as a note under section 1379d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1379d of this title.

§ 1379g. Authority to facilitate transition

(a) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the program currently in effect to the program provided for in this part. Notwithstanding any other provision of this part, such authority shall include, but shall not be limited to, the authority to exempt all or a portion of the wheat or food products made therefrom in the channels of trade on the effective date of the program under this part from the marketing restrictions in subsection (b) of section 1379d of this title, or to sell certificates to persons owning such wheat or food products at such prices as the Secretary may determine. Any such certificate shall be issued by Commodity Credit Corporation.

(b) Whenever the face value per bushel of domestic marketing certificates for a marketing year is substantially different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary is authorized to take such action as he determines necessary to facilitate the transition between marketing years. Notwithstanding any other provision of this part, such authority shall include, but shall not be limited to, the authority to sell certificates to persons engaged in the processing of wheat into food products covering such quantities of wheat, at such prices, and under such terms and conditions as the Secretary may by regulation provide. Any such certificate shall be issued by Commodity Credit Corporation.

(c) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the certificate program provided for under section 1379d of this title to a program under which no certificates are required. Notwithstanding any other provision of law, such authority shall include, but shall not be limited to the authority to exempt all or a portion of wheat or food products made therefrom in the channels of trade on July 1, 1973, from the marketing restrictions in subsection (b) of section 1379d of this title, or to sell

certificates to persons owning such wheat or food products made therefrom at such price and under such terms and conditions as the Secretary may determine. Any such certificate shall be issued by the Commodity Credit Corporation. Nothing herein shall authorize the Secretary to require certificates on wheat processed after June 30, 1973.

(Feb. 16, 1938, ch. 30, title III, §379g as added Sept. 27, 1962, Pub. L. 87-703, title III, §324(2), 76 Stat. 629; amended Nov. 3, 1965, Pub. L. 89-321, title V, §504(d), 79 Stat. 1203; Nov. 30, 1970, Pub. L. 91-524, title IV, §403(b), as added Aug. 10, 1973, Pub. L. 93-86, §1(10), 87 Stat. 228.)

REFERENCES IN TEXT

This part, referred to in subsecs. (a) and (b), commences with section 1379a of this title.

AMENDMENTS

1973—Subsec. (c). Pub. L. 91-524, §403(b), as added by Pub. L. 93-86, added subsec. (c).

1965—Pub. L. 89-321 designated existing provisions as subsec. (a) and added subsec. (b).

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1991, THROUGH MAY 31, 1996

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1986, THROUGH MAY 31, 1991

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1982, THROUGH MAY 31, 1986

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JULY 1, 1973, THROUGH MAY 31, 1982

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.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING PERIOD JULY 1, 1973, THROUGH JUNE 30, 1978

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, set out as a note under section 1379d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379a, 1379b, 1379d, 1379h, 1379i, 1379j of this title.

§ 1379h. Applicability of provisions to designated persons; reports and records; examinations by the Secretary

This section shall apply to processors of wheat, warehousemen and exporters of wheat and food products, and all persons purchasing, selling, or otherwise dealing in wheat marketing certificates. Any such person shall, from time to time on request of the Secretary, report to the

Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this part. Such information shall be reported and such records shall be kept in such manner as the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memorandums as he has reason to believe are relevant and are within the control of such person.

(Feb. 16, 1938, ch. 30, title III, §379h, as added Sept. 27, 1962, Pub. L. 87-703, title III, §324(2), 76 Stat. 629.)

REFERENCES IN TEXT

This part, referred to in text, commences with section 1379a of this title.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1991, THROUGH MAY 31, 1996

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1986, THROUGH MAY 31, 1991

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1982, THROUGH MAY 31, 1986

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JULY 1, 1973, THROUGH MAY 31, 1982

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.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING PERIOD JULY 1, 1973, THROUGH JUNE 30, 1978

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, set out as a note under section 1379d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1379i of this title.

§ 1379i. Penalties

(a) Forfeitures; amount; civil action

Any person who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provisions of subsection (b) of section 1379d of this title shall forfeit to the United States a sum equal to two times the face value of the marketing certificates involved in such violation. Such forfeiture shall be recoverable in a civil action brought in the name of the United States.

(b) Misdemeanors; punishment

Any person, except a producer in his capacity as a producer, who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any provision of this part, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or who knowingly fails to make any report or keep any record as required by section 1379h of this title shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$5,000 for each violation.

(c) Forfeiture of right to receive certificates; payment of face value

Any person who, in his capacity as a producer, knowingly violates or attempts to violate or participates or aids in the violation of any provision of this part, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or fails to make any report or keep any record as required by section 1379h of this title shall, (i) forfeit any right to received marketing certificates, in whole or in part as the Secretary may determine, with respect to the farm or farms and for the marketing year with respect to which any such act or default is committed, or (ii), if such marketing certificates have already been issued, pay to the Secretary, upon demand, the amount of the face value of such certificates, or such part thereof as the Secretary may determine. Such determination by the Secretary with respect to the amount of such marketing certificates to be forfeited or the amount to be paid by such producer shall take into consideration the circumstances relating to the act or default committed and the seriousness of such act or default.

(d) Felonies; punishment

Any person who falsely makes, issues, alters, forges, or counterfeits any marketing certificate, or with fraudulent intent possesses, transfers, or uses any such falsely made, issued, altered, forged, or counterfeited marketing certificate, shall be deemed guilty of a felony and upon conviction thereof shall be subject to a fine of not more than \$10,000 or imprisonment of not more than ten years, or both.

(Feb. 16, 1938, ch. 30, title III, §379i, as added Sept. 27, 1962, Pub. L. 87-703, title III, §324(2), 76 Stat. 629; amended Nov. 3, 1965, Pub. L. 89-321, title V, §510(b), 79 Stat. 1205.)

REFERENCES IN TEXT

This part, referred to in subsecs. (b) and (c), commences with section 1379a of this title.

AMENDMENTS

1965—Subsecs. (a), (b). Pub. L. 89-321 inserted “knowingly” after “who” wherever appearing.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 510(b) of Pub. L. 89-321 provided that the amendments made by that section are effective as of the effective date of the original enactment of this section [section 1379i of this title].

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1991, THROUGH MAY 31, 1996

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1986, THROUGH MAY 31, 1991

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1982, THROUGH MAY 31, 1986

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JULY 1, 1973, THROUGH MAY 31, 1982

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.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING PERIOD JULY 1, 1973, THROUGH JUNE 30, 1978

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 95-524, as added by section 1(10) of Pub. L. 93-86, set out as a note under section 1379d of this title.

CROSS REFERENCES

Fines, penalties and forfeitures—

Generally, see section 2461 et seq. of Title 28, Judiciary and Judicial Procedure.

Jurisdiction of district courts of actions for recovery of, see section 1355 of Title 28.

United States as party generally, see section 2401 et seq. of Title 28.

United States as plaintiff, jurisdiction of district courts, see section 1345 of Title 28.

§ 1379j. Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this part including but not limited to regulations governing the acquisition, disposition, or handling of marketing certificates.

(Feb. 16, 1938, ch. 30, title III, §379j, as added Sept. 27, 1962, Pub. L. 87-703, title III, §324(2), 76 Stat. 630.)

REFERENCES IN TEXT

This part, referred to in text, commences with section 1379a of this title.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1991, THROUGH MAY 31, 1996

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1986, THROUGH MAY 31, 1991

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JUNE 1, 1982, THROUGH MAY 31, 1986

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.

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING PERIOD JULY 1, 1973, THROUGH MAY 31, 1982

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.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING PERIOD JULY 1, 1973, THROUGH JUNE 30, 1978

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1383a, 1386 of this title.

§ 1383a. Written consent for reconcentration of cotton

In the administration of section 1383(b) of this title the written consent of the producer or borrower to the reconcentration of any cotton held as security for any loan heretofore or hereafter made or arranged for by the Commodity Credit Corporation shall not be deemed to have been given unless such consent shall have been given in an instrument made solely for that purpose. Notwithstanding any provision of any loan agreement heretofore made, no cotton held under any such agreement as security for any such loan shall be moved from one warehouse to another unless the written consent of the producer or borrower shall have been obtained in a separate instrument given solely for that purpose, as required by this section. The giving of written consent for the reconcentration of cotton shall not be made a condition upon the making of any loan hereafter made or arranged for by the Commodity Credit Corporation: *Provided, however,* That in cases where there is congestion and lack of storage facilities, and the local warehouse certifies such fact and requests the Commodity Credit Corporation to move the cotton for reconcentration to some other point, or when the Commodity Credit Corporation determines such loan cotton is improperly warehoused and subject to damage, or if uninsured, or if any of the terms of the loan agreement are violated, or if carrying charges are substantially in excess of the average of carrying charges available elsewhere, and the local warehouse, after notice, declines to reduce such charges, such written consent as provided in this section need not be obtained; and consent to movement under any of the conditions of this proviso may be required in future loan agreements.

(June 16, 1938, ch. 480, 52 Stat. 762.)

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 1384. Repealed. Aug. 7, 1946, ch. 770, §1(3), 60 Stat. 866

Section, act Feb. 16, 1938, ch. 30, title III, §384, 52 Stat. 68, related to reports to Congress by the Secretary of Agriculture.

§ 1385. Finality of payments and loans; substitution of beneficiaries

The facts constituting the basis for any chapter 3B of title 16 payment, any payment under the wheat, feed grain, upland cotton, extra long staple cotton, and rice programs authorized by chapter 35A of this title and this chapter, any loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary of Agriculture may determine to be fair and reasonable in all the circumstances and provide by regulations. This section also shall be applicable to payments provided for under section 1348 of this title.

(Feb. 16, 1938, ch. 30, title III, §385, 52 Stat. 68; July 2, 1940, ch. 521, §7, 54 Stat. 728; July 3, 1948, ch. 827, title II, §207(e), 62 Stat. 1257; Sept. 27, 1962, Pub. L. 87-703, title III, §322, 76 Stat. 626; Apr. 11, 1964, Pub. L. 88-297, title I, §102, 78 Stat. 174; Nov. 30, 1970, Pub. L. 91-524, title IV, §404(5), title VI, §605(3), 84 Stat. 1366, 1378; Feb. 16, 1976, Pub. L. 94-214, title III, §302, 90 Stat. 187; Sept. 29, 1977, Pub. L. 95-113, title IV, §405, 91 Stat. 927; Dec. 22, 1981, Pub. L. 97-98, title XI, §1102, 95 Stat. 1263; Dec. 23, 1985, Pub. L. 99-198, title X, §1017(a), 99 Stat. 1459.)

REFERENCES IN TEXT

Chapter 3B [§590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation Act, probably meaning the Soil Conservation and Domestic Allotment Act.

Chapter 35A [§1421 et seq.] of this title, referred to in text, was in the original a reference to the Agricultural Act of 1949.

AMENDMENTS

1985—Pub. L. 99-198 inserted “extra long staple cotton,” after “upland cotton,” in first sentence.

1981—Pub. L. 97-98 amended first sentence generally.

1977—Pub. L. 95-113 temporarily amended first sentence generally. See Effective and Termination Dates of 1977 Amendment note below.

1976—Pub. L. 94-214 temporarily inserted reference to payments under the rice program authorized by section 1441(g) of this title. See Effective and Termination Dates of 1976 Amendment note below.

1970—Pub. L. 91-524 temporarily inserted references to payments under the cotton set-aside program and to payments (including certificates) under the wheat and feed grain set-aside programs. See Effective and Termination Dates of 1970 Amendment note below.

1964—Pub. L. 88-297 provided for application of this section to payments in kind to equalize cost of cotton to domestic and foreign users.

1962—Pub. L. 87-703 inserted “payment under section 1339 of this title,” after “parity payment,”.

1948—Act July 3, 1948, substituted “loan, or price support operation” for “or loan”.

1940—Act July 2, 1940, inserted last sentence.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97-98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 405 of Pub. L. 95-113 provided that the amendment made by that section is effective only for 1978 through 1981 crops.

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Section 302 of Pub. L. 94-214 provided that the amendment made by that section is effective only with respect to 1976 and 1977 crops of rice.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 404 and 605 of Pub. L. 91-524, as amended by Pub. L. 93-86, §1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided that the amendments made by those sections are effective only with respect to 1971 through 1977 crops.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

DETERMINATION OF RATE OF LOANS, PAYMENTS, AND PURCHASES UNDER PRICE SUPPORT PROGRAM FOR 1986 THROUGH 1990 CROPS; NOTICE AND PUBLIC PARTICIPATION IN RULEMAKING NOT REQUIRED

Section 1017(b) of Pub. L. 99-198, as amended by Pub. L. 101-624, title XI, §1144, Nov. 28, 1990, 104 Stat. 3516, provided that: “The Secretary of Agriculture shall determine the rate of loans, payments, and purchases under a program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for any of the 1991 through 1995 crops of a commodity without regard to the requirements for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.”

§ 1386. Exemption from laws prohibiting interest of Members of Congress in contracts

The provisions of section 22 of title 41 and sections 431 and 432 of title 18 shall not be applica-

ble to loans or payments made under this chapter (except under section 1383(a) of this title).

(Feb. 16, 1938, ch. 30, title III, §386, 52 Stat. 68.)

CODIFICATION

“Sections 431 and 432 of title 18” substituted in text for “sections 114 and 115 of the Criminal Code of the United States (U.S.C., 1934 edition, title 18, secs. 204 and 205)” on authority of act June 25, 1948, ch. 645, 62 Stat. 683, the first section of which enacted Title 18, Crimes and Criminal Procedure.

WOOL SUPPORT PROGRAM

Wool support program, application of this section to, see note set out under section 713a-8 of Title 15, Commerce and Trade.

§ 1387. Photographic reproductions and maps

The Secretary may furnish reproductions of such aerial or other photographs, mosaics, and maps as have been obtained in connection with the authorized work of the Department to farmers and governmental agencies at the estimated cost of furnishing such reproductions, and to persons other than farmers at such prices (not less than estimated cost of furnishing such reproductions) as the Secretary may determine, the money received from such sales to be deposited in the Treasury to the credit of the appropriation charged with the cost of making such reproductions. This section shall not affect the power of the Secretary to make other disposition of such or similar materials under any other provisions of existing law.

(Feb. 16, 1938, ch. 30, title III, §387, 52 Stat. 68.)

WOOL SUPPORT PROGRAM

Wool support program, application of this section to, see note set out under section 713a-8 of Title 15, Commerce and Trade.

§ 1388. Utilization of local agencies

(a) Designation of local agencies and local administrative areas

The provisions of sections 590h(b) and 590k of title 16, relating to the utilization of State, county, local committees, the extension service, and other approved agencies, and to recognition and encouragement of cooperative associations, shall apply in the administration of this chapter; and the Secretary shall, for such purposes, utilize the same local, county, and State committees as are utilized under sections 590g, 590h, 590i, and 590j to 590q of title 16. The local administrative areas designated under section 590h(b) of title 16, for the administration of programs under chapter 3B of title 16, and the local administrative areas designated for the administration of this chapter shall be the same.

(b) Payments to county committees for administrative expenses

(1) The Secretary is authorized and directed, from any funds made available for the purposes of this chapter and chapter 3B of title 16 in connection with which county committees are utilized, to make payments to county committees of farmers to cover the estimated administrative expenses incurred or to be incurred by them in cooperating in carrying out the provisions of this chapter and chapter 3B of title 16. All or

part of such estimated administrative expenses of any such committee may be deducted pro rata from chapter 3B of title 16 payments, parity payments, or loans, or other payments under this chapter and chapter 3B of title 16, made unless payment of such expenses is otherwise provided by law. The Secretary may make such payments to such committees in advance of termination 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 Committees¹ are used.

(2) Such travel expenses shall be paid in the manner authorized under section 5703 of title 5 for the payment of expenses and allowances for individuals employed intermittently in the Federal Government service.

(Feb. 16, 1938, ch. 30, title III, §388, 52 Stat. 68; Dec. 23, 1985, Pub. L. 99-198, title XVII, §1713(a), (b), 99 Stat. 1636, 1637.)

REFERENCES IN TEXT

Chapter 3B [§590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

AMENDMENTS

1985—Subsecs. (b), (c). Pub. L. 99-198 designated existing provisions of subsec. (b) as par. (1), added par. (2), and added subsec. (c).

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1713(c) of Pub. L. 99-198 provided that: "The amendments made by this section [amending this section] shall become effective on January 1, 1986."

§ 1389. Personnel

The Secretary is authorized and directed to provide for the execution by the Agricultural Adjustment Administration of such of the powers conferred upon him by this chapter as he deems may be appropriately exercised by such Administration; and for such purposes the provisions of law applicable to appointment and compensation of persons employed by the Agricultural Adjustment Administration shall apply.

(Feb. 16, 1938, ch. 30, title III, §389, 52 Stat. 69.)

¹ So in original. Probably should not be capitalized.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of Agricultural Adjustment Administration transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees. See note set out under section 610 of this title.

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 section 590g, 590h, 590i, and 590j to 590q of title 16, a sum not to exceed \$5,000,000.

(c) During each fiscal year, beginning with the fiscal year ending June 30, 1941, the Commodity Credit Corporation is authorized and directed to loan to the Secretary such sums, not to exceed \$50,000,000, as he estimates will be required during such fiscal year, to make crop insurance premium advances and to make advances pursuant to the applicable provisions of sections 590h and 590i of title 16, in connection with programs applicable to crops harvested in the calendar year in which such fiscal year ends, and to pay the administrative expenses of county agricultural conservation associations for the calendar year in which such fiscal year ends. The sums so loaned during any fiscal year shall be transferred to the current appropriation available for carrying out sections 590g, 590h, 590i, and 590j to 590q of title 16 and shall be repaid, with interest at a rate to be determined by the Secretary but not less than the cost of money to the Commodity Credit Corporation for a comparable period, during the succeeding fiscal year from the appropriation available for that year or from any unobligated balance of the appropriation for any other year.

(Feb. 16, 1938, ch. 30, title III, §391, 52 Stat. 69; July 2, 1940, ch. 521, §8, 54 Stat. 728.)

AMENDMENTS

1940—Subsec. (c). Act July 2, 1940, added subsec. (c).

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1292 of this title.

§ 1392. Administrative expenses; posting names and compensation of local employees

(a) The Secretary is authorized and directed to make such expenditures as he deems necessary to carry out the provisions of this chapter and sections 590g, 590h, 590i, and 590j to 590q of title 16, including personal services and rents in the District of Columbia and elsewhere; traveling expenses; supplies and equipment; lawbooks, books of reference, directories, periodicals, and newspapers; and the preparation and display of exhibits, including such displays at community, county, State, interstate, and international fairs within the United States. The Secretary of the Treasury is authorized and directed upon the request of the Secretary to establish one or more separate appropriation accounts into which there shall be transferred from the respective funds available for the purposes of this

chapter and chapter 3B of title 16, in connection with which personnel or other facilities of the Agricultural Adjustment Administration are utilized, proportionate amounts estimated by the Secretary to be required by the Agricultural Adjustment Administration for administrative expenses in carrying out or cooperating in carrying out any of the provisions of this chapter and chapter 3B of title 16.

(b) In the administration of this subchapter and sections 590g, 590h, 590i, and 590j to 590q of title 16, the aggregate amount expended in any fiscal year, beginning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 3 per centum of the total amount available for such fiscal year for carrying out the purposes of this subchapter and chapter 3B of title 16, unless otherwise provided by appropriation or other law. In the administration of section 612c of this title, and sections 601, 602, 608a, 608b, 608c, 608d, 610, 612, 614, 624, and 671 to 673 of this title, the aggregate amount expended in any fiscal year beginning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 4 per centum of the total amount available for such fiscal year for carrying out the purposes of said sections, unless otherwise provided by appropriation or other law. In the event any administrative expenses of any county or local committee are deducted in any fiscal year, beginning with the fiscal year ending June 30, 1939, from chapter 3B of title 16 payments, parity payments, or loans, each farmer receiving benefits under such provisions shall be apprised of the amount or percentage deducted from such benefit payment or loan on account of such administrative expenses. The names and addresses of the members and employees of any county or local committee, and the amount of such compensation received by each of them, shall be posted annually in a conspicuous place in the area within which they are employed.

(Feb. 16, 1938, ch. 30, title III, §392, 52 Stat. 69; Jan. 31, 1942, ch. 32, 56 Stat. 41; Aug. 3, 1956, ch. 950, §7, 70 Stat. 1034.)

REFERENCES IN TEXT

Chapter 3B [§590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

AMENDMENTS

1956—Subsec. (b). Act Aug. 3, 1956, changed the period to a comma at end of first and second sentences and inserted “unless otherwise provided by appropriation or other law”.

1942—Subsecs. (a), (b). Act Jan. 31, 1942, among other changes, inserted reference to sections of title 16, after “this chapter” and “this subchapter”.

EFFECTIVE DATE OF 1942 AMENDMENT

Act Jan. 31, 1942, provided that the amendments made by that act are effective for the fiscal year 1942 and subsequent fiscal years.

TRANSFER OF FUNCTIONS

Agricultural Adjustment Administration consolidated into Production and Marketing Administration by 1946 Reorg. Plan No. 3, eff. July 4, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees. See note set out under section 610 of this title.

EXPENSES OF AN ADVISORY COMMITTEE ON SOIL AND WATER CONSERVATION

Act Aug. 3, 1956, ch. 934, 70 Stat. 989, provided: "That the Secretary of Agriculture is authorized to pay expenses of an Advisory Committee on Soil and Water Conservation and related matters, but such Committee members (other than ex officio members) shall not be deemed to be employees of the United States and shall not receive compensation."

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1393. Allotment of appropriations

All funds for carrying out the provisions of this chapter shall be available for allotment to bureaus and offices of the Department, and for transfer to such other agencies of the Federal Government, and to such State agencies, as the Secretary may request to cooperate or assist in carrying out the provisions of this chapter.

(Feb. 16, 1939, ch. 30, title III, §393, 52 Stat. 70.)

SUBCHAPTER III—COTTON POOL PARTICIPATION TRUST CERTIFICATES

§§ 1401 to 1407. Omitted

CODIFICATION

Section 1401, act Feb. 16, 1938, ch. 30, title IV, §401, 52 Stat. 70, authorized an appropriation of \$1,800,000 to accomplish the purposes declared in former provisions of this subchapter and provided for payments by Secretary of Treasury upon order of Secretary of Agriculture.

Section 1402, act Feb. 16, 1938, ch. 30, title IV, §402, 52 Stat. 70, provided for deposit of appropriation to credit of the Secretary of Agriculture for disbursement for purposes stated in former provisions of this subchapter.

Section 1403, acts Feb. 16, 1938, ch. 30, title IV, §403, 52 Stat. 70; Apr. 7, 1938, ch. 107, §13, 52 Stat. 204, provided allotment of funds to manager of cotton pool for purchase of pool participation trust certificates, to be tendered by lawful holder and owner thereof on or before May 1, 1938, at rate of \$1 per five-hundred-pound bale, payment of costs and expenses incident to such purchases and covering into the Treasury as miscellaneous receipts balance remaining at expiration of purchase period.

Section 1404, acts Feb. 16, 1938, ch. 30, title IV, §404, 52 Stat. 71; Apr. 7, 1938, ch. 107, §14, 52 Stat. 204, extended the time limit for purchase of outstanding pool participation certificates to and including July 31, 1938, authorized issuance of rules and regulations and prohibited purchases from other than record holders on or before May 1, 1938.

Section 1404a, acts June 16, 1938, ch. 464, title I, 52 Stat. 747; Apr. 5, 1939, ch. 44, 53 Stat. 572, extended the

time limit for purchase of certificates to and including Sept. 30, 1939 and made the date of May 1, 1938 inapplicable.

Section 1404b, act June 16, 1938, ch. 464, title I, 52 Stat. 747, provided for issuance of regulations for payments on participation trust certificates in case of death, incompetence or disappearance of payee.

Section 1405, act Feb. 16, 1938, ch. 30, title IV, §405, 52 Stat. 71, authorized continuance of 1933 cotton producers pool as long as necessary to effectuate purposes of former provisions of this subchapter and use of funds for payment of expenses.

Section 1406, act Feb. 16, 1938, ch. 30, title IV, §406, 52 Stat. 71, prohibited purchase of certificates after expiration of time limit.

Section 1407, acts Feb. 16, 1938, ch. 30, title IV, §407, 52 Stat. 71; Apr. 7, 1938, ch. 107, §15, 52 Stat. 204, provided for payment by assignee of certificate transferred subsequent to May 1, 1937, limited to the purchase price paid by the assignee, with interest at rate of four per centum from date of purchase, not exceeding an amount of \$1 per bale, payment to be based upon affidavit of assignee.

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.
	(a) Source.
	(b) Authority of Secretary; factors considered.
	(c) Compliance by producer; program for diverted acres.
	(d) Time of determining levels.
	(e) Processors' assurances; payment if assurances inadequate.
1421a.	Financial impact study.
	(a) Study.
	(b) Report.
	(c) Informational purposes.
1421b.	Costs of production.
	(a) Improving accuracy of commodity program budget forecasts.
	(b) Return on assets.
1421c.	Farm value of agricultural products.
	(a) In general.
	(b) Annual report by Secretary.
1421d.	Commodity reports.
	(a) Crop reports.
	(b) Special reports.
	(c) Tree inventories.
	(d) Omitted.
	(e) Authorization.
1422.	Increase of price support levels.
1423.	Adjustments of support prices.
	(a) In general.
	(b) Adjustment in support prices for cotton.
	(c) Limitation on adjustments for wheat and feed grains.

- | Sec. | Sec. |
|--|--|
| 1424. | Utilization of services and facilities of Commodity Credit Corporation. |
| 1425. | Producer rights and liabilities. |
| | (a) Liability for deficiencies. |
| | (b) Sugarcane and sugar beets. |
| 1425a. | Producers of honey; loan obligations and liabilities. |
| | (a) Loan forfeiture limitation. |
| | (b) Liability for nonforfeitable part of obligation. |
| | (c) Extent of personal liability. |
| | (d) Promulgation of regulations. |
| 1426. | Advance announcement of price support levels. |
| | (a) Time of announcement; maximum levels; reduction of levels. |
| | (b) Optional program for producers of 1996 crops of wheat, feed grains, upland cotton, extra long staple cotton, rice, oilseeds and to dairy producers for 1996 calendar year. |
| 1427. | Commodity Credit Corporation sales price restrictions. |
| | (a) In general. |
| | (b) Inventories. |
| | (c) Sales price restrictions. |
| | (d) Nonapplication of sales price restrictions. |
| | (e) Distress, disaster, and livestock emergency areas. |
| | (f) Efficient operations. |
| | (g) Sales for export. |
| 1427-1. | Quality requirements for Commodity Credit Corporation owned grain. |
| | (a) Establishment of minimum standards. |
| | (b) Inspection of grain acquisitions. |
| 1427a. | Reserve inventories for alleviation of distress of natural disaster. |
| | (a) Establishment, maintenance and disposal by Secretary; amount and nature of reserve. |
| | (b) Acquisition of commodities through price support program. |
| | (c) Prerequisites for sale or disposition of commodities in reserve. |
| | (d) Additional authorization for disposition of commodities to relieve distress or for civil defense emergencies. |
| | (e) Sale at equivalent prices for maintenance of reserve. |
| | (f) Utilization of Commodity Credit Corporation and usual and customary channels, etc., of trade and commerce. |
| | (g) Rules and regulations. |
| | (h) Authorization of appropriations. |
| 1428. | Definitions. |
| 1429. | Determinations of Secretary as final and conclusive. |
| 1430. | Retroactive effect. |
| 1431. | Disposition of commodities to prevent waste. |
| | (a) Eligible recipients; barter; estimates; reprocessing and other charges. |
| | (b) Furnishing of eligible commodities for carrying out programs of assistance in developing and friendly countries; availability of eligible commodities for nonprofit and voluntary agencies and cooperatives. |
| | (c) Ultra-high temperature processed fluid milk; two-year pilot program; report to Congress. |
| | 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. |
| | 1431d. Donations for school feeding programs abroad; student financing; priorities. |
| | 1431e. Distribution of surplus commodities to special nutrition projects; reprocessing agreements with private companies. |
| | 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. |
| | (a) Authority of Commodity Credit Corporation; terms and conditions established by Secretary; fuel prices. |
| | (b) Feasibility of processing. |
| | (c) Annual report to Congress. |
| | 1433c. Advance recourse commodity loans. |
| | 1433c-1. Advance recourse loans. |
| | (a) Availability; due date; procedures for repayment; applicability; security; limitation. |
| | (b) Use of Commodity Credit Corporation, Agricultural Stabilization and Conservation Service, and county committees. |
| | (c) Regulations. |
| | 1433d, 1433e. Omitted or Repealed. |
| | 1433f. Crop insurance requirement. |
| | 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. |
| | (a) Authority of Commodity Credit Corporation to issue negotiable marketing certificates. |
| | (b) Determination of value of certificates. |
| | (c) Commodity Credit Corporation assistance in redemption, marketing, or exchange of certificates. |
| | (d) Exchange of certificates for commodities and products. |

Sec.		Sec.	
	(e) Prevention of adverse effects.		(l) Tenants and sharecroppers.
	(f) Transfer of certificates.		(m) Cross-compliance.
1441-2.	Loans, payments, and acreage reduction programs for 1991 through 1995 crops of rice.		(n) Limited global import quota.
	(a) Loans and purchases.	1444a.	Corn and feed grains and cotton programs.
	(b) Loan deficiency payments.		(a) Referendum of 1958 corn producers.
	(c) Payments; crop insurance requirement.		(b) Operative status of certain provisions.
	(d) Payment yields.		(c) Cotton research program.
	(e) Acreage reduction programs.		(d) Cotton insect eradication.
	(f) Inventory reduction payments.	1444b.	Feed grains; price support program.
	(g) Equitable relief.	1444c to 1444e.	Repealed or Omitted.
	(h) Regulations.	1444e-1.	Loans and purchases for 1986 through 1996 crops of corn.
	(i) Commodity Credit Corporation.	1444f.	Loans, payments, and acreage reduction programs for 1991 through 1995 crops of feed grains.
	(j) Assignment of payments.		(a) Loans and purchases.
	(k) Sharing of payments.		(b) Loan deficiency payments.
	(l) Tenants and sharecroppers.		(c) Payments; crop insurance requirement.
	(m) Cross-compliance.		(d) Payment yields.
	(n) Crops.		(e) Acreage reduction programs.
1441a.	Cost of production study and establishment of current national weighted average cost of production.		(f) Inventory reduction payments.
1442.	Price support and acreage requirements for corn and other feed grains.		(g) Pilot voluntary production limitation program.
	(a) Conditions of eligibility.		(h) Equitable relief.
	(b) Referendum of producers of corn.		(i) Regulations.
	(c) Restriction on acreage allotment of corn; price support level.		(j) Commodity Credit Corporation.
	(d) Price support level for 1956 and 1957 crops of grain sorghums, barley, rye, oats, and corn.		(k) Assignment of payments.
1443.	Omitted.		(l) Sharing of payments.
1444.	Cotton price support levels.		(m) Tenants and sharecroppers.
	(a) Basic support levels for 1961 and subsequent years.		(n) Cross-compliance.
	(b) Additional support levels for 1964 and 1965.		(o) Public comment on feed grains program.
	(c) Alternative operations for carrying out additional price support; payment-in-kind certificates; value, marketing assistance, redemption, and deductions after thirty day period.		(p) Malting barley.
	(d) Price support and diversion payments for 1966 through 1970 crops.		(q) Price support for high moisture feed grains.
	(e) Price support, diversion, and cropland set-aside program for crops beginning with 1971 crop.		(r) Crops.
	(f), (g) Omitted.	1444f-1.	Repealed.
	(h) Program for extra long staple cotton beginning with 1984 crop.	1445.	Tobacco price support levels for 1960 and subsequent years.
1444-1.	Omitted.	1445-1.	Producer contributions and purchaser assessments for No Net Cost Tobacco Fund.
1444-2.	Loans, payments, and acreage reduction programs for 1991 through 1997 crops of upland cotton.		(a) Definitions.
	(a) Loans.		(b) Commodity Credit Corporation loans to associations.
	(b) Loan deficiency payments.		(c) Establishment of No Net Cost Tobacco Funds.
	(c) Payments; crop insurance requirement.		(d) Requirements.
	(d) Payment yields.		(e) Failure or refusal of association to comply.
	(e) Acreage reduction programs.		(f) Termination of loan agreement; dissolution or merger of association; disposition of amounts in Fund.
	(f) Inventory reduction payments.		(g) Regulations.
	(g) Equitable relief.		(h) Failure to collect contribution or assessment; marketing penalty; civil action for review of penalty.
	(h) Regulations.	1445-2.	Marketing assessments to No Net Cost Tobacco Account.
	(i) Commodity Credit Corporation.		(a) Definitions.
	(j) Assignment of payments.		(b) Continued availability of price support; establishment of No Net Cost Tobacco Account.
	(k) Sharing of payments.		(c) Establishment of No Net Cost Tobacco Account within Commodity Credit Corporation; disposition of amounts in No Net Cost Tobacco Fund.

Sec.		Sec.	
	(d) Payment of assessments to Corporation for deposit into Account; determination and adjustment of amounts; collection.		(e) Rules and regulations.
	(e) Deposits into Account; insurance against net losses.		(f) Commodity Credit Corporation.
	(f) Suspension of payment and collection of marketing assessments.	1445e.	Farmer owned reserve program.
	(g) Disposition of amounts in Account in the event of termination of loan agreement or account or dissolution or merger of association.		(a) In general.
	(h) Net gains.		(b) Terms of program.
	(i) Regulations.		(c) Interest charges.
	(j) Failure to collect assessment; marketing penalty; civil action for review of penalty.		(d) Storage payments.
1445-3.	Purchase of inventory stock.		(e) Emergencies.
	(a) Sale of inventory stock.		(f) Quantity of commodities in program.
	(b) Sale prices.	1445f.	(g) Announcement of program.
	(c) Terms of agreements.	1445g.	(h) Discretionary exit.
	(d) Approval of agreements.		(i) Reconcentration of grain.
	(e) Disclosure.		(j) Management of grain.
1445a.	Wheat price support levels; "cooperator" defined.		(k) Use of Commodity Credit Corporation.
1445b to 1445b-3.	Repealed, Transferred, or Omitted.		(l) Use of commodity certificates.
1445b-3a.	Loans, payments, and acreage reduction programs for 1991 through 1995 crops of wheat.		(m) Additional authority.
	(a) Loans and purchases.		(n) Regulations.
	(b) Loan deficiency payments.		(o) Review.
	(c) Payments; crop insurance requirement.		(p) Crops.
	(d) Payment yields.	1445f.	International Emergency Food Reserve.
	(e) Acreage reduction programs.	1445g.	Production of commodities for conversion into industrial hydrocarbons; terms and conditions; incentive payments; regulations; appropriations; effective date.
	(f) Inventory reduction payments.	1445h.	Supplemental set-aside and acreage limitation authority.
	(g) Pilot voluntary production limitation program.	1445i.	Multiyear set-aside contracts for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice.
	(h) Equitable relief.	1445j.	Deficiency and land diversion payments.
	(i) Regulations.		(a) Deficiency payments.
	(j) Commodity Credit Corporation.		(b) Land diversion payments.
	(k) Assignment of payments.	1445k.	Payments in commodities.
	(l) Sharing of payments.		(a) In-kind payments by Secretary.
	(m) Tenants and sharecroppers.		(b) Methods of payments.
	(n) Cross-compliance.		(c) Commodity certificates.
	(o) Public comment on wheat program.		
	(p) Special provisions for wheat planted in 1990.		SUBCHAPTER III—NONBASIC AGRICULTURAL COMMODITIES
	(q) Crops.	1446.	Price support levels for designated non-basic agricultural commodities.
1445b-4 to 1445c-2.	Transferred, Repealed, or Omitted.	1446a.	Dairy products; availability through Commodity Credit Corporation.
1445c-3.	Price support program for 1991 through 1997 crops of peanuts.		(a) Secretary of Veterans Affairs; needs; report to Congress.
	(a) Quota peanuts.		(b) Secretary of the Army; needs; report to Congress.
	(b) Additional peanuts.		(c) Costs.
	(c) Area marketing associations.	1446a-1.	(d) Dairy products available.
	(d) Losses.		Use of Commodity Credit Corporation funds for purchases of dairy products requirements for school and other programs.
	(e) Disapproval of quotas.	1446b.	Policy with regard to dairy products.
	(f) Quality improvement.	1446c.	Domestic disposal programs for dairy products.
	(g) Marketing assessment.	1446c-1.	Reduction of dairy product inventories.
	(h) Crops.	1446c-2.	Domestic casein industry.
1445d.	Special wheat acreage grazing and hay program for 1978 through 1990 crop years.		(a) Annual availability of surplus stocks of nonfat dry milk; bid basis.
	(a) Authorization for program; acreage designation; payment.		(b) Acceptance of bids at lower than resale price.
	(b) Specific farm acreage.	1446d.	(c) Nonfat dry milk sold to be used only for manufacture of casein.
	(c) Determination of payment.		Cottonseed and cottonseed oil price support.
	(d) Other acreage set-aside programs.		(a) In general.
		1446e.	(b) Crops.
			Milk price support and milk inventory management program for calendar years 1991 through 1996.

Sec.		Sec.	
	(a) In general.	1462.	Definitions.
	(b) Rate.	1463.	Crop acreage bases.
	(c) Purchases.		(a) Establishment.
	(d) Support rate adjustments.		(b) Calculation.
	(e) Report on milk inventory management program.		(c) Acreage considered planted.
	(f) Notification of Congress concerning estimated purchases.		(d) Construction of planting history.
	(g) Excess purchases.		(e) Crop rotation and other factors.
	(h) Reduction in price received.		(f) Prevented planting.
	(i) Enforcement.		(g) Subsequent crop years.
	(j) Use of Commodity Credit Corporation.	1464.	(h) Adjustment of bases.
	(k) Period.		Planting flexibility.
1446e-1.	Milk manufacturing marketing adjustment.		(a) In general.
	(a) In general.		(b) Specified commodities.
	(b) Liability for penalties.		(c) Limitation on acreage.
	(c) Regulations.	1465.	(d) Plantings in excess of permitted acreage.
	(d) Investigations.		(e) Loan eligibility.
	(e) Enforcement.		Farm program payment yields.
1446f.	Loans and payments for oilseeds for 1991 through 1995 marketing years.		(a) Establishment.
	(a) "Oilseeds" defined.		(b) Farm program payment yields based on 1990 crop year.
	(b) In general.		(c) Determination of yields.
	(c) Loan level.	1466.	(d) Assignment of yields.
	(d) Marketing loan provisions.		(e) Actual yield data.
	(e) Loan deficiency payment.	1467.	Planting and production history of farms.
	(f) Marketing year.		Establishment of bases and yields by county committees.
	(g) Announcements.	1468.	Appeals.
	(h) Loan maturity.	1469.	Crops.
	(i) Other terms and conditions.		SUBCHAPTER V—EMERGENCY LIVESTOCK FEED ASSISTANCE ACT OF 1988
	(j) Regulations.		Definitions.
	(k) Commodity Credit Corporation.	1471.	Emergency livestock assistance.
	(l) Assignment of payments.	1471a.	Determination of need for assistance.
	(m) Loan origination fee.	1471b.	(a) Determination and request by Governor or county committee.
	(n) Crops.		(b) Consideration for assistance without request.
1446g.	Sugar price support for 1991 through 1997 crops.		(c) Prompt action by Secretary.
	(a) In general.		(d) Eligibility under prior programs; availability of other programs.
	(b) Sugarcane.		Eligible producers.
	(c) Sugar beets.	1471c.	(a) Qualifying livestock producers.
	(d) Adjustment in support price.		(b) Availability of additional assistance.
	(e) Announcements.		(c) Program participation option.
	(f) Term.		Assistance programs.
	(g) Supplementary nonrecourse loans.		(a) Available programs.
	(h) Use of Commodity Credit Corporation.		(b) Feed grain through dealer or manufacturer; reimbursement; feed grain stored on farm of producer.
	(i) Marketing assessment.	1471d.	(c) Payments or reimbursements through issuance of negotiable certificates.
	(j) Crops.		(d) Approved application prerequisite to benefits.
1446h.	Honey price support.		(e) Time for application.
	(a) In general.		(f) Livestock transportation assistance.
	(b) Marketing loan provisions.		Additional assistance.
	(c) Loan deficiency payments.	1471e.	(a) Determination by Secretary.
	(d) Pledging adulterated or imported honey as collateral.		(b) Programs authorized.
	(e) Payment limitations.		(c) Water development projects for 1988 and 1989 emergencies.
	(f) Regulations.		Use of Commodity Credit Corporation.
	(g) Commodity Credit Corporation.	1471f.	Benefits limitation.
	(h) Assignment of payments.	1471g.	(a) Total amount of benefits.
	(i) Marketing assessment.		(b) Issuance of regulations.
	(j) Crops.		
1446i.	Repealed.		
1447.	Price support levels for other nonbasic agricultural commodities.		
1448.	Price support levels for storable nonbasic agricultural commodities.		
1449.	Determination of price support level.		
1450.	Repealed.		
	SUBCHAPTER IV—ACREAGE BASE AND YIELD SYSTEM		
1461.	Purpose.		

- Sec.
- (c) Receipt of other disaster payments.
 - (d) Total combined payment and benefits limitation.
- 1471h. Ineligibility.
- 1471i. Administration.
- (a) Regulations.
 - (b) Processing and decisions to be made as quickly as practicable.
 - (c) Indigenous plants not considered feed on hand.
- 1471j. Penalties.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 511r, 1301, 1308, 1308-1, 1308-3, 1309, 1310, 1314, 1314f, 1334b, 1385, 1421a, 1421c, 1426, 1433c-1, 1435, 1446c, 1745, 2279, 4608, 5671, 5822 of this title; title 15 section 3391a; title 16 sections 3811, 3821, 3832, 3834, 3837d, 3838b, 3839c; title 21 section 889; title 26 section 451; title 31 section 3902; title 42 section 1766; title 43 section 620c.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1421. Price support

(a) Source

The Secretary shall provide the price support authorized or required herein through the Commodity Credit Corporation and other means available to him.

(b) Authority of Secretary; factors considered

Except as otherwise provided in this Act, the amounts, terms, and conditions of price support operations and the extent to which such operations are carried out, shall be determined or approved by the Secretary. The following factors shall be taken into consideration in determining, in the case of any commodity for which price support is discretionary, whether a price-support operation shall be undertaken and the level of such support and, in the case of any commodity for which price support is mandatory, the level of support in excess of the minimum level prescribed for such commodity: (1) the supply of the commodity in relation to the demand therefor, (2) the price levels at which other commodities are being supported and, in the case of feed grains, the feed values of such grains in relation to corn, (3) the availability of funds, (4) the perishability of the commodity, (5) the importance of the commodity to agriculture and the national economy, (6) the ability to dispose of stocks acquired through a price-support operation, (7) the need for offsetting temporary losses of export markets, (8) the ability and willingness of producers to keep supplies in line with demand and (9), in the case of upland cotton, changes in the cost of producing such cotton.

(c) Compliance by producer; program for diverted acres

Compliance by the producer with acreage allotments, production goals and marketing practices (including marketing quotas when authorized by law), prescribed by the Secretary, may be required as a condition of eligibility for price support. In administering any program for diverted acres the Secretary may make his regulations applicable on an appropriate geographical

basis. Such regulations shall be administered (1) in semiarid or other areas where good husbandry requires maintenance of a prudent feed reserve in such manner as to permit, to the extent so required by good husbandry, the production of forage crops for storage and subsequent use either on the farm or in feeding operations of the farm operator, and (2) in areas declared to be disaster areas by the President under the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.], in such manner as will most quickly restore the normal pattern of their agriculture.

(d) Time of determining levels

The level of price support for any commodity shall be determined upon the basis of its parity price as of the beginning of the marketing year or season in the case of any commodity marketed on a marketing year or season basis and as of January 1 in the case of any other commodity.

(e) Processors' assurances; payment if assurances inadequate

(1) Whenever any price support or surplus removal operation for any agricultural commodity is carried out through purchases from or loans or payments to processors, the Secretary shall, to the extent practicable, obtain from the processors such assurances as he deems adequate that the producers of the agricultural commodity involved have received or will receive maximum benefits from the price support or surplus removal operation.

(2)(A) If the assurances under paragraph (1) are not adequate to cause the producers of sugar beets and sugarcane, because of the bankruptcy or other insolvency of the processor, to receive maximum benefits from the price support program within 30 days after the final settlement date provided for in the contract between such producers and processor, the Secretary, on demand made by such producers and on such assurances as to nonpayment as the Secretary shall require, shall pay such producers such maximum benefits less benefits previously received by such producers.

(B) On such payment, the Secretary shall—

(i) be subrogated to all claims of such producers against the processor and other persons responsible for nonpayment; and

(ii) have authority to pursue such claims as necessary to recover the benefits not paid to the producers.

(C) The Secretary shall carry out this paragraph through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title IV, § 401, 63 Stat. 1054; Aug. 28, 1954, ch. 1041, title II, §§ 206, 207, 68 Stat. 901; Apr. 11, 1964, Pub. L. 88-297, title I, § 103(c), 78 Stat. 175; Dec. 23, 1985, Pub. L. 99-198, title IX, § 903(a), 99 Stat. 1444; Nov. 23, 1998, Pub. L. 100-707, title I, 109(a)(1), 102 Stat. 4708.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note below and Tables.

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (c), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, known as The Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

1988—Subsec. (c). Pub. L. 100-707, substituted “the Disaster Relief and Emergency Assistance Act” for “Public Law 875, Eighty-first Congress”.

1985—Subsec. (e). Pub. L. 99-198 designated existing provisions as par. (1) and added par. (2).

1964—Subsec. (b)(9). Pub. L. 88-297 added cl. (9).

1954—Subsec. (c). Act Aug. 28, 1954, §206, provided a program for diverted acres.

Subsec. (e). Act Aug. 28, 1954, §207, added subsec. (e).

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-237, title XI, §1101, Dec. 13, 1991, 105 Stat. 1906, provided that:

“(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act [see Tables for classification] shall take effect on the date of enactment of this Act [Dec. 13, 1991].

“(b) INCLUSION IN FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—The amendments made by the following provisions of this Act shall take effect as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624) to which the amendment relates:

“(1) Section 201 [amending sections 5403, 5503, 5505, 5506, and 5822 of this title and provisions set out as a note under section 4201 of this title] (other than section 201(h) [enacting section 3125c of this title]).

“(2) Section 307 [amending section 1736bb-6 of this title].

“(3) Subsections (a) through (c), (e), (h), and (i) of section 501 [amending sections 1924, 1942, 1981, 1983, 2001, and 2006e of this title].

“(4) Subsections (a), (b), (f) through (i), and (l) of section 502 [amending sections 2019, 2071, 2129, 2214, 2252, 2271, and 2278a-2 of Title 12, Banks and Banking].

“(5) Section 602(c) [amending provisions set out as a note below].

“(6) Section 701 [amending sections 1926, 1926c, 1932, 1981, 1994, 2000, 2006f, 2008, 2008a, and 2008b of this title] (except as provided in subsection (c) of this section).

“(7) Section 702 [amending sections 950aaa-1, 1926-1, 1991, 1994, 2007a, and 2007c to 2007e of this title and provisions set out as a note under section 2006f of this title].

“(8) Section 703(c) [amending section 950aa of this title].

“(c) MISCELLANEOUS AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—The amendments made by section 701(h) of this Act [amending sections 1926, 1932, 1981, 1994, and 2000 of this title] to any provision specified therein shall take effect as if such amendments had been included in the Act that added the provision so specified at the time such Act became law.

“(d) FOOD AND NUTRITION PROGRAMS.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, title IX of this Act [amending sections 1431e, 2012, 2014, 2015, 2017, 2018, 2020, 2025, 2026, 2028, 2029, and 2031 of this title, enacting provisions set out as notes under sections 2015, 2016, 2026, and 5930 of this title, and amending provisions set out as notes under sections 612c and 2012 of this title], and the amendments made by title IX of this Act, shall take effect and be implemented no later than February 1, 1992.

“(2) PASS ACCOUNTS EXCLUSION.—

“(A) IN GENERAL.—The amendment made by section 903(3) of this Act [amending section 2014 of this title] shall take effect on the earlier of—

“(i) the date of enactment of this Act [Dec. 13, 1991];

“(ii) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv)); or

“(iii) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

“(B) LIMITATION ON APPLICATION OF SECTION.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 [section 2020(b) of this title] (as redesignated by section 941(6) of this Act), no State agency shall be required to search its files for cases to which the amendment made by section 903(3) of this Act [amending section 2014 of this title] applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 [section 2014(d)(16) of this title] (as added by section 903(3) of this Act) was raised with the State agency prior to the date of enactment of the Act [Dec. 13, 1991].

“(3) PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.—The amendments made by section 908 [907, amending section 2015 of this title] of this Act shall take effect on September 30, 1991.

“(4) RECOVERY OF CLAIMS CAUSED BY NON-FRAUDULENT HOUSEHOLD ERRORS.—The amendment made by section 911 of this Act [amending section 2022 of this title] shall take effect on the date of enactment of this Act [Dec. 13, 1991].

“(5) DEFINITION OF RETAIL FOOD STORE.—The amendment made by section 913 of this Act [amending provisions set out as a note under section 2012 of this title] shall take effect on October 1, 1990, and shall not apply with respect to any period occurring before such date.”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-624, title XI, §1171, Nov. 28, 1990, 104 Stat. 3521, provided that:

“(a) IN GENERAL.—Except as otherwise specifically provided in title I through this title [see Tables for classification], such titles and the amendments made by such titles shall become effective beginning with the 1991 crop of an agricultural commodity.

“(b) PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, title I through this title, and the amendments made by such titles, shall not affect the authority of the Secretary of Agriculture to carry out a price support or production adjustment program for any of the 1986 through 1990 crops of an agricultural commodity established under a provision of law in effect immediately before the effective date prescribed by subsection (a).”

EFFECTIVE DATE OF 1985 AMENDMENT

Section 903(b) of Pub. L. 99-198 provided that: “The amendments made by this section [amending this section] shall apply to nonpayments occurring after January 1, 1985.”

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-66, title I, §1001(a), Aug. 10, 1993, 107 Stat. 312, provided that: “This title [enacting sections 936c and 1314i of this title and section 4607-6c of Title 16, Conservation, amending sections 511r, 608b, 1308, 1308-3, 1314c, 1314e, 1358-1, 1359a, 1359bb, 1441-2, 1444-2, 1444f, 1445, 1445-1, 1445-2, 1445b-3a, 1445c-3, 1445j, 1446e, 1446f, 1446g, 1446h, 1463, 1465, 1469, 1506, 1508, 1508a, 1782, 1783, 1785, 5623, and 5641 of this title and sections 3830, 3831, and 3837 of Title 16, enacting provisions set out as notes under sections 936c, 1446e, 1506, and 5623 of this title,

and amending provisions set out as notes under this section and sections 608c and 1445b-3a of this title] may be cited as the 'Agricultural Reconciliation Act of 1993'."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102-237, §1, Dec. 13, 1991, 105 Stat. 1818, provided that: "This Act [see Tables for classification] may be cited as the 'Food, Agriculture, Conservation, and Trade Act Amendments of 1991'."

SHORT TITLE OF 1990 AMENDMENTS

Pub. L. 101-624, §1(a), Nov. 28, 1990, 104 Stat. 3359, provided that: "This Act [see Tables for classification] may be cited as the 'Food, Agriculture, Conservation, and Trade Act of 1990'."

Pub. L. 101-508, title I, §1001(a), Nov. 5, 1990, 104 Stat. 1388, provided that: "This title [enacting section 940d of this title, amending sections 511r, 1441-2, 1444-2, 1444f, 1445, 1445b-3a, 1445c-3, 1445j, 1446e, 1446f to 1446h, 1722, 1736, 1736a, 1783, 1994, 1999, and 5822 of this title and section 136a of Title 21, Food and Drugs, enacting provisions set out as notes under this section and sections 136w, 511r, and 1445b-3a of this title, and amending provisions set out as a note under this section] may be cited as the 'Agricultural Reconciliation Act of 1990'."

SHORT TITLE OF 1989 AMENDMENTS

Pub. L. 101-239, title I, §1001(a), Dec. 19, 1989, 103 Stat. 2106, provided that: "This title [enacting section 1433d of this title, amending sections 1444e, 1445b-2, 1446, 1464, and 1736s of this title, enacting provisions set out as notes under sections 1433d, 1444e, 1445b-2, 1446, and 1464 of this title and section 2278b-9 of Title 12, Banks and Banking, and amending provisions set out as a note under this section] may be cited as the 'Agricultural Reconciliation Act of 1989'."

Pub. L. 101-82, §1(a), Aug. 14, 1989, 103 Stat. 564, provided that: "This Act [enacting sections 1508a and 1926a of this title and section 493 of Title 25, Indians, amending sections 1359, 1464, 1471d, and 1471e of this title and section 2202 of Title 16, Conservation, enacting provisions set out as notes under this section and sections 1359, 1464, 1926a, 1929a, 1941, and 1961 of this title and sections 2202 and 2203 of Title 16, and amending provisions set out as a note under this section] may be cited as the 'Disaster Assistance Act of 1989'."

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100-418, title II, §2221, Aug. 23, 1988, 102 Stat. 1336, provided that: "This part [part II (§§2221-2227) of subtitle B of title II of Pub. L. 100-418, which amended section 1431 of this title and enacted provisions set out as notes under section 1431 of this title] may be cited as the 'American Aid to Poland Act of 1988'."

Pub. L. 100-387, §1, Aug. 11, 1988, 102 Stat. 924, provided: "That this Act [see Tables for classification] may be cited as the 'Disaster Assistance Act of 1988'."

Section 601 of title VI of act Oct. 31, 1949, ch. 792, as added Aug. 11, 1988, Pub. L. 100-387, title I, §101(a), 102 Stat. 925, provided that: "This title [enacting sections 1471 to 1471j of this title] may be cited as the 'Emergency Livestock Feed Assistance Act of 1988'."

SHORT TITLE OF 1987 AMENDMENTS

Pub. L. 100-203, title I, §1001(a), Dec. 22, 1987, 101 Stat. 1330, provided that: "This title [enacting sections 940b, 940c, 944a, 1308-1 to 1308-3, and 2030 of this title, amending sections 608c, 946, 948, 1308, 1308-1, 1314b, 1314c, 1423, 1431, 1441-1, 1444, 1444-1, 1444e, 1445, 1445b-2, 1445b-3, 1445c-2, 1446, 1466, 1782, 1932, and 2371 of this title and section 713a-11 of Title 15, Commerce and Trade, enacting provisions set out as notes under sections 936a, 948, 1308 to 1308-3, 1441-1, 1444, 1444-1, 1444e, 1445, 1445b-2, 1445b-3, 1445c-2, 1446, 1466, and 1508 of this title, sections 713a-11 and 714b of Title 15, and section 7545 of Title 42, The Public Health and Welfare, and amending provisions set out as a note under this section] may be cited as the 'Agricultural Reconciliation Act of 1987'."

Pub. L. 100-45, §1, May 27, 1987, 101 Stat. 318, provided: "That this Act [amending sections 1441-1, 1444-1, 1444e, 1445b-3, and 1446 of this title and section 701n of Title 33, Navigation and Navigable Waters, and enacting provisions set out as notes under sections 1441-1, 1444-1, 1444e, 1445b-3, and 1446 of this title and section 3835 of Title 16, Conservation] may be cited as the 'Farm Disaster Assistance Act of 1987'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-258, §1, Apr. 10, 1984, 98 Stat. 130, provided: "That this Act [enacting section 1981b of this title, amending sections 1431, 1441, 1444, 1444d, 1445b-1, 1943, 1946, 1961, 1964, 1986, and 1994 of this title, enacting provisions set out as notes under sections 1921, 1961, and 1981 of this title, and amending provisions set out as a note preceding section 1961 of this title] may be cited as the 'Agricultural Programs Adjustment Act of 1984'."

SHORT TITLE OF 1983 AMENDMENTS

Pub. L. 98-180, §1, Nov. 29, 1983, 97 Stat. 1128, provided: "That this Act [enacting sections 511r, 4501 to 4514, and 4531 to 4538 of this title, amending section 608c, 1314b, 1314b-1, 1314b-2, 1314c, 1314d, 1314e, 1379, 1445, 1445-1, 1445-2, and 1446 of this title, and enacting provisions set out as notes under this section and sections 1314b, 1314c, 1314e, 1427, 1445, 1446, and 1727g of this title] may be cited as the 'Dairy and Tobacco Adjustment Act of 1983'."

Pub. L. 98-180, title I, §101, Nov. 29, 1983, 97 Stat. 1128, provided that: "This title [enacting sections 4501 to 4513 of this title, amending section 1446 of this title, and enacting provisions set out as notes under section 1446 of this title] may be cited as the 'Dairy Production Stabilization Act of 1983'."

Pub. L. 98-180, title II, §201, Nov. 29, 1983, 97 Stat. 1143, provided that: "This title [enacting section 511r of this title, amending sections 1314b, 1314b-1, 1314b-2, 1314c, 1314d, 1314e, 1379, 1445, 1445-1, and 1445-2 of this title, and enacting provisions set out as notes under sections 1314b, 1314c, 1314e, and 1445 of this title] may be cited as the 'Tobacco Adjustment Act of 1983'."

Pub. L. 98-88, §1, Aug. 26, 1983, 97 Stat. 494, provided: "That this Act [amending sections 1308, 1427, 1441, and 1444 of this title, repealing section 1347 of this title, and enacting provisions set out as notes under sections 1342, 1347, and 1444 of this title] may be cited as the 'Extra Long Staple Cotton Act of 1983'."

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97-358, §1, Oct. 21, 1982, 96 Stat. 1714, provided: "That this Act [enacting section 1433b of this title] may be cited as the 'Surplus Agricultural Commodities Disposal Act of 1982'."

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96-213, §1, Mar. 18, 1980, 94 Stat. 119, provided: "That this Act [amending sections 1308, 1309, 1441, 1444, 1444c, and 1445b of this title, and enacting provisions set out as notes under sections 1308 and 1309 of this title] may be cited as the 'Agricultural Adjustment Act of 1980'."

SHORT TITLE

Section 1 of act Oct. 31, 1949, provided that: "This Act [enacting this section and sections 1422 to 1431, 1432, 1433, 1441, 1443 to 1445a, 1446, 1446a, 1446d, 1447 to 1449, and 1461 to 1468 of this title, amending sections 612c, 1301, 1322, 1328, 1343, 1344, 1345, and 1353 to 1356 of this title, and repealing section 1302 of this title; amending sections 1134c and 1134j of Title 12, Banks and Banking, section 713a-4 of Title 15, Commerce and Trade, section 410 of Title 42, The Public Health and Welfare] may be cited as the 'Agricultural Act of 1949'."

REPEALS

Section 414 of act Oct. 31, 1949, provided in part that: "any provision of law in conflict with the provisions of

this Act [see Short Title note set out above] are hereby repealed.”

SEPARABILITY PROVISION FOR PUB. L. 101-624

Pub. L. 101-624, title XXV, §2519, Nov. 28, 1990, 104 Stat. 4078, provided that: “If any provision of this Act [see Short Title of 1990 Amendment note above] or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.”

SEPARABILITY PROVISION FOR PUB. L. 98-180

Pub. L. 98-180, title III, §305, Nov. 29, 1983, 97 Stat. 1152, provided that: “Except as otherwise provided in this Act [see Short Title of 1983 Amendment note above], if any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Act and of the application of such provision to other persons and circumstances shall not be affected thereby.”

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

PROGRAMS FOR FARMERS AND RANCHERS WHO WERE ACTIVATED RESERVISTS DURING PERSIAN GULF CONFLICT

Pub. L. 102-25, title III, §§381-388, Apr. 6, 1991, 105 Stat. 95-98, established programs for farmers and ranchers who were activated reservists during Persian Gulf conflict to provide for protection of producer's crop acreage base for any program crop, waiver of minimum planting requirement, temporary waiver of conservation requirements, relief for borrowers under farm credit provisions, and authority of a spouse or close relative to participate in programs administered by Secretary of Agriculture on behalf of activated reservists.

SURVEY OF PROGRAM PARTICIPANTS

Pub. L. 101-624, title XI, §1148, Nov. 28, 1990, 104 Stat. 3517, directed Secretary of Agriculture to require producers, during sign-up period for commodity programs under section 1421 et seq. of this title in the 1992 calendar year, to complete survey regarding preference of producers, either to increase efficiency of their farming operation or to assist in meeting conservation requirements for farm, for redistribution of any crop acreage bases on each producer's farm, to compile and analyze data collected from survey to determine potential increases and decreases in State, regional, and national acreage that would be planted to various program crops, potential commodity program costs or savings, and potential impact of such redistribution on competitiveness of United States agriculture in world markets, and, not later than Jan. 31, 1993, to submit to Congress results of survey.

OPTIONS PILOT PROGRAM

Pub. L. 101-624, title XI, subtitle E, Nov. 28, 1990, 104 Stat. 3518, as amended by Pub. L. 102-237, title I, §114(a)(2), Dec. 13, 1991, 105 Stat. 1838, provided that:

“SEC. 1151. SHORT TITLE.

“This subtitle [subtitle E (§§1151-1156) of title XI of Pub. L. 101-624] may be cited as the ‘Options Pilot Program Act of 1990’.

“SEC. 1152. PURPOSES.

“It is the purpose of this subtitle to require the Secretary of Agriculture (hereinafter in this subtitle re-

ferred to as the ‘Secretary’) to conduct research necessary—

“(1) to ascertain whether futures options trading would provide reasonable protection to producers from fluctuations in the value of the commodities they produce;

“(2) to ascertain whether producers will accept and fully utilize this method of price protection if information is provided to the producers concerning its proper use; and

“(3) to determine the effect widespread adoption of such futures options trading program would have on commodity prices.

“SEC. 1153. OPTIONS PILOT PROGRAM.

“(a) IN GENERAL.—To determine whether regulated agricultural commodity options trading can be used by producers to obtain protection from fluctuations in the market prices of the commodities they produce and the impact of such trading on the prices of the commodities, the Secretary shall conduct a pilot program for each of the 1991 through 1995 crops of corn and for each of the 1993 through 1995 crops of wheat and soybeans.

“(b) COUNTIES.—The Secretary shall conduct the pilot program in various counties that produce significant quantities of the 1991 through 1995 crops of corn, and significant quantities of the 1993 through 1995 crops of wheat and soybeans. For the 1991 crop year, the Secretary shall select not less than three counties in each of three major corn-producing States to conduct the pilot program for corn for the crop year. The Secretary may add additional States and counties to the program in succeeding crop years.

“(c) BROKERS.—Trades under the pilot program conducted under this subtitle shall be carried out through registered commodity brokers who choose to participate in the program.

“(d) ELIGIBLE PRODUCER PARTICIPANTS.—The Secretary shall contract with eligible producers who wish to participate in the program and who are located in the counties selected for the pilot program. The contracts shall set forth the terms and conditions for participation in the pilot program, including a provision that the contract may be terminated by any participating producer at any time prior to receiving payments for options contracted for under the pilot program.

“SEC. 1154. TERMS AND CONDITIONS.

“(a) ELIGIBILITY REQUIREMENTS.—

“(1) IN GENERAL.—To be eligible to participate in the pilot program conducted under this subtitle, a producer shall meet all of the eligibility requirements specified in this subtitle, and the regulations issued pursuant to this subtitle.

“(2) PARTICIPATION IN PRICE SUPPORT PROGRAMS.—The regulations shall specify to what degree participation in the price support and production adjustment program established for the applicable crop of the commodity shall be required for participation in the pilot program.

“(3) ADDITIONAL REQUIREMENTS.—To be eligible to participate in the pilot program, a producer shall—

“(A) attend not less than one seminar conducted by the Cooperative Extension Service;

“(B) maintain a separate brokerage account for the purpose of trading futures and options contracts covered by the pilot program; and

“(C) compile, maintain, and submit (or authorize the compilation, maintenance, and submission) of such documentation as the regulations governing the program may require to permit a proper record to be kept of the results of all cash, futures, or options trading that may be undertaken under the pilot program by the producer.

“(b) PROGRAM TERMS AND CONDITIONS.—The Secretary shall issue regulations or develop contract forms, or both, that set forth the terms and conditions of the program, and the rights and obligations of all of the parties participating in the program (including producers and registered brokers). At a minimum, the terms and conditions shall include the following:

“(1) CONTRACT MONTHS AND STRIKE PRICES.—

“(A) IN GENERAL.—The contract months and options strike prices at which participating producers may buy commodity put options in order to receive payments to cover the premiums on the options for each of the 1991 through 1995 crops of corn, and for each of the 1993 through 1995 crops of wheat and soybeans.

“(B) TARGET PRICE AND LOAN RATE STRIKE PRICES.—The pilot program shall provide—

“(i) a target price strike price for put options that is equivalent to the target price for the commodity involved; and

“(ii) a loan rate strike price that is equivalent to the loan rate for the commodity involved.

“(C) OTHER OPTIONS STRIKE PRICES.—Other options strike prices for commodities included in the program may be used if the prices are selected and agreed on by the Secretary and the representatives of the commodity futures trading industry designated in accordance with section 1155(a).

“(2) ELIGIBLE PORTION OF CROP.—The portion of the crop of an eligible producer that may be used as a basis for acquiring options contracts.

“(3) PUT OPTIONS CONTRACTS.—The time when, and the manner in which, put options contracts shall be acquired, held, and liquidated by producers to meet program requirements.

“(4) PROGRAM BENEFITS.—

“(A) IN GENERAL.—The program benefits to be offered participating producers shall include the cost of option premiums and payments of not more than 15 cents per bushel to cover transaction fees, interest, and other expenses.

“(B) RELATIVE BENEFITS.—The Secretary shall inform participants that their participation is voluntary and that neither the United States, the Commodity Credit Corporation, nor representatives of the futures industry can guarantee that the participants will be better or worse off financially as a result of participation in the pilot program than the participants would be if the participants participated solely in price support and production adjustment programs carried out by the Secretary and the Commodity Credit Corporation.

“SEC. 1155. COMMODITY FUTURES TRADING INDUSTRY.

“(a) CONSULTATION.—The Secretary or the Secretary’s designees may consult with representatives of the commodity futures trading industry who are specialists in the trading of futures contracts and futures options contracts, and who are designated by the regulated commodity futures markets that choose to participate in the pilot program.

“(b) PROCEDURE.—The designations and consultations may be held without regard to the Federal Advisory Committee Act (5 U.S.C. App. 2) [5 App. U.S.C.]. Such Act shall not be applicable to the pilot program carried out under this subtitle, or to the meetings of representatives of the commodity futures trading industry with the Secretary or the Secretary’s designees relating to this subtitle.

“SEC. 1156. COMMODITY CREDIT CORPORATION.

“(a) IN GENERAL.—The pilot program established under this subtitle shall be carried out by and through the Commodity Credit Corporation.

“(b) FUNDS.—The Corporation shall expend such funds as may be required to conduct the pilot program for futures options contract trading in the manner specified in this subtitle and the regulations issued, and contracts entered into, to carry out this subtitle, except that funds of the Corporation may not be used to carry out this subtitle unless the Secretary, in the sole discretion of the Secretary, determines in advance that such funds shall be used for this purpose.

“(c) CONTRACTS.—Contracts entered into under this subtitle shall be considered to be program benefit contracts of the Commodity Credit Corporation, and not service or acquisition contracts of the United States.”

HURRICANE HUGO FORESTRY ASSISTANCE; COST-SHARE ASSISTANCE

Pub. L. 101-624, title XXII, §2235(b), Nov. 28, 1990, 104 Stat. 3960, directed Secretary of Agriculture to develop and implement cost-share program to provide financial assistance to owners of private timber stands that were damaged in 1989 by Hurricane Hugo.

APPROPRIATIONS FOR FORESTRY ASSISTANCE AND DOUBLE CROPPING ON DISASTER AREAS

Pub. L. 101-624, title XXII, §2235(c), Nov. 28, 1990, 104 Stat. 3961, provided that benefits or assistance provided under section 2235 of Pub. L. 101-624 or amendments made by such that (enacting provisions set out above and amending provisions set out below) were to be provided only to extent provided for in advance by appropriation acts and authorized appropriations for fiscal years 1991 through 1995.

SCARCE FEDERAL RESOURCES

Pub. L. 101-624, title XXV, §2515, Nov. 28, 1990, 104 Stat. 4075, authorized Secretary of Agriculture, after concurrence of certain Members of Congress, to rank by priority studies or reports authorized by Pub. L. 101-624 and determine which of those studies or reports was to be completed, but directed Secretary to complete at least 12 of the studies or reports.

RECORDKEEPING IMPROVEMENT

Pub. L. 101-624, title XXV, §2516, Nov. 28, 1990, 104 Stat. 4075, which provided that section could be cited as “Agricultural Program Reporting and Recordkeeping Improvement Act of 1990”, directed Secretary of Agriculture, not later than 240 days after Nov. 28, 1990, to submit to Congress a report containing specific proposals for reducing and simplifying recordkeeping and other paperwork required of producers participating in programs administered by Secretary and directed Secretary to take appropriate action to integrate various data bases of Department relating to agricultural program data, and to facilitate sharing of relevant data among various agencies of Department.

READJUSTMENT OF SUPPORT LEVELS

Pub. L. 101-508, title I, §1302, Nov. 5, 1990, 104 Stat. 1388-12, as amended by Pub. L. 103-66, title I, §1301(b), Aug. 10, 1993, 107 Stat. 330, provided that, if by June 30, 1992, and by June 30, 1993, the United States had not entered into agricultural trade agreement in Uruguay Round of multilateral trade negotiations under General Agreement on Tariffs and Trade (GATT) the Secretary of Agriculture was to reconsider and adjust agricultural acreage limitation and price support and production adjustment programs and export promotion levels, as appropriate to protect interests of American agricultural producers and ensure international competitiveness of United States agriculture and that such provisions were to cease to be effective if President certified to Congress that failure to enter into such agreement was result in whole or in part of provisions of 19 U.S.C. 2191, or essentially similar provisions, not applying or in effect not applying during period ending May 31, 1991 (or during period June 1, 1991, through May 31, 1993, if condition of 19 U.S.C. 2903(b)(1)(B)(i) was satisfied) to implementing bills submitted with respect to such an agreement entered into during applicable period under 19 U.S.C. 2902(b).

REPAYMENT OF ADVANCE DEFICIENCY PAYMENTS

Pub. L. 101-220, §14, Dec. 12, 1989, 103 Stat. 1885, provided that effective only for the 1988 crops of wheat, feed grains, upland cotton, and rice, produced by producers that qualified for assistance under section 201(a) of Pub. L. 100-387 or section 101(a) of Pub. L. 101-82 (set out below), if the Secretary of Agriculture determines that any portion of the advance deficiency payment made to producers for such crop under section 1445b-2 of this title had to be refunded, such refund could not be required to be made prior to July 31, 1990.

PILOT PROJECT ON CLEAN GRAIN PREMIUMS

Pub. L. 100-518, §3, Oct. 24, 1988, 102 Stat. 2587, directed Secretary of Agriculture to conduct study of schedule of premiums and discounts applied to loans made in accordance with this chapter to determine how premiums and discounts could be used to encourage production, marketing, and exporting of high quality, clean grain, to submit, not later than May 1, 1989, to Congress report on results of such study, to include recommendations with respect to schedule of premiums and discounts in such report, and to establish pilot project for 1989 crops of wheat, soybeans, and feed grains to test effectiveness of such recommendations, and to submit report describing result of project, not later than 180 days after end of 1989 marketing year for feed grains.

EMERGENCY CROP LOSS ASSISTANCE

Pub. L. 102-229, title I, Dec. 12, 1991, 105 Stat. 1712, as amended by Pub. L. 102-368, title VI, Sept. 23, 1992, 106 Stat. 1130, appropriated an additional \$1,750,000,000, to remain available until expended, for losses associated with 1990 crops as authorized by Pub. L. 101-624, formerly set out below, and for losses associated with 1991 and 1992 crops under same terms and conditions.

Pub. L. 101-624, title XXII, §§2241-2272, Nov. 28, 1990, 104 Stat. 3962-3977, as amended by Pub. L. 101-508, title I, §1204(d), Nov. 5, 1990, 104 Stat. 1388-12; Pub. L. 102-237, title I, §114(a)(4)-(16), Dec. 13, 1991, 105 Stat. 1838, 1839, related to emergency crop loss assistance for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, and rice, for orchards, and for forest crops, prior to repeal by Pub. L. 103-354, title I, §119(c), Oct. 13, 1994, 108 Stat. 3208.

Similar provisions for prior crop years were contained in:

Pub. L. 101-82, title I, Aug. 14, 1989, 103 Stat. 565, as amended by Pub. L. 101-134, §1, Oct. 30, 1989, 103 Stat. 780; Pub. L. 101-220, §9(a)-(c), Dec. 12, 1989, 103 Stat. 1882; Pub. L. 101-624, title XXII, §§2231, 2232, 2235(a), Nov. 28, 1990, 104 Stat. 3958, 3959; Pub. L. 102-237, title VI, §602(a), (c), Dec. 13, 1991, 105 Stat. 1878.

Pub. L. 100-387, title II, Aug. 11, 1988, 102 Stat. 933, as amended by Pub. L. 101-82, title VI, §602, Aug. 14, 1989, 103 Stat. 587; Pub. L. 101-239, title I, §1004(a), Dec. 19, 1989, 103 Stat. 2108.

SPECIAL STUDY AND PILOT PROJECTS ON FUTURES TRADING

Pub. L. 99-198, title XVII, subtitle E, §§1741-1743, Dec. 23, 1985, 99 Stat. 1643, 1644, as amended by Pub. L. 100-203, title I, §1502, Dec. 22, 1987, 101 Stat. 1330-27, directed Secretary of Agriculture to conduct study to determine manner in which commodity futures markets and commodity options markets might be used by producers of commodities traded on such markets to provide price stability and income protection, extent of price stability and income protection producers might reasonably expect to receive from such participation, and Federal budgetary impact of such participation compared with cost of applicable established price support programs, to report results of study to Congress on or before Dec. 31, 1989, and in connection with such study, to conduct pilot program with respect to crops of wheat, feed grains, soybean, and cotton.

FARM INCOME PROTECTION INSURANCE PROGRAM TASK FORCE, STUDY, AND REPORT

Pub. L. 97-98, title XI, §1112, Dec. 22, 1981, 95 Stat. 1267, directed Secretary of Agriculture to appoint a special task force to study and report to Congress, not later than 18 months after Dec. 22, 1981, as to whether farm income protection insurance would provide the basis for an acceptable alternative to the commodity price support, income maintenance, and disaster assistance programs currently administered by the Department of Agriculture for the benefit of farmers.

STUDIES IN RICE PRICE SUPPORT; REPORT TO CONGRESS; TERMINATION DATE

Section 315 of act Aug. 28, 1954, directed Secretary of Agriculture to study various two-price systems of price support and marketing which could be made applicable to rice and to submit to Congress on or before Mar. 1, 1955, a detailed report thereon.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1425, 1428, 1444, 1444b, 1444f, 1445a, 1448 of this title.

§1421a. Financial impact study

(a) Study

The Secretary of Agriculture shall conduct an annual study of the financial impact of the support levels established and announced by the Secretary under programs contained in the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] (hereafter in this section referred to as "programs"), including a study of the effect of the support levels on the ability of producers to meet their financial obligations (with special emphasis on borrowers from the Farmers Home Administration and the Farm Credit System).

(b) Report

The Secretary shall annually prepare a report containing the results of the study and submit the report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, not later than the date of the final announcement for the programs by the Secretary for any 1 year.

(c) Informational purposes

The study under this section (including the study of the effect of the support levels on the ability of producers to meet their financial obligations) shall be only for informational purposes and for Congressional oversight and shall not give rise to any cause of action, be a basis for, or be used as evidence in support of, any claim or right of any person, including farmers and borrowers, in any administrative or judicial proceeding.

(Pub. L. 101624, title XI, §1147, Nov. 28, 1990, 104 Stat. 3516.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

§1421b. Costs of production**(a) Improving accuracy of commodity program budget forecasts**

Congress finds that, to improve the accuracy of commodity program benefit forecasts, the Secretary of Agriculture should designate a single organization to manage its commodity program forecasting and establish a quality control program to—

- (1) systematically identify the source of forecasting errors;
- (2) maintain records of data used for supply and demand forecasts;
- (3) document its forecasting methods; and
- (4) correct weaknesses in its various forecasting components.

(b) Return on assets

The Secretary of Agriculture shall annually publish a report analyzing the return on assets resulting from the production of upland cotton, rice, wheat, corn, oats, barley, grain sorghum, soybeans, peanuts, sugar from sugar beets, and raw sugar from sugar cane. In conducting this analysis, the Secretary shall consider returns from agricultural price support programs, the effects of agricultural price support programs on cost of production, the factors currently used in Department of Agriculture cost of production data, current value of land, and any other information that he considers necessary to reflect accurately return on the production of such crops.

(Pub. L. 101624, title XXV, §2512, Nov. 28, 1990, 104 Stat. 4073.)

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§1421c. Farm value of agricultural products**(a) In general**

The Secretary of Agriculture (hereafter in this section referred to as the “Secretary”) shall develop a system for informing the ultimate consumer of the approximate amount of money (in terms of United States currency) paid the agricultural producer for each primary commodity, contained in retail products. For the purposes of this subsection, the term “primary commodity” means any of 135 United States agricultural commodities the Secretary determines are of dietary significance (including all of the commodities for which Federal agricultural programs exist under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.]).

(b) Annual report by Secretary

The Secretary shall annually submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, by type of commodity or product, a report containing the information required to be made available to the consumer under subsection (a) of this section. In developing such report, the Secretary may seek assistance from such persons as the Secretary deems appropriate.

(Pub. L. 101624, title XXV, §2513, Nov. 28, 1990, 104 Stat. 4074.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§1421d. Commodity reports**(a) Crop reports**

The Secretary of Agriculture (hereafter in this section referred to as the “Secretary”) shall gather data from producers to be used to develop crop reports to be distributed by the Secretary during the growing season. The report shall contain statements of the conditions of those crops by State, with such explanations, comparisons, and information as may be useful for illustrating such reports.

(b) Special reports**(1) In general**

In addition to the reports compiled pursuant to subsection (a) of this section, the Secretary shall annually survey producers for information for reports regarding supply, acreage, production, disposition, and prices for the following commodities as determined by the Secretary:

- (A) 25 fresh market vegetables;
- (B) 3 processing vegetables;
- (C) 6 fruits and nuts;
- (D) 17 forage and turf seeds;
- (E) 50 vegetable seeds; and
- (F) maple syrup.

(2) Administrative

The Secretary shall annually prepare a report containing results of the surveys described in paragraph (1) in such States as determined by the Secretary. Such reports shall be submitted to and officially approved by the Secretary of Agriculture before being issued or published.

(c) Tree inventories

The Secretary shall survey producers for information for reports regarding fruit and nut tree inventories. Such surveys and reports shall be conducted, printed, and distributed on a regular basis every 3 to 5 years as determined by the Secretary. Reports shall be submitted to and officially approved by the Secretary before being issued or published.

(d) Omitted**(e) Authorization**

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 101624, title XXV, §2514, Nov. 28, 1990, 104 Stat. 4074.)

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section is comprised of section 2514 of Pub. L. 101624. Subsec. (d) of section 2514 of Pub. L. 101624 repealed section 411a of this title.

§1422. Increase of price support levels

(a) Notwithstanding any other provision of this Act, price support at a level in excess of the maximum level of price support otherwise prescribed in this Act may be made available for any agricultural commodity if the Secretary determines, after a public hearing of which reasonable notice has been given, that price support at such increased level is necessary in order to prevent or alleviate a shortage in the supply of any agricultural commodity essential to the national welfare or in order to increase or maintain the production of any agricultural commodity in the interest of national security. The Secretary's determination and the record of the hearing shall be available to the public.

(b) Effective only for the 1991 through 1995 crops of wheat, feed grains, cotton, and rice, the Secretary of Agriculture may provide for annual adjustments in the established prices for such program crops to reflect any change during the last calendar year ending before the beginning of each such crop year in the index of prices paid by farmers for production items, interest, taxes, and wage rates in such calendar year.

(Oct. 31, 1949, ch. 792, title IV, §402, 63 Stat. 1054; Nov. 28, 1990, Pub. L. 101624, title XI, §1127, 104 Stat. 3508.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1990—Pub. L. 101624 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Price support levels, see section 1441 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1441, 1444 of this title.

§1423. Adjustments of support prices**(a) In general**

The Secretary may make appropriate adjustments in the support price for any commodity (excluding cotton) for differences in grade, type, quality, location and other factors. The adjustments shall, so far as practicable, be made in such manner that the average support price for the commodity will, on the basis of the anticipated incidence of such factors be equal to the level of support determined as provided in this Act. Beginning with the 1991 crops of wheat, feed grains, and soybeans for which price support is provided under this Act, the Secretary shall establish premiums and discounts related to cleanliness factors in addition to any other premiums or discounts related to quality.

(b) Adjustment in support prices for cotton

The Secretary may make appropriate adjustments in the support price for cotton for differences in quality factors and location. Beginning with the 1991 crop, the quality differences (premiums and discounts for quality factors) for the upland cotton loan program shall be established by the Secretary by giving equal weight to (1) loan differences for the preceding crop, and (2) market differences for such crop in the designated United States spot markets.

(c) Limitation on adjustments for wheat and feed grains

Notwithstanding any other provision of this section, for each of the 1990 through 1995 crops of wheat and feed grains, no adjustment in the loan rate applicable to a particular region, State, or county for the purpose of reflecting transportation differentials may increase or decrease the regional, State, or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 3 percent.

(Oct. 31, 1949, ch. 792, title IV, §403, 63 Stat. 1054; Aug. 28, 1958, Pub. L. 85835, title I, §§108, 111, 72 Stat. 993; Nov. 3, 1965, Pub. L. 89321, title VIII, §802, 79 Stat. 1213; Dec. 22, 1981, Pub. L. 9798, title V, §507, 95 Stat. 1241; Dec. 22, 1987, Pub. L. 100203, title I, §1105, 101 Stat. 13305; Nov. 28, 1990, Pub. L. 101624, title XI, §1128, title XX, §2011, 104 Stat. 3508, 3932.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1990—Pub. L. 101624, §2011, inserted at end of subsec. (a) "Beginning with the 1991 crops of wheat, feed grains, and soybeans for which price support is provided under this Act, the Secretary shall establish premiums and discounts related to cleanliness factors in addition to any other premiums or discounts related to quality."

Pub. L. 101624, §1128, in amending section generally, designated part of existing text as subsecs. (a), (b), and (c), and in subsec. (a) inserted provisions excluding cotton, in subsec. (b) substituted reference to 1991 crop for reference to 1982 crop, and substituted reference to

quality factors for reference to grade, staple and micronaire, and in subsec. (c) substituted reference to 1990 through 1995 crops for reference to 1988 through 1990 crops, substituted reference to 3 percent for reference to 2 percent, and struck out provisions relating to establishment and duties of a study committee and authority of Secretary to review and revise procedures and criteria for establishing values of premiums and discounts for grade, staple and micronaire for upland cotton program.

1987—Pub. L. 100203 inserted at end “Notwithstanding the preceding provisions of this section, for each of the 1988 through 1990 crops of wheat and feed grains, no adjustment in the loan rate applicable to a particular region, State, or county for the purpose of reflecting transportation differentials may increase or decrease such regional, State, or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 2 percent.”

1981—Pub. L. 9798 inserted provision directing that beginning with 1982 crop of upland cotton, the quality differences for the loan program be established by giving equal weight to the loan differences for the preceding crop and to the market differences for the crop in the nine designated United States spot markets and authorizing the Secretary to establish a study committee to study and report on alternative methods of establishing values of premiums and discounts for grade, staple, and micronaire for the upland cotton loan program that accurately represent true relative market values and reflect actual market demand for upland cotton produced in the United States and to review procedures and criteria for determining quality differences, prior to the announcement of the loan rate differences for the 1982 crop of upland cotton, and based on such review, revise such procedures and criteria to actually reflect the actual market value of upland cotton produced in the United States.

1965—Pub. L. 89321 provided that, in determining support prices for 1966 and 1967 rice crops, the Secretary shall use head and broken rice value factors for the various varieties which are not lower than those with respect to the 1965 crop and which do not differ as between any two varieties by a greater amount than the value factors used with respect to the 1965 crop for such two varieties differed.

1958—Pub. L. 85835 provided for support of split grades, and repealed, effective with the 1961 crop, sentence prescribing standard cotton grade for parity and price support purposes.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1128 of Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 9798 effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as an Effective Date note under section 4301 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1423, 1444, 1445, 1445c3 of this title.

§1424. Utilization of services and facilities of Commodity Credit Corporation

The Secretary, in carrying out programs under section 612c of this title and section 1755 of title 42, may utilize the services and facilities of the Commodity Credit Corporation (including but not limited to procurement by contract), and make advance payments to it.

(Oct. 31, 1949, ch. 792, title IV, §404, 63 Stat. 1054.)

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§1425. Producer rights and liabilities

(a) Liability for deficiencies

Except as otherwise provided in section 1425a of this title, no producer shall be personally liable for any deficiency arising from the sale of the collateral securing any loan made under authority of this Act unless such loan was obtained through fraudulent representations by the producer. This provision shall not, however, be construed to prevent the Commodity Credit Corporation or the Secretary from requiring producers to assume liability for deficiencies in the grade, quality, or quantity of commodities stored on the farm or delivered by them, for failure properly to care for and preserve commodities, or for failure or refusal to deliver commodities in accordance with the requirements of the program. There is authorized to be included in the terms and conditions of any such non-recourse loan a provision whereby on and after the maturity of the loan or any extension thereof Commodity Credit Corporation shall have the right to acquire title to the unredeemed collateral without obligation to pay for any market value which such collateral may have in excess of the loan indebtedness.

(b) Sugarcane and sugar beets

The security interests obtained by the Commodity Credit Corporation as a result of the execution of security agreements by the processors of sugarcane and sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived. The preceding sentence shall not affect the application of section 1421(e)(2) of this title.

(Oct. 31, 1949, ch. 792, title IV, §405, 63 Stat. 1054; Aug. 28, 1958, Pub. L. 85835, title V, §502, 72 Stat. 996; Dec. 23, 1985, Pub. L. 99198, title X, §1004, 99 Stat. 1447; Oct. 1, 1988, Pub. L. 100460, title VI, §634(a), 102 Stat. 2263; Dec. 13, 1991, Pub. L. 102237, title I, §111(b), 105 Stat. 1830.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricul-

tural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1991—Subsec. (b). Pub. L. 102237 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(1) Notwithstanding any other provision of law, the Secretary may provide a negotiable certificate to any producer who repays, together with interest, a price support loan made available to such producer under any of the annual programs, for wheat, feed grains, upland cotton, or rice established under this Act.

“(2) The amount of such certificates shall be equal to the amount of the interest paid by the producer on such loan.

“(3) Such certificate shall be redeemable in wheat, feed grains, upland cotton, or rice, as the case may be, owned by the Commodity Credit Corporation.

“(4) The issuance of such certificate shall be subject to the availability of commodities owned by the Corporation.”

1988—Subsec. (a). Pub. L. 100460 substituted “Except as otherwise provided in section 1425a of this title, no producer” for “No producer”.

1985—Pub. L. 99198 temporarily designated existing provisions as subsec. (a) and added subsec. (b). See Effective and Termination Dates of 1985 Amendment note below.

1958—Pub. L. 85835 authorized the Commodity Credit Corporation to acquire title to agricultural commodities on which nonrecourse price-support loans have been made without the necessity of computing and making payments to the farmer.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 634(a) of Pub. L. 100460 provided that the amendment made by that section is effective beginning with 1989 crop year for honey.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 1004 of Pub. L. 99198 provided that the amendment made by that section is effective only for 1986 through 1990 crops.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§1425a. Producers of honey; loan obligations and liabilities

(a) Loan forfeiture limitation

A producer of honey may satisfy the producer's obligation to repay a loan, or a portion of a loan, made to the producer under section 1446h of this title by forfeiting the collateral for the loan, or portion of the loan, only if the value of the collateral forfeited, when taken together with the value of the collateral forfeited on any other loan or loans of the person for such crop of honey under section 1446h of this title, does not exceed \$200,000 in the 1991 crop year, \$175,000 in the 1992 crop year, \$150,000 in the 1993 crop year, and \$125,000 in each of the 1994 and subsequent crop years: *Provided, however,* That the

loan forfeiture limitation provided by this section shall not be applicable for any crop year for which the Secretary does not permit producers of honey to repay the price support loans at a level determined under section 1446h(b)(2) of this title.

(b) Liability for nonforfeitable part of obligation

The producer of honey shall be personally liable for the repayment of a loan or loans made to the producer under the program for the crop of honey involved, with respect to that portion of the loan or loans for which satisfaction of the loan by forfeiture, as provided in subsection (a) of this section, is prohibited.

(c) Extent of personal liability

The loan contracts of the Commodity Credit Corporation entered into with producers of honey shall clearly indicate the extent to which a producer of honey may be personally liable for repayment of a loan under this section.

(d) Promulgation of regulations

The Commodity Credit Corporation may issue such regulations as the Corporation deems necessary to carry out this section. The regulations shall provide for the attribution of the value of collateral forfeited on loans described in subsection (a) of this section.

(Oct. 31, 1949, ch. 792, title IV, §405A, as added Oct. 1, 1988, Pub. L. 100460, title VI, §634(b), 102 Stat. 2263; amended Nov. 28, 1990, Pub. L. 101624, title X, §1002, title XI, §1161(d), 104 Stat. 3490, 3521.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101624, §1161(d), substituted references to sections 1446h and 1446h(b)(2) of this title for references to sections 1446(b) and 1446(b)(2)(B) of this title, respectively.

Pub. L. 101624, §1002(1), substituted “person for such crop of honey under section 1446h of this title, does not exceed \$200,000 in the 1991 crop year, \$175,000 in the 1992 crop year, \$150,000 in the 1993 crop year, and \$125,000 in each of the 1994 and subsequent crop years” for “producer for such crop of honey under section 1446(b) of this title, does not exceed \$250,000”.

Subsec. (d). Pub. L. 101624, §1002(2), inserted provisions requiring that the regulations issued pursuant to this subsection provide for the attribution of the value of collateral forfeited on loans described in subsec. (a).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

PROHIBITION ON USE OF FUNDS FOR HONEY PAYMENTS OR LOAN FORFEITURES

None of the funds appropriated or otherwise made available by Pub. L. 103330 to be used to provide total amount of payments and/or total amount of loan forfeitures to a person to support the price of honey under this section in excess of zero dollars in the 1994 and 1995 crop years, see section 723 of Pub. L. 103330, set out as a note under section 1446h of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1425 of this title.

§1426. Advance announcement of price support levels

(a) Time of announcement; maximum levels; reduction of levels

The Secretary shall, insofar as practicable, announce the level of price support for field crops in advance of the planting season and for other agricultural commodities in advance of the beginning of the marketing year or season (January 1 in the case of commodities not marketed on a marketing year or season basis), but the level of price support so announced shall not exceed the estimated maximum level of price support specified in this Act, based upon the latest information and statistics available to the Secretary when such level of price support is announced; and the level of price support so announced shall not be reduced if the maximum level of price support when determined, is less than the level so announced.

(b) Optional program for producers of 1996 crops of wheat, feed grains, upland cotton, extra long staple cotton, rice, oilseeds and to dairy producers for 1996 calendar year

(1) Notwithstanding any other provision of law, the Secretary may offer an option to producers of the 1996 crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or oilseeds and to dairy producers for the 1996 calendar year to participate in commodity price support, production adjustment, and payment programs as provided in this subsection.

(2) The Secretary may offer such programs based on the terms and conditions as are provided in sections 101(h),¹ 101B, 103B, 105B, 107B, 114, 204, and 205 of the Agricultural Act of 1949 [7 U.S.C. 1441(h), 14412, 14442, 1444f, 1445b3a, 1445j, 1446e, and 1446f], and any other relevant provisions of the Agricultural Act of 1949, as determined by the Secretary. Any established price or loan and purchase level made available in accordance with this subsection shall be established at the same level as that established for the 1995 crop or, in the case of milk, for the 1995 calendar year.

(3) The Secretary may offer each of the programs provided for by this subsection if the Secretary has not made final announcement of the terms of the commodity price support, production adjustment, or payment programs for the 1996 crops of wheat, feed grains, cotton, rice, or oilseeds, or the 1996 calendar year for dairy on or before the later of—

(A) in the case of wheat, June 1, 1995;

(B) in the case of feed grains, September 30, 1995;

(C) in the case of upland cotton, November 1, 1995;

(D) in the case of extra long staple cotton, December 1, 1995;

(E) in the case of rice, January 31, 1996;

(F) in the case of oilseeds, July 15, 1995; and

(G) in the case of dairy, November 1, 1995.

(4) Producers may not participate in such programs unless a law has been enacted subsequent to November 28, 1990, that provides for loans and purchases for the 1996 crop of wheat, feed grains,

cotton, rice, or oilseeds, or for dairy for the 1996 calendar year.

(5) The Secretary may use the funds, facilities and authorities of the Commodity Credit Corporation in carrying out this subsection.

(Oct. 31, 1949, ch. 792, title IV, §406, 63 Stat. 1055; Dec. 23, 1985, Pub. L. 99198, title X, §1016, 99 Stat. 1457; Nov. 28, 1990, Pub. L. 101624, title XI, §1129, 104 Stat. 3508; Dec. 13, 1991, Pub. L. 102237, title I, §113(11), 105 Stat. 1838.)

REFERENCES IN TEXT

This Act and the Agricultural Act of 1949, referred to in subsecs. (a) and (b)(2), are references to act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section 101(h) of the Agricultural Act of 1949, referred to in subsec. (b)(2), was classified to section 1441(h) of this title and was omitted from the Code because such subsec. (h) was effective only for the 1978 through 1981 crops of rice.

AMENDMENTS

1991—Subsec. (b)(4). Pub. L. 102237 substituted “November 28, 1990,” for “the date of enactment of this subsection”.

1990—Subsec. (b). Pub. L. 101624 amended subsec. (b) generally, substituting provisions relating to program option for the producers of 1996 crops of wheat, feed grains, upland cotton, extra long staple cotton, rice or oilseeds and to dairy producers for 1996 calendar year, for provisions relating to optional program for producers of 1987 through 1991 crops of wheat, feed grains, upland cotton and rice.

1985—Pub. L. 99198 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1444 of this title.

§1427. Commodity Credit Corporation sales price restrictions

(a) In general

The Commodity Credit Corporation may sell any farm commodity owned or controlled by the Corporation at any price not prohibited by this section.

(b) Inventories

In determining sales policies for basic agricultural commodities or storable nonbasic commodities, the Corporation should consider the establishment of such policies with respect to prices, terms, and conditions as the Corporation determines will not discourage or deter manufacturers, processors, and dealers from acquiring and carrying normal inventories of the commodity of the current crop.

(c) Sales price restrictions

(1) In general

Except as otherwise provided in this section, the Corporation shall not sell any basic agricultural commodity or storable nonbasic com-

¹See References in Text note below.

modity at less than 115 percent of the lower of—

- (A) the current national average price support loan rate for the commodity adjusted for the current market differentials reflecting grade, quality, location, reasonable carrying charges, and other factors determined appropriate by the Corporation; or
- (B) the loan repayment level.

(2) Extra long staple cotton

The Corporation may sell extra long staple cotton for unrestricted use at such price as the Corporation determines is appropriate to maintain and expand export and domestic markets.

(3) Oilseeds

The Corporation shall not sell oilseeds at less than the lower of—

- (A) 105 percent of the current national average price support loan rate for the oilseed, adjusted for the current market differentials reflecting grade, quality, location, reasonable carrying charges, and other factors determined appropriate by the Corporation; or
- (B) 115 percent of the loan repayment level.

(4) Wheat and feed grains

Whenever the producer reserve program for wheat and feed grains established under section 1445e of this title is in effect, the Corporation may not sell any of its stocks of wheat or feed grains at a level that is less than 150 percent of the then current loan rate for wheat or feed grains.

(5) Upland cotton

The Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same price the Corporation sells upland cotton for export, but in no event at less than the amount provided for in paragraph (1).

(d) Nonapplication of sales price restrictions

The foregoing restrictions of this section shall not apply to—

- (1) sales for new or byproduct uses;
- (2) sales of peanuts and oilseeds for the extraction of oil;
- (3) sales for seed or feed if the sales will not substantially impair any price support program;
- (4) sales of commodities that have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage;
- (5) sales for the purpose of establishing claims arising out of contract or against persons who have committed fraud, misrepresentation, or other wrongful acts with respect to the commodity;
- (6) sales for export (excluding sales of upland cotton for export);
- (7) sales of wool; and
- (8) sales for other than primary uses.

(e) Distress, disaster, and livestock emergency areas

(1) In general

Notwithstanding the foregoing provisions of this section, the Corporation, on such terms

and conditions as the Secretary may consider in the public interest, may—

(A) make available any farm commodity or product thereof owned or controlled by the Corporation for use in relieving distress—

- (i) in any area in the United States (including the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic cause, if the President finds that the use will not displace or interfere with normal marketing of agricultural commodities; and
- (ii) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(B) donate or sell commodities in accordance with subchapter V of this chapter.

(2) Costs

Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making the commodity available under this subsection beyond the cost of the commodities to the Corporation in—

- (A) the storage of the commodity; and
- (B) the handling and transportation costs in making delivery of the commodity to designated agencies at one or more central locations in each State or other area.

(f) Efficient operations

(1) In general

Subject to paragraph (2), the foregoing restrictions of this section shall not apply to sales of commodities the disposition of which is desirable in the interest of the effective and efficient conduct of the operations of the Corporation because of the small quantities involved, or because of age, location or questionable continued storability of the commodity.

(2) Offsets

The sales shall be offset (if necessary) by the purchases of commodities as the Corporation determines is appropriate to prevent the sales from substantially impairing any price support program or unduly affecting market prices, except that the purchase price shall not exceed the Corporation's minimum sales price for the commodities for unrestricted use.

(3) Competitive bid basis

Subject to the sales price restrictions contained in this section, the Corporation may sell any basic agricultural commodity or storable nonbasic commodity on a competitive bid basis, if the sale is determined to be appropriate by the Secretary.

(g) Sales for export

For the purposes of this section, sales for export shall include—

- (1) sales made on condition that the identical commodities sold be exported; and
- (2) sales made on condition that commodities of the same kind and of comparable value or quantity be exported, either in raw or processed form.

(Oct. 31, 1949, ch. 792, title IV, §407, 63 Stat. 1055; July 10, 1954, ch. 469, title III, §308, formerly §301, 68 Stat. 458, renumbered §308, Aug. 3, 1977, Pub. L. 9588, title II, §211(a)(1), 91 Stat. 548; amended July 29, 1954, ch. 643, 68 Stat. 583; Jan. 28, 1956, ch. 14, 70 Stat. 6; Aug. 28, 1958, Pub. L. 85835, title I, §109, 72 Stat. 993; Aug. 7, 1961, Pub. L. 87127, 75 Stat. 293; Sept. 27, 1962, Pub. L. 87703, title III, §325(2), title IV, §404, 76 Stat. 631, 632; Apr. 11, 1964, Pub. L. 88297, title I, §104, title II, §204, 78 Stat. 175, 183; Sept. 11, 1964, Pub. L. 88585, §1, 78 Stat. 927; Nov. 3, 1965, Pub. L. 89321, title IV, §404, 79 Stat. 1197; Nov. 11, 1966, Pub. L. 89808, §3(e), 80 Stat. 1538; Aug. 11, 1968, Pub. L. 90475, §7, 82 Stat. 703; Oct. 11, 1968, Pub. L. 90559, §1(5), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91524, title IV, §409, title VI, §603, 84 Stat. 1367, 1377; Sept. 29, 1977, Pub. L. 95113, title IV, §408, title VI, §603, 91 Stat. 927, 939; Dec. 22, 1981, Pub. L. 9798, title V, §503, title XI, §§1103, 1111(a), 95 Stat. 1240, 1264, 1267; Aug. 26, 1983, Pub. L. 9888, §5, 97 Stat. 499; Dec. 23, 1985, Pub. L. 99198, title V, §503, title X, §1007, title XVII, §1763(b), 99 Stat. 1418, 1451, 1651; Aug. 11, 1988, Pub. L. 100387, title I, §101(b)(2), 102 Stat. 931; Nov. 23, 1988, Pub. L. 100707, title I, §109(a)(2), 102 Stat. 4708; Nov. 28, 1990, Pub. L. 101624, title XI, §1130, 104 Stat. 3509.)

REFERENCES IN TEXT

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (e)(1)(A)(ii), is Pub. L. 93288, May 22, 1974, 88 Stat. 143, as amended, known as The Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 308 of act July 10, 1954, ch. 469, title III, as added Sept. 21, 1959, Pub. L. 86341, title I, §13, 73 Stat. 609; amended Sept. 27, 1962, Pub. L. 87703, title II, §203, 76 Stat. 611, cited as a credit to this section, which enacted section 1697 of this title, was repealed by Pub. L. 89808, §2(D), Nov. 11, 1966, 80 Stat. 1535.

AMENDMENTS

1990—Pub. L. 101624 amended section generally, designating part of existing text as subsections (a) to (g), and as so designated, in subsec. (c), substituting provisions restricting sales of nonbasic or agricultural commodities at less than 115 percent of the levels of the current national price support level or the loan repayment level for provisions restricting such sales at less than 5 percent above the current support price, substituting provisions authorizing the sale of extra long staple cotton at any price determined appropriate for provisions that it sell at not less than 15 percent above the current support price, adding provisions relating to oilseeds, and wheat and feed grains, deleting provisions relating to sales of extra long staple cotton for unrestricted use and the authority of Secretary in carrying out this section.

1988—Pub. L. 100707, substituted “the Disaster Relief and Emergency Assistance Act” for “Public Law 875, Eighty-first Congress, as amended (42 U.S.C. 1855)”.

Pub. L. 100387 substituted provision authorizing the Commodity Credit Corporation to donate or sell commodities in accordance with subchapter V of this chapter for provision authorizing the Commodity Credit Corporation to make feed for livestock available to certain persons in certain areas during emergencies.

1985—Pub. L. 99198, §1007, temporarily reenacted substantially without change the amendments made in 1981 by section 1103 of Pub. L. 9798, which had estab-

lished a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges; designated such provisions as thus reenacted as cl. (A) of the proviso involved and added cl. (B) relating to the Secretary's permitting the repayment of loans at a loan rate less than the loan level determined for such crop; and reenacted, also without change, the amendments by Pub. L. 9798 which had the price at which purchases had to be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use. See Effective and Termination Dates of 1985 Amendment note below.

Pub. L. 99198, §1763(b), inserted provision giving the Commodity Credit Corporation authority to (1) make available feed for livestock to certain persons during emergencies in areas in which feed grains are normally produced and normally available for feed purposes, but in which they are unavailable because of a catastrophe described in the fourth sentence of this section, (2) make such feed available to such persons through feed dealers in the areas, (3) make such feed available at a price not less than the price prescribed in the fourth sentence of this section, and (4) bear any expenses incurred in connection with making such feed available to such persons under this sentence, including transportation and handling costs.

Pub. L. 99198, §503, temporarily reenacted substantially without change the amendments made in 1981 by section 503 of Pub. L. 9798, which provided that the Commodity Credit Corporation sell upland cotton for unrestricted use at the same prices as it sells cotton for export, but in no event at less than 115 per centum of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton, micronaire 3.5 through 4.9, adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges, and substituted “as it sells upland cotton” for “as it sells cotton” and “percent” for “per centum”; designated such provisions as thus reenacted as cl. (A), and added cl. (B) relating to the Secretary's permitting the repayment of loans at a loan rate less than the loan level determined for such crop. See Effective and Termination Dates of 1985 Amendment note below.

1983—Pub. L. 9888 inserted provision that, beginning Aug. 26, 1983, the Commodity Credit Corporation may sell extra long staple cotton for unrestricted use at such price levels as the Secretary determines appropriate to maintain and expand export and domestic markets for such cotton.

1981—Pub. L. 9798 temporarily reenacted without change the amendments made in 1977 by section 408 of Pub. L. 95113, which had established a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges, and which had changed the price at which purchases had to be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use, and the amendment made in 1977 by section 603 of Pub. L. 95113, which provided that the Commodity Credit Corporation sell upland cotton for unrestricted use at the same prices as it sells cotton for export, but in no event at less than 115 per centum of the loan rate for Strict Middling one and one-sixteenth inch upland cotton, micronaire 3.5 through 4.9, adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges, and substituted “may make available” for “shall make available” and “may

make feed" for "shall make feed". See Effective and Termination Dates of 1981 Amendment note below.

1977—Pub. L. 95113 temporarily reenacted without change the amendments made in 1970 by section 409 of Pub. L. 91524 which had established a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges, and which had changed the price at which purchases had to be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use, and reenacted the amendment made in 1970 by section 603 of Pub. L. 91524 with regard to the sale of upland cotton by the Corporation with the single change of substituting "at less than 115 per centum of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton" for "at less than 110 per centum of the loan rate for Middling one-inch upland cotton" in provisions setting the minimum price at which the Corporation shall sell upland cotton for unrestricted use. See Effective and Termination Dates of 1977 Amendment note below.

1970—Pub. L. 91524 temporarily established a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges, changed the price at which purchases must be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use, and provided for sale of upland cotton by the Corporation for unrestricted use at the same prices as it sold for export, in no event, however, at less than 110 percent of the loan rate for Middling one-inch cotton (micronaire 3.5 through 4.9) adjusted for such current market differentials reflecting grade, quality, location, and other value factors as deemed appropriate by the Secretary, plus reasonable carrying charges. See Effective and Termination Dates of 1970 Amendment note below.

1968—Pub. L. 90559 extended termination date for sale of upland cotton from July 31, 1970, to July 31, 1971.

Pub. L. 90475 required that notwithstanding any other provision of this section, effective Aug. 1, 1968, the Commodity Credit Corporation make available for sale for unrestricted use at current market prices a quantity of American grown extra long staple cotton equal to the specified amount, with the proviso that beginning with the marketing year for which the national marketing quota is not established pursuant to section 1347(b)(3) of this title, no sales shall be made at less than 115 percent of the loan rate for extra long staple cotton under section 1441(f) of this title, and required the Secretary to make adjustments in the quantities of cotton to be made available.

1966—Pub. L. 89808 inserted proviso to third sentence prohibiting, whenever carryover at end of any marketing year of a price supported agricultural commodity for which a voluntary adjustment program is in effect will be less than 25 per centum (35 per centum in the case of wheat) of the estimated export and domestic consumption of such commodity during such marketing year, sale of CCC stocks of such commodity during such year for unrestricted use at less than 115 per centum (120 per centum in the case of wheat whenever its carryover will be less than 25 per centum of such estimated export and domestic consumption) of the current price support loan plus reasonable carrying charges.

1965—Pub. L. 89321 required that notwithstanding any other provision of this section, for the period August 1, 1966, through July 31, 1970, (1) the Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same prices as it sells cotton for export, in no event, however, at less than 110 per centum of the loan rate, and (2) the Commodity Credit Corporation

shall sell or make available for unrestricted use at current market prices in each marketing year a quantity of upland cotton equal to the amount by which the production of upland cotton is less than the estimated requirements for domestic use and for export for such marketing year, permitted the Secretary to make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of part (2) of the foregoing sentence, and required such quantities of cotton as are required to be sold under such sentence to be offered for sale in an orderly manner and so as not to affect market prices unduly.

1964—Pub. L. 88585 provided that the Corporation, in providing feed to distressed areas, may charge not less than 75 percent of the current basic county support rate including the value of any applicable price support payment in kind, included the Virgin Islands within those areas where such feed can be made obtainable, authorized the Secretary to provide feed by feed dealers under such arrangement that the feed so furnished would be replaced with feed owned or controlled by the Corporation and sold to such persons, and inserted "or other area" after "one or more central locations in each State".

Pub. L. 88297, §104, inserted proviso that beginning Aug. 1, 1964, the Corporation may sell upland cotton for unrestricted use at not less than 105 per centum of the current loan rate for such cotton under section 1444(a) of this title plus reasonable carrying charges.

Pub. L. 88297, §204, temporarily substituted proviso that if wheat marketing allocation program is in effect, the current price for wheat shall be the support price for wheat not accompanied by marketing certificates for proviso prescribing support price for wheat accompanied by marketing certificate and sale of wheat to be accompanied by marketing certificate, respectively. See Effective and Termination Dates of 1964 Amendment note below.

1962—Pub. L. 87703 prescribed that a marketing certificate accompany the support price for wheat and wheat sold and authorized the Secretary to make Commodity Credit Corporation feed available, prior to Dec. 31, 1963, to milk producers to assure supply free of radioactive fallout contamination, respectively.

1961—Pub. L. 87127 empowered Corporation to sell, at not less than 75 percent of the current support price, feed owned or controlled by it to assist in the preservation and maintenance of foundation herds of cattle, sheep, and goats in such areas where the Secretary determines an emergency exists warranting such assistance.

1958—Pub. L. 85835 required Corporation to sell cotton for unrestricted use at not less than 15 per centum above support price plus reasonable carrying charges, and authorized Corporation to sell at market price a number of bales equal to that by which the national marketing quota is less than domestic consumption and exports.

1956—Act Jan. 28, 1956, included as "sales for export" sales made on condition that like commodities of comparable value or quantity be exported in raw or processed form.

1954—Act July 29, 1954, exempted from the minimum price requirement any sales where disposition is desirable in the interest of effective and efficient conduct of the Corporation's operations because of the small quantities involved or because of age, location, or questionable storability.

Act July 10, 1954, inserted provisions relating to use of farm commodities and products in relieving distress.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Section 101(c) of Pub. L. 100387 provided that:

“(1) This section and the amendments made by this section [enacting sections 1471 to 1471j of this title, amending this section, repealing sections 1433 and 2267 of this title, enacting provisions set out as a note under section 1421 of this title, and repealing provisions set out as notes under this section] shall become effective 15 days after the date of the enactment of this Act [Aug. 11, 1988].

“(2) The provisions of section 604(d), 605(c), 606(a)(2)(A), 606(e), 609(c), and 609(d) of the Agricultural Act of 1949, as added by subsection (a) [7 U.S.C. 1471b(d), 1471c(c), 1471d(a)(2)(A), (e), 1471g(c), (d)], shall apply only with respect to any livestock emergency in 1988.”

EFFECTIVE AND TERMINATION DATES OF 1985
AMENDMENT

Section 503 of Pub. L. 99198 provided that the amendment made by that section [with respect to Commodity Credit Corporation sales price restrictions for upland cotton] is effective only with respect to period beginning Aug. 1, 1978, and ending July 31, 1991.

Section 1007 of Pub. L. 99198 provided that the amendment made by that section [with respect to Commodity Credit Corporation sales price restrictions for wheat and feed grains] is effective only for marketing years for 1986 through 1990 crops.

EFFECTIVE AND TERMINATION DATES OF 1981
AMENDMENT

Section 503 of Pub. L. 9798 provided that the amendment made by that section [with respect to Commodity Credit Corporation sales price restrictions for upland cotton] is effective only with respect to period beginning Aug. 1, 1978, and ending July 31, 1986.

Section 1103 of Pub. L. 9798 provided that the amendment made by that section [with respect to Commodity Credit Corporation sales restrictions for wheat and feed grains] is effective only for marketing years for 1982 through 1985 crops.

Amendment by §1111(a) of Pub. L. 9798 effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE AND TERMINATION DATES OF 1977
AMENDMENT

Section 408 of Pub. L. 95113 provided that the amendment made by that section [which reenacted without change the amendment first made by section 409 of Pub. L. 91524 establishing a floor for sales of wheat and feed grains and changing price at which purchases must be made to offset sales in interest of efficient conduct of Corporation's operations] is effective only with respect to marketing years for 1978 through 1981 crops.

Section 603 of Pub. L. 95113 provided that the amendment made by that section [which reenacted with some changes (see 1977 Amendment note above) the amendment first made by section 603 of Pub. L. 91524 relating to sale of upland cotton by Corporation] is effective only with respect to period beginning Aug. 1, 1978, and ending July 31, 1982.

EFFECTIVE AND TERMINATION DATES OF 1970
AMENDMENT

Section 409 of Pub. L. 91524, as amended by Pub. L. 9386, §1(16), Aug. 10, 1973, 87 Stat. 230, provided that the amendment made by that section [establishing a floor for sales of wheat and feed grains and changing price at which purchases must be made to offset sales in interest of efficient conduct of Corporation's operations] is effective only with respect to marketing years for 1971 through 1977 crops.

Section 603 of Pub. L. 91524, as amended by Pub. L. 9386, §1(21), Aug. 10, 1973, 87 Stat. 235, provided that the amendment made by that section [covering sale of upland cotton by Corporation] is effective only with respect to period beginning Aug. 1, 1971, and ending July 31, 1978.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

EFFECTIVE AND TERMINATION DATES OF 1964
AMENDMENT

Section 204 of Pub. L. 88297, as amended by Pub. L. 89321, title V, §503(3), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90559, §1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective only with respect to marketing years beginning in calendar years 1964 through 1970.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SALE OF CORN TO ETHANOL PRODUCERS

Section 332 of Pub. L. 100387 provided that:

“(a) IN GENERAL.—Except as otherwise provided in this section and notwithstanding section 110(f) of the Agricultural Act of 1949 (7 U.S.C. 1445e(f)) or any other provision of law, if, during any month commencing after July 31, 1988, the average corn price (as determined under subsection (d)) exceeds the fuel conversion price (as defined in section 212 of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4005)), the Secretary of Agriculture may make available for sale to domestic producers of ethanol fuel, for the production of ethanol, not more than 12,000,000 bushels per month of corn owned by the Commodity Credit Corporation.

“(b) PRICE.—Corn shall be sold under this section at a price that is not more than such fuel conversion price, except that such price shall not be less than 110 percent of the basic county loan rate for corn, prior to any adjustment made under section 105C(a)(3) of the Agricultural Act of 1949 (7 U.S.C. 1444e(a)(3)).

“(c) MAXIMUM AMOUNT.—The total quantity of corn sold to any ethanol producer under this section may not exceed 2,000,000 bushels per month.

“(d) AVERAGE CORN PRICE.—The average corn price under this section shall be determined by the Secretary based on the average corn price in markets used for determinations made under clause (5) of the third sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)).

“(e) TERMS.—(1) The Secretary may not make corn or other commodities available under this section to any domestic producer of ethanol that uses in excess of 30,000,000 bushels of corn or comparable commodity annually in producing ethanol.

“(2) Domestic producers of ethanol fuel purchasing corn under this section shall agree not to resell such corn and to make available a quantity of feed byproducts equivalent to the quantity processed from such corn for sale to domestic livestock producers and feeders in a manner and subject to such terms and conditions as are approved by the Secretary.

“(f) TERMINATION.—The Secretary shall terminate any program established under this section no later than September 1, 1989. The Secretary shall terminate the program on an earlier date if the Secretary determines that—

“(1) such program is no longer necessary to maintain the economic viability of the ethanol industry; or

“(2) a sufficient supply of corn otherwise would not be available to fulfill estimated obligations of the Commodity Credit Corporation under emergency live-

stock feeding programs during the subsequent 180-day period.

“(g) OTHER COMMODITIES.—The Secretary may, at the request of a domestic producer of ethanol, substitute other feed grains (such as grain sorghum) for corn on an equitable basis, taking into account variations in the value of such commodities in the production of ethanol.”

EMERGENCY FEED ASSISTANCE

Pub. L. 98180, title III, §303, Nov. 29, 1983, 97 Stat. 1151, which authorized Secretary of Agriculture to make damaged corn available to assist eligible farmers and ranchers in areas adversely affected by drought, hot weather, or related disaster to preserve and maintain foundation herds of livestock and poultry, which corn was to be available until Sept. 30, 1984, or date, as determined by the Secretary, on which emergency no longer exists, was repealed by Pub. L. 100387, title I, §101(b)(5), Aug. 11, 1988, 102 Stat. 932, eff. 15 days after Aug. 11, 1988.

SALE OF FEED FOR LIVESTOCK IN EMERGENCY AREAS; DESIGNATION OF EMERGENCY AREA; CONDITIONS; PENALTY

Pub. L. 86299, Sept. 21, 1959, 73 Stat. 574, as amended by Pub. L. 88585, §3, Sept. 11, 1964, 78 Stat. 927, which authorized Secretary of Agriculture to sell feed grains to provide feed for livestock in any area determined by Secretary to be an emergency area, and provided penalty for any person disposing of such feed other than by feeding livestock owned by him, was repealed by Pub. L. 100387, title I, §101(b)(4), Aug. 11, 1988, 102 Stat. 931, eff. 15 days after Aug. 11, 1988.

FEED GRAIN; SALE BY CCC; TERMINATION DATE

Act Aug. 28, 1954, ch. 1041, title II, §208, 68 Stat. 901, authorized the Commodity Credit Corporation until March 1, 1955, to sell at the point of storage any feed grain owned by the Corporation at 10 per centum above the current support price for the commodity.

AUTHORIZATION FOR COMMODITY CREDIT CORPORATION TO SELL WHEAT AND CORN

Pub. L. 85683, Aug. 19, 1958, 72 Stat. 635, as authorizing Commodity Credit Corporation to purchase flour and cornmeal for donation and to sell, without regard to this section, an equivalent amount of wheat and corn, see note set out under section 1431 of this title.

SALE OF COMMODITIES FOR FOREIGN CURRENCIES

Sale of surplus agricultural commodities for foreign currencies, see section 1691 et seq., of this title.

EX. ORD. NO. 11336. DELEGATION OF AUTHORITY RELATING TO EMERGENCY LIVESTOCK FEED

Ex. Ord. No. 11336, Mar. 22, 1967, 32 F.R. 4489, provided: By virtue of the authority vested in me by section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. (a) The Secretary of Agriculture is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by clause (1) of the fifth sentence of section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), to the extent prescribed in subsection (b) of this section.

(b) Whenever the Secretary of Agriculture determines that the chronic economic distress of the needy members of an Indian tribe is materially increased by severe drought, flood, hurricane, blizzard, or other uncontrollable catastrophe affecting any reservation or other land designated for Indian use which is utilized by members of such tribe for grazing livestock, he may, under subsection (a) of this section, declare such reservation or other land to be an acute distress area because of unemployment or other economic reasons if he finds that the use of farm commodities or the products

thereof made available by the Commodity Credit Corporation for livestock feed in that area will not displace or interfere with normal marketing of agricultural commodities.

SEC. 2. Federal assistance in relieving distress, extended as a result of action by the Secretary of Agriculture under the authority delegated by section 1 of this order, shall terminate in each instance upon notice by the Secretary of Agriculture.

SEC. 3. In carrying out the provisions of this order the Secretary of Agriculture shall maintain liaison with the Secretary of the Interior and shall consult with the latter as may be appropriate.

SEC. 4. The declaration contained in the letter of the President to the Secretary of Agriculture, dated February 1, 1965, that reservation lands in Arizona, Utah and New Mexico, which are grazed in common by Indian tribes, are an acute distress area shall continue in effect until January 1, 1968, or until such earlier date as may be fixed by notice of the Secretary of Agriculture published in the Federal Register.

LYNDON B. JOHNSON.

CROSS REFERENCES

Agricultural commodity set-aside, dispositions not subject to pricing limitation, see section 1744 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359a, 1427a, 1428, 1444, 1446, 1446e, 1744 of this title; title 50 App. section 2093.

§14271. Quality requirements for Commodity Credit Corporation owned grain

(a) Establishment of minimum standards

Notwithstanding any other provision of law, the Secretary shall establish minimum quality standards that shall apply to grain that is deposited for storage for the account of the Commodity Credit Corporation. In establishing such standards, the Secretary shall take into consideration factors related to the ability of grain to withstand storage and assurance of acceptable end-use performance.

(b) Inspection of grain acquisitions

The Commodity Credit Corporation shall utilize Federal Grain Inspection Service approved procedures to inspect and evaluate the condition of the grain it acquires from producers. In no case shall this section require the use of an official inspection unless the producer so requests.

(Oct. 31, 1949, ch. 792, title IV, §407A, as added Nov. 28, 1990, Pub. L. 101624, title XX, §2012, 104 Stat. 3933.)

§1427a. Reserve inventories for alleviation of distress of natural disaster

(a) Establishment, maintenance and disposal by Secretary; amount and nature of reserve

Notwithstanding any other provision of law, the Secretary of Agriculture may under the provisions of this Act establish, maintain, and dispose of a separate reserve of inventories of not to exceed 75 million bushels of wheat, feed grains, and soybeans for the purpose of alleviating distress caused by a natural disaster.

Such reserve inventories may include such quantities of grain that the Secretary deems needed to provide for the alleviation of distress as the result of a natural disaster.

(b) Acquisition of commodities through price support program

The Secretary may acquire such commodities through the price support program. However, if the Secretary determines that no wheat, feed grains, or soybeans are available through the price support program at locations where they may be economically utilized to alleviate distress caused by a natural disaster, the Secretary is authorized to purchase through the facilities of the Commodity Credit Corporation such wheat, feed grains, soybeans, hay, or other livestock forages as the Secretary deems necessary for disposition in accordance with the authority provided in subsection (d) of this section. The Secretary may acquire wheat, feed grains, soybeans, hay, or other livestock forages at such locations, at such times, and in such quantities as the Secretary finds necessary and appropriate and may pay such transportation and other costs as may be required to permit disposition of such wheat, feed grains, soybeans, hay, and other livestock forages under subsection (d) of this section.

(c) Prerequisites for sale or disposition of commodities in reserve

Except when a state of emergency has been proclaimed by the President or by concurrent resolution of Congress declaring that such reserves should be disposed of, the Secretary shall not offer any commodity in the reserve for sale or disposition.

(d) Additional authorization for disposition of commodities to relieve distress or for civil defense emergencies

The Secretary is also authorized to dispose of such commodities only for (1) use in relieving distress (A) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands of the United States, (B) in connection with any major disaster or emergency determined by the President to warrant assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act (88 Stat. 143, as amended; 42 U.S.C. 5121), and (C) in connection with any emergency determined by the Secretary to warrant assistance under section 1427 of this title, the Act of September 21, 1959 (73 Stat. 574, as amended; 7 U.S.C. 1427 note), or section 2267¹ of this title; or (2) use in connection with a state of civil defense emergency as proclaimed by the President or by concurrent resolution of the Congress in accordance with title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5195 et seq.].

(e) Sale at equivalent prices for maintenance of reserve

The Secretary may sell at an equivalent price, allowing for the customary location and grade price differentials, substantially equivalent quantities in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such reserve.

¹See References in Text note below.

(f) Utilization of Commodity Credit Corporation and usual and customary channels, etc., of trade and commerce

The Secretary may use the Commodity Credit Corporation to the extent feasible to fulfill the purposes of this section; and to the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

(g) Rules and regulations

The Secretary may issue such rules and regulations as may be necessary to carry out the provisions of this section.

(h) Authorization of appropriations

There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(Pub. L. 91524, title VIII, §813, as added Pub. L. 9386, §1(27)(B), Aug. 10, 1973, 87 Stat. 239; amended Pub. L. 95113, title XI, §1103, Sept. 29, 1977, 91 Stat. 953; Pub. L. 9798, title X, §1003, Dec. 22, 1981, 95 Stat. 1260; Pub. L. 100707, title I, §109(b), Nov. 23, 1988, 102 Stat. 4708; Pub. L. 103337, div. C, title XXXIV, §3412(b)(3), Oct. 5, 1994, 108 Stat. 3111.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 91524, Nov. 30, 1970, 84 Stat. 1358, known as the Agricultural Act of 1970. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

The Disaster Relief and Emergency Assistance Act and The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d), are Pub. L. 93288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. Title VI of the Act is classified generally to subchapter IVB (§5195 et seq.) of chapter 68 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

Act of September 21, 1959, referred to in subsec. (d), is Pub. L. 86299, Sept. 21, 1959, 73 Stat. 574, as amended, which is set out as a note under section 1427 of this title.

Section 2267 of this title, referred to in subsec. (d), was repealed by Pub. L. 100387, title I, §101(b)(1), Aug. 11, 1988, 102 Stat. 931.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103337 substituted “title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act” for “the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 22512297)”.

1988—Subsec. (d). Pub. L. 100707 substituted “and Emergency Assistance Act” for “Act of 1974”.

1981—Subsec. (a). Pub. L. 9798 substituted “may” for “shall” wherever appearing.

Subsec. (b). Pub. L. 9798 substituted “Secretary may acquire such commodities” for “Secretary shall acquire such commodities”.

1977—Subsec. (b). Pub. L. 95113, §1103(a), inserted provisions authorizing Secretary to act if it is determined that no wheat, feed grains, or soybeans are available through the price support program at locations where they can be economically utilized to alleviate distress caused by a natural disaster.

Subsec. (d). Pub. L. 95113, §1103(b), substituted “(A) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands of the United States, (B) in connection with any major disaster or emergency determined by the President to warrant assistance by the Federal Government under the Disaster Relief Act of 1974, and (C) in connection with any emergency determined by the Secretary to warrant assistance under section 1427 of this title, the Act of September 21, 1959, or section 2267 of this title” for “(a) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands and (b) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended”.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 9798 effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95113, set out as a note under section 1307 of this title.

§1428. Definitions

For the purposes of this Act—

(a) A commodity shall be considered storable upon determination by the Secretary that, in normal trade practice, it is stored for substantial periods of time and that it can be stored under the price-support program without excessive loss through deterioration or spoilage or without excessive cost for storage for such periods as will permit its disposition without substantial impairment of the effectiveness of the price-support program.

(b) A “cooperator” with respect to any basic agricultural commodity shall be a producer on whose farm the acreage planted to the commodity does not exceed the farm acreage allotment for the commodity under subchapter II of chapter 35 of this title, or in the case of price support for corn or wheat to a producer outside the commercial corn-producing or wheat-producing area, a producer who complies with conditions of eligibility prescribed by the Secretary: *Provided*, That for upland cotton a cooperator shall be a producer on whose farm the acreage planted to such cotton does not exceed the cooperator percentage, which shall be in the case of the 1966 crop, 87.5 per centum of such farm acreage allotment and, in the case of each of the 1967 through 1970 crops, such percentage, not less than 87.5 or more than 100 per centum, of such farm acreage allotment as the Secretary may specify for such crop, except that in the case of small farms (i.e. farms on which the acreage allotment is 10 acres or less, or on which the projected farm yield times the acreage allotment is 3,600 pounds or less, and the acreage allotment has not been reduced under section 1344(m) of this title) the acreage of cotton on the farm shall not be required to be reduced below the farm acreage allotment: *And provided*, That for the 1971 through 1977 crops of upland cotton a cooperator shall be a producer on a farm on which a farm base acre-

age allotment has been established who has set aside the acreage required under section 1444(e) of this title: *Provided further*, That for the 1976 through 1981 crops of rice, a cooperator shall be a person who produces rice on a farm for which a farm acreage allotment has been established or to which a producer acreage allotment has been allocated and, if a set-aside is in effect, who has set aside any acreage required under section 1441(g) of this title. *Provided further*, That for the 1978 through 1981 crops of upland cotton, a cooperator shall be a producer on a farm who has set aside the acreage required under section 1444(f) of this title. For the purpose of this subsection, a producer shall not be deemed to have exceeded his farm acreage allotment unless such producer knowingly exceeded such allotment.

(c) A “basic agricultural commodity” shall mean corn, cotton, peanuts, rice, tobacco, and wheat, respectively.

(d) A “nonbasic agricultural commodity” shall mean any agricultural commodity other than a basic agricultural commodity.

(e) The “supply percentage” as to any commodity shall be the percentage which the estimated total supply is of the normal supply as determined by the Secretary from the latest available statistics of the Department of Agriculture as of the beginning of the marketing year for the commodity.

(f) “Total supply” of any nonbasic agricultural commodity for any marketing year shall be the carry-over at the beginning of such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports of the commodity into the United States during such marketing year.

(g) “Carry-over” of any nonbasic agricultural commodity for any marketing year shall be the quantity of the commodity on hand in the United States at the beginning of such marketing year, not including any part of the crop or production of such commodity which was produced in the United States during the calendar year then current. The carryover of any such commodity may also include the quantity of such commodity in processed form on hand in the United States at the beginning of such marketing year, if the Secretary determines that the inclusion of such processed quantity of the commodity is necessary to effectuate the purposes of this Act.

(h) “Normal supply” of any nonbasic agricultural commodity for any marketing year shall be (1) the estimated domestic consumption of the commodity for the marketing year for which such normal supply is being determined, plus (2) the estimated exports of the commodity for such marketing year, plus (3) an allowance for carry-over. The allowance for carry-over shall be the average carry-over of the commodity for the five marketing years immediately preceding the marketing year in which such normal supply is determined, adjusted for surpluses or deficiencies caused by abnormal conditions, changes in marketing conditions, or the operation of any agricultural program. In determining normal supply, the Secretary shall make such adjust-

ments for current trends in consumption and for unusual conditions as he may deem necessary.

(i) "Marketing year" for any nonbasic agricultural commodity means any period determined by the Secretary during which substantially all of a crop or production of such commodity is normally marketed by the producers thereof.

(j) Any term defined in the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.], shall have the same meaning when used in this Act.

(k)(1) Reference made in sections 1422, 1423, 1426, 1427, and 1431 of this title to the terms "support price", "level of support", and "level of price support" shall be considered to apply as well to the loan and purchase level for wheat, feed grains, upland cotton, extra long staple cotton, honey, oilseeds and rice under this Act.

(2) References made to the terms "price support", "price support operations", and "price support program" in such sections and in section 1421(a) of this title shall be considered as applying as well to loan and purchase operations for wheat, feed grains, upland cotton, extra long staple cotton, honey, oilseeds and rice under this Act.

(3) Notwithstanding any other provision of law, this subsection shall be effective only for the 1991 through 1995 crops of wheat, feed grains, upland cotton, extra long staple cotton, honey, oilseeds and rice.

(l) "Producer" shall include a person growing hybrid seed under contract. In determining the interest of a grower of hybrid seed in a crop, the Secretary shall not take into consideration the existence of a hybrid seed contract.

(Oct. 31, 1949, ch. 792, title IV, §408, 63 Stat. 1055; Aug. 28, 1954, ch. 1041, title II, §209, 68 Stat. 901; Nov. 3, 1965, Pub. L. 89321, title IV, §402(b), 79 Stat. 1197; Oct. 11, 1968, Pub. L. 90559, §1(4), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91524, title IV, §408, title VI, §§604, 607, 84 Stat. 1367, 1378; Aug. 10, 1973, Pub. L. 9386, §1(22), 87 Stat. 235; Feb. 16, 1976, Pub. L. 94214, title III, §§303, 304, 90 Stat. 187, 188; Sept. 29, 1977, Pub. L. 95113, title IV, §407, title VI, §604(a), (b), title VII, §§704, 705, 91 Stat. 927, 939, 944; Dec. 22, 1981, Pub. L. 9798, title XI, §1104, 95 Stat. 1264; Dec. 23, 1985, Pub. L. 99198, title X, §1018, 99 Stat. 1459; Nov. 28, 1990, Pub. L. 101624, title XI, §1131, 104 Stat. 3511.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section 1441(g) of this title, referred to in subsec. (b), was omitted from the Code.

The Agricultural Adjustment Act of 1938, referred to in subsec. (j), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

AMENDMENTS

1990—Subsec. (k). Pub. L. 101624, §1131(a), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows:

"(1) Reference made in sections 1422, 1423, 1426, 1427, and 1431 of this title to the terms 'support price', 'level of support', and 'level of price support' shall be consid-

ered to apply as well to the loan and purchase level for wheat, feed grains, upland cotton, and rice under this Act.

"(2) References made to the terms 'price support', 'price support operations', and 'price support program' in such sections and in section 1421(a) of this title shall be considered as applying as well to loan and purchase operations for wheat, feed grains, upland cotton, and rice under this Act."

Subsecs. (l), (m). Pub. L. 101624, §1131(b), added subsec. (l) and struck out former subsecs. (l) and (m). See 1977 Amendment note below.

1985—Subsec. (k). Pub. L. 99198 temporarily amended subsec. (k) generally, designating provisions before the semicolon as par. (1) and substituting "loan and purchase level" for "level of loans and purchases", and designating provisions after the semicolon as par. (2). See Effective and Termination Dates of 1985 Amendment note below.

1981—Subsec. (k). Pub. L. 9798 temporarily substituted "Reference made" for "References made" and inserted reference to section 1427 of this title and to upland cotton and rice. See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (b). Pub. L. 95113, §§604(a), 704, inserted proviso defining cooperator for purposes of the 1978 through 1981 crops of upland cotton as a producer on a farm who has set aside the acreage required under section 1444(f) of this title and substituted "1976 through 1981 crops of rice" for "1976 and 1977 crops of rice" in proviso defining cooperator for purposes of specific crops of rice.

Subsecs. (k) to (m). Pub. L. 95113, §§407, 604(b), 705, temporarily amended subsecs. (k) to (m) generally. See Effective and Termination Dates of 1977 Amendment note below.

1976—Subsec. (b). Pub. L. 94214, §303, inserted proviso defining "cooperator" for 1976 and 1977 crops of rice.

Subsec. (m). Pub. L. 94214, §304, temporarily added subsec. (m). See Effective and Termination Dates of 1976 Amendment note below.

1973—Subsec. (b). Pub. L. 9386 substituted "1971 through 1977" for "1971, 1972, and 1973" in proviso requiring that for such designated crops of upland cotton a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title.

1970—Subsec. (b). Pub. L. 91524, §604, inserted proviso that, for the 1971, 1972, and 1973 crops of upland cotton, a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title.

Subsecs. (k), (l). Pub. L. 91524, §§408, 607, temporarily added subsecs. (k) and (l). See Effective and Termination Dates of 1970 Amendment note below.

1968—Subsec. (b). Pub. L. 90559 provided for a one year extension, substituting "1967 through 1970" for "1967, 1968, and 1969".

1965—Subsec. (b). Pub. L. 89321 temporarily inserted proviso. See Effective and Termination Dates of 1965 Amendment note below.

1954—Subsec. (b). Act Aug. 28, 1954, inserted "or wheat" after "corn", and "or wheat-producing" after "corn producing".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 1018 of Pub. L. 99198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1981
AMENDMENT

Section 1104 of Pub. L. 9798 provided that the amendment made by that section is effective only for 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1977
AMENDMENT

Sections 407, 604(b), and 705 of Pub. L. 95113 provided that the amendments made by those sections are effective for 1978 through 1981 crops.

EFFECTIVE AND TERMINATION DATES OF 1976
AMENDMENT

Section 304 of Pub. L. 94214 provided that the amendment made by that section is effective only with respect to 1976 and 1977 crops of rice.

EFFECTIVE AND TERMINATION DATES OF 1970
AMENDMENT

Sections 408 and 607 of Pub. L. 91524, as amended by section 1(15), (22) of Pub. L. 9386, provided that the amendments made by those sections are effective only with respect to 1971 through 1977 crops.

EFFECTIVE AND TERMINATION DATES OF 1965
AMENDMENT

Section 402(b) of Pub. L. 89321, as amended by Pub. L. 90559, §1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective only for 1966 through 1970 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1444 of this title.

§1429. Determinations of Secretary as final and conclusive

Determinations made by the Secretary under this Act shall be final and conclusive: *Provided*, That the scope and nature of such determinations shall not be inconsistent with the provisions of the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.].

(Oct. 31, 1949, ch. 792, title IV, §412, 63 Stat. 1057.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in text, is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

§1430. Retroactive effect

This Act shall not be effective with respect to price support operations for any agricultural commodity for any marketing year or season commencing prior to January 1, 1950, except to the extent that the Secretary of Agriculture shall, without reducing price support theretofore undertaken or announced, elect to apply the provisions of this Act.

(Oct. 31, 1949, ch. 792, title IV, §413, 63 Stat. 1057.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricul-

tural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§1431. Disposition of commodities to prevent waste

(a) Eligible recipients; barter; estimates; reprocessing and other charges

In order to prevent the waste of commodities whether in private stocks or acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children, in the assistance of needy persons, and in charitable institutions, including hospitals and facilities, to the extent that they serve needy persons (including infants and children). In the case of clause (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under clause (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this subsection, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency, or to the designated State or private agency. In addition, in the case of food commodities disposed of under this subsection, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible. For the purpose of this subsection the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States. Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition. Notwith-

standing any other provision of law, such dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.].

(b) Furnishing of eligible commodities for carrying out programs of assistance in developing and friendly countries; availability of eligible commodities for nonprofit and voluntary agencies and cooperatives

(1) The Secretary, subject to the requirements of paragraph (10), may furnish eligible commodities for carrying out programs of assistance in developing countries and friendly countries under titles II and III of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1721 et seq., 1727 et seq.] and under the Food for Progress Act of 1985 [7 U.S.C. 1736o], as approved by the Secretary, and for such purposes as are approved by the Secretary. To ensure that the furnishing of commodities under this subsection is coordinated with and complements other United States foreign assistance, assistance under this subsection shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.].

(2) As used in this subsection, the term “eligible commodities” means—

(A) dairy products, wheat, rice, feed grains, and oilseeds acquired by the Commodity Credit Corporation through price support operations, and the products thereof, that the Secretary determines meet the criteria specified in subsection (a) of this section; and

(B) such other edible agricultural commodities as may be acquired by the Secretary or the Commodity Credit Corporation in the normal course of operations and that are available for disposition under this subsection, except that no such commodities may be acquired for the purpose of their use under this subsection.

(3)(A) Commodities may not be made available for disposition under this subsection in amounts that (i) will, in any way, reduce the amounts of commodities that traditionally are made available through donations to domestic feeding programs or agencies, or (ii) will prevent the Secretary from fulfilling any agreement entered into by the Secretary under a payment-in-kind program under this Act or other Acts administered by the Secretary.

(B)(i) The requirements of section 403(a) of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1733(a)] shall apply with respect to commodities furnished under this subsection. Commodities may not be furnished for disposition to any country under this subsection except on determinations by the Secretary that—

(I) the receiving country has the absorptive capacity to use the commodities efficiently and effectively; and

(II) such disposition of the commodities will not interfere with usual marketings of the United States, nor disrupt world prices of agricultural commodities and normal patterns of commercial trade with developing countries.

(ii) The requirement for safeguarding usual marketings of the United States shall not be used to prevent the furnishing under this subsection of any eligible commodity for use in countries that—

(I) have not traditionally purchased the commodity from the United States; or

(II) do not have adequate financial resources to acquire the commodity from the United States through commercial sources or through concessional sales arrangements.

(C) The Secretary shall take reasonable precautions to ensure that—

(i) commodities furnished under this subsection will not displace or interfere with sales that otherwise might be made; and

(ii) sales or barter under paragraph (7) will not unduly disrupt world prices of agricultural commodities nor normal patterns of commercial trade with friendly countries.

(D) If eligible commodities are made available under this subsection to a friendly country, nonprofit and voluntary agencies and cooperatives shall also be eligible to receive commodities for food aid programs in the country.

(4) Agreements may be entered into under this subsection to provide eligible commodities in installments over an extended period of time. In agreements with recipients of eligible commodities under this subsection (including nonprofit and voluntary agencies or cooperatives), subject to the availability of commodities each fiscal year, the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection.

(5)(A) Section 406 of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1736] shall apply to the commodities furnished under this subsection.

(B) The Commodity Credit Corporation may pay the processing and domestic handling costs incurred, as authorized under this subsection, in the form of eligible commodities, as defined in paragraph (2)(A), if the Secretary determines that such in-kind payment will not disrupt domestic markets.

(6) The cost of commodities furnished under this subsection, and expenses incurred under section 406 of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1736] in connection with those commodities, shall be in addition to the level of assistance programmed under that Act [7 U.S.C. 1691 et seq.] and shall not be considered expenditures for international affairs and finance.

(7) Eligible commodities furnished under this subsection may be sold or bartered only with the approval of the Secretary and solely as follows:

(A) Sales and barter that are incidental to the donation of the commodities or products.

(B) Sales and barter to finance the distribution, handling, and processing costs of the donated commodities or products in the importing country or in a country through which such commodities or products must be transhipped, or other activities in the importing country that are consistent with providing food assistance to needy people.

(C) Sales and barter of commodities and products furnished to intergovernmental agencies or organizations, insofar as they are consistent with normal programming procedures in the distribution of commodities by those agencies or organizations.

(D)(i) Sales of commodities and products furnished to nonprofit and voluntary agencies, or cooperatives, for food assistance under agreements that provide for the use, by the agency or cooperative, of foreign currency proceeds generated from such sale of commodities or products for the purposes established in clause (ii) of this subparagraph.

(ii) Foreign currencies generated from partial or full sales or barter of commodities by a nonprofit and voluntary agency or cooperative shall be used—

(I) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this section; and

(II) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.

In addition, foreign currency proceeds generated in Poland may also be used by governmental and nongovernmental agencies or cooperatives for eligible activities approved by the joint commission established pursuant to section 2226 of the American Aid to Poland Act of 1988 and by the United States chief of diplomatic mission in Poland that would improve the quality of life of the Polish people and would strengthen and support the activities of governmental or private, nongovernmental independent institutions in Poland. Activities eligible under the preceding sentence include—

(I) any project undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped or orphaned children;

(II) any project for the reconstruction, renovation, or maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland;

(III) any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture; and

(IV) the Polish Catholic Episcopate's Rural Water Supply Foundation.

(iii) Except as otherwise provided in clause (v), such agreements, taken together for each fiscal year, shall provide for sales of commodities and products for foreign currency proceeds in amounts that are, in the aggregate, not less than 10 percent of the aggregate value of all commodities and products furnished, or the minimum tonnage required, whichever is greater, for carrying out programs of assistance under this subsection in such fiscal year. The minimum allocation requirements of this clause apply with respect to commodities and products made available under this subsection for carrying out programs of assistance under

titles II and III of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1721 et seq., 1727 et seq.], and not with respect to commodities and products made available to carry out the Food for Progress Act of 1985 [7 U.S.C. 1736o].

(iv) Foreign currency proceeds generated from the sale of commodities or products under this subparagraph shall be expended within the country of origin within one year of acquisition of such currency, except that the Secretary may permit the use of such proceeds (I) in countries other than the country of origin as necessary to expedite the transportation of commodities and products furnished under this subsection, (II) after one year of acquisition as appropriate to achieve the purposes of clause (i), and (III) in a country other than the country of origin, if such proceeds are generated in a currency generally accepted in such other country.

(v) The provisions of clause (iii) of this subparagraph establishing minimum annual allocations for sales and use of proceeds shall not apply to the extent that there have not been sufficient requests for such sales and use of proceeds nor to the extent required under paragraph (3).

(E) Sales and barter to cover expenses incurred under paragraph (5)(a).

(F) The provisions of sections 403(i) and 407(c) of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1733(i), 1736a(c)] shall apply to donations, sales and barter of eligible commodities under this subsection.

No portion of the proceeds or services realized from sales or barter under this paragraph may be used to meet operating and overhead expenses, except as otherwise provided in subparagraph (C) and except for personnel and administrative costs incurred by local cooperatives.

(8)(A) To the maximum extent practicable, expedited procedures shall be used in the implementation of this subsection.

(B) The Secretary shall be responsible for regulations governing sales and barter, and the use of foreign currency proceeds, under paragraph (7) of this subsection that will provide reasonable safeguards to prevent the occurrence of abuses in the conduct of activities provided for in paragraph (7).

(C)(i) If a proposal to make eligible commodities available under this subsection is submitted by a nonprofit and voluntary agency or cooperative with the concurrence of the appropriate United States Government field mission or if a proposal to make such commodities available to a nonprofit and voluntary agency or cooperative is submitted by the United States Government field mission, a decision on the proposal shall be provided within 45 days after receipt by the Agency for International Development office in Washington, D.C. The response shall detail the reasons for approval or denial of the proposal. If the proposal is denied, the response shall specify the conditions that would need to be met for the proposal to be approved.

(ii) Not later than 30 days before the issuance of a final guideline issued to carry out this subsection, the Secretary shall—

(I) provide notice of the proposed guideline to nonprofit and voluntary agencies and cooperatives that participate in programs under this subsection, and other interested persons, that the proposed guideline is available for review and comment;

(II) make the proposed guideline available, on request, to nonprofit and voluntary agencies, cooperatives, and others; and

(III) take any comments received into consideration before the issuance of the final guideline.

(iii) Not later than 15 days after receipt of a call forward from a field mission for commodities or products that meets the requirements of this subsection, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.

(9)(A) Each recipient of commodities and products approved for sale or barter under paragraph (7) shall report to the Secretary information with respect to the items required to be included in the Secretary's report pursuant to clauses (i) through (iv) of subparagraph (B). Reports pursuant to this subparagraph shall be submitted in accordance with regulations of the Secretary. Such regulations shall require at least one report annually, to be submitted not later than December 31 following the end of the fiscal year in which the commodities and products are received; except that a report shall not be required with respect to fiscal year 1985.

(B) Not later than February 15, 1987, and annually thereafter, the Secretary shall report to the Congress on sales and barter, and use of foreign currency proceeds, under paragraph (7) during the preceding fiscal year. Such report shall include information on—

(i) the quantity of commodities furnished for such sale or barter;

(ii) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in such fiscal year;

(iii) how such funds and services were used;

(iv) the amount of foreign currency proceeds that were used under agreements under subparagraph (D) of paragraph (7) in such fiscal year, and the percentage of the quantity of all commodities and products furnished under this subsection in such fiscal year such use represented;

(v) the Secretary's best estimate of the amount of foreign currency proceeds that will be used, under agreements under subparagraph (D) of paragraph (7), in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the Secretary estimates will be furnished under this subsection in each such fiscal year;

(vi) the effectiveness of such sales, barter, and use during such fiscal year in facilitating the distribution of commodities and products under this subsection;

(vii) the extent to which sales, barter, or uses—

(I) displace or interfere with commercial sales of United States agricultural commod-

ities and products that otherwise would be made,

(II) affect usual marketings of the United States,

(III) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries, or

(IV) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this subsection; and

(viii) the Secretary's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under paragraph (7).

(10)(A) Subject to the limitations established under paragraph (3), the Secretary shall make available for disposition under this subsection in each of the fiscal years 1986 through 1990 not less than the minimum quantities of eligible commodities specified in subparagraph (B).

(B) The minimum quantity of eligible commodities that shall be made available for disposition under this subsection in each fiscal year shall be—

(i) 500,000 metric tons of wheat, rice, feed grains, and oilseeds from the Corporation's uncommitted stocks, or an amount equal to 10 percent of the Corporation's uncommitted stocks of wheat, rice, feed grains, and oilseeds as of the end of such fiscal year (as estimated by the Secretary), whichever is less; and

(ii) 10 percent of the Corporation's uncommitted stocks of dairy products, but not less than 150,000 metric tons of such products to the extent that uncommitted stocks are available.

The Secretary shall make such estimation of expected year-end levels of the Corporation's uncommitted stocks prior to the beginning of the fiscal year or, in the case of fiscal year 1986, prior to March 31, 1986. The Secretary's determination as to the amount of the Corporation's stocks that shall be made available for disposition under this subsection for such fiscal year shall be published in the Federal Register, along with a breakdown by kind of commodity and the quantity of each kind of commodity that shall be made available, before the beginning of such fiscal year or, in the case of fiscal year 1986, March 31, 1986.

(C) Of the aggregate amounts made available each fiscal year pursuant to both clauses (i) and (ii) of subparagraph (B), not less than 75,000 metric tons shall be made available to carry out the Food for Progress Act of 1985 [7 U.S.C. 1736*o*].

(D)(i) The Secretary—

(I) may waive the minimum quantity requirements of subparagraphs (A) and (B) for a fiscal year to the extent that the Secretary determines and reports to Congress that there are not sufficient requests for eligible commodities under this subsection for such fiscal year, except that the waiver authority of this subclause may not be used to waive the minimum quantity requirement of subparagraph (C);

(II) may waive the minimum quantity requirement of subparagraph (C) in accordance

with subsection (f)(2) of the Food for Progress Act of 1985 [7 U.S.C. 1736o(f)(2)]; and

(III) may waive the minimum quantity requirements of subparagraphs (A), (B), and (C) for a fiscal year, if the Secretary determines that the restrictions on the furnishing of commodities under paragraph (3) prevent the making available of commodities in such quantities.

(ii) For any fiscal year in which the minimum levels of uncommitted Commodity Credit Corporation stocks specified in subparagraph (B) are not made available and during which any requests for commodities under this subsection are rejected, the Secretary shall provide a detailed, written explanation to Congress, at the end of such fiscal year, of the reasons for the rejections of such requests.

(11)(A) The Secretary may furnish eligible commodities under this subsection in connection with (i) concessional sales agreements entered into under title I of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1701 et seq.] or other statutes, or (ii) agricultural export bonus or promotion programs carried out under the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.] or other statutes.

(B) Eligible commodities may be furnished by the Secretary under this subsection in connection with agreements by recipient countries to acquire additional agricultural commodities from the United States through commercial arrangements.

(C) The amount of any commodity furnished under subparagraphs (A) and (B) of this paragraph in any fiscal year shall not be considered for the purpose of determining whether the requirements of paragraph (10)(A) of this subsection have been met during such fiscal year.

(12) There is authorized to be appropriated for fiscal year 1988, in addition to any other funds authorized to be appropriated, \$1,000,000 for technical assistance for the sale or barter of commodities under paragraph (7) to strengthen non-profit private organizations and cooperatives in the Philippines.

(c) Ultra-high temperature processed fluid milk; two-year pilot program; report to Congress

To prevent the waste of dairy products acquired by the Commodity Credit Corporation through price support operations, the Corporation, on such terms and under such regulations as the Secretary may prescribe, shall carry out a two-year pilot program under which the Corporation shall barter or exchange such dairy products, to the extent they are available, for forty thousand metric tons (consisting of twenty thousand metric tons in each year of the pilot program) of ultra-high temperature processed fluid milk. Such barter or exchange shall be effected on the basis of competitive bids submitted by domestic processors. The processed milk acquired by the Corporation under this subsection shall be available for donation through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Corporation may pay, with respect to such processed milk donated under this subsection, transporting, handling, and other

charges, including the cost of overseas delivery. Any donations under this subsection shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.] and shall be in addition to the level of assistance programmed under that Act. The pilot program shall be implemented by the Corporation as soon as practicable after April 10, 1984, and shall be operated for a period of two years after its implementation. Upon completion of the pilot program, the Secretary shall submit a report to Congress on its operation.

(Oct. 31, 1949, ch. 792, title IV, §416, 63 Stat. 1058; July 10, 1954, ch. 469, title III, §309, formerly §302, 68 Stat. 458, renumbered §309, Aug. 3, 1977, Pub. L. 9588, title II, §211(a)(1), 91 Stat. 548; amended May 28, 1956, ch. 327, title II, §212, 70 Stat. 203; July 2, 1958, Pub. L. 85483, §1, 72 Stat. 286; Aug. 26, 1954, ch. 937, title IV, §402, 68 Stat. 843, as amended July 24, 1959, Pub. L. 86108, ch. II, §205(c), 73 Stat. 250; Sept. 27, 1962, Pub. L. 87703, title II, §202, 76 Stat. 611; Oct. 8, 1964, Pub. L. 88638, §4, 78 Stat. 1038; Nov. 11, 1966, Pub. L. 89808, §3(c), 80 Stat. 1538; Apr. 17, 1970, Pub. L. 91233, 84 Stat. 199; Oct. 30, 1972, Pub. L. 92603, title IV, §411(g), 86 Stat. 1492; Sept. 29, 1977, Pub. L. 95113, title XIII, §1302(a)(2), 91 Stat. 979; Sept. 8, 1982, Pub. L. 97253, title I, §110, 96 Stat. 766; Apr. 10, 1984, Pub. L. 98258, title V, §502, 98 Stat. 137; Aug. 8, 1985, Pub. L. 9983, title X, §1007, 99 Stat. 271; Dec. 23, 1985, Pub. L. 99198, title XI, §§1109, 1129, 99 Stat. 1467, 1486; Mar. 20, 1986, Pub. L. 99260, §16, 100 Stat. 55; Dec. 22, 1987, Pub. L. 100203, title I, §1503, 101 Stat. 133028; Apr. 4, 1988, Pub. L. 100277, §§15, 102 Stat. 67, 68; Aug. 23, 1988, Pub. L. 100418, title II, §2225, 102 Stat. 1337; Nov. 5, 1990, Pub. L. 101513, title V, §562(part), 104 Stat. 2032; Nov. 28, 1990, Pub. L. 101624, title XV, §§1514, 1575, title XVII, §1771(b)(2), 104 Stat. 3662, 3702, 3807; Dec. 13, 1991, Pub. L. 102237, title III, §333, 105 Stat. 1859; May 20, 1992, Pub. L. 102289, §1, 106 Stat. 176; Aug. 23, 1994, Pub. L. 103306, title V, §576(c), 108 Stat. 1654.)

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in subsec. (a), is Pub. L. 8973, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

The Agricultural Trade Development and Assistance Act of 1954, referred to in subsecs. (b)(1), (6), (7)(D)(iii), (11)(A), and (c), is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to chapter 41 (§1691 et seq.) of this title. Titles I, II, and III of the Act are classified generally to subchapters II (§1701 et seq.), III (§1721 et seq.), and IIIA (§1727 et seq.), respectively, of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

The Food for Progress Act of 1985, referred to in subsec. (b)(1), (7)(D)(iii), (10)(C), (D)(i)(II), is Pub. L. 99198, title XI, §1110, Dec. 23, 1985, 99 Stat. 1472, which is classified to section 1736o of this title.

This Act, referred to in subsec. (b)(3)(A), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section 2226 of the American Aid to Poland Act of 1988, referred to in subsec. (b)(7)(D)(ii), is section 2226 of Pub. L. 100418, which is set out as a note below.

The Commodity Credit Corporation Charter Act, referred to in subsec. (b)(11)(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.

AMENDMENTS

1994—Subsec. (b)(7)(D)(ii)(IV). Pub. L. 103306 added subcl. (IV).

1992—Subsec. (b)(7)(D)(iv). Pub. L. 102289 substituted “(II)” for “and (II)” and inserted before period at end “, and (III) in a country other than the country of origin, if such proceeds are generated in a currency generally accepted in such other country”.

1991—Subsec. (b)(7)(F). Pub. L. 102237 made technical amendment to directory language of Pub. L. 101624, §1514(5)(B). See 1990 Amendment note below.

1990—Subsec. (a)(3). Pub. L. 101624, §1771(b)(2), substituted “hospitals and facilities, to the extent that they serve needy persons (including infants and children)” for “hospitals, to the extent that needy persons are served”.

Subsec. (b)(1). Pub. L. 101624, §1514(1), inserted reference to title III of Agricultural Trade Development and Assistance Act of 1954.

Subsec. (b)(3)(B)(i). Pub. L. 101624, §1514(2), substituted reference to section 403(a) of Agricultural Trade Development and Assistance Act of 1954 for reference to section 401(b) of such Act.

Subsec. (b)(5)(A). Pub. L. 101624, §1514(3), substituted reference to section 406 of Agricultural Trade Development and Assistance Act of 1954 for reference to section 203 of such Act.

Subsec. (b)(6). Pub. L. 101624, §1514(4), substituted reference to section 406 of Agricultural Trade Development and Assistance Act of 1954 for reference to section 203 of such Act.

Subsec. (b)(7)(D)(ii). Pub. L. 101513 substituted “governmental and nongovernmental” for “such” and inserted “governmental or” after “activities of”.

Subsec. (b)(7)(D)(iii). Pub. L. 101624, §1514(5)(A), inserted reference to title III of Agricultural Trade Development and Assistance Act of 1954.

Subsec. (b)(7)(F). Pub. L. 101624, §1514(5)(B), as amended by Pub. L. 102237, added subpar. (F).

Subsec. (d). Pub. L. 101624, §1575, struck out subsec. (d) which established pilot program for barter of agricultural commodities for strategic materials not produced in sufficient amounts domestically and for which national stockpile or reserve goals are unmet.

1988—Subsec. (b)(2)(A). Pub. L. 100277, §1(a), substituted “wheat, rice, feed grains” for “grains” and inserted “, and the products thereof,” after “price support operations”.

Subsec. (b)(3)(D). Pub. L. 100277, §2, added subpar. (D).

Subsec. (b)(4). Pub. L. 100277, §3, inserted at end “In agreements with recipients of eligible commodities under this subsection (including nonprofit and voluntary agencies or cooperatives), subject to the availability of commodities each fiscal year, the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection.”

Subsec. (b)(7). Pub. L. 100277, §1(b)(2), in introductory provisions struck out “, and products thereof,” after “commodities”.

Subsec. (b)(7)(D)(ii). Pub. L. 100418 inserted provisions respecting use of foreign currency proceeds generated in Poland and describing activities eligible for such funds.

Pub. L. 100277, §4(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “Foreign currency proceeds generated from the sales of commodities and products under this subparagraph shall be

used by nonprofit and voluntary agencies, or cooperatives, for activities carried out by the agency or cooperative that will enhance the effectiveness of transportation, distribution, and use of commodities and products donated under this subsection, including food for work programs and cooperative and agricultural projects.”

Subsec. (b)(7)(D)(iii). Pub. L. 100277, §4(b), substituted “10 percent” for “5 percent” and inserted “, or the minimum tonnage required, whichever is greater,” after “furnished”.

Subsec. (b)(8)(C). Pub. L. 100277, §5, added subpar. (C).
Subsec. (b)(10)(B)(i). Pub. L. 100277, §1(b)(1), substituted “wheat, rice, feed grains,” for “grains” in two places.

1987—Subsec. (b)(12). Pub. L. 100203 added par. (12).

1986—Subsec. (b)(10)(B). Pub. L. 99260 inserted “or, in the case of fiscal year 1986, prior to March 31, 1986” in two places.

1985—Subsec. (a). Pub. L. 99198, §1109(1), struck out provisions that such dairy products could also be donated through foreign governments and public and nonprofit private humanitarian organizations for assistance of needy persons outside the United States, that Commodity Credit Corporation could pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including cost of overseas delivery, and that in order to assure that any such donations for use outside the United States were coordinated with and would complement other United States foreign assistance, such donations had to be coordinated through mechanism designated by President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and were to be in addition to level of assistance programmed under that Act.

Subsec. (b). Pub. L. 99198, §1109(2), in amending subsec. (b) generally, substituted provisions relating to furnishing of eligible commodities for purpose of carrying out programs of assistance in developing and friendly countries under title II of the Agricultural Trade Development and Assistance Act of 1954 and section 1736o of this title for provisions relating to furnishing of dairy products, rice and wheat (which had been acquired by Commodity Credit Corporation through price support operations) for purpose of carrying out title II of that Act.

Pub. L. 9983 added applicability to rice acquired by the Commodity Credit Corporation through price support operations.

Subsec. (d). Pub. L. 99198, §1129, added subsec. (d).

1984—Pub. L. 98258 designated existing provisions as subsec. (a), substituted “subsection” for “section” wherever appearing, and added subsecs. (b) and (c).

1982—Pub. L. 97253 inserted provision that notwithstanding any other provision of law, dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965, and that such dairy products may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery, and that in order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act.

1977—Pub. L. 95113 struck out provision that no person who is eligible (or upon application would be eligible) to receive supplemental security income under title XVI of the Social Security Act shall be eligible, with certain exceptions, to participate in any program conducted under this section.

1972—Pub. L. 92603 inserted provision that persons eligible to receive supplemental security income under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] shall not be eligible to participate in programs conducted under this section, with certain exceptions.

1970—Pub. L. 91233 changed priorities for sales over donations in the disposition of food commodities acquired under support programs insofar as dairy products, so acquired, are concerned by giving preference to the use of such products in nonprofit school lunch and similar feeding programs.

1966—Pub. L. 89808 struck out provisions of cl. (4) for donations of excess food commodities to nonprofit voluntary agencies registered with the Committee on Voluntary Foreign Aid of the Foreign Operations Administration or other appropriate Federal agencies and intergovernmental organizations for use in assistance of needy persons and in nonprofit lunch programs outside the United States provisions for payment of charges in case of commodities made available for use within the United States, or their delivery free alongside ship or free on board export carrier at point of export, in the case of commodities made available for use outside the United States, and that assistance to needy persons provided in such cl. (4) be directed toward community and other self-help activities designed to alleviate the causes for the need for such assistance. See section 1721 et seq. of this title.

1964—Pub. L. 88638 directed that assistance to needy persons, insofar as practicable, be directed toward community and other self-help activities designed to alleviate the causes of the need.

1962—Pub. L. 87703 inserted “and in nonprofit school lunch programs” after “needy persons” in cl. (4).

1959—Pub. L. 86108 substituted “waste of commodities whether in private stocks or acquired through price-support operations” for “waste of commodities acquired through price-support operations”.

1958—Pub. L. 85483 permitted donation of food commodities for use in nonprofit summer camps for children.

1956—Act May 28, 1956, authorized payment of cost of processing commodities into a form suitable for home or institutional use.

1954—Act July 10, 1954, amended section generally to eliminate its applicability only to “food” commodities; to eliminate the necessity for a finding that commodities are in danger of a loss through “deterioration or spoilage”; to establish barter as a disposal method; and to expand the list of eligible domestic recipients.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 576(d) of Pub. L. 103306 provided that: “The amendments made by this section [amending this section and provisions set out below] shall take effect October 1, 1994.”

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 9983 effective Oct. 1, 1985, see section 1301 of Pub. L. 9983, set out as a note under section 21511 of Title 22, Foreign Relations and Inter-course.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95113 effective Oct. 1, 1977, see section 1302(b) of Pub. L. 95113, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 411(g) of Pub. L. 92603 provided that the amendment made by that section is effective Jan. 1, 1974.

Pub. L. 93233, §8(b)(2), Dec. 31, 1973, 87 Stat. 956, as amended by Pub. L. 93335, §1(b), July 8, 1974, 88 Stat. 291; Pub. L. 9444, §3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94365, §2(2), July 14, 1976, 90 Stat. 990; Pub. L. 9559, §3(2), June 30, 1977, 915 Stat. 255, provided that: “The last sentence of section 416 of the Act of October 31, 1949 [this section] (as added by section 411(g) of Public

Law 92603) [see 1972 Amendment Note above] shall not be effective for the period ending September 30, 1978.”

[Amendment by Pub. L. 93335, effective July 1, 1974, see section 1(c) of Pub. L. 93335, set out as a note under section 1382 of Title 42, The Public Health and Welfare. Section 3 of Pub. L. 9559 provided in part that the amendment of section 8 of Pub. L. 93233 by section 3(2) of Pub. L. 9559 is effective July 1, 1977.]

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3(c) of Pub. L. 89808 provided that the amendment made by that section is effective Jan. 1, 1967.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

DONATION OF SURPLUS AGRICULTURAL COMMODITIES

Section 2223 of Pub. L. 100418, as amended by Pub. L. 101513, title V, §562(part), Nov. 5, 1990, 104 Stat. 2032; Pub. L. 103306, title V, §576(a), (b), Aug. 23, 1994, 108 Stat. 1654, provided that:

“(a) AUTHORITY TO DONATE.—Notwithstanding any other provision of law, if the Secretary of Agriculture determines for each fiscal year that (1) a donation under this section would not limit the Secretary’s ability to meet urgent humanitarian needs for agricultural commodities, and (2) such donation would not cause a reduction in the price of the same or similar agricultural commodities produced in Poland[,] the Secretary of Agriculture shall donate, under the applicable provisions of section 416(b) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)], for each of the fiscal years 1995 through 1999, 8,000 metric tons of uncommitted stocks of eligible commodities of the Commodity Credit Corporation under an agreement with the Government of Poland that the Government of Poland will sell such commodities and that all the proceeds from such sales will be used by governmental and nongovernmental agencies for eligible activities in Poland described in section 416(b)(7)(D)(ii) of that Act (as amended by section 2225 of this Act) that have been approved, upon application, by the joint commission described in section 2226 [of Pub. L. 100418, set out below] and by the United States chief of diplomatic mission in Poland.

“(b) DEFINITIONS.—For purposes of this section—

“(1) the term ‘eligible commodities’ has the same meaning as is given such term in section 416(b)(2) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(2)] and, in addition, includes feed grains, soybeans, and soybean products; and

“(2) the term ‘nongovernmental agencies’ includes nonprofit voluntary agencies, cooperatives, intergovernmental agencies such as the World Food Program, and other multilateral organizations.”

USE OF POLISH CURRENCIES

Section 2224 of Pub. L. 100418 provided that:

“(a) USE OF POLISH CURRENCIES.—Subject to subsection (b), nonconvertible Polish currencies (zlotys) held by the United States on the date of enactment of this Act [Aug. 23, 1988] pursuant to an agreement with the Government of Poland under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.] which are not assets of the Commodity Credit Corporation shall be made available, to the extent and in such amounts as are provided in advance in appropriation Acts, for eligible activities in Poland described in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(7)(D)(ii)] (as amended by section 2225 of this Act) and approved, upon applica-

tion, by the joint commission described in section 2226 [of Pub. L. 100418, set out below] and by the United States chief of diplomatic mission in Poland.

“(b) AVAILABILITY OF CURRENCIES.—Currencies available under subsection (a) are currencies available after satisfaction of existing commitments to use such currencies for other purposes specified by law.”

JOINT COMMISSION

Section 2226 of Pub. L. 100418 provided that:

“(a) ESTABLISHMENT.—The joint commission referred to in sections 2223 and 2224 [of Pub. L. 100418, set out above] and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(7)(D)(ii)] (as amended by section 2225 of this Act) shall be established under an agreement between the United States Government, the Government of Poland, and nongovernmental agencies (as defined in section 2223) operating in Poland.

“(b) MEMBERSHIP.—The joint commission shall be composed of—

“(1) appropriate representatives of the Government of Poland;

“(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

“(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.”

BARTER OF AGRICULTURAL COMMODITIES

Section 4309 of Pub. L. 100418 provided that: “In recognition of the importance of barter programs in expanding agricultural trade, it is the sense of Congress that the Secretary of Agriculture should expedite the implementation of section 416(d) of the Agricultural Act of 1949 (7 U.S.C. 1431(d)) and section 1167 of the Food Security Act of 1985 (7 U.S.C. 1727g note and 1736aa), relating to the barter of agricultural commodities.”

Pub. L. 98180, title III, §302, Nov. 29, 1983, 97 Stat. 1151, provided that:

“(a) It is the sense of Congress that the Secretary of Agriculture should exchange or barter, to the maximum extent practicable under the provisions of law specified in subsection (b), commodities (especially dairy products) owned by the Commodity Credit Corporation for materials, goods, and equipment produced in foreign countries.

“(b) The provisions of law referred to in subsection (a) are—

“(1) section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)),

“(2) section 310 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1692) [7 U.S.C. 1727g], and

“(3) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431).”

MINIMUM LEVEL OF FOOD ASSISTANCE

Annual minimum of food assistance made available to foreign countries to be not less than one-third of total amount of foreign economic assistance provided for each fiscal year, see section 4310 of Pub. L. 100418, set out as a note under section 1691 of this title.

ADDITIONAL LEVELS OF FLOUR, CORNMEAL, WHEAT, SOYBEANS, AND DAIRY PRODUCTS FOR FRIENDLY COUNTRIES IN FISCAL YEARS 1987, 1988, AND 1989

Pub. L. 99500, §101(a) [title VI, §646], Oct. 18, 1986, 100 Stat. 1783, 178336, and Pub. L. 99591, §101(a) [title VI, §646], Oct. 30, 1986, 100 Stat. 3341, 334136, provided that:

“(1) It is the sense of the Senate that the Secretary of Agriculture should make available not less than \$10,000,000 worth of flour and cornmeal using the wheat and cornstocks of the Commodity Credit Corporation. Such flour and cornmeal shall be in addition to the traditional level of assistance made available under section 1114 of the Agricultural and Food Act of 1981 [Pub. L. 9798, enacting sections 1431e and 4004a of this title and amending section 4004 of this title], section 416(a)

of the Agricultural Act of 1949 [7 U.S.C. 1431(a)], section 4 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 9386, 7 U.S.C. 612c note], and any other provision of law administered by the Secretary.

“(2)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to PVO's and cooperatives and to governments a total of at least 500,000 metric tons of wheat, 500,000 metric tons of soybeans, and 50 million pounds of dairy products under paragraph (1)(B) of section 416(b) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(1)(B)], notwithstanding paragraph (1)(c) of section 416(b) of such Act.

“(b) Commodities made available under this section during any fiscal year shall be—

“(1) subject to the agreement of recipient nations—

“(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the 3 preceding years.

“(B) to permit the sale of commodities furnished under this section in the recipient nation and to use the local currency generated from such sales—

“(i) by PVO's and cooperatives to carry out approved programs of assistance in the recipient nation;

“(ii) to operate lending programs in the manner provided for in section 108 of Public Law 480 [probably means former 7 U.S.C. 1708]; and

“(iii) to reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, during the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under this paragraph if they are used to pay expenses of the United States in the recipient nation.

“(2) No greater than such amounts as is requested by recipient nations.

“(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of these fiscal years.

“(d) It is the sense of Congress that commodities provided for in this subsection be made available to PVO's and cooperatives operating in the Republic of the Philippines, and the government of the Philippines.

“(3)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to the friendly countries, under paragraph (b)(1)(A) of section 416 of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(1)(A)], at least 500,000 metric tons of wheat and 45 million pounds of dairy products, notwithstanding paragraph (1)(c) of section 416(b) of such Act.

“(b) Commodities made available to a nation under this section during any fiscal year shall be—

“(1) subject to the agreement of the Nation—

“(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the preceding three years.

“(B) to sell any commodities furnished under this section within the nation and to use the local currencies generated from such sales to (i) establish and carry out lending programs in such nations in the manner provided for in section 108 of the Agricultural Trade Development and Assistance Act of 1954 [former 7 U.S.C. 1708] and (ii) reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, in the same fiscal year in which such costs were incurred. Reimbursements under

this paragraph may be made in local currencies generated from the sale of the commodities under paragraph (2) if they are used to pay expenses of the United States in the recipient Nation.

“(2) No greater than such amounts as is requested by such governments.

“(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of the three fiscal years.

“(d) For purchases [purposes] of this section, the term ‘friendly countries’ shall have the same meaning as that term has under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.].

“(e) It is the sense of Congress that commodities provided for in this subsection be made available to the Philippines and friendly countries of Africa.

“(4)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to PVO’s cooperatives and governments, 460,000 metric tons of wheat, 137 million pounds of dairy products, and 180,000 metric tons of soybeans; under paragraph (11)(B) of section 416(b) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(11)(B)], notwithstanding paragraph (11)(C) of section 416(b) of such Act.

“(b) Commodities made available to a nation, or PVO’s and cooperatives operating in such nation, under this section during any fiscal year shall be—

“(1) subject to the agreement of the nation—

“(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the preceding three years;

“(B) to permit the sale of commodities furnished under this section within the nation and to use the local currencies generated from such sales (i) by PVO’s and cooperatives to carry out approved programs of assistance in the country and (ii) to operate lending programs in the manner provided for in section 108 of Public Law 480 [probably means former 7 U.S.C. 1708]; and

“(C) to reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, in the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under paragraph (2) if they are used to pay expenses of the United States in the recipient nation.

“(2) No greater than such amounts as is requested by such government.

“(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of the three fiscal years.

“(d) For purposes of this section, the term ‘friendly countries’ shall have the same meaning as that term has under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.].

“(e) It is the sense of Congress that of the commodities made available under this subsection—

“(1) 400,000 metric tons of wheat, 80 million pounds of dairy products and 180,000 metric tons of soybeans be made available to Nigeria;

“(2) 1 million metric tons of wheat be made available to friendly countries in Africa, other than Nigeria;

“(3) 30,000 metric tons of soybeans, and 50 million pounds of dairy products be made available to India; and

“(4) 60,000 metric tons of wheat and 7 million pounds of dairy products be made available to Bangladesh.”

COMMODITY DISTRIBUTION PROGRAM; PURCHASE OF AGRICULTURAL COMMODITIES WITH UNEXPECTED OR AVAILABLE FUNDS; PROHIBITION ON FURNISHING COMMODITIES TO SUMMER CAMPS; PARTICIPATION IN PROGRAM OF INDIVIDUAL RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS

Authority of Secretary to purchase and furnish agricultural commodities under commodity distribution programs and participation of individuals receiving supplemental security income benefits in such programs, see section 4 of Pub. L. 9386, Aug. 10, 1973, 87 Stat. 249, set out as a note under section 612c of this title.

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING PERIOD ENDING JUNE 30, 1977

Individuals receiving supplemental security income benefits not to be considered members of households for any purpose of the food distribution program for families under this section for any month during the period ending June 30, 1977, if, for such month, such individual resides in a State which provides State supplementary payments of the type described in section 1382e(a) of Title 42, The Public Health and Welfare, and the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.

HOME ECONOMICS TRAINING

Pub. L. 86756, Sept. 13, 1960, 74 Stat. 899, as amended by Pub. L. 87179, Aug. 30, 1961, 75 Stat. 411, provided: “That schools receiving surplus foods pursuant to clause (3) of section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) [clause (3) of this section] or section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c) are authorized to use such foods in training students in home economics, including college students if the same facilities and instructors are used for training both high school and college students in home economics courses.”

AUTHORIZATION FOR COMMODITY CREDIT CORPORATION TO PURCHASE AND DONATE FLOUR, CORNMEAL AND PROCESSED FOOD GRAIN PRODUCTS

Pub. L. 85683, Aug. 19, 1958, 72 Stat. 635, as amended by Pub. L. 88550, Aug. 31, 1964, 78 Stat. 755; Pub. L. 9798, title XII, §1209, Dec. 22, 1981, 95 Stat. 1280, provided: “That at any time Commodity Credit Corporation has any grain available for donation pursuant to clause (3) or (4) [now deleted] of section 416 of the Agricultural Act of 1949, as amended [this section], section 210 of the Agricultural Act of 1956 [section 1859 of this title], or title II of the Agricultural Trade Development and Assistance Act, as amended [sections 1721 to 1726 of this title], the Corporation, in lieu of processing all or any part of such grain into human food products, may purchase such processed food products in quantities not to exceed the equivalent of the respective grain available for donation on the date of such purchase and donate such processed food products pursuant to clause (3) or (4) of such section 416, and to such section 210, and make such processed food products available to the President pursuant to such title II, and may sell, without regard to the provisions of section 407 of the Agricultural Act of 1949, as amended [section 1427 of this title], a quantity of the grain equivalent to the processed food products so purchased: *Provided*, That no food product purchased pursuant to the authority contained herein shall constitute less than 50 per centum by weight of the grain from which processed (except that this limitation does not apply in the case of the protein byproduct resulting from the production of fuel alcohol from agricultural commodities), or contain any

additive other than for normal vitamin enrichment, preservative, and bleaching purposes.”

IRISH POTATOES ACQUIRED UNDER 1949 PRICE SUPPORT PROGRAM

Section 3 of act Mar. 31, 1950, ch. 81, 64 Stat. 41, made Irish potatoes acquired under the 1949 price support program available to school-lunch programs, the Bureau of Indian Affairs, Federal, State, or local public welfare organizations, private or international nonprofit welfare organizations, penal institutions, and nonprofit hospitals.

BARTERING AUTHORITY OF SECRETARY

Bartering authority of Secretary of Agriculture, exchange of agricultural commodities for strategic materials and materials for other purposes, cooperation of agencies, and assistance to cooperatives, see section 1692 of this title.

CROSS REFERENCES

Donations for school feeding programs abroad; student financing; and priorities, see section 1431d of this title.

Sale of surplus agricultural commodities for foreign currencies, see section 1691 et seq., of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1431b, 1431c, 1431d, 1444, 1446a, 1736a, 1736n, 1736o, 1736bb6, 4004, 5201 of this title; title 22 sections 1922, 5413, 5425; title 42 sections 1758, 1761, 1762a, 1766, 1777, 1786, 3030a, 3045f; title 46 App. section 1241f.

§1431a. Cotton donations to educational institutions

Commodity Credit Corporation is authorized, on such terms as the Secretary of Agriculture may approve, to donate cotton acquired through its price support operations to educational institutions for use in the training of students in the processing and manufacture of cotton into textiles.

(Pub. L. 85835, title V, §505, Aug. 28, 1958, 72 Stat. 996.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1958, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§1431b. Distribution of surplus commodities to other United States areas

Notwithstanding any other provision of law those areas under the jurisdiction or administration of the United States are authorized to receive from the Department of Agriculture for distribution on the same basis as domestic distribution in any State, Territory, or possession of the United States, without exchange of funds, such surplus commodities as may be available pursuant to clause (2) of section 612c of this title and section 1431 of this title.

(Pub. L. 85931, §9, Sept. 6, 1958, 72 Stat. 1792; Pub. L. 87703, title II, §204, Sept. 27, 1962, 76 Stat. 611; Pub. L. 89808, §3(a), Nov. 11, 1966, 80 Stat. 1538.)

CODIFICATION

Section was not enacted as part of the Agricultural Act of 1949 which is classified principally to this chap-

ter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1966—Pub. L. 89808 struck out special authority of the Commodity Credit Corporation for purchase of fats and oils for donation abroad, now included in the general authority provided by section 1721 et seq. of this title.

1962—Pub. L. 87703 inserted “and in nonprofit school lunch programs” after “needy persons”.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3(a) of Pub. L. 89808 provided that the amendment made by that section is effective Jan. 1, 1967.

CROSS REFERENCES

Donations for school feeding programs abroad, student financing, see section 1431d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1431d of this title.

§1431c. Enrichment and packaging of cornmeal, grits, rice, and white flour available for distribution

(a) In order to insure the nutritional value of cornmeal, grits, rice, and white flour when such foods are made available for distribution under section 1431(3)¹ of this title or for distribution to schools under the National School Lunch Act [42 U.S.C. 1751 et seq.] or any other Act, such foods shall be enriched so as to meet the standards for enriched cornmeal, enriched corn grits, enriched rice, or enriched flour, as the case may be, prescribed in regulations promulgated under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.]; and in order to protect the nutritional value and sanitary quality of such enriched foods during transportation and storage such foods shall be packaged in sanitary containers. For convenience and ease in handling, the weight of any sanitary container when filled shall not exceed fifty pounds unless a larger container is requested by the recipient agency. Nothing in this section shall prohibit the distribution of fortified parboiled rice which is substantially equal in nutritional value to that of enriched rice.

(b) The term “sanitary container” means any container of such material and construction as (1) will not permit the infiltration of foreign matter into the contents of such container under ordinary conditions of shipping and handling, and (2) will not, for a period of at least one year, disintegrate so as to contaminate the contents of the container, necessitating the washing of the contents prior to use.

(Pub. L. 86341, title II, §201, Sept. 21, 1959, 73 Stat. 610; Pub. L. 87803, Oct. 11, 1962, 76 Stat. 910.)

REFERENCES IN TEXT

Section 1431(3) of this title, referred to in subsec. (a), was redesignated as section 1431(a)(3) of this title by Pub. L. 98258, title V, §502(1), Apr. 10, 1984, 98 Stat. 137.

The National School Lunch Act, referred to in subsec. (a), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§1751 et seq.)

¹See References in Text note below.

of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (a), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

CODIFICATION

Section was not enacted as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1962—Subsec. (a). Pub. L. 87803 inserted provisions requiring the enrichment of rice to meet the standards for enriched rice, empowered recipient agencies to request containers larger than 50 pounds, and provided that nothing in this section shall prohibit the distribution of fortified parboiled rice which is substantially equal in nutritional value to that of enriched rice.

§1431d. Donations for school feeding programs abroad; student financing; priorities

In any school feeding programs undertaken on and after September 27, 1962 outside the United States pursuant to section 1431 of this title, section 308 of Public Law 480 (83d Congress), as amended, and section 1431b of this title, the Secretary shall receive assurances satisfactory to him that, insofar as practicable, there will be student participation in the financing of such programs on the basis of ability to pay, and such programs shall be undertaken with the understanding that commodities will be available for those programs only in accordance with the provisions of such statutes and that commodities made available under section 1431 of this title will be available only in accordance with the priorities established in such section.

(Pub. L. 87703, title II, §205, Sept. 27, 1962, 76 Stat. 611.)

REFERENCES IN TEXT

Section 308 of Public Law 480 (83d Congress), referred to in text, which was classified to section 1697 of this title, was repealed by Pub. L. 89808, §2(D), Nov. 11, 1966, 80 Stat. 1535.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§1431e. Distribution of surplus commodities to special nutrition projects; reprocessing agreements with private companies

(1) Notwithstanding any other provision of law, whenever Government stocks of commodities are acquired under the price support programs and are not likely to be sold by the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, such commodities shall be made available without charge or credit to nutrition projects under

the authority of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), to child nutrition programs providing food service, and to food banks participating in the special nutrition projects established under section 4004 of this title. Such distribution may include bulk distribution to congregate nutrition sites and to providers of home delivered meals under the Older Americans Act of 1965. The Commodity Credit Corporation is authorized to use available funds to operate the program under this subsection and to further process products to facilitate bonus commodity use. Commodities made available under this section shall include, but not be limited to, dairy products, wheat or the products thereof, rice, honey, and cornmeal.

(2)(A) Effective through September 30, 1995, whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary of Agriculture, the Secretary shall encourage consumption of such commodity through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies. The expense of reprocessing shall be paid by such eligible recipient agencies.

(B) To maintain eligibility to enter into, and to continue, any agreement with the Secretary of Agriculture under subparagraph (A), a private company shall annually settle all accounts with the Secretary and any appropriate State agency regarding commodities processed under such agreements.

(C) Whenever commodities are made available to agencies pursuant to section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)), the Secretary shall encourage access to processed end products containing the commodities when in the Secretary's judgment it is cost effective. The requirements of this subparagraph shall be met in the most efficient and effective way possible. The Secretary may, among other alternatives, use direct purchase, State option contracts authorized under section 3A of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100237; 7 U.S.C. 612c note), State processing programs, and (beginning in fiscal year 1994) agreements with private companies operated as a part of the national commodity processing program.

(D) In each of fiscal years 1992, 1993, and 1994, the Secretary shall conduct a pilot project in not more than three States under which any commodity made available to agencies pursuant to section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)) that the Secretary determines to be appropriate for reprocessing is made available to the agencies as reprocessed end products. The reprocessing shall be performed pursuant to agreements with private companies, at the expense of the agencies, and operated as part of the national commodity processing program established under subparagraph (A). In determining the appropriateness of the commodities to be reprocessed under the pilot project, the Secretary shall consider the common needs of the agencies and the availability of processors.

(Pub. L. 9798, title XI, §1114(a), Dec. 22, 1981, 95 Stat. 1269; Pub. L. 99198, title XV, §1567(a), (b),

Dec. 23, 1985, 99 Stat. 1591, 1592; Pub. L. 100237, §6, Jan. 8, 1988, 101 Stat. 1740; Pub. L. 101624, title XVII, §1775, Nov. 28, 1990, 104 Stat. 3813; Pub. L. 102237, title IX, §921, Dec. 13, 1991, 105 Stat. 1887.)

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in par. (1), is Pub. L. 8973, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Agriculture and Food Act of 1981, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1991—Par. (2)(D). Pub. L. 102237 substituted “1992, 1993, and 1994” for “1992 and 1993”.

1990—Par. (2)(A). Pub. L. 101624, §1775(a), substituted “1995” for “1990”.

Par. (2)(C), (D). Pub. L. 101624, §1775(b), added subpars. (C) and (D).

1988—Par. (2)(A). Pub. L. 100237 substituted “September 30, 1990” for “June 30, 1987”.

1985—Pub. L. 99198 designated existing provisions as par. (1), inserted provision directing that commodities made available under this section include, but not be limited to, dairy products, wheat or the products thereof, rice, honey, and cornmeal, and added par. (2).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102237 effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102237, set out as a note under section 1421 of this title.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as a note under section 4301 of this title.

NATIONAL DONATED COMMODITY PROCESSING PROGRAMS

Pub. L. 99500, title III, §364, Oct. 18, 1986, 100 Stat. 1783368, and Pub. L. 99591, title III, §364, Oct. 30, 1986, 100 Stat. 3341371; Pub. L. 99661, div. D, title IV, §4404, Nov. 14, 1986, 100 Stat. 4079, provided that: “In accordance with the terms and conditions of section 1114(a)(2) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)), whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary of Agriculture, the Secretary shall encourage consumption of the commodity through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies.”

§1432. Extension of price support on long staple cotton seeds and products

Any price support program in effect on cottonseed or any of its products shall be extended to the same seed and products of the cottons defined under section 1347(a) of this title.

(Oct. 31, 1949, ch. 792, title IV, §420, as added July 17, 1952, ch. 933, §3(2), 66 Stat. 759.)

REFERENCES IN TEXT

Section 1347 of this title, referred to in text, was repealed by Pub. L. 9888, §2, Aug. 26, 1983, 97 Stat. 494.

§1433. Repealed. Pub. L. 100387, title I, §101(b)(3), Aug. 11, 1988, 102 Stat. 931

Section, act Oct. 31, 1949, ch. 792, title IV, §421, as added Sept. 11, 1964, Pub. L. 88585, §2, 78 Stat. 927, related to penalties for misuse of feed intended to relieve distress or preserve foundation herds. See section 1471j of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

§1433a. Forgiveness of violations; determinations

Notwithstanding any other provision of law, whenever a producer samples, turns, moves, or replaces grain or any other commodity which is security for a Commodity Credit Corporation producer loan or is held under a producer reserve program, and does so in violation of law or regulation, the appropriate county committee established under section 590h(b) of title 16 may forgive some or all of the penalties and requirements that would normally be imposed on the producer by reason of the violation, if such committee determines that (1) the violation occurred inadvertently or accidentally, because of lack of knowledge or understanding of the law or regulation, or because the producer or the producer's agent acted to prevent spoilage of the commodity, and (2) the violation did not result in harm or damage to the rights or interests of any person. The county committee shall furnish a copy of its determination to the Administrator of the Agricultural Stabilization and Conservation Service and the appropriate State committee established under section 590h(b) of title 16. The determination may be disapproved by either the Administrator or the State committee within sixty days after receipt of a copy of the determination. Any determination not disapproved by the Administrator or such State committee within such sixty-day period shall be considered approved.

(Oct. 31, 1949, ch. 792, title IV, §422, as added Dec. 22, 1981, Pub. L. 9798, title X, §1002, 95 Stat. 1260.)

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as a note under section 4301 of this title.

§1433b. Processing of surplus agricultural commodities into liquid fuels and agricultural commodity byproducts

(a) Authority of Commodity Credit Corporation; terms and conditions established by Secretary; fuel prices

Notwithstanding any other provision of law, in order to prevent the accumulation of excessive stocks of agricultural commodities through the price support and stabilization operations of the Commodity Credit Corporation¹ the Corporation may, under terms and conditions established by the Secretary, make its accumulated stocks of agricultural commodities available, at no cost or reduced cost, to encourage the purchase of such commodities for the production of liquid

¹So in original. Probably should be followed by a comma.

fuels and agricultural commodity byproducts. In carrying out the program established by this section, the Secretary shall ensure, insofar as possible, that any use of agricultural commodities made available be made in such manner as to encourage increased use and avoid displacing usual marketings of agricultural commodities.

(b) Feasibility of processing

In determining the feasibility of providing for the processing of Commodity Credit Corporation stocks of commodities under subsection (a) of this section, the Secretary shall consider the nature of the commodities, and the acquisition, transportation, handling, storage, interest, and other costs associated with acquiring and maintaining such stocks, including the effect of such stocks in depressing commodity prices, as well as the value and utility of such stocks when processed into liquid fuels and agricultural commodity byproducts.

(c) Annual report to Congress

Not later than one hundred and twenty days after October 21, 1982, and annually thereafter, the Secretary shall report to the Congress with respect to the operation of this section, including any recommendations for legislative changes the Secretary finds necessary with respect to the authority provided in this section.

(Oct. 31, 1949, ch. 792, title IV, §423, as added Oct. 21, 1982, Pub. L. 97358, §2, 96 Stat. 1714; amended Dec. 23, 1985, Pub. L. 99198, title X, §1024, 99 Stat. 1460.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99198 substituted provision authorizing the Corporation to make its accumulated agricultural commodities stocks available at no cost or reduced cost to encourage the purchase thereof for the production of liquid fuels and commodity byproducts, with any use of such commodities to be made in such a manner as to encourage increased use and avoid displacing usual marketings of such commodities for provision authorizing the Corporation to provide for processing of its accumulated stock into liquid fuels and commodity byproducts to be either made available to Federal agencies to meet their regular or emergency needs or to be sold commercially by the Corporation, at a price determined by the Secretary notwithstanding any other provisions of law and in a manner so as not to disrupt the prices in commercial markets of agriculturally-derived liquid fuel.

§1433c. Advance recourse commodity loans

Notwithstanding any other provision of this Act, the Secretary may make advance recourse loans available to producers of the commodities of the 1986 through 1990 crops for which non-recourse loans are made available under this Act if the Secretary finds that such action is necessary to ensure that adequate operating credit is available to producers. Such recourse loans may be made available under such reasonable terms and conditions as the Secretary may prescribe, except that the Secretary shall require that a producer obtain crop insurance for the crop as a condition of eligibility for a loan.

(Oct. 31, 1949, ch. 792, title IV, §424, as added Dec. 23, 1985, Pub. L. 99198, title X, §1003, 99 Stat. 1447.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

Section 1003 of Pub. L. 99198 provided that this section is effective for the 1986 through 1990 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1433c1 of this title.

§1433c1. Advance recourse loans

(a) Availability; due date; procedures for repayment; applicability; security; limitation

It is the sense of Congress that the Secretary of Agriculture carry out a program authorized by section 424 of the Agricultural Act of 1949 [7 U.S.C. 1433c]. Such program, if implemented, shall provide for the following:

(1) Advance recourse loans shall be made available only to those producers of a commodity who are unable to obtain sufficient credit elsewhere to finance the production of the 1986 crop of that commodity, taking into consideration prevailing private and cooperative rates and terms for loans for similar purposes (as determined by the Secretary) in the community in or near which the applicant resides. A producer who has received a commitment or been furnished sufficient credit or a loan for production of the 1986 crop of a commodity shall not be eligible for an advance recourse loan to finance the production of that commodity for such crop year.

(2) Advance recourse loans shall be made available to producers of a commodity at the applicable nonrecourse loan rate for the commodity (as determined by the Secretary). Within the limits set out in paragraphs (5) and (7), advance recourse loans shall be available—

(A) to producers of wheat, feed grains, cotton, and rice who agree to participate in the program announced for the commodity on an amount of the commodity equal to one-half of the farm program yield for the commodity multiplied by the farm program acreage intended to be planted to the commodity for harvest in 1986, as determined by the Secretary;

(B) to producers of tobacco and peanuts who are on a farm for which a marketing quota or poundage quota has been established on an amount of the commodity equal to one-half of the farm marketing quota or poundage quota for the commodity, as determined by the Secretary; and

(C) to producers of other commodities on an amount of the commodity equal to one-half of the farm yield for the commodity multiplied by the farm acreage intended to be planted to the commodity for harvest in 1986, as determined by the Secretary.

(3) An advance recourse loan under section 424 [7 U.S.C. 1433c] shall come due at such time immediately following harvest as the Secretary determines appropriate. Each loan con-

tract entered into under section 424 shall specify the date on which the loan is to come due.

(4)(A) The Secretary shall establish procedures, when practicable, under which a producer, simultaneously with repayment of his recourse loan, may obtain a nonrecourse loan on his crop (as otherwise provided for in the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.]) in an amount sufficient to repay his recourse loan.

(B) In cases in which nonrecourse loans under such Act are not normally made available directly to producers, the Secretary shall establish procedures under which a producer may repay a recourse loan at the same time the producer receives advances or other payment from the producer's disposition of his crop.

(5) Advance recourse loans shall be made available as needed solely to cover costs involved in the production of the 1986 crop that are incurred or are outstanding on or after March 20, 1986.

(6) To obtain an advance recourse loan, the producer on a farm must—

(A) provide as security for the loan a first lien on the crop covered by the loan or provide such other security as may be available to the producer and determined by the Secretary to be adequate to protect the Government's interests; and

(B) obtain multiperil crop insurance, if available, to protect the crop that serves as security for the loan.

If a producer does not have multiperil crop insurance and is located in a county in which the sign-up period for multiperil crop insurance has expired, the producer shall be required to obtain other crop insurance, if available.

(7) The total amount in advance recourse loans that may be made to a producer under section 424 [7 U.S.C. 1433c] may not exceed \$50,000.

(8) An advance recourse loan may be made available only to a producer who agrees to comply with such other terms and conditions determined appropriate by the Secretary and consistent with the provisions of section 424 [7 U.S.C. 1433c].

(b) Use of Commodity Credit Corporation, Agricultural Stabilization and Conservation Service, and county committees

The Secretary shall carry out the program provided for under section 424 [7 U.S.C. 1433c] through the Commodity Credit Corporation, using the services of the Agricultural Stabilization and Conservation Service and the county committees established under section 590h(b) of title 16 to make determinations of eligibility with respect to the credit test under subsection (a)(1) of this section, and determinations as to the sufficiency of security under subsection (a)(6) of this section. The Secretary may use such committees for such other purposes as the Secretary determines appropriate in carrying out section 424.

(c) Regulations

It is further the sense of Congress that the Secretary of Agriculture issue or, as appro-

priate, amend regulations to implement any program established under section 424 [7 U.S.C. 1433c] as soon as practicable, but not later than 15 days after March 20, 1986. Loans and other assistance provided under such program shall be made available beginning on the date such regulations are issued or amended.

(Pub. L. 99260, §13, Mar. 20, 1986, 100 Stat. 53.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (a)(4), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food Security Improvements Act of 1986, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§1433d. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title IV, §425, as added Dec. 19, 1989, Pub. L. 101239, title I, §1003(a), 103 Stat. 2108, related to reduction of deficiency payments. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 1003(a) of Pub. L. 101239 provided that this section is effective only for the 1990 crops.

§1433e. Repealed. Pub. L. 103354, title II, §281(b), Oct. 13, 1994, 108 Stat. 3233

Section, act Oct. 31, 1949, ch. 792, title IV, §426, as added Nov. 28, 1990, Pub. L. 101624, title XI, §1132(a), 104 Stat. 3512; amended Dec. 13, 1991, Pub. L. 102237, title I, §113(12), 105 Stat. 1838, related to appeals from determinations by State and county committees under Agricultural Act of 1949 and other Acts administered by Agricultural Stabilization and Conservation Service. See section 6991 et seq. of this title.

§1433f. Crop insurance requirement

As a condition of receiving any benefit (including payments) under subchapter II or III of this chapter for each of the 1995 and subsequent crops of tobacco, rice, extra long staple cotton, upland cotton, feed grains, wheat, peanuts, oilseeds, and sugar, a producer must obtain at least catastrophic risk protection insurance coverage under section 1508 of this title for the crop and crop year for which the benefit is sought, if the coverage is offered by the Corporation.

(Oct. 31, 1949, ch. 792, title IV, §427, as added Oct. 13, 1994, Pub. L. 103354, title I, §119(a)(1), 108 Stat. 3207.)

EFFECTIVE DATE

Section effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as an Effective Date of 1994 Amendment note under section 1502 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14412, 14442, 1444f, 1445b3a of this title.

§1434. Encouragement of production of crops of which United States is a net importer and for which price support programs are not in effect; authority to plant on set-aside acreage with no reduction in payment rate

Notwithstanding any other provisions of this Act, the Secretary shall encourage the production of any crop of which the United States is a net importer and for which a price support program is not in effect by permitting the planting of such crop on set-aside acreage and with no reduction in the rate of payment for the commodity.

(Pub. L. 91524, title VIII, §814, as added Pub. L. 9386, §1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 91524, Nov. 30, 1970, 84 Stat. 1358, known as the Agricultural Act of 1970. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§1435. Production of commodities for conversion into alcohol or hydrocarbons for use as motor fuels or other fuels; terms and conditions; determinations; payments, etc., for program

(a) The Secretary of Agriculture shall permit, subject to such terms and conditions as the Secretary shall prescribe, all or any part of the acreage set aside or diverted under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] from the production of a commodity for any crop year to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel, if the Secretary of Agriculture determines that such production is desirable in order to provide an adequate supply of commodities for such conversion, is not likely to increase the cost of price support programs, and will not adversely affect farm income.

(b)(1) During any year in which no set-aside or diversion of acreage is in effect under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] the Secretary of Agriculture may formulate and administer a program for the production, subject to such terms and conditions as he may prescribe, of commodities for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel. Under such program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to such production.

(2) The payments under this subsection shall be made at such rate or rates as the Secretary of Agriculture determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of commodities for such conversion.

(3) The Secretary may issue any regulations necessary to carry out the provisions of this subsection.

(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(Pub. L. 95113, title XX, §2001, as added Pub. L. 96294, title II, §260(a), June 30, 1980, 94 Stat. 709.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsecs. (a) and (b)(1), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1977 as added by the Biomass Energy and Alcohol Fuels Act of 1980 which is title II of the Energy and Security Act, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

SUBCHAPTER II—BASIC AGRICULTURAL COMMODITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 13581, 1433f, 1463, 1736f, 5822 of this title.

§1441. Price support levels

The Secretary of Agriculture (hereinafter called the "Secretary") is authorized and directed to make available through loans, purchases, or other operations, price support to co-operators for any crop of any basic agricultural commodity, if producers have not disapproved marketing quotas for such crop, at a level not in excess of 90 per centum of the parity price of the commodity nor less than the level provided in subsections (a) to (c) of this section as follows:

(a) For tobacco (except as otherwise provided herein), corn, and wheat, if the supply percentage as of the beginning of the marketing year is: The level of support shall be not less than the following percentage of the parity price:

Table with 2 columns: Support level range and Percentage. Rows include: Not more than 102 (90), More than 102 but not more than 104 (89), More than 104 but not more than 106 (88), More than 106 but not more than 108 (87), More than 108 but not more than 110 (86), More than 110 but not more than 112 (85), More than 112 but not more than 114 (84), More than 114 but not more than 116 (83), More than 116 but not more than 118 (82), More than 118 but not more than 120 (81), More than 120 but not more than 122 (80), More than 122 but not more than 124 (79), More than 124 but not more than 126 (78), More than 126 but not more than 128 (77), More than 128 but not more than 130 (76), More than 130 (75)

For rice of the 1959 and 1960 crops, the level of support shall be not less than 75 per centum of the parity price. For rice of the 1961 crop the level of support shall be not less than 70 per centum of the parity price. For the 1962 and subsequent crops of rice the level of support shall be not less than 65 per centum of the parity price.

(b) For cotton and peanuts, if the supply percentage as of the beginning of the marketing year is:

Not more than 108	90
More than 108 but not more than 110	89
More than 110 but not more than 112	88
More than 112 but not more than 114	87
More than 114 but not more than 116	86
More than 116 but not more than 118	85
More than 118 but not more than 120	84
More than 120 but not more than 122	83
More than 122 but not more than 124	82
More than 124 but not more than 125	81
More than 125 but not more than 126	80
More than 126 but not more than 127	79
More than 127 but not more than 128	78
More than 128 but not more than 129	77
More than 129 but not more than 130	76
More than 130	75

The level of support shall be not less than the following percentage of the parity price:

be 75 per centum of the level of price support to cooperators in the commercial wheat-producing area.

(Oct. 31, 1949, ch. 792, title I, §§101, 104(b)(3), 63 Stat. 1051; July 17, 1952, ch. 933, §2, 3(1), 66 Stat. 759; Aug. 28, 1954, ch. 1041, title II, §§201, 202, 68 Stat. 899; Apr. 25, 1957, Pub. L. 8528, 71 Stat. 27; July 2, 1958, Pub. L. 85497, 72 Stat. 296; Aug. 28, 1958, Pub. L. 85835, title II, §201, title III, §302(a), 72 Stat. 993, 994; Feb. 20, 1960, Pub. L. 86389, §2, 74 Stat. 7; Aug. 11, 1968, Pub. L. 90475, §5, 82 Stat. 702; Feb. 16, 1976, Pub. L. 94214, title I, §102, 90 Stat. 183; Sept. 29, 1977, Pub. L. 95113, title VI, §607, title VII, §702, 91 Stat. 940; Dec. 31, 1979, Pub. L. 96176, 93 Stat. 1290; Mar. 18, 1980, Pub. L. 96213, §4(a), 94 Stat. 119; Sept. 26, 1980, Pub. L. 96365, title II, §201(a), 94 Stat. 1319; Dec. 22, 1981, Pub. L. 9798, title V, §508, title VI, §602, 95 Stat. 1242; Sept. 8, 1982, Pub. L. 97253, title I, §125, 96 Stat. 771; Aug. 26, 1983, Pub. L. 9888, §2, 97 Stat. 494; Apr. 10, 1984, Pub. L. 98258, title IV, §§401, 402, 98 Stat. 135; Dec. 23, 1985, Pub. L. 99198, title VI, §602, 99 Stat. 1427.)

(c) For tobacco, if marketing quotas are in effect, the level of support shall be 90 per centum of the parity price.

(d) Notwithstanding the foregoing provisions of this section—

(1) if producers have not disapproved marketing quotas for such crop, the level of support to cooperators shall be 90 per centum of the parity price for the 1950 crop of any basic agricultural commodity for which marketing quotas or acreage allotments are in effect;

(2) if producers have not disapproved marketing quotas for such crop, the level of support to cooperators shall be not less than 80 per centum of the parity price for the 1951 crop of any basic agricultural commodity for which marketing quotas or acreage allotments are in effect;

(3) the level of price support to cooperators for any crop of a basic agricultural commodity, except tobacco, for which marketing quotas have been disapproved by producers shall be 50 per centum of the parity price of such commodity; and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;

(4) Repealed. Oct. 31, 1949, ch. 792, title I, §104(b)(3), as added Aug. 28, 1958, Pub. L. 85835, title II, §201, 72 Stat. 994.

(5) the price support may be made available to noncooperators at such levels, not in excess of the level of price support to cooperators, as the Secretary determines will facilitate the effective operation of the program;

(6) except as provided in subsection (c) of this section and section 1422 of this title, the level of support to cooperators shall be not more than 90 per centum and not less than 82½ per centum of the parity price for the 1955 crop of any basic agricultural commodity with respect to which producers have not disapproved marketing quotas; within such limits, the minimum level of support shall be fixed as provided in subsections (a) and (b) of this section;

(7) Where a State is designated under section 1335(e) of this title, as outside the commercial wheat-producing area for any crop of wheat, the level of price support for wheat to cooperators in such State for such crop of wheat shall

REFERENCES IN TEXT

Subsec. (e) of section 1335 of this title, referred to in subsec. (d)(7), was eliminated and other provisions substituted by Pub. L. 87703, title III, §315, Sept. 27, 1962, 76 Stat. 621.

AMENDMENTS

1985—Subsec. (i)(1). Pub. L. 99198 temporarily redesignated existing provisions as subpar. (A) and added subpars. (B) to (D). See Effective and Termination Dates of 1985 Amendment note below.

1984—Subsec. (i)(2)(C). Pub. L. 98258, §401, substituted “and \$11.90 per hundredweight for the 1984 and 1985 crops” for “\$11.90 per hundredweight for the 1984 crop, and \$12.40 per hundredweight for the 1985 crop”.

Subsec. (i)(5)(A). Pub. L. 98258, §402(1), substituted “third, fourth, and fifth” for “third and fourth” after “Notwithstanding any other provision of law, except as provided in the”.

Pub. L. 98258, §402(2), inserted sentence providing: “For the 1985 crop of rice, if the Secretary estimates that the quantity of rice on hand in the United States on July 31, 1985 (not including any quantity of rice produced in the United States during calendar year 1985), will exceed twenty-five million hundredweight, the Secretary shall provide for a combination of an acreage limitation program as described under this subparagraph and a land diversion program as described under subparagraph (B) under which the acreage planted to rice for harvest on the farm would be limited to the acreage base for the farm reduced by a total of not less than 25 per centum, consisting of a reduction of 20 per centum under the acreage limitation program and a reduction under the land diversion program equal to the difference between the total reduction for the farm and the 20 per centum reduction under the acreage limitation program.”

Pub. L. 98258, §402(3), substituted “1983 and 1985 crops of rice” for “1983 crop of rice” after “As a condition of eligibility for loans, purchases, and payments on the”.

Subsec. (i)(5)(B). Pub. L. 98258, §402(4), inserted sentence providing that if the Secretary implements a land diversion program for the 1985 crop of rice under the provisions of subparagraph (A), the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of rice whose acreage planted to rice for harvest on the farm is reduced so that it does not exceed the rice acreage base for the farm less an amount equivalent to the percentage of the acreage base specified by the Secretary, but not less than 5 per centum, in addition to the reduction required under the acreage limitation program under sub-

paragraph (A), and who devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the rice acreage base under this subparagraph.

Pub. L. 98258, §402(5), substituted "Diversion payments made to producers under this subparagraph shall be made in an amount computed by multiplying" for "Such payments shall be made in an amount computed by multiplying".

Pub. L. 98258, §402(6), substituted "\$3.00 per hundredweight for the 1983 crop of rice, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate, and at not less than \$2.70 per hundredweight for the 1985 crop of rice" for "\$3.00 per hundredweight, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate" after "The diversion payment rate shall be established by the Secretary at not less than" and inserted a proviso that if the Secretary estimates that the quantity of rice on hand in the United States on July 31, 1985 (not including any quantity of rice produced in the United States during calendar year 1985), will exceed (I) thirty-five million hundredweight, such rate shall be established by the Secretary at not less than \$3.25 per hundredweight, and (II) forty-two million five hundred thousand hundredweight, such rate shall be established by the Secretary at not less than \$3.50 per hundredweight.

Pub. L. 98258, §402(7), substituted "1983 and 1985 crops" for "1983 crop" after "The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the".

1983—Subsec. (f). Pub. L. 9888 struck out subsec. (f) which read as follows: "The provisions of this Act relating to price support for cotton shall apply severally to (1) American upland cotton and (2) extra long staple cotton described in subsection (a) of this section and ginned as required by subsection (e) of section 1347 of this title, except that, notwithstanding any other provision of this Act, price support shall be made available for the 1982 and each subsequent crop of extra long staple cotton through nonrecourse loans as provided in this subsection. If producers have not disapproved marketing quotas for any crop of extra long staple cotton, price support loans shall be made available to cooperators for such crop at a level which is not less than 75 per centum or more than 125 per centum in excess of the loan level established for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) of such crop at average location in the United States. If producers have disapproved marketing quotas for any crop of extra long staple cotton, price support loans shall be made available to cooperators for such crop at a level which shall be 50 per centum in excess of the loan level established for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) of such crop at average location in the United States. Nothing contained herein shall affect the authority of the Secretary to make price support available for extra long staple cotton in accordance with section 1422 of this title." See section 1444(h) of this title.

1982—Subsec. (i)(5)(A). Pub. L. 97253, §125(1)(3), substituted "Notwithstanding any other provision of law, except as provided in the third and fourth sentences of this paragraph, the" for "Notwithstanding any other provision of this subsection, the", following second sentence, inserted provision that for the 1983 crop of rice, the Secretary shall provide for a combination of (i) an acreage limitation program as described under this subparagraph and (ii) a diversion program as described under subpar. (B) under which the acreage planted to rice for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 5 per centum under the diversion program, and that as a condition of eligibility for loans, purchases, and

payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program, and, following ninth sentence, inserted provision that notwithstanding the other provisions of this subparagraph, the acreage base to be used for the farm under the program for the 1983 crop of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.

Subsec. (i)(5)(B). Pub. L. 97253, §125(4), inserted provision requiring the Secretary to implement a land diversion program for the 1983 crop of rice under which the Secretary shall make crop retirement and conservation payments to producers making a reduction additional to that required under subpar. (A) and devoting an equivalent acreage of cropland to conservation purposes, and provisions for the computation of payments, and establishment of payment rates by the Secretary, as well as payment by the Secretary of not less than 50 per centum of any payments under this subparagraph to 1983 crop producers as soon as practicable after any such producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to Oct. 1, 1982, and repayment of advances, with interest, in the event of noncompliance by such producer with such contract.

1981—Subsec. (f). Pub. L. 9798, §508, substituted provisions authorizing price support for extra long staple cotton for the 1982 crop and each subsequent crop through nonrecourse loans as provided in this subsection and prescribing the level of price support loans available to cooperators if producers have not, or have, disapproved marketing quotas for any crop of extra long staple cotton as specified percentages of the loan level established for Strict Low Middling one and one-sixteenth inch upland cotton, micronaire 3.5 through 4.9, of such crop at average location in the United States for provisions authorizing price support for extra long staple cotton to cooperators for the 1980 crop and each subsequent crop based on the loan level established for Strict Low Middling one and one-sixteenth inch upland cotton and adjusted by the specified factors, provisions determining the computation of acreage allotments of extra long staple cotton, provisions authorizing the Secretary to establish the price-support payment factor, provisions authorizing the manner and mode of payments authorized under this section, and provisions making operative subsec. (d)(3) of this section upon the disapproval by producers of the national marketing quota established pursuant to section 1347 of this title.

Subsec. (i). Pub. L. 9798, §602, temporarily added subsec. (i). See Effective and Termination Dates of 1981 Amendment note below.

1980—Subsec. (h)(4)(B). Pub. L. 96365, §201(a)(1), substituted "Except as otherwise provided in subparagraph (D) of this paragraph, effective with respect to the 1978 through 1981 crops of rice" for "Effective only with respect to the 1978, 1979, and 1980 crops of rice".

Pub. L. 96213, §4(a)(1), substituted "1978, 1979, and 1980 crops of rice" for "1978 and 1979 crops of rice".

Subsec. (h)(4)(C). Pub. L. 96365, §201(a)(2), substituted "Except as otherwise provided in subparagraph (D) of this paragraph, effective with respect to the 1978 through 1981 crops of rice" for "Effective only with respect to the 1978, 1979, and 1980 crops of rice".

Pub. L. 96213, §4(a)(2), substituted "1978, 1979, and 1980 crops of rice" for "1978 and 1979 crops of rice".

Subsec. (h)(4)(D), (E). Pub. L. 96365, §201(a)(3), added subpar. (D) and redesignated former subpar. (D) as (E). 1979—Subsec. (f). Pub. L. 96176 substituted "1980" for "1968", "85" for "50", "135" for "100", and "55" for "65".

1977—Subsec. (f). Pub. L. 95113, §607, substituted "Strict Low Middling one and one-sixteenth inch" for "Middling one-inch".

Subsec. (h). Pub. L. 95113, §702, temporarily added subsec. (h). See Effective and Termination Dates of 1977 Amendment note below.

1976—Subsec. (g). Pub. L. 94214 temporarily added subsec. (g). See Effective and Termination Dates of 1976 Amendment note below.

1968—Subsec. (f). Pub. L. 90475 substituted provisions authorizing price support for extra long staple cotton for the 1968 crop and each subsequent crop based on the loan level established for Middling one-inch upland cotton and adjusted by the specified factors, provisions determining the computation of acreage allotments of extra long staple cotton, provisions authorizing the Secretary to establish the price-support payment factor, and provisions authorizing the manner and mode of payments authorized under this section, for provisions authorizing price support for extra long staple cotton for the 1957 crop and each subsequent crop based on the parity price for the 1956 crop and adjusted by certain specified factors, with a minimum price support level of not less than 60 percent of the parity price, and provisions making operative subsec. (d)(3) of this section upon the disapproval by producers of the national marketing quota established pursuant to section 1347 of this title.

1960—Subsec. (e). Pub. L. 86389 repealed subsec. (e) which provided that: "Notwithstanding any of the provisions of this Act, section 2 of the Act of July 28, 1945 (59 Stat. 506) shall continue in effect." See section 1445 of this title.

1958—Subsec. (a). Pub. L. 85835, §302(a), substituted "and wheat" for "wheat, and rice" and added par. requiring rice price support levels to be not less than 75, 70, and 65 per centum of parity for 1959 and 1960, 1961, and 1962 and subsequent crop years, respectively.

Subsec. (d)(4). Act Oct. 31, 1949, §104(b)(3), as added Pub. L. 85835, §201, repealed par. (4) which provided for price support level for corn to cooperators outside the commercial corn-producing area at 75 per centum of the level of price support to cooperators in the commercial corn-producing area.

Subsec. (f). Pub. L. 85497 provided that the level of support for crops of extra long staple cotton shall not exceed the same per centum of the parity price as for the 1956 crop, required such level to be determined after consideration of the factors specified in section 1421(b) of this title and the price levels for similar qualities of cotton produced outside the United States, and established a minimum of not less than 60 per centum of the parity price as the level for extra long staple cotton.

1957—Subsec. (f). Pub. L. 8528 set the price support for extra long staple cotton for 1957 and each subsequent crop at same per centum of parity price as for 1956 crop.

1954—Subsec. (d)(6). Act Aug. 28, 1954, §201(a), provided for flexible price supports.

Subsec. (d)(7). Act Aug. 28, 1954, §201(b), added par. (7).

Subsec. (f). Act Aug. 28, 1954, §202, set the price support for long staple cotton at the minimum determined in accordance with the schedule in subsec. (b) of this section.

1952—Subsec. (d)(6). Act July 17, 1952, §2, added par. (6).

Subsec. (f). Act July 17, 1952, §3(1), added subsec. (f).

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 602 of Pub. L. 99198 provided that the amendment made by that section is effective for 1985 crop of rice.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 9888 provided that the amendment made by that section is effective beginning with 1984 crop of extra long staple cotton.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 508 of Pub. L. 9798 provided that the amendment made by that section is effective beginning with 1982 crop of extra long staple cotton.

Section 602 of Pub. L. 9798 provided that the amendment made by that section is effective only for 1982 through 1985 crops of rice.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96176 provided that the amendment made by that section is effective with respect to 1980 and subsequent crops of extra long staple cotton.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 702 of Pub. L. 95113 provided that the amendment made by that section is effective only for 1978 through 1981 crops of rice.

Amendment by Pub. L. 95113 effective Oct. 1, 1977, except as otherwise provided, see section 1901 of Pub. L. 95113, set out as a note under section 1307 of this title.

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Section 102 of Pub. L. 94214 provided that the amendment made by that section is effective for 1976 and 1977 crops of rice.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 104(b)(3) of act Oct. 31, 1949, as added by section 201 of Pub. L. 85835, provided for repeal of subsec. (d)(4) of this section effective with 1959 crop, to be operative as provided in section 1444a(b) of this title. See 1958 Referendum for Selection of Alternative Corn Program and Operative Status of Certain Provisions note set out under section 1444a of this title.

Section 302(a) of Pub. L. 85835 provided in part that the amendment by Pub. L. 85835 [amending this section] is effective beginning with the 1959 crop.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF PEANUTS

Pub. L. 101624, title VIII, §808, Nov. 28, 1990, 104 Stat. 3478, provided that: "Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1991 through 1995 crops of peanuts."

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF PEANUTS

Section 707 of Pub. L. 99198 provided that: "Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1986 through 1990 crops of peanuts."

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF PEANUTS

Section 707 of Pub. L. 9798 provided that: "Section 101 of the Agricultural Act of 1949 [this section] shall not be applicable to the 1982 through 1985 crops of peanuts."

REPORT ON TRADING OF RICE FUTURES

Section 603 of Pub. L. 9798 required Secretary of Agriculture to submit a report to Congress evaluating the trading of rice futures on commodity exchanges by July 31, 1983.

EXEMPTION OF DISASTER PAYMENT LIMITATIONS RESPECTING 1977 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Term "payments" as used in subsec. (g)(13) of this section shall not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss with respect to 1977 crops of wheat, feed grains, upland cotton, and rice, see Pub. L. 95156, set out as a note under section 1307 of this title.

1963 WHEAT CROP

Pub. L. 87703, title III, §306, Sept. 27, 1962, 76 Stat. 615, required that price support for 1963 crop of wheat be made available as provided in section 1441 of this title with certain exceptions.

1962 WHEAT CROP

Pub. L. 87128, title I, §123, Aug. 8, 1961, 75 Stat. 297, required that price support for 1962 crop of wheat be made

available as provided in section 1441 of this title with certain exceptions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1426, 1427, 1428, 1442, 1444, 1444a, 1444b, 1445, 1445a of this title.

§14411. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, §101A, as added Dec. 23, 1985, Pub. L. 99198, title VI, §601, 99 Stat. 1419; amended Mar. 20, 1986, Pub. L. 99260, §2(d), 100 Stat. 47; May 27, 1987, Pub. L. 10045, §5, 101 Stat. 320; Dec. 22, 1987, Pub. L. 100203, title I, §§1101(e), 1102(d), 1113(d), 101 Stat. 13302, 13303, 133010, related to loan rates, target prices, disaster payments, acreage limitation program, and land diversion. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 601 of Pub. L. 99198 provided that this section is effective only for 1986 through 1990 crops of rice.

§14411a. Marketing certificates for rice

(a) Authority of Commodity Credit Corporation to issue negotiable marketing certificates

Notwithstanding any other provision of law, whenever, during the period beginning August 1, 1986, and ending July 31, 1991, the world price for a class of rice (adjusted to United States qualities and location), as determined by the Secretary of Agriculture, is below the current loan repayment rate for that class of rice, to make United States rice competitive in world markets and to maintain and expand exports of rice produced in the United States, the Commodity Credit Corporation, under such regulations as the Secretary may prescribe, shall make payments, through the issuance of negotiable marketing certificates, to persons who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this section. Such payments shall be made in such monetary amounts and subject to such terms and conditions as the Secretary determines will make rice produced in the United States available at competitive prices consistent with the purposes of this section, including such payments as may be necessary to make rice in inventory on August 1, 1986, available on the same basis.

(b) Determination of value of certificates

The value of each certificate issued under subsection (a) of this section shall be based on the difference between—

- (1) the loan repayment rate for the class of rice; and
- (2) the prevailing world market price for the class of rice, as determined by the Secretary of Agriculture under a published formula submitted for public comment before its adoption.

(c) Commodity Credit Corporation assistance in redemption, marketing, or exchange of certificates

The Commodity Credit Corporation, under regulations prescribed by the Secretary of Agriculture, may assist any person receiving marketing certificates under this section in the redemption of certificates for cash, or marketing or exchange of such certificates for (1) rice

owned by the Commodity Credit Corporation or (2) (if the Secretary and the person agree) other agricultural commodities or the products thereof owned by the Commodity Credit Corporation, at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this section. Notwithstanding any other provision of law, any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this section.

(d) Exchange of certificates for commodities and products

Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and the products thereof, including storage sites thereof, such owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of such certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after such reasonable number of days and ending with the date of the presentation of such certificate to the Commodity Credit Corporation.

(e) Prevention of adverse effects

The Secretary of Agriculture shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and the products thereof for certificates under this section from adversely affecting the income of producers of such commodities or products.

(f) Transfer of certificates

Under regulations prescribed by the Secretary of Agriculture, certificates issued to rice exporters under this section may be transferred to other exporters and persons approved by the Secretary.

(Pub. L. 99198, title VI, §603, Dec. 23, 1985, 99 Stat. 1429.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§14412. Loans, payments, and acreage reduction programs for 1991 through 1995 crops of rice

(a) Loans and purchases

(1) In general

Except as otherwise provided in this subsection, the Secretary shall make available to producers on a farm nonrecourse loans and purchases for each of the 1991 through 1995 crops of rice produced on the farm at a level that is not less than the higher of—

- (A) 85 percent of the simple average price received by producers, as determined by the

Secretary, during the marketing years for the immediately preceding 5 crops of rice, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

(B) \$6.50 per hundredweight.

(2) Maximum reduction

The loan level for any crop of rice determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding crop.

(3) Announcement of loan level and established price

The loan and purchase level and the established price for each of the 1991 through 1995 crops of rice shall be announced not later than January 31 of each calendar year for the crop harvested in the calendar year or, in the case of the 1991 crop, as soon as practicable after November 28, 1990.

(4) Term

A loan made under this subsection shall have a term of not more than 9 months beginning after the month in which the application for the loan is made.

(5) Marketing loan provisions

(A) In general

In order to ensure that a competitive market position is maintained for rice, the Secretary shall permit a producer to repay a loan made under paragraph (1) for a crop at a level that is the lesser of—

(i) the loan level determined for the crop; or

(ii) the higher of—

(I) the loan level determined for the crop multiplied by 70 percent; or

(II) the prevailing world market price for rice, as determined by the Secretary.

(B) Prevailing world market price

The Secretary shall prescribe by regulation—

(i) a formula to define the prevailing world market price for rice; and

(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for rice.

(C) Producer purchase of marketing certificates

(i) In general

As a condition of permitting a producer to repay a loan as provided in subparagraph (A), the Secretary may require a producer to purchase marketing certificates equal in value to an amount that does not exceed one-half the difference, as determined by the Secretary, between the amount of the loan obtained by the producer and the amount of the loan repayment.

(ii) Redemption for rice or cash

The certificates shall be redeemable for agricultural commodities owned by the Commodity Credit Corporation valued at the prevailing market price, as determined

by the Secretary or for cash, under such terms and conditions as the Secretary may prescribe.

(iii) Redemption, marketing, or exchange

The Commodity Credit Corporation, under regulations prescribed by the Secretary, shall assist any person receiving marketing certificates under this subparagraph in the redemption or marketing or exchange of the certificates at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this section.

(iv) Charges

If any such certificate is not presented for redemption or marketing within a reasonable number of days after issuance, as determined by the Secretary, reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.

(v) Designation of commodities and products

Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and the products thereof, including storage sites thereof, the owners would prefer to receive in exchange for certificates.

(vi) Sales price restrictions

Notwithstanding any other provision of law, any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subparagraph.

(vii) Displacement

The Secretary shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and the products thereof for certificates under this subparagraph from adversely affecting the income of producers of the commodities or products.

(viii) Transfers

Under regulations prescribed by the Secretary, certificates issued under this subparagraph may be transferred to other persons approved by the Secretary.

(D) Certificates to maintain competitiveness

(i) In general

Notwithstanding any other provision of law, whenever, during the period beginning August 1, 1991, and ending July 31, 1996, the prevailing world market price for a class of rice (adjusted to United States quality and location), as determined by the Secretary, is below the current loan repayment rate for that class of rice, to make

United States rice competitive in world markets and to maintain and expand exports of rice produced in the United States, the Commodity Credit Corporation shall make payments, through the issuance of marketing certificates, to persons who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this subparagraph. The payments shall be made in such monetary amounts and subject to such terms and conditions as the Secretary determines will make rice produced in the United States available at competitive prices consistent with the purposes of this subparagraph.

(ii) Value

The value of each certificate issued under this subparagraph shall be based on the difference between—

- (I) the loan repayment rate for the class of rice; and
- (II) the prevailing world market price for the class of rice, as determined by the Secretary.

(iii) Terms and conditions of certificates

Marketing certificates issued under this subparagraph shall be subject to the same terms and conditions as certificates issued under subparagraph (C).

(6) Simple average price

For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

(b) Loan deficiency payments

(1) In general

The Secretary shall, for each of the 1991 through 1995 crops of rice, make payments (hereafter in this section referred to as “loan deficiency payments”) available to producers who, although eligible to obtain a loan or purchase agreement under subsection (a) of this section, agree to forgo obtaining the loan or agreement in return for payments under this subsection.

(2) Computation

A payment under this subsection shall be computed by multiplying—

- (A) the loan payment rate; by
- (B) the quantity of rice the producer is eligible to place under loan (or obtain a purchase agreement) but for which the producer forgoes obtaining the loan or agreement in return for payments under this subsection.

(3) Loan payment rate

For purposes of this subsection, the loan payment rate shall be the amount by which—

- (A) the loan level determined for the crop under subsection (a) of this section; exceeds
- (B) the level at which a loan may be repaid under subsection (a) of this section.

(4) Marketing certificates

The Secretary may make up to one-half the amount of a payment under this subsection

available in the form of marketing certificates, subject to the terms and conditions provided in subsection (a)(5)(C) of this section.

(c) Payments; crop insurance requirement

(1) Deficiency payments

(A) In general

The Secretary shall make available to producers payments (hereafter in this section referred to as “deficiency payments”) for each of the 1991 through 1995 crops of rice in an amount computed by multiplying—

- (i) the payment rate; by
- (ii) the payment acres for the crop; by
- (iii) the farm program payment yield established for the crop for the farm.

(B) Payment rate

(i) Payment rate for 1991 through 1993 crops

The payment rate for each of the 1991 through 1993 crops of rice shall be the amount by which the established price for the crop of rice exceeds the higher of—

- (I) the national average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary; or
- (II) the loan level determined for the crop.

(ii) Payment rate of 1994 and 1995 crops

The payment rate for each of the 1994 and 1995 crops of rice shall be the amount by which the established price for the crop of rice exceeds the higher of—

- (I) the lesser of—
 - (aa) the national average market price received by producers during the calendar year that contains the first 5 months of the marketing year for the crop, as determined by the Secretary; or
 - (bb) the national average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus an appropriate amount that is fair and equitable in relation to wheat and feed grains (as determined by the Secretary); or
- (II) the loan level determined for the crop.

(iii) Minimum established price

The established price for rice shall not be less than \$10.71 per hundredweight for each of the 1991 through 1995 crops.

(C) Payment acres

Payment acres for a crop shall be the lesser of—

- (i) the number of acres planted to the crop for harvest within the permitted acreage; or
- (ii) 85 percent of the crop acreage base for the crop for the farm less the quantity of reduced acreage (as determined under subsection (e)(2)(D) of this section).

(D) 50/85 program

(i) In general

If an acreage limitation program under subsection (e)(2) of this section is in effect

for a crop of rice and the producers on a farm devote a portion of the maximum payment acres for rice as calculated under subparagraph (C)(ii) for equal to more than 8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (v)(II)), of such rice acreage of the farm for the crop to conservation uses (except as provided in subparagraph (E))—

(I) such portion of the maximum payment acres in excess of 8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (v)(II)), of such acreage devoted to conservation uses (except as provided in subparagraph (E)) shall be considered to be planted to rice for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(D) of this section; and

(II) the producers shall be eligible for payments under this paragraph with respect to such acreage, subject to the compliance of the producers with clause (ii).

(ii) Minimum planting requirement

To be eligible for payments under clause (i), except as provided in clauses (iv) and (v), the producers on a farm must actually plant rice for harvest on at least 50 percent of the maximum payment acres for rice for the farm.

(iii) Deficiency payments

Notwithstanding any other provision of this section, any producer who devotes a portion of the maximum payment acres for rice for the farm to conservation uses (or other uses as provided in subparagraph (E)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to rice and eligible for payments under this subparagraph for the crop at a per-hundredweight rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which rice producers may agree to participate in the program for the crop.

(iv) Quarantines

If a State or local agency has imposed in an area of a State or county a quarantine on the planting of rice for harvest on farms in the area, the State committee established under section 590h(b) of title 16 may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in the area who were required to forgo the planting of rice for harvest on acreage to alleviate or eliminate the condition requiring the quarantine. If the Secretary deter-

mines that the condition exists, the Secretary may make payments under this paragraph to the producers. To be eligible for payments under this clause, the producers must devote the acreage to conservation uses (except as provided in subparagraph (E)).

(v) Prevented planting and reduced yields

(I) 1991 through 1993 crops

In the case of each of the 1991 through 1993 crops of rice, if an acreage limitation program under subsection (e) of this section is in effect for any crop of rice and if the Secretary determines that producers on a farm are prevented from planting the acreage intended for rice to rice because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make available to such producers payments under this subparagraph without regard to the requirement imposed under clause (ii). To be eligible for payments under this clause, the producers must devote the acreage to conservation uses (except as provided in subparagraph (E)). Any such acreage shall be considered to be planted to rice.

(II) 1994 through 1997 crops

In the case of each of the 1994 through 1997 crops of rice, producers on a farm shall be eligible to receive deficiency payments as provided in clause (iii) without regard to clause (ii) if an acreage limitation program under subsection (e) of this section is in effect for the crop and—

(aa) the producers have been determined by the Secretary (in accordance with section 1463(c) of this title) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster) and the producers elect to devote a portion of the maximum payment acres for rice (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the rice acreage, to conservation uses; or

(bb) the producers elect to devote a portion of the maximum payment acres for rice (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the rice acreage, to alternative crops as provided in subparagraph (E).

(vi) Crop acreage and payment yield

The rice crop acreage base and rice farm program payment yield of the farm shall not be reduced due to the fact that a portion of the permitted rice acreage of the farm was devoted to conserving uses (except as provided in subparagraph (E)) under this subparagraph.

(vii) Limitation

Other than as provided in clauses (i) through (vi), payments may not be made under this paragraph for any crop on a

greater acreage than the acreage actually planted to rice.

(viii) Conservation use acreage under other programs

Any acreage considered to be planted to rice in accordance with clauses (i) and (vi) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified acreage to conservation uses.

(E) Alternative crops

(i) Industrial and other crops

The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sweet sorghum, guar, castor beans, plantago ovato, triticale, rye, millet, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that—

(I) the production is not likely to increase the cost of the price support program; and

(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material and could lead to increased industrial use of the raw material to the long-term benefit of United States industry.

(ii) Sesame and crambe

The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sesame and crambe. In implementing this clause, if the Secretary determines that sesame or crambe are considered oilseeds under section 1446f of this title, the Secretary shall provide that, in order to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 1446f of this title for the crop of sesame or crambe produced on the farm.

(2) Crop insurance requirement

A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 1433f of this title.

(d) Payment yields

The farm program payment yields for farms for each crop of rice shall be determined under subchapter IV of this chapter.

(e) Acreage reduction programs

(1) In general

(A) Establishment

Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of rice, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carry-over to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of rice an acreage limitation program as described in paragraph (2).

(B) Agricultural resources conservation program

In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the agricultural resources conservation program established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(C) Announcements

(i) Preliminary announcement

If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall make a preliminary announcement of any such program not later than December 1 of the calendar year preceding the year in which the crop is harvested (or, for the 1992 crop, as soon as practicable after December 13, 1991). The preliminary announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop acreage base described in paragraph (2)(A).

(ii) Final announcement

Not later than January 31 of the calendar year in which the crop is harvested, the Secretary shall make a final announcement of the program. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop described in paragraph (2)(A).

(D) Carry-over

The Secretary shall carry out an acreage limitation program described in paragraph (2) for a crop of rice in a manner that will result in carry-over stocks equal to 16.5 to 20 percent of the simple average of the total disappearance of rice for each of the 3 marketing years preceding the year for which the announcement is made. For the purpose of this subparagraph, the term "total disappearance" means all rice utilization, including total domestic, total export, and total residual disappearance.

(2) Acreage limitation program**(A) Percentage reductions**

Except as provided in paragraph (3), if a rice acreage limitation program is announced under paragraph (1), such limitation shall be achieved by applying a uniform percentage reduction (from 0 to 35 percent) to the rice crop acreage base for the crop for each rice-producing farm.

(B) Compliance

Except as provided in section 1464 of this title, producers who knowingly produce rice in excess of the permitted rice acreage for the farm, as established in accordance with subparagraph (A), shall be ineligible for rice loans, purchases, and payments with respect to that farm.

(C) Crop acreage bases

Rice crop acreage bases for each crop of rice shall be determined under subchapter IV of this chapter.

(D) Acreage devoted to conservation uses

A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by multiplying the rice crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is hereafter in this subsection referred to as “reduced acreage”. The remaining acreage is hereafter in this subsection referred to as “permitted acreage”. Permitted acreage may be adjusted by the Secretary as provided in paragraph (3) and in section 1464 of this title.

(E) Individual farm program acreage

Except as otherwise provided in subsection (c) of this section, the individual farm program acreage shall be the acreage planted on the farm to rice for harvest within the permitted rice acreage for the farm as established under this paragraph.

(F) Planting designated crops on reduced acreage**(i) “Designated crop” defined**

As used in this subparagraph, the term “designated crop” means a crop defined in section 1464(b)(1) of this title, excluding any program crop as defined in section 1462(3) of this title.

(ii) In general

Subject to clause (iii), the Secretary may permit producers on a farm to plant a designated crop on no more than one-half of the reduced acreage on the farm.

(iii) Limitations

If the producers on a farm elect to plant a designated crop on reduced acreage under this subparagraph—

(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) of this section shall be reduced, for each acre (or portion thereof) that is planted

to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops; and

(II) the Secretary shall ensure that reductions in deficiency payments under subclause (I) are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

(3) Targeted option payments**(A) In general**

Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1991 through 1995 crops of rice and announces an acreage limitation percentage of 20 percent or less, the Secretary may make available to producers on a farm who do not receive payments under subsection (c)(1)(D) of this section for such crop on the farm, adjustments in the level of deficiency payments that would otherwise be made available to the producers if the producers exercise the payment options provided in this paragraph.

(B) Payment options

If the Secretary elects to carry out this paragraph, the Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of rice under an acreage limitation program in accordance with this paragraph.

(C) Increased acreage limitation option**(i) Increase in established price**

If the Secretary elects to carry out this paragraph, a producer shall be eligible to receive an increase in the established price for rice under clause (ii) if the producer agrees to an increase in the acreage limitation percentage to be applied to the producers’ rice acreage base above the acreage limitation percentage announced by the Secretary.

(ii) Method of calculation

For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for rice by an amount determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the producers’ rice acreage base.

(iii) Limitation

The acreage limitation percentage to be applied to the producers’ rice acreage base

shall not be increased by more than 5 percentage points above the acreage limitation percentage announced by the Secretary.

(iv) Adjustment for underplantings

In determining the increased acreage limitation percentage that is applied to the producer's rice acreage base under this paragraph, the Secretary shall exclude an amount of acreage equal to the average difference between the producer's permitted rice acreage and the acreage actually planted (including acreage devoted to conserving uses under subsection (c)(1)(D) of this section) to rice for harvest during the previous 2 years.

(D) Decreased acreage limitation option

(i) Decrease in acreage limitation requirement

If the Secretary elects to carry out this paragraph, a producer shall be eligible to decrease the acreage limitation percentage applicable to the producers' rice acreage base (as announced by the Secretary) if the producer agrees to a decrease in the established price for rice under clause (ii) for the purpose of calculating deficiency payments to be made available to the producer.

(ii) Method of calculation

For the purposes of calculating deficiency payments to be made available to producers who choose the option set forth in this subparagraph, the Secretary shall decrease the established price for rice by an amount to be determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the producers' rice acreage base.

(iii) Limitation

A producer may not choose to decrease the acreage limitation percentage applicable to the producers' rice acreage base under this paragraph by more than one-half of the announced acreage limitation percentage.

(E) Participation and production effects

Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on program participation or total production and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(4) Administration

(A) Protection from weeds and erosion

The regulations issued by the Secretary under paragraph (2) with respect to acreage

required to be devoted to conservation uses shall assure protection of the acreage from weeds and wind and water erosion.

(B) Annual or perennial cover

(i) Required

(I) In general

Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of rice under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of rice, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

(II) Arid areas

Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 590h(b) of title 16 may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

(III) Approval of cover crops and practices

The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.

(ii) Multiyear program

(I) Cost-share assistance

If a producer elects to establish a perennial cover capable of improving water quality or wildlife habitat on the acreage, the Commodity Credit Corporation shall make available cost-share assistance for 25 percent of the approved cost of establishing the cover on not more than 50 percent of the acreage that is re-

quired to be diverted from production, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for a crop.

(II) Agreement of producer

If a producer elects to establish a perennial cover on the acreage under this subparagraph and receives cost-share assistance from the Corporation with respect to the cover, the producer, under such terms and conditions as may be prescribed by the Secretary, taking into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985 [16 U.S.C. 3861 et seq.], shall agree to maintain the perennial cover for a minimum of 3 years.

(iii) Conserving crops

The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

(C) Haying and grazing

(i) In general

Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(D) of this section, and acreage diverted from production under a land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 590h(b) of title 16 for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

(ii) Natural disasters

In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted in alfalfa when exercising the authority under this clause.

(D) Water storage uses

(i) In general

The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses,

but not to exceed 5 years subsequent to its conversion to water storage uses.

(ii) Limitations

Land converted to water storage uses for the purposes of this subparagraph may not be devoted to any commercial use, including commercial fish production. The water stored on the land may not be ground water. The farm on which the land is located must have been irrigated with ground water during at least 1 of the preceding 5 crop years.

(5) Land diversion program

(A) In general

The Secretary may make land diversion payments to producers of rice, whether or not an acreage limitation program for rice is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

(B) Amounts

The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

(C) Limitation on diverted acreage

The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(6) Conservation practices

(A) Wildlife food plots or habitat

The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of this subparagraph.

(B) Public access

The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, sub-

ject to applicable State and Federal regulations.

(7) Participation agreements

(A) In general

Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

(B) Modification or termination

The Secretary may, by mutual agreement with producers on a farm, modify or terminate any such agreement if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of rice.

(f) Inventory reduction payments

(1) In general

The Secretary may, for each of the 1991 through 1995 crops of rice, make payments available to producers who meet the requirements of this subsection.

(2) Form

The payments may be made in the form of marketing certificates.

(3) Payments

(A) In general

Payments under this subsection shall be determined in the same manner as provided in subsection (b) of this section.

(B) Quantity of rice made available

The quantity of rice to be made available to a producer under this subsection shall be equal in value to the payments so determined under this subsection.

(4) Eligibility

A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

(A) agrees to forgo obtaining a loan or purchase agreement under subsection (a) of this section;

(B) agrees to forgo receiving payments under subsection (c) of this section;

(C) does not plant rice for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (e) of this section; and

(D) otherwise complies with this section.

(g) Equitable relief

(1) Loans and payments

If the failure of a producer to comply fully with the terms and conditions of the program

conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

(2) Deadlines and program requirements

The Secretary may authorize the county and State committees established under section 590h(b) of title 16 to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of the program.

(h) Regulations

The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(i) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(j) Assignment of payments

The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to payments under this section.

(k) Sharing of payments

The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

(l) Tenants and sharecroppers

The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(m) Cross-compliance

(1) In general

Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans, purchases, or payments under this section.

(2) Compliance on other farms

The Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments under this section for the farm, to comply with the terms and conditions of the rice program with respect to any other farm operated by the producers.

(n) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of rice.

(Oct. 31, 1949, ch. 792, title I, §101B, as added Nov. 28, 1990, Pub. L. 101624, title VI, §601, 104 Stat. 3443; amended Nov. 5, 1990, Pub. L. 101508, title I, §§1101(d), 1102(c), 104 Stat. 13881, 13882; Dec. 13, 1991, Pub. L. 102237, title I, §§102(a), 104, 106(a),

113(1), 105 Stat. 1821, 1823, 1824, 1837; Aug. 10, 1993, Pub. L. 10366, title I, §1104, 107 Stat. 316; May 6, 1994, Pub. L. 103247, §1(a), 108 Stat. 618; Oct. 13, 1994, Pub. L. 103354, title I, §119(a)(2), 108 Stat. 3207.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e)(1)(A), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Food Security Act of 1985, referred to in subsec. (e)(1)(B), (4)(B)(ii)(II), is Pub. L. 99198, Dec. 23, 1985, 99 Stat. 1354, as amended. Subtitles D and G of title XII of the Act are classified generally to subchapters IV (§3831 et seq.) and VII (§3861 et seq.), respectively, 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

1994—Subsec. (c)(1)(D)(v)(II). Pub. L. 103247 inserted “without regard to clause (ii)” after “clause (iii)” in introductory provisions.

Subsec. (c)(1)(F). Pub. L. 103354, §119(a)(2)(A), struck out heading and text of subpar. (F). Text read as follows: “The total quantity of rice on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).”

Subsec. (c)(2). Pub. L. 103354, §119(a)(2)(B), added par. (2) and struck out former par. (2) which related to disaster payments.

1993—Subsec. (c)(1)(D). Pub. L. 10366, §1104(1), substituted “50/85 program” for “50/92 program” in heading.

Subsec. (c)(1)(D)(i). Pub. L. 10366, §1104(2), substituted “8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (v)(II)),” for “8 percent” in introductory provisions and subcl. (I).

Subsec. (c)(1)(D)(v). Pub. L. 10366, §1104(3), inserted “and reduced yields” in heading, designated existing provisions as subcl. (I), inserted subcl. heading, substituted “In the case of each of the 1991 through 1993 crops of rice, if” for “If”, and added subcl. (II).

1991—Subsec. (c)(1)(B)(iii). Pub. L. 102237, §113(1), redesignated cl. (ii), relating to minimum established price, as (iii).

Subsec. (c)(1)(E). Pub. L. 102237, §102(a), redesignated existing provisions as cl. (i), inserted heading, realigned margin, and substituted “castor beans,” for “sesame, castor beans, crambe,” and “rye, millet, mung beans” for “rye, mung beans”, redesignated former cl. (i) as subcl. (I), realigned margin, and struck out “and will not affect farm income adversely” after “program”, redesignated former cl. (ii) as subcl. (II) and realigned margin, and added cl. (ii).

Subsec. (e)(1)(C). Pub. L. 102237, §104, added subpar. (C) and struck out former subpar. (C) which read as follows: “If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall announce any such program not later than January 31 of the calendar year in which the crop is harvested, except that in the case of the 1991 crop, the Secretary shall announce the program as soon as practicable after November 28, 1990.”

Subsec. (e)(4)(B)(i). Pub. L. 102237, §106(a), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “(i) IN GENERAL.—Except as provided in paragraph (2), a producer who participates in an acreage reduction program established for a crop of rice under this subsection shall be required to plant to an annual or perennial cover 50 percent (or more, at the option of the producer) of the acreage that is required to be removed

from the production of rice, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.”

1990—Subsec. (c)(1)(B)(ii). Pub. L. 101508, §1102(c), which directed the general amendment of cl. (ii) was executed by substituting the new provisions relating to payment rate for 1994 and 1995 crops for the cl. (ii) relating to payment rate for 1994 and 1995 crops, as the probable intent of Congress. Prior to amendment, cl. (ii) read as follows: “PAYMENT RATE OF 1994 AND 1995 CROPS.—The payment rate for the 1994 and 1995 crops of rice shall be determined in accordance with clause (i).”

Subsec. (c)(1)(C)(ii). Pub. L. 101508, §1101(d), substituted “85 percent” for “100 percent”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101508, set out as a note under section 511r 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. 101624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 1426, 1463, 5822 of this title.

§1441a. Cost of production study and establishment of current national weighted average cost of production

The Secretary of Agriculture, in cooperation with the land grant colleges, commodity organizations, general farm organizations, and individual farmers, shall conduct a cost of production study of the wheat, feed grain, cotton, and dairy commodities under the various production practices and establish a current national weighted average cost of production. This study shall be updated annually and shall include all typical variable costs, including interest costs, a return on fixed costs, and a return for management.

(Pub. L. 91524, title VIII, §808, as added Pub. L. 9386, §1(27)(B), Aug. 10, 1973, 87 Stat. 237; amended Pub. L. 9798, title XI, §1117, Dec. 22, 1981, 95 Stat. 1271.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1981—Pub. L. 9798 inserted “including interest costs,” after “variable costs,” substituted “, and a return for management” for “equal to the existing interest rates

charged by the Federal Land Bank, and return for management comparable to the normal management fees charged by other comparable industries", and struck out provision that these studies be based upon the size unit that requires one man to farm on a full-time basis.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 9798 effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as an Effective Date note under section 4301 of this title.

§1442. Price support and acreage requirements for corn and other feed grains

(a) Conditions of eligibility

Notwithstanding any other provision of law, whenever base acreages are in effect for corn, the Secretary shall require, as a condition of eligibility for price support on corn, that the producer (1) devote an acreage of cropland (tilled in normal rotation), at the option of the producer, to either the acreage reserve program for corn or the conservation reserve program, equal to 15 per centum of such producer's farm base acreage for corn, and (2) not exceed such farm base acreage for corn: *Provided*, That price support may be made available to any producer who does not meet the foregoing requirements at such level, not in excess of the level of price support to producers who meet such requirements, as the Secretary determines will facilitate the effective operation of the price support program. Corn acreage allotments shall not be effective for the 1956 crop.

(b) Referendum of producers of corn

Not later than December 15, 1956, the Secretary shall conduct a referendum of producers of corn in 1956 in the commercial corn-producing area to determine whether such producers favor a price-support program as provided in subsection (c) of this section for the 1957 and subsequent crops in lieu of acreage allotments as provided in the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1281 et seq.], and price support as provided in section 1441 of this title.

(c) Restriction on acreage allotment of corn; price support level

Notwithstanding any other provision of law, if two-thirds or more of the producers voting in the referendum conducted pursuant to subsection (b) of this section favor a price-support program as provided in this subsection, no acreage allotment of corn shall be established for the commercial corn-producing area for any county, or for any farm, with respect to the 1957 and subsequent crops, and price support made available for such crops by Commodity Credit Corporation shall be at such level as the Secretary determines will assist producers in marketing corn in the normal channels of trade but not encourage the uneconomic production of corn.

(d) Price support level for 1956 and 1957 crops of grain sorghums, barley, rye, oats, and corn

Notwithstanding any other provision of law, (1) the level of price support for the 1956 crop of grain sorghums, barley, rye, and oats, respectively, shall be 76 per centum of the parity price for the commodity as of May 1, 1956, (2) the level of price support for corn produced outside the

commercial corn-producing area, for any crop for which base acreages are in effect (except as provided in (3) below), shall be 82½ per centum of the level of price support for corn in the commercial corn-producing area to producers complying with acreage limitations, and (3) if price support is made available for the 1957 crop of corn in the commercial corn-producing area to producers not complying with acreage limitations, price support shall be made available for the 1957 crop of grain sorghums, barley, rye, oats, and corn produced outside the commercial corn-producing area, respectively, at a level, not less than 70 per centum of the parity price as of the beginning of the marketing year, determined by the Secretary to be fair and reasonable in relation to the level at which price support is made available for corn in the commercial corn-producing area to producers not complying with acreage limitations, taking into consideration the normal price relationships between such commodity and corn in the commercial area, the feed value of such commodity in relation to corn, the supply of such commodity in relation to the demand therefor, and the ability to dispose of stocks of such commodity acquired through price support programs.

(May 28, 1956, ch. 327, title III, §308, 70 Stat. 206.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, as amended, referred to in subsec. (b), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1956, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

REFERENDUM OF PRODUCERS OF CORN

The referendum provided for in subsec. (b) of this section was held on Dec. 11, 1956, and the required two-thirds vote was not obtained in favor of the price support program provided for in subsec. (c) of this section. See 22 F.R. 480.

§1443. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, §102, as added Aug. 28, 1958, Pub. L. 85835, title I, §101, 72 Stat. 988, related to acreage allotment and price support levels for the 1959 and 1960 crops of upland cotton.

§1444. Cotton price support levels

(a) Basic support levels for 1961 and subsequent years

Notwithstanding the provisions of section 1441 of this title, price support to cooperators for each crop of upland cotton, beginning with the 1961 crop, for which producers have not disapproved marketing quotas shall be at such level not more than 90 per centum of the parity price therefor nor less than the minimum level prescribed below as the Secretary determines appropriate after consideration of the factors

specified in section 1421(b) of this title. For the 1961 crop the minimum level shall be 70 per centum of the parity price therefor, and for each subsequent crop the minimum level shall be 65 per centum of the parity price therefor: *Provided*, That the price support for the 1965 crop shall be a national average support price which reflects 30 cents per pound for Middling one-inch cotton. Price support in the case of noncooperators and in case marketing quotas are disapproved shall be as provided in section 1441(d)(3) and (5) of this title.

(b) Additional support levels for 1964 and 1965

If producers have not disapproved marketing quotas, the Secretary shall provide additional price support on the 1964 and 1965 crops of upland cotton to cooperators on whose farms the acreage planted to upland cotton for harvest does not exceed the farm domestic allotment established under section 1350 of this title. Such additional support shall be at a level up to 15 per centum in excess of the basic level of support established under subsection (a) of this section and shall be provided on the normal yield of the acreage planted for harvest within the farm domestic allotment. For purposes of this subsection, an acreage on the farm which the Secretary finds was not planted to cotton in 1965 because of flood, drought, or other natural disaster shall be deemed by the Secretary to be an actual acreage of cotton planted on the farm for harvest, provided such acreage is not subsequently devoted to any price supported crop for 1965.

(c) Alternative operations for carrying out additional price support; payment-in-kind certificates: value, marketing assistance, redemption, and deductions after thirty day period

In order to keep upland cotton to the maximum extent practicable in the normal channels of trade, any additional price support under subsection (b) of this section may be carried out through the simultaneous purchase of cotton at the support price therefor under subsection (b) of this section and the sale of such cotton at the support price therefor under subsection (a) of this section or similar operations, including loans under which the cotton would be redeemable by payment of the amount for which the cotton would be redeemable if the loan thereon had been made at the support price for such cotton under subsection (a) of this section, or payments-in-kind through the issuance of certificates which the Commodity Credit Corporation shall redeem for cotton under regulations issued by the Secretary. If such additional support is provided through the issuance of payment-in-kind certificates, such certificates shall have a value per pound of cotton equal to the difference between the level of support established under subsection (a) of this section and the level of support established under subsection (b) of this section. The corporation may, under regulations prescribed by the Secretary, assist the producers and persons receiving payment-in-kind certificates under this section and section 1348 of this title, in the marketing of such certificates at such time and in such manner as the Secretary determines will best effectuate the purposes of the program authorized by this section and such section 1348. In the case of any certificate not

presented for redemption within thirty days of the date of its issuance, reasonable costs of storage and other carrying charges as determined by the Secretary for the period beginning thirty days after its issuance and ending with the date of its presentation for redemption shall be deducted from the value of the certificate.

(d) Price support and diversion payments for 1966 through 1970 crops

(1) Notwithstanding any other provision of this Act, if producers have not disapproved marketing quotas, price support and diversion payments shall be made available for the 1966 through 1970 crops of upland cotton as provided in this subsection.

(2) Price support for each such crop of upland cotton shall be made available to cooperators through loans at such level, not exceeding a level which will reflect for Middling one-inch upland cotton at average location in the United States 90 per centum of the estimated average world market price for Middling one-inch upland cotton for the marketing year for such crop, as the Secretary determines will provide orderly marketing of cotton during the harvest season and will retain an adequate share of the world market for cotton produced in the United States taking into consideration the factors specified in section 1421(b) of this title: *Provided*, That the national average loan rate for the 1966 crop shall reflect 21 cents per pound for Middling one-inch upland cotton.

(3) The Secretary also shall provide additional price support for each such crop through payments in cash or in kind to cooperators at a rate not less than 9 cents per pound: *Provided*, That the rate shall be such that the amount obtained by—

- (i) multiplying the rate by the farm domestic acreage allotment percentage, and
- (ii) dividing the product thus obtained by the cooperator percentage established under section 1428(b) of this title, and
- (iii) adding the result thus obtained to the national average loan rate

shall not be less than 65 per centum or more than 90 per centum of the parity price for cotton as of the month in which the payment rate provided for by this paragraph is announced. Such payments shall be made on the quantity of cotton determined by multiplying the projected farm yield by the acreage planted to cotton within the farm domestic acreage allotment: *Provided*, That any such farm planting not less than 90 per centum of such domestic acreage allotment shall be deemed to have planted the entire amount of such allotment. An acreage on a farm in any such year which the Secretary finds was not planted to cotton because of drought, flood, or other natural disaster shall be deemed to be planted to cotton for purposes of payments under this subsection if such acreage is not subsequently devoted to any other crop for which there are marketing quotas or voluntary adjustment programs in effect.

(4) The Secretary shall make diversion payments in cash or in kind in addition to the price support payments authorized in paragraph (3) to cooperators who reduce their cotton acreage by diverting a portion of their cotton acreage allot-

ment from the production of cotton to approved conservation practices to the extent prescribed by the Secretary: *Provided*, That no reduction below the domestic acreage allotments established under section 1350 of this title shall be prescribed: *Provided further*, That payment under this paragraph shall be made available for diverting to conserving uses that part of the acreage allotment which must be diverted from cotton in order that the producer may qualify as a cooperator. The rate of payment for acreage required to be diverted in order to qualify as a cooperator shall not be less than 25 per centum of the parity price for upland cotton as of the month in which such rate is announced. The rate of payment for additional acreage diverted shall be such rate as the Secretary determines to be fair and reasonable, but shall not exceed 40 per centum of such parity price. Payment at each applicable rate shall be made on the quantity of cotton determined by multiplying the acreage diverted from the production of cotton at such rate by the projected farm yield. In addition to the foregoing payment, if any, payment at the rate applicable for acreage required to be diverted to qualify as a cooperator shall be made to producers on small farms as defined in section 1428(b) of this title who do not exceed their farm acreage allotments on a quantity of cotton determined by multiplying an acreage equal to 35 per centum of such farm acreage allotment by the projected farm yield.

(5) The Secretary may make not to exceed 50 per centum of the payments under this subsection to producers in advance of determination of performance and the balance of such payments shall be made at such time as the Secretary may prescribe.

(6) Where the farm operator elects to participate in the diversion program authorized in this subsection and no acreage is planted to cotton on the farm, diversion payments shall be made at the rate established under paragraph (4) for acreage required to be diverted to qualify as a cooperator on the quantity of cotton determined by multiplying that part of the farm acreage allotment required to be diverted to qualify as a cooperator by the projected farm yield, and the remainder of such allotment may be released under the provisions of section 1344(m)(2) of this title. The acreage on which payment is made under this paragraph shall be regarded as planted to cotton for purposes of establishing future State, county, and farm acreage allotments, and farm bases.

(7) Payments in kind under this subsection shall be made through the issuance of certificates which the Commodity Credit Corporation shall redeem for cotton under regulations issued by the Secretary at a value per pound equal to not less than the current loan rate therefor. The Corporation may, under regulations prescribed by the Secretary, assist the producers in the marketing of such certificates at such times and in such manner as the Secretary determines will best effectuate the purposes of the program authorized by this subsection.

(8) Payments under this subsection shall be conditioned on the farm having an acreage of approved conservation uses equal to the sum of (i) the reduction in cotton acreage required to

qualify for such payments (hereinafter called "diverted acreage"), and (ii) the average acreage of cropland on the farm devoted to designated soil-conserving crops or practices, including summer fallow and idle land, during a base period prescribed by the Secretary: *Provided*, That the Secretary may permit all or any part of such diverted acreage to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, and flaxseed, if he determines that such production is necessary to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not adversely affect farm income, subject to the condition that payment under paragraph (4) or (6) with respect to diverted acreage devoted to any such crop shall be at a rate determined by the Secretary to be fair and reasonable, taking into consideration the use of such acreage for the production of such crops, but in no event shall the payment exceed one-half the rate which otherwise would be applicable if such acreage were devoted to conservation uses.

(9) The acreage regarded as planted to cotton on any farm which qualifies for payment under this subsection except under paragraph (6) shall, for purposes of establishing future State, county, and farm acreage allotments and farm bases, be the farm acreage allotment established under section 1344 of this title, excluding adjustments under subsection (m)(2) thereof.

(10) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing diversion payments on a fair and equitable basis under this subsection. The Secretary shall provide for the sharing of price support payments among producers on the farm on the basis of their respective shares in the cotton crop produced on the farm, or the proceeds therefrom, except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable.

(11) In any case in which the failure of a producer to comply fully with the terms and conditions of the programs formulated under this Act preclude the making of payments under this section, the Secretary may, nevertheless, make such payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

(12) Notwithstanding any other provision of this Act, if, as a result of limitations hereafter enacted with respect to price support under this subsection, the Secretary is unable to make available to all cooperators the full amount of price support to which they would otherwise be entitled under paragraphs (2) and (3) of this subsection for any crop of upland cotton, (A) price support to cooperators shall be made available for such crop (if marketing quotas have not been disapproved) through loans or purchases at such level not less than 65 per centum nor more than 90 per centum of the parity price therefor as the Secretary determines appropriate; (B) in order to keep upland cotton to the maximum extent practicable in the normal channels of trade, such price support may be carried out through

the simultaneous purchase of cotton at the support price therefor and resale at a lower price or through loans under which the cotton would be redeemable by payment of a price therefor lower than the amount of the loan thereon; and (C) such resale or redemption price shall be such as the Secretary determines will provide orderly marketing of cotton during the harvest season and will retain an adequate share of the world market for cotton produced in the United States.

(13) The provisions of section 590h(g) of title 16 (relating to assignment of payments), shall also apply to payments under this subsection.

(14) The Commodity Credit Corporation is authorized to utilize its capital funds and other assets for the purpose of making the payments authorized in this subsection and to pay administrative expenses necessary in carrying out this subsection.

(e) Price support, diversion, and cropland set-aside program for crops beginning with 1971 crop

(1) The Secretary shall upon presentation of warehouse receipts reflecting accrued storage charges of not more than 60 days make available for the 1971 through 1977 crops of upland cotton to cooperators nonrecourse loans for a term of ten months from the first day of the month in which the loan is made at such level as will reflect the Middling one-inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States 90 per centum of the average price of American cotton in world markets for such cotton for the three-year period ending July 31 in the year in which the loan level is announced, except that if the loan rate so calculated is higher than the then current level of average world prices for American cotton of such quality, the Secretary is authorized to adjust the current calculated loan rate for cotton to 90 per centum of the then current average world price. The average world price for such cotton for such preceding three-year period shall be determined by the Secretary annually pursuant to a published regulation which shall specify the procedures and the factors to be used by the Secretary in making the world price determination. The loan level for any crop of upland cotton shall be determined and announced not later than November 1 of the calendar year preceding the marketing year for which such loan is to be effective. Notwithstanding the foregoing, if the carryover of upland cotton as of the beginning of the marketing year for any of the 1972 or 1973 crops exceeds 7.2 million bales, producers on any farm harvesting cotton of such crop from an acreage in excess of the base acreage allotment for such farm shall be entitled to loans and purchases only on an amount of the cotton of such crop produced on such farm determined by multiplying the yield used in computing payments for such farm by the base acreage allotment for such farm.

(2) Payments shall be made for each crop of cotton to the producers on each farm at a rate equal to the amount by which the higher of—

(1) the average market price received by farmers for upland cotton during the calendar year which includes the first five months of

the marketing year for such crop, as determined by the Secretary, or

(2) the loan level determined under paragraph (1) for such crop

is less than the established price of 38 cents per pound in the case of the 1974 and 1975 crops, 38 cents per pound adjusted to reflect any change during the calendar year 1975 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1976 crop, and the established price for the 1976 crop adjusted to reflect any change during the calendar year 1976 in such index in the case of the 1977 crop: *Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of cotton for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of cotton for the three calendar years preceding the year previous to the one for which the determination is made. If the Secretary determines that the producers on a farm are prevented from planting any portion of the allotment to cotton because of drought, flood, or other natural disaster, or condition beyond the control of the producer, the rate of payment for such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. If the Secretary determines that, because of such a disaster or condition, the total quantity of cotton which the producers are able to harvest on any farm is less than 66⅔ percent of the farm base acreage allotment times the average yield established for the farm, the rate of payment for the deficiency in production below 100 percent shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. The payment rate with respect to any producer who (i) is on a small farm (that is, a farm on which the base acreage allotment is ten acres or less, or on which the yield used in making payments times the farm base acreage allotment is five thousand pounds or less, and for which the base acreage allotment has not been reduced under section 1350(f) of this title, (ii) resides on such farm, and (iii) derives his principal income from cotton produced on such farm, shall be increased by 30 per centum; but, notwithstanding paragraph (3), such increase shall be made only with respect to his share of cotton actually harvested on such farm within the quantity specified in paragraph (3).

(3) Such payments shall be made available for a farm on the quantity of upland cotton determined by multiplying the acreage planted within the farm base acreage allotment for the farm for the crop by the average yield established for the farm: *Provided*, That payments shall be made on any farm planting not less than 90 per centum of the farm base acreage allotment on the basis of the entire amount of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to cotton because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be considered to be an acreage planted to cotton. The average yield for the farm for any year shall be determined on

the basis of the actual yields per harvested acre for the three preceding years, except that the 1970 farm projected yield shall be substituted in lieu of the actual yields for the years 1968 and 1969: *Provided*, That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, or other natural disaster: *Provided further*, That the average yield established for the farm for any year shall not be less than the yield used in making payments for the preceding year if the total cotton production on the farm in such preceding year is not less than the yield used in making payments for the farm for such preceding year times the farm base acreage allotment for such preceding year (for the 1970 crop, the farm domestic allotment).

(4)(A) The Secretary shall provide for a set aside of cropland if he determines that the total supply of agricultural commodities will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph (4), then as a condition of eligibility for loans and payments on upland cotton the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the farm base acreage allotment for the farm as may be specified by the Secretary (not to exceed 28 per centum of the farm base acreage allotment), plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to a percentage of the farm base acreage allotment. The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income.

(B) To assist in adjusting the acreage of commodities to desirable goals, the Secretary may make land diversion payments, in addition to the payments authorized in subsection (e)(2) of this section, to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be so devoted under subsection (e)(4)(A) of this section. The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration to the diversion undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to ad-

versely affect the economy of the county or local community.

(5) The upland cotton program formulated under this section shall require the producer to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds, and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(6) If the operator of the farm desires to participate in the program formulated under this section, he shall file his agreement to do so no later than such date as the Secretary may prescribe. Loans and purchases on upland cotton and payments under this section shall be made available to the producers on such farm only if producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producer, terminate or modify any such agreement entered into pursuant to this subsection (e)(6) if he determines such action necessary because of an emergency created by drought or other disaster or in order to alleviate a shortage in the supply of agricultural commodities.

(7) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing on a fair and equitable basis, in payments under this section.

(8) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

(9) The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this subchapter.

(10) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(11) The provisions of section 590h(g) of title 16 (relating to assignment of payments), shall apply to payments under this subsection.

(f), (g) Omitted

(h) Program for extra long staple cotton beginning with 1984 crop

(1) For purposes of this subsection, extra long staple cotton means cotton which is produced

from pure strain varieties of the Barbados species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which American upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary is suitable for the production of such varieties or types and which is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(2) The Secretary shall, upon presentation of warehouse receipts reflecting accrued storage charges of not more than sixty days, make available to producers nonrecourse loans for a term of ten months from the first day of the month in which the loan is made at a level which is not less than 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.¹ If authorized by the Secretary, nonrecourse loans provided for in this subsection may, upon request of the producer during the tenth month of the loan period for the cotton, be made available for an additional term of eight months. The loan level for any crop of extra long staple cotton shall be determined and announced by the Secretary not later than December 1 of the calendar year preceding the marketing year for which such loan is to be effective and such level shall not thereafter be changed.

(3)(A) In addition, payments shall be made for each crop of extra long staple cotton to producers on each farm at a rate equal to the amount by which the higher of—

- (i) the average market price received by farmers for extra long staple cotton during the first eight months of the marketing year for such crop, as determined by the Secretary, or
- (ii) the loan level determined under paragraph (2) of this subsection for such crop,

is less than the established price per pound times, in each case, the farm program acreage for extra long staple cotton (determined in accordance with paragraph (5)(A), but in no event on a greater acreage than the acreage actually planted to extra long staple cotton for harvest), multiplied by the farm program payment yield for extra long staple cotton (determined in accordance with paragraph (4)).

(B) The established price for each crop of extra long staple cotton shall be 120 per centum of the loan level determined for such crop under paragraph (2) of this subsection.

(C) If the Secretary establishes an acreage limitation program for a crop of extra long staple cotton in accordance with paragraph (5)(A) and determines that deficiency payments will likely be made for such crop of extra long staple cotton under subparagraph (A) of this paragraph, the Secretary may make available ad-

vance deficiency payments for such crop to producers who agree to participate in the acreage limitation program. Such advance payments shall be made available to producers as soon as practicable after the producer files a notice of intention to participate in such acreage limitation program and in such amount as the Secretary determines appropriate to encourage adequate participation in such program, except that such amount shall not exceed an amount determined by multiplying (i) the estimated farm program acreage for the crop, by (ii) the farm program payment yield for the crop, by (iii) 50 per centum of the projected payment rate, as determined by the Secretary. In any case in which the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under subparagraph (A) of this paragraph, is less than the amount paid to the producer as an advance deficiency payment under this paragraph, the producer shall refund an amount equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producer. If the Secretary determines that no deficiency payments are due producers on a crop, the producer who received advanced payments on such crop shall refund such payments. If a producer fails to comply with the requirements under the acreage limitation program after obtaining an advance deficiency payment under this paragraph, the producer shall immediately repay the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe.

(4) The farm program payment yield for each crop of extra long staple cotton shall be determined on the basis of the actual yields per harvested acre on the farm for the preceding three years, except that the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, or other natural disaster, or other condition beyond the control of the producers. In case farm yield data for one or more years are unavailable or there was no production, the Secretary shall provide for appraisals to be made on the basis of actual yields and program payment yields for similar farms in the area for which data are available. Notwithstanding the foregoing provisions of this paragraph in the determination of yields, the Secretary shall take into account the actual yields proved by the producer, and neither such yields nor the farm program payment yield established on the basis of such yields shall be reduced under other provisions of this paragraph. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop year involved. If national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

(5)(A)(i) Notwithstanding any other provision of this subsection, the Secretary may establish a limitation on the acreage planted to extra

¹So in original.

long staple cotton if the Secretary determines that the total supply of extra long staple cotton, in the absence of such limitation, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable prices and to meet a national emergency. Such limitation shall be achieved by applying a uniform percentage reduction (including a zero percentage reduction) to the acreage base for each extra long staple cotton-producing farm. Producers who knowingly produce extra long staple cotton in excess of the permitted acreage for the farm shall be ineligible for extra long staple cotton loans and payments with respect to that farm. The acreage base for any farm for the purpose of determining any reduction required to be made for any year as a result of a limitation under this subparagraph shall be the average acreage planted on the farm to extra long staple cotton for harvest in the three crop years immediately preceding the year prior to the year for which the determination is made. For the purpose of the preceding sentence, acreage planted to extra long staple cotton for harvest shall include any acreage which the producers were prevented from planting to extra long staple cotton or other nonconserving crops in lieu of extra long staple cotton because of drought, flood, or other natural disaster or other condition beyond the control of the producers. The Secretary may make adjustments to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base. There is hereby established for the 1984, 1985, and 1986 crops an acreage base reserve equal to 5 per centum of the total of the farm acreage bases established for the crop under the foregoing provisions of this subparagraph. Such reserve shall be in addition to the total of the farm acreage bases and shall be used by the county committees, in accordance with regulations of the Secretary, for making adjustments of farm acreage bases to correct inequities and prevent hardship, and for establishing bases for farms on which no extra long staple cotton was planted during the preceding four years. A number of acres on the farm determined by dividing (i) the product obtained by multiplying the number of acres required to be withdrawn from the production of extra long staple cotton times the number of acres actually planted to such commodity, by (ii) the number of acres authorized to be planted to such commodity under the limitation established by the Secretary, shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, which will assure protection of such acreage from weeds and wind and water erosion. The number of acres so determined is hereafter in this subsection referred to as "reduced acreage". The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the reduced acreage to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely

to increase the cost of the price support program, and will not affect farm income adversely. The individual farm program acreage shall be the actual acreage planted on the farm to extra long staple cotton for harvest within the permitted extra long staple cotton acreage for the farm as established under this paragraph.

(ii) Notwithstanding any other provision of this Act, the Secretary shall ensure, under such terms and conditions as may be prescribed by the Secretary, that the total of the crop acreage bases established on a farm which is enrolled in a production adjustment program for any commodity shall not be increased as a result of the application of the provisions set forth in paragraph (13)(C), as extended for the 1989 and 1990 crop.

(B) The Secretary may make land diversion payments to producers of extra long staple cotton, whether or not an acreage limitation program for extra long staple cotton is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of extra long staple cotton to desirable goals. Such land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(C) The reduced acreage and the diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purpose of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(6) An operator of a farm desiring to participate in the program conducted under paragraph (5) shall execute an agreement with the Secretary providing for such participation not later than such date as the Secretary may prescribe. The Secretary may, by mutual agreement with the producers on the farm, terminate or modify any such agreement if the Secretary determines such action necessary because of an emergency

created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities.

(7) The Secretary shall provide for the sharing of payments made under this subsection for any farm among the producers on the farm on a fair and equitable basis.

(8) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(9) If the failure of a producer to comply fully with the terms and conditions of the program formulated under this subsection precludes the making of loans and payments, the Secretary may, nevertheless, make such loans and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the failure. The Secretary may authorize the county and State committees established under section 590h(b) of title 16 to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

(10) The Secretary may issue such regulations as the Secretary determines necessary to carry out the provisions of this subsection.

(11) The Secretary shall carry out the program authorized by this subsection through the Commodity Credit Corporation.

(12) The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to payments made under this subsection.

(13)(A) Compliance on a farm with the terms and conditions of any other commodity program or compliance with crop acreage base requirements for any other commodity may not be required as a condition of eligibility for loans or payments under this section.

(B) The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the extra long staple cotton program with respect to any other farm operated by the producers.

(14) In order to encourage and assist producers in the orderly ginning and marketing of their extra long staple cotton production, the Secretary shall make recourse loans available to such producers on seed cotton in accordance with authority vested in the Secretary under the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.].

(15) References made in sections 1422, 1423, 1426, 1427, and 1431 of this title to the terms "support price", "level of support", and "level of price support" shall be considered to apply as well to the level of loans for extra long staple cotton under this subsection; and references to the terms "price support", "price support operations", and "price support program" in such sections and in section 1421(a) of this title shall be considered as applying as well to the loan operations for extra long staple cotton under this subsection.

(16) Notwithstanding any other provision of law, this subsection shall not be applicable to the 1996 and subsequent crops of extra long staple cotton.

(Oct. 31, 1949, ch. 792, title I, §103, as added Aug. 28, 1958, Pub. L. 85835, title I, §102, 72 Stat. 989;

amended Apr. 11, 1964, Pub. L. 88297, title I, §103(b), 78 Stat. 174; Aug. 6, 1965, Pub. L. 89112, §2, 79 Stat. 447; Nov. 3, 1965, Pub. L. 89321, title IV, §402(a), 79 Stat. 1194; June 17, 1966, Pub. L. 89451, §1, 80 Stat. 202; Oct. 11, 1968, Pub. L. 90559, §1(2), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91524, title VI, §602, 84 Stat. 1374; Aug. 10, 1973, Pub. L. 9386, §1(20), 87 Stat. 233; Oct. 18, 1973, Pub. L. 93125, §1(b), 87 Stat. 450; Sept. 29, 1977, Pub. L. 95113, title VI, §602, 91 Stat. 934; May 15, 1978, Pub. L. 95279, title I, §102, 92 Stat. 240; Sept. 30, 1978, Pub. L. 95402, 92 Stat. 862; Mar. 18, 1980, Pub. L. 96213, §4(b), 94 Stat. 119; Sept. 26, 1980, Pub. L. 96365, title II, §201(b), 94 Stat. 1320; Dec. 22, 1981, Pub. L. 9798, title V, §502, 95 Stat. 1234; Jan. 12, 1983, Pub. L. 97446, title I, §155, 96 Stat. 2345; Aug. 26, 1983, Pub. L. 9888, §4, 97 Stat. 494; Apr. 10, 1984, Pub. L. 98258, title III, §§301, 302, 98 Stat. 133; Oct. 1, 1985, Pub. L. 99114, §3, 99 Stat. 488; Dec. 23, 1985, Pub. L. 99198, title V, §507, 99 Stat. 1419; Oct. 18, 1986, Pub. L. 99500, §101(a) [title VI, §644], 100 Stat. 1783, 178336, and Oct. 30, 1986, Pub. L. 99591, §101(a) [title VI, §644], 100 Stat. 3341, 334136; Nov. 10, 1986, Pub. L. 99641, title II, §201, 100 Stat. 3562; Dec. 22, 1987, Pub. L. 100203, title I, §1101(d), 101 Stat. 13302; June 14, 1988, Pub. L. 100331, 102 Stat. 602; Aug. 23, 1988, Pub. L. 100418, title I, §1214(w), 102 Stat. 1163; Nov. 28, 1990, Pub. L. 101624, title V, §506, 104 Stat. 3440.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (d)(1), (11), (12) and (h)(5)(A)(ii), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (h)(14), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

CODIFICATION

Pub. L. 99591 is a corrected version of Pub. L. 99500.

AMENDMENTS

1990—Subsec. (h)(3)(A). Pub. L. 101624, §506(b)(1), substituted "paragraph (5)(A)" for "paragraph (6) or paragraph (8)(A) of this subsection" and "paragraph (4)" for "paragraph (7) of this subsection".

Subsec. (h)(3)(C). Pub. L. 101624, §506(b)(2), substituted "paragraph (5)(A)" for "paragraph (8)(A) of this subsection".

Subsec. (h)(4). Pub. L. 101624, §506(a)(1), (2), redesignated par. (7) as (4) and struck out former par. (4) which related to establishment of a national program acreage for extra long staple cotton by Secretary.

Subsec. (h)(5). Pub. L. 101624, §506(a)(1)(3), redesignated par. (8) as (5), inserted "(including a zero percentage reduction)" after "reduction" in subpar. (A)(i), and struck out former par. (5) which required Secretary to determine a program allocation factor, not to exceed 100 per centum for each crop of extra long staple cotton.

Pub. L. 101624, §506(b)(3), struck out before last sentence in subpar. (A)(i) the following: "If an acreage limitation program is announced under this paragraph for a crop of extra long staple cotton, paragraphs (4), (5), and (6) of this subsection shall not be applicable to such crop, including any prior announcement which may have been made under such paragraphs with respect to such crop."

Pub. L. 101624, §506(b)(4), substituted “paragraph (13)(C)” for “paragraph (16)(C)” in subpar. (A)(ii).

Subsec. (h)(6). Pub. L. 101624, §506(b)(5), substituted “paragraph (5)” for “paragraph (8) of this subsection”.

Pub. L. 101624, §506(a)(1), (2), redesignated par. (9) as (6) and struck out former par. (6) which provided a formula for determining individual farm program acreage for each crop of extra long staple cotton by multiplying allocation factor by acreage of extra long staple cotton planted for harvest on each farm for which individual farm program acreages are required to be determined.

Subsec. (h)(7) to (12). Pub. L. 101624, §506(a)(2), redesignated pars. (10) to (15) as (7) to (12), respectively. Former pars. (7) to (9) redesignated (4) to (6), respectively.

Subsec. (h)(13). Pub. L. 101624, §506(a)(2), (4), redesignated par. (16) as (13), struck out par. (13) as so redesignated, and added new par. (13). Former par. (13) redesignated (10). Prior to being struck out, par. (13) read as follows:

“(A) Notwithstanding any other provision of law, except as provided in subparagraph (B), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans or payments under this subsection.

“(B) In the case of each of the 1989 and 1990 crops of extra long staple cotton, the Secretary may require that, as a condition of eligibility of producers for loans or payments under this subsection, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect shall not exceed the crop acreage base established for the farm for that commodity.

“(C) Notwithstanding any other provision of law, in the case of each of the 1987 through 1990 crops of extra long staple cotton, compliance with the terms and conditions of the program authorized by this subsection may not be required as a condition of eligibility for loans, purchases, or payments under any other commodity program.”

Subsec. (h)(14), (15). Pub. L. 101624, §506(a)(2), redesignated pars. (17) and (18) as (14) and (15), respectively. Former pars. (14) and (15) redesignated (11) and (12), respectively.

Subsec. (h)(16). Pub. L. 101624, §506(a)(2), (5), redesignated par. (19) as (16) and substituted “1996” for “1991”. Former par. (16) redesignated (13).

Subsec. (h)(17) to (19). Pub. L. 101624, §506(a)(2), redesignated pars. (17) to (19) as (14) to (16), respectively.

1988—Subsec. (f)(3). Pub. L. 100418 substituted “subheadings 9904.30.10 through 9904.30.30 of chapter 99 of the Harmonized Tariff Schedule of the United States” for “items 955.01 through 955.03 of the Appendix to the Tariff Schedules of the United States”.

Subsec. (h)(8)(A). Pub. L. 100331, §2, designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (h)(16)(C). Pub. L. 100331, §1, substituted “through 1990” for “and 1988”.

1987—Subsec. (h)(3)(B). Pub. L. 100203 temporarily (see Effective and Termination Dates of 1987 Amendment note below) substituted “Except as provided in clause (ii), the” for “The” and added cl. (ii) which read as follows: “In the case of each of the 1988 and 1989 crops of extra long staple cotton, the established price for each such crop shall be 118.3 percent of the loan level determined for such crop under paragraph (2).”

1986—Subsec. (h)(16). Pub. L. 99500, Pub. L. 99591, and Pub. L. 99641, in generally amending par. (16) identically, designated existing provisions as subpar. (A), inserted “except as provided in subparagraph (B),” and added subpars. (B) and (C).

1985—Subsec. (h)(2). Pub. L. 99198, §507(1), in first sentence substituted “85 percent or the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.” for “50 percent in excess of the loan level established

for each crop of Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States”, and, in last sentence substituted “December 1” for “November 1” and struck out “, or within 10 days after the loan level for the related crop of upland cotton is announced, whichever is later;”.

Pub. L. 99114, §3(1), inserted “, or within 10 days after the loan level for the related crop of upland cotton is announced, whichever is later;”.

Subsec. (h)(4). Pub. L. 99114, §3(2), inserted “and announce” after “The Secretary shall establish” and struck out sentence which had provided that national program acreage for extra long staple cotton had to be announced by the Secretary not later than November 1 of the calendar year preceding the year for which such acreage was established.

Subsec. (h)(19). Pub. L. 99198, §507(2), added par. (19). 1984—Subsec. (g)(3)(B). Pub. L. 98258, §301, substituted “and \$0.81 per pound for the 1984 and 1985 crops” for “\$0.81 per pound for the 1984 crop, and \$0.86 per pound for the 1985 crop”.

Subsec. (g)(9)(A). Pub. L. 98258, §302(1), inserted “except as provided in the second and third sentences of this subparagraph,” after “Notwithstanding any other provision of this subsection;”.

Pub. L. 98258, §302(2), inserted sentences providing that for the 1985 crop of upland cotton, if the Secretary estimates that the quantity of upland cotton on hand in the United States on July 31, 1985 (not including any quantity of upland cotton produced in the United States during calendar year 1985), will exceed three million seven hundred thousand bales, the Secretary (i) shall provide for a land diversion [diversion] program as described under subparagraph (B) under which the acreage planted to upland cotton for harvest on the farm would be limited to the acreage base for the farm reduced by not less than 5 per centum and (ii) may provide for an acreage limitation program as described under this subparagraph under which the acreage planted to upland cotton for harvest on the farm would be limited to the acreage base for the farm reduced by not more than 20 per centum in addition to the reduction required under clause (i), that if the Secretary implements a combined acreage limitation program and land diversion [diversion] program, any reduction required by the Secretary in excess of 25 per centum of the acreage base for the farm shall be made under the land diversion program, and that, as a condition of eligibility for loans, purchases, and payments on the 1985 crop of upland cotton, if the Secretary implements a land diversion program or a combined acreage limitation and land diversion program, the producers on a farm must comply with the terms and conditions of such program.

Subsec. (g)(9)(B). Pub. L. 98258, §302(3), inserted sentences providing that if the Secretary implements a land diversion program for the 1985 crop of upland cotton under the provisions of subparagraph (A), the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of upland cotton whose acreage planted to upland cotton for harvest on the farm is reduced so that it does not exceed the upland cotton acreage base for the farm less an amount equivalent to the percentage of the acreage base specified by the Secretary, but not less than 5 per centum, in addition to the reduction required under the acreage limitation program under subparagraph (A), if any, and who devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the upland cotton acreage base under this subparagraph, that such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the acreage diverted under this subparagraph, that the diversion payment rate shall be established by the Secretary at not less than \$0.275 per pound: *Provided*, That if the Secretary estimates that the quantity of upland cotton on hand in the United States on July 31, 1985 (not including any quantity of

upland cotton produced in the United States during calendar year 1985), will exceed (I) four million one hundred thousand bales, such rate shall be established by the Secretary at not less than \$0.30 per pound, and (II) four million seven hundred thousand bales such rate shall be established by the Secretary at not less than \$0.35 per pound, that the Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1985 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, and that if a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.

1983—Subsec. (h). Pub. L. 9888 added subsec. (h).

Subsec. (f)(3). Pub. L. 97446 temporarily substituted provision relating to the special quota status of Tariff Schedule items 955.01 and 955.03 before a special quota established under this subsection is filled and the cotton in question is duty free, for provision that, notwithstanding any other provision of law, the foregoing provisions of this subsection with respect to extension of the loan period and to proclamation of the special quota was to become effective Oct. 1, 1977, even though the cotton might have been of a crop prior to the 1978 crop. See Effective and Termination Dates of 1983 Amendment note below.

1981—Subsec. (g). Pub. L. 9798 temporarily added subsec. (g). See Effective and Termination Dates of 1981 Amendment note below.

1980—Subsec. (f)(5)(A). Pub. L. 96365, §201(b)(1), substituted "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of upland cotton" for "Effective only with respect to the 1978, 1979, and 1980 crops of upland cotton".

Pub. L. 96213, §4(b)(1), substituted "1978, 1979, and 1980 crops of upland cotton" for "1978 and 1979 crops of upland cotton".

Subsec. (f)(5)(B). Pub. L. 96365, §201(b)(2), substituted "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of upland cotton" for "Effective only with respect to the 1978, 1979, and 1980 crops of upland cotton".

Pub. L. 96213, §4(b)(2), substituted "1978, 1979, and 1980 crops of upland cotton" for "1978 and 1979 crops of upland cotton".

Subsec. (f)(5)(C). Pub. L. 96365, §201(b)(3), added subpar. (C).

1978—Subsec. (f)(1). Pub. L. 95402 purported to strike out the fourth sentence of subsec. (f)(1). The enacting clause, however, stated that Pub. L. 95402 was enacted to amend subsec. (f)(1) ". . . to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities". Accordingly, the third sentence of subsec. (f)(1) was struck out as the probable intent of Congress because it related to interest rates while the fourth sentence related to extension of the loan period and establishment of a special limited global import quota.

Pub. L. 95279 temporarily substituted "during three years of the five-year period ending July 31" for "during the four-year period ending July 31" and inserted "excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period" in cl. (i), substituted "for the fifteen-week period beginning July 1" for "for the first two full weeks of October" in cl. (ii), and inserted proviso relating to the minimum loan level and the power of the Secretary to raise the loan level as he may deem appropriate when the average Northern European price is less than the average United States spot market price. See Effective and Termination Dates of 1978 Amendment note below.

1977—Subsec. (f). Pub. L. 95113 temporarily added subsec. (f). See Effective and Termination Dates of 1977 Amendment note below.

1973—Subsec. (e)(1). Pub. L. 9386, §1(20)(A), (B), substituted "1971 through 1977 crops of upland cotton" for "1971, 1972, and 1973 crops of upland cotton", "three-year period" for "two-year period" in two places, "except that if the loan rate so calculated is higher than the then current level of average world prices for American cotton of such quality, the Secretary is authorized to adjust the current calculated loan rate for cotton to 90 per centum of the then current average world price" for "except that to prevent the establishment of such a loan level as would adversely affect the competitive position of United States upland cotton, following one or more years of excessively high prices the Secretary shall make such adjustments as are necessary to keep United States upland cotton competitive and to retain an adequate share of the world market for such cotton", "average price of American cotton in world markets" for "acreage world price", and "any of the 1972 through 1977 crops" for "the 1972 or 1973 crop".

Subsec. (e)(2). Pub. L. 9386, §1(20)(C), substituted provisions setting out the formula for determining payments for each crop of cotton to the producers on each farm using, as elements of such formula, the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, the loan level determined under paragraph (1) for such crop, an established price of 38 cents per pound in the case of the 1974 and 1975 crops, adjusted prices in the case of the 1976 and 1977 crops, adjustment of increases to reflect changes in the national average yield per acre of cotton for the three calendar years preceding the year for which the determination is made over the national average yield per acre of cotton for the three calendar years preceding the year previous to the one for which the determination is made, and covering prevention of planting due to natural disasters and conditions for provisions authorizing payments by the Secretary to cooperators on the 1971, 1972, and 1973 crops of upland cotton, and struck out provisions directing preliminary payments to producers as soon as practicable after July 1 of the year in which the crop is harvested at a rate equal to 15 cents per pound.

Pub. L. 93125 substituted "prevented from planting any portion" for "prevented from planting, any portion".

Subsec. (e)(4)(A). Pub. L. 9386, §1(20)(D)(F), inserted ", if required by the Secretary," before "(ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary", substituted "The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to a percentage of the farm base acreage allotment" for "If the Secretary determines prior to the planting season for such crop that the carryover of upland cotton as of the beginning of the marketing year for the 1972 or 1973 crop will exceed 7.2 million bales, the Secretary is authorized for such crop to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to such percentage of the farm base acreage allotment as he determines necessary to reduce the total supply to a reasonable level", deleted provision prohibiting grazing during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of Title 16, and inserted provisions authorizing the raising of hay on set-aside acreage and the production of triticale, oats, and rye.

Subsec. (e)(5). Pub. L. 9386, §1(20)(G), authorized Secretary in case of programs for 1974 through 1977 crops to pay an appropriate share of cost of practices designed to protect set-aside acreage from erosion, insects, weeds, and rodents and to provide wildlife food plots or wildlife habitat.

1970—Subsec. (e). Pub. L. 91524 added subsec. (e).

1968—Subsec. (d)(1). Pub. L. 90559 provided for a one year extension, substituting "1966 through 1970" for "1966, 1967, 1968, and 1969".

1966—Subsec. (d)(3). Pub. L. 89451 substituted “crop for which there are marketing quotas or voluntary adjustment programs in effect” for “income producing crop in such year” in last sentence.

1965—Subsec. (b). Pub. L. 89112 provided that the Secretary shall deem an acreage on a farm which he finds was not planted to cotton in 1965 because of flood, drought, or other natural disaster to be an actual acreage of cotton planted on the farm for harvest when that acreage was not subsequently devoted to any price support crop in 1965.

Subsec. (d). Pub. L. 89321 added subsec. (d).

1964—Subsec. (a). Pub. L. 88297, §103(b)(1), (2), designated existing provisions as subsec. (a) and provided that the price support for the 1964 cotton crop shall be a national average support price which reflects 30 cents per pound for Middling one-inch cotton.

Subsecs. (b), (c). Pub. L. 88297, §103(b)(3), added subsecs. (b) and (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100418, set out as a note under section 3001 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 1101(d) of Pub. L. 100203 provided that the amendment made by that section is effective only for 1988 and 1989 crops of extra long staple cotton.

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENTS

Section 4 of Pub. L. 9888 provided that the amendment made by that section is effective beginning with 1984 crop of extra long staple cotton.

Section 155 of Pub. L. 97446 provided that the amendment made by that section is effective for 1982 through 1985 crops of upland cotton.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 502 of Pub. L. 9798 provided that the amendment made by that section is effective only for 1982 through 1985 crops of upland cotton.

EFFECTIVE AND TERMINATION DATES OF 1978 AMENDMENT

Section 102 of Pub. L. 95279 provided that the amendment made by that section is effective only with respect to 1978 through 1981 crops of upland cotton.

Amendment by Pub. L. 95279 effective Oct. 1, 1978, and applicability to elections by producers receiving loans and payments prior to such date, see section 103 of Pub. L. 95279, set out as a note under section 1309 of this title.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 602 of Pub. L. 95113 provided that the amendment made by that section is effective only with respect to 1978 through 1981 crops of upland cotton, except as otherwise provided therein.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(20)(C) of Pub. L. 9386 provided that the amendment made by that section is effective beginning with 1974 crop.

Section 1(20)(D) of Pub. L. 9386 provided that the amendment made by that section, authorizing Sec-

retary for 1974 through 1977 crops to limit acreage planted in upland cotton on farm in excess of farm base acreage allotment to a percentage of farm base acreage allotment, is effective beginning with 1974 crop.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 602 of Pub. L. 91524 provided that the amendment made by that section is effective beginning with 1971 crop of upland cotton.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS

Pub. L. 101624, title V, §503, Nov. 28, 1990, 104 Stat. 3440, provided that: “Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1991 through 1995 crops.”

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS

Subsec. (a) of this section inapplicable to 1986 through 1990 crops, see section 504 of Pub. L. 99198, set out as a note under section 1446d of this title.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS

Subsec. (a) of this section inapplicable to 1982 through 1985 crops, see section 504 of Pub. L. 9798, set out as a note under section 1446d of this title.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS

Subsec. (a) of this section inapplicable to 1978 through 1981 crops, see section 604(c) of Pub. L. 95113, set out as a note under section 1446d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1348, 1349, 1350, 1377, 1428 of this title.

§14441. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, §103A, as added Dec. 23, 1985, Pub. L. 99198, title V, §501, 99 Stat. 1407; amended Mar. 20, 1986, Pub. L. 99260, §2(c), 100 Stat. 46; May 27, 1987, Pub. L. 10045, §4, 101 Stat. 319; Dec. 22, 1987, Pub. L. 100203, title I, §§1101(c), 1102(c), 1113(c), 101 Stat. 13301, 13303, 13309, related to loan rates, target prices, disaster payments, acreage limitation program, and land diversion. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 501 of Pub. L. 99198 provided that this section is effective only for 1986 through 1990 crops of upland cotton.

§14442. Loans, payments, and acreage reduction programs for 1991 through 1997 crops of upland cotton

(a) Loans

(1) In general

Except as otherwise provided in this subsection, the Secretary shall, on presentation of warehouse receipts or other acceptable evidence of title, as determined by the Secretary, reflecting accrued storage charges of not more than 60 days, make available for the 1991 through 1997 crops of upland cotton to producers on a farm nonrecourse loans for upland cotton produced on the farm for a term of 10 months from the first day of the month in which the loan is made at such loan level, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average location in the United States a level that is not less than the smaller of—

(A) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

(B) 90 percent of the average, for the 15-week period beginning July 1 of the year in which the loan level is announced, of the 5 lowest-priced growths of the growths quoted for Middling one and three-thirty-seconds inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is announced between the average Northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

(2) Adjustments to loan level

(A) Limitation on decrease in loan level

The loan level for any crop determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding crop, and may not be reduced below 50 cents per pound.

(B) Limitation on increase in loan level

If for any crop the average Northern European price determined under paragraph (1)(B) is less than the average United States spot market price determined under paragraph (1)(A), the Secretary may increase the loan level to such level as the Secretary may consider appropriate, not in excess of the average United States spot market price determined under paragraph (1)(A).

(3) Announcement of loan level

The loan level for any crop of upland cotton shall be determined and announced by the Secretary not later than November 1 of the calendar year preceding the marketing year for which the loan is to be effective or, in the case of the 1991 crop, as soon as is practicable after November 28, 1990. The loan level shall not thereafter be changed.

(4) Extension of loan period

(A) In general

Except as provided in subparagraph (B), nonrecourse loans provided for in this section shall, on request of the producer during the 10th month of the loan period for the cotton, be made available for an additional term of 8 months.

(B) Limitation

A request to extend the loan period shall not be approved in any month in which the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for the preceding month exceeded 130 percent of the average price of such base quality of cotton in the designated United States spot markets for the preceding 36-month period.

(5) Marketing loan provisions

(A) In general

If the Secretary determines that the prevailing world market price for upland cotton (adjusted to United States quality and location) is below the loan level determined under the foregoing provisions of this subsection, in order to make United States upland cotton competitive in world markets, the Secretary shall permit a producer to repay a loan made for any crop at—

(i) a level that is the lesser of—

(I) the loan level determined for the crop; or

(II) the higher of—

(aa) the loan level determined for the crop multiplied by 70 percent; or

(bb) the prevailing world market price for upland cotton (adjusted to United States quality and location), as determined by the Secretary; or

(ii) such other level (not in excess of the loan level determined for the crop nor less than 70 percent of such loan level) that the Secretary determines will—

(I) minimize potential loan forfeitures;

(II) minimize the accumulation of cotton stocks by the Federal Government;

(III) minimize the cost incurred by the Federal Government in storing cotton; and

(IV) allow cotton produced in the United States to be marketed freely and competitively, both domestically and internationally.

(B) First handler marketing certificates

(i) In general

During the period beginning August 1, 1991, and ending July 31, 1998, if a program carried out under subparagraph (A) or subsection (b) of this section fails to make United States upland cotton fully competitive in world markets and the prevailing world market price of upland cotton (adjusted to United States quality and location), as determined by the Secretary, is below the current loan repayment rate for upland cotton determined under subparagraph (A), to make United States upland cotton competitive in world markets and to maintain and expand domestic consumption and exports of upland cotton produced in the United States, the Secretary shall provide for the issuance of marketing certificates or cash payments in accordance with this subparagraph.

(ii) Payments

The Commodity Credit Corporation, under such regulations as the Secretary may prescribe, shall make payments, through the issuance of marketing certificates or cash payments, to first handlers of cotton (persons regularly engaged in buying or selling upland cotton) who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this subparagraph. The payments shall be made in

such monetary amounts and subject to such terms and conditions as the Secretary determines will make upland cotton produced in the United States available at competitive prices, consistent with the purposes of this subparagraph.

(iii) Value

The value of each certificate or cash payment issued under clause (ii) shall be based on the difference between—

(I) the loan repayment rate for upland cotton; and

(II) the prevailing world market price of upland cotton (adjusted to United States quality and location), as determined by the Secretary.

(iv) Redemption, marketing, or exchange

The Commodity Credit Corporation, under regulations prescribed by the Secretary, may assist any person receiving marketing certificates under this subparagraph in the redemption of certificates for cash, or marketing or exchange of the certificates for agricultural commodities or products owned by the Commodity Credit Corporation, at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this subparagraph. Any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subparagraph.

(v) Designation of commodities and products; charges

Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and the products thereof, including storage sites thereof, the owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.

(vi) Displacement

The Secretary shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and products for certificates under this subsection from adversely affecting the income of producers of the commodities or products.

(vii) Transfers

Under regulations prescribed by the Secretary, certificates issued to cotton handlers under this subparagraph may be transferred to other handlers and persons approved by the Secretary.

(C) Prevailing world market price

(i) In general

The Secretary shall prescribe by regulation—

(I) a formula to define the prevailing world market price for upland cotton (adjusted to United States quality and location); and

(II) a mechanism by which the Secretary shall announce periodically the prevailing world market price for upland cotton (adjusted to United States quality and location).

(ii) Use

The prevailing world market price for upland cotton (adjusted to United States quality and location) established under this subparagraph shall be used under subparagraphs (A), (B), and (E).

(D) Adjustment of prevailing world market price

(i) In general

During the period beginning August 1, 1991, and ending July 31, 1998, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under subparagraph (C) shall be further adjusted if—

(I) the adjusted prevailing world market price is less than 115 percent of the current crop year loan level for the base quality of upland cotton, as determined by the Secretary; and

(II) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M) one and three-thirty seconds inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the five lowest-priced growths of upland cotton, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe (hereafter in this subsection referred to as the "Northern Europe price").

(ii) Further adjustment

Except as provided in clause (iii), the adjusted prevailing world market price shall be further adjusted on the basis of some or all of the following data, as available:

(I) The United States share of world exports.

(II) The current level of cotton export sales and cotton export shipments.

(III) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

(iii) Limitation on further adjustment

The adjustment under clause (ii) may not exceed the difference between—

(I) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling one and three-thirty seconds inch cotton delivered C.I.F. Northern Europe; and

(II) the Northern Europe price.

(E) Cotton user marketing certificates

(i) Issuance

Subject to clause (iv), during the period beginning August 1, 1991, and ending July 31, 1998, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

(I) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

(II) the prevailing world market price for upland cotton (adjusted to United States quality and location), established under subparagraph (C), does not exceed 130 percent of the current crop year loan level for the base quality of upland cotton, as determined by the Secretary.

(ii) Value

The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in such prices during the 4th week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

(iii) Administration

Clauses (iv) through (vii) of subparagraph (B) shall apply to marketing certificates issued under this subparagraph. Any such certificates may be transferred to other persons in accordance with regulations issued by the Secretary.

(iv) Exception

The Secretary shall not issue marketing certificates or cash payments under clause (i) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subparagraph, exceeds the Northern Europe price by more than 1.25 cents per pound.

(F) Special import quota

(i) Establishment

The President shall, within 180 days after December 8, 1994, establish an import quota program which shall provide that, during the period beginning August 1991 and ending July 31, 1998, whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced United States

growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under subparagraph (E), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

(ii) Quantity

The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(iii) Application

The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under clause (i) and entered into the United States not later than 180 days after such date.

(iv) Overlap

A special quota period may be established that overlaps any existing quota period if required by clause (i), except that a special quota period may not be established under this paragraph if a quota period has been established under subsection (n) of this section.

(v) Preferential tariff treatment

The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of section 2703(d) of title 19, section 3203 of title 19, section 2463(d) of title 19, and General Note 3(a)(iv) to the HTS.

(vi) "Special import quota" defined

As used in this subparagraph, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(6) Recourse loans for seed cotton

In order to encourage and assist producers in the orderly ginning and marketing of their production of upland cotton, the Secretary shall make recourse loans available to such producers on seed cotton in accordance with authority vested in the Secretary under the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.).

(b) Loan deficiency payments

(1) In general

The Secretary shall, for each of the 1991 through 1997 crops of upland cotton, make payments (hereafter in this section referred to as "loan deficiency payments") available to producers who, although eligible to obtain a loan under subsection (a) of this section, agree to forgo obtaining the loan in return for payments under this subsection.

(2) Computation

A payment under this subsection shall be computed by multiplying—

(A) the loan payment rate; by

(B) the quantity of upland cotton the producer is eligible to place under loan but for

which the producer forgoes obtaining the loan in return for payments under this subsection.

(3) Loan payment rate

For purposes of this subsection, the loan payment rate shall be the amount by which—

- (A) the loan level determined for the crop under subsection (a) of this section; exceeds
- (B) the level at which a loan may be repaid under subsection (a) of this section.

(4) Marketing certificates

The Secretary may make up to one-half the amount of a payment under this subsection available in the form of marketing certificates, subject to the terms and conditions provided in subsection (a)(5)(B) of this section.

(c) Payments; crop insurance requirement

(1) Deficiency payments

(A) In general

The Secretary shall make available to producers payments (hereafter in this section referred to as “deficiency payments”) for each of the 1991 through 1997 crops of upland cotton in an amount computed by multiplying—

- (i) the payment rate; by
- (ii) the payment acres for the crop; by
- (iii) the farm program payment yield established for the crop for the farm.

(B) Payment rate

(i) In general

The payment rate for upland cotton shall be the amount by which the established price for the crop of upland cotton exceeds the higher of—

- (I) the national average market price received by producers during the calendar year that includes the first 5 months of the marketing year for the crop, as determined by the Secretary; or
- (II) the loan level determined for the crop.

(ii) Minimum established price

The established price for upland cotton shall not be less than \$0.729 per pound for each of the 1991 through 1997 crops.

(C) Payment acres

Payment acres for a crop shall be the lesser of—

- (i) the number of acres planted to the crop for harvest within the permitted acreage; or
- (ii) 85 percent of the crop acreage base for the crop for the farm less the quantity of reduced acreage (as determined under subsection (e)(2)(D) of this section).

(D) 50/85 program

(i) In general

If an acreage limitation program under subsection (e)(2) of this section is in effect for a crop of upland cotton and the producers on a farm devote a portion of the maximum payment acres for upland cotton as calculated under subparagraph (C)(ii) of the farm equal to more than 8 percent for

each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (v)(II)), of such upland cotton acreage of the farm for the crop to conservation uses (except as provided in subparagraph (E))—

(I) such portion of the maximum payment acres in excess of 8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (v)(II)), of such acreage devoted to conservation uses (except as provided in subparagraph (E)) shall be considered to be planted to upland cotton for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(D) of this section; and

(II) the producers shall be eligible for payments under this paragraph with respect to such acreage, subject to the compliance of the producers with clause (ii).

(ii) Minimum planting requirement

To be eligible for payments under clause (i), except as provided in clauses (iv) and (v), the producers on a farm must actually plant upland cotton for harvest on at least 50 percent of the maximum payment acres for cotton for the farm.

(iii) Deficiency payments

Notwithstanding any other provision of this section, any producer who devotes a portion of the maximum payment acres for upland cotton for the farm to conservation uses (or other uses as provided in subparagraph (E)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to upland cotton and eligible for payments under this subparagraph for the crop at a per-pound rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which upland cotton producers may agree to participate in the program for the crop.

(iv) Quarantines

If a State or local agency has imposed in an area of a State or county a quarantine on the planting of upland cotton for harvest on farms in the area, the State committee established under section 590h(b) of title 16 may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in the area who were required to forgo the planting of upland cotton for harvest on acreage to alleviate or eliminate the condition requiring the quarantine. If the Secretary determines that the condition exists, the Secretary may make payments under this paragraph to the producers. To

be eligible for payments under this clause, the producers must devote the acreage to conservation uses (except as provided in subparagraph (E)).

(v) Prevented planting and reduced yields

(I) 1991 through 1993 crops

In the case of each of the 1991 through 1993 crops of upland cotton, if an acreage limitation program under subsection (e) of this section is in effect for any crop of upland cotton and if the Secretary determines that producers on a farm are prevented from planting the acreage intended for upland cotton to upland cotton because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make available to such producers payments under this subparagraph without regard to the requirement imposed under clause (ii). To be eligible for payments under this clause, the producers must devote the acreage to conservation uses (except as provided in subparagraph (E)). Any such acreage shall be considered to be planted to upland cotton.

(II) 1994 through 1997 crops

In the case of each of the 1994 through 1997 crops of upland cotton, producers on a farm shall be eligible to receive deficiency payments as provided in clause (iii) without regard to clause (ii) if an acreage limitation program under subsection (e) of this section is in effect for the crop and—

(aa) the producers have been determined by the Secretary (in accordance with section 1463(c) of this title) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster) and the producers elect to devote a portion of the maximum payment acres for upland cotton (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the upland cotton acreage, to conservation uses; or

(bb) the producers elect to devote a portion of the maximum payment acres for upland cotton (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the upland cotton acreage, to alternative crops as provided in subparagraph (E).

(vi) Crop acreage and payment yield

The upland cotton crop acreage base and upland cotton farm program payment yield of the farm shall not be reduced due to the fact that a portion of the permitted cotton acreage of the farm was devoted to conserving uses (except as provided in subparagraph (E)) under this subparagraph.

(vii) Limitation

Other than as provided in clauses (i) through (vi), payments may not be made under this paragraph for any crop on a greater acreage than the acreage actually planted to upland cotton.

(viii) Conservation use acreage under other programs

Any acreage considered to be planted to upland cotton in accordance with clauses (i) and (vi) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified acreage to conservation uses.

(ix) Black-eyed peas for donation

The Secretary may permit, under such terms and conditions as will ensure optimum producer participation, all or any part of the acreage required to be devoted to conservation uses as a condition for qualifying for payments under this subparagraph to be devoted to the production of black-eyed peas if—

(I) the producer agrees to donate the harvested peas from the acreage to a food bank, food pantry, or soup kitchen (as defined in paragraphs (3), (4), and (7) of section 110(b) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note)) that is approved by the Secretary; and

(II) the Secretary finds that such action will not result in the disruption of normal channels of trade.

(E) Alternative crops

(i) Industrial and other crops

The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sweet sorghum, guar, castor beans, plantago ovato, triticale, rye, millet, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that—

(I) the production is not likely to increase the cost of the price support program; and

(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material and could lead to increased industrial use of the raw material to the long-term benefit of United States industry.

(ii) Sesame and crambe

The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of

acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sesame and crambe. In implementing this clause, if the Secretary determines that sesame or crambe are considered oilseeds under section 1446f of this title, the Secretary shall provide that, in order to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 1446f of this title for the crop of sesame or crambe produced on the farm.

(2) Crop insurance requirement

A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 1433f of this title.

(d) Payment yields

The farm program payment yields for farms for each crop of upland cotton shall be determined under subchapter IV of this chapter.

(e) Acreage reduction programs

(1) In general

(A) Establishment

Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of upland cotton, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carry-over to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of upland cotton an acreage limitation program as described in paragraph (2).

(B) Agricultural resources conservation program

In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the agricultural resources conservation program established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(C) Announcements

(i) Preliminary announcement

If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall make a preliminary announcement of any such program not later than November 1 of the calendar year preceding the year in which the crop is harvested, except that in the case of the 1991 crop, the Secretary shall announce the program as soon as practicable after November 28, 1990. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the upland cotton crop acreage base described in paragraph (2)(A).

(ii) Final announcement

Not later than January 1 of the calendar year in which the crop is harvested, the Secretary shall make a final announce-

ment of the program. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the upland cotton crop described in paragraph (2)(A).

(iii) Optional programs in early planting areas

The Secretary shall allow producers in early planting areas to elect to participate in the program on the terms of the acreage limitation program—

(I) first announced for the crop under clause (i); or

(II) as subsequently revised under clause (ii),

if the Secretary determines that the producers may be unfairly disadvantaged by the revision.

(D) Desired carry-over

The Secretary shall carry out an acreage limitation program described in paragraph (2) for a crop of upland cotton in a manner that will result in a ratio of carry-over to total disappearance of 30 percent for each of the 1991 through 1994 crops, 29½ percent for each of the 1995 and 1996 crops, and 29 percent for the 1997 crop, based on the Secretary's most recent projection of carry-over and total disappearance at the time of announcement of the acreage limitation program. For the purpose of this subparagraph, the term "total disappearance" means all upland cotton utilization, including total domestic, total export, and total residual disappearance.

(2) Acreage limitation program

(A) Uniform percentage reduction

Except as provided in paragraph (3), if an upland cotton acreage limitation program is announced under paragraph (1), the limitation shall be achieved by applying a uniform percentage reduction (from 0 to 25 percent) to the upland cotton crop acreage base for the crop for each upland cotton-producing farm.

(B) Compliance

Except as provided in section 1464 of this title, producers who knowingly produce upland cotton in excess of the permitted upland cotton acreage for the farm, as established in accordance with subparagraph (A), shall be ineligible for upland cotton loans and payments with respect to that farm.

(C) Crop acreage bases

Upland cotton crop acreage bases for each crop of upland cotton shall be determined under subchapter IV of this chapter.

(D) Acreage devoted to conservation uses

A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by multiplying the upland cotton crop acreage base by the percentage reduction required by the Secretary. The number of acres so deter-

mined is hereafter in this subsection referred to as “reduced acreage”. The remaining acreage is hereafter in this subsection referred to as “permitted acreage”. Permitted acreage may be adjusted by the Secretary as provided in paragraph (3) and in section 1464 of this title.

(E) Individual farm program acreage

Except as otherwise provided in subsection (c) of this section, the individual farm program acreage shall be the acreage planted on the farm to upland cotton for harvest within the permitted upland cotton acreage for the farm as established under this paragraph.

(F) Planting designated crops on reduced acreage

(i) “Designated crop” defined

As used in this subparagraph, the term “designated crop” means a crop defined in section 1464(b)(1) of this title, excluding any program crop as defined in section 1462(3) of this title.

(ii) In general

Subject to clause (iii), the Secretary may permit producers on a farm to plant a designated crop on no more than one-half of the reduced acreage on the farm.

(iii) Limitations

If the producers on a farm elect to plant a designated crop on reduced acreage under this subparagraph—

(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) of this section shall be reduced, for each acre (or portion thereof) that is planted to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops; and

(II) the Secretary shall ensure that reductions in deficiency payments under subclause (I) are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

(G) Black-eyed peas for donation

The Secretary may permit, under such terms and conditions as will ensure optimum producer participation, producers on a farm to plant black-eyed peas on not more than one-half of the reduced acreage on the farm if—

(i) the producer agrees to donate the harvested peas from such acreage to a food bank, food pantry, or soup kitchen (as defined in paragraphs (3), (4), and (7) of section 110(b) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note)) that is approved by the Secretary; and

(ii) the Secretary finds that such action will not result in the disruption of normal channels of trade.

(3) Targeted option payments

(A) In general

Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1991 through 1995 crops of upland cotton, the Secretary may make available to producers on a farm who do not receive payments under subsection (c)(1)(D) of this section for such crop on the farm, adjustments in the level of deficiency payments that would otherwise be made available to the producers if the producers exercise the payment options provided in this paragraph.

(B) Payment options

If the Secretary elects to carry out this paragraph, the Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of upland cotton under an acreage limitation program in accordance with this paragraph.

(C) Increased acreage limitation option

(i) Increase in established price

If the Secretary elects to carry out this paragraph, a producer shall be eligible to receive an increase in the established price for upland cotton under clause (ii) if the producer agrees to an increase in the acreage limitation percentage to be applied to the producers’ upland cotton acreage base above the acreage limitation percentage announced by the Secretary.

(ii) Method of calculation

For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for upland cotton by an amount determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the producers’ upland cotton acreage base.

(iii) Limitation

The acreage limitation percentage to be applied to the producers’ upland cotton acreage base shall not be increased by more than 10 percentage points above the acreage limitation percentage announced by the Secretary for the crop or above 25 percent total for the crop.

(iv) Adjustment for underplantings

In determining the increased acreage limitation percentage that is applied to the producer’s upland cotton base under this paragraph, the Secretary shall exclude an amount of acreage equal to the average difference between the producer’s permitted upland cotton acreage and the acreage actually planted (including acre-

age devoted to conserving uses under subsection (c)(1)(D) of this section) to upland cotton for harvest during the previous 2 years.

(D) Decreased acreage limitation option

(i) Decrease in acreage limitation requirement

If the Secretary elects to carry out this paragraph, a producer shall be eligible to decrease the acreage limitation percentage applicable to the producers' upland cotton acreage base (as announced by the Secretary) if the producer agrees to a decrease in the established price for upland cotton under clause (ii) for the purpose of calculating deficiency payments to be made available to the producer.

(ii) Method of calculation

For the purposes of calculating deficiency payments to be made available to producers who choose the option set forth in this subparagraph, the Secretary shall decrease the established price for upland cotton by an amount to be determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the producers' upland cotton acreage base.

(iii) Limitation

A producer may not choose to decrease the acreage limitation percentage applicable to the producers' upland cotton acreage base under this paragraph by more than one-half of the announced acreage limitation percentage.

(E) Participation and production effects

Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on program participation or total production and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(4) Administration

(A) Protection from weeds and erosion

The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of the acreage from weeds and wind and water erosion.

(B) Annual or perennial cover

(i) Required

(I) In general

Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of upland cotton under this subsection shall be re-

quired to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of upland cotton, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

(II) Arid areas

Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 590h(b) of title 16 may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

(III) Approval of cover crops and practices

The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.

(ii) Multiyear program

(I) Cost-share assistance

If a producer elects to establish a perennial cover capable of improving water quality or wildlife habitat on the acreage, the Commodity Credit Corporation shall make available cost-share assistance for 25 percent of the approved cost of establishing the cover on not more than 50 percent of the acreage that is required to be diverted from production, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for a crop.

(II) Agreement of producer

If a producer elects to establish a perennial cover on the acreage under this subparagraph and receives cost-share assistance from the Corporation with respect to the cover, the producer, under such terms and conditions as may be pre-

scribed by the Secretary, taking into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985 [16 U.S.C. 3861 et seq.], shall agree to maintain the perennial cover for a minimum of 3 years.

(iii) Conserving crops

The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

(C) Haying and grazing

(i) In general

Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(D) of this section, and acreage diverted from production under a land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 590h(b) of title 16 for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

(ii) Natural disasters

In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted in alfalfa when exercising the authority under this clause.

(D) Water storage uses

(i) In general

The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 years subsequent to its conversion to water storage uses.

(ii) Limitations

Land converted to water storage uses for the purposes of this subparagraph may not be devoted to any commercial use, including commercial fish production. The water stored on the land may not be ground water. The farm on which the land is located must have been irrigated with ground water during at least 1 of the preceding 5 crop years.

(5) Land diversion program

(A) Payments

(i) In general

The Secretary may make land diversion payments to producers of upland cotton, whether or not an acreage limitation program for upland cotton is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

(ii) Excess carry-over

If, at the time of final announcement of the acreage limitation program established under this subsection, the projected carry-over of upland cotton for the crop year is equal to or greater than 8 million bales, the Secretary shall offer a paid land diversion program to producers of upland cotton. Payments to producers under such a program shall be determined by multiplying—

(I) the payment rate, of not less than 35 cents per pound of cotton, established by the Secretary; by

(II) the program payment yield established for the crop for the farm; by

(III) the number of permitted upland cotton acres diverted on the farm.

(B) Bids for contracts

The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

(C) Limitations on diverted acreage

(i) Maximum acreage per farm, county, or community

The Secretary shall limit the total acreage to be diverted under this paragraph—

(I) to not more than 15 percent of the upland cotton crop acreage base for a farm; and

(II) under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(ii) Lower participation levels

The Secretary may allow producers to participate in a land diversion program under this paragraph at a level lower than the maximum level announced by the Secretary, at the option of the producer, if the Secretary determines that it will increase participation in the program.

(6) Conservation practices**(A) Wildlife food plots or habitat**

The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of this subparagraph.

(B) Public access

The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(7) Participation agreements**(A) In general**

Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

(B) Modification or termination

The Secretary may, by mutual agreement with producers on a farm, modify or terminate any such agreement if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of upland cotton.

(f) Inventory reduction payments**(1) In general**

The Secretary may, for each of the 1991 through 1995 crops of upland cotton, make payments available to producers who meet the requirements of this subsection.

(2) Form

The payments may be made in the form of marketing certificates.

(3) Payments**(A) In general**

Payments under this subsection shall be determined in the same manner as provided in subsection (b) of this section.

(B) Quantity of cotton made available

The quantity of upland cotton to be made available to a producer under this subsection shall be equal in value to the payments so determined under this subsection.

(4) Eligibility

A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

(A) agrees to forgo obtaining a loan under subsection (a) of this section;

(B) agrees to forgo receiving payments under subsection (c) of this section;

(C) does not plant upland cotton for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (e) of this section; and

(D) otherwise complies with this section.

(g) Equitable relief**(1) Loans and payments**

If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make such loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

(2) Deadlines and program requirements

The Secretary may authorize the county and State committees established under section 590h(b) of title 16 to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

(h) Regulations

The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(i) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(j) Assignment of payments

The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to payments under this section.

(k) Sharing of payments

The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

(l) Tenants and sharecroppers

The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(m) Cross-compliance**(1) In general**

Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans or payments under this section.

(2) Compliance on other farms

The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the upland cotton program with respect to any other farm operated by the producers.

(n) Limited global import quota**(1) In general**

The President shall, within 180 days after December 8, 1994, establish an import quota program which shall provide that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in such markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) Quantity

The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(B) Quantity if prior quota

If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated as set forth in subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) Preferential tariff treatment

The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of section 2703(d) of title 19, section 3203 of title 19, section 2463(d) of title 19, and General Note 3(a)(iv) to the HTS.

(D)¹ Definitions

As used in subparagraph (B):

(i) Supply

The term “supply” means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established; plus

(II) production of the current crop; plus

(III) imports to the latest date available during the marketing year.

(ii) Demand

The term “demand” means—

(I) the average seasonally adjusted annual rate of domestic mill consumption in the most recent 3 months for which data are available; plus

(II) the larger of—

(aa) average exports of upland cotton during the preceding 6 marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) “Limited global import quota” defined

As used in this subsection, the term “limited global import quota” means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(D)¹ Quota entry period

When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) No overlap

Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (a)(5)(F) of this section.

(o) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1997 crops of upland cotton.

(Oct. 31, 1949, ch. 792, title I, §103B, as added Nov. 28, 1990, Pub. L. 101624, title V, §501, 104 Stat. 3421; amended Nov. 5, 1990, Pub. L. 101508, title I, §1101(c), 104 Stat. 13881; Dec. 13, 1991, Pub. L. 102237, title I, §§102(b), 106(b), 107, 113(2), (3), 125, 126, 105 Stat. 1821, 1825, 1827, 1837, 1845; Aug. 10, 1993, Pub. L. 10366, title I, §1101(a), 107 Stat. 313; May 6, 1994, Pub. L. 103247, §1(a), 108 Stat. 618; Oct. 13, 1994, Pub. L. 103354, title I, §119(a)(3), 108 Stat. 3207; Dec. 8, 1994, Pub. L. 103465, title IV, §401(b)(2), 108 Stat. 4957.)

REFERENCES IN TEXT

HTS, referred to in subsecs. (a)(5)(F)(v) and (n)(1)(C), means the Harmonized Tariff Schedule of the United States, which is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

The Commodity Credit Corporation Charter Act, referred to in subsec. (a)(6), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

Section 110(b) of the Hunger Prevention Act of 1988, referred to in subsecs. (c)(1)(D)(ix)(I) and (e)(2)(G)(i), is section 110(b) of Pub. L. 100435, which is set out as a note under section 612c of this title.

This Act, referred to in subsec. (e)(1)(A), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Food Security Act of 1985, referred to in subsec. (e)(1)(B), (4)(B)(ii)(II), is Pub. L. 99198, Dec. 23, 1985, 99 Stat. 1354, as amended. Subtitles D and G of title XII of the Act are classified generally to subchapters IV (§3831 et seq.) and VII (§3861 et seq.), respectively, of chapter 58 of Title 16, Conservation. For complete classification

¹So in original. Two subpars. (D) have been enacted.

of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

AMENDMENTS

1994—Subsec. (a)(5)(F)(i). Pub. L. 103465, §401(b)(2)(A), substituted “December 8, 1994” for “November 28, 1990” and “effect a special import quota” for “effect a special limited global import quota”.

Subsec. (a)(5)(F)(iv). Pub. L. 103465, §401(b)(2)(B), struck out “special” before “quota period has been established”.

Subsec. (a)(5)(F)(v), (vi). Pub. L. 103465, §401(b)(2)(C), added cls. (v) and (vi).

Subsec. (c)(1)(D)(v)(II). Pub. L. 103247 inserted “without regard to clause (ii)” after “clause (iii)” in introductory provisions.

Subsec. (c)(1)(F). Pub. L. 103354, §119(a)(3)(A), struck out heading and text of subpar. (F). Text read as follows: “The total quantity of upland cotton on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).”

Subsec. (c)(2). Pub. L. 103354, §119(a)(3)(B), added par. (2) and struck out former par. (2) which related to disaster payments.

Subsec. (n). Pub. L. 103465, §401(b)(2)(D)(i), substituted “Limited global import quota” for “Special limited global import quota” in heading.

Subsec. (n)(1). Pub. L. 103465, §401(b)(2)(D)(ii), (iii), in introductory provisions, substituted “December 8, 1994” for “November 28, 1990” and struck out “special” before “limited global import quota”.

Subsec. (n)(1)(A), (B). Pub. L. 103465, §401(b)(2)(D)(iii), struck out “special” before “quota” in subpar. (A) and before “quota has been established” in subpar. (B).

Subsec. (n)(1)(C). Pub. L. 103465, §401(b)(2)(D)(v), added subpar. (C). Former subpar. (C), relating to definitions, redesignated (D).

Pub. L. 103465, §401(b)(2)(D)(iii), struck out “special” before “quota” in cls. (i)(I) and (ii)(II)(bb).

Subsec. (n)(1)(D). Pub. L. 103465, §401(b)(2)(D)(iv), redesignated subpar. (C), relating to definitions, as (D).

Pub. L. 103465, §401(b)(2)(D)(iii), struck out “special” before “quota is established” in two places.

Subsec. (n)(1)(D)(iii). Pub. L. 103465, §401(b)(2)(D)(vi), added cl. (iii).

Subsec. (n)(2). Pub. L. 103465, §401(b)(2)(D)(vii), struck out “special” before “quota period may not be”.

1993—Pub. L. 10366, §1101(a)(1), substituted “1997” for “1995” in section catchline.

Subsec. (a)(1). Pub. L. 10366, §1101(a)(2), substituted “1997” for “1995”.

Subsec. (a)(5)(B)(i), (D)(i), (E)(i), (F)(i). Pub. L. 10366, §1101(a)(3), substituted “1998” for “1996”.

Subsecs. (b)(1), (c)(1)(A), (c)(1)(B)(ii). Pub. L. 10366, §1101(a)(2), substituted “1997” for “1995”.

Subsec. (c)(1)(D). Pub. L. 10366, §1101(a)(4)(A), substituted “85” for “92” in heading.

Subsec. (c)(1)(D)(i). Pub. L. 10366, §1101(a)(4)(B), substituted “8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (v)(II)),” for “8 percent” in introductory provisions and subcl. (I).

Subsec. (c)(1)(D)(v). Pub. L. 10366, §1101(a)(4)(C), inserted “and reduced yields” in heading, designated existing provisions as subcl. (I), inserted subcl. heading, substituted “In the case of each of the 1991 through 1993 crops of upland cotton, if” for “If”, and added subcl. (II).

Subsec. (e)(1)(D). Pub. L. 10366, §1101(a)(5), inserted “for each of the 1991 through 1994 crops, 29½ percent for each of the 1995 and 1996 crops, and 29 percent for the 1997 crop” after “30 percent”.

Subsec. (o). Pub. L. 10366, §1101(a)(2), substituted “1997” for “1995”.

1991—Subsec. (a)(1)(B). Pub. L. 102237, §113(2)(A), substituted “upland cotton,” for “upland cotton,”.

Subsec. (a)(3). Pub. L. 102237, §113(2)(B), substituted “November 28, 1990” for “the date of enactment of this Act”.

Subsec. (a)(5)(B)(i), (ii). Pub. L. 102237, §125(1), inserted “or cash payments” after “marketing certificates”.

Subsec. (a)(5)(B)(iii). Pub. L. 102237, §125(2), inserted “or cash payment” after “certificate”.

Subsec. (a)(5)(C)(ii). Pub. L. 102237, §107(b), substituted “, (B), and (E)” for “and (B)”.

Subsec. (a)(5)(E)(i). Pub. L. 102237, §107(a)(1), added cl. (i) and struck out former cl. (i) which read as follows: “During the period beginning August 1, 1991, and ending July 31, 1996, if for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound, the Secretary shall issue marketing certificates to domestic users or exporters for documented sales made in the week following such consecutive 4-week period.”

Subsec. (a)(5)(E)(ii). Pub. L. 102237, §107(a)(2), substituted “marketing certificates or cash payments” for “marketing certificates”.

Subsec. (a)(5)(E)(iv). Pub. L. 102237, §107(a)(3), added cl. (iv).

Subsec. (c)(1)(D)(ix). Pub. L. 102237, §126(a), added cl. (ix).

Subsec. (c)(1)(E). Pub. L. 102237, §102(b), redesignated existing provisions as cl. (i), inserted heading, realigned margin, and substituted “castor beans,” for “sesame, castor beans, crambe,” and “rye, millet, mung beans,” for “rye, mung beans,” redesignated former cl. (i) as subcl. (I), realigned margin, and struck out “and will not affect farm income adversely” after “program”, redesignated former cl. (ii) as subcl. (II) and realigned margin, and added cl. (ii).

Subsec. (e)(2)(G). Pub. L. 102237, §126(b), added subpar. (G).

Subsec. (e)(4)(B)(i). Pub. L. 102237, §106(b), amended cl. (i) generally. Prior to amendment, text read as follows: “(i) IN GENERAL.—Except as provided in paragraph (2), a producer who participates in an acreage reduction program established for a crop of upland cotton under this subsection shall be required to plant to an annual or perennial cover 50 percent (or more, at the option of the producer) of the acreage that is required to be removed from the production of upland cotton, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.”

Subsec. (n)(1)(D). Pub. L. 102237, §113(3), substituted “date the special quota is established by the Secretary” for “effective date of the proclamation”.

1990—Subsec. (c)(1)(C)(ii). Pub. L. 101508 substituted “85 percent” for “100 percent”.

EFFECTIVE DATE OF 1994 AMENDMENTS

Amendment by Pub. L. 103465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101508, set out as a note under section 511r 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. 101624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 1426, 1463, 5822 of this title.

§1444a. Corn and feed grains and cotton programs

(a) Referendum of 1958 corn producers

Not later than December 15, 1958, the Secretary shall conduct a referendum of producers of corn in 1958 in the commercial corn-producing area for 1958 to determine whether such producers favor a price support program as provided in subsection (b) of this section for the 1959 and subsequent crops in lieu of acreage allotments as provided in the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1281 et seq.], and price support as provided in section 1441 of this title.

(b) Operative status of certain provisions

Notwithstanding any other provision of law, if less than a majority of the producers voting in the referendum conducted pursuant to subsection (a) of this section favor a price support program as provided in this subsection (b), the following provisions of law shall become inoperative:

- (1) [Section enacted section 1329a of this title.]
- (2) [Section enacted section 1444b of this title.]
- (3) [Section repealed section 1441(d)(4) of this title.]

(c) Cotton research program

The Secretary of Agriculture is hereby authorized and directed to conduct a special cotton research program designed to reduce the cost of producing upland cotton in the United States at the earliest practicable date. There are hereby authorized to be appropriated such sums, not to exceed \$10,000,000 annually, as may be necessary for the Secretary to carry out this special research program. The Secretary shall report annually to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate with respect to the results of such research.

(d) Cotton insect eradication

In order to reduce cotton production costs, to prevent the movement of certain cotton plant insects to areas not now infested, and to enhance the quality of the environment, the Secretary is authorized and directed to carry out programs to destroy and eliminate cotton boll weevils in infested areas of the United States as provided herein and to carry out similar programs with respect to pink bollworms or any other major cotton insect if the Secretary determines that methods and systems have been developed to the point that success in eradication of such insects is assured. The Secretary shall carry out the eradication programs authorized

by this subsection through the Commodity Credit Corporation. In carrying out insect eradication projects, the Secretary shall utilize the technical and related services of appropriate Federal, State, private agencies, and cotton organizations. Producers and landowners in an eradication zone, established by the Secretary, who are receiving benefits from any program administered by the United States Department of Agriculture, shall, as a condition of receiving or continuing any such benefits, participate in and cooperate with the eradication project, as specified in regulations of the Secretary.

The Secretary may issue such regulations as he deems necessary to enforce the provisions of this subsection with respect to achieving the compliance of producers and landowners who are not receiving benefits from any program administered by the United States Department of Agriculture. Any person who knowingly violates any such regulation promulgated by the Secretary under this subsection may be assessed a civil penalty of not to exceed \$5,000 for each offense. No civil penalty shall be assessed unless the person shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Secretary shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Where special measures deemed essential to achievement of the eradication objective are taken by the project and result in a loss of production and income to the producer, the Secretary shall provide reasonable and equitable indemnification from funds available for the project and also provide for appropriate protection of the allotment, acreage history, and average yield for the farm. The cost of the program in each eradication zone shall be determined, and cotton producers in the zone shall be required to pay up to one-half thereof, with the exact share in each zone area to be specified by the Secretary upon his finding that such share is reasonable and equitable based on population levels of the target insect and the degree of control measures normally required. Each producer's pro rata share shall be deducted from his cotton payment under this Act or otherwise collected, as provided in regulations of the Secretary. Insofar as practicable, cotton producers and other persons engaged in cotton production in the eradication zone shall be employed to participate in the work of the project in such zone. Funding of the program shall be terminated at such time as the Secretary determines and reports to the Congress that complete eradication of the insects for which programs are undertaken pursuant to this subsection has been accomplished. Funds in custody of agencies carrying out the program shall, upon termination of such program, be accounted for to the Secretary for appropriate disposition.

The Secretary is authorized to cooperate with the Government of Mexico in carrying out operations or measures in Mexico which he deems necessary and feasible to prevent the movement into the United States from Mexico of any in-

sects eradicated under the provisions of this subsection. The measure and character of cooperation carried out under this subsection on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds made available by the Secretary under this subsection, shall be such as may be prescribed by the Secretary. Arrangements for the cooperations authorized by this subsection shall be made through and in consultation with the Secretary of State. The Commodity Credit Corporation shall not make any expenditures for carrying out the purposes of this subsection unless the Corporation has received funds to cover such expenditures from appropriations made to carry out the purposes of this subsection. There are hereby authorized to be appropriated to the Commodity Credit Corporation such sums as the Congress may from time to time determine to be necessary to carry out the purposes of this subsection.

(Oct. 31, 1949, ch. 792, title I, §104, as added Aug. 28, 1958, Pub. L. 85835, title II, §201, 72 Stat. 993; amended Apr. 11, 1964, Pub. L. 88297, title I, §103(a), 78 Stat. 174; Nov. 30, 1970, Pub. L. 91524, title VI, §611, as added Aug. 10, 1973, Pub. L. 9386, §1(24), 87 Stat. 235; Nov. 2, 1994, Pub. L. 103437, §4(a)(6), 108 Stat. 4581.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, as amended, referred to in subsec. (a), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

This Act, referred to in subsec. (d), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Subsec. (b)(1) of this section, as added by section 201 of Pub. L. 85835, enacted section 330 of Agricultural Adjustment Act of 1938, which is classified as section 1329a of this title.

Subsec. (b)(2) of this section, as added by section 201 of Pub. L. 85835, enacted section 105 of Agricultural Act of 1949, which is classified as section 1444b of this title.

Subsec. (b)(3) of this section, as added by section 201 of Pub. L. 85835, repealed section 101(d)(4) of Agricultural Act of 1949, and was executed to text in the repeal of section 1441(d)(4) of this title.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103437 substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry”.

1973—Subsec. (d). Pub. L. 91524, §611, as added Pub. L. 9386, §1(24), added subsec. (d).

1964—Subsec. (c). Pub. L. 88297 added subsec. (c).

1958 REFERENDUM FOR SELECTION OF ALTERNATIVE CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PROVISIONS

Corn producers voted for adoption of price support program as provided in subsec. (b) of this section (254,262) rather than alternative corn acreage allotment and price support program (102,907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

§1444b. Feed grains; price support program

(a) Notwithstanding the provisions of section 1441 of this title, beginning with the 1964 crop, price support shall be made available to producers for each crop of corn at such level, not less than 50 per centum or more than 90 per centum of the parity price therefor, as the Secretary determines will not result in increasing Commodity Credit Corporation stocks of corn: *Provided*, That in the case of any crop for which an acreage diversion program is in effect for feed grains, the level of price support for corn of such crop shall be at such level not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines necessary to achieve the acreage reduction goal established by him for the crop.

(b) Beginning with the 1959 crop, price support shall be made available to producers for each crop of oats, rye, barley, and grain sorghums at such level of the parity price therefor as the Secretary of Agriculture determines is fair and reasonable in relation to the level at which price support is made available for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title.

(Oct. 31, 1949, ch. 792, title I, §105, as added Oct. 31, 1949, ch. 792, title I, §104(b)(2), as added Aug. 28, 1958, Pub. L. 85835, title II, §201, 72 Stat. 994; amended Mar. 22, 1961, Pub. L. 875, §1, 75 Stat. 6; Aug. 8, 1961, Pub. L. 87128, title I, §131, 75 Stat. 301; Mar. 30, 1962, Pub. L. 87425, §1, 76 Stat. 50; Sept. 27, 1962, Pub. L. 87703, title III, §§301, 305, 76 Stat. 612, 614; May 20, 1963, Pub. L. 8826, §2, 77 Stat. 44; Aug. 6, 1965, Pub. L. 89112, §1, 79 Stat. 446; Nov. 3, 1965, Pub. L. 89321, title III, §301, 79 Stat. 1188; June 17, 1966, Pub. L. 89451, §2, 80 Stat. 202; Nov. 3, 1965, Pub. L. 89321, title III, §301, as amended Oct. 11, 1968, Pub. L. 90559, §1(1), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91524, title V, §501, 84 Stat. 1368; Nov. 30, 1970, Pub. L. 91524, title V, §501, as amended Aug. 10, 1973, Pub. L. 9386, §1(18), 87 Stat. 230; Aug. 10, 1973, Pub. L. 9386, §1(18), 87 Stat. 230; Aug. 10, 1973, Pub. L. 9386, §1(18), as amended Oct. 18, 1973, Pub. L. 93125, §1(d), 87 Stat. 450; Dec. 29, 1973, Pub. L. 93228, §1(b), 87 Stat. 944.)

CODIFICATION

Pub. L. 91524, as amended by Pub. L. 9386, amended section generally by substantially revising subsecs. (a) to (e) and enacting subsecs. (f) to (i), effective only through the 1977 crops of feed grains. See 1970 and 1973 Amendment notes and Effective and Termination Dates of 1970 and 1973 Amendment notes below. Prior to such amendment by Pub. L. 91524 and Pub. L. 9386, subsec. (c) was applicable only to the 1961 to 1963 crops of feed grains, subsec. (d) was applicable only to the 1964 and 1965 crops of feed grains, and subsec. (e) was applicable only to the 1966 through 1970 crops of feed grains.

AMENDMENTS

1973—Pub. L. 93228 amended feed grains program for 1974 through 1977, as described below.

Pub. L. 93125 amended feed grain loan and purchases price support program for 1974 through 1977, as described below.

Pub. L. 9386 temporarily enacted feed grain loans and purchases price support program for 1974 through 1977, as described below. See Effective and Termination Dates of 1973 Amendment note below.

Pub. L. 91524, §501, as amended Pub. L. 9386, §1(18)(A), reenacted introductory text without change.

Subsec. (a)(1). Pub. L. 91524, §501, as amended Pub. L. 9386, §1(18)(A), increased minimum corn crop support level from \$1.00 to \$1.10 per bushel.

Subsec. (a)(2). Pub. L. 91524, §501, as amended Pub. L. 9386, §1(18)(A), reenacted par. (2) provisions without change.

Subsec. (b)(1). Pub. L. 91524, §501, as amended Pub. L. 9386, §1(18)(B), added par. (1). Former par. (1) related to subject matter as described in 1970 Amendment note for subsec. (b)(1) of this section.

Subsec. (b)(1) last sentence. Pub. L. 93228 substituted “(or of wheat, or cotton planted in lieu of the allotted crop)” for “(or other nonconserving crop planted instead of feed grains)”.

Subsec. (b)(2). Pub. L. 91524, §501, as amended Pub. L. 9386, §1(18)(B), added par. (2). Former par. (2) made payments with respect to a farm available on 50 per centum of the feed grain base for the farm and for computation of the payments on the basis of the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

Subsec. (b)(3). Pub. L. 91524, §501, as amended Pub. L. 9386, §1(18)(B), substituted in: first sentence, “the feed grain allotment for the farm, the feed grain allotment for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than the feed grain allotment for the farm, but such reduction shall not exceed 20 per centum of the feed grain allotment” for “the portion of the feed grain base for the farm on which payments are available under this subsection, the feed grain base for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than such portion of the feed grain base for the farm, but such reduction shall not exceed 20 per centum of the feed grain base”; second sentence, including proviso, “feed grain allotment” for “feed grain base”; third sentence, “feed grain allotments” for “feed grain bases”; fourth sentence, “90 per centum of the feed grain allotment” for “90 per centum of the portion of the feed grain base on which payments are made available” and “100 per centum of such allotment” for “100 per centum of such portion”; and sixth sentence “effective operation of the program” for “effective operation of the feed grain or soybean program”; and authorized acreage devoted to guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate, to be considered as feed grain acreage.

Subsec. (c)(1) second sentence. Pub. L. 9386, §1(18)(D), formerly §1(18)(C [second]), renumbered by Pub. L. 93125, §1(d)(ii), substituted in item (i) “feed grain allotment” for “feed grain base”, inserted preceding item (ii) “, if required by the Secretary”, and substituted in item (ii) “soil conserving uses” for “soil-conserving uses”.

Subsec. (c)(1) third sentence. Pub. L. 9386, §1(18)(E), formerly §1(18)(D), renumbered by Pub. L. 93125, §1(d)(ii), substituted “The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to feed grains on the farm to a percentage of the farm acreage allotment.” for “The Secretary is authorized for the 1971, 1972, and 1973 crops to limit the acreage planted to feed grains on the farm to such percentage of the feed grain base as he determines necessary to provide an orderly transition to the program provided for under this section.”

Subsec. (c)(1) fifth sentence. Pub. L. 9386, §1(18)(D), formerly §1(18)(C [second]), renumbered by Pub. L. 93125, §1(d)(ii), substituted “1971 through 1977” for “1971, 1972, 1973”.

Subsec. (c)(1) last sentence. Pub. L. 9386, §1(18)(C), as amended Pub. L. 93125, §1(d)(i), authorized set-aside acreage to be devoted to hay and production of triticale, oats, and rye, and deleted item (1) and (2) designation of existing provisions, and former introductory text reading “Grazing shall not be permitted during any of the five principal months of the normal growing

season as determined by the county committee established pursuant to section 590h(b) of title 16, and subject to this limitation”, and provided for such provisions as run-in rather than new-paragraph text.

Subsec. (c)(3). Pub. L. 9386, §1(18)(G), formerly §1(18)(F), renumbered by Pub. L. 93125, §1(d)(ii), inserted after provision for devotion of set-aside acreage and diverted acreage to wildlife food plots or wildlife habitat the sentence “The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences.”

Subsec. (e)(1). Pub. L. 9386, §1(18)(F), formerly §1(18)(E), renumbered by Pub. L. 93125, §1(d)(ii), struck out provision reading “For the purpose of this section, the feed grain base shall be the average acreage devoted on the farm to corn, grain sorghums and, if designated by the Secretary, barley in 1959 and 1960.”

Subsec. (e)(2). Pub. L. 9386, §1(18)(F), formerly §1(18)(E), renumbered by Pub. L. 93125, §1(d)(ii), substituted “farm grain allotments” for “farm grain bases” wherever appearing.

Subsec. (e)(3). Pub. L. 9386, §1(18)(F), formerly §1(18)(E), renumbered by Pub. L. 93125, §1(d)(ii), struck out provisions respecting reservation for farms in a State for any year for apportionment to farms without 1959 and 1960 acreage, apportionment factors, prohibition against reflection of new cropland by such reserved allocation, and consideration of farm feed grain base as farm feed grain acreage for 1959 and 1960 crop years.

Subsec. (g). Pub. L. 9386, §1(18)(F), formerly §1(18)(E), renumbered by Pub. L. 93125, §1(d)(ii), struck out provisions for preliminary payments, time and rate of payment, and reduction of preliminary payment rate.

1970—Pub. L. 91524 temporarily enacted feed grains loans and purchases price support program for 1971, 1972, and 1973, as described below. See Effective and Termination Dates of 1970 Amendment note below.

Pub. L. 91524 substituted as introductory text “Notwithstanding any other provision of law” for former subsec. (a) introductory text “Notwithstanding the provisions of section 1441 of this title”.

Subsec. (a)(1). Pub. L. 91524 substituted par. (1) provisions making loans and purchases available on corn crop at such level, not less than \$1.00 per bushel nor in excess of 90 per centum of the parity price therefor, as the Secretary determines will encourage exportation of feed grains and not result in excessive total stocks of feed grains in the United States for former subsec. (a) provisions for such corn price support level, beginning with 1964 crop, not less than 50 per centum or more than 90 per centum of the parity price therefor, as the Secretary determines will not result in increasing Commodity Credit Corporation stocks of corn, including proviso for such corn price support level, in the case of any crop for which an acreage diversion program is in effect for feed grains, not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines necessary to achieve the acreage reduction goal established by him for the crop.

Subsec. (a)(2). Pub. L. 91524 substituted par. (2) provisions making loans and purchases available on each crop of barley, oats, and rye, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and other factors specified in section 1421(b) of this title, and on each crop of grain sorghums at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn for former subsec. (b) provisions for such price support level on each crop of oats, rye, barley, and grain sorghums, beginning with the 1959 crop, at such level of the parity price therefor as the Secretary of Agriculture determines is fair and rea-

sonable in relation to the level at which price support is made available for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title.

Subsec. (b)(1). Pub. L. 91524 made payments available for crops of corn, grain sorghums, and barley; prescribed as payment rate for corn such rate as, together with the national average market price received by farmers during first five months of the marketing year for the crop would not be less than (A) \$1.35 per bushel, or (B) 70 per centum of the parity price of corn as of the beginning of the marketing year, whichever was the greater; prescribed as payment rate for grain sorghums and barley such rate as was fair and reasonable in relation to the rate at which payments were made available for corn; and prescribed rate of payment for 1973 crop would not be such as would result in a total amount of payments which Secretary estimated would be made pursuant to this subsection with respect to 1973 crop of feed grains above total amount of payments made pursuant to this subsection with respect to 1972 crop of feed grains by reason of level specified in clause (B) being fixed above 68 per centum of the parity price for the corn.

Subsec. (b)(2). Pub. L. 91524 made payments with respect to a farm available on 50 per centum of the feed grain base for the farm and for computation of the payments on the basis of the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

Subsec. (b)(3). Pub. L. 91524 added par. (3).

Former subsec. (b) provided that "Beginning with the 1959 crop, price support shall be made available to producers for each crop of oats, rye, barley, and grain sorghums at such level of the parity price therefor as the Secretary of Agriculture determines is fair and reasonable in relation to the level at which price support is made available for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title," and is now incorporated in subsec. (a)(2) of this section.

Subsec. (c)(1). Pub. L. 91524 required cropland set-aside, taking into consideration excessive stocks and adequate carryover, and provided for conservation uses acreage, crop year feed grain acreage limitation, "feed grains" for consideration of wheat as feed grain acreage, consideration of section 1339c feed grains diversion program, grazing restriction, and authorization of set-aside acreage for grazing and production of other commodities.

Subsec. (c)(2). Pub. L. 91524 provided for land diversion payments for conservation uses acreage and for conservation uses acreage limitation.

Subsec. (c)(3). Pub. L. 91524 required protective measures and provided for wildlife use standards and additional payments for public use.

Subsec. (c)(4). Pub. L. 91524 provided for filing of participation agreement of farm operators, soil conserving uses acreage requirement, and mutual termination of agreement because of emergencies or limited supplies.

Subsec. (c)(5), (6). Pub. L. 91524 struck out pars. (5) and (6) which related to price support for 1963 crop of corn and to eligibility for price support on 1963 crop of corn, grain sorghums, and barley.

Subsec. (d). Pub. L. 91524 redesignated ninth sentence of former subsec. (e) as (d) and substituted "sharing of payments under this section among producers on the farm on a fair and equitable basis" for "sharing of such certificates among producers on the farm on the basis of their respective shares in the feed grain crop produced on the farm, or the proceeds therefrom, except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable".

Subsec. (e). Pub. L. 91524 added subsec. (e).

Subsec. (f). Pub. L. 91524 redesignated last sentence of former subsec. (e) as (f) and substituted "under this

section precludes the making of loans, purchases, and payments" and "make such loans, purchases, and payments" for "under this subsection (e) and subsection (e) of this section preclude the making of payments-in-kind" and "make such payments-in-kind".

Subsecs. (g) to (i). Pub. L. 91524 added subsecs. (g) to (i).

1968—Pub. L. 90559 amended feed grains price support program for 1966 through 1969, extending such program through 1970.

Subsec. (e). Pub. L. 89321, as amended Pub. L. 90559, substituted "1970" for "1969" in provision of text "1966 through 1970 crops of feed grains".

1966—Pub. L. 89451 amended feed grains price support program for 1966 through 1969.

Subsec. (e). Pub. L. 89451 substituted "planted to any other crop for which there are marketing quotas or voluntary adjustment programs in effect" for "planted to any other income-producing crop during such year" in sixth sentence.

1965—Pub. L. 89321 enacted feed grains price support program for 1966 through 1969.

Pub. L. 89112 amended feed grains price support program for 1965.

Subsec. (d). Pub. L. 89112 inserted eleventh sentence "An acreage on the farm which the Secretary finds was not planted to feed grains in 1965 because of flood, drought, or other natural disaster shall be deemed by the Secretary to be an actual acreage of feed grains planted on the farm for harvest for purposes of this subsection, provided such acreage is not subsequently devoted to any price supported crop for 1965."

Subsec. (e). Pub. L. 89321, in adding subsec. (e), enacted feed grains price support program for 1966 through 1969.

Subsec. (e) first sentence. Pub. L. 89321 required as a condition of eligibility for price support for 1966 through 1969 crops of feed grains on crop of feed grains included in any acreage diversion program under section 590p(i) of Title 16, participation of producer in the diversion program to the extent prescribed by the Secretary, and as a condition of eligibility for such price support if a diversion program was not in effect for 1966 through 1969 crops, that feed grain base be not exceeded by producer, provided that acreage on farm diverted from production of feed grains pursuant to contract under Cropland Adjustment Program shall be deemed acreage diverted from production of feed grains for purposes of eligibility requirements, and excepted producer of malting barley from requirement of participation in the acreage diversion program for feed grains if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest, did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960, and did not devote oats and rye acreage in 1959 and 1960 to production of wheat pursuant to section 1339c of this title.

Subsec. (e) second sentence. Pub. L. 89321 incorporated third sentence of former subsec. (d) as second sentence of subsec. (e) and substituted "price-support" and "payments-in-kind" for "price support" and "payments in kind".

Subsec. (e) third sentence. Pub. L. 89321 made payments-in-kind available on maximum permitted acreage and authorized the Secretary to make available the same total amount on a smaller acreage or acreages at a higher rate or rates.

Subsec. (e) fourth sentence. Pub. L. 89321 incorporated fourth sentence of former subsec. (d) as fourth sentence of subsec. (e), substituted bushel determination provision calling for multiplication of that part of the actual acreage of such feed grain planted on the farm for harvest on which the Secretary made such payments available by the farm projected yield per acre for prior provision calling for such multiplication of actual acreage of such feed grain planted on the farm

for harvest by the adjusted average yield per acre, and inserted proviso respecting consideration of soybean as feed grain acreage to such extent and subject to such terms and conditions as Secretary determined would not impair effective operation of price support program and proviso deeming entire feed grains acreage as so planted when 90 per centum of feed grains acreage permitted to be planted has been so planted.

Subsec. (e) fifth sentence. Pub. L. 89321 authorized reduction of that portion of the support price which was made available through loans and purchases for the 1966 through 1969 crops below the loan level for the 1965 crop by such amounts and in such stages as might be necessary to promote increased participation in the feed grain program, taking into account increases in yields, but so as not to disrupt the feed grain and livestock economy, without modifying or affecting Secretary's discretion to maintain or increase total price support levels to cooperators.

Subsec. (e) sixth sentence. Pub. L. 89321 incorporated eleventh sentence of former subsec. (d) as sixth sentence of subsec. (e) and substituted "planted to feed grains" for "planted to feed grains in 1965" and "deemed to be an actual acreage of feed grains planted for harvest for purposes of such payments provided such acreage is not subsequently planted to any other income-producing crop during such year" for "deemed by the Secretary to be an actual acreage of feed grains planted on the farm for harvest for purposes of this subsection, provided such acreage is not subsequently devoted to any price supported crop for 1965".

Subsec. (e) seventh sentence. Pub. L. 89321 incorporated sixth sentence of former subsec. (d) as seventh sentence of subsec. (e).

Subsec. (e) eighth sentence. Pub. L. 89321 incorporated seventh sentence of former subsec. (d) as eighth sentence of subsec. (e) and substituted "Payments-in-kind" for "Such payments in kind", parenthetical text "valued by the Secretary at not less than the current support price made available through loans and purchases" for "valued by the Secretary at not less than the current support price minus that part of the current support price made available through payments in kind", and "in accordance with regulations prescribed by the Secretary and notwithstanding any other provision of law" for "and, notwithstanding any other provisions of law".

Subsec. (e) ninth sentence. Pub. L. 89321 incorporated ninth sentence of former subsec. (d) as ninth sentence of subsec. (e) and substituted "basis of their respective shares in the feed grain crop produced on the farm, or the proceeds therefrom, except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable" for "basis of their respective shares in the crop produced on the farm with respect to which such certificates are issued, or the proceeds therefrom".

Subsec. (e) tenth sentence. Pub. L. 89321 incorporated tenth sentence of former subsec. (d) as tenth sentence of subsec. (e) and substituted "in accordance with the provisions of such program," for "in accordance with the provisions of such program".

Subsec. (e) eleventh sentence. Pub. L. 89321 authorized the Secretary, where the failure of a producer to comply with the terms and conditions of the programs formulated under subsecs. (d) and (e) of this section precluded making payments-in-kind, to make such payments-in-kind in such amounts as he determined to be equitable in relation to the seriousness of the default.

1963—Pub. L. 8826 amended feed grains support program for 1962, and enacted feed grains support program for 1964 and 1965, as described hereunder.

Subsec. (a). Pub. L. 8826, §2(1), inserted proviso for such corn price support level, in the case of any crop for which an acreage diversion program is in effect for feed grains, not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines necessary to achieve the acreage reduction goal established by him for the crop.

Subsec. (d). Pub. L. 8826, §2(2), in adding subsec. (d), enacted feed grains support program for 1964 and 1965.

Subsec. (d) first sentence. Pub. L. 8826, §2(2), made subsec. (d) applicable to 1964 and 1965 feed grains crops if an acreage diversion program was in effect under section 590p(h) of title 16.

Subsec. (d) second sentence. Pub. L. 8826, §2(2), required as a condition of eligibility for price support on crop of feed grain included in the acreage diversion program, participation of producer in the diversion program to the extent prescribed by the Secretary, and as a condition of eligibility for such price support if a diversion program was not in effect for 1964 or 1965 crop, that feed grain base be not exceeded by producer and excepted producer of malting barley from requirement of participation in the acreage diversion program for feed grains if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest, did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960, and did not devote oats and rye acreage in 1959 and 1960 to production of wheat pursuant to section 1339c of this title.

Subsec. (d) third sentence. Pub. L. 8826, §2(2), authorized payments in kind for such portion of support price for any feed grain included in the acreage diversion program to assure that benefits of price support and diversion programs inure primarily to those producers who cooperate in feed grains acreage reductions.

Subsec. (d) fourth sentence. Pub. L. 8826, §2(2), provided for payments in kind on number of bushels of feed grain determined by multiplying actual acreage of feed grain planted on the farm for harvest by adjusted average yield per acre.

Subsec. (d) fifth sentence. Pub. L. 8826, §2(2), made base period used in determining adjusted average yield the same as used for purposes of acreage diversion program under section 590p(h) of title 16.

Subsec. (d) sixth sentence. Pub. L. 8826, §2(2), authorized 50 per centum payments to producers in advance of determination of performance.

Subsec. (d) seventh sentence. Pub. L. 8826, §2(2), provided for payments in kind through issuance of negotiable certificates, redemption for feed grains by the CCC (such feed grains to be valued by the Secretary at not less than the current support price minus that part of the current support price made available through payments in kind, plus reasonable carrying charges), and for assistance of CCC in marketing of the certificates.

Subsec. (d) eighth sentence. Pub. L. 8826, §2(2), provided for deduction from value of negotiable certificates, not presented for redemption within thirty days of date of issuance, or reasonable costs of storage and other carrying charges, for the period beginning thirty days after issuance and ending with date of presentation for redemption.

Subsec. (d) ninth sentence. Pub. L. 8826, §2(2), required the Secretary to provide for sharing of negotiable certificates among producers on the farm on basis of respective shares in the crop produced on the farm with respect to which such certificates were issued, or the proceeds therefrom.

Subsec. (d) tenth sentence. Pub. L. 8826, §2(2), conditioned availability of price support for feed grains included in acreage diversion program, where operator of farm elected to participate in the acreage diversion program, to producers on farm diverting from feed grain production under the program an acreage on the farm equal to number of acres which operator agreed to divert, and agreement so provided.

1962—Pub. L. 87703 enacted feed grains price support program for 1963.

Pub. L. 87425 amended feed grains support program for 1962.

Subsec. (a). Pub. L. 87703, §305, substituted provisions for such corn price support level, beginning with 1964

crop, not less than 50 per centum or more than 90 per centum of the parity price therefor, as the Secretary determines will not result in increasing Commodity Credit Corporation stocks of corn for former corn price support, beginning with 1959 crop, at 90 per centum of the average price received by farmers during the three calendar years immediately preceding the calendar year in which the marketing year for such crops began, adjusted to offset the effect on such price of any abnormal quantities of low-grade corn marketed during any of such year, provided the level of price support for any crop of corn be not less than 65 per centum of the parity price therefor.

Subsec. (c). Pub. L. 87703, §301, in adding pars. (5) and (6), enacted feed grains price support program for 1963, as described hereunder.

Subsec. (c)(4). Pub. L. 87425 excepted producer of barley on a summer-fallow farm from requirement of participation in special agricultural conservation program for 1962 for barley if such producer did not devote barley farm acreage in excess of average acreage devoted to barley in 1959 and 1960 plus the acreage devoted to summer fallow in 1961 which was diverted from the production of wheat under the special 1962 wheat program and did not devote corn, grain sorghums, and barley farm acreage in excess of 80 per centum of average acreage devoted to corn, grain sorghums, and barley in 1959 and 1960.

Subsec. (c)(5). Pub. L. 87703, §301, required establishment of 1963 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine; provided for: payments in kind in amount of 18 cents per bushel of support price for corn, and comparable portion of support price for grain sorghums and barley; such payments on number of bushels of such feed grain determined by multiplying actual acreage of such feed grain planted on the farm for harvest in 1963 by the adjusted average yield per acre for 1959 and 1960 crop acreage of such feed grain; such payments through issuance of negotiable certificates redeemable by CCC for corn, grain sorghums, and barley (such feed grains to be valued by the Secretary at not less than support price minus that part of support price made available through payments in kind) and for CCC assistance to producer in marketing of such certificates; deduction from value of the certificate, in the case of any certificate not presented for redemption within 30 days of date of its issuance, reasonable costs of storage and other carrying charges for period beginning 30 days after its issuance and ending with the date of its presentation for redemption; and basis for sharing of such certificate among producers on the farm; and conditioned availability of price support to inclusion of prescribed acreage diversion where operator of farm elected to participate in the special agricultural conservation program for 1963, for corn, grain sorghums, and barley.

Subsec. (c)(6). Pub. L. 87703, §301, required as a condition of eligibility for price support on 1963 crop of corn, grain sorghums, and barley participation of producer in special agricultural conservation program for 1963 for corn, grain sorghums, and barley to the extent prescribed by the Secretary and excepted producer of malting barley from requirement of participation in special agricultural conservation program for 1963 if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest in 1963, and did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, and did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960.

1961—Pub. L. 87128 enacted feed grains price support program for 1962.

Pub. L. 875 enacted special feed grains price support program for 1961.

Subsec. (c). Pub. L. 87128, in adding pars. (3) and (4), enacted feed grains price support program for 1962.

Pub. L. 875, in adding pars. (1) and (2), enacted special feed grains price support program for 1961.

Subsec. (c)(1). Pub. L. 875 required establishment of 1961 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine and made corn and grain sorghums price support available on not to exceed the normal production of 1961 acreage of corn and grain sorghums of each eligible farm based on average yield per acre for 1959 and 1960 crop acreage.

Subsec. (c)(2). Pub. L. 875 required as a condition of eligibility for price support on 1961 crop of corn, grain sorghums, and any other feed grain designated by the Secretary, participation of producer in special agricultural conservation program for 1961 for corn and grain sorghums to the extent prescribed by the Secretary.

Subsec. (c)(3). Pub. L. 87128 required establishment of 1962 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine and made corn, grain sorghums, and barley price support available on not to exceed the normal production of 1962 acreage of corn, grain sorghums, and barley of each eligible farm based on average yield per acre for 1959 and 1960 crop acreage.

Subsec. (c)(4). Pub. L. 87128 required as a condition of eligibility for price support on 1962 crop of corn and grain sorghums participation of producer in special agricultural conservation program for 1962 for corn and grain sorghums to the extent prescribed by the Secretary and prohibited farm acreage devoted to barley in excess of average acreage devoted to barley in 1959 and 1960; required as a condition of eligibility for price support on 1962 crop of barley participation of producer in special agricultural conservation program for 1962 for barley to the extent prescribed by the Secretary and prohibited farm acreage devoted to corn and grain sorghums in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960; and excepted producer of malting barley from requirement of participation in special agricultural conservation program for 1962 for barley if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest in 1962, and did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, and did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960.

1958—Pub. L. 85835 enacted corn and feed grains price support provisions, beginning with the 1959 crop.

Subsec. (a). Pub. L. 85835 made corn price support available, beginning with 1959 crop, at 90 per centum of average price received by farmers during three calendar years immediately preceding calendar year in which marketing year for the crop begins, adjusted to offset effect on such price of any abnormal quantities of low-grade corn marketed during any of such year, with minimum price support level at 65 per centum of parity price for any crop of corn.

Subsec. (b). Pub. L. 85835 made price support available, beginning with 1959 crop, for each crop of oats, rye, barley, and grain sorghums, at such level of parity price as Secretary of Agriculture determined was fair and reasonable in relation to price support level for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 501 of Pub. L. 91524, as amended by section 1(18) of Pub. L. 9386, provided that the amendment made by that section is effective only with respect to 1974 through 1977 crops of feed grains.

Section 501(a), formerly §501, of Pub. L. 91524, as renumbered and amended by section 1(18)(A) of Pub. L. 9386, provided that the amendment made by that section is effective only with respect to 1971 through 1977 crops of feed grains.

Section 501(b) of Pub. L. 91524, as added by section 1(18)(B) of Pub. L. 9386, provided that the amendment made by that section is effective only with respect to 1974 through 1977 crops of feed grains.

EFFECTIVE AND TERMINATION DATES OF 1970
AMENDMENT

Section 501 of Pub. L. 91524 provided that the amendment made by that section is effective only with respect to 1971, 1972, and 1973 crops of feed grains.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF FEED
GRAINS

Pub. L. 101624, title IV, §402, Nov. 28, 1990, 104 Stat. 3419, provided that: "Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1991 through 1995 crops of feed grains."

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF FEED
GRAINS

Pub. L. 99198, title IV, §402, Dec. 23, 1985, 99 Stat. 1406, provided that: "Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1986 through 1990 crops of feed grains."

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF FEED
GRAINS

Pub. L. 9798, title IV, §402, Dec. 22, 1981, 95 Stat. 1234, provided that: "Section 105 of the Agricultural Act of 1949 [this section] shall not be applicable to the 1982 through 1985 crops of feed grains."

INAPPLICABILITY TO 1977 THROUGH 1981 CROPS OF FEED
GRAINS

Pub. L. 95113, title V, §503, Sept. 29, 1977, 91 Stat. 933, provided that: "Section 105 of the Agricultural Act of 1949, as amended [this section], shall not be applicable to the 1977 through 1981 crops of feed grains."

INAPPLICABILITY TO 1977 CROP OF FEED GRAINS

Pub. L. 95113, title V, §504, Sept. 29, 1977, 91 Stat. 933, provided that: "Except as otherwise provided in section 501 of this Act [enacting section 1444c(a)(c) of this title effective only for the 1977 through 1981 crops of feed grains], section 105(a) and (b)(1) of the Agricultural Act of 1949, as added by the Agricultural Act of 1970, as amended [subsecs. (a) and (b)(1) of this section as amended by Pub. L. 91524, as amended], to be effective only for the 1974 through 1977 crops of feed grains, shall not be applicable to the 1977 crop of feed grains."

1958 REFERENDUM FOR SELECTION OF ALTERNATIVE
CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PRO-
VISIONS

Corn producers voted for adoption of price support program as provided in section 1444a(b) of this title (254,262) rather than alternative corn acreage allotments and price support program (102,907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1444a of this title.

**§§1444c, 1444d. Repealed. Pub. L. 101624, title IV,
§401(1), Nov. 28, 1990, 104 Stat. 3400**

Section 1444c, act Oct. 31, 1949, ch. 792, title I, §105A, as added Sept. 29, 1977, Pub. L. 95113, title V, §§501, 502, 91 Stat. 928, 930; amended Mar. 18, 1980, Pub. L. 96213, §2, 4(c), 94 Stat. 119, 120; Sept. 26, 1980, Pub. L. 96365, title II, §201(c), 94 Stat. 1320, Dec. 3, 1980, Pub. L. 96494, title II, §202(a), 94 Stat. 2570, related to loan rates and target prices for 1977 through 1981 feed grain crops.

Section 1444d, act Oct. 31, 1949, ch. 792, title I, §105B, as added Dec. 22, 1981, Pub. L. 9798, title IV, §401, 95 Stat. 1227; amended Sept. 8, 1982, Pub. L. 97253, title I, §§123, 124, 96 Stat. 769; Sept. 29, 1983, Pub. L. 98100, §1(a), 97 Stat. 718; Apr. 10, 1984, Pub. L. 98258, title II, §§201203, 98 Stat. 132, 133, related to loan rates and target prices for 1982 through 1985 feed grain crops.

EFFECTIVE DATE OF REPEAL

Repeal effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§1444e. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, §105A, formerly §105C, as added Dec. 23, 1985, Pub. L. 99198, title IV, §401, 99 Stat. 1395; amended Feb. 28, 1986, Pub. L. 99253, §2, 100 Stat. 36; Mar. 20, 1986, Pub. L. 99260, §2(b), 7(b), 100 Stat. 46, 50; May 27, 1987, Pub. L. 10045, §3, 101 Stat. 319; Dec. 22, 1987, Pub. L. 100203, title I, §§1101(b), 1102(b), 1103, 1107, 1113(b), 1202, 101 Stat. 13301 to 13303, 13305, 13309, 133011; Dec. 12, 1989, Pub. L. 101220, §1, 103 Stat. 1876; Dec. 19, 1989, Pub. L. 101239, title I, §§1002(b), 1003(b)(2), 103 Stat. 2107, 2108; renumbered §105A, Nov. 28, 1990, Pub. L. 101624, title IV, §401(2), 104 Stat. 3400, related to loan rates, target prices, disaster payments, acreage limitation and set-aside programs, and land diversion. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 401 of Pub. L. 99198 provided that this section is effective only for 1986 through 1990 crops of feed grains.

**§1444e1. Loans and purchases for 1986 through
1996 crops of corn**

(a) Notwithstanding any other provision of law, effective only for each of the 1986 through 1996 crops of feed grains, the Secretary of Agriculture may make available loans and purchases, as provided in this section, to producers on a farm who—

(1) for silage—

(A) cut corn (including mutilated corn) that the producers have produced in such crop year; or

(B) purchase or exchange corn (including mutilated corn) that has been produced in such crop year by another producer (including a producer that is not participating in an acreage limitation or set-aside program for such crop established by the Secretary); and

(2) participate in an acreage limitation or set-aside program for such crop of corn established by the Secretary.

(b) Such loans and purchases may be made on a quantity of corn of the same crop, other than the corn obtained for silage, acquired by the producer equivalent to a quantity determined by multiplying—

(1) the acreage of corn obtained for silage; by

(2) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such silage was obtained.

(Pub. L. 99198, title IV, §403, Dec. 23, 1985, 99 Stat. 1406; Pub. L. 101624, title IV, §403, Nov. 28, 1990, 104 Stat. 3419.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101624 substituted “1996” for “1990” in introductory provisions.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

§1444f. Loans, payments, and acreage reduction programs for 1991 through 1995 crops of feed grains

(a) Loans and purchases

(1) In general

Except as otherwise provided in this subsection, the Secretary shall make available to producers on a farm loans and purchases for each of the 1991 through 1995 crops of corn produced on the farm at such level as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains after taking into consideration the cost of producing corn, supply and demand conditions, and world prices for corn.

(2) Minimum loan and purchase level

Except as provided in paragraphs (3) and (4), the loan and purchase level determined under paragraph (1) shall not be less than 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, except that the loan and purchase level for a crop determined under this paragraph may not be reduced by more than 5 percent from the level determined for the preceding crop.

(3) Adjustments to support level

(A) Stocks to use ratio

If the Secretary estimates for any marketing year that the ratio of ending stocks of corn to total use for the marketing year will be—

- (i) equal to or greater than 25 percent, the Secretary may reduce the loan and purchase level for corn for the corresponding crop by an amount not to exceed 10 percent in any year;
- (ii) less than 25 percent but not less than 12.5 percent, the Secretary may reduce the loan and purchase level for corn for the corresponding crop by an amount not to exceed 5 percent in any year; or
- (iii) less than 12.5 percent the Secretary may not reduce the loan and purchase level for corn for the corresponding crop.

(B) Report to Congress

(i) In general

If the Secretary adjusts the level of loans and purchases for corn under subparagraph (A), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report—

(I) certifying such adjustment as necessary to prevent the accumulation of stocks and to retain market share; and

(II) containing a description of the need for such adjustment.

(ii) Effective date of adjustment

The adjustment shall become effective no earlier than 60 calendar days after the date of submission of the report to the Committees, except that in the case of the 1991 crop of feed grains, the adjustment shall become effective on the date of the submission of the report.

(C) Competitive position

Notwithstanding subparagraph (A), if the Secretary determines, not later than 60 days prior to the beginning of a marketing year for a crop, that the effective loan rate established for such crop will not maintain a competitive market position for corn, the Secretary may reduce the loan and purchase level for corn for the marketing year by an amount, in addition to any reduction under subparagraph (A), not to exceed 10 percent in any year.

(D) No effect on future years

Any reduction in the loan and purchase level for corn under this paragraph shall not be considered in determining the loan and purchase level for corn for subsequent years.

(E) Minimum loan rate

Notwithstanding subparagraph (A), the loan rate for corn shall not be less than \$1.76 per bushel, unless such rate would exceed 80 percent of the 5-year average market price determination.

(4) Marketing loan provisions

(A) In general

The Secretary may permit a producer to repay a loan made under this subsection for a crop at a level (except as provided in subparagraph (C)) that is the lesser of—

- (i) the loan level determined for the crop;
- (ii) the higher of—
 - (I) 70 percent of such level;
 - (II) if the loan level for a crop was reduced under paragraph (3), 70 percent of the loan level that would have been in effect but for the reduction under paragraph (3); or
 - (iii) the prevailing world market price for feed grains (adjusted to United States quality and location), as determined by the Secretary.

(B) Prevailing world market price

If the Secretary permits a producer to repay a loan in accordance with subparagraph (A), the Secretary shall prescribe by regulation—

- (i) a formula to determine the prevailing world market price for feed grains, adjusted to United States quality and location; and
- (ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for feed grains.

(C) Alternative repayment rates

For each of the 1991 through 1995 crops of feed grains, if the world market price for feed grains (adjusted to United States quality and location) as determined by the Secretary, is less than the loan level determined for the crop, the Secretary may permit a producer to repay a loan made under this subsection for a crop at such level (not in excess of the loan level determined for the crop) as the Secretary determines will—

- (i) minimize potential loan forfeitures;
- (ii) minimize the accumulation of feed grain stocks by the Federal Government;
- (iii) minimize the cost incurred by the Federal Government in storing feed grains; and
- (iv) allow feed grains produced in the United States to be marketed freely and competitively, both domestically and internationally.

(5) Simple average price

For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

(6) Other feed grains

The Secretary shall make available to producers loans and purchases for each of the 1991 through 1995 crops of grain sorghums, barley, oats, and rye, respectively, produced on the farm at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of the commodity in relation to corn and other factors specified in section 1421(b) of this title.

(b) Loan deficiency payments**(1) In general**

The Secretary may, for each of the 1991 through 1995 crops of feed grains, make payments (hereafter in this section referred to as “loan deficiency payments”) available to producers who, although eligible to obtain a loan or purchase agreement under subsection (a) of this section, agree to forgo obtaining the loan or agreement in return for payments under this subsection.

(2) Computation

A payment under this subsection shall be computed by multiplying—

- (A) the loan payment rate; by
- (B) the quantity of feed grains the producer is eligible to place under loan (or obtain a purchase agreement) but for which the producer forgoes obtaining the loan or agreement in return for payments under this subsection.

(3) Loan payment rate

For purposes of this subsection, the loan payment rate shall be the amount by which—

- (A) the loan level determined for the crop under subsection (a) of this section; exceeds
- (B) the level at which a loan may be repaid under subsection (a) of this section.

(c) Payments; crop insurance requirement**(1) Deficiency payments****(A) In general**

The Secretary shall make available to producers payments (hereafter in this section referred to as “deficiency payments”) for each of the 1991 through 1995 crops of corn, grain sorghums, oats, and barley, in an amount computed by multiplying—

- (i) the payment rate; by
- (ii) the payment acres for the crop; by
- (iii) the farm program payment yield established for the crop for the farm.

(B) Payment rate**(i) Payment rate for 1991 through 1993 crops**

The payment rate for each of the 1991 through 1993 crops of corn, grain sorghums, oats, and barley shall be the amount by which the established price for the respective crop of feed grains exceeds the higher of—

- (I) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary; or
- (II) the loan level determined for the crop, prior to any adjustment made under subsection (a)(3) of this section for the marketing year for the crop.

(ii) Payment rate of 1994 and 1995 crops

The payment rate for each of the 1994 and 1995 crops of corn, grain sorghums, oats, and barley shall be the amount by which the established price for the respective crop of feed grains exceeds the higher of—

- (I) the lesser of—
 - (aa) the national weighted average market price received by producers during the marketing year for the crop, as determined by the Secretary; or
 - (bb) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 7 cents per bushel; or
- (II) the loan level determined for the crop, prior to any adjustment made under subsection (a)(3) of this section for the marketing year for the respective crop of feed grains.

(iii) Minimum established prices**(I) Corn**

The established price for corn shall not be less than \$2.75 per bushel for each of the 1991 through 1995 crops of corn.

(II) Oats

The established price for oats shall be such price as the Secretary determines is fair and reasonable in relation to the established price for corn, but not less than \$1.45 per bushel.

(III) Grain sorghums

The established price for each of the 1991 through 1995 crops of grain sorghums shall not be less than \$2.61 per bushel.

(IV) Barley**(aa) In general**

The established price for barley shall be such price as the Secretary determines is fair and reasonable in relation to the established price for corn, taking into consideration the various feed and food uses for barley. The established price for barley shall not be less than 85.8 percent of the established price for corn.

(bb) Barley calculations

The Secretary shall, for purposes of determining the payment rate for barley under clauses (i) and (ii) and subparagraph (D)(ii), use the national weighted average market price received by producers of barley sold primarily for feed purposes.

(cc) Advance payments

In the case of the 1991 crop of barley, the Secretary shall, for purposes of determining any advance deficiency payment made to the producers of barley under section 1445j of this title, use the national weighted average market price received by producers for all barley, as determined by the Secretary.

(dd) Equity

In implementing this subsection, the Secretary shall make available to producers of the 1991 crop of barley, notwithstanding the method of calculation or the amount of the advance deficiency payment, the total amount of payments as calculated under clause (bb).

(C) Payment acres

Payment acres for a crop shall be the lesser of—

- (i) the number of acres planted to the crop for harvest within the permitted acreage; or
- (ii) 85 percent of the crop acreage base for the crop for the farm less the quantity of reduced acreage (as determined under subsection (e)(2)(D) of this section).

(D) Emergency compensation**(i) In general**

Notwithstanding the foregoing provisions of this section, if the Secretary adjusts the level of loans and purchases for feed grains under subsection (a)(3) of this section, the Secretary shall provide emergency compensation by increasing the deficiency payments for feed grains by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made.

(ii) Calculation

In determining the payment rate, per bushel, for emergency compensation payments for a crop of feed grains under this subparagraph, the Secretary shall use the national weighted average market price, per bushel of feed grains, received by producers during the marketing year for the crop, as determined by the Secretary.

(E) 0/85 program**(i) In general**

If an acreage limitation program under subsection (e)(2) of this section is in effect for a crop of feed grains and the producers on a farm devote a portion of the maximum payment acres for feed grains as calculated under subparagraph (C)(ii) of the farm equal to more than 8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (vii)), of such feed grain acreage of the farm for the crop, to conservation uses (except as provided in subparagraph (F))—

(I) such portion of the maximum payment acres of the farm in excess of 8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (vii)), of such acreage devoted to conservation uses (except as provided in subparagraph (F)) shall be considered to be planted to feed grains for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(D) of this section; and

(II) the producers shall be eligible for payments under this paragraph with respect to such acreage.

(ii) Deficiency payments

Notwithstanding any other provision of this section, any producer who devotes a portion of the maximum payment acres for feed grains for the farm to conservation uses (or other uses as provided in subparagraph (F)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to feed grains and eligible for payments under this subparagraph for the crop at a per-bushel rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which feed grain producers may agree to participate in the program for the crop.

(iii) Adverse effect on agribusiness and other interests

The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph,

the Secretary is authorized to restrict the total quantity of feed grain acreage that may be taken out of production under this subparagraph, taking into consideration the total quantity of acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the quantity of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 1961 of this title as a result of a disaster that occurred during the crop year.

(iv) Crop acreage and payment yield

The feed grain crop acreage base and feed grain farm program payment yield of the farm shall not be reduced due to the fact that a portion of the permitted feed grain acreage of the farm was devoted to conserving uses (except as provided in subparagraph (F)) under this subparagraph.

(v) Limitation

Other than as provided in clauses (i) through (iv), payments may not be made under this paragraph for any crop on a greater acreage than the acreage actually planted to feed grains.

(vi) Conservation use acreage under other programs

Any acreage considered to be planted to feed grains in accordance with clauses (i) and (iv) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified acreage to conservation uses.

(vii) Exceptions to 0/85

In the case of each of the 1994 through 1997 crops of feed grains, producers on a farm shall be eligible to receive deficiency payments as provided in clause (ii) if an acreage limitation program under subsection (e) of this section is in effect for the crop and—

(I)(aa) the producers have been determined by the Secretary (in accordance with section 1463(c) of this title) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster); and

(bb) the producers elect to devote a portion of the maximum payment acres for feed grains (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the feed grain acreage, to conservation uses; or

(II) the producers elect to devote a portion of the maximum payment acres for feed grains (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the feed grain acreage, to alternative crops as provided in subparagraph (F).

(F) Alternative crops

(i) Industrial and other crops

The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) to be devoted to sweet sorghum, guar, castor beans, plantago ovato, triticale, rye, millet, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that—

(I) the production is not likely to increase the cost of the price support program; and

(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material and could lead to increased industrial use of the raw material to the long-term benefit of United States industry.

(ii) Oilseeds

The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) to be devoted to sunflowers, rapeseed, canola, safflower, flaxseed, mustard seed, sesame, crambe, and other minor oilseeds designated by the Secretary (excluding soybeans). In implementing this clause, the Secretary shall provide that, in order to receive payments under subparagraph (E), the producers shall agree to forgo eligibility to receive a loan under section 1446f of this title for the crop of any such oilseed produced on the farm.

(iii) Double cropping

The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 1464(b)(1) of this title. The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established his-

tory of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.

(2) Crop insurance requirement

A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 1433f of this title.

(d) Payment yields

The farm program payment yields for farms for each crop of feed grains shall be determined under subchapter IV of this chapter.

(e) Acreage reduction programs

(1) In general

(A) Establishment

Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of corn, grain sorghum, barley, or oats, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carry-over to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of corn, grain sorghum, barley, or oats an acreage limitation program as described in paragraph (2).

(B) Agricultural resources conservation program

In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the agricultural resources conservation program established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(C) Announcements

If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall announce the program not later than September 30 prior to the calendar year in which the crop is harvested, except that in the case of the 1991 crop, the Secretary shall announce the program as soon as practicable after November 28, 1990.

(D) Adjustments

Not later than November 15 of the year previous to the year in which the crop is harvested, the Secretary may make adjustments in the program announced under subparagraph (C) if the Secretary determines that there has been a significant change in the total supply of feed grains since the program was first announced.

(E) Compliance

As a condition of eligibility for loans, purchases, and payments for any such crop of feed grains, except as provided in subsections (f) and (g) of this section and section 1464 of this title, the producers on a farm must comply with the terms and condi-

tions of the acreage limitation program and, if applicable, a land diversion program as provided in paragraph (5).

(F) Acreage limitation program for 1991 crop

In the case of the 1991 crop of corn, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to corn for harvest on a farm would be limited to the corn crop acreage base for the farm for the crop reduced by not less than 7.5 percent.

(G) Acreage limitation programs for 1992 through 1995 crops

In the case of each of the 1992 through 1995 crops of corn, if the Secretary estimates for a marketing year for the crop that the ratio of ending stocks of corn to total disappearance of corn for the preceding marketing year will be—

(i) more than 25 percent, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to corn for harvest on a farm would be limited to the corn crop acreage base for the farm for the crop reduced by not less than 10 percent nor more than 20 percent; or

(ii) equal to or less than 25 percent, the Secretary may provide for such an acreage limitation program under which the acreage planted to corn for harvest on a farm would be limited to the corn crop acreage base for the farm for the crop reduced by not more than 0 to 12.5 percent.

For the purpose of this subparagraph, the term "total disappearance" means all corn utilization, including total domestic, total export, and total residual disappearance.

(H) Acreage limitation program for 1991 through 1995 crops of oats

In the case of each of the 1991 through 1995 crops of oats, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to oats for harvest on a farm would be limited to the oat crop acreage base for the farm for the crop reduced by not more than 0 percent.

(2) Acreage limitation program

(A) Percentage reductions

Except as provided in paragraph (3), if a feed grain acreage limitation program is announced under paragraph (1), such limitation shall be achieved by applying a uniform percentage reduction (from 0 to 20 percent) to the crop acreage base for corn, grain sorghum, barley, or oats, respectively, for each feed grain-producing farm.

(B) Compliance

Except as provided in subsection (g) of this section and section 1464 of this title, producers who knowingly produce a feed grain in excess of the respective permitted feed grain acreage for the farm shall be ineligible for feed grain loans, purchases, and payments with respect to that farm.

(C) Crop acreage bases

Feed grain crop acreage bases for each crop of feed grains shall be determined under subchapter IV of this chapter.

(D) Acreage devoted to conservation uses

A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by multiplying the respective feed grain crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is hereafter in this subsection referred to as "reduced acreage". The remaining acreage is hereafter in this subsection referred to as "permitted acreage". Permitted acreage may be adjusted by the Secretary as provided in paragraph (3) and in section 1464 of this title.

(E) Individual farm program acreage

Except as otherwise provided in subsection (c) of this section, the individual farm program acreage shall be the acreage planted on the farm to feed grains for harvest within the permitted feed grain acreage for the farm as established under this paragraph.

(F) Planting designated crops on reduced acreage**(i) "Designated crop" defined**

As used in this subparagraph, the term "designated crop" means a crop defined in section 1464(b)(1) of this title, excluding any program crop as defined in section 1462(3) of this title.

(ii) In general

Subject to clause (iii), the Secretary may permit producers on a farm to plant a designated crop on no more than one-half of the reduced acreage on the farm.

(iii) Limitations

If the producers on a farm elect to plant a designated crop on reduced acreage under this subparagraph—

(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) of this section shall be reduced, for each acre (or portion thereof) that is planted to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops; and

(II) the Secretary shall ensure that reductions in deficiency payments under subclause (I) are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

(G) Exception for malting barley

The Secretary may provide that no producer of malting barley shall be required as

a condition of eligibility for feed grain loans, purchases, and payments to comply with any acreage limitation under this paragraph if the producer has previously produced a malting variety of barley for harvest, plants barley only of an acceptable malting variety for harvest, and meets such other conditions as the Secretary may prescribe. The Secretary shall make an annual determination of whether to exempt such producers from compliance with any acreage limitation under this paragraph and shall announce such determination in the Federal Register.

(H) Corn and sorghum bases

Notwithstanding any other provision of this Act, with respect to each of the 1992 through 1995 crops of corn and grain sorghums—

(i) the Secretary shall combine the permitted acreages established under subparagraph (D) for a farm for a crop year for corn and grain sorghums;

(ii) for each crop year, the sum of the acreage planted and considered planted to corn and grain sorghum, as determined by the Secretary under this section and subchapter IV of this chapter, shall be prorated to corn and grain sorghum based on the ratio of the crop acreage base for the individual crop of corn or grain sorghum, as applicable, to the sum of the crop acreage bases for corn and grain sorghum established for each crop year; and

(iii) for each crop year, the sum of the corn and grain sorghum payment acres, as determined under subsection (c) of this section, shall be prorated to corn and grain sorghum based on the ratio of the maximum payment acres for the individual crop of corn or grain sorghum, as applicable, to the sum of the maximum payment acres for corn and grain sorghum established for each crop year.

(3) Targeted option payments**(A) In general**

Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1991 through 1995 crops of feed grains, the Secretary may make available to producers on a farm who do not receive payments under subsection (c)(1)(E) of this section for such crop on the farm, adjustments in the level of deficiency payments that would otherwise be made available to the producers if the producers exercise the payment options provided in this paragraph.

(B) Payment options

If the Secretary elects to carry out this paragraph, the Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of feed grains under an acreage limitation program in accordance with this paragraph.

(C) Increased acreage limitation option**(i) Increase in established price**

If the Secretary elects to carry out this paragraph, a producer shall be eligible to

receive an increase in the established price for corn under clause (ii) if the producer agrees to an increase in the acreage limitation percentage to be applied to the producers' corn acreage base above the acreage limitation percentage announced by the Secretary.

(ii) Method of calculation

For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for corn by an amount determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the producers' corn acreage base.

(iii) Limitation

The acreage limitation percentage to be applied to the producers' corn acreage base shall not be increased by more than 5 percentage points for the 1991 crop and 10 percentage points for each of the 1992 through 1995 crops above the acreage limitation percentage announced by the Secretary for the crop or above 20 percent total for the crop.

(D) Decreased acreage limitation option

(i) Decrease in acreage limitation requirement

If the Secretary elects to carry out this paragraph, a producer shall be eligible to decrease the acreage limitation percentage applicable to the producers' corn acreage base (as announced by the Secretary) if the producer agrees to a decrease in the established price for corn under clause (ii) for the purpose of calculating deficiency payments to be made available to the producer.

(ii) Method of calculation

For the purposes of calculating deficiency payments to be made available to producers who choose the option set forth in this subparagraph, the Secretary shall decrease the established price for corn by an amount to be determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the producers' corn acreage base.

(iii) Limitation

A producer may not choose to decrease the acreage limitation percentage applicable to the producers' corn acreage base under this paragraph by more than one-half of the announced acreage limitation percentage.

(E) Other feed grains

The Secretary shall implement the program provided for by this paragraph for other feed grains similar to the manner in which the program is implemented for corn.

(F) Participation and production effects

Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on program participation or total production and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(4) Administration

(A) Protection from weeds and erosion

The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of the acreage from weeds and wind and water erosion.

(B) Annual or perennial cover

(i) Required

(I) In general

Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of feed grains under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of feed grains, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

(II) Arid areas

Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 590h(b) of title 16 may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

(III) Approval of cover crops and practices

The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical

committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.

(ii) Multiyear program

(I) Cost-share assistance

If a producer elects to establish a perennial cover capable of improving water quality or wildlife habitat on the acreage, the Commodity Credit Corporation shall make available cost-share assistance for 25 percent of the approved cost of establishing the cover on not more than 50 percent of the acreage that is required to be diverted from production, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for a crop.

(II) Agreement of producer

If a producer elects to establish a perennial cover on the acreage under this subparagraph and receives cost-share assistance from the Corporation with respect to the cover, the producer, under such terms and conditions as may be prescribed by the Secretary, taking into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985 [16 U.S.C. 3861 et seq.], shall agree to maintain the perennial cover for a minimum of 3 years.

(iii) Conserving crops

The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

(C) Haying and grazing

(i) In general

Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(E) of this section, and acreage diverted from production under a land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 590h(b) of title 16 for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

(ii) Natural disasters

In the case of a natural disaster, the Secretary may permit unlimited haying and

grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted in alfalfa when exercising the authority under this clause.

(D) Water storage uses

(i) In general

The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 years subsequent to its conversion to water storage uses.

(ii) Limitations

Land converted to water storage uses for the purposes of this subparagraph may not be devoted to any commercial use, including commercial fish production. The water stored on the land may not be ground water. The farm on which the land is located must have been irrigated with ground water during at least 1 of the preceding 5 crop years.

(E) Summer fallow

In determining the quantity of land to be devoted to conservation uses under an acreage limitation program with respect to land that has been farmed under summer fallow practices, as defined by the Secretary, the Secretary shall consider the effects of soil erosion and such other factors as the Secretary considers appropriate.

(5) Land diversion payments

(A) In general

The Secretary may make land diversion payments to producers of feed grains, whether or not an acreage limitation program for feed grains is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of feed grains to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

(B) Amounts

The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

(C) Limitation on diverted acreage

The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(6) Conservation practices**(A) Wildlife food plots or habitat**

The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of this subparagraph.

(B) Soil and water conservation practices

The Secretary may also pay an appropriate share of the cost of approved soil and water conservation practices (including practices that may be effective for a number of years) established by the producer on acreage required to be devoted to conservation uses or on additional diverted acreage.

(C) Public accessibility

The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(7) Participation agreements**(A) In general**

Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

(B) Modification or termination

The Secretary may, by mutual agreement with producers on a farm, modify or terminate any such agreement if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of feed grains.

(8) Special oats plantings

In any crop year that the Secretary determines that projected domestic production of oats will not fulfill the projected domestic demand for oats, notwithstanding the foregoing provisions of this subsection, the Secretary—

(A) may provide that any reduced acreage may be planted to oats for harvest;

(B) may make program benefits (including loans, purchases, and payments) available under the annual program for oats under this section available to producers with respect to acreage planted to oats under this paragraph; and

(C) shall not make program benefits other than the benefits specified in subparagraph (B) available to producers with respect to acreage planted to oats under this paragraph.

(f) Inventory reduction payments**(1) In general**

The Secretary may, for each of the 1991 through 1995 crops of feed grains, make payments available to producers who meet the requirements of this subsection.

(2) Form

The payments may be made in the form of marketing certificates.

(3) Payments

Payments under this subsection shall be determined in the same manner as provided in subsection (b) of this section.

(4) Eligibility

A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

(A) agrees to forgo obtaining a loan or purchase agreement under subsection (a) of this section;

(B) agrees to forgo receiving payments under subsection (c) of this section;

(C) does not plant feed grains for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (e) of this section; and

(D) otherwise complies with this section.

(g) Pilot voluntary production limitation program**(1) In general**

Effective for the 1992 or 1993 crops (and, if the Secretary so determines, the 1994 and 1995 crops), if a feed grain acreage limitation program or a land diversion program is announced under subsection (e) of this section for such crops, the Secretary shall carry out a pilot program in at least 15 counties in at least 2 States where producers express an interest in participating in the pilot program under which the producers on a farm shall be considered to have met the requirements of such acreage limitation or land diversion program if the producers meet the requirements of the voluntary production limitation program established under this subsection.

(2) Limitation on marketing

In order to comply with the voluntary production limitation program, the producers on a farm must agree not to market, barter, donate, or use on the farm (including use as feed for livestock) in a marketing year a quantity of feed grains in excess of the feed grain pro-

duction limitation quantity for the farm for the marketing year.

(3) Production limitation quantity

For purposes of this subsection, the production limitation quantity for a farm for a marketing year for a crop shall equal the product obtained by multiplying—

(A) the acreage permitted to be planted to feed grains under the acreage reduction program or land diversion program in effect for the crop for the farm; by

(B) the higher of—

(i) the farm program payment yield for the farm; or

(ii) the average of the yield per harvested acre for feed grains for the farm for each of the 5 crop years immediately preceding the crop year during which the producers first participate in the program established under this subsection, excluding the crop years with the highest and lowest yield per harvested acre and any crop year in which the commodity was not planted on the farm.

(4) Terms and conditions

Producers on a farm who elect to participate in the program established under this subsection for a crop of feed grains shall—

(A) enter into an agreement with the Secretary providing that the producers shall comply with the program for the crop;

(B) not plant program commodities for harvest in a quantity in excess of the sum of the crop acreage bases for the farm; and

(C) be considered to have complied with the terms and conditions of the feed grain acreage reduction program or land diversion program for the crop, even though the acreage planted to feed grains on the farm exceeds the permitted acreage provided under the acreage reduction or land diversion program.

(5) Excess production

(A) In general

Any quantity of feed grains produced in a crop year on a farm in excess of the production limitation quantity for the farm may be stored by the producers for a period of not to exceed 5 marketing years and may be used only in accordance with this paragraph.

(B) Marketing in subsequent year

(i) Participants in program

Producers on a farm who are participating in the program established under this subsection may market, barter, or use a quantity of the excess feed grains referred to in subparagraph (A) equal to the difference between the production limitation quantity for the farm for the crop year subsequent to the crop year in which the excess feed grains are produced less the quantity of feed grains produced on the farm during the crop year.

(ii) Participants in acreage reduction program

Producers on a farm who are participating in an acreage reduction or a land di-

version program for a crop of feed grains may market, barter, or use a quantity of the excess feed grains referred to in subparagraph (A) in an amount that reflects the quantity of feed grains that would be expected to be produced on acreage that the producers agree to devote to approved conservation uses (in excess of any acreage reduction or land diversion requirements) during a crop year, as determined by the Secretary.

(6) Duties of Secretary

In carrying out the pilot program established under this subsection, the Secretary—

(A) shall issue such regulations as are necessary to carry out the program;

(B) may require increased acreage reduction or land diversion requirements with respect to producers who have had excess feed grain production in order to allow the producers to market, barter, or use the production in subsequent years;

(C) shall take appropriate measures designed to prevent the circumvention of the program established under this subsection, including the imposition of penalties;

(D) may require producers who participate in the program for a crop, but who fail to comply with the terms and conditions of the program, to refund all or a part of any deficiency payments received with respect to the crop;

(E) may require the forfeiture to the Commodity Credit Corporation of any feed grains that are produced in excess of the production limitation quantity and that are not marketed, bartered, or used within 5 marketing years; and

(F) shall ensure equitable treatment for producers who participate in the pilot program if the Secretary allows increases (based on actual production levels) in the determination of farm program payment yields for feed grains for the farm.

(7) Report

(A) In general

The Comptroller General of the United States shall prepare a report that evaluates the pilot program carried out under this subsection.

(B) Submission

The Comptroller General shall submit a copy of the report required by subparagraph (A) to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Secretary.

(h) Equitable relief

(1) Loans, purchases, and payments

If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer

made a good faith effort to comply fully with the terms and conditions of such program in determining whether equitable relief is warranted under this paragraph.

(2) Deadlines and program requirements

The Secretary may authorize the county and State committees established under section 590h(b) of title 16 to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

(i) Regulations

The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(j) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(k) Assignment of payments

The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to payments under this section.

(l) Sharing of payments

The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

(m) Tenants and sharecroppers

The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(n) Cross-compliance

(1) In general

Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans, purchases, or payments under this section.

(2) Compliance on other farms

The Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments under this section for the farm, to comply with the terms and conditions of the feed grains program with respect to any other farm operated by the producers.

(o) Public comment on feed grains program

(1) In general

In order to ensure that producers and consumers of feed grains are provided with reasonable opportunity to comment on the annual program determinations concerning the price support and acreage reduction program for each of the 1992 and subsequent crops of feed grains, the Secretary shall request public comment regarding the feed grains program in accordance with this subsection.

(2) Options

Not less than 60 days before the program is announced for a crop of feed grains under this section, the Secretary shall propose for public comment various program options for the crop of feed grains.

(3) Analyses

Each option proposed by the Secretary shall be accompanied by an analysis that includes the estimated planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that would likely result from each option.

(4) Estimates

In announcing the program for a crop of feed grains under this section, the Secretary shall include an estimate of the planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that is expected to result from the program as announced.

(p) Malting barley

(1) Assessment required

In order to help offset costs associated with deficiency payments made available under this section to producers of barley, the Secretary shall provide for an assessment for each of the 1991 through 1995 crop years to be levied on any producer of malting barley produced on a farm that is enrolled for the crop year in the production adjustment program under this section. The Secretary shall establish such assessment at not more than 5 percent of the value of the malting barley produced on program payment acres on the farm during each of the 1991 through 1995 crop years. The production per acre on which the assessment is based shall not be greater than the farm program payment yield.

(2) Value of malting barley

The Secretary may establish the value of such malting barley at the lesser of the State or national weighted average market price received by producers of malting barley for the first 5 months of the marketing year. In calculating the State or national weighted average market price, the Secretary may exclude the value of malting barley that is contracted for sale by producers prior to planting.

(3) Exception to assessment

In counties where malting barley is produced, participating barley producers may certify to the Secretary prior to computation of final deficiency payments that part or all of the producer's production was (or will be) sold or used for nonmalting purposes. The portion certified as sold or used for nonmalting purposes shall not be subject to the assessment. The Secretary may require producers to provide to the Secretary such documentation as the Secretary considers appropriate to carry out this paragraph.

(q) Price support for high moisture feed grains

(1) Recourse loans

Notwithstanding any other provision of law, effective for each of the 1991 through 1995 crops of feed grains, the Secretary (through the Commodity Credit Corporation) shall make available recourse loans, as determined by the Secretary, to producers on a farm who—

(A) normally harvest all or a portion of their crop of feed grains in a high moisture

state, hereinafter in this subsection defined as a feed grain having a moisture content in excess of Commodity Credit Corporation standards for loans made by the Secretary under paragraphs (1) and (6) of subsection (a) of this section;

(B)(i) present certified scale tickets from an inspected, certified commercial scale, including licensed warehouses, feedlots, feed mills, distilleries, or other similar entities approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) present field or other physical measurements of the standing or stored feed grain crop in regions of the country, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to such facilities maintained by the users of such high-moisture feed grain;

(D) comply with deadlines established by the Secretary for harvesting the feed grain and submit applications for loans within deadlines established by the Secretary; and

(E) participate in an acreage limitation program for the crop of feed grains established by the Secretary.

(2) Eligibility of acquired feed grains

The loans shall be made on a quantity of feed grains of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the feed grain in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such high moisture feed grain was obtained.

(r) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of feed grains.

(Oct. 31, 1949, ch. 792, title I, §105B, as added Nov. 28, 1990, Pub. L. 101624, title IV, §401(3), 104 Stat. 3401; amended Nov. 5, 1990, Pub. L. 101508, title I, §§1101(b), 1102(b), 1103(b), 104 Stat. 13881, 13882; Dec. 13, 1991, Pub. L. 102237, title I, §§102(c), 103(a), 105, 106(c), 108, 113(4), (5), 114(b)(1), 105 Stat. 1822, 1823, 1825, 1828, 1837, 1839; Aug. 10, 1993, Pub. L. 10366, title I, §1103, 107 Stat. 315; May 6, 1994, Pub. L. 103247, §1(b), 108 Stat. 618; Oct. 13, 1994, Pub. L. 103354, title I, §119(a)(4), 108 Stat. 3207.)

REFERENCES IN TEXT

This Act, referred to in subssecs. (c)(1)(F)(iii) and (e)(1)(A), (2)(H), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Food Security Act of 1985, referred to in subsec. (e)(1)(B), (4)(B)(ii)(II), is Pub. L. 99198, Dec. 23, 1985, 99 Stat. 1354, as amended. Subtitles D and G of title XII of the Act are classified generally to subchapters IV (§3831 et seq.) and VII (§3861 et seq.), respectively, 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

1994—Subsec. (c)(1)(B)(iii)(IV)(bb). Pub. L. 103247 substituted “clauses (i) and (ii)” for “clause (i)(D)”.

Subsec. (c)(1)(G). Pub. L. 103354, §119(a)(4)(A), struck out heading and text of subpar. (G). Text read as follows: “The total quantity of feed grains on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).”

Subsec. (c)(2). Pub. L. 103354, §119(a)(4)(B), added par. (2) and struck out former par. (2) which related to disaster payments.

1993—Subsec. (c)(1)(E). Pub. L. 10366, §1103(1), substituted “85” for “92” in heading.

Subsec. (c)(1)(E)(i). Pub. L. 10366, §1103(2), inserted “for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (vii)),” after “8 percent” in introductory provisions and subcl. (I).

Subsec. (c)(1)(E)(vii). Pub. L. 10366, §1103(3), added cl. (vii).

1991—Subsec. (c)(1)(B)(iii)(IV)(bb). Pub. L. 102237, §113(4), substituted “calculations” for “Calculations” in heading.

Subsec. (c)(1)(F)(i). Pub. L. 102237, §102(c)(1), in introductory provisions substituted “castor beans,” for “sesame, castor beans, crambe,” and “rye, millet, mung beans,” for “rye, mung beans,” and in subcl. (I) struck out “and will not affect farm income adversely” after “program”.

Subsec. (c)(1)(F)(ii). Pub. L. 102237, §102(c)(2), substituted “mustard seed, sesame, crambe, and” for “mustard seed, and”.

Subsec. (c)(1)(F)(iii). Pub. L. 102237, §103(a), added cl. (iii).

Subsec. (e)(2)(G). Pub. L. 102237, §108(1), inserted at end “The Secretary shall make an annual determination of whether to exempt such producers from compliance with any acreage limitation under this paragraph and shall announce such determination in the Federal Register.”

Subsec. (e)(2)(H). Pub. L. 102237, §105, added subpar. (H).

Subsec. (e)(4)(B)(i). Pub. L. 102237, §106(c), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “(i) IN GENERAL.—Except as provided in paragraph (2), a producer who participates in an acreage reduction program established for a crop of feed grains under this subsection shall be required to plant to an annual or perennial cover 50 percent (or more, at the option of the producer) of the acreage that is required to be removed from the production of feed grains, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.”

Subsec. (g)(1). Pub. L. 102237, §113(5)(A), substituted “subsection (e)” for “subsection (d)”.

Subsec. (g)(6)(E). Pub. L. 102237, §113(5)(B), substituted “are” for “is” in two places.

Subsec. (p). Pub. L. 102237, §108(2), added subsec. (p) and struck out former subsec. (p) which read as follows: “In order to help offset costs associated with deficiency payments made available under this section to producers of barley, the Secretary shall provide for an assessment for each of the 1991 through 1995 crop years to be levied on producers of malting barley that are participating in the production adjustment program under

this section. The Secretary shall establish such assessment at no more than 5 percent of the value of malting barley produced on the farm during each of the 1991 through 1995 crop years.”

Subsecs. (q), (r). Pub. L. 102237, §114(b)(1), added subsec. (q) and redesignated former subsec. (q) as (r).

1990—Subsec. (c)(1)(B)(ii). Pub. L. 101508, §1102(b), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “PAYMENT RATE OF 1994 AND 1995 CROPS.—The payment rate for each of the 1994 and 1995 crops of corn, grain sorghums, oats, and barley shall be determined as provided in clause (i).”

Subsec. (c)(1)(C)(ii). Pub. L. 101508, §1101(b), substituted “85 percent” for “100 percent”.

Subsec. (e)(1)(F). Pub. L. 101508, §1103(b), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “ACREAGE LIMITATION PROGRAM FOR 1991 CROP.—In the case of the 1991 crop of corn, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) as provided in subparagraph (G).”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101508, set out as a note under section 511r 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. 101624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

ACREAGE REDUCTION PROGRAMS FOR 1992 THROUGH 1995 CROPS

Secretary of Agriculture to announce acreage limitation program for each of 1992 through 1995 crops of wheat, corn, grain sorghum, and barley, which shall not apply if stocks-to-use ratio will be less than 34 percent in the case of wheat and 20 percent in the case of corn, grain sorghum, and barley, and which will also not apply if quantity of soybeans on hand at beginning of the marketing year for the 1991 crop of soybeans (excluding any quantity of soybeans of the 1991 crop) will be less than 325,000,000 bushels, see section 1104 of Pub. L. 101508, set out as a note under section 1445b3a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 1426, 1445b3a, 1445h, 1445j, 1463, 5822 of this title.

§1444f1. Repealed. Pub. L. 102237, title I, §114(b)(2), Dec. 13, 1991, 105 Stat. 1840

Section, Pub. L. 101624, title IV, §404, Nov. 28, 1990, 104 Stat. 3419, related to price support for high moisture feed grains. See section 1444f(q) of this title.

§1445. Tobacco price support levels for 1960 and subsequent years

Notwithstanding any of the provisions of section 1441 of this title: (a) For the 1960 crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be the level at which the

1959 crop of such kind of tobacco was supported, or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect. (b) For the 1961 crop and each subsequent crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be determined by adjusting the support level for the 1959 crop of such kind of tobacco, or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect, by multiplying such support level for the 1959 crop by the ratio of (i) the average of the index of prices paid by farmers, including wage rates, interest, and taxes, as defined in section 1301(a)(1)(C) of this title, for the three calendar years immediately preceding the calendar year in which the marketing year begins for the crop for which the support level is being determined to (ii) the average index of such prices paid by farmers, including wage rates, interest, and taxes for the calendar year 1959.

(c) If acreage poundage or poundage farm marketing quotas are in effect under section 1314c or 1314e of this title, (1) price support shall not be made available on tobacco marketed in excess of 103 per centum of the marketing quota (after adjustments) for the farm on which such tobacco was produced, and (2) for the purpose of price-support eligibility, tobacco carried over from one marketing year to another shall, when marketed, be considered tobacco of the then current crop.

(d) Notwithstanding the provisions of section 1423 of this title, if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, the Secretary, after prior consultation with the association through which price support for the grade and kind of tobacco is made available to producers, may reduce the support rate which would otherwise be established for such grade of tobacco after taking into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco: *Provided*, That the weighted average of the support rates for all eligible grades of such kind of tobacco shall, after such reduction, reflect not less than (1) 65 per centum of the increase in the support level for such kind of tobacco which would otherwise be established under this section, if the support level therefor is higher than the support level for the preceding crop, or (2) the support level for such kind of tobacco established under this section, if the support level therefor is not higher than the support level for the preceding crop. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based

on the maturity, uniformity and stalk position of such tobacco.

(e) Omitted

(f) Notwithstanding the foregoing provisions of this section—

(1) For the 1984 crop of Flue-cured tobacco, the support level shall be the level in cents per pound at which the 1982 crop was supported.

(2) For the 1985 crop of Flue-cured tobacco, the support level shall be the level in cents per pound at which the 1982 crop was supported, plus or minus, respectively, the amount by which (A) the support level for the 1985 crop, as determined under subsection (b) of this section, is greater or less than (B) the support level for the 1984 crop, as determined under subsection (b) of this section, as that difference may be adjusted by the Secretary under subsection (d) of this section if the support level under clause (A) is greater than the support level under clause (B), except that the support level for the 1985 crop shall be the level in cents per pound at which the 1982 crop was supported if the support level as determined under subsection (b) of this section for the 1985 crop would not be more than 5 per centum greater than the support level as determined under subsection (b) of this section for the 1984 crop.

(3) For the 1984 crop of any kind of tobacco (other than Flue-cured tobacco) for which marketing quotas are in effect or are not disapproved by producers and for the 1985 crop of any kind of tobacco (other than Flue-cured and Burley tobacco) for which marketing quotas are in effect or are not disapproved by producers, the Secretary shall establish the support level at such level as will not narrow the normal price support differential between Flue-cured tobacco and such other kind of tobacco. Before establishing the support level under this paragraph for any such kind of tobacco the Secretary shall publish in the Federal Register a notice of the level the Secretary proposes to establish and give an opportunity for the public to comment on the proposal. In determining the level to be established under this paragraph for a particular kind of tobacco, the Secretary shall take into consideration the cost of producing such kind of tobacco, the supply and demand conditions for such kind of tobacco, the comments received in response to the public notice of the proposal, and such other relevant factors as the Secretary determines appropriate.

(4) For the 1985 and 1986 crops of Burley tobacco, the support level shall be \$1.488 per pound.

(5) For the 1986 crop of Flue-cured tobacco, the support level shall be \$1.438 per pound.

(6)(A) Except as provided in subparagraph (B), for the 1986 and each subsequent crop of any kind of tobacco (other than Flue-cured and Burley tobacco) for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, the amount by which—

(i) the support level for the crop for which the determination is being made, as deter-

mined under subsection (b) of this section; is greater or less than

(ii) the support level for the immediately preceding crop, as determined under subsection (b) of this section,

as that difference may be adjusted by the Secretary under subsection (d) of this section if the support level under clause (i) is greater than the support level under clause (ii).

(B) Notwithstanding subparagraph (A) and subsection (d) of this section, if requested by the board of directors of an association through which price support for the respective kind of tobacco specified in subparagraph (A) is made available to producers, the Secretary may reduce the support level for such kind of tobacco to the extent requested by the association to more accurately reflect the market value and improve the marketability of such tobacco.

(7)(A) For the 1987 and each subsequent crop of Flue-cured and Burley tobacco for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, an adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of—

(i) 66.7 percent of the amount by which—

(I) the average price received by producers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than

(II) the average price received by producers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

(ii) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year in which the determination is made.

(B) For purposes of subparagraph (A)—

(i) the average market price for Burley tobacco for the 1985 marketing year shall be reduced by \$0.039 per pound;

(ii) the average market price for Burley tobacco for the 1984 and each prior applicable marketing year shall be reduced by \$0.30 per pound;

(iii) the average market price for Flue-cured tobacco for the 1985 marketing year shall be reduced by \$0.25 per pound;

(iv) the average market price for Flue-cured tobacco for the 1984 and each prior applicable marketing year shall be reduced by \$0.30 per pound; and

(v) the index of prices paid by tobacco producers shall include items representing general, variable costs of producing tobacco, as determined by the Secretary, but shall not include the cost of land, risk, overhead, management, purchase or leasing of quotas, marketing contributions or assessments, and other costs not directly related to the production of tobacco.

(g)(1) Effective only for each of the 1994 through 1998 crops of tobacco for which price support is made available under this Act, each producer and purchaser of such tobacco, and each importer of the same kind of tobacco, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of a producer or purchaser of domestic tobacco, .5 percent of the national price support level for each such crop; and

(B) in the case of an importer of tobacco, 1 percent of the national support price for the same kind of tobacco;

as provided for in this section.

(2) Such producer, purchaser, and importer assessments shall be—

(A) collected in the same manner as provided for in section 14451(d)(2) or 14452(d)(3) of this title, as applicable; and

(B) enforced in the same manner as provided in section 14451(h) or 14452(j) of this title, as applicable.

(3) The Secretary may enforce this subsection in the courts of the United States.

(Oct. 31, 1949, ch. 792, title I, §106, as added Feb. 20, 1960, Pub. L. 86389, §1, 74 Stat. 6; amended Apr. 16, 1965, Pub. L. 8912, §3, 79 Stat. 72; Apr. 14, 1971, Pub. L. 9210, §3, 85 Stat. 27; July 20, 1982, Pub. L. 97218, title I, §102, 96 Stat. 201; July 25, 1983, Pub. L. 9859, §1, 97 Stat. 296; Nov. 29, 1983, Pub. L. 98180, title II, §202, 97 Stat. 1144; Nov. 15, 1985, Pub. L. 99157, §6(a), 99 Stat. 818; Apr. 7, 1986, Pub. L. 99272, title I, §§1102, 1105(b), 100 Stat. 84, 90; Dec. 22, 1987, Pub. L. 100203, title I, §1104(a), 101 Stat. 13304; Nov. 5, 1990, Pub. L. 101508, title I, §1105(f), 104 Stat. 13886; Aug. 10, 1993, Pub. L. 10366, title I, §1106(b)(1), 107 Stat. 321; Dec. 8, 1994, Pub. L. 103465, title IV, §422(b), 108 Stat. 4964.)

REFERENCES IN TEXT

This Act, referred to in subsec. (g)(1), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1994—Subsec. (g)(1). Pub. L. 103465, §422(b)(1)(A), added par. (1) and struck out former par. (1) which read as follows: “Effective only for each of the 1991 through 1995 crops of tobacco for which price support is made available under this Act, producers and purchasers of such

tobacco shall each remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .5 percent of the national price support level for each such crop as otherwise provided for in this section.”

Subsec. (g)(2). Pub. L. 103465, §422(b)(1)(B), substituted “, purchaser, and importer” for “assessments and purchaser”.

Subsec. (h). Pub. L. 103465, §422(b)(2), struck out subsec. (h) which, effective only for 1994 through 1998 crops of tobacco, required importer of tobacco produced outside United States to remit to Commodity Credit Corporation a nonrefundable marketing assessment and provided for computation and payment of assessment and for penalties for failure to comply.

1993—Subsec. (h). Pub. L. 10366 added subsec. (h).

1990—Subsec. (g). Pub. L. 101508 added subsec. (g).

1987—Subsec. (f)(8). Pub. L. 100203 temporarily (see Effective and Termination Dates of 1987 Amendment note below) added par. (8) which read as follows:

“(A) Notwithstanding any other provision of this subsection, in the case of each of the 1988 and 1989 crops of any kind of tobacco, the Secretary shall reduce the support level for such crop by an amount equal to 1.4 percent of the level otherwise established under this subsection. Any such reduction shall not be taken into consideration in determining the support level for a subsequent crop of tobacco.

“(B) In lieu of making any such reduction, the Secretary may impose assessments on the producers and purchasers in an amount sufficient to realize a reduction in outlays equal to the amount that would have been achieved as a result of the reduction required under subparagraph (A). Such assessments shall not apply to purchasers if it is judicially determined that the imposition of the purchaser assessment will adversely affect the contracts entered into under section 14453 of this title.”

1986—Subsec. (c)(1). Pub. L. 99272, §1105(b), substituted “103 per centum” for “110 per centum”.

Subsec. (f)(4) to (7). Pub. L. 99272, §1102(a), added pars. (4) to (7) and struck out former pars. (4) and (5) which read as follows:

“(4) For the 1985 crop of Burley tobacco and for the 1986 and each subsequent crop of any kind of tobacco for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported (or if the level for that crop was adjusted under subsection (g) of this section the level at which such crop would have been supported without regard to any adjustment under subsection (g) of this section), plus or minus, respectively, the amount by which (A) the support level for the crop for which the determination is being made, as determined under subsection (b) of this section, is greater or less than (B) the support level for the immediately preceding crop, as determined under subsection (b) of this section, as that difference may be adjusted by the Secretary under subsection (d) of this section if the support level under clause (A) is greater than the support level under clause (B).

“(5) For the 1985 crop of Burley tobacco, notwithstanding paragraph (4) of this section, the support level shall be \$1.488 per pound.”

Subsec. (g). Pub. L. 99272, §1102(b), struck out subsec. (g) which related to the designation of certain grades of Flue-cured tobacco that the Secretary determined to be of such quantity or quality as to impair their marketability, and further reduction of their support rates to reflect their market value.

1985—Subsec. (f)(5). Pub. L. 99157 added par. (5).

1983—Subsec. (e). Pub. L. 9859 temporarily added subsec. (e). See Effective and Termination Dates of 1983 Amendments note below.

Subsecs. (f), (g). Pub. L. 98180 added subsecs. (f) and (g).

1982—Subsec. (d). Pub. L. 97218 added subsec. (d).

1971—Subsec. (c). Pub. L. 9210 inserted introductory reference to section 1314e of this title relating to farm

poundage quotas for burley tobacco, in item (1) struck out “(120 per centum in the case of Burley tobacco for the first year for which marketing quotas are made effective under this section)” after “110 per centum” and inserted “(after adjustments)” after “marketing quota”, and in item (2) struck out “to avoid marketings in excess of the farm marketing quota” after “another”.

1965—Subsec. (c). Pub. L. 8912 added subsec. (c).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103465 effective beginning on the effective date of the Presidential proclamation, authorized under section 421 of Pub. L. 103465 (set out as a note under section 2135 of Title 19, Customs Duties), establishing a tariff-rate quota pursuant to Article XXVIII of the GATT 1947 or the GATT 1994 with respect to tobacco, see section 422(e) of Pub. L. 103465, set out as a note under section 1314i of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101508, set out as a note under section 511r of this title.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 1104(a) of Pub. L. 100203 provided that the amendment made by Pub. L. 100203 is effective only for 1988 and 1989 crops of tobacco.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1102(a) of Pub. L. 99272 provided that the amendment made by that section is effective for 1985 and subsequent crops of tobacco.

Section 1102(b) of Pub. L. 99272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

Section 1105(b) of Pub. L. 99272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

Section 1112 of subtitle B (§§11011112) of title I of Pub. L. 99272 provided that: “Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle [enacting sections 1314g, 1314h, and 14453 of this title, amending sections 511d, 1301, 1312, 1314c, 1314e, 1372, 1445, 14451, and 14452 of this title, and enacting provisions set out as notes under sections 1301, 1314c, 1314e, 1314g, 1314h, 1372, 1445, 14451, and 14452 of this title] shall become effective on the date of enactment of this subtitle [Apr. 7, 1986].”

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENTS

Section 202 of Pub. L. 98180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

Section 1 of Pub. L. 9859 provided that the amendment made by that section is effective for 1983 crop of tobacco.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 102 of Pub. L. 97218 provided that the amendment made by that section is effective for 1982 and subsequent crops of tobacco.

WAIVER AUTHORITY OF PRESIDENT

Section 422(c) of Pub. L. 103465 provided that: “The President may waive the application to imported tobacco of section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 14451, or 14452) or the amendment made in subsection (c) of section 1106 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 10366; 107 Stat. 323) [amending section 511r of this title] if the President determines that the waiver is necessary or appropriate pursuant to an international agreement entered into by the United States.”

[For effective date of section 422(c) of Pub. L. 103465, set out above, see Effective Date of 1994 Amendment note above.]

TOBACCO PROGRAM IMPROVEMENTS: CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSES

Section 1101 of subtitle B (§§11011112) of title I of Pub. L. 99272 provided that:

“(a) FINDINGS.—Congress finds that—

“(1) the maintenance of a viable tobacco price support and production adjustment program is in the interests of tobacco producers, purchasers of tobacco, persons employed directly or indirectly by the tobacco industry, and the localities and States whose economies and tax bases are dependent on the tobacco industry;

“(2) the present tobacco price support program is in jeopardy and in need of reform;

“(3) under present law, the levels of price support for tobacco have resulted in market prices for tobacco that are not competitive on the world market;

“(4) as a consequence, extremely large quantities of domestic tobacco have been put under loan and placed in the inventories of the producer-owned cooperative marketing associations that administer the tobacco price support program;

“(5) the increased inventories have led to a significant increase in the assessments producers are required to pay to maintain the tobacco price support program on a ‘no net cost’ basis;

“(6) such increasingly large assessments are creating a severe hardship on producers;

“(7) the existence of such large inventories poses a threat to the orderly marketing of future crops of tobacco;

“(8) inventories of producer associations must be significantly reduced or the tobacco price support program will collapse;

“(9) the Commodity Credit Corporation is threatened with substantial losses on disposition of these inventories should the tobacco price support program collapse;

“(10) it is imperative that such excess inventories of tobacco be disposed of, under the supervision of the Secretary of Agriculture, in a manner that—

“(A) will not disrupt the orderly marketing of new tobacco crops;

“(B) will minimize any losses to the Federal Government; and

“(C) will be fair and equitable to all tobacco producers and purchasers;

“(11) the mutual cooperation of tobacco producers, tobacco purchasers, producer associations, and the Secretary of Agriculture is necessary—

“(A) to restore the tobacco price support program to a stable condition; and

“(B) to prevent substantial losses to taxpayers that would result from the collapse of the program;

“(12) restoration of stability to the tobacco price support program through a sharing of the cost of that program by purchasers of tobacco along with producers of tobacco is necessary to prevent undue burdens on, or obstruction of, interstate and foreign commerce in tobacco; and

“(13) the system of grading tobacco should be thoroughly reviewed to ensure that grades are assigned to tobacco that properly state the quality of such tobacco.

“(b) PURPOSES.—The purposes of this subtitle [see Effective Date of 1986 Amendment note above] are—

“(1) to encourage cooperation among tobacco producers, tobacco purchasers, and the Secretary of Agriculture in reducing tobacco price support levels, assessment costs, the size of inventories of producer associations, and the exposure of taxpayers to large budget outlays;

“(2) to adjust the method by which price support levels and production quotas are calculated to reflect actual market conditions;

“(3) to facilitate the purchase and sale of Flue-cured and Burley tobacco presently in the inventories of producer associations through which producers of Flue-cured and Burley tobacco are provided price support;

“(4) to provide that purchasers and producers of domestic tobacco share equally in the cost of maintaining the tobacco price support program at no net cost to the taxpayers; and

“(5) to expedite reform of the system of grading tobacco so that grades assigned to tobacco more accurately reflect the quality of such tobacco.”

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99272 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. 99272, set out as a note under section 1301 of this title.

BURLEY TOBACCO IMPORTS; EFFECT ON PRICE-SUPPORT PROGRAM; REVIEW BY SECRETARY OF AGRICULTURE

Secretary of Agriculture to review the effects of imports of Burley tobacco on the Department's Burley-tobacco price-support program whenever the level of price support for any crop of Burley tobacco is increased by less than 65 per centum of the amount that it would have otherwise been increased if the level of price support would have been determined in accordance with subsec. (b) of this section, see section 625 of this title.

TOBACCO PROGRAM COST

Pub. L. 9798, title XI, §1109, Dec. 22, 1981, 95 Stat. 1266, required Secretary of Agriculture, by January 1982, to promulgate regulations and policies necessary to carry out intent of Congress that tobacco price support and production adjustment program result in no net cost to taxpayers other than such administrative expense as was incidental to implementation of any commodity program.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 625 of this title.

§14451. Producer contributions and purchaser assessments for No Net Cost Tobacco Fund

(a) Definitions

As used in the section—

(1) the term “association” means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers;

(2) the term “Corporation” means the Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture through which the Secretary makes price support available to producers;

(3) the term “Fund” means the capital account to be established within each association, which account shall be known as the “No Net Cost Tobacco Fund”;

(4) the term “to market” means to dispose of quota tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the tobacco to an association for a price support advance;

(5) the term “net gains” means the amount by which total proceeds obtained from the sale by an association of a crop of quota tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on such crop, plus interest and charges;

(6) the term “purchaser” means any person who purchases in the United States, either directly or indirectly for the account of such person or another person, Flue-cured or Burley quota tobacco; and

(7) the term “quota tobacco” means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.

(b) Commodity Credit Corporation loans to associations

The Secretary may carry out the tobacco price support program through the Corporation and shall, except as otherwise provided by this section, continue to make price support available to producers through loans to associations that, under agreements with the Corporation, agree to make loan advances to producers.

(c) Establishment of No Net Cost Tobacco Funds

Each association shall establish within the association a Fund. The Fund shall be comprised of amounts contributed by producer-members or paid by or on behalf of purchasers and importers as provided in subsection (d) of this section.

(d) Requirements

The Secretary shall—

(1) require—

(A) that—

(i) as a condition of eligibility for price support, each producer of each kind of quota tobacco shall agree, with respect to all such kind of quota tobacco marketed by the producer from a farm, to contribute to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary;

(ii) each purchaser of Flue-cured and Burley quota tobacco shall pay to the appropriate association, for deposit in the Fund of the association, an assessment, in an amount determined from time to time by the association with the approval of the Secretary, with respect to purchases of all such kind of tobacco marketed by a producer from a farm (including purchases of such tobacco from the 1986 and subsequent crops from the association); and

(iii) each importer of Flue-cured or Burley tobacco shall pay to the appropriate association, for deposit in the Fund of the association, an assessment, in an amount that is equal to the product obtained by multiplying—

(I) the number of pounds of tobacco that is imported by the importer; by

(II) the sum of the amount of per pound producer contributions and purchaser assessments that are payable by domestic producers and purchasers of Flue-cured and Burley tobacco under clauses (i) and (ii); and

(B) that, upon making a contribution under subparagraph (A)—

(i) in the case of quota tobacco marketed other than by consignment to an association for a price support advance, the producer shall receive from the association capital stock or, if the association does

not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution; and

(ii) in the case of quota tobacco consigned by the producer to an association for a price support advance, the producer shall receive from the association a qualified per unit retain certificate, as defined in section 1388(h) of title 26, having a face amount equal to the amount of the contribution and representing an interest in the association's Fund.

The amount of producer contributions and purchaser assessments shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Fund of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The Secretary shall approve the amount of the contributions and assessments determined by an association from time to time under this paragraph only if the Secretary determines that such amount will result in accumulation of a Fund adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with the association, based on reasonable estimates of the amounts which the Corporation will lend to the association under such agreements and the proceeds which will be realized from the sales of tobacco which are pledged to the Corporation by the association as security for loans;

(2) require that any producer contribution or purchaser or importer assessment due under paragraph (1) shall be collected—

(A) from the person who acquired the tobacco involved from the producer, except that if the tobacco is marketed by sale, an amount equal to the producer contribution may be deducted by the purchaser from the price paid to such producer;

(B) if the tobacco involved is marketed by a producer through a warehouseman or agent, from such warehouseman or agent, who may—

(i) deduct an amount equal to the producer contribution from the price paid to the producer; and

(ii) add an amount equal to the purchaser assessment to the price paid by the purchaser;

(C) if the tobacco involved is marketed by a producer directly to any person outside the United States, from the producer, who may add an amount equal to the purchaser assessment to the price paid by the purchaser; and

(D) if the tobacco involved is imported by an importer, from the importer.¹

(3) require that the Fund established by each association shall be kept and maintained separate from all other accounts of the association and shall be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, in-

sofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of quota tobacco, will suffer no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the corporation² under paragraph (5); *Provided*, That, notwithstanding any other provision of law, use by the association of moneys in the Fund, including interest and other earnings, for the purposes of reducing the association's outstanding indebtedness to the Corporation associated with 1982 and subsequent crops of quota tobacco and making loan advances to producers is authorized, and use of such moneys for any other purposes that will be mutually beneficial to producers and purchasers who contribute or pay to the Fund and to the Corporation, shall, if approved by the Secretary, be considered an appropriate use of the Fund;

(4) permit an association to invest the monies in the Fund in such manner as the Secretary may approve, and require that the interest or other earnings on such investment shall become a part of the Fund;

(5) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price support loans, and that such net gains will be used for the purpose of (A) offsetting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of loan tobacco, or (B) reducing the outstanding balance of any price support loan made by the Corporation to the association under such agreements for 1982 and subsequent crops of tobacco, or for both such purposes;

(6) effective for the 1982 through 1985 crops of quota tobacco, provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceed the amounts necessary for the purposes specified in this section, such excess (A) in the case of an association making price support available to producers of quota tobacco other than Burley tobacco, will be released to the association by the Corporation and may be devoted to other purposes by the association, and (B) in the case of an association making price support available to producers of Burley quota tobacco, will be released to the association by the Corporation and may be distributed, as determined by the association, to the producer-members of the association as a capital distribution or net gain distribution; and

(7) effective for the 1986 and subsequent crops of quota tobacco, provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceeds the amounts necessary for the purposes specified in this

¹So in original. The period probably should be a semicolon.

²So in original. Probably should be capitalized.

section, the association, with the approval of the Secretary, may suspend the payment and collection of contributions and assessments under this section on terms and conditions established by the association, with the approval of the Secretary.

(e) Failure or refusal of association to comply

If any association which has entered into a loan agreement with the Corporation with respect to 1982 or subsequent crops of quota tobacco fails or refuses to comply with the provisions of this section, the regulations issued by the Secretary thereunder, or the terms of such agreement, the Secretary may terminate such agreement or provide that no additional loan funds may be made available thereunder to the association. In such event, the Secretary shall make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to such association, through such other means as are authorized by this Act or the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.].

(f) Termination of loan agreement; dissolution or merger of association; disposition of amounts in Fund

If, under subsection (e) of this section, a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with another association, or otherwise ceases to operate, the Fund or the net gains referred to in subsection (d)(5) of this section shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that they shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in this section.

(g) Regulations

The Secretary shall issue regulations necessary to carry out the provisions of this section.

(h) Failure to collect contribution or assessment; marketing penalty; civil action for review of penalty

(1)(A) Each person who fails to collect any contribution or assessment as required by subsection (d)(2) of this section and remit such contribution or assessment to the association, at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(B) Each importer who fails to pay to the association an assessment as required by subsection (d)(2) of this section at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, for a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(C) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

(D) Any penalty provided for under this paragraph shall be assessed by the Secretary after notice and opportunity for a hearing.

(2)(A) Any person against whom a penalty is assessed under this subsection may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed.

(B) The Secretary shall promptly file in such court a certified copy of the record on which the penalty is based.

(3) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection.

(4) An amount equivalent to any penalty collected by the Secretary under this subsection shall be transmitted by the Secretary to the appropriate association, for deposit in the Fund of such association.

(5) The remedies provided in this subsection shall be in addition to, and not exclusive of, other remedies that may be available.

(Oct. 31, 1949, ch. 792, title I, §106A, as added July 20, 1982, Pub. L. 97218, title I, §101, 96 Stat. 197; amended Nov. 29, 1983, Pub. L. 98180, title II, §203, 97 Stat. 1145; Apr. 7, 1986, Pub. L. 99272, title I, §1108(a), (d), 100 Stat. 92, 95; Oct. 18, 1986, Pub. L. 99500, §101(a) [title VI, §637], 100 Stat. 1783, 178334, and Oct. 30, 1986, Pub. L. 99591, §101(a) [title VI, §637], 100 Stat. 3341, 334134; Aug. 10, 1993, Pub. L. 10366, title I, §1106(b)(2), 107 Stat. 321.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (e), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

CODIFICATION

Pub. L. 99591 is a corrected version of Pub. L. 99500.

AMENDMENTS

1993—Subsec. (c). Pub. L. 10366, §1106(b)(2)(A), inserted “and importers” after “purchasers”.

Subsec. (d)(1)(A)(iii). Pub. L. 10366, §1106(b)(2)(B), added cl. (iii).

Subsec. (d)(2). Pub. L. 10366, §1106(b)(2)(C), inserted “or importer” after “or purchaser” in introductory provisions and added subpar. (D).

Subsec. (h)(1)(B) to (D). Pub. L. 10366, §1106(b)(2)(D), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

1986—Subsec. (a)(6), (7). Pub. L. 99272, §1108(a)(1), added par. (6) and redesignated former par. (6) as (7).

Subsec. (c). Pub. L. 99272, §1108(a)(2), inserted “or paid by or on behalf of purchasers” in second sentence.

Subsec. (d)(1). Pub. L. 99272, §1108(a)(3)(C), (D), in provisions following subpar. (B), inserted provisions relat-

ing to the determination of the amount of producer contributions and purchaser assessments so as to share equally in maintaining the Fund of the association, with only the 1985 and subsequent crops of Flue-cured and Burley quota tobacco being taken into account, and inserted "and assessments" after "contributions".

Subsec. (d)(1)(A)(i). Pub. L. 99500 and Pub. L. 99591 struck out exception for Burley quota tobacco for 1983 and subsequent crop years.

Subsec. (d)(1)(A)(ii), (iii). Pub. L. 99500 and Pub. L. 99591 redesignated cl. (iii) as (ii) and struck out former cl. (ii) setting forth conditions of eligibility for any marketing year of any three-year period for which marketing quotas are in effect.

Pub. L. 99272, §1108(a)(3)(A), (B), added cl. (iii).

Subsec. (d)(2). Pub. L. 99272, §1108(a)(3)(E), added par. (2) and struck out former par. (2) which read as follows: "effective for the 1983 crop only, require that each owner and operator of any farm who, in conformity with the provisions of subtitle B, part I, of the Agricultural Adjustment Act of 1938, leases all or any part of an acreage allotment or marketing quota for Flue-cured tobacco to make contributions, for deposit into the Fund established by the association which, under a loan agreement with the Corporation, makes price support available to producers of Flue-cured tobacco. The amount of such contribution for the quantity of tobacco of each crop represented by such lease shall be the same amount as the contribution for producers of Flue-cured tobacco of such crop determined and approved under paragraph (1). The Secretary shall require that such association, upon receiving such contribution, issue to such owner and operator capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution;"

Subsec. (d)(3). Pub. L. 99272, §1108(a)(3)(F), substituted "producers and purchasers who contribute or pay" for "producers who contribute".

Subsec. (d)(6). Pub. L. 99272, §1108(a)(3)(H), inserted "effective for the 1982 through 1985 crops of quota tobacco,".

Subsec. (d)(7). Pub. L. 99272, §1108(a)(3)(G), (I), (L), added par. (7).

Subsec. (h). Pub. L. 99272, §1108(a)(4), added subsec. (h).

1983—Subsec. (d)(2). Pub. L. 98180, §203(1), substituted "1983 crop only" for "1983 and subsequent crops".

Subsec. (d)(3). Pub. L. 98180, §203(2), inserted proviso authorizing use by the association of moneys in the Fund for the purposes of reducing the association's outstanding indebtedness to the Corporation associated with 1982 and subsequent crops of quota tobacco and making loan advances to producers.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1108(a) of Pub. L. 99272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

EFFECTIVE DATE

Section 101 of Pub. L. 97218 provided that this section is effective for 1982 and subsequent crops of tobacco.

WAIVER AUTHORITY OF PRESIDENT

For authority of President to waive application of this section to imported tobacco if President determines that waiver is necessary or appropriate pursuant to an international agreement entered into by United States, see section 422(c) of Pub. L. 103465, set out as a note under section 1445 of this title.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99272 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 di-

rective of the Secretary, see section 1108(c) of Pub. L. 99272, set out as a note under section 1301 of this title.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE FOR NO NET COST TOBACCO PROGRAM ACT OF 1982

Section 2 of Pub. L. 97218 provided that: "Congress finds that—

"(1) in order to implement the intent of Congress, as expressed in the Agriculture and Food Act of 1981 [see Short Title of 1981 Amendment note set out under section 1281 of this title], that the tobacco price support and production adjustment program be carried out at no net cost to the taxpayer, other than administrative expenses common to the operation of all price support programs, it is necessary that producers of quota tobacco share equitably in helping to eliminate losses which may be incurred in carrying out the program;

"(2) producers of quota tobacco should be required, as a condition of receiving the benefits of price support for their tobacco, to contribute to a capital account to be established by each producer-owned marketing association through which price support advances are made available to producers; and

"(3) the account so established should be used by the associations exclusively for the purpose of achieving a no net cost tobacco program."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314, 1314h, 1445, 14452 of this title.

§14452. Marketing assessments to No Net Cost Tobacco Account

(a) Definitions

As used in this section—

(1) the term "association" means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers of a kind of tobacco;

(2) the term "Account" means an account established by and in the Corporation for an association, which account shall be known as the "No Net Cost Tobacco Account";

(3) the term "to market" means to dispose of tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the tobacco to an association for a price support advance;

(4) the term "net gains" means the amount by which total proceeds obtained from the sale by an association of a crop of a kind of tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on such crop, plus interest and charges;

(5) the term "tobacco" means any kind of tobacco, as defined in section 1301(b)(15) of this title, for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers;

(6) the term "area", when used in connection with an association, means the general geographical area in which farms of the producer-members of such association are located, as determined by the Secretary;

(7) the term "Corporation" shall have the meaning given to it in section 14451(a)(2) of this title; and

(8) the term "purchaser" means any person who purchases in the United States, either di-

rectly or indirectly for the account of such person or another person, Flue-cured or Burley quota tobacco.

(b) Continued availability of price support; establishment of No Net Cost Tobacco Account

Notwithstanding section 14451 of this title, the Secretary shall, upon the request of any association, and may, if the Secretary determines, after consultation with such association, that the accumulation of the No Net Cost Tobacco Fund for such association under section 14451 of this title is, and is likely to remain, inadequate to reimburse the Corporation for net losses which the Corporation sustains under its loan agreement with such association—

(1) continue to make price support available to producers through such association in accordance with loan agreements entered into between the Corporation and such association; and

(2) establish and maintain in accordance with this section a No Net Cost Tobacco Account for such association in lieu of the No Net Cost Tobacco Fund established within such association under section 14451 of this title.

(c) Establishment of No Net Cost Tobacco Account within Commodity Credit Corporation; disposition of amounts in No Net Cost Tobacco Fund

(1) Any Account established for an association under subsection (b)(2) of this section shall be established within the Corporation and shall be comprised of amounts paid by producers, purchasers, and importers under subsection (d) of this section.

(2) Upon the establishment of an Account for an association, any amount in the No Net Cost Tobacco Fund established within such association under section 14451 of this title shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that such amount shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in such section.

(d) Payment of assessments to Corporation for deposit into Account; determination and adjustment of amounts; collection

(1)(A) If an Account is established for an association under subsection (b)(2) of this section, then the Secretary shall require (in lieu of any requirement under section 14451(d)(1) of this title) that each producer of the kind of tobacco involved whose farm is within such association's area shall, as a condition of eligibility for price support, agree, with respect to all of such kind of tobacco marketed by the producer from the farm, to pay to the Corporation, for deposit in such association's Account, marketing assessments as determined under paragraph (2) and collected under paragraph (3).

(B) The Secretary shall also require (in lieu of any requirement under section 14451(d)(1) of this title) that each purchaser of Flue-cured and Burley quota tobacco shall pay to the Corporation, for deposit in the Account of such association, an assessment, as determined under paragraph (2) and collected under paragraph (3), with respect to purchases of all such kind of tobacco

marketed by a producer from a farm (including purchases of such tobacco from the 1986 and subsequent crops from the association).

(C) The Secretary shall also require (in lieu of any requirement under section 14451(d)(1) of this title) that each importer of Flue-cured and Burley tobacco shall pay to the Corporation, for deposit in the Account of the association, an assessment, as determined under paragraph (2) and collected under paragraph (3), with respect to purchases of all such kinds of tobacco imported by the importer.

(2)(A) For purposes of paragraph (1), the Secretary shall determine and adjust from time to time, in consultation with such association, the amount of the marketing assessment which shall be imposed, as a condition of eligibility for price support, on each pound of the kind of tobacco involved marketed by a producer from a farm within such association's area and the amount of the assessment to be paid by purchasers of tobacco. The amount of the assessment to be paid by producers and purchasers shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Account of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The amount of the assessment shall be equal to an amount which, when collected, will result in an accumulation of an Account for such association adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with such association, based on reasonable estimates of the amounts which the Corporation will lend to such association under such agreements and the proceeds which will be realized from the sales of the kind of tobacco involved which are pledged to the Corporation by such association as security for loans. Notwithstanding the foregoing provisions of this paragraph, the amount of any assessment that is determined by the Secretary for the 1986 and subsequent crops of Burley quota tobacco shall be determined without regard to any net losses that the Corporation may sustain under the loan agreements of the Corporation with such association with respect to the 1983 crop of such tobacco.

(B) With respect to the 1985 crop of Burley tobacco, for the purposes of paragraph (1), the marketing assessment shall not be more than 4 cents per pound.

(C) The amount of the assessment to be paid by importers shall be an amount that is equal to the product obtained by multiplying—

(i) the number of pounds of tobacco that is imported by the importer; by

(ii) the sum of the amount of per pound producer and purchaser assessments that are payable by domestic producers and purchasers of the respective kind of tobacco under this paragraph.

(3)(A) Except as provided in subparagraphs (B) and (C), any assessment to be paid by a producer or a purchaser under paragraph (1) shall be collected from the person who acquired the tobacco involved from such producer, except that if the

tobacco is marketed by sale, an amount equal to the producer assessment may be deducted by the purchaser from the price paid to such producer.

(B) If tobacco of the kind for which an Account is established is marketed by a producer through a warehouseman or agent, both the producer and the purchaser assessment shall be collected from such warehouseman or agent, who may—

(i) deduct an amount equal to the producer assessment from the price paid to the producer; and

(ii) add an amount equal to the purchaser assessment to the price paid by the purchaser.

(C) If tobacco of the kind for which an Account is established is marketed by a producer directly to any person outside the United States, both the producer and the purchaser assessment shall be collected from the producer, who may add an amount equal to the purchaser assessment to the price paid by the purchaser.

(D) If Flue-cured or Burley tobacco is imported by an importer, any importer assessment required by subsection (d) of this section shall be collected from the importer.

(e) Deposits into Account; insurance against net losses

Amounts deposited in an Account established for an association shall be used by the Secretary for the purpose of ensuring, insofar as practicable, that the Corporation under its loan agreements with such association will suffer, with respect to the crop involved, no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the Corporation pursuant to subsection (h) of this section.

(f) Suspension of payment and collection of marketing assessments

The Secretary shall provide, in any loan agreement between the Corporation and an association for which an Account has been established under subsection (b)(2) of this section, that if the Secretary determines that the amount in such Account or the net gains referred to in subsection (h) of this section exceed the amounts necessary for the purposes of this section, then the Secretary, in consultation with such association, may suspend the payment and collection of marketing assessments under this section upon terms and conditions established by the Secretary.

(g) Disposition of amounts in Account in the event of termination of loan agreement or account or dissolution or merger of association

With respect to any association for which an Account is established under subsection (b)(2) of this section, if a loan agreement between the Corporation and such association is terminated, if such association is dissolved or merges with another association that has entered into a loan agreement with the Corporation to make price support available to producers of the kind of tobacco involved, or if such Account terminates by operation of law, then amounts in such Account and the net gains referred to in subsection (h) of this section shall be applied to or disposed of in such manner as the Secretary may pre-

scribe, except that they shall, to the extent necessary, first be applied to or used for the purposes therefor prescribed in this section.

(h) Net gains

The provisions of section 14451(d)(5) of this title relating to net gains shall apply to any loan agreement between an association and the Corporation entered into upon or after the establishment of an Account for such association under subsection (b)(2) of this section.

(i) Regulations

The Secretary shall issue regulations necessary to carry out the provisions of this section.

(j) Failure to collect assessment; marketing penalty; civil action for review of penalty

(1)(A) Each person who fails to collect any assessment as required by subsection (d)(3) of this section and remit such assessment to the Corporation, at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(B) Each importer who fails to pay to the Corporation an assessment as required by subsection (d) of this section at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(C) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

(D) Any penalty provided for under this paragraph shall be assessed by the Secretary after notice and opportunity for a hearing.

(2)(A) Any person against whom a penalty is assessed under this subsection may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed.

(B) The Secretary shall promptly file in such court a certified copy of the record on which the penalty is based.

(3) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection.

(4) An amount equivalent to any penalty collected by the Secretary under this subsection shall be transmitted by the Secretary to the Corporation, for deposit in the Account of the appropriate association.

(5) The remedies provided in this subsection shall be in addition to, and not exclusive of, other remedies that may be available.

(Oct. 31, 1949, ch. 792, title I, §106B, as added July 20, 1982, Pub. L. 97218, title III, §301, 96 Stat. 207;

amended Nov. 29, 1983, Pub. L. 98180, title II, §204, 97 Stat. 1145; Nov. 15, 1985, Pub. L. 99157, §6(b), 99 Stat. 818; Apr. 7, 1986, Pub. L. 99272, title I, §1108(b), 100 Stat. 94; Aug. 10, 1993, Pub. L. 10366, title I, §1106(b)(3), 107 Stat. 322.)

AMENDMENTS

1993—Subsec. (c)(1). Pub. L. 10366, §1106(b)(3)(A), substituted “, purchasers, and importers” for “and purchasers”.

Subsec. (d). Pub. L. 10366, §1106(b)(3)(B)(D), in par. (1) designated first and second sentences as subpars. (A) and (B), respectively, and added subpar. (C), in par. (2) added subpar. (C), and in par. (3) added subpar. (D).

Subsec. (j)(1)(B) to (D). Pub. L. 10366, §1106(b)(3)(E), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

1986—Subsec. (a)(8). Pub. L. 99272, §1108(b)(1), added par. (8).

Subsec. (c)(1). Pub. L. 99272, §1108(b)(2), inserted “and purchasers” after “producers”.

Subsec. (d)(1). Pub. L. 99272, §1108(b)(3)(A), inserted provision relating to an assessment, in lieu of any requirement under section 14451 of this title, to be deposited in the Account of such association, with respect to purchases of all such kind of tobacco marketed by a producer from a farm, including purchases of such tobacco from the 1986 and subsequent crops from the association.

Subsec. (d)(2)(A). Pub. L. 99272, §1108(b)(3)(B), (C), substituted “area and the amount of the assessment to be paid by purchasers of tobacco. The amount of the assessment to be paid by producers and purchasers shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Account of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The amount of the assessment” for “area. Such amount”, and inserted provision that amount of assessment for 1986 and subsequent crops of Burley tobacco be determined without regard to any net losses sustained under the loan agreements of the Corporation with such association with respect to the 1983 crop.

Subsec. (d)(3). Pub. L. 99272, §1108(b)(3)(D), amended par. (3) generally. Prior to amendment, par. (3) read as follows:

“(A) Except as provided in subparagraph (B), any marketing assessment to be paid by a producer under paragraph (1) shall be collected from the person who acquired the tobacco involved from such producer but an amount equal to such assessment may be deducted by the purchaser from the price paid to such producer in case such tobacco is marketed by sale.

“(B) If tobacco of the kind for which an Account is established is marketed by a producer through a warehouseman or other agent, then such assessment shall be collected from such warehouseman or agent who may deduct an amount equal to such assessment from the price paid to the producer. If tobacco of the kind for which an Account is established is marketed by a producer directly to any person outside the United States, such assessment shall be collected from the producer.”

Subsec. (j). Pub. L. 99272, §1108(b)(4), added subsec. (j). 1985—Subsec. (d)(2). Pub. L. 99157 designated existing provisions as subpar. (A) and added subpar. (B).

1983—Subsec. (a)(1). Pub. L. 98180, §204(1), struck out “, except that the term does not include such an association that has entered into such an agreement to make price support available to producers of Flue-cured tobacco” after “kind of tobacco”.

Subsec. (a)(5). Pub. L. 98180, §204(2), struck out “except Flue-cured tobacco” after “kind of tobacco”.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1108(b) of Pub. L. 98272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

EFFECTIVE DATE

Section 301 of Pub. L. 97218 provided that this section is effective for the 1982 and subsequent crops of all kinds of tobacco, except Flue-cured tobacco.

WAIVER AUTHORITY OF PRESIDENT

For authority of President to waive application of this section to imported tobacco if President determines that waiver is necessary or appropriate pursuant to an international agreement entered into by United States, see section 422(c) of Pub. L. 103465, set out as a note under section 1445 of this title.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99272 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. 99272, set out as a note under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314, 1314h, 1445 of this title.

§14453. Purchase of inventory stock

Notwithstanding any other provision of law, in order to reduce or eliminate the excessive inventories of Flue-cured and Burley tobacco held by associations from the 1976 through 1984 crops, and in order to provide for the orderly disposition of such excessive inventories of tobacco in a manner that will not disrupt the orderly marketing of new tobacco crops and will minimize any losses to the Federal Government:

(a) Sale of inventory stock

(1) The producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco shall offer to sell the stocks of Flue-cured tobacco of the association from the 1976 through 1984 crops as provided in this section.

(2) Each producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Burley tobacco shall offer to sell its stocks of Burley tobacco from the 1982 and 1984 crops as provided in this section.

(3)(A)(i) Not later than 30 days after April 7, 1986, the Commodity Credit Corporation shall acquire title to the Burley tobacco from the 1983 crop that is pledged as security for loans on such tobacco by calling the loans on such tobacco.

(ii) The Corporation shall, then, offer such tobacco for sale at such times, in such quantities, and subject to such conditions as the Corporation considers appropriate.

(B) If the Commodity Credit Corporation has not sold all of the stocks of the 1983 crop of Burley tobacco within 2 years from the date the Corporation calls the loans on such tobacco, the Corporation may offer to sell to domestic manufacturers of cigarettes the remaining stocks of such tobacco as provided in this section.

(b) Sale prices

(1)(A) The stocks of Flue-cured tobacco from the 1976 through 1984 crops shall be offered for

sale at the base prices, including carrying charges, in effect as of the date of the offer, reduced by—

- (i) 90 percent for Flue-cured tobacco from the 1976 through 1981 crops; and
- (ii) 10 percent for Flue-cured tobacco from the 1982 through 1984 crops.

(B) The purchasers of the stocks of Flue-cured tobacco from the 1976 through 1984 crops shall pay the full carrying charges that have accrued to such tobacco from the date of the offer made under this section to the date that such tobacco is removed from the inventory of the association.

(2)(A) The stocks of Burley tobacco from the 1982 crop shall be offered for sale at the listed base price in effect as of July 1, 1985.

(B) The stocks of Burley tobacco from the 1984 crop shall be offered for sale at the costs of the association for such tobacco as of April 7, 1986.

(C) The purchasers of the stocks of Burley tobacco from the 1982 crop shall pay the full carrying charges that have accrued to such tobacco.

(D) The purchasers of the stocks of Burley tobacco from the 1984 crop shall pay the full carrying charges that have accrued to such tobacco from April 7, 1986, to the date such tobacco is removed from the inventories of the associations.

(3)(A) After the 2-year period specified in subsection (a)(3)(B) of this section has expired, if the Commodity Credit Corporation offers to sell the stocks of the Corporation of Burley tobacco from the 1983 crop to domestic manufacturers of cigarettes, such stocks shall be offered for sale at the costs of the association, including carrying charges, as of the date on which the Corporation calls the loans on such tobacco, reduced by 90 percent.

(B) Neither tobacco producers nor tobacco purchasers shall be responsible for carrying charges that accrue to the 1983 crop of Burley tobacco after the date on which the Commodity Credit Corporation calls the loans on such tobacco.

(c) Terms of agreements

(1)(A) Each domestic manufacturer of cigarettes may enter into agreements to purchase inventory stocks of Flue-cured and Burley tobacco, in accordance with this section.

(B) To be eligible for the reductions in price specified in this section, such manufacturer shall enter into such agreements as soon as practicable, but not later than 90 days after April 7, 1986, except that, with respect to the 1983 crop of Burley tobacco, if the Corporation offers to sell the stocks of such tobacco pursuant to subsection (b)(3)(A) of this section, such agreements shall be entered into as soon as practicable, but not later than 90 days after the end of the 2-year period referred to in subsection (a)(3)(B) of this section.

(C)(i) Such agreements shall provide that, over a period of time, each participating domestic manufacturer of cigarettes shall purchase a percentage of the stocks of Flue-cured and Burley tobacco held—

(I) by the producer-owned cooperative marketing associations at the close of the 1984 marketing year; or

(II) in the case of the 1983 crop of Burley tobacco, by the Commodity Credit Corporation

at the time the Corporation offers such tobacco for sale to domestic manufacturers of cigarettes under this section.

(ii) The period of time referred to in clause (i) may not exceed—

(I) in the case of Flue-cured tobacco, 8 years from April 7, 1986;

(II) in the case of Burley tobacco from the 1982 and 1984 crops, 5 years from April 7, 1986; and

(III) in the case of the 1983 crop of Burley tobacco, 5 years from the end of the 2-year period referred to in subsection (a)(3)(B) of this section.

(2)(A)(i) The percentage to be purchased by each participating manufacturer shall be at least equal to the respective percentage of the participating manufacturer of the total quantity of net cigarettes manufactured for use as determined by the Secretary of Agriculture under this paragraph on the basis of the monthly reports (“Manufacturer of Tobacco Products—Monthly Reports”) submitted (on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury.

(ii) The Secretary of Agriculture shall request from the Secretary of the Treasury copies of such monthly reports necessary to make the determinations required under this section.

(iii) Notwithstanding any other provision of law, the Secretary of the Treasury may release and disclose such information to the Secretary of Agriculture.

(B) “Net cigarettes manufactured for use” shall be computed by subtracting—

(i) the cumulative figures entered for large and small cigarettes in item 16f of ATF Form 3068 (“Reduction to tobacco”); from

(ii) the cumulative figures entered for large and small cigarettes in item 7 of such form (“Manufactured”).

(C)(i) The percentage to be purchased by each participating manufacturer shall be determined—

(I) on April 7, 1986; and

(II) annually thereafter over the course of the respective buy-out periods specified in this subsection.

(ii) Such percentage shall be determined by dividing—

(I) the average net cigarettes manufactured by a manufacturer for use for the 12-month period immediately preceding the appropriate determination date (April 7, 1986, and annually thereafter over the course of the respective buy-out periods specified in this subsection); by

(II) the aggregate average net cigarettes manufactured by all domestic cigarette manufacturers for use for such 12-month period.

(D)(i) The quantity of tobacco to be purchased by each participating manufacturer shall be determined annually.

(ii) Such quantity shall be based on—

(I) the percentage of net cigarettes of a manufacturer manufactured for use, as determined under subparagraph (C); multiplied by

(II) the appropriate annual quantity to be withdrawn from the inventories of the associations or the Commodity Credit Corporation.

(iii) The appropriate annual quantity to be withdrawn from inventories shall be—

(I) 12½ percent of the inventories of Flue-cured tobacco from the 1976 through 1984 crops on hand on April 7, 1986;

(II) 20 percent of the inventories of Burley tobacco from the 1982 and 1984 crops on hand on April 7, 1986; and

(III) 20 percent of the inventories of Burley tobacco from the 1983 crop held by the Commodity Credit Corporation on the date that is 2 years after the call of the loans on such tobacco by the Corporation.

(E) Any purchases by a manufacturer from the inventories of the associations or from the Commodity Credit Corporation for a crop covered by this section in any year of the buy-out period that exceed the quantity of the purchases of the manufacturer required under the agreement, as determined under this section, shall be applied against future purchases required of such manufacturer.

(3) In carrying out this section, manufacturers may confer with one another and, separately or collectively, with associations, the Secretary of Agriculture, and the Commodity Credit Corporation, as may be necessary or appropriate to carry out this section and the purposes of this subtitle.¹

(d) Approval of agreements

(1)(A) Each agreement entered into under this section shall be submitted to the Secretary of Agriculture for review and approval.

(B) In the case of an agreement to purchase tobacco from the inventory of a producer association, the agreement shall be submitted by the association.

(C) No agreement may become effective until approved by the Secretary.

(2) The Secretary of Agriculture shall not approve any agreement submitted under this section unless the Secretary has determined that—

(A) the agreement—

(i) will not unduly impair or disrupt the orderly marketing of current and future tobacco crops during the term of the agreement; and

(ii) is otherwise consistent with the purposes of this subtitle;¹ and

(B) the price and other terms of sale are uniform and nondiscriminatory among various purchasers.

(e) Disclosure

The limitations on disclosure set forth in subsections (c) and (d) of section 1314g of this title shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to net cigarettes manufactured for use, including information provided on ATF Form 3068. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 1314g(c)(4) of this title.

(Pub. L. 99272, title I, §1109, Apr. 7, 1986, 100 Stat. 95.)

¹See References in Text note below.

REFERENCES IN TEXT

This subtitle, referred to in subsecs. (c)(3) and (d)(2)(A)(ii), is subtitle B (§§11011112) of title I of Pub. L. 99272, Apr. 7, 1986, 100 Stat. 83, which enacted sections 1314g, 1314h, and 14453 of this title, amended sections 511d, 1301, 1312, 1314c, 1314e, 1372, 1445, 14451, and 14452 of this title, and enacted provisions set out as notes under sections 1301, 1314c, 1314e, 1314g, 1314h, 1372, 1445, 14451, and 14452 of this title. For complete classification of this subtitle to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Consolidated Omnibus Budget Reconciliation Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

RULEMAKING PROCEDURES

For implementation of this section by the Secretary of Agriculture without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99272, set out as a note under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1445 of this title.

§1445a. Wheat price support levels; “cooperator” defined

Notwithstanding the provisions of section 1441 of this title, beginning with the 1964 crop—

(1) Price support for wheat accompanied by domestic certificates shall be at such level not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines appropriate, taking into consideration the factors specified in section 1421(b) of this title.

(2) Price support for wheat accompanied by export certificates shall be at such level not more than 90 per centum of the parity price therefor as the Secretary determines appropriate, taking into consideration the factors specified in section 1421(b) of this title.

(3) Price support for wheat not accompanied by marketing certificates shall be at such level, not in excess of 90 per centum of the parity price therefor, as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains.

(4) Price support shall be made available only to cooperators: and, if a commercial wheat-producing area is established for such crop, price support shall be made available only in the commercial wheat-producing area.

(5) Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year, the level of price support for any crop of wheat for which a national marketing quota is not proclaimed or for which marketing quotas have been disapproved by producers shall be as provided in section 1441 of this title.

(6) A “cooperator” with respect to any crop of wheat produced on a farm shall be a producer who (i) does not knowingly exceed (A)

the farm acreage allotment for wheat on the farm or (B) except as the Secretary may by regulation prescribe, the farm acreage allotment for wheat on any other farm on which the producer shares in the production of wheat, and (ii) complies with the land-use requirements of section 1339 of this title, to the extent prescribed by the Secretary. Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year, if marketing quotas are not in effect for the crop of wheat, a “cooperator” with respect to any crop of wheat produced on a farm shall be a producer who does not knowingly exceed the farm acreage allotment for wheat. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty, but the producer shall not be eligible to receive price support on such marketing excess. No producer shall be deemed to have exceeded the farm acreage allotment for wheat on any other farm, if such farm is exempt from the farm marketing quota for such crop under section 1335 of this title. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the production on the acreage in excess of the farm acreage allotment is stored pursuant to the provisions of section 1379c(b) of this title, but the producer shall not be eligible to receive price support on the wheat so stored.

(Oct. 31, 1949, ch. 792, title I, §107, as added Sept. 27, 1962, Pub. L. 87703, title III, §325(1), 76 Stat. 630; amended Apr. 11, 1964, Pub. L. 88297, title II, §203, 78 Stat. 182; Nov. 3, 1965, Pub. L. 89321, title V, §506, 79 Stat. 1203; Oct. 11, 1968, Pub. L. 90559, §1(1), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91524, title IV, §401, 84 Stat. 1362; Aug. 10, 1973, Pub. L. 9386, §1(8), 87 Stat. 224; Oct. 18, 1973, Pub. L. 93125, §1(b), 87 Stat. 450; Dec. 29, 1973, Pub. L. 93228, §1(a), 87 Stat. 944.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 9386, §1(8)(A), temporarily amended subsec. (a) generally, substituting “\$1.37 per bushel” for “\$1.25 per bushel”. See Effective and Termination Dates of 1970 and 1973 Amendment notes below.

Subsec. (b). Pub. L. 9386, §1(8)(B), temporarily substituted “payments” for “certificates”. See Effective and Termination Dates of 1970 and 1973 Amendment notes below.

Subsec. (c). Pub. L. 93228 substituted “(or of cotton, corn, grain sorghums, or barley planted in lieu of wheat)” for “(or other nonconserving crop planted instead of wheat)”, in two places.

Pub. L. 93125 substituted “prevented from planting any portion” for “prevented from planting, any portion”.

Pub. L. 9386, §1(8)(C), (D), temporarily added subsec. (c). See Effective and Termination Dates of 1970 and 1973 Amendment notes below.

1970—Pub. L. 91524 temporarily revised section into subsecs. (a) and (b) which provided for loans on wheat at such levels not in excess of the parity price as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains, provided that, if a set-aside program is in effect, program benefits would be made available only to producers who comply with such set-aside program, and

placed a floor on the loan of \$1.25 per bushel. See Effective and Termination Dates of 1970 Amendment note below.

1968—Subsec. (2). Pub. L. 90559 provided for a one year extension through 1970.

1965—Pub. L. 89321 temporarily raised the wheat support level to 100 per centum of parity or as near to 100 per centum as the Secretary determines to be practicable, placed a floor of 100 per centum of parity for wheat accompanied by marketing certificates and \$1.25 for wheat not so accompanied under the 1966 crop, guaranteed to cooperators for 1967 through 1969 crops a total average rate of return per bushel of not less than the total average rate of return per bushel made available to cooperators through loans and domestic marketing certificates for the 1966 crop where the diversion factor is not less than 10 per centum, and eliminated reference to classification as cooperators of producers who do not knowingly exceed the farm acreage allotment for wheat in cases where marketing quotas are not in effect. See Effective and Termination Dates of 1965 Amendment note below.

1964—Subsec. (1). Pub. L. 88297 substituted “domestic certificates” for “marketing certificates”.

Subsec. (2). Pub. L. 88297 added subsec. (2). Former subsec. (2) redesignated (3).

Subsec. (3). Pub. L. 88297 redesignated former subsec. (2) as (3), struck out introductory clause “if marketing quotas are in effect for wheat”, and inserted “not in excess of 90 per centum of the parity price therefor.” Former subsec. (3) redesignated (4).

Subsec. (4). Pub. L. 88297 redesignated former subsec. (3) as (4). Former subsec. (4) redesignated (5).

Subsec. (5). Pub. L. 88297 redesignated former subsec. (4) as (5) and inserted introductory phrase “Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year,”. Former subsec. (5) redesignated (6).

Subsec. (6). Pub. L. 88297 redesignated former subsec. (5) as (6), struck out introductory clause “if marketing quotas are in effect for the crop of wheat”, struck out from cl. (i)(A) “or any other commodity” after “wheat”, substituted in cl. (i)(B) “the farm acreage allotment for wheat on any other farm on which the producer shares in the production of wheat” for “the farm acreage allotment on any other farm for any commodity in which he has an interest as a producer”, inserted “Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year,” before “if marketing quotas”, and inserted provision for deeming a producer as not having exceeded a farm acreage allotment for wheat if the production on the acreage in excess of the farm acreage allotment is stored pursuant to section 1379c(b) of this title, but making the producer ineligible to receive price support on the wheat so stored.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 1(8) of Pub. L. 9386 provided that the amendment made by that section is effective beginning with 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 401 of Pub. L. 91524, as amended by section 1(8) of Pub. L. 9386, provided that the amendment made by that section is effective only with respect to 1971 through 1977 crops of wheat.

EFFECTIVE AND TERMINATION DATES OF 1965 AMENDMENT

Section 506 of Pub. L. 89321, as amended by Pub. L. 90559, §1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective only with respect to 1966 through 1970 crops.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF WHEAT

Pub. L. 101624, title III, §305, Nov. 28, 1990, 104 Stat. 3400, provided that: “Section 107 of the Agricultural

Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1991 through 1995 crops of wheat.”

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF
WHEAT

Pub. L. 99198, title III, §312, Dec. 23, 1985, 99 Stat. 1395, provided that: “Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1986 through 1990 crops of wheat.”

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF
WHEAT

Pub. L. 9798, title III, §305, Dec. 22, 1981, 95 Stat. 1227, provided that: “Section 107 of the Agricultural Act of 1949 [this section] shall not be applicable to the 1982 through 1985 crops of wheat.”

INAPPLICABILITY TO 1977 THROUGH 1981 CROPS OF
WHEAT

Pub. L. 95113, title IV, §409, Sept. 29, 1977, 91 Stat. 928, provided that: “Section 107 of the Agricultural Act of 1949, as amended [this section], shall not be applicable to the 1977 through 1981 crops of wheat.”

INAPPLICABILITY TO 1977 CROP OF WHEAT

Pub. L. 95113, title IV, §410, Sept. 29, 1977, 91 Stat. 928, provided that: “Except as otherwise provided in section 401 of this Act [enacting section 1445b(a)(c) of this title effective only for the 1977 through 1981 crops of wheat], section 107 of the Agricultural Act of 1949, as added by the Agricultural Act of 1970, as amended [this section as amended by Pub. L. 91524, as amended], to be effective only for the 1974 through 1977 crops of wheat, shall not be applicable to the 1977 crop of wheat.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1379c of this title.

§§1445b, 1445b1. Repealed. Pub. L. 101624, title III, §301(1), Nov. 28, 1990, 104 Stat. 3382

Section 1445b, act Oct. 31, 1949, ch. 792, title I, §107A, as added Sept. 29, 1977, Pub. L. 95113, title IV, §§401, 402, 91 Stat. 921, 924; amended Mar. 18, 1980, Pub. L. 96213, §§3, 4(d), 94 Stat. 119, 120; Sept. 26, 1980, Pub. L. 96365, title II, §201(d), 94 Stat. 1320; Dec. 3, 1980, Pub. L. 96494, title II, §202(b), 94 Stat. 2570, related to loan rates and target prices for the 1977 through 1981 crops of wheat.

Section 1445b1, act Oct. 31, 1949, ch. 792, title I, §107B, as added Dec. 22, 1981, Pub. L. 9798, title III, §301, 95 Stat. 1221; Sept. 8, 1982, Pub. L. 97253, title I, §§121, 122, 96 Stat. 768; amended Sept. 29, 1983, Pub. L. 98100, §1(b), 97 Stat. 718; Apr. 10, 1984, Pub. L. 98258, title I, §§101103, 98 Stat. 130, 131, related to loan rates and target prices for 1982 through 1985 wheat crops.

EFFECTIVE DATE OF REPEAL

Repeal effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§1445b2. Transferred

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, §107C, as added Sept. 8, 1982, Pub. L. 97253, title I, §120, 96 Stat. 766, and amended, which related to advance deficiency and diversion payments, was renumbered section 114 of act Oct. 31, 1949, by Pub. L. 101624, title XI, §1161(a)(1), Nov. 28, 1990, 104 Stat. 3520, and transferred to section 1445j of this title.

§1445b3. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, §107A, formerly §107D, as added Dec. 23, 1985, Pub. L. 99198, title

III, §308, 99 Stat. 1383; amended Feb. 28, 1986, Pub. L. 99253, §1, 100 Stat. 36; Mar. 20, 1986, Pub. L. 99260, §§2(a), 7(a), 100 Stat. 45, 50; Oct. 18, 1986, Pub. L. 99500, §152, 100 Stat. 1783352, and Oct. 30, 1986, Pub. L. 99591, §152, 100 Stat. 3341355; Nov. 10, 1986, Pub. L. 99641, title II, §202, 100 Stat. 3563; May 27, 1987, Pub. L. 10045, §2, 101 Stat. 318; Dec. 22, 1987, Pub. L. 100203, title I, §§1101(a), 1102(a), 1111, 1113(a), 1201, 101 Stat. 13301, 13302, 13307, 13308, 133010; renumbered §107A, Nov. 28, 1990, Pub. L. 101624, title III, §301(2), 104 Stat. 3382, related to loan rates and target prices. See Effective and Termination Dates note below.

A prior section 107A of act Oct. 31, 1949, ch. 792, title I, as added Sept. 29, 1977, Pub. L. 95113, title IV, §§401, 402, 91 Stat. 921, 924, was classified to section 1445b of this title, prior to repeal by section 301(1) of Pub. L. 101624.

EFFECTIVE AND TERMINATION DATES

Section 308 of Pub. L. 99198 provided that this section is effective only for the 1986 through 1990 crops of wheat.

§1445b3a. Loans, payments, and acreage reduction programs for 1991 through 1995 crops of wheat

(a) Loans and purchases

(1) In general

Except as otherwise provided in this subsection, the Secretary shall make available to producers on a farm loans and purchases for each of the 1991 through 1995 crops of wheat produced on the farm at such level as the Secretary determines will maintain the competitive relationship of wheat to other grains in domestic and export markets after taking into consideration the cost of producing wheat, supply and demand conditions, and world prices for wheat.

(2) Minimum loan and purchase level

Except as provided in paragraphs (3) and (4), the loan and purchase level determined under paragraph (1) shall not be less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, except that the loan and purchase level for a crop determined under this paragraph may not be reduced by more than 5 percent from the level determined for the preceding crop.

(3) Adjustments to support level

(A) Stocks to use ratio

If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

(i) equal to or greater than 30 percent, the Secretary may reduce the loan and purchase level for wheat for the corresponding crop by an amount not to exceed 10 percent in any year;

(ii) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan and purchase level for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or

(iii) less than 15 percent, the Secretary may not reduce the loan and purchase level for wheat for the corresponding crop.

(B) Report to Congress**(i) In general**

If the Secretary adjusts the level of loans and purchases for wheat under subparagraph (A), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report—

(I) certifying such adjustment as necessary to prevent the accumulation of stocks and to retain market share; and

(II) containing a description of the need for such adjustment.

(ii) Effective date of adjustment

The adjustment shall become effective no earlier than 60 calendar days after the date of submission of the report to the Committees, except that in the case of the 1991 crop of wheat, the adjustment shall become effective on the date of the submission of the report.

(C) Competitive position

Notwithstanding subparagraph (A), if the Secretary determines, not later than 60 days prior to the beginning of a marketing year for a crop, that the effective loan rate established for such crop will not maintain a competitive market position for wheat, the Secretary may reduce the loan and purchase level for wheat for the marketing year by an amount, in addition to any reduction under subparagraph (A), not to exceed 10 percent in any year.

(D) No effect on future years

Any reduction in the loan and purchase level for wheat under this paragraph shall not be considered in determining the loan and purchase level for wheat for subsequent years.

(E) Minimum loan rate

Notwithstanding subparagraph (A), the loan rate for wheat shall not be less than \$2.44 per bushel, unless such rate would exceed 80 percent of the 5-year average market price determination.

(4) Marketing loan provisions**(A) In general**

The Secretary may permit a producer to repay a loan made under this subsection for a crop at a level (except as provided in subparagraph (C)) that is the lesser of—

(i) the loan level determined for the crop;

(ii) the higher of—

(I) 70 percent of such level;

(II) if the loan level for a crop was reduced under paragraph (3), 70 percent of the loan level that would have been in effect but for the reduction under paragraph (3); or

(iii) the prevailing world market price for wheat (adjusted to United States quality and location), as determined by the Secretary.

(B) Prevailing world market price

If the Secretary permits a producer to repay a loan in accordance with subpara-

graph (A), the Secretary shall prescribe by regulation—

(i) a formula to determine the prevailing world market price for wheat, adjusted to United States quality and location; and

(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for wheat.

(C) Alternative repayment rates

For each of the 1991 through 1995 crops of wheat, if the world market price for wheat (adjusted to United States quality and location) as determined by the Secretary, is less than the loan level determined for the crop, the Secretary may permit a producer to repay a loan made under this subsection for a crop at such level (not in excess of the loan level determined for the crop) as the Secretary determines will—

(i) minimize potential loan forfeitures;

(ii) minimize the accumulation of wheat stocks by the Federal Government;

(iii) minimize the cost incurred by the Federal Government in storing wheat; and

(iv) allow wheat produced in the United States to be marketed freely and competitively, both domestically and internationally.

(5) Simple average price

For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

(b) Loan deficiency payments**(1) In general**

The Secretary may, for each of the 1991 through 1995 crops of wheat, make payments (hereafter in this section referred to as “loan deficiency payments”) available to producers who, although eligible to obtain a loan or purchase agreement under subsection (a) of this section, agree to forgo obtaining the loan or agreement in return for payments under this subsection.

(2) Computation

A payment under this subsection shall be computed by multiplying—

(A) the loan payment rate; by

(B) the quantity of wheat the producer is eligible to place under loan (or obtain a purchase agreement) but for which the producer forgoes obtaining the loan or agreement in return for payments under this subsection.

(3) Loan payment rate

For purposes of this subsection, the loan payment rate shall be the amount by which—

(A) the loan level determined for the crop under subsection (a) of this section; exceeds

(B) the level at which a loan may be repaid under subsection (a) of this section.

(c) Payments; crop insurance requirement**(1) Deficiency payments****(A) In general**

The Secretary shall make available to producers payments (hereafter in this section

referred to as “deficiency payments”) for each of the 1991 through 1995 crops of wheat in an amount computed by multiplying—

- (i) the payment rate; by
- (ii) the payment acres for the crop; by
- (iii) the farm program payment yield established for the crop for the farm.

(B) Payment rate

(i) Payment rate for 1991 through 1993 crops

The payment rate for each of the 1991 through 1993 crops of wheat shall be the amount by which the established price for the crop of wheat exceeds the higher of—

- (I) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary; or
- (II) the loan level determined for the crop, prior to any adjustment made under subsection (a)(3) of this section for the marketing year for the crop of wheat.

(ii) Payment rate of 1994 and 1995 crops

The payment rate for each of the 1994 and 1995 crops of wheat shall be the amount by which the established price for the crop of wheat exceeds the higher of—

- (I) the lesser of—
 - (aa) the national weighted average market price received by producers during the marketing year for the crop, as determined by the Secretary; or
 - (bb) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel; or
- (II) the loan level determined for the crop, prior to any adjustment made under subsection (a)(3) of this section for the marketing year for the crop of wheat.

(iii) Minimum established price

The established price for wheat shall not be less than \$4.00 per bushel for each of the 1991 through 1995 crops.

(C) Payment acres

Payment acres for a crop shall be the lesser of—

- (i) the number of acres planted to the crop for harvest within the permitted acreage; or
- (ii) 85 percent of the crop acreage base for the crop for the farm less the quantity of reduced acreage (as determined under subsection (e)(2)(D) of this section).

(D) Emergency compensation

(i) In general

Notwithstanding the foregoing provisions of this section, if the Secretary adjusts the level of loans and purchases for wheat under subsection (a)(3) of this section, the Secretary shall provide emer-

gency compensation by increasing the deficiency payments for wheat by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made.

(ii) Calculation

In determining the payment rate, per bushel, for emergency compensation payments for a crop of wheat under this subparagraph, the Secretary shall use the national weighted average market price, per bushel of wheat, received by producers during the marketing year for the crop, as determined by the Secretary.

(iii) Deadlines for estimates and availability

Notwithstanding any other provision of this Act, the Secretary shall—

- (I) by December 1 of the marketing year for the crop, estimate the national weighted average market price, per bushel of wheat, received by producers during the marketing year;
- (II) by December 15 of the marketing year, use the estimate to make available to producers who have elected the payment option authorized by this clause not less than 75 percent of the increase in payments estimated to be payable with respect to the crop under this subparagraph; and
- (III) adjust the amount of each final payment for wheat to reflect any difference between the amount of any estimated payment made under this clause and the amount of actual payment due under this subparagraph.

(iv) Time for electing payment option

Producers shall elect the payment option authorized by clause (iii) at the time of entering into a contract to participate in the program established by this section for the crop.

(E) 0/85 program

(i) In general

If an acreage limitation program under subsection (e)(2) of this section is in effect for a crop of wheat and the producers on a farm devote a portion of the maximum payment acres for wheat as calculated under subparagraph (C)(ii) of the farm equal to more than 8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (vii)), of such wheat acreage of the farm for the crop to conservation uses (except as provided in subparagraph (F))—

- (I) such portion of the maximum payment acres in excess of 8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (vii)), of such acreage devoted to conservation uses (except as provided in subparagraph (F)) shall be considered to be planted to wheat for the purpose of

determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(D) of this section; and

(II) the producers shall be eligible for payments under this paragraph with respect to such acreage.

(ii) Deficiency payments

Notwithstanding any other provision of this section, any producer who devotes a portion of the maximum payment acres for wheat for the farm to conservation uses (or other uses as provided in subparagraph (F)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to wheat and eligible for payments under this subparagraph for the crop at a per-bushel rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which wheat producers may agree to participate in the program for the crop.

(iii) Adverse effect on agribusiness and other interests

The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total quantity of wheat acreage that may be taken out of production under this subparagraph, taking into consideration the total quantity of acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the quantity of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 1961 of this title as a result of a disaster that occurred during the crop year.

(iv) Crop acreage and payment yield

The wheat crop acreage base and wheat farm program payment yield of the farm shall not be reduced due to the fact that a portion of the permitted wheat acreage of the farm was devoted to conserving uses (except as provided in subparagraph (F)) under this subparagraph.

(v) Limitation

Other than as provided in clauses (i) through (iv), payments may not be made under this paragraph for any crop on a greater acreage than the acreage actually planted to wheat.

(vi) Conservation use acreage under other programs

Any acreage considered to be planted to wheat in accordance with clauses (i) and

(iv) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified acreage to conservation uses.

(vii) Exceptions to 0/85

In the case of each of the 1994 through 1997 crops of wheat, producers on a farm shall be eligible to receive deficiency payments as provided in clause (ii) if an acreage limitation program under subsection (e) of this section is in effect for the crop and—

(I)(aa) the producers have been determined by the Secretary (in accordance with section 1463(c) of this title) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster); and

(bb) the producers elect to devote a portion of the maximum payment acres for wheat (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the wheat acreage, to conservation uses; or

(II) the producers elect to devote a portion of the maximum payment acres for wheat (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the wheat acreage, to alternative crops as provided in subparagraph (F).

(F) Alternative crops

(i) Industrial and other crops

The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) to be devoted to sweet sorghum, guar, castor beans, plantago ovato, triticale, rye, millet, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that—

(I) the production is not likely to increase the cost of the price support program; and

(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material and could lead to increased industrial use of the raw material to the long-term benefit of United States industry.

(ii) Oilseeds

The Secretary shall permit, subject to such terms and conditions as the Sec-

retary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) to be devoted to sunflowers, rapeseed, canola, safflower, flaxseed, mustard seed, sesame, crambe, and other minor oilseed designated by the Secretary (excluding soybeans). In implementing this clause, the Secretary shall provide that, in order to receive payments under subparagraph (E), the producers shall agree to forgo eligibility to receive a loan under section 1446f of this title for the crop of any such oilseed produced on the farm.

(iii) Double cropping

The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 1464(b)(1) of this title. The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.

(2) Crop insurance requirement

A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 1433f of this title.

(d) Payment yields

The farm program payment yields for farms for each crop of wheat shall be determined under subchapter IV of this chapter.

(e) Acreage reduction programs

(1) In general

(A) Establishment

Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of wheat, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carry-over to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of wheat an acreage limitation program as described in paragraph (2).

(B) Agricultural resources conservation program

In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the agricultural resources conservation program established under subtitle D of title XII of

the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(C) Announcements

If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall announce any such program not later than June 1 prior to the calendar year in which the crop is harvested, except that in the case of the 1991 crop, the Secretary shall announce the program as soon as practicable after November 28, 1990.

(D) Adjustments

Not later than July 31 of the year previous to the year in which the crop is harvested, the Secretary may make adjustments in the program announced under subparagraph (C) if the Secretary determines that there has been a significant change in the total supply of wheat since the program was first announced.

(E) Compliance

As a condition of eligibility for loans, purchases, and payments for any such crop of wheat, except as provided in subsections (f) and (g) of this section and section 1464 of this title, the producers on a farm must comply with the terms and conditions of the acreage limitation program and, if applicable, a land diversion program as provided in paragraph (5).

(F) Acreage limitation program for 1991 crop

In the case of the 1991 crop of wheat, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by not less than 15 percent.

(G) Acreage limitation programs for 1992 through 1995 crops

In the case of each of the 1992 through 1995 crops of wheat, if the Secretary estimates for a marketing year for the crop that the ratio of ending stocks of wheat to total disappearance of wheat for the preceding marketing year will be—

(i) more than 40 percent, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by not less than 10 percent nor more than 20 percent; or

(ii) equal to or less than 40 percent, the Secretary may provide for such an acreage limitation program under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by not more than 0 to 15 percent.

For the purpose of this subparagraph, the term "total disappearance" means all wheat utilization, including total domestic, total export, and total residual disappearance.

(2) Acreage limitation program**(A) Percentage reductions**

Except as provided in paragraph (3), if a wheat acreage limitation program is announced under paragraph (1), such limitation shall be achieved by applying a uniform percentage reduction (from 0 to 20 percent) to the wheat crop acreage base for the crop for each wheat-producing farm.

(B) Compliance

Except as provided in subsection (g) of this section and section 1464 of this title, producers who knowingly produce wheat in excess of the permitted wheat acreage for the farm shall be ineligible for wheat loans, purchases, and payments with respect to that farm.

(C) Crop acreage bases

Wheat crop acreage bases for each crop of wheat shall be determined under subchapter IV of this chapter.

(D) Acreage devoted to conservation uses

A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by multiplying the wheat crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is hereafter in this subsection referred to as "reduced acreage". The remaining acreage is hereafter in this subsection referred to as "permitted acreage". Permitted acreage may be adjusted by the Secretary as provided in paragraph (3) and in section 1464 of this title.

(E) Individual farm program acreage

Except as otherwise provided in subsection (c) of this section, the individual farm program acreage shall be the acreage planted on the farm to wheat for harvest within the permitted wheat acreage for the farm as established under this paragraph.

(F) Planting designated crops on reduced acreage**(i) "Designated crop" defined**

As used in this subparagraph, the term "designated crop" means a crop defined in section 1464(b)(1) of this title, excluding any program crop as defined in section 1462(3) of this title.

(ii) In general

Subject to clause (iii), the Secretary may permit producers on a farm to plant a designated crop on no more than one-half of the reduced acreage on the farm.

(iii) Limitations

If the producers on a farm elect to plant a designated crop on reduced acreage under this subparagraph—

(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) of this section shall be reduced, for each acre (or portion thereof) that is planted

to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops; and

(II) the Secretary shall ensure that reductions in deficiency payments under subclause (I) are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

(3) Targeted option payments**(A) In general**

Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1991 through 1995 crops of wheat, the Secretary may make available to producers on a farm who do not receive payments under subsection (c)(1)(E) of this section for such crop on the farm, adjustments in the level of deficiency payments that would otherwise be made available to the producers if the producers exercise the payment options provided in this paragraph.

(B) Payment options

If the Secretary elects to carry out this paragraph, the Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of wheat under an acreage limitation program in accordance with this paragraph.

(C) Increased acreage limitation option**(i) Increase in established price**

If the Secretary elects to carry out this paragraph, a producer shall be eligible to receive an increase in the established price for wheat under clause (ii) if the producer agrees to an increase in the acreage limitation percentage to be applied to the producers' wheat acreage base above the acreage limitation percentage announced by the Secretary.

(ii) Method of calculation

For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for wheat by an amount determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the producers' wheat acreage base.

(iii) Limitation

The acreage limitation percentage to be applied to the producers' wheat acreage

base shall not be increased by more than 10 percentage points for the 1991 crop and 15 percentage points for each of the 1992 through 1995 crops above the acreage limitation percentage announced by the Secretary for the crop or above 25 percent total for the crop.

(D) Decreased acreage limitation option

(i) Decrease in acreage limitation requirement

If the Secretary elects to carry out this paragraph, a producer shall be eligible to decrease the acreage limitation percentage applicable to the producers' wheat acreage base (as announced by the Secretary) if the producer agrees to a decrease in the established price for wheat under clause (ii) for the purpose of calculating deficiency payments to be made available to the producer.

(ii) Method of calculation

For the purposes of calculating deficiency payments to be made available to producers who choose the option set forth in this subparagraph, the Secretary shall decrease the established price for wheat by an amount to be determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the producers' wheat acreage base.

(iii) Limitation

A producer may not choose to decrease the acreage limitation percentage applicable to the producers' wheat acreage base under this paragraph by more than one-half of the announced acreage limitation percentage.

(E) Participation and production effects

Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on program participation or total production and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(4) Administration

(A) Protection from weeds and erosion

The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of the acreage from weeds and wind and water erosion.

(B) Annual or perennial cover

(i) Required

(I) In general

Except as provided in subclause (II) and paragraph (2), a producer who par-

ticipates in an acreage reduction program established for a crop of wheat under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of wheat, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

(II) Arid areas

Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 590h(b) of title 16 may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

(III) Approval of cover crops and practices

The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.

(ii) Multiyear program

(I) Cost-share assistance

If a producer elects to establish a perennial cover capable of improving water quality or wildlife habitat on the acreage, the Commodity Credit Corporation shall make available cost-share assistance for 25 percent of the approved cost of establishing the cover on not more than 50 percent of the acreage that is required to be diverted from production, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for a crop.

(II) Agreement of producer

If a producer elects to establish a perennial cover on the acreage under this subparagraph and receives cost-share assistance from the Corporation with re-

spect to the cover, the producer, under such terms and conditions as may be prescribed by the Secretary, taking into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985 [16 U.S.C. 3861 et seq.], shall agree to maintain the perennial cover for a minimum of 3 years.

(iii) Conserving crops

The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

(C) Haying and grazing

(i) In general

Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(E) of this section, and acreage diverted from production under a land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 590h(b) of title 16 for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

(ii) Natural disasters

In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted in alfalfa when exercising the authority under this clause.

(D) Water storage uses

(i) In general

The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 years subsequent to its conversion to water storage uses.

(ii) Limitations

Land converted to water storage uses for the purposes of this subparagraph may not be devoted to any commercial use, including commercial fish production. The water stored on the land may not be ground water. The farm on which the land is lo-

cated must have been irrigated with ground water during at least 1 of the preceding 5 crop years.

(E) Summer fallow

In determining the quantity of land to be devoted to conservation uses under an acreage limitation program with respect to land that has been farmed under summer fallow practices, as defined by the Secretary, the Secretary shall consider the effects of soil erosion and such other factors as the Secretary considers appropriate.

(5) Land diversion payments

(A) In general

The Secretary may make land diversion payments to producers of wheat, whether or not an acreage limitation program for wheat is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

(B) Amounts

The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

(C) Limitation on diverted acreage

The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(6) Conservation practices

(A) Wildlife food plots or habitat

The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of this subparagraph.

(B) Soil and water conservation practices

The Secretary may also pay an appropriate share of the cost of approved soil and water conservation practices (including practices that may be effective for a number of years) established by the producer on acreage required to be devoted to conservation uses or on additional diverted acreage.

(C) Public accessibility

The Secretary may provide for an additional payment on the acreage in an amount

determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(7) Participation agreements

(A) In general

Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

(B) Modification or termination

The Secretary may, by mutual agreement with producers on a farm, modify or terminate any such agreement if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of wheat.

(8) Special oats plantings

In any crop year that the Secretary determines that projected domestic production of oats will not fulfill the projected domestic demand for oats, notwithstanding the foregoing provisions of this subsection, the Secretary—

(A) may provide that any reduced acreage may be planted to oats for harvest;

(B) may make program benefits (including loans, purchases, and payments) available under the annual program for oats under section 1444f of this title available to producers with respect to acreage planted to oats under this paragraph; and

(C) shall not make program benefits other than the benefits specified in subparagraph (B) available to producers with respect to acreage planted to oats under this paragraph.

(f) Inventory reduction payments

(1) In general

The Secretary may, for each of the 1991 through 1995 crops of wheat, make payments available to producers who meet the requirements of this subsection.

(2) Form

The payments may be made in the form of marketing certificates.

(3) Payments

Payments under this subsection shall be determined in the same manner as provided in subsection (b) of this section.

(4) Eligibility

A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

(A) agrees to forgo obtaining a loan or purchase agreement under subsection (a) of this section;

(B) agrees to forgo receiving payments under subsection (c) of this section;

(C) does not plant wheat for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (e) of this section; and

(D) otherwise complies with this section.

(g) Pilot voluntary production limitation program

(1) In general

Effective for the 1992 or 1993 crops (and, if the Secretary so determines, the 1994 and 1995 crops), if a wheat acreage limitation program or a land diversion program is announced under subsection (e) of this section for such crops, the Secretary shall carry out a pilot program in at least 15 counties in at least 2 States where producers express an interest in participating in the pilot program under which the producers on a farm shall be considered to have met the requirements of such acreage limitation or land diversion program if the producers meet the requirements of the voluntary production limitation program established under this subsection.

(2) Limitation on marketing

In order to comply with the voluntary production limitation program, the producers on a farm must agree not to market, barter, donate, or use on the farm (including use as feed for livestock) in a marketing year a quantity of wheat in excess of the wheat production limitation quantity for the farm for the marketing year.

(3) Production limitation quantity

For purposes of this subsection, the production limitation quantity for a farm for a marketing year for a crop shall equal the product obtained by multiplying—

(A) the acreage permitted to be planted to wheat under the acreage reduction program or land diversion program in effect for the crop for the farm; by

(B) the higher of—

(i) the farm program payment yield for the farm; or

(ii) the average of the yield per harvested acre for wheat for the farm for each of the 5 crop years immediately preceding the crop year during which the producers first participate in the program established under this subsection, excluding the crop years with the highest and lowest yield per harvested acre and any crop year in which the commodity was not planted on the farm.

(4) Terms and conditions

Producers on a farm who elect to participate in the program established under this subsection for a crop of wheat shall—

(A) enter into an agreement with the Secretary providing that the producers shall comply with the program for the crop;

(B) not plant program commodities for harvest in a quantity in excess of the sum of the crop acreage bases for the farm; and

(C) be considered to have complied with the terms and conditions of the wheat acreage reduction program or land diversion program for the crop, even though the acreage planted to wheat on the farm exceeds the permitted acreage provided under the acreage reduction or land diversion program.

(5) Excess production

(A) In general

Any quantity of wheat produced in a crop year on a farm in excess of the production limitation quantity for the farm may be stored by the producers for a period of not to exceed 5 marketing years and may be used only in accordance with this paragraph.

(B) Marketing in subsequent year

(i) Participants in program

Producers on a farm who are participating in the program established under this subsection may market, barter, or use a quantity of the excess wheat referred to in subparagraph (A) equal to the difference between the production limitation quantity for the farm for the crop year subsequent to the crop year in which the excess wheat is produced less the quantity of wheat produced on the farm during the crop year.

(ii) Participants in acreage reduction program

Producers on a farm who are participating in an acreage reduction or a land diversion program for a crop of wheat may market, barter, or use a quantity of the excess wheat referred to in subparagraph (A) in an amount that reflects the quantity of wheat that would be expected to be produced on acreage that the producers agree to devote to approved conservation uses (in excess of any acreage reduction or land diversion requirements) during a crop year, as determined by the Secretary.

(6) Duties of Secretary

In carrying out the pilot program established under this subsection, the Secretary—

(A) shall issue such regulations as are necessary to carry out the program;

(B) may require increased acreage reduction or land diversion requirements with respect to producers who have had excess wheat production in order to allow the producers to market, barter, or use the production in subsequent years;

(C) shall take appropriate measures designed to prevent the circumvention of the program established under this subsection, including the imposition of penalties;

(D) may require producers who participate in the program for a crop, but who fail to comply with the terms and conditions of the program, to refund all or a part of any deficiency payments received with respect to the crop;

(E) may require the forfeiture to the Commodity Credit Corporation of any wheat that is produced in excess of the production limitation quantity and that is not marketed, bartered, or used within 5 marketing years; and

(F) shall ensure equitable treatment for producers who participate in the pilot program if the Secretary allows increases (based on actual production levels) in the determination of farm program payment yields for wheat for the farm.

(7) Report

(A) In general

The Comptroller General of the United States shall prepare a report that evaluates the pilot program carried out under this subsection.

(B) Submission

The Comptroller General shall submit a copy of the report required by subparagraph (A) to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Secretary.

(h) Equitable relief

(1) Loans, purchases, and payments

If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of such program in determining whether equitable relief is warranted under this paragraph.

(2) Deadlines and program requirements

The Secretary may authorize the county and State committees established under section 590h(b) of title 16 to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

(i) Regulations

The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(j) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(k) Assignment of payments

The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to payments under this section.

(l) Sharing of payments

The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

(m) Tenants and sharecroppers

The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(n) Cross-compliance**(1) In general**

Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans, purchases, or payments under this section.

(2) Compliance on other farms

The Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments under this section for the farm, to comply with the terms and conditions of the wheat program with respect to any other farm operated by the producers.

(o) Public comment on wheat program**(1) In general**

In order to ensure that producers and consumers of wheat are provided with reasonable opportunity to comment on the annual program determinations concerning the price support and acreage reduction program for each of the 1992 and subsequent crops of wheat, the Secretary shall request public comment regarding the wheat program in accordance with this subsection.

(2) Options

Not less than 60 days before the program is announced for a crop of wheat under this section, the Secretary shall propose for public comment various program options for the crop of wheat.

(3) Analyses

Each option proposed by the Secretary shall be accompanied by an analysis that includes the estimated planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that would likely result from each option.

(4) Estimates

In announcing the program for a crop of wheat under this section, the Secretary shall include an estimate of the planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that is expected to result from the program as announced.

(p) Special provisions for wheat planted in 1990

Effective with respect to producers of the 1991 crop of wheat that was planted in 1990, a producer may, when participating in the production adjustment program for the 1991 crop of wheat specified in this section elect to participate in the program with the following modifications:

(1) Deficiency payments

The producer's deficiency payment shall be the amount by which the established price for the crop of wheat exceeds the higher of—

(A) the lesser of—

(i) the national weighted average market price received by producers during the marketing year for the crop, as determined by the Secretary; or

(ii) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel; or

(B) the loan level determined for the crop, prior to any adjustment made under subsection (a)(3) of this section for the marketing year for the crop of wheat.

(2) Payment acres

The producer's payment acres shall be the lesser of—

(A) the number of acres planted to the crop for harvest within the permitted acreage; or

(B) 100 percent of the crop acreage base for the crop for the farm less the quantity of reduced acreage (as determined under subsection (e)(2)(D) of this section).

(q) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of wheat.

(Oct. 31, 1949, ch. 792, title I, §107B, as added Nov. 28, 1990, Pub. L. 101624, title III, §301(3), 104 Stat. 3382; amended Nov. 5, 1990, Pub. L. 101508, title I, §§1101(a), 1102(a), 104 Stat. 13881; Dec. 13, 1991, Pub. L. 102237, title I, §§102(d), 103(b), 106(d), 113(6), 105 Stat. 1822, 1823, 1826, 1837; Aug. 10, 1993, Pub. L. 10366, title I, §1102, 107 Stat. 314; Oct. 13, 1994, Pub. L. 103354, title I, §119(a)(5), 108 Stat. 3207.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (c)(1)(D)(iii), (F)(iii) and (e)(1)(A), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Food Security Act of 1985, referred to in subsec. (e)(1)(B), (4)(B)(ii)(II), is Pub. L. 99198, Dec. 23, 1985, 99 Stat. 1354, as amended. Subtitles D and G of title XII of the Act are classified generally to subchapters IV (§3831 et seq.) and VII (§3861 et seq.), respectively, 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

1994—Subsec. (c)(1)(G). Pub. L. 103354, §119(a)(5)(A), struck out heading and text of subpar. (G). Text read as follows: "The total quantity of wheat on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2)."

Subsec. (c)(2). Pub. L. 103354, §119(a)(5)(B), added par. (2) and struck out former par. (2) which related to disaster payments.

1993—Subsec. (c)(1)(E). Pub. L. 10366, §1102(1), substituted "85" for "92" in heading.

Subsec. (c)(1)(E)(i). Pub. L. 10366, §1102(2), inserted "for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (vii))," after "8 percent" in introductory provisions and subcl. (I).

Subsec. (c)(1)(E)(vii). Pub. L. 10366, §1102(3), added cl. (vii).

1991—Subsec. (c)(1)(F)(i). Pub. L. 102237, §102(d)(1), in introductory provisions substituted “castor beans,” for “sesame, castor beans, crambe,” and “rye, millet, mung beans,” for “rye, mung beans,” and in subcl. (I) struck out “and will not affect farm income adversely” after “program”.

Subsec. (c)(1)(F)(ii). Pub. L. 102237, §102(d)(2), substituted “mustard seed, sesame, crambe, and” for “mustard seed, and”.

Subsec. (c)(1)(F)(iii). Pub. L. 102237, §103(b), added cl. (iii).

Subsec. (e)(4)(B)(i). Pub. L. 102237, §106(d), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “IN GENERAL.—Except as provided in paragraph (2), a producer who participates in an acreage reduction program established for a crop of wheat under this subsection shall be required to plant to an annual or perennial cover 50 percent (or more, at the option of the producer) of the acreage that is required to be removed from the production of wheat, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.”

Subsec. (g)(1). Pub. L. 102237, §113(6), substituted “subsection (e)” for “subsection (d)”.

1990—Subsec. (c)(1)(B)(ii). Pub. L. 101508, §1102(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “PAYMENT RATE OF 1994 AND 1995 CROPS.—The payment rate for each of the 1994 and 1995 crops of wheat shall be calculated as provided in clause (i).”

Subsec. (c)(1)(C)(ii). Pub. L. 101508, §1101(a), substituted “85 percent” for “100 percent”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101508, set out as a note under section 511r 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. 101624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

ACREAGE REDUCTION PROGRAMS FOR 1992 THROUGH 1995 CROPS

Section 1104 of Pub. L. 101508, as amended by Pub. L. 10366, title I, §1301(a), Aug. 10, 1993, 107 Stat. 330, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law, except as provided in subsections (b) and (c), the Secretary of Agriculture shall announce an acreage limitation program for each of the 1992 through 1995 crops of—

“(1) wheat under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by—

“(A) in the case of the 1992 crop of wheat, not less than 6 percent;

“(B) in the case of the 1993 crop of wheat, not less than 5 percent;

“(C) in the case of the 1994 crop of wheat, not less than 7 percent; and

“(D) in the case of the 1995 crop of wheat, not less than 5 percent; and

“(2) corn under which the acreage planted to corn for harvest on a farm would be limited to the corn crop acreage base for the farm for the crop reduced by not less than 7½ percent.

“(b) STOCKS-TO-USE RATIO.—Subsection (a) shall not apply to a crop if the Secretary estimates for such crop that the stocks-to-use ratio will be less than—

“(1) in the case of wheat, 34 percent; and

“(2) in the case of corn, 20 percent.

“(c) TERMINATION.—If the Secretary determines that the quantity of soybeans on hand in the United States on the first day of the marketing year for the 1991 crop of soybeans (not including any quantity of soybeans of the 1991 crop) will be less than 325,000,000 bushels, subsection (a) shall not apply to any of the 1992 through 1995 crops of wheat and feed grains.”

ACREAGE REDUCTION PROGRAM FOR 1991 WHEAT CROP

Section 1103(a) of Pub. L. 101508 provided that: “In the case of the 1991 crop of wheat, the Secretary of Agriculture shall provide for an acreage limitation program as described in section 107B(e)(1)(F) of the Agricultural Act of 1949 [7 U.S.C. 1445b3a(e)(1)(F)] (as added by section 301 of the Food, Agriculture, Conservation, and Trade Act of 1990).”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 1309, 1426, 1445h, 1445j, 1463, 5822 of this title.

§1445b4. Transferred

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, §107E, as added Dec. 23, 1985, Pub. L. 99198, title X, §1005, 99 Stat. 1448, and amended, which related to payments in commodities, was renumbered section 115 of act Oct. 31, 1949, by Pub. L. 101624, title XI, §1161(a)(1), Nov. 28, 1990, 104 Stat. 3520, and transferred to section 1445k of this title.

§1445b5. Repealed. Pub. L. 101624, title XI, §1161(a)(2), Nov. 28, 1990, 104 Stat. 3520

Section, act Oct. 31, 1949, ch. 792, title I, §107F, as added Dec. 23, 1985, Pub. L. 99198, title X, §1006, 99 Stat. 1448, related to export certificate programs for 1986 through 1990 crops of wheat and feed grains.

EFFECTIVE DATE OF REPEAL

Repeal effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§§1445c, 1445c1. Repealed. Pub. L. 101624, title VIII, §806(1), Nov. 28, 1990, 104 Stat. 3475

Section 1445c, act Oct. 31, 1949, ch. 792, title I, §108, as added Sept. 29, 1977, Pub. L. 95113, title VIII, §807, 91 Stat. 947, related to price support program for 1978 through 1981 crops of peanuts.

Section 1445c1, act Oct. 31, 1949, ch. 792, title I, §108A, as added Dec. 22, 1981, Pub. L. 9798, title VII, §705, 95 Stat. 1254, related to price support program for 1982 through 1985 crops of peanuts.

EFFECTIVE DATE OF REPEAL

Repeal effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§1445c2. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, §108A, formerly §108B, as added Dec. 23, 1985, Pub. L. 99198, title

VII, §705, 99 Stat. 1439; amended Oct. 18, 1986, Pub. L. 99500, §101(a) [title VI, §639], 100 Stat. 1783, 178335, and Oct. 30, 1986, Pub. L. 99591, §101(a) [title VI, §639], 100 Stat. 3341, 334135; Nov. 10, 1986, Pub. L. 99641, title II, §203, 100 Stat. 3563; Dec. 22, 1987, Pub. L. 100203, title I, §1104(b), 101 Stat. 13304; renumbered §108A, Nov. 28, 1990, Pub. L. 101624, title VIII, §806(2), 104 Stat. 3475; Dec. 13, 1991, Pub. L. 102237, title I, §117(b)(1)(A), 105 Stat. 1841, related to price support, loans, purchases, and other operations, and national average quota support rate. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 705 of Pub. L. 99198 provided that this section is effective only for the 1986 through 1990 crops of peanuts.

§1445c3. Price support program for 1991 through 1997 crops of peanuts

(a) Quota peanuts

(1) In general

The Secretary shall make price support available to producers through loans, purchases, and other operations on quota peanuts for each of the 1991 through 1997 crops.

(2) Support rates

The national average quota support rate for each of the 1991 through 1997 crops of quota peanuts shall be the national average quota support rate for the immediately preceding crop, adjusted to reflect any increase, during the calendar year immediately preceding the marketing year for the crop for which a level of support is being determined, in the national average cost of peanut production, excluding any change in the cost of land and the cost of any assessments required under subsection (g) of this section, except that in no event shall the national average quota support rate for any such crop exceed by more than 5 percent the national average quota support rate for the preceding crop.

(3) Inspection, handling, or storage

The levels of support so announced shall not be reduced by any deductions for inspection, handling, or storage.

(4) Location and other factors

The Secretary may make adjustments for location of peanuts and such other factors as are authorized by section 1423 of this title.

(5) Announcement

The Secretary shall announce the level of support for quota peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the level of support is being determined.

(b) Additional peanuts

(1) In general

The Secretary shall make price support available to producers through loans, purchases, or other operations on additional peanuts for each of the 1991 through 1997 crops at such levels as the Secretary finds appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets, except that the Secretary shall set the support

rate on additional peanuts at a level estimated by the Secretary to ensure that there are no losses to the Commodity Credit Corporation on the sale or disposal of the peanuts.

(2) Announcement

The Secretary shall announce the level of support for additional peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the level of support is being determined.

(c) Area marketing associations

(1) Warehouse storage loans

(A) In general

In carrying out subsections (a) and (b) of this section, the Secretary shall make warehouse storage loans available in each of the three producing areas (described in section 1446.95 of title 7 of the Code of Federal Regulations (January 1, 1989)) to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting the loan activities. The Secretary may not make warehouse storage loans available to any cooperative that is engaged in operations or activities concerning peanuts other than those operations and activities specified in this section and sections 1359 and 1359a of this title.

(B) Administrative and supervisory activities

The area marketing associations shall be used in administrative and supervisory activities relating to price support and marketing activities under this section and sections 1359 and 1359a of this title.

(C) Association costs

Loans made to the association under this paragraph shall include, in addition to the price support value of the peanuts, such costs as the area marketing association reasonably may incur in carrying out its responsibilities, operations, and activities under this section and sections 1359 and 1359a of this title.

(2) Pools for quota and additional peanuts

(A) In general

The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico. Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.

(B) Net gains

Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

(i) Quota peanuts

For quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool plus an amount from all additional pool gains equal to any loss on disposition of all peanuts in the pool for quota peanuts.

(ii) Additional peanuts

For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts less any amount allocated to offset any loss on the pool for quota peanuts as provided in clause (i).

(d) Losses

Notwithstanding any other provision of this section:

(1) Quota peanuts placed under loan

Any distribution of net gains on additional peanuts (other than net gains on additional peanuts in separate type pools established under subsection (c)(2)(A) of this section for Valencia peanuts produced in New Mexico) shall be first reduced to the extent of any loss by the Commodity Credit Corporation on quota peanuts placed under loan.

(2) Quota loan pools**(A) Transfers from additional loan pools**

The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by such producer under section 13581(b)(8) of this title.

(B) Other losses

Losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 13581(b)(8) of this title, shall be offset by any gains or profits from pools in other production areas (other than separate type pools established under subsection (c)(2)(A) of this section for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

(e) Disapproval of quotas

Notwithstanding any other provision of law, no price support may be made available by the Secretary for any crop of peanuts with respect to which poundage quotas have been disapproved by producers, as provided for in section 13581(d) of this title.

(f) Quality improvement**(1) Price support peanuts**

With respect to peanuts under price support loan, the Secretary shall—

(A) promote the crushing of peanuts at a greater risk of deterioration before peanuts of a lesser risk of deterioration;

(B) ensure that all Commodity Credit Corporation loan stocks of peanuts sold for domestic edible use must be shown to have been officially inspected by licensed Depart-

ment of Agriculture inspectors both as farmer stock and shelled or cleaned in-shell peanuts;

(C) continue to endeavor to operate the peanut price support program so as to improve the quality of domestic peanuts and ensure the coordination of activities under the Peanut Administrative Committee established under Marketing Agreement No. 146, regulating the quality of domestically produced peanuts (under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.)); and

(D) ensure that any changes made in the price support program as a result of this subsection requiring additional production or handling at the farm level shall be reflected as an upward adjustment in the Department of Agriculture loan schedule.

(2) Exports and other peanuts

The Secretary shall require that all peanuts in the domestic market fully comply with all quality standards under Marketing Agreement No. 146. The Secretary shall ensure that peanuts produced for the export market meet quality standards established for the domestic market under Marketing Agreement No. 146.

(g) Marketing assessment**(1) In general**

The Secretary shall provide, by regulation, for a nonrefundable marketing assessment applicable to each of the 1991 through 1997 crops of peanuts. The assessment shall be made in accordance with this subsection and shall be on a per pound basis in an amount equal to 1 percent for each of the 1991 through 1993 crops, 1.1 percent for each of the 1994 and 1995 crops, 1.15 percent for the 1996 crop, and 1.2 percent for the 1997 crop, of the national average quota or additional peanut support rate per pound, as applicable, for the applicable crop. No peanuts shall be assessed more than 1 percent for each of the 1991 through 1993 crops, 1.1 percent for each of the 1994 and 1995 crops, 1.15 percent for the 1996 crop, and 1.2 percent for the 1997 crop, of the applicable support rate under this subsection.

(2) First purchasers**(A) In general**

Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

(i) collect from the producer a marketing assessment equal to the quantity of peanuts acquired multiplied by—

(I) in the case of each of the 1991 through 1993 crops, .5 percent of the applicable national average support rate;

(II) in the case of each of the 1994 and 1995 crops, .55 percent of the applicable national average support rate;

(III) in the case of the 1996 crop, .6 percent of the applicable national average support rate; and

(IV) in the case of the 1997 crop, .65 percent of the applicable national average support rate;

(ii) pay, in addition to the amount collected under clause (i), a marketing assess-

ment in an amount equal to the quantity of peanuts acquired multiplied by—

(I) in the case of each of the 1991 through 1993 crops, .5 percent of the applicable national average support rate; and

(II) in the case of each of the 1994 through 1997 crops, .55 percent of the applicable national average support rate; and

(iii) remit the amounts required under clauses (i) and (ii) to the Commodity Credit Corporation in a manner specified by the Secretary.

(B) "First purchaser" defined

For purposes of this subsection, the term "first purchaser" means a person acquiring peanuts from a producer except that in the case of peanuts forfeited by a producer to the Commodity Credit Corporation, such term means the person acquiring the peanuts from the Commodity Credit Corporation.

(3) Other private marketings

In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the assessment and shall remit the assessment by such time as is specified by the Secretary.

(4) Loan peanuts

In the case of peanuts that are pledged as collateral for a price support loan made under this section, ½ of the assessment shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts. For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds shall be treated as having been paid to the producer.

(5) Penalties

If any person fails to collect or remit the reduction required by this subsection or fails to comply with such requirements for record-keeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of peanuts involved in the violation; by

(B) the national average quota peanut price support level for the applicable crop year.

(6) Enforcement

The Secretary may enforce this subsection in the courts of the United States.

(h) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1997 crops of peanuts.

(Oct. 31, 1949, ch. 792, title I, §108B, as added Nov. 28, 1990, Pub. L. 101624, title VIII, §806(3), 104 Stat. 3475; amended Nov. 5, 1990, Pub. L. 101508,

title I, §1105(b), 104 Stat. 13883; Dec. 13, 1991, Pub. L. 102237, title I, §117(b)(1)(B), 105 Stat. 1841; Aug. 10, 1993, Pub. L. 10366, title I, §1109(a), 107 Stat. 325.)

REFERENCES IN TEXT

The Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.), referred to in subsec. (f)(1)(C), is act June 3, 1937, ch. 296, 50 Stat. 246, as amended, which is classified principally to chapter 26A (§671 et seq.) of this title. For complete classification of this Act to the Code, see section 674 of this title and Tables. The Agricultural Marketing Agreement Act of 1937 reenacted and amended the Agricultural Adjustment Act, title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

AMENDMENTS

1993—Pub. L. 10366, §1109(a)(1), substituted "1997" for "1995" in section catchline.

Subsecs. (a)(1), (2), (b)(1). Pub. L. 10366, §1109(a)(2), substituted "1997" for "1995".

Subsec. (g)(1). Pub. L. 10366, §1109(a)(2), (3)(A), substituted "1997" for "1995" after "1991 through", and inserted "for each of the 1991 through 1993 crops, 1.1 percent for each of the 1994 and 1995 crops, 1.15 percent for the 1996 crop, and 1.2 percent for the 1997 crop," after "1 percent" in two places.

Subsec. (g)(2)(A)(i), (ii). Pub. L. 10366, §1109(a)(3)(B), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

"(i) collect from the producer a marketing assessment equal to ½ percent of the applicable national average support rate times the quantity of peanuts acquired;

"(ii) pay, in addition to the amount collected under clause (i), a marketing assessment in an amount equal to ½ percent of the applicable national average support rate times the quantity of peanuts acquired; and"

Subsec. (h). Pub. L. 10366, §1109(a)(2), substituted "1997" for "1995".

1991—Subsec. (c)(1). Pub. L. 102237 made a technical amendment to the references to sections 1359 and 1359a of this title, wherever appearing, to reflect the renumbering of the corresponding sections of the original act.

1990—Subsec. (a)(2). Pub. L. 101508, §1105(b)(2), inserted "and the cost of any assessments required under subsection (g) of this section" after "cost of land".

Subsecs. (g), (h). Pub. L. 101508, §1105(b)(1), added subsec. (g) and redesignated former subsec. (g) as (h).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101508, set out as a note under section 511r 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. 101624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608b, 1359a of this title; title 19 section 3391.

§1445d. Special wheat acreage grazing and hay program for 1978 through 1990 crop years

Notwithstanding any other provision of law—

(a) Authorization for program; acreage designation; payment

The Secretary is authorized to administer a special wheat acreage grazing and hay program

(hereinafter in this section referred to as the "special program") in each of the crop years 1978 through 1990. If a special program is implemented, a producer shall be permitted to designate, under such regulations as established by the Secretary, a portion of the acreage on the farm intended to be planted to wheat, feed grains, or upland cotton for harvest, not in excess of 40 per centum thereof, or 50 acres, whichever is greater, which shall be planted to wheat (or some other commodity other than corn or grain sorghum) and used by the producer for grazing purposes or hay rather than for commercial grain production. A producer who elects to participate in the special program shall receive a payment as provided in subsection (c) of this section.

(b) Specific farm acreage

Any producer who elects to participate in the special program under this section shall designate the specific acreage on the farm which is to be used for the purposes set forth in subsection (a) of this section. No crop other than hay may be harvested from acreage included in the special program.

(c) Determination of payment

The Secretary shall pay the producer participating in the special program an amount determined by multiplying the farm program payment yield for wheat established for the farm, by the number of acres included in the special program, by a rate of payment determined by the Secretary to be fair and reasonable. The producer shall not be eligible for any other payment or price support on any portion of the acreage for the farm which the producer elects to include in the special program.

(d) Other acreage set-aside programs

Acreage included in the special program shall be in addition to any acreage included in any acreage set-aside, reduced acreage, or land diversion program otherwise provided for by law.

(e) Rules and regulations

The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

(f) Commodity Credit Corporation

The Secretary shall carry out the special program through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title I, §109, as added Sept. 29, 1977, Pub. L. 95113, title X, §1004, 91 Stat. 950; amended Dec. 22, 1981, Pub. L. 9798, title XI, §1110, 95 Stat. 1267; Dec. 23, 1985, Pub. L. 99198, title X, §1015, 99 Stat. 1457.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99198 substituted "1990" for "1985".

1981—Subsec. (a). Pub. L. 9798, §1110(1), (2), substituted "1985" for "1981" and "If a special program is implemented" for "Under the special program".

Subsec. (d). Pub. L. 9798, §1110(3), inserted ", reduced acreage, or land diversion".

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 9798 effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§1445e. Farmer owned reserve program

(a) In general

The Secretary shall formulate and administer a farmer owned reserve program under which producers of wheat and feed grains will be able to store wheat and feed grains when the commodities are in abundant supply, extend the time period for the orderly marketing of the commodities, and provide for adequate carry-over stocks to ensure a reliable supply of the commodities.

(b) Terms of program

(1) Price support loans

In carrying out this program, the Secretary shall provide extended price support loans for wheat and feed grains. An extended loan shall only be made to a producer after the expiration of a 9-month price support loan (hereinafter in this section referred to as the "original loan") made in accordance with this subchapter.

(2) Level of loans

Loans made under this section shall not be less than the then current level of support under the wheat and feed grain programs established under this subchapter.

(3) Other terms and conditions

The Secretary shall provide for—

(A) repayment of the extended price support loan 27 months from the date on which the original loan expired unless, at the discretion of the Secretary, the loan has been extended for one 6-month period;

(B) a rate of interest as provided under subsection (c) of this section; and

(C) payments to producers for storage as provided in subsection (d) of this section.

(4) Regional differences

The Secretary shall ensure that producers are afforded a fair and equitable opportunity to participate in the program established under this section, taking into account regional differences in the time of harvest.

(c) Interest charges

(1) Levying of interest

The Secretary may charge interest on loans under this section whenever the price of wheat or feed grains is equal to or exceeds 105 per cent of the then current established price for the commodity.

(2) 90-day period

If interest is levied on the loans under paragraph (1), the interest may be charged for a period of 90 days after the last day on which the price of wheat or feed grains was equal to or in excess of 105 per cent of the established price for the commodities.

(3) Rate of interest

The rate of interest charged participants in this program shall not be less than the rate of

interest charged by the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust the interest as the Secretary considers appropriate to effectuate the purposes of this section.

(d) Storage payments

(1) In general

The Secretary shall provide storage payments to producers for storage of wheat or feed grains under the program established in this section in such amounts and under such conditions as the Secretary determines appropriate to encourage producers to participate in the program.

(2) Timing

The Secretary shall make storage payments available to participants in this program at the end of each quarter.

(3) Duration

The Secretary shall cease making storage payments whenever the price of wheat or feed grains is equal to or exceeds 95 percent of the then current established price for the commodities, and for any 90-day period immediately following the last day on which the price of wheat or feed grains was equal to or in excess of 95 percent of the then current established price for the commodities.

(e) Emergencies

Notwithstanding any other provision of law, the Secretary may require producers to repay loans made under this section, plus accrued interest and such other charges as may be required by regulation prior to the maturity date thereof, if the Secretary determines that emergency conditions exist that require that the commodity be made available in the market to meet urgent domestic or international needs and the Secretary reports the determination and the reasons for the determination to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least 14 days before taking the action.

(f) Quantity of commodities in program

The Secretary may establish maximum quantities of wheat and feed grains that may receive loans and storage payments under this program as follows:

(1) The maximum quantities of wheat may not be established at less than 300 million bushels, nor more than 450 million bushels.

(2) The maximum quantities of feed grains may not be established at less than 600 million bushels, nor more than 900 million bushels.

(g) Announcement of program

(1) Time of announcement

The Secretary shall announce the terms and conditions of the producer storage program for a crop of wheat and feed grains by—

(A) in the case of wheat, December 15 of the year in which the crop of wheat was harvested; and

(B) in the case of feed grains, March 15 of the year following the year in which the crop of corn was harvested.

(2) Discretionary entry

The Secretary may make extended loans available to producers of wheat or feed grains if—

(A) the Secretary determines that the average market price for wheat or corn, respectively, for the 90-day period prior to the dates specified in paragraph (1) is less than 120 percent of the current loan rate for wheat or corn, respectively; or

(B) as of the appropriate date specified in paragraph (1), the Secretary estimates that the stocks-to-use ratio on the last day of the current marketing year will be—

(i) in the case of wheat, more than 37.5 percent; and

(ii) in the case of corn, more than 22.5 percent.

(3) Mandatory entry

The Secretary shall make extended loans available to producers of wheat or feed grains if the conditions specified in subparagraphs (A) and (B) of paragraph (2) are met for wheat or feed grains, respectively.

(4) Content of announcement

In the announcement, the Secretary shall specify the maximum quantity of wheat or feed grains to be stored under this program that the Secretary determines appropriate to promote the orderly marketing of the commodities.

(h) Discretionary exit

A producer may repay a loan extended under this section at any time.

(i) Reconcentration of grain

The Secretary may, with the concurrence of the owner of grain stored under this program, reconcentrate all such grain stored in commercial warehouses at such points as the Secretary considers to be in the public interest, taking into account such factors as transportation and normal marketing patterns. The Secretary shall permit rotation of stocks and facilitate maintenance of quality under regulations that assure that the holding producer or warehouseman shall, at all times, have available for delivery at the designated place of storage both the quantity and quality of grain covered by the producer's or warehouseman's commitment.

(j) Management of grain

Whenever grain is stored under this section, the Secretary may buy and sell at an equivalent price, allowing for the customary location and grade differentials, substantially equivalent quantities of grain in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate the commodities that the Commodity Credit Corporation owns or controls. The purchases to offset sales shall be made within 2 market days following the sales. The Secretary shall make a daily list available showing the price, location, and quantity of the transactions.

(k) Use of Commodity Credit Corporation

The Secretary shall use the Commodity Credit Corporation, to the extent feasible, to fulfill the purposes of this section. To the maximum ex-

tent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

(l) Use of commodity certificates

Notwithstanding any other provision of law, if a producer has substituted purchased or other commodities for the commodities originally pledged as collateral for a loan made under this section, the Secretary may allow a producer to repay the loan using a generic commodity certificate that may be exchanged for commodities owned by the Commodity Credit Corporation, if the substitute commodities have been pledged as loan collateral and redeemed only within the same county.

(m) Additional authority

The authority provided by this section shall be in addition to other authorities available to the Secretary for carrying out producer loan and storage operations.

(n) Regulations

The Secretary of Agriculture shall issue such regulations as are necessary to carry out this section not later than 60 days after November 28, 1990.

(o) Review

In announcing the terms and conditions of the producer storage program under this section, the Secretary shall review standards concerning the quality of grain that shall be allowed to be stored under the program, and such standards should encourage only quality grain, as determined by the Secretary, to be pledged as collateral for such loans. The Secretary shall review inspection, maintenance, and stock rotation requirements and take the necessary steps to maintain the quality of such grain.

(p) Crops

Notwithstanding any other provision of law, this section shall become effective December 1, 1990.

(Oct. 31, 1949, ch. 792, title I, §110, as added Sept. 29, 1977, Pub. L. 95113, title XI, §1101, 91 Stat. 951; amended Apr. 11, 1980, Pub. L. 96234, §§1, 2, 94 Stat. 333; Dec. 3, 1980, Pub. L. 96494, title II, §§203(a), 204, 205, 94 Stat. 2571, 2572; July 23, 1981, Pub. L. 9724, §2, 95 Stat. 143; Dec. 22, 1981, Pub. L. 9798, title X, §1001, 95 Stat. 1257; Dec. 23, 1985, Pub. L. 99198, title X, §1012(a), 99 Stat. 1455; Dec. 22, 1987, Pub. L. 100203, title I, §1108, 101 Stat. 13306; Aug. 11, 1988, Pub. L. 100387, title III, §303(b), 102 Stat. 947; Nov. 28, 1990, Pub. L. 101624, title XI, §1123, title XX, §2010, 104 Stat. 3503, 3932; Dec. 13, 1991, Pub. L. 102237, title I, §113(7), 105 Stat. 1837.)

AMENDMENTS

1991—Subsec. (k). Pub. L. 102237, §113(7)(C)(i), redesignated subsec. (k), relating to review, as (o).

Subsec. (n). Pub. L. 102237, §113(7)(A), substituted “November 28, 1990” for “the date of enactment of this section”.

Subsec. (o). Pub. L. 102237, §113(7)(C), redesignated subsec. (k), relating to review, as (o), inserted heading, and substituted “this section” for “subsection (e)(1)”.

Pub. L. 102237, §113(7)(B), redesignated subsec. (o) as (p).

Subsec. (p). Pub. L. 102237, §113(7)(B), redesignated subsec. (o) as (p).

1990—Pub. L. 101624, §1123, amended section generally, substituting provisions relating to the farmer owned reserve program for provisions relating to the establishment and maintenance of the producer reserve program for wheat and feed grains.

Subsec. (k). Pub. L. 101624, §2010, added subsec. (k) relating to review.

1988—Subsec. (j). Pub. L. 100387 temporarily added subsec. (j). See Effective and Termination Dates of 1988 Amendment note.

1987—Subsec. (b)(A)(i). Pub. L. 100203, §1108(1), substituted “300 million bushels” for “17 percent of the estimated total domestic and export usage of wheat during the then current marketing year for wheat, as determined by the Secretary”.

Subsec. (b)(A)(ii). Pub. L. 100203, §1108(2), substituted “450 million bushels” for “7 percent of the estimated total domestic and export usage of feed grains during the then current marketing year for feed grains, as determined by the Secretary”.

1985—Subsec. (a). Pub. L. 99198 in first sentence substituted “abundant supply, extend” for “abundant supply and extend” and inserted “, and provide for adequate, but not excessive, carryover stocks to ensure a reliable supply of the commodities” after “for their orderly marketing”.

Subsec. (b). Pub. L. 99198 in third sentence substituted “, with extensions as warranted by market conditions” for “nor more than five years” in cl. (1), substituted “when the total amount of wheat or feed grains in storage under programs under this section is below the upper limits for such storage as set forth in clauses (A) and (B) of subsection (e)(2) of this section and the market price for wheat or feed grains is below” for “before the market price for wheat or feed grains has reached” in cl. (4), substituted “the higher of 140 percent of the nonrecourse loan rate for the commodity or the established price for such commodity, as determined under this subchapter” for “a specified level, as determined by the Secretary” in cl. (5), and at end inserted provisions requiring Secretary to encourage participation in the programs authorized under this section by offering producers increased storage payments and loan levels, interest waivers, or such other incentives as the Secretary determines necessary to maintain total amount of storage at specified levels, whenever the total quantity of wheat and feed grains stored under this section is less than 17 and 7 percent, respectively, of the estimated total usage thereof during the then current marketing year, and the marketing price does not exceed 140 percent of the nonrecourse loan rate for the commodity, and inserted provision requiring Secretary to ensure that producers are afforded a fair and equitable opportunity to participate in each producer storage program.

Subsec. (e). Pub. L. 99198 designated existing provisions as par. (1), inserted “, subject to the upper limits on the total quantity of wheat and feed grains that may be stored under storage programs established under this section set out in paragraph (2)” in second sentence, struck out third sentence which authorized the Secretary to place an upper limit of not less than seven hundred million bushels for wheat and one billion bushels for feed grains placed in the reserve, and added par. (2).

1981—Subsec. (a). Pub. L. 9798 struck out discretionary authority of Secretary with regard to permitting producers of feed grains to store wheat and feed grains.

Subsec. (b). Pub. L. 9798 substituted “Secretary shall provide” for “Secretary may provide”, struck out “at the same level of support as provided by this Act” after “loans for wheat and feed grains”, and substituted provisions that loans be made at such levels of support as Secretary determines appropriate, except that the loan rate not be less than the then current level of support

under the wheat and feed grains programs established under this subchapter for provisions relating to the level of price support loans to be made available to producers for the 1980 and 1981 crops of wheat and feed grains necessary to mitigate the adverse effects of the restrictions on the export of agricultural products to the Union of Soviet Socialist Republics and providing that the level of price support loans for the 1980 and 1981 crops of wheat and feed grains not be used in determining the levels at which producers repay loans and redeem commodities prior to the maturity dates of the loans or levels at which Secretary may call for the repayment of loans prior to their maturity dates and "program may provide" for "program shall provide".

Subsec. (b)(2). Pub. L. 9798 substituted "for storage in such amounts and under such conditions as the Secretary determines appropriate to encourage producers to participate in the program" for "of such amounts as the Secretary determines appropriate to cover the cost of storing wheat and feed grains held under the program".

Subsec. (b)(3). Pub. L. 9798 substituted "as determined under subsection (c) of this section" for "determined by the Secretary based upon the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust such interest".

Pub. L. 9724 struck out ", and the Secretary shall waive such interest on loans made on the 1980 and 1981 crops of wheat and feed grains" after "a rate of interest determined by the Secretary based upon the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust such interest".

Subsec. (b)(4). Pub. L. 9798 substituted "if such loans" for "in the event such loans" and "determined under clause (5) of this sentence" for "specified in clause (5) of this subsection".

Subsec. (b)(6). Pub. L. 9798 struck out cl. (6) which authorized the program to contain conditions prescribed by Secretary under which Secretary may require producers to repay such loans, plus accrued interest thereon, refund amounts paid for storage, and pay such additional interest and other charges as may be required by regulation, whenever Secretary determines that the market price for the commodity is not less than such appropriate level, as determined by Secretary.

Subsec. (c). Pub. L. 9798 substituted provision prescribing rate of interest charged to participants in the program authorized by this section for provision authorizing payments to producers of the 1979 crops of corn and wheat who did not comply with the 1979 program requirements.

Subsec. (d). Pub. L. 9798 added subsec. (d) and redesignated former subsec. (d) as (e).

Subsec. (e). Pub. L. 9798 redesignated former subsec. (d) as (e) and substituted provision authorizing Secretary to place an upper limit on the amount of wheat and feed grains placed in the reserve, with such upper limit not less than seven hundred million bushels for wheat and one billion bushels for feed grains, for provision authorizing the maximum amount of wheat stored as not less than three hundred million bushels nor more than seven hundred million bushels, with authority for Secretary to adjust this amount as necessary to meet commitments by the United States pursuant to international agreements. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 9798 redesignated former subsec. (e) as (f) and substituted in provision preceding par. (1) "the program authorized" for "the extended loan program authorized", "110 per centum" for "105 per centum", "Secretary may encourage repayment" for "Secretary may call for repayment", and "clause (5) of the third sentence of subsection (b) of this section. The foregoing restriction" for "clause (6) of the second sentence of subsection (b) of this section: *Provided*, That such restriction" and in provision following par. (3) "clause (5) of the third sentence" for "clause (5) of the second sentence". Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 9798 redesignated former subsec. (f) as (g) and substituted "by the producer's or warehouseman's commitment" for "by his commitment". Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 9798 redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 9798 redesignated former subsec. (h) as (i) and substituted "To the maximum extent" for "In addition, to the maximum extent".

1980—Subsec. (b). Pub. L. 96494, §203(a)(1), inserted two provisos in provisions permitting Secretary to provide original or extended price support loans for wheat and feed grains at the same level of support as provided by this Act, in carrying out the producer storage program, under terms and conditions designed to encourage producers to store wheat and feed grains for extended periods of time to promote orderly marketing when wheat or feed grains are in abundant supply.

Subsec. (b)(3). Pub. L. 96494, §203(a)(2), inserted provisions requiring Secretary to waive interest on loans made on the 1980 and 1981 crops of wheat and feed grains.

Subsec. (b)(5). Pub. L. 96494, §204, substituted "for the commodity has attained a specified level" for "of wheat has attained a specified level which is not less than 140 per centum nor more than 160 per centum of the then current level of price support for wheat or such appropriate level for feed grains".

Subsec. (b)(6). Pub. L. 96494, §204, substituted "such appropriate level, as determined by the Secretary" for "175 per centum of the then current level of the price support for wheat or such appropriate level for feed grains as determined by the Secretary under this Act".

Subsecs. (c), (d). Pub. L. 96234, §1, added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

Subsec. (e). Pub. L. 96494, §205(1), (2), substituted "except as otherwise provided under section 1736f1 of this title and section 4001 of this title, whenever the extended loan program authorized by this section is in effect, the Commodity Credit Corporation may not sell any of its stocks of wheat or feed grains at less than 105 per centum of the then current level at which the Secretary may call for repayment of producer storage loans on the commodity prior to the maturity dates of the loans, as determined under clause (6) of the second sentence of subsection (b) of this section" for "whenever the extended loan program authorized by this section is in effect, the Commodity Credit Corporation may not sell any of its stocks of wheat or feed grains at less than 150 per centum of the then current level of price support for such commodity".

Pub. L. 96234, §1(1), (2), redesignated former subsec. (d) as (e) and added cl. (3). Former subsec. (e) redesignated (f).

Subsec. (e)(3). Pub. L. 96494, §205(3), in provisions preceding subpar. (A), substituted "sales of corn" for "sales of corn when sold at not less than the release level under the extended loan program", and inserted "when sold at not less than the price at which producers may repay producer storage loans and redeem corn prior to the maturity dates of loans, as determined under clause (5) of the second sentence of subsection (b) of this section, or, whenever the fuel conversion price (as defined in section 4005 of this title) for corn exceeds such price, at not less than the fuel conversion price".

Subsecs. (f) to (h). Pub. L. 96234, §1(1), redesignated former subsecs. (e) to (g) as (f) to (h), respectively.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1123 of Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Section 303(b) of Pub. L. 100387 provided that the amendment made by that section is effective only for 1988 marketing year for wheat and feed grains.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1012(a) of Pub. L. 99198 provided that, except as provided in section 1012(b) of Pub. L. 99198 [set out below], the amendments by section 1012(a) are effective beginning with 1986 crops.

Section 1012(b) of Pub. L. 99198 provided that: “The amendment made by subsection (a)(2)(B) of this section [amending this section] shall take effect with respect to any loan made under section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) the date for repayment of which occurs after the date of enactment of this Act [Dec. 23, 1985].”

EFFECTIVE DATE OF 1981 AMENDMENT

Section 1001 of Pub. L. 9798 provided that the amendment made by that section is effective beginning with 1982 crops.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 203(b) of Pub. L. 96494 provided that: “Subsection (a) of this section [amending this section] shall become effective October 1, 1980, and any producers who, prior to such date, receive loans on the 1980 crop of the commodity as computed under the Agricultural Act of 1949, as [see Short Title note set out under section 1421 of this title] amended prior to the enactment of this Act [see Short Title note set out under section 4001 of this title], may elect after September 30, 1980, to receive loans as authorized under subsection (a) of this section.”

Amendment by sections 204 and 205 of Pub. L. 96494 effective Dec. 3, 1980, see section 213 of Pub. L. 96494, set out as an Effective Date note under section 4001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

COMPARABILITY OF STORAGE PAYMENTS

Section 1124 of Pub. L. 101624, as amended by Pub. L. 102237, title I, §114(a)(1), Dec. 13, 1991, 105 Stat. 1838, provided that: “In making storage payments to producers under section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) and to commercial warehousemen in accordance with the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), the Commodity Credit Corporation and the Secretary of Agriculture shall, to the extent practicable, ensure that the rates of the storage payments made to producers are equivalent to average rates paid for commercial storage, taking into account the current demand for storage for commodities, efficiency, location, regulatory compliance costs, bonding requirements, and impact of user fees as determined by the Secretary, except that the rates paid to producers and commercial warehousemen shall be established at rates that will result in no increase in current or projected combined outlays of the Commodity Credit Corporation for the storage payments made to producers and commercial warehousemen as a result of the adjustment of storage rates under this section.”

REPAYMENT OF LOANS WITHOUT PENALTY

Section 303(a) of Pub. L. 100387 provided that: “Effective for the 1988 marketing year for wheat or feed grains, once the market price described in clause (5) of the third sentence of subsection (b) of section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) has been reached at any time during such marketing year with respect to such commodity, producers may repay loans made under section 110 for such commodity during the remainder of such marketing year without the payment of a penalty, regardless of the then current market price.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308a, 1427, 1445k, 4001, 4002 of this title.

§1445f. International Emergency Food Reserve

The President is encouraged to enter into negotiations with other nations to develop an international system of food reserves to provide for humanitarian food relief needs and to establish and maintain a food reserve, as a contribution of the United States toward the development of such a system, to be made available in the event of food emergencies in foreign countries. The reserves shall be known as the International Emergency Food Reserve.

(Oct. 31, 1949, ch. 792, title I, §111, as added Sept. 29, 1977, Pub. L. 95113, title XI, §1102, 91 Stat. 953.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§1445g. Production of commodities for conversion into industrial hydrocarbons; terms and conditions; incentive payments; regulations; appropriations; effective date

Notwithstanding any other provision of this Act—

(a) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage set aside or diverted from the production of a commodity for any crop year under this subchapter to be devoted to the production of any commodity (other than the commodities for which acreage is being set aside or diverted) for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income.

(b)(1) During any year in which there is no set-aside or diversion of acreage under this subchapter, the Secretary may formulate and administer a program for the production, subject to such terms and conditions as the Secretary may prescribe, of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income. Under the program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to the production of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel.

(2) The payments under this subsection shall be at such rate or rates as the Secretary determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of the agricultural commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuels.

(3) The Secretary may issue such regulations as the Secretary deems necessary to carry out the provisions of this subsection.

(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(5) The provisions of this subsection shall become effective October 1, 1978.

(Oct. 31, 1949, ch. 792, title I, §112, as added May 15, 1978, Pub. L. 95279, title II, §201, 92 Stat. 241.)

REFERENCES IN TEXT

This Act, referred to in provision preceding subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§1445h. Supplemental set-aside and acreage limitation authority

Notwithstanding any other provision of law or prior announcement made by the Secretary to the contrary, the Secretary may announce and provide for an acreage limitation program under section 1444f or 1445b3a of this title for one or more of the 1991 through 1995 crops of wheat and feed grains if the Secretary determines that such action is in the public interest as a result of the imposition of restrictions on the export of any such commodity by the President or other member of the executive branch of the Federal Government. To carry out effectively an acreage limitation program authorized under this section, the Secretary may make such modifications and adjustments in such program as the Secretary determines necessary because of any delay in instituting such program.

(Oct. 31, 1949, ch. 792, title I, §113, as added Dec. 3, 1980, Pub. L. 96494, title II, §207, 94 Stat. 2572; amended Dec. 22, 1981, Pub. L. 9798, title XI, §1105, 95 Stat. 1264; Dec. 23, 1985, Pub. L. 99198, title X, §1011, 99 Stat. 1454; Nov. 28, 1990, Pub. L. 101624, title XI, §1125, 104 Stat. 3506.)

AMENDMENTS

1990—Pub. L. 101624, §1125(a), amended section generally. Prior to amendment, section read as follows: “Notwithstanding any other provision of law or prior announcement made by the Secretary to the contrary, the Secretary may announce and provide for a set-aside or acreage limitation program under section 1444e or 1445b3 of this title for one or more of the 1986 through 1990 crops of wheat and feed grains if the Secretary determines that such action is in the public interest as a result of the imposition of restrictions on the export of any such commodity by the President or other member of the executive branch of the Federal Government. To carry out effectively a set-aside or acreage limitation program authorized under this section, the Secretary may make such modifications and adjustments in such program as the Secretary determines necessary because of any delay in instituting such program.”

Pub. L. 101624, §1125(b), amended Pub. L. 99198. See 1985 Amendment note below.

1985—Pub. L. 99198, as amended by Pub. L. 101624, §1125(b), amended section generally, substituting provisions authorizing Secretary to announce and provide for a set-aside or acreage limitation program under section 1444e or 1445b3 of this title for one or more of the 1986 through 1990 crops of wheat and feed grains for provisions which authorized Secretary to announce and

provide for such a program under section 1444d(e) or 1445b1(e) of this title for one or more of the crops of wheat and feed grains.

1981—Pub. L. 9798 temporarily substituted “the Secretary may announce and provide for a set-aside or acreage limitation program under section 1444d(c) or 1445b1(d) of this title for one or more of the crops of wheat or feed grains” for “effective for one or more of the 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary may announce and provide for a set-aside of cropland under section 1441(h), 1444(f)(11), 1444c(f), or 1445b(f) of this title” and inserted “or acreage limitation”. See Effective and Termination Dates of 1981 Amendment note below.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

That portion of section 1011 of Pub. L. 99198 which provided that the amendment made by that section was effective for 1986 through 1990 crops of wheat and feed grains, was struck out by section 1125(b) of Pub. L. 101624.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 1105 of Pub. L. 9798 provided that the amendment made by that section is effective for 1982 through 1985 crops of wheat and feed grains.

EFFECTIVE DATE

Section 207 of Pub. L. 96494 provided that this section is effective for 1981 crops of wheat, feed grains, upland cotton, and rice.

§1445i. Multiyear set-aside contracts for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice

Notwithstanding any other provision of law:

(1) The Secretary of Agriculture may enter into multiyear set-aside contracts for a period not to extend beyond the 1990 crops. Such contracts may be entered into only as a part of the programs in effect for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, and only producers participating in one or more of such programs shall be eligible to contract with the Secretary under this section. Producers agreeing to a multiyear set-aside agreement shall be required to devote the set-aside acreage to vegetative cover capable of maintaining itself through such period to provide soil protection, water quality enhancement, wildlife production, and natural beauty. Grazing of livestock under this section shall be prohibited, except in areas of a major disaster, as determined by the President, if the Secretary finds there is a need for such grazing as a result of such disaster. Producers entering into agreements under this section shall also agree to comply with all applicable State and local laws and regulations governing noxious weed control.

(2) The Secretary shall provide cost-sharing incentives to farm operators for the establishment of vegetative cover, whenever a multiyear set-aside contract is entered into under this section.

(3) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(4) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(Pub. L. 99198, title X, §1010, Dec. 23, 1985, 99 Stat. 1454.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§1445j. Deficiency and land diversion payments

(a) Deficiency payments

(1) In general

If the Secretary establishes an acreage limitation program for any of the 1991 through 1997 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for the commodity for the crop, the Secretary shall make advance deficiency payments available to producers for each of the crops.

(2) Terms and conditions

Advance deficiency payments under paragraph (1) shall be made to the producer under the following terms and conditions:

(A) Form

Such payments may be made available in the form of—

- (i) cash;
- (ii) commodities owned by the Commodity Credit Corporation and certificates redeemable in a commodity owned by the Commodity Credit Corporation, except that not more than 50 percent of the payments may be made in commodities or the certificates in the case of any producer; or
- (iii) any combination of clauses (i) and (ii).

(B) Commodities and certificates

If payments are made available to producers as provided for under subparagraph (A)(ii), such producers may elect to receive such payments either in the form of—

- (i) such commodities; or
- (ii) such certificates.

(C) Maturity

Such a certificate shall be redeemable for a period not to exceed 3 years from the date the certificate is issued.

(D) Storage

The Commodity Credit Corporation shall pay the cost of storing a commodity that may be received under such a certificate until such time as the certificate is redeemed.

(E) Timing

The payments shall be made available as soon as practicable after the producer enters into a contract with the Secretary to participate in such program.

(F) Amounts

The payments shall be made available in such amounts as the Secretary determines

appropriate to encourage adequate participation in the program, except that the amount may not exceed an amount determined by multiplying—

- (i) the estimated payment acreage for the crop; by
- (ii) the farm program payment yield for the crop; by
- (iii)(I) in the case of wheat and feed grains, not less than 40 percent, nor more than 50 percent, of the projected payment rate; and

(II) in the case of rice and upland cotton, not less than 30 percent, nor more than 50 percent, of the projected payment rate,

as determined by the Secretary.

(G) Repayment

If the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under this Act, is less than the amount paid to the producer as an advance deficiency payment for the crop under this subsection, the producer shall repay an amount equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producer as a deficiency payment for the crop concerned.

(H) Repayment requirement

If the Secretary determines under this Act that deficiency payments will not be made available to producers on a crop with respect to which advance deficiency payments already have been made under this subsection, the producers who received the advance payments shall repay the payments.

(I) Deadline

Any repayment required under subparagraph (G) or (H) shall be due at the end of the marketing year for the crop with respect to which the payments were made.

(J) Noncompliance

If a producer fails to comply with requirements established under the acreage limitation program involved after obtaining an advance deficiency payment under this subsection, the producer shall repay immediately the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe by regulation.

(3) Regulations

The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(4) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(5) Additional authority

The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

(b) Land diversion payments

If the Secretary makes land diversion payments under this Act to assist in adjusting the

total national acreage of any of the 1991 through 1995 crops of wheat, feed grains, upland cotton, or rice to desirable levels, the Secretary may make at least 50 percent of such payments available to a producer as soon as possible after the producer agrees to undertake the diversion of land in return for the payments.

(c) Timing of deficiency payments

In the case of deficiency payments made available to producers for any of the 1991 through 1997 crops of wheat and feed grains which payments are calculated as provided in section 1445b3a(c)(1)(B)(ii), 1445b3a(p), or 1444f(c)(1)(B)(ii) of this title, the Secretary shall make deficiency payments as follows:

(1) A portion of the deficiency payment shall be made in advance in accordance with subsection (a)(2) of this section.

(2) With respect to feed grains (excluding barley and oats), 75 percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.

(3) With respect to wheat, barley, and oats, the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year. Such projected payment shall be based on the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel with respect to wheat or 7 cents per bushel with respect to barley and oats.

(4) The remainder of the deficiency payments shall be made available at the end of the marketing year.

(Oct. 31, 1949, ch. 792, title I, §114, formerly §107C, as added Sept. 8, 1982, Pub. L. 97253, title I, §120, 96 Stat. 766; amended Dec. 23, 1985, Pub. L. 99198, title X, §1002, 99 Stat. 1446; Dec. 22, 1987, Pub. L. 100203, title I, §1110, 101 Stat. 13306; Dec. 19, 1989, Pub. L. 101239, title I, §1003(b)(1), 103 Stat. 2108; Nov. 5, 1990, Pub. L. 101508, title I, §1102(d), 104 Stat. 13882; renumbered §114 and amended Nov. 28, 1990, Pub. L. 101624, title XI, §§1121(a), (c), 1161(a)(1), 104 Stat. 3500, 3503, 3520; Dec. 13, 1991, Pub. L. 102237, title I, §109, 105 Stat. 1828; Aug. 10, 1993, Pub. L. 10366, title I, §1101(b)(1), 107 Stat. 314.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1), (2)(G), (H) and (b), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was classified to section 1445b2 of this title prior to its renumbering by Pub. L. 101624.

AMENDMENTS

1993—Subsecs. (a)(1), (c). Pub. L. 10366 substituted “1997” for “1995”.

1991—Subsec. (c). Pub. L. 102237, §109(1), substituted “section” for “sections” in introductory provisions.

Subsec. (c)(2). Pub. L. 102237, §109(3), added par. (2) and struck out former par. (2) which read as follows: “Seventy-five percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.”

Subsec. (c)(3), (4). Pub. L. 102237, §109(2), (3), added par. (3) and redesignated former par. (3) as (4).

1990—Pub. L. 101624, §1121(a), amended section generally, substituting provisions relating to deficiency and land diversion payments for the 1991 through 1995 crops of wheat, feed grains, upland cotton, and rice for provisions relating to advance deficiency and diversion payments for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice.

Pub. L. 101624, §1121(c), amended Pub. L. 99198. See 1985 Amendment note below.

Subsec. (c). Pub. L. 101508 substituted “wheat and feed grains which payments are calculated as provided in sections 1445b3a(c)(1)(B)(ii), 1445b3a(p), or 1444f(c)(1)(B)(ii) of this title” for “wheat, feed grains, and rice which payments are calculated on the basis of the national weighted average market price (or, in the case of rice, the national average market price) for the marketing year for the crop”.

1989—Subsec. (a)(2)(G). Pub. L. 101239 temporarily inserted “(taking into consideration any reduction in the payment made under section 1433d of this title)” and substituted “amount finally” for “amount finally”. See Effective and Termination Dates of 1989 Amendment note below.

1987—Subsec. (a)(1). Pub. L. 100203, §1110(1), temporarily added par. (1) and struck out former par. (1) which read as follows: “If the Secretary establishes an acreage limitation or set-aside program for any of the 1986 through 1990 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary—

“(A) shall make advance deficiency payments available to producers [sic] who agree to participate in such program for the 1986 crop; and

“(B) may make such payments available to such producers for each of the 1987 through 1990 crops.” See Effective and Termination Dates of 1987 Amendment note below.

Subsec. (a)(2)(F)(iii). Pub. L. 100203, §1110(2), temporarily added cl. (iii) and struck out former cl. (iii) which read as follows: “50 percent of the projected payment rate.” See Effective and Termination Dates of 1987 Amendment note below.

1985—Pub. L. 99198, as amended by Pub. L. 101624, §1121(c), amended section generally, substituting provisions relating to advance deficiency and diversion payments for the 1986 through 1990 crops of wheat, feed grains, upland cotton and rice for provisions relating to advance deficiency payments for the 1982 through 1985 crops of wheat, feed grains, upland cotton and rice.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

Amendment by Pub. L. 101508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101508, set out as a note under section 511r of this title.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 1003(b)(1) of Pub. L. 101239 provided that the amendment made by that section is effective only for 1990 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 1110 of Pub. L. 100203 provided that the amendment made by that section is effective only for

1988 through 1990 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1985
AMENDMENT

That portion of section 1002 of Pub. L. 99198 which provided that the amendment made by that section was effective only for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, was struck out by section 1121(c) of Pub. L. 101624.

EFFECTIVE AND TERMINATION DATES

Section 120 of Pub. L. 97253 provided that this section is effective only for 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice.

CALCULATION OF REFUNDS OF ADVANCE ESTABLISHED
PRICE PAYMENTS BY PRODUCERS OF 1988 OR 1989
CROPS OF FEED BARLEY

Section 405 of Pub. L. 101624 provided that:

“(a) MANDATORY CALCULATION OF REFUND.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Nov. 28, 1990], the Secretary of Agriculture shall calculate, for informational purposes only (except as provided in the discretionary authority under subsection (b)), the amount of the refund of any advance deficiency payment a producer of barley who participated in the 1988 or 1989 Federal barley price support program would be required to make pursuant to section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b2) (as it existed immediately before the date of enactment of this Act) based on a formula which excludes malting barley from the market price calculations of barley used to determine the amount of refund of the advance deficiency payment required of the producer.

“(2) DISCLOSURE.—

“(A) TO THE PUBLIC.—The Secretary shall publish in the Federal Register—

“(i) the formula used to perform the calculations described in paragraph (1);

“(ii) the aggregate results that the use of the calculation would have pursuant to subsection (b), in terms of—

“(I) the total reduction in the amount of refunds;

“(II) the number of producers affected; and

“(III) any other information the Secretary determines appropriate;

“(iii) a declaration of the Secretary’s decision whether to use the calculation to recalculate barley producer’s refunds pursuant to subsection (b); and

“(iv) a statement of the Secretary’s reasons for the decision described in clause (iii).

“(B) TO PRODUCERS.—The Secretary shall make available to each producer of 1988 or 1989 crop barley, on request, a statement detailing the effect of the calculation of refunds described in paragraph (1) on the producer’s 1988 or 1989 refund.

“(b) DISCRETIONARY USE OF CALCULATION.—

“(1) IN GENERAL.—The Secretary may use the calculation described in subsection (a) to determine whether or not to reduce the total refund owed by a producer of 1988 or 1989 crop barley under section 107C of the Agricultural Act of 1949 [7 U.S.C. 1445b2] (as it existed immediately before the date of enactment of this Act [Nov. 28, 1990]).

“(2) PROCEDURE FOR USE OF CALCULATION.—If the Secretary decides to use the calculation described in subsection (a) as provided under paragraph (1), in the case of a producer of 1988 or 1989 crop barley who paid the refund of the advance deficiency payment for the crop calculated prior to the date of enactment of this Act (or any amount of refund in excess of the amount of the refund determined in accordance with paragraph (1)), the Secretary—

“(i) shall, before May 31, 1991, reimburse the producer the amount of refund paid by the producer in

excess of the refund determined in accordance with this section;

“(ii) shall have the option to make the reimbursement in a lump sum or in installments;

“(iii) shall, not later than 90 days after the date of enactment of this Act, notify producers who are eligible to receive the reimbursement of their 1988 or 1989 advance deficiency payment refund under this section—

“(I) of the timing of the payment of the reimbursement (either in lump sum or in installments);

“(II) that the amount of the reimbursement shall not bear interest if paid before February 15, 1991; and

“(III) that the amount of the reimbursement paid after February 15, 1991, shall bear interest at a rate of at least 7 percent per annum; and

“(iv) may elect to pay the reimbursement in a lump sum with generic certificates redeemable for commodities owned by the Commodity Credit Corporation if the reimbursement is paid in full not later than 60 days after the date of enactment of this Act.”

REPAYMENT REQUIREMENTS

Section 1121(b) of Pub. L. 101624 provided that:

“(1) IN GENERAL.—Notwithstanding any other provision of law, effective only for producers who are suffering financial hardship, as determined by the Secretary, on a farm who received an advance deficiency payment for the 1988 or 1989 crop of a commodity and are otherwise described in paragraph (2), the Secretary of Agriculture—

“(A) shall not charge an annual interest rate for any delinquent refund for the advance deficiency payment in excess of prevailing rates for operating loans made by Farm Credit System institutions;

“(B) shall not withhold, in each of the 3 succeeding crop years, more than 1/3 of the farm program payments otherwise due to the producers, as a result of any delinquency in providing the refund; and

“(C) shall permit the producers to make the refund in three equal installments during each of the crop years 1990, 1991, and 1992, if the producers enter into an agreement to obtain multiperil crop insurance for each of the crop years, to the extent that the Secretary determines is similar to section 107 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 et seq.) [§107 of Pub. L. 10182, 7 U.S.C. 1421 note].

“(2) APPLICATION.—This subparagraph shall apply if—

“(A) the producers received an advance deficiency payment for the 1988 or 1989 crop of a commodity under section 107C(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b2(a));

“(B) the producers are required to provide a refund of at least \$1,500 under subparagraph (G) or (H) of section 107C(a)(2) of such Act with respect to the advance deficiency payments;

“(C) the producers reside in a county, or in a county that is contiguous to a county, where the Secretary of Agriculture has found that farming, ranching, or aquaculture operations have been substantially affected as evidenced by a reduction in normal production for the county of at least 30 percent during two of the three crop years 1988, 1989, and 1990 by a natural disaster or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

“(D) the total quantity of the 1988 or 1989 crop of the commodity that the producers were able to harvest is less than the result of multiplying 65 percent of the farm payment yield established by the Secretary for the crop by the sum of the acreage planted for the harvest and the acreage prevented from being planted (because of the disaster or emergency referred to in subparagraph (C)) for the crop.”

ADVANCE DEFICIENCY PAYMENTS

Pub. L. 99509, title I, §1021, Oct. 21, 1986, 100 Stat. 1877, required Secretary of Agriculture to make advance de-

iciency payments available for 1987 crops of wheat, feed grains, upland cotton, and rice, and provided that percentage of projected payment rate used in computing such payments shall not be less than (1) 40 percent in the case of wheat and feed grains, and (2) 30 percent in the case of rice and upland cotton.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1426, 1444f of this title.

§1445k. Payments in commodities

(a) In-kind payments by Secretary

In making in-kind payments under any of the annual programs for wheat, feed grains, upland cotton, or rice (other than negotiable marketing certificates for upland cotton or rice), the Secretary may—

(1) acquire and use like commodities that have been pledged to the Commodity Credit Corporation as security for price support loans, including loans made to producers under section 1445e of this title; and

(2) use other like commodities owned by the Commodity Credit Corporation.

(b) Methods of payments

The Secretary may make in-kind payments—

(1) by delivery of the commodity to the producer at a warehouse or other similar facility, as determined by the Secretary;

(2) by the transfer of negotiable warehouse receipts;

(3) by the issuance of negotiable certificates which the Commodity Credit Corporation shall redeem for a commodity in accordance with regulations prescribed by the Secretary; or

(4) by such other methods as the Secretary determines appropriate to enable the producer to receive payments in an efficient, equitable, and expeditious manner so as to ensure that the producer receives the same total return as if the payments had been made in cash.

(c) Commodity certificates

The Secretary shall pay interest on the cash redemption of a commodity certificate issued by the Secretary to a producer who holds the certificate for at least 150 days. This subsection shall not apply with respect to commodity certificates issued in connection with the export enhancement program or the marketing promotion program established under the Agricultural Trade Act of 1978.

(Oct. 31, 1949, ch. 792, title I, §115, formerly §107E, as added Dec. 23, 1985, Pub. L. 99198, title X, §1005, 99 Stat. 1448; renumbered §115 and amended Nov. 28, 1990, Pub. L. 101624, title XI, §§1122(a), 1161(a)(1), 104 Stat. 3503, 3520.)

REFERENCES IN TEXT

The Agricultural Trade Act of 1978, referred to in subsec. (c), is Pub. L. 95501, Oct. 21, 1978, 92 Stat. 1685, as amended generally by Pub. L. 101624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3668, which is classified generally to chapter 87 (§5601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of this title and Tables.

CODIFICATION

Section was classified to section 1445b4 of this title prior to its renumbering by Pub. L. 101624.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101624, §1122(a), added subsec. (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

REDEMPTION OF COMMODITY CERTIFICATES

Section 1122(b) of Pub. L. 101624 provided that:

“(1) IN GENERAL.—A subsequent holder of a commodity certificate issued by the Commodity Credit Corporation shall be allowed to exchange the expired commodity certificate under the same rules that apply to an original holder of the certificate.

“(2) APPLICATION AND REDEMPTION LIMITATIONS.—This subsection shall only apply during the 180-day period beginning on the date of enactment of this Act [Nov. 28, 1990]. No person may redeem more than \$1,000 worth of certificates under this subsection.

“(3) REDEMPTION LIMITATIONS.—In no event shall a person receive a payment from the Commodity Credit Corporation for a certificate that is redeemed under this subsection in an amount greater than the price paid for the certificate by the person. No expired certificate shall be exchanged under this section if the owner purchased the certificate after January 1, 1990.”

SUBCHAPTER III—NONBASIC AGRICULTURAL COMMODITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1433f of this title.

§1446. Price support levels for designated non-basic agricultural commodities

(a) The Secretary is authorized and directed to make available (without regard to the provisions of sections 1447 to 1449 of this title) price support to producers for oilseeds (including soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and such other oilseeds as the Secretary may determine), sunflower seeds, honey, milk, sugar beets, and sugarcane in accordance with this subchapter.

(b) The price of honey shall be supported through loans, purchases, or other operations at a level not in excess of 90 per centum nor less than 60 per centum of the parity price thereof; and the price of tung nuts for each crop of tung nuts through the 1976 crop shall be supported through loans, purchases, or other operations at a level not in excess of 90 per centum nor less than 60 per centum of the parity price therefor: *Provided*, That in any crop year through the 1976 crop year in which the Secretary determines that the domestic production of tung oil will be less than the anticipated domestic demand for such oil, the price of tung nuts shall be supported at not less than 65 per centum of the parity price therefor.

(c) Except as provided in section 1446e of this title, the price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain pro-

ductive capacity sufficient to meet anticipated future needs. Such price support shall be provided through the purchase of milk and the products of milk.

(d) Notwithstanding any other provision of law—

(1)(A) During the period beginning on January 1, 1986, and ending on December 31, 1990, the price of milk shall be supported as provided in this subsection.

(B) During the period beginning on January 1, 1986, and ending on December 31, 1986, the price of milk shall be supported at a rate equal to \$11.60 per hundredweight for milk containing 3.67 percent milkfat.

(C)(i) During the period beginning on January 1, 1987, and ending on September 30, 1987, the price of milk shall be supported at a rate equal to \$11.35 per hundredweight for milk containing 3.67 percent milkfat.

(ii) Except as provided in subparagraph (D), during the period beginning on October 1, 1987, and ending on December 31, 1990, the price of milk shall be supported at a rate equal to \$11.10 per hundredweight for milk containing 3.67 percent milkfat.

(D)(i) Subject to clause (ii), if for each of the calendar years 1988 and 1990, the level of purchases of milk and the products of milk under this subsection (less sales under section 1427 of this title for unrestricted use), as estimated by the Secretary on January 1 of such calendar year, will exceed 5,000,000,000 pounds (milk equivalent), on January 1 of such calendar year, the Secretary shall reduce by 50 cents the rate of price support for milk as in effect on such date.

(ii) The rate of price support for milk may not be reduced under clause (i) unless—

(I) the milk production termination program under paragraph (3) achieved a reduction in the production of milk by participants in the program of at least 12,000,000,000 pounds during the 18 months of the program; or

(II) the Secretary submits to Congress a certification, including a statement of facts in support of the certification of the Secretary, that reasonable contract offers were extended by the Secretary under such program but such offers were not accepted by a sufficient number of producers making reasonable bids for contracts to achieve such a reduction in production.

(E) If for any of the calendar years 1988, 1989, and 1990, the level of purchases of milk and the products of milk under this subsection (less sales under section 1427 of this title for unrestricted use), as estimated by the Secretary on January 1 of such calendar year, will not exceed 2,500,000,000 pounds (milk equivalent), the Secretary shall increase by 50 cents the rate of price support for milk in effect on such date.

(F) The price of milk shall be supported through the purchase of milk and the products of milk.

(2)(A) Beginning after March 31, 1986, the Secretary shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.

(B) Except as provided in subparagraphs (E) and (F), the amount of the reduction under subparagraph (A) in the price received by producers shall be—

(i) the period beginning on April 1, 1986, and ending on December 31, 1986, 40 cents per hundredweight of milk marketed; and

(ii) during the first 9 months of 1987, 25 cents per hundredweight of milk marketed.

(C) The funds represented by the reduction in price, required under this paragraph to be applied to the marketings of milk by a producer, shall be collected and remitted to the Commodity Credit Corporation, at such time and in such manner as prescribed by the Secretary, by each person making payment to a producer for milk purchased from such producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted directly to the Corporation by such producer.

(D) The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(E)(i) In lieu of any reductions in payments made by the Secretary for the purchase of milk and the products of milk under this subsection during the period beginning March 1, 1986, and ending September 30, 1986, required under the order issued by the President on February 1, 1986, under section 252¹ of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99177) [2 U.S.C. 902], the Secretary shall increase the amount of the reduction required under subparagraph (A) during the period beginning April 1, 1986, and ending September 30, 1986, as the sole means of meeting any reductions required under the order in payments made by the Secretary for the purchase of milk and the products of milk under this subsection.

(ii) The aggregate amount of any increased reduction under clause (i) shall be equal, to the extent practicable, to the aggregate amount of the reduction that would otherwise be required under the order referred to in clause (i) in payments made by the Secretary for the purchase of milk and the products of milk under this subsection during the period beginning March 1, 1986, and ending September 30, 1986, except that the amount of any increased reduction under clause (i) may not exceed 12 cents per hundredweight of milk marketed.

(F)(i) The Secretary—

(I) notwithstanding the Balanced Budget and Emergency Deficit Control Act of 1985 and any order issued by the President under section 252¹ of such Act [2 U.S.C. 902] for a fiscal year; and

(II) in lieu of making any reduction in payments for the purchase of milk or the prod-

¹See References in Text note below.

ucts of milk under this subsection during such fiscal year under any such order;

shall provide for the reduction (measured in cents per hundredweight of milk marketed) under subparagraph (A) during the period beginning on October 1 and ending on September 30 of such fiscal year as the sole means of achieving any reduction in budget outlays under the milk price-support program that otherwise would be required under either such order and only for the purpose of substituting for any reduction in payments made by the Secretary for the purchase of milk or the products of milk under either such order.

(ii) The aggregate amount of any reduction under subparagraph (A) resulting from the operation of clause (i) may not exceed the aggregate amount of the reduction in budget outlays under the milk price-support program, as estimated by the Secretary, that otherwise would have been achieved under either such order by reducing payments made by the Secretary for the purchase of milk or the products of milk under this subsection during such fiscal year.

(F)² During calendar year 1988, the Secretary shall provide for a reduction of 2½ cents per hundredweight to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.

(3)(A)(i) The Secretary shall establish and carry out under this paragraph a milk production termination program for the 18-month period beginning April 1, 1986.

(ii) Under the milk production termination program required under this subparagraph, the Secretary, at the request of any producer of milk in the United States who submits to the Secretary a bid, may offer to enter into a contract with the producer for the purpose of terminating the production of milk by the producer in return for a payment to be made by the Secretary.

(iii) For the 18-month period for which the milk production termination program under this subparagraph is in effect, the Secretary shall—

(I) as soon as practicable, determine the total number of dairy cattle the Secretary estimates will be marketed for slaughter as a result of such program; and

(II) by regulation specify marketing procedures to ensure that greater numbers of dairy cattle slaughtered as a result of the production termination program provided for in this section shall be slaughtered in each of the periods of April through August 1986, and March through August 1987 than for the other months of the program. Such procedures also shall ensure that such sales of dairy cattle for slaughter shall occur on a basis estimated by the Secretary that maintains historical seasonal marketing patterns. During such 18-month period, the Secretary shall limit the total number of dairy cattle marketed for slaughter under the program in excess of the historical dairy herd

culling rate to no more than 7 percent of the national dairy herd per calendar year.

(iv) Each contract made under this subparagraph shall provide that—

(I) the producer shall sell for slaughter or for export all the dairy cattle in which such producer owns an interest;

(II) during a period of 3, 4, or 5 years, as specified by the Secretary in each producer contract and beginning on the day the producer completes compliance with subclause (I), the producer neither shall acquire any interest in dairy cattle or in the production of milk nor acquire, or make available to any person, any milk production capacity of a facility that becomes available because of compliance by a producer with such subclause unless the Secretary shall by regulation otherwise permit; and

(III) if the producer fails to comply with such contract, the producer shall repay to the Secretary the entire payment received under the contract, including simple interest payable at a rate prescribed by the Secretary, which shall, to the extent practicable, reflect the cost to the Corporation of its borrowings from the Treasury of the United States, commencing on the date payment is first received under such contract.

(v) Any producer of milk who seeks to enter into a contract for payments under this paragraph shall provide the Secretary with (I) evidence of such producer's marketing history; (II) the size and composition of the producer's dairy herd during the period the marketing history is determined; and (III) the size and composition of the producer's dairy herd at the time the bid is submitted, as the Secretary deems necessary and appropriate.

(vi) Except as provided in subparagraph (D), no producer who commenced marketing of milk in the 15-month period ending March 31, 1986, shall be eligible to enter into a contract for payments under this subparagraph.

(vii) A contract entered into under this paragraph by a producer who by reason of death cannot perform or assign such contract may be performed or assigned by the estate of such producer.

(B) The Secretary may establish and carry out a milk diversion or milk production termination program for any of the calendar years 1988, 1989, and 1990 as necessary to avoid the creation of burdensome excess supplies of milk or milk products.

(C) In setting the terms and conditions of any milk diversion or milk production termination under this paragraph and of each contract made under this subparagraph, the Secretary shall take into account any adverse effect of such program or contracts on beef, pork, and poultry producers in the United States and shall take all feasible steps to minimize such effect.

(D) A producer who commenced marketing milk after December 31, 1984, shall be eligible to enter into a contract for payments under this subparagraph if such producer's entire milk production facility and entire dairy herd were transferred to the producer by reason of

²So in original. Probably should be "(G)".

a gift from, or the death of, a member or members of the family of the producer. The term "member of the family of the producer" means (i) an ancestor of the producer, (ii) the spouse of the producer, (iii) a lineal descendant of the producer, or the producer's spouse, or a parent of the producer, or (iv) the spouse of any such lineal descendant.

(E) Application for payment shall be made by producers through the county committees established under section 590h(b) of title 16.

(F) to (J) Repealed. Pub. L. 99198, title I, §101(b)(1), (2), Dec. 23, 1985, 99 Stat. 1363, 1365.

(K) Redesignated (E).

(L) Repealed. Pub. L. 99198, title I, §101(b)(2), Dec. 23, 1985, 99 Stat. 1365.

(M) A contract entered into under this paragraph by a producer who by reason of death cannot perform or assign such contract may be performed or assigned, in accordance with subparagraph (L), by the estate of such producer.

(N) If the provisions for reductions in the price received for milk marketed for commercial use as provided for in paragraph (2) are held to be invalid by any court, or the Secretary is restrained or enjoined by any court from implementing such provisions, the Secretary shall immediately suspend making any diversion payments under this paragraph for the period beginning with the date of such court action and shall resume making such payments only if such court action is overruled, stayed, or terminated.

(4) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provisions of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or regulation issued under this subsection. For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. Such court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony on the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case

may be served in the judicial district of which such person is an inhabitant or wherever such person may be found.

(5)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any provision of this subsection or any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action. The Secretary is not required, however, to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

(B)(i) Each person as to whom there is a failure to make a reduction in the price of milk received by such person as required by paragraph (2) or who fails to remit to the Corporation the funds required to be collected and remitted by paragraph (2)(B) shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to the support price for milk in effect at the time the failure occurs on the quantity of milk as to which the failure applies. The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned. Each person who knowingly violates any other provision of this subsection, or any regulation issued under this subsection, shall be liable for a civil penalty of not more than \$1,000 for each such violation. Any penalty provided for under this subparagraph shall be assessed by the Secretary after notice and opportunity for a hearing.

(ii) Each person who buys, from a producer with respect to whom there is in effect at the time of such sale a contract entered into under paragraph (3), one or more dairy cattle sold for slaughter or export, who knows that such cattle are sold for slaughter or export, and who fails to cause the slaughter or export of such cattle within a reasonable time after receiving such cattle shall be liable for a civil penalty of not more than \$5,000 with respect to each of such cattle.

(iii) Each person who retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this paragraph shall be liable, in addition to any amount due under paragraph (3)(A)(iv), to a marketing penalty on the quantity of milk produced during the period in which such ownership is prohibited under the contract. Such penalty shall be computed at the rate or rates of the support price for milk in effect during the period in which the milk production occurred.

(iv) Each person who makes a false statement in a bid submitted under paragraph (3) as to (I) the marketings of milk for commercial use by the producer, or (II) the size or composition of the dairy herd that produced such

marketings, or (III) the size or composition of the dairy herd at the time the bid is submitted shall be subject, in addition to any amount due under paragraph (3)(A)(iv) or clause (iii) of this subparagraph, to a civil penalty of \$5,000 for each head of cattle to which such statement applied.

(v) Each person who makes a false statement as to the number of dairy cattle that was sold for slaughter or export under a contract under paragraph (3)(A) shall be subject, in addition to any amount due under paragraph (3)(A)(iv) or clause (iii) of this subparagraph, to a civil penalty of not more than \$5,000 for each head of cattle to which such statement applied.

(C) Any person against whom a penalty is assessed under subparagraph (B) may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than thirty days after such penalty is imposed. The Secretary shall promptly file in such court a certified copy of the record upon which the penalty is based. The findings of the Secretary may be set aside only if found to be unsupported by substantial evidence.

(D) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under subparagraph (B).

(E) The remedies provided in this paragraph shall be in addition to, and not exclusive of, other remedies that may be available.

(F) In carrying out this subsection, the Secretary may, as the Secretary deems appropriate—

(i) use the services of State and county committees established under section 590h(b) of title 16; and

(ii) enter into agreements to use, on a reimbursable or nonreimbursable basis, the services of administrators of Federal milk marketing orders and State milk marketing programs.

(6) The term “United States” as used in paragraphs (2) and (3) of this subsection means the forty-eight contiguous States in the continental United States.

(7) The Secretary shall carry out this subsection through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title II, §201, 63 Stat. 1052; Aug. 28, 1954, ch. 1041, title II, §§203(a), 204(b), title VII, §709, 68 Stat. 899, 912; Apr. 2, 1956, ch. 159, §1, 70 Stat. 86; July 20, 1956, ch. 661, 70 Stat. 596; Aug. 28, 1958, Pub. L. 85835, title V, §503, 72 Stat. 996; Sept. 16, 1960, Pub. L. 86799, 74 Stat. 1054; Nov. 30, 1970, Pub. L. 91524, title II, §202, 84 Stat. 1361; Aug. 10, 1973, Pub. L. 9386, §1(3), 87 Stat. 222; Dec. 29, 1973, Pub. L. 93225, 87 Stat. 942; Sept. 29, 1977, Pub. L. 95113, title II, §203, title IX, §§901, 902, 91 Stat. 920, 949; Nov. 28, 1979, Pub. L. 96127, §1, 93 Stat. 981; Dec. 3, 1980, Pub. L. 96494, title II, §202(c), 94 Stat. 2570; Mar. 31, 1981, Pub. L. 976, 95 Stat. 8; Aug. 13, 1981, Pub. L. 9735, title I, §150, 95 Stat. 369; Dec. 22, 1981, Pub. L. 9798, title I, §103, title VIII, §801, title IX, §901, 95 Stat. 1219, 1256, 1257; Sept. 8, 1982, Pub. L. 97253, title I, §101, 96 Stat. 763; Nov. 29, 1983, Pub. L. 98180, title I, §102(a), 97 Stat. 1128; Oct. 1, 1985, Pub. L. 99114, §1, 99 Stat. 488; Nov. 15, 1985, Pub. L. 99157,

§1, 99 Stat. 818; Dec. 13, 1985, Pub. L. 99182, §1, 99 Stat. 1173; Dec. 23, 1985, Pub. L. 99198, title I, §101(a)(e), title VIII, §801, title IX, §901, title X, §§1008, 1041, 99 Stat. 13621365, 1441, 1443, 1452, 1464; Mar. 20, 1986, Pub. L. 99260, §10, 100 Stat. 52; May 27, 1987, Pub. L. 10045, §15(a), 101 Stat. 325; Dec. 22, 1987, Pub. L. 100202, §101(k) [title VI, §638], 101 Stat. 1329322, 1329357; Dec. 22, 1987, Pub. L. 100203, title I, §1104(c)(e), 101 Stat. 13304; Aug. 11, 1988, Pub. L. 100387, title I, §102(a), 102 Stat. 932; Dec. 19, 1989, Pub. L. 101239, title I, §1007, 103 Stat. 2110; Nov. 28, 1990, Pub. L. 101624, title VII, §701(1), title IX, §901(1), title XI, §1161(b), title XXII, §2236(a), 104 Stat. 3457, 3478, 3520, 3961; Dec. 13, 1991, Pub. L. 102237, title I, §113(8), 105 Stat. 1838.)

REFERENCES IN TEXT

The Agricultural Adjustment Act, as reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, referred to in subsec. (d)(2)(D), is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

The order issued by the President on February 1, 1986, referred to in subsec. (d)(2)(E)(i), is set out as a note under section 902 of Title 2, The Congress.

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (d)(2)(E)(i), (F)(i)(I), is classified to section 902 of Title 2, and was amended generally by Pub. L. 101508, title XIII, §13101(a), Nov. 5, 1990, 104 Stat. 1388581. Provisions relating to Presidential orders are contained in section 904(g)(6) of Title 2.

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (d)(2)(F)(i)(I), is title II of Pub. L. 99177, Dec. 12, 1985, 99 Stat. 1038, as amended, which enacted chapter 20 (§900 et seq.) and sections 654 to 656 of Title 2, The Congress, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106, and 1109 of Title 31, Money and Finance, and section 911 of Title 42, The Public Health and Welfare, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of Title 42, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 901 of Title 2 and Tables.

AMENDMENTS

1991—Subsecs. (b), (c). Pub. L. 102237 redesignated subsec. (b), relating to price supports for milk, as (c).

1990—Subsec. (a). Pub. L. 101624, §§701(1), 901(1), 1161(b)(1), designated opening paragraph as subsec. (a) and substituted “oilseeds (including soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and such other oilseeds as the Secretary may determine),” for “tung nuts,” “honey, milk, sugar beets, and sugarcane” for “honey, and milk”, and “in accordance with this subchapter.” for “as follows.”

Subsecs. (b), (c). Pub. L. 101624, §1161(b)(2), (3), redesignated subsec. (c) as (b) and substituted reference to section 1446e of this title for reference to subsection (d) of this section.

Subsec. (k)(2). Pub. L. 101624, §2236(a), temporarily designated existing text as subpar. (A) and added subpar. (B). See Effective and Termination Dates of 1990 Amendment note below.

1989—Subsec. (d)(1)(C)(ii), (iii). Pub. L. 101239, §1007(1), temporarily inserted in cl. (ii) “clause (iii) and” after “Except as provided in” and added cl. (iii). See Effective and Termination Dates of 1989 Amendment note below.

Subsec. (d)(1)(D)(i). Pub. L. 101239, §1007(2), temporarily substituted “calendar year 1990” for “each of the

calendar years 1988 and 1990" and "may reduce by not more than" for "shall reduce by". See Effective and Termination Dates of 1989 Amendment note below.

1988—Subsec. (d)(1)(D). Pub. L. 100387 substituted "if for each of the calendar years 1988 and 1990" for "if for any of the calendar years 1988, 1989, and 1990".

1987—Pub. L. 10045, §15(a)(1), temporarily inserted "sunflower seeds," after "soybeans," in first sentence. See Effective and Termination Dates of 1987 Amendments note below.

Subsec. (b)(1)(D). Pub. L. 100203, §1104(c), temporarily added subpar. (D). See Effective and Termination Dates of 1987 Amendments note below.

Subsec. (d)(2)(A). Pub. L. 100202, §101(k) [title VI, §638(1)], substituted "Beginning after March 31, 1986," for "During the period beginning on April 1, 1986, and ending on September 30, 1987,".

Subsec. (d)(2)(B). Pub. L. 100202, §101(k) [title VI, §638(2)], substituted "subparagraphs (E) and (F)" for "subparagraph (E)".

Subsec. (d)(2)(C). Pub. L. 100203, §1104(d)(1), substituted "this paragraph" for "subparagraph (A)".

Subsec. (d)(2)(F). Pub. L. 100203, §1104(d)(2), added subpar. (F) directing Secretary to provide for reduction of 2½ cents per hundredweight in price received by producers during calendar year 1988.

Pub. L. 100202, §101(k) [title VI, §638(3)], added subpar. (F) directing Secretary to provide for reduction under subpar. (A) as the sole means of achieving any reduction in budget outlays in milk price-support system under Presidential budget-cutting orders.

Subsec. (j)(7). Pub. L. 100203, §1104(e), added par. (7).

Subsec. (l). Pub. L. 10045, §15(a)(2), temporarily added subsec. (l). See Effective and Termination Dates of 1987 Amendments note below.

1986—Subsec. (d)(2)(B). Pub. L. 99260, §10(1), substituted "Except as provided in subparagraph (E), the" for "The".

Subsec. (d)(2)(E). Pub. L. 99260, §10(2), added subpar. (E).

1985—Pub. L. 99198, §§801(1), 901(1), in provisions preceding subsec. (a), temporarily reenacted without change the amendments made in 1977 by sections 901(1) and 902(1) of Pub. L. 95113 and in 1981 by sections 801(1) and 901(1) of Pub. L. 9798, which inserted references to soybeans, sugar beets, and sugar cane. See Effective and Termination Dates of Amendments notes for 1985, 1981, and 1977, respectively, set out below.

Subsec. (b). Pub. L. 99198, §1041, amended subsec. (b) generally, temporarily substituting provisions for loans, purchases and other price supports for the 1986 through 1990 crops of honey, and repayment of loans under this subsection, as well as penalties for pledging adulterated or imported honey as collateral to secure such loans, for provisions for support of the price of honey through loans, purchases or other operations, without any crop year restrictions, at a level not in excess of 90 per centum nor less than 60 per centum of the parity price thereof, and struck out provisions for price support for tung nuts through the 1976 crop year. See Effective and Termination Dates of 1985 Amendments note below.

Subsec. (c). Pub. L. 99198, §101(d), substituted "Except as provided in subsection (d) of this section, the price" for "The price".

Subsec. (d)(1). Pub. L. 99198, §101(a), in amending par. (1) generally, substituted provisions adjusting milk price support levels for calendar years 1986 through 1990 by gradually reducing the price support from \$11.60 per hundredweight to \$11.10 per hundredweight, providing for adjustments of 50 cents per hundredweight in the support level for calendar years 1988 through 1990 depending on projected sales levels for provisions setting price support levels for calendar years 1983 through 1985 by gradually reducing the price support from \$13.10 per hundredweight to \$12.60 per hundredweight, and providing for adjustments of 50 cents per hundredweight in the support level for twelve month periods beginning on April 1, 1985 and/or July 1, 1985, depending on projected sales levels.

Subsec. (d)(1)(B). Pub. L. 99182 substituted "December 31, 1985" for "December 13, 1985".

Pub. L. 99157 substituted "December 13, 1985" for "November 15, 1985".

Pub. L. 99114 substituted "November 15, 1985" for "September 30, 1985".

Subsec. (d)(2). Pub. L. 99198, §101(a), in amending par. (2) generally, substituted provisions for a reduction in the price received by producers for all milk produced in the United States and marketed for commercial use in an amount of 40 cents per hundredweight for the period between Apr. 1, 1986, and Dec. 31, 1986, and 25 cents per hundredweight during the first 9 months of 1987 for provisions for a reduction of 50 cents per hundredweight in such price effective for the period beginning with the first day of the first calendar month following Nov. 29, 1983, and ending on Mar. 31, 1985, and struck out provisions relating to the continued applicability of pars. (2) to (7) of this subsection between Nov. 29, 1983, and the last day of November, 1983, and the inapplicability of sections 4501 to 4513 of this title to prior deductions or collections under this subsection, and provisions that to the extent that funds collected under this paragraph were inadequate to make payments to producers under par. (3), such payments had to be made using otherwise available funds.

Subsec. (d)(3)(A). Pub. L. 99198, §101(b)(1), in amending subpar. (A) generally, substituted provisions for a milk production termination program for the 18-month period beginning Apr. 1, 1986, for provisions for a milk diversion program under which Secretary had to offer to enter into a contract, at any time up to Feb. 1, 1984, with any producer of milk in the United States to reduce the quantity of commercially marketed milk during the 15-month period beginning Jan. 1, 1984.

Subsec. (d)(3)(B). Pub. L. 99198, §101(b)(1), in amending subpar. (B) generally, substituted provisions authorizing Secretary to establish and carry out a milk diversion or milk production termination program for any of the calendar years 1988, 1989 and 1990 for provisions which had enumerated the requirements for contracts between Secretary and any domestic producer of milk to reduce the quantity of commercially marketed milk during the 15-month period beginning Jan. 1, 1984.

Subsec. (d)(3)(C). Pub. L. 99198, §101(b)(1), in amending subpar. (C) generally, substituted provisions requiring Secretary to take into account any adverse effect of any milk diversion or milk production program or contracts on beef, pork and poultry producers in the United States and to take all feasible steps to minimize such effect for provisions requiring Secretary to pay to producers complying with such contracts an amount equal to the product of \$10 per hundredweight and the amount, measured in hundredweights, by which the quantity of milk marketed by such producer for commercial use during the period specified in such contract was less than the quantity of milk marketed by such producer for commercial use during the marketing history period.

Subsec. (d)(3)(D). Pub. L. 99198, §101(b)(1), in amending subpar. (D) generally, substituted provisions establishing eligibility of producers who have acquired their entire milk production facility and dairy herd by gift or inheritance from family member or members for provisions prohibiting payments to producers with respect to whom any reduction in the quantity of milk did not meet specified percentage guidelines.

Subsec. (d)(3)(E). Pub. L. 99198, §101(b)(1), (3), struck out subpar. (E) which specified conditions under which Secretary could modify contracts entered into under this paragraph, and redesignated subpar. (K) as (E).

Subsec. (d)(3)(F). Pub. L. 99198, §101(b)(1), struck out subpar. (F) which required domestic producers of milk seeking to enter into contracts for diversion payments to provide Secretary with evidence of such producer's marketing history, as defined by this subparagraph, which Secretary could adjust to take into account natural disasters or other conditions and factors where necessary.

Subsec. (d)(3)(G). Pub. L. 99198, §101(b)(1), struck out subpar. (G) which provided that no marketing history

could be assigned to any producer who commenced marketing milk after Dec. 31, 1982, except as provided in subpar. (H).

Subsec. (d)(3)(H). Pub. L. 99198, §101(b)(2), struck out subpar. (H) which provided that a producer's marketing history could not be transferred to another person unless the producer's entire milk production facility and dairy herd were transferred by reason of the death of the producer, a gift by the producer, or to a member or members of the family of the producer.

Subsec. (d)(3)(I). Pub. L. 99198, §101(b)(2), struck out subpar. (I) which provided that eligibility for diversion payments would be determined on the basis of the marketing history provided for under subpar. (F).

Subsec. (d)(3)(J). Pub. L. 99198, §101(b)(2), struck out subpar. (J) which provided for quarterly diversion payments to eligible producers who were able to demonstrate compliance with terms of contract with Secretary for reduction in commercial marketing of milk.

Subsec. (d)(3)(K). Pub. L. 99198, §101(b)(3), redesignated subpar. (K) as (E).

Subsec. (d)(3)(L). Pub. L. 99198, §101(b)(2), struck out subpar. (L) which provided conditions under which a producer could assign a contract entered into under this paragraph.

Subsec. (d)(3)(O). Pub. L. 99198, §101(b)(2), struck out subpar. (O) which authorized Secretary to adjust the producer's diversion payments to reflect the composition of milk marketed during the marketing history period, in the event of substantial deviation in the composition of milk marketed after that period.

Subsec. (d)(5)(B)(i). Pub. L. 99198, §101(c), designated existing provisions as cl. (i), struck out "(i)" after "Each person", substituted "or who fails to remit" for ", (ii) who fails to remit", struck out ", or (iii) who fails to make the reduction in marketings required by a contract under paragraph (3)" before "shall be liable", and added cls. (ii) to (v).

Subsec. (d)(7). Pub. L. 99198, §101(e), added par. (7).

Subsecs. (i) to (k). Pub. L. 99198, §§801(2), 901(2), 1008, temporarily added subsecs. (i) to (k). See Effective and Termination Dates of 1985 Amendment note below.

1983—Subsec. (d). Pub. L. 98180 amended subsec. (d) generally, substituting provision designed to adjust milk production to levels consistent with the national demand for milk and milk products by reducing the price support to \$12.60 per hundredweight, with provision for further increase or decrease depending on volume, providing a 50 cents reduction per hundredweight in the price on all milk produced in the United States and marketed by producers for commercial use, and establishing a milk diversion program to reduce milk production for provision which kept the price support at \$13.10 per hundredweight and authorized Secretary to collect \$1.00 from farmers for every hundredweight of production sold, with the first 50 cents, payable beginning Oct. 1, 1982, to be nonrefundable, and the second 50 cents, payable beginning Apr. 1, 1983, refundable if the farmer could demonstrate reduced commercial marketings from such marketings during a defined base period.

1982—Subsec. (c). Pub. L. 97253, §101(1), struck out provision specifying milk price supports for the period beginning Dec. 22, 1981, and ending Sept. 30, 1982, and for fiscal years ending Sept. 30, 1983, 1984, and 1985, with authority for Secretary to set milk price supports if he estimated that for such a fiscal year the net cost of Government price support purchases would be less than \$1,000,000,000 for that fiscal year or if he estimated that the net Government price support purchases would be less than a specified poundage per fiscal year.

Subsec. (d). Pub. L. 97253, §101(2), added subsec. (d).

1981—Pub. L. 9798, §§801(1), 901(1), temporarily inserted reference in provision preceding subsec. (a) to soybeans, sugar beets, and sugarcane. See Effective and Termination Dates of 1981 Amendment note below.

Subsec. (c). Pub. L. 9798, §103(1), substituted provision specifying milk price supports for the period beginning Dec. 22, 1981, and ending Sept. 30, 1982, and for fiscal years ending Sept. 30, 1983, 1984, and 1985, with author-

ity for Secretary to set milk price supports if he estimates that for such a fiscal year the net cost of Government price support purchases will be less than \$1,000,000,000 for that fiscal year or if he estimates that the net Government price support purchases will be less than a specified poundage per fiscal year for provision specifying the procedure and setting a schedule to be used to determine milk price supports for the period beginning Oct. 1, 1981, and ending Sept. 30, 1985.

Pub. L. 9735, §150(1), substituted provisions setting forth price support levels for the period beginning Oct. 1, 1981, and ending Sept. 30, 1985, for provisions setting forth price support levels for the period beginning Oct. 1, 1977, and ending Sept. 30, 1981.

Subsec. (d). Pub. L. 9798, §103(2), struck out subsec. (d) which provided that, effective for the period beginning Oct. 1, 1982, and ending Sept. 30, 1985, the support price of milk be adjusted by the Secretary at the beginning of each semiannual period to reflect the estimated change in the parity index during such semiannual period.

Pub. L. 9735, §150(2), added subsec. (d).

Pub. L. 976 struck out subsec. (d) which required that, for the period Oct. 1, 1977, to Sept. 30, 1981, the support price of milk be adjusted semiannually.

Subsecs. (g), (h). Pub. L. 9798, §§801(2), 901(2), temporarily added subsecs. (g) and (h). See Effective and Termination Dates of 1981 Amendments note below.

1980—Subsec. (e). Pub. L. 96494 inserted proviso that 1981 crop of soybeans shall be supported through loans and purchases at not less than \$5.02 per bushel.

1979—Subsec. (c). Pub. L. 96127, §1(a), substituted Sept. 30, 1981, for Mar. 31, 1979.

Subsec. (d). Pub. L. 96127, §1(b), substituted Sept. 30, 1981, for Mar. 31, 1981.

1977—Pub. L. 95113, §§901(1), 902(1), temporarily inserted references to soybeans, sugar beets, and sugar cane in provisions preceding subsec. (a). See Effective and Termination Dates of 1977 Amendment note below.

Subsec. (c). Pub. L. 95113, §203(1), substituted the period Oct. 1, 1977, through Mar. 31, 1979, for the period Aug. 10, 1973, through Mar. 31, 1975, as the period during which the price of milk shall be supported at not less than 80 per centum of parity.

Subsec. (d). Pub. L. 95113, §203(2), added subsec. (d).

Subsecs. (e), (f). Pub. L. 95113, §§901(2), 902(2), temporarily added subsecs. (e) and (f). See Effective and Termination Dates of 1977 Amendment note below.

1973—Subsec. (b). Pub. L. 93225 limited tung nuts price support level provisions to tung nuts through the 1976 crop year. Prior provisions were applicable to tung nuts without any crop year restriction.

Subsec. (c). Pub. L. 9386 inserted "of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs" after "necessary in order to assure an adequate supply" and inserted provision that for the period August 10, 1973, through March 31, 1975, the price of milk shall be supported at not less than 80 per centum of the parity price therefor.

1970—Pub. L. 91524 substituted "and milk" for "milk, butterfat, and products of milk and butterfat" in provisions preceding subsec. (a) and struck out provisions for butterfat price supports in subsec. (c).

1960—Subsec. (c). Pub. L. 86799 inserted "Notwithstanding the foregoing provisions, for the period beginning with September 16, 1960, and ending March 31, 1961, the price of milk for manufacturing purposes and the price of butterfat shall be supported at not less than \$3.22 per hundredweight and 59.6 cents per pound, respectively."

1958—Subsec. (b). Pub. L. 85835 required minimum support level of tung oil to be 65 per centum of parity whenever domestic production is less than anticipated domestic demand.

1956—Subsec. (c). Act July 20, 1956, struck out "as are" before "devoted," and substituted "children" for "underprivileged children on a public welfare or charitable basis".

Act Apr. 2, 1956 increased amount authorized for fiscal year 1956 from \$50,000,000 to \$60,000,000, to authorize \$75,000,000 for each of fiscal years 1957 and 1958, and permitted certain institutions devoted to care and training of underprivileged children on a public welfare or charitable basis to share in the program.

1954—Act Aug. 28, 1954, §§203(a), 709, removed Irish potatoes and wool (including mohair) from price support list in provisions preceding subsec. (a).

Subsec. (a). Act Aug. 28, 1954, §709, struck out subsec. (a) relating to support of wool and mohair.

Subsec. (b). Act Aug. 28, 1954, §203(a), struck out reference to Irish potatoes.

Subsec. (c). Act Aug. 28, 1954, §204(b), provided for disposal of surplus dairy stocks owned by CCC.

EFFECTIVE AND TERMINATION DATES OF 1990 AMENDMENT

Amendment by sections 701(1), 901(1), and 1161(b) of Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

Section 2236(a) of Pub. L. 101624 provided that the amendment by that section is effective only for 1990 crop of sugarcane.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 1007 of Pub. L. 101239 provided that the amendment made by that section is effective only for calendar year 1990.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENTS

Section 1104(c) of Pub. L. 100203 provided that the amendment made by that section is effective only for 1987 through 1990 crops of honey.

Section 15(a) of Pub. L. 10045 provided that the amendment made by that section is effective for 1987 through 1990 crops of sunflowers.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 10 of Pub. L. 99260 provided that the amendment made by that section is effective Mar. 1, 1986.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 101(f) of Pub. L. 99198 provided that: "The provisions of this section [amending this section] shall become effective January 1, 1986."

Section 801 of Pub. L. 99198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of soybeans.

Section 901 of Pub. L. 99198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of sugar beets and sugarcane.

Section 1008 of Pub. L. 99198 provided that the amendment made by that section is effective only for 1985 through 1990 crops of peanuts, soybeans, sugar beets, and sugarcane.

Section 1041 of Pub. L. 99198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of honey.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 101(1) of Pub. L. 97253 provided that the amendment made by that section is effective Oct. 1, 1982.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENTS

Section 801 of Pub. L. 9798 provided that the amendment made by that section is effective only for 1982 through 1985 crop of soybeans.

Section 901 of Pub. L. 9798 provided that the amendment made by that section is effective only for 1982 through 1985 crop of sugar beets and sugarcane.

Amendment by section 103 of Pub. L. 9798 effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as an Effective Date note under section 4301 of this title.

Section 150 of Pub. L. 9735 provided that the amendment made by that section is effective Oct. 1, 1981.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96494 effective Dec. 3, 1980, see section 213 of Pub. L. 96494, set out as an Effective Date note under section 4001 of this title.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 901 of Pub. L. 95113 provided that the amendment made by that section is effective only with respect to 1978 through 1981 crops of soybeans.

Section 902 of Pub. L. 95113 provided that the amendment made by that section is effective only with respect to 1977 and 1978 crops of sugar beets and sugar cane.

Amendment by Pub. L. 95113 effective Oct. 1, 1977, except as otherwise specifically provided, see section 1901 of Pub. L. 95113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(3)(B) of Pub. L. 9386 provided that the amendment made by that section is effective Apr. 1, 1974.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 202 of Pub. L. 91524 provided that the amendment made by that section is effective only with respect to the period beginning Apr. 1, 1971, and ending Mar. 31, 1974. Pub. L. 9386, §1(3)(A), Aug. 10, 1973, 87 Stat. 222, amended section 202 of Pub. L. 91524 by striking out provision making amendments by section 202 effective for the period Apr. 1, 1971, to Mar. 31, 1974.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 709 of act Aug. 28, 1954, provided that the amendment made by that section is effective Apr. 1, 1955.

APPLICATION OF 1990 AMENDMENTS

Section 107 of title I of Pub. L. 101624 provided that: "The amendments made by this title [enacting section 1446e of this title, amending sections 4507, 608c, and 1446a of this title and section 713a14 of Title 15, Commerce and Trade, and amending provisions set out as notes under sections 608c and 1731 of this title] shall not affect any liability of any person under section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) as in effect before the date of the enactment of this Act [Nov. 28, 1990]."

MODIFICATION OF MILK PRODUCTION TERMINATION PROGRAM

Section 128 of Pub. L. 102237 provided that if, with respect to any natural disaster occurring during period beginning on Oct. 1, 1990, and ending on Feb. 1, 1991, the Secretary of Agriculture determines that natural disaster renders unusable land or milk production facilities of producers on a farm, the Secretary shall allow the producers to transfer the production unit (including dairy animals and equipment) to farm idled under milk production termination program established under subsec. (d)(3) of this section, without penalty, if the producers on the farm agree to comply with all terms and conditions of program contract for remainder of contract period.

TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT

Pub. L. 100418, title IV, §4301, Aug. 23, 1988, 102 Stat. 1395, directed President, if, before Jan. 1, 1990, law had not been enacted in accordance with 19 U.S.C. 2191 im-

plementing agreement negotiated under Uruguay round of multilateral trade negotiations conducted under General Agreement on Tariffs and Trade concerning agricultural trade, to submit, not later than 45 days after such date, report to Congress describing status of GATT negotiations concerning agricultural trade, and to certify to Congress whether significant progress had been made in negotiations, and provided authority for a marketing loan program if President did not so certify, and authority for an export enhancement program, if President waived or discontinued marketing loan program.

PRICE SUPPORT PROGRAMS FOR SUNFLOWER SEEDS AND COTTONSEED

Pub. L. 100418, title IV, §4302, Aug. 23, 1988, 102 Stat. 1397, directed Secretary to support price of 1990 crop of sunflower seeds and cottonseed if producers were permitted to repay loans for 1990 crop of soybeans under subsec. (i) of this section at level that was less than full amount of loan pursuant to section 4301 of Pub. L. 100418 (formerly set out as a note above), and provided that, if marketing loan program for 1990 crop of soybeans was discontinued under section 4301(b)(3) of Pub. L. 100418, Secretary was to discontinue such price support programs for sunflower seeds and cottonseed.

TEMPORARY INCREASE IN PRICE SUPPORT FOR MILK; IMPLEMENTATION

Pub. L. 1017, §1, Mar. 29, 1989, 103 Stat. 9, provided for allocation of price support increases and decreases between non-fat dry milk and butter with respect to purchases of butter and non-fat dry milk made under subsec. (d) of this section, in carrying out temporary \$0.50 per hundredweight increase in rate of price support for milk provided for in section 102(b) of Pub. L. 100387 (formerly set out below) and in implementing \$0.50 per hundredweight decrease in rate of price support for milk scheduled to occur on July 1, 1989, as provided in such section 102(b).

Section 102(b) of Pub. L. 100387 provided that notwithstanding subsec. (d)(1) of this section, the rate of price support for milk in effect under such subsection immediately before Apr. 1, 1989, shall be increased by 50 cents throughout the period beginning on Apr. 1, 1989, and ending on June 30, 1989.

REPORT TO COMMITTEES OF CONGRESS

Section 301(a)(2) of Pub. L. 100387, directed Secretary of Agriculture, not earlier than Feb. 1, 1989, and not later than Mar. 1, 1989, with respect to 1989 crop of soybeans, and not later than Sept. 1, 1989, with respect to 1990 crop of soybeans, to submit to Congress statement setting forth reasons for implementing or not implementing soybean marketing loan program authorized under subsec. (i)(3) of this section.

SENSE OF CONGRESS

Section 15(b) of Pub. L. 10045 stated sense of Congress that, if producers were permitted to repay loans for a crop of soybeans under subsec. (i) of this section at a level that is less than the full amount of the loan, the Secretary should make loans and purchases available for such crop of sunflowers in accordance with subsec. (l)(1) of this section and permit producers to repay such loans in accordance with subsec. (l)(2) of this section.

APPLICATION OF SUPPORT PRICE FOR MILK

Section 103 of Pub. L. 99198 provided that for purposes of supporting price of milk under subsec. (d) of this section, the Secretary of Agriculture was not to take into consideration any market value of whey.

AVOIDANCE OF ADVERSE EFFECT OF MILK PRODUCTION TERMINATION PROGRAM ON BEEF, PORK, AND LAMB PRODUCERS

Section 104 of Pub. L. 99198, directed Secretary of Agriculture, in order to minimize adverse effect of milk

production termination program on beef, pork, and lamb producers during 18-month period for which such program was in effect under subsec. (d) of this section, to use funds available under specific programs of Department of Agriculture to purchase and distribute quantities of red meat in addition to those quantities normally purchased and distributed by Secretary, directed Secretary of Defense and other Federal agencies to use increased quantities of red meat to meet food needs of programs they administered, encouraged State agencies to cooperate in such effort, and directed Secretary of Agriculture to encourage consumption of red meat by the public.

CIRCUMVENTION OF HISTORICAL DISTRIBUTION OF MILK

Section 107 of Pub. L. 99198 directed Secretary of Agriculture to monitor Commodity Credit Corporation purchases of milk products during 1986 and 1987 and report to Congress, on a quarterly basis, on disruptions of, or attempts by handlers or cooperative marketing associations to circumvent, historical distribution of milk among processors during the milk production termination program.

APPLICATION OF 1985 AMENDMENTS

Section 108 of subtitle A (§§101108) of title I of Pub. L. 99198 provided that: "The amendments made by this subtitle [enacting section 1446c2 of this title, amending this section, and enacting provisions set out as notes above] shall not affect any liability of any person under section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) as in effect before the date of the enactment of this Act [Dec. 23, 1985]."

NATIONAL COMMISSION ON DAIRY POLICY

Subtitle D (§§141146) of title I of Pub. L. 99198, as amended by Pub. L. 10028, §1, Apr. 24, 1987, 101 Stat. 291, established a National Commission on Dairy Policy to study and make recommendations concerning future operation of the Federal program established to support price of milk marketed by producers in the United States, directed Commission to submit to Secretary of Agriculture and Congress, not later than Mar. 31, 1988, a report containing results of its study and its recommendations, and provided for termination of Commission 30 days after submitting its report.

APPLICABILITY OF SUBSECTION (d)(2), (3) TO 48 CONTIGUOUS STATES, DECEMBER 1983, THROUGH MAY 1984

Pub. L. 98213, §14, Dec. 8, 1983, 97 Stat. 1462, provided that effective with respect to milk marketed for commercial use during period beginning on Dec. 1, 1983 and ending on May 31, 1984, subsec. (d)(2) and (3) of this section was to apply only to milk produced in the forty-eight contiguous States.

IMPLEMENTATION OF SUBSECTION (d) WITHOUT REGARD TO PUBLIC PARTICIPATION IN RULEMAKING

Section 102 of Pub. L. 99198 provided that 5 U.S.C. 553 was not to apply with respect to implementation of subsec. (d) of this section by the Secretary of Agriculture.

Section 102(b) of Pub. L. 98180 directed Secretary of Agriculture to implement provisions of subsec. (d) of this section, as amended by section 102(a) of Pub. L. 98180, without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in 5 U.S.C. 553.

AVOIDANCE OF ADVERSE IMPACT OF DAIRY DIVERSION PROGRAM ON BEEF AND PORK PRODUCERS

Section 103 of Pub. L. 98180 provided that in order to minimize adverse impact of the dairy diversion program on beef and pork producers, Secretary of Agriculture was to use funds available for purposes of 7 U.S.C. 612c(2) and other funds available under commodity distribution and other nutrition programs of Department of Agriculture to increase use of beef and

pork for such purposes, Secretary of Defense and other Federal and State agencies were encouraged to use increased quantities of beef and pork to meet food needs of programs which they administered, and Secretary of Agriculture was to take appropriate action to encourage consumption of beef and pork by members of public.

PRICE SUPPORT OF MILK FOR PERIOD BEGINNING OCTOBER 1, 1981, AND ENDING NO LATER THAN DECEMBER 31, 1981

Pub. L. 9767, §1, Oct. 20, 1981, 95 Stat. 1039, as amended Pub. L. 9777, §2(a), Nov. 13, 1981, 95 Stat. 1069, provided that notwithstanding provisions of subsec. (c) of this section, the price of milk was to be supported at the level of \$13.10 per hundredweight for milk containing 3.67 per centum butterfat for the period beginning Oct. 1, 1981, and ending Dec. 22, 1981.

CONTINUATION OF SPECIAL MILK PROGRAM FOR CHILDREN

Pub. L. 85478, July 1, 1958, 72 Stat. 276, as amended by Pub. L. 8610, Apr. 3, 1959, 73 Stat. 15; Pub. L. 86163, Aug. 18, 1959, 73 Stat. 363; Pub. L. 86446, §§1, 2, Apr. 29, 1960, 74 Stat. 84; Pub. L. 8767, June 30, 1961, 75 Stat. 147; Pub. L. 87128, title IV, §402, Aug. 8, 1961, 75 Stat. 319, authorized, for the fiscal years 1960-1962, the use of the funds of the Commodity Credit Corporation to increase the consumption of fluid milk by children (1) in nonprofit schools of high-school grade and under; and (2) in nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. Appropriations were further authorized for fiscal years 1963-1967 for the same purposes.

STUDY OF PRODUCTION CONTROL AND PRICE SUPPORTS; REPORT OF CONGRESS

Section 204(f) of act Aug. 28, 1954, directed Secretary of Agriculture to make a study of various methods of production control and of various methods of price support which could be made applicable to milk and butterfat and their products, including programs to be operated and financed by dairymen; and to submit to Congress on or before the 3d day of January 1955 a detailed report thereof showing among other things the probable costs and effects of each type of operation studied and the legislation, if any, needed to put it into effect.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 612c, 1446e, 1447, 4514 of this title.

§1446a. Dairy products; availability through Commodity Credit Corporation

As a means of increasing the utilization of dairy products (including for purposes of this section, milk) upon the certification by the Secretary of Veterans Affairs or by the Secretary of the Army, acting for the military departments under the Department of Defense's Single Service Purchase Assignment for Subsistence, or their duly authorized representatives that the usual quantities of dairy products have been purchased in the normal channels of trade—

(a) Secretary of Veterans Affairs; needs; report to Congress

The Commodity Credit Corporation until December 31, 1995, shall make available to the Secretary of Veterans Affairs at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Secretary of Veterans Affairs certifies that he requires in order to provide butter and cheese and other dairy products as a part of the ration

in hospitals under his jurisdiction. The Secretary of Veterans Affairs shall report every six months to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

(b) Secretary of the Army; needs; report to Congress

The Commodity Credit Corporation until December 31, 1995, shall make available to the Secretary of the Army, at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Secretary of the Army or his duly authorized representative certifies can be utilized in order to provide additional butter and cheese and other dairy products as a part of the ration (1) of the Army, Navy, Air Force, or Coast Guard, (2) in hospitals under the jurisdiction of the Department of Defense, and (3) of cadets and midshipmen at, and other personnel assigned to, the United States Merchant Marine Academy. The Secretary of the Army shall report every six months to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

(c) Costs

Dairy products made available under this section shall be made available without charge, except that the Secretary of the Army or the Secretary of Veterans Affairs shall pay the Commodity Credit Corporation the costs of packaging incurred in making such products so available.

(d) Dairy products available

The obligation of the Commodity Credit Corporation to make dairy products available pursuant to the above shall be limited to dairy products acquired by the Corporation through price-support operations and not disposed of under provisions (1) and (2) of section 1431¹ of this title.

(Oct. 31, 1949, ch. 792, title II, §202, as added Aug. 28, 1954, ch. 1041, title II, §204(d), 68 Stat. 900; amended Apr. 2, 1956, ch. 159, §3, 70 Stat. 87; Aug. 28, 1958, Pub. L. 85835, title V, §504, 72 Stat. 996; Aug. 8, 1961, Pub. L. 87128, title IV, §403, 75 Stat. 319; June 25, 1962, Pub. L. 87495, 76 Stat. 109; Aug. 31, 1964, Pub. L. 88529, 78 Stat. 736; Nov. 16, 1967, Pub. L. 90140, 81 Stat. 464; Nov. 30, 1970, Pub. L. 91524, title II, §203, 84 Stat. 1361; Aug. 10, 1973, Pub. L. 9386, §1(4), 87 Stat. 223; Sept. 29, 1977, Pub. L. 95113, title II, §204, 91 Stat. 920; Dec. 22, 1981, Pub. L. 9798, title I, §104, 95 Stat. 1220; Dec. 23, 1985, Pub. L. 99198, title I, §151, 99 Stat. 1377; Nov. 28, 1990, Pub. L. 101624, title I, §109, 104 Stat. 3380; June 13, 1991, Pub. L. 10254, §13(c), 105 Stat. 274; Dec. 13, 1991, Pub. L. 102237, title I, §113(9), 105 Stat. 1838; Nov. 2, 1994, Pub. L. 103437, §4(b), 108 Stat. 4582.)

¹See References in Text note below.

REFERENCES IN TEXT

Provisions (1) and (2) of section 1431 of this title, referred to in subsec. (d), were redesignated as subsec. (a)(1) and (2) of section 1431 of this title by Pub. L. 98258, title V, §502(1), Apr. 10, 1984, 98 Stat. 137.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103437, §4(b)(1), substituted “Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House” for “Committees on Agriculture of the Senate and House”.

Subsec. (b). Pub. L. 103437, §4(b)(2), substituted “Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House” for “Committees on Agriculture of the Senate and the House”.

1991—Pub. L. 10254 and Pub. L. 102237, §113(9)(A), amended introductory provisions identically, substituting “Secretary of Veterans Affairs” for “Administrator of Veterans’ Affairs”.

Subsec. (a). Pub. L. 102237, §113(9)(B), substituted “Secretary of Veterans Affairs” for “Administrator” before “certifies” and “shall report”.

Pub. L. 10254 and Pub. L. 102237, §113(9)(A), amended subsec. (a) identically, substituting “Secretary of Veterans Affairs” for “Administrator of Veterans’ Affairs” before “at warehouses”.

Subsec. (c). Pub. L. 10254 and Pub. L. 102237, §113(9)(A), amended subsec. (c) identically, substituting “Secretary of Veterans Affairs” for “Administrator of Veterans’ Affairs”.

1990—Subsecs. (a), (b). Pub. L. 101624 substituted “1995” for “1990”.

1985—Subsecs. (a), (b). Pub. L. 99198 substituted “1990” for “1985”.

1981—Subsecs. (a), (b). Pub. L. 9798 substituted “1985” for “1981”.

1977—Subsecs. (a), (b). Pub. L. 95113 substituted “1981” for “1977”.

1973—Subsecs. (a), (b). Pub. L. 9386 substituted “1977” for “1973”.

1970—Subsecs. (a), (b). Pub. L. 91524 substituted “1973” for “1970”.

1967—Subsecs. (a), (b). Pub. L. 90140 substituted “1970” for “1967”.

1964—Subsecs. (a), (b). Pub. L. 88529 substituted “1967” for “1964”.

1962—Subsec. (a). Pub. L. 87495 changed requirement of a monthly report to one every six months.

1961—Subsecs. (a), (b). Pub. L. 87128 substituted “1964” for “1961”.

1958—Subsecs. (a), (b). Pub. L. 85835 substituted “1961” for “1958” and provided for receipt of surplus dairy products by Coast Guard and United States Merchant Marine Academy.

1956—Subsecs. (a), (b). Act Apr. 2, 1956, substituted “1958” for “1956”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 9798 effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95113, set out as a note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1447 of this title.

§1446a1. Use of Commodity Credit Corporation funds for purchases of dairy products requirements for school and other programs

The Secretary of Agriculture is hereby authorized to use funds of the Commodity Credit Corporation to purchase sufficient supplies of dairy products at market prices to meet the requirements of any programs for the schools (other than fluid milk in the case of schools), domestic relief distribution, community action, and such other programs as are authorized by law, when there are insufficient stocks of dairy products in the hands of Commodity Credit Corporation available for these purposes.

(Pub. L. 89321, title VII, §709, Nov. 3, 1965, 79 Stat. 1212; Pub. L. 89808, §3(b), Nov. 11, 1966, 80 Stat. 1538.)

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1965, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1966—Pub. L. 89808 struck out “foreign distribution,” after “community action,” thus deleting that part authorizing purchase of dairy products for foreign donation, such authority now being included in the general authority provided for by section 1721 et seq. of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3(b) of Pub. L. 89808 provided that the amendment made by that section is effective Jan. 1, 1967.

COMMODITY DISTRIBUTION PROGRAM; PROHIBITION ON FURNISHING COMMODITIES TO SUMMER CAMPS

Prohibition on furnishing commodities under authority of this section to summer camps where number of adults participating in activities of camp exceeds one for each five children under 18 years of age participating in such activities, see section 4(b) of Pub. L. 9386, Aug. 10, 1973, 87 Stat. 249, set out as a note under section 612c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1777, 4004 of this title; title 42 sections 1758, 1761, 3030a, 3045f.

§1446b. Policy with regard to dairy products

The production and use of abundant supplies of high quality milk and dairy products are essential to the health and general welfare of the Nation: a dependable domestic source of supply of these foods in the form of high grade dairy herds and modern, sanitary dairy equipment is important to the national defense; and an economically sound dairy industry affects beneficially the economy of the country as a whole. It is the policy of Congress to assure a stabilized annual production of adequate supplies of milk and dairy products; to promote the increased use of these essential foods; to improve the domestic source of supply of milk and butterfat by encouraging dairy farmers to develop efficient production units consisting of high-grade, disease-free cattle and modern sanitary equipment; and to stabilize the economy of dairy farmers at a level which will provide a fair return for their

labor and investment when compared with the cost of things that farmers buy.

(Aug. 28, 1954, ch. 1041, title II, §204(a), 68 Stat. 899.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1954, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§1446c. Domestic disposal programs for dairy products

In order to prevent the accumulation of excessive inventories of dairy products the Secretary of Agriculture shall undertake domestic disposal programs under authorities granted in the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.] and the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.], or as otherwise authorized by law.

(Aug. 28, 1954, ch. 1041, title II, §204(c), 68 Stat. 900.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, referred to in text, is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1954, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

REPORT OF DAIRY PRODUCT PURCHASES

Pub. L. 101624, title I, §105, Nov. 28, 1990, 104 Stat. 3379, provided that: "The Secretary of Agriculture shall make available to the public quarterly evaluations of the acquisition and disposal of Commodity Credit Corporation purchases of dairy products."

§1446c1. Reduction of dairy product inventories

The Secretary of Agriculture shall utilize, to the fullest extent practicable, the authorities under the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.] (including exportation of dairy products at not less than prevailing world market prices), the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.], and other authorities available to the Secretary to reduce inventories of dairy products held by the Commodity Credit Corporation so as to reduce net Commodity Credit Corporation expenditures to the estimated outlays for the milk price support program used in developing budget outlays under the Congressional Budget Act of 1974 for the appropriate fiscal year.

(Pub. L. 9798, title I, §106, Dec. 22, 1981, 95 Stat. 1220.)

REFERENCES IN TEXT

The Commodity Credit Corporation Charter Act, referred to in text, is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

The Agricultural Trade Development and Assistance Act of 1954, referred to in text, is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to chapter 41 (§1691 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

The Congressional Budget Act of 1974, referred to in text, is titles I through IX of Pub. L. 93344, July 12, 1974, 88 Stat. 298, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

CODIFICATION

Section was enacted as part of the Agriculture and Food Act of 1981, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as a note under section 4301 of this title.

DAIRY PROGRAM OPERATION REPORT

Section 107 of Pub. L. 9798 provided that, not later than Dec. 31, 1982, the Secretary of Agriculture shall submit to Congress a report describing the strengths and weaknesses of existing Federal programs, and the consequences of possible new programs, for controlling or minimizing surpluses of fluid milk and the products thereof.

§1446c2. Domestic casein industry

(a) Annual availability of surplus stocks of nonfat dry milk; bid basis

The Commodity Credit Corporation shall provide surplus stocks of nonfat dry milk of not less than 1,000,000 pounds annually to individuals or entities on a bid basis.

(b) Acceptance of bids at lower than resale price

The Commodity Credit Corporation may accept bids at lower than the resale price otherwise required by law, in order to promote the strengthening of the domestic casein industry.

(c) Nonfat dry milk sold to be used only for manufacture of casein

The Commodity Credit Corporation shall take appropriate action to ensure that the nonfat dry milk sold by the Corporation under this section is used only for the manufacture of casein.

(Pub. L. 99198, title I, §105, Dec. 23, 1985, 99 Stat. 1367.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

APPLICATION OF SECTION

This section not to affect any liability of any person under section 1446 of this title as in effect before Dec.

23, 1985, see section 108 of Pub. L. 99198, set out as an Application of 1985 Amendments note under section 1446 of this title.

§1446d. Cottonseed and cottonseed oil price support

(a) In general

If the Secretary determines that any oilseed program or programs cause, or are likely to cause, a reduction in prices received by producers for cottonseed or by processors for cottonseed oil, the Secretary shall take such actions as are necessary to offset the actual or anticipated impact of the program on prices for cottonseed or cottonseed oil. The actions shall only include actions to stabilize or increase the price of cottonseed, and shall not include actions to decrease the prices of other oilseeds.

(b) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of upland cotton.

(Oct. 31, 1949, ch. 792, title II, §203, as added May 28, 1956, ch. 327, title VI, §601(a), 70 Stat. 212; amended Nov. 28, 1990, Pub. L. 101624, title V, §507, 104 Stat. 3441.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally. Prior to amendment, section read as follows: “Whenever the price of either cottonseed or soybeans is supported under this Act, the price of the other shall be supported at such level as the Secretary determines will cause them to compete on equal terms on the market.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

EFFECTIVE DATE

Section 601(b) of act May 28, 1956, provided that this section shall take effect with 1956 crop.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS

Pub. L. 99198, title V, §504, Dec. 23, 1985, 99 Stat. 1418, provided that: “Sections 103(a) and 203 of the Agricultural Act of 1949 (7 U.S.C. 1444(a) and 1446d) shall not be applicable to the 1986 through 1990 crops.”

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS

Pub. L. 9798, title V, §504, Dec. 22, 1981, 95 Stat. 1241, provided that: “Sections 103(a) and 203 of the Agricultural Act of 1949 [sections 1444(a) and 1446d of this title] shall not be applicable to the 1982 through 1985 crops.”

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS

Pub. L. 95113, title VI, §604(c), Sept. 29, 1977, 91 Stat. 939, provided that: “Sections 103(a) and 203 of the Agricultural Act of 1949, as amended [sections 1444(a) and 1446d of this title] shall not be applicable to the 1978 through 1981 crops.”

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS

Pub. L. 91524, title VI, §608, Nov. 30, 1970, 84 Stat. 1378, as amended by Pub. L. 9386, §1(22), Aug. 10, 1973, 87 Stat. 235, provided that: “Section 203 of the Agricultural Act of 1949, as amended [this section] shall not be applicable to the 1971 through 1977 crops.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1447 of this title.

§1446e. Milk price support and milk inventory management program for calendar years 1991 through 1996

Notwithstanding any other provision of law:

(a) In general

During the period beginning on January 1, 1991, and ending on December 31, 1996, the price of milk produced in the 48 contiguous States shall be supported as provided in this section.

(b) Rate

During the period beginning on January 1, 1991, and ending on December 31, 1996, the price of milk shall be supported at a rate not less than \$10.10 per hundredweight for milk containing 3.67 percent milkfat.

(c) Purchases

(1) In general

The price of milk shall be supported through the purchase of milk and the products of milk produced in the 48 contiguous States.

(2) CCC bid prices

The Commodity Credit Corporation support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Corporation shall be the same for all of that product sold by persons offering to sell the product to the Corporation. The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price not less than the rate of price support for milk in effect during a 12-month period under this subsection.

(3) Butter and nonfat dry milk

(A) Allocation of purchase prices

Subject to subparagraph (B), the Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation.

(B) Guidelines

In the case of purchases of butter and nonfat dry milk that are made by the Secretary under this section on or after August 10, 1993, in allocating the rate of price support between the purchase prices of butter and nonfat dry milk under this paragraph, the Secretary may not—

- (i) offer to purchase butter for more than \$0.65 per pound; or
- (ii) offer to purchase nonfat dry milk for less than \$1.034 per pound.

(C) Timing of purchase price adjustments

The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

(d) Support rate adjustments**(1) Reductions****(A) In general**

Effective January 1 of each of the calendar years 1991 through 1996, if the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section (less sales under section 1427 of this title for unrestricted use), as estimated by the Secretary by November 20 of the preceding calendar year, will exceed 5 billion pounds (milk equivalent, total milk solids basis), the Secretary shall decrease by an amount per hundredweight of at least \$0.25 but not more than \$0.50 the rate of price support for milk in effect for the calendar year.

(B) Prior notification

The Secretary shall, by November 20 of the preceding calendar year, notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of any proposed decrease in price support under this paragraph.

(2) Increases**(A) In general**

Effective January 1 of each of the calendar years 1991 through 1996, if the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section (less sales under section 1427 of this title for unrestricted use), as estimated by the Secretary by November 20 of the preceding calendar year, will not exceed 3.5 billion pounds (milk equivalent, total milk solids basis), the Secretary shall increase by an amount per hundredweight of at least \$0.25 the rate of price support for milk in effect for the calendar year.

(B) Prior notification

The Secretary shall, by November 20 of the preceding calendar year, notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of any proposed increase in price support under this paragraph.

(3) No adjustments

If for any of the calendar years 1992 through 1996, the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section (less sales under section 1427 of this title for unrestricted use), as estimated by the Secretary by November 20 of the preceding calendar year, will be less than 5 billion pounds (milk equivalent, total milk solids basis), but more than 3.5 billion pounds (milk equivalent, total milk solids basis), the Secretary shall not decrease the rate of price support for milk in effect for the calendar year.

(4) Minimum price

Notwithstanding any other provision of this section, in no event shall the price of milk be supported at less than \$10.10 per hundredweight.

(5) Administration**(A) Milk equivalent, total milk solids basis**

As used in this section, the term “milk equivalent, total milk solids basis”, of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

(B) Level of purchases

In estimating the level of purchases of milk and the products of milk under this section, the Secretary shall deduct the amount, if any, by which the level of imports into the 48 contiguous States and the District of Columbia of milk and the products of milk during the most recent calendar year exceeds the annual average level of imports into the 48 contiguous States and the District of Columbia of milk and the products of milk during the period January 1, 1986, through December 31, 1990 (milk equivalent, total milk solids basis).

(e) Report on milk inventory management program**(1) In general**

Not later than August 1, 1991, the Secretary shall prepare and submit a report and recommendations on various milk inventory management programs to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) Solicitation of proposals

Within 60 days after November 28, 1990, the Secretary shall publish in the Federal Register a notice to solicit proposals concerning a milk inventory management program.

(3) Required proposals

In carrying out this subsection, the Secretary shall study, among other proposals—

(A) an alternative classification of milk contained in section 608c(5) of this title;

(B) a program to support the income of milk producers through a system of established prices and deficiency payments; and

(C) other such programs submitted to the Secretary under paragraph (2) as the Secretary may determine appropriate after consultation with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(4) Prohibited programs

In the study required under paragraph (3), the Secretary shall not consider any milk inventory management program that includes any milk production termination program that is similar to the program established under section 1446(d)(3) of this title, or support price reductions below the levels established under this section.

(5) Criteria for evaluation

The Secretary shall evaluate the proposals for a milk inventory management program based on—

- (A) the ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year;
- (B) the speed and effectiveness of reducing excess milk production;
- (C) the effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program;
- (D) the regional impact on milk prices, producer revenue, and milk supplies;
- (E) the impact on national producer income and Government expenditures;
- (F) the impact on the rural economy and maintaining family farms;
- (G) the impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs;
- (H) technological innovations;
- (I) the effectiveness in reducing butter fat production and increasing protein content in milk;
- (J) the impact of temporary increases and decreases of milk production;
- (K) the impact on the United States livestock industry; and
- (L) all other issues the Secretary considers appropriate.

(6) Notice and comment

The Secretary shall provide for public notice and comment on the milk inventory programs studied by the Secretary under this subsection no later than June 1, 1991.

(f) Notification of Congress concerning estimated purchases

On August 1 and by November 20 of each of the calendar years 1991 through 1995, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding the value and volume of dairy product purchases on a milk equivalent, total milk solids basis, the Secretary estimates that the Corporation will make during the upcoming calendar year.

(g) Excess purchases**(1) In general**

In order to offset any cost to the Commodity Credit Corporation associated with the purchase (less sales under section 1427 of this title for unrestricted use) of milk and the products of milk in excess of 7,000,000,000 pounds (milk equivalent, total milk solids basis), during any of the calendar years 1992 through 1996, the Secretary shall, if necessary, provide for a reduction to be made in the price received by producers for all milk produced in the 48 contiguous States and marketed by producers for commercial use.

(2) Calculation

If on November 20 of each of the calendar years 1991 through 1996, the Secretary esti-

mates that the level of Commodity Credit Corporation purchases (less sales under section 1427 of this title for unrestricted use) in the following calendar year of milk and the products of milk will exceed 7,000,000,000 pounds (milk equivalent, total milk solids basis), the amount of reduction in the price received by producers in such following calendar year shall be an amount per hundredweight calculated by dividing—

(A) the cost of the purchases (less sales under section 1427 of this title for unrestricted use) in excess of 7,000,000,000 pounds, milk equivalent, total milk solids basis; by

(B) the total quantity of hundredweights of milk the Secretary estimates will be produced and marketed in the United States for commercial use in such following calendar year.

(3) Adjustments

The Secretary shall adjust any such assessment in future years, or refund any portion of such assessments, as needed, to carry out the purposes of this subsection.

(h) Reduction in price received**(1) In general**

Beginning January 1, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the 48 contiguous States and marketed by producers for commercial use, in addition to any reduction in price required under subsection (g) of this section.

(2) Amount

The amount of the reduction under paragraph (1) in the price received by producers shall be—

(A) during calendar year 1991, 5 cents per hundredweight of milk marketed;

(B) during each of the calendar years 1992 through 1995, 11.25 cents per hundredweight of milk marketed, which rate shall be adjusted on or before May 1 of each of the calendar years 1992 through 1995 by an amount per hundredweight that is necessary to compensate for refunds made under paragraph (3) on the basis of marketings in the previous calendar year; and

(C) during each of calendar years 1996 and 1997, 10 cents per hundredweight of milk marketed, which rate shall be adjusted on or before May 1 of the respective calendar year in the manner provided in subparagraph (B).

(3) Refund

The Secretary shall provide a refund of the entire reduction under paragraph (2) in the price of milk received by a producer during a calendar year, if the producer provides evidence that the producer did not increase marketings in the calendar year that such reduction was in effect when compared to the immediately preceding calendar year. A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 3811 and 3821 of title 16.

(i) Enforcement**(1) Collection**

Reductions in price required under subsection (g) or (h) of this section shall be col-

lected and remitted to the Commodity Credit Corporation in the manner prescribed by the Secretary.

(2) Penalties

If any person fails to collect or remit the reduction required by subsection (g) or (h) of this section or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out such subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of milk involved in the violation; by

(B) the support rate for the applicable calendar year for milk.

(3) Enforcement

The Secretary may enforce subsection (g) or (h) of this section in the courts of the United States.

(j) Use of Commodity Credit Corporation

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(k) Period

Notwithstanding any other provision of law, this section shall be effective only during the period beginning on January 1, 1991, and ending on December 31, 1996.

(Oct. 31, 1949, ch. 792, title II, §204, as added Nov. 28, 1990, Pub. L. 101624, title I, §101(a), 104 Stat. 3374; amended Nov. 5, 1990, Pub. L. 101508, title I, §1105(g), 104 Stat. 13886; Dec. 13, 1991, Pub. L. 102237, title I, §§113(10), 127(a), 105 Stat. 1838, 1846; Aug. 10, 1993, Pub. L. 10366, title I, §1105(a), 107 Stat. 316; May 6, 1994, Pub. L. 103247, §1(c), 108 Stat. 618.)

AMENDMENTS

1994—Subsec. (g)(1). Pub. L. 103247, §1(c)(1), inserted “(less sales under section 1427 of this title for unrestricted use)” after “purchase”.

Subsec. (g)(2). Pub. L. 103247, §1(c)(2), inserted “(less sales under section 1427 of this title for unrestricted use)” after “purchases” in introductory provisions and in subpar. (A).

1993—Pub. L. 10366, §1105(a)(1), substituted “1996” for “1995” in section catchline.

Subsecs. (a), (b). Pub. L. 10366, §1105(a)(2), substituted “1996” for “1995”.

Subsec. (c)(3)(A). Pub. L. 10366, §1105(a)(3)(A), substituted “Subject to subparagraph (B), the Secretary” for “The Secretary”.

Subsec. (c)(3)(B), (C). Pub. L. 10366, §1105(a)(3)(B), (C), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsecs. (d)(1)(A), (2)(A), (3), (g)(1). Pub. L. 10366, §1105(a)(2), substituted “1996” for “1995”.

Subsec. (g)(2). Pub. L. 10366, §1105(a)(5), substituted “1996” for “1994”.

Subsec. (h)(2)(C). Pub. L. 10366, §1105(a)(4), added subpar. (C).

Subsec. (k). Pub. L. 10366, §1105(a)(2), substituted “1996” for “1995”.

1991—Subsec. (a). Pub. L. 102237, §127(a)(1), inserted “produced in the 48 contiguous States” after “the price of milk”.

Subsec. (c)(1). Pub. L. 102237, §127(a)(2), inserted before period at end “produced in the 48 contiguous States”.

Subsec. (d)(5)(B). Pub. L. 102237, §127(a)(3), substituted “48 contiguous States and the District of Columbia” for “United States” in two places.

Subsecs. (g)(1), (h)(1). Pub. L. 102237, §127(a)(4), substituted “48 contiguous States” for “United States”.

Subsec. (h)(3). Pub. L. 102237, §113(10), inserted at end “A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 3811 and 3821 of title 16.”

1990—Subsec. (g)(1). Pub. L. 101508, §1105(g)(1)(A), substituted “1992 through 1995” for “1991 through 1994”.

Subsec. (g)(2). Pub. L. 101508, §1105(g)(1)(B), in provisions preceding subpar. (A), inserted “in the following calendar year” after “purchases” and “in such following calendar year” after “producers”.

Subsec. (g)(2)(B). Pub. L. 101508, §1105(g)(1)(C), substituted “such following calendar year” for “that calendar year”.

Subsecs. (h) to (k). Pub. L. 101508, §1105(g)(2), (3), added subsecs. (h) and (i) and redesignated former subsecs. (h) and (i) as (j) and (k), respectively.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 127(b) of Pub. L. 102237 provided that: “This section [amending this section] and the amendments made by this section shall take effect as of January 1, 1991.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101508, set out as a note under section 511r of this title.

EFFECTIVE DATE

Section 101(a) of Pub. L. 101624 provided that this section is effective Jan. 1, 1991.

BOVINE GROWTH HORMONES; REDUCTION IN PRICE RECEIVED

Section 1105(c) of Pub. L. 10366 provided that:

“(1) DEFINITIONS.—As used in this subsection:

“(A) BOVINE GROWTH HORMONE.—The term ‘bovine growth hormone’ means a synthetic growth hormone produced through the process of recombinant DNA techniques that is intended for use in bovine animals.

“(B) DATE OF APPROVAL.—The term ‘date of approval’ means the date the Food and Drug Administration, pursuant to authority under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), first approves an application with respect to the use of bovine growth hormone.

“(2) REDUCTION IN PRICE RECEIVED.—In order to offset the economic effects of the sale of bovine growth hormone, the Secretary of Agriculture shall decrease the amount of the reduction in price received by producers specified in subparagraph (B) or (C) (as appropriate) of section 204(h)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446e(h)(2)) by 10 percent during the period beginning on the date of approval and ending 90 days after the date of approval and, during the period, it shall be unlawful for a person to sell bovine growth hormone for commercial agricultural purposes.”

RULEMAKING PROCEDURES

Section 101(b) of Pub. L. 101624 provided that: “Section 553 of title 5, United States Code, shall not apply with respect to the implementation of section 204 of the Agricultural Act of 1949 [7 U.S.C. 1446e] (as added by subsection (a) of this section) by the Secretary of Agriculture, including determinations made regarding—

“(1) the level of price support for milk; and
“(2) any reduction in the prices paid to producers of milk.”

APPLICATION OF SUPPORT PRICE FOR MILK

Section 106 of Pub. L. 101624 provided that: “For purposes of supporting the price of milk under section 204 of the Agricultural Act of 1949 [7 U.S.C. 1446e] (as added by section 101 of this Act), the Secretary of Agriculture may not take into consideration any market value of whey.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1426, 1446 of this title.

§1446e1. Milk manufacturing marketing adjustment

(a) In general

Effective beginning on the date that is 12 months after November 28, 1990, no State shall provide for (and no person shall collect, directly or indirectly) a greater allowance for the processing of milk (hereafter referred to as a “make allowance”) than is permitted under a Federal program to establish a Grade A price for manufacturing butter, nonfat dry milk, or cheese.

(b) Liability for penalties

(1) In general

If the Secretary of Agriculture determines that—

(A) based on a request by a producer supported by evidence, the make allowance collected by a person is in excess of the amount that is permitted under subsection (a) of this section; or

(B) a person has failed to comply with any requirement of this section or a regulation issued under this section,

the person shall be liable for penalties as determined by the Secretary in accordance with this subsection.

(2) Amount of penalties

Such penalties shall be equal to the product obtained by multiplying—

(A) twice the permitted make allowance that could be charged as provided under subsection (a) of this section; by

(B) the quantity of milk with respect to which the person was determined by the Secretary to have collected a make allowance in excess of the permitted make allowance.

(c) Regulations

The Secretary may issue such regulations as are necessary to carry out this section.

(d) Investigations

(1) In general

The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this section or to determine whether any person subject to this section has violated this section.

(2) Administration

For the purpose of the investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry.

(3) Subpoena

The attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or pro-

ceeding is carried on, or where the person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. The court may issue an order requiring the attendance and testimony of witnesses and the production of records, or requiring the person to appear before the Secretary to produce records or to give testimony on the matter under investigation.

(4) Contempt

Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(5) Process

All process in any such case may be served in the judicial district of which the person is an inhabitant or wherever the person may be found.

(e) Enforcement

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any provision of this section or any regulation issued under this section.

(Pub. L. 101624, title I, §102, Nov. 28, 1990, 104 Stat. 3378; Pub. L. 102237, title I, §118(e), Dec. 13, 1991, 105 Stat. 1842.)

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1991—Subsec. (b)(1). Pub. L. 102237 substituted “Secretary” for “Commodity Credit Corporation” in concluding provisions.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§1446f. Loans and payments for oilseeds for 1991 through 1995 marketing years

(a) “Oilseeds” defined

As used in this section, the term “oilseeds” means soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and such other oilseeds as the Secretary may determine.

(b) In general

The Secretary shall support the price of oilseeds through nonrecourse loans to producers on a farm for oilseeds produced on the farm in each of the 1991 through 1995 marketing years as provided in this section.

(c) Loan level

The loan level for each of the 1991 through 1995 crops of—

(1) soybeans shall not be less than \$5.02 per bushel for each of the 1991 through 1993 crops and \$4.92 per bushel for each of the 1994 through 1997 crops;

(2) sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall not be less than \$0.089 per pound for each of the 1991 through 1993 crops and \$0.087 per pound for each of the 1994 through 1997 crops; and

(3) other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan level available for soybeans, except in no event shall the level for such oilseeds (other than cottonseed) be less than the level established for soybeans on a per-pound basis for the same crop year.

To ensure that producers have an equitable opportunity to produce an alternative crop in areas of limited crop options, the Secretary may limit, insofar as practicable, adjustments in the loan rate established under paragraph (2) applicable to a particular region, State, or county for the purpose of reflecting transportation differentials such that the regional, State, or county loan rate does not increase or decrease by more than 9 percent from the basic national loan rate.

(d) Marketing loan provisions

(1) In general

The Secretary shall permit a producer to repay a loan made under this section for a crop—

(A) at a level that is the lesser of—

(i) the loan level determined for the crop; or

(ii) the prevailing world market price for the applicable oilseed (adjusted to United States quality and location), as determined by the Secretary; or

(B) such other level (not in excess of the loan level determined for the crop) that the Secretary determines will—

(i) minimize potential loan forfeitures;

(ii) minimize the accumulation of oilseed stocks by the Federal Government;

(iii) minimize the cost incurred by the Federal Government in storing oilseeds; and

(iv) allow oilseeds produced in the United States to be marketed freely and competitively, both domestically and internationally.

(2) Prevailing world market price

The Secretary shall prescribe by regulation—

(A) a formula to define the prevailing world market price for oilseeds (adjusted to United States quality and location); and

(B) a mechanism by which the Secretary shall announce periodically the prevailing world market price for oilseeds (adjusted to United States quality and location).

(e) Loan deficiency payment

(1) In general

The Secretary shall, for each of the 1991 through 1995 crops of oilseeds, make payments available to producers who, although eligible to obtain a loan under subsection (b) of this section, agree to forgo obtaining the loan in return for payments under this subsection.

(2) Computation

A payment under this subsection shall be computed by multiplying—

(A) the loan payment rate; by

(B) the quantity of oilseeds the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

(3) Loan payment rate

For purposes of this subsection, the loan payment rate shall be the amount by which—

(A) the loan level determined for the crop under subsection (c) of this section; exceeds

(B) the level at which a loan may be repaid under subsection (d) of this section.

(4) Marketing certificates

(A) In general

The Secretary may make payments under this section available in the form of certificates redeemable for any agricultural commodity owned by the Commodity Credit Corporation.

(B) Minimal oilseed stocks

The Secretary shall make certificates available under subparagraph (A) in such a manner so as to minimize the accumulation of oilseeds stocks.

(f) Marketing year

For purposes of this section, the marketing year for—

(1) soybeans shall be the 12-month period beginning on September 1 and ending on August 31; and

(2) other oilseeds shall be prescribed by the Secretary by regulation.

(g) Announcements

(1) In general

Except as provided in paragraph (2), the Secretary shall make an announcement of the loan level for the crop not later than November 15 prior to the calendar year in which the crop is harvested.

(2) 1991 crop

In the case of the 1991 crop, the Secretary shall make an announcement of the loan level for the crop as soon as practicable after November 28, 1990.

(h) Loan maturity

A loan made for a crop of oilseeds under this section shall mature—

(1) in the case of each of the 1991 through 1993 crops, on the last day of the 9th month following the month the application for the loan is made; and

(2) in the case of each of the 1994 through 1997 crops, on the last day of the 9th month following the month the application for the loan is made, except that the loan may not mature later than the last day of the fiscal year in which the application is made.

(i) Other terms and conditions

Notwithstanding any other provision of law—

(1) the Secretary shall not require participation in any production adjustment program for oilseeds or any other commodity as a con-

dition of eligibility for price support for oilseeds;

(2) the Secretary may not authorize payments to producers to cover the cost of storing oilseeds; and

(3) oilseeds may not be considered an eligible commodity for any reserve program.

(j) Regulations

The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(k) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(l) Assignment of payments

The provisions of section 590h(g) of title 16) (relating to assignment of payments) shall apply to payments under this section.

(m) Loan origination fee

(1) Loans

The Secretary shall charge a producer a loan origination fee for a crop of oilseeds, in connection with making a loan, equal to the product obtained by multiplying—

(A) the loan level determined for the crop under subsection (c) of this section; by

(B) 2 percent; by

(C) the quantity of oilseeds for which the producer obtains the loan.

(2) Loan deficiency payments

The Secretary shall deduct, from the amount of any loan deficiency payment made under subsection (e) of this section, an amount equal to the amount of the loan origination fee that would otherwise be paid under paragraph (1) if the producer obtained a loan rather a loan deficiency payment.

(3) Applicability

This subsection shall apply only to each of the 1991 through 1993 crops of oilseeds.

(n) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of oilseeds.

(Oct. 31, 1949, ch. 792, title II, §205, as added Nov. 28, 1990, Pub. L. 101624, title VII, §701(2), 104 Stat. 3457; amended Nov. 5, 1990, Pub. L. 101508, title I, §1105(a), 104 Stat. 13883; Dec. 13, 1991, Pub. L. 102237, title I, §110, 105 Stat. 1829; Aug. 10, 1993, Pub. L. 10366, title I, §1108, 107 Stat. 325.)

AMENDMENTS

1993—Subsec. (c)(1). Pub. L. 10366, §1108(1)(A), inserted “for each of the 1991 through 1993 crops and \$4.92 per bushel for each of the 1994 through 1997 crops” after “\$5.02 per bushel”.

Subsec. (c)(2). Pub. L. 10366, §1108(1)(B), inserted “for each of the 1991 through 1993 crops and \$0.087 per pound for each of the 1994 through 1997 crops” after “\$0.089 per pound”.

Subsec. (h). Pub. L. 10366, §1108(2), substituted “mature—” for “mature on the last day of the 9th month following the month the application for the loan is made.” and added pars. (1) and (2).

Subsec. (m)(3). Pub. L. 10366, §1108(3), added par. (3).

1991—Subsec. (c). Pub. L. 102237 substituted “flaxseed, individually,” for “flaxseed” in par. (2), substituted “in

no event shall the level for such oilseeds (other than cottonseed) be less” for “that, in the case of cottonseed, in no event less” in par. (3), and inserted sentence after and below par. (3).

1990—Subsecs. (m), (n). Pub. L. 101508 added subsec. (m) and redesignated former subsec. (m) as (n).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101508, set out as a note under section 511r 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. 101624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 1426, 14412, 14442, 1444f, 1445b3a, 1464 of this title.

§1446g. Sugar price support for 1991 through 1997 crops

(a) In general

The price of each of the 1991 through 1997 crops of sugar beets and sugarcane, respectively, shall be supported in accordance with this section.

(b) Sugarcane

The Secretary shall support the price of domestically grown sugarcane through nonrecourse loans at such level as the Secretary determines appropriate, but not less than 18 cents per pound for raw cane sugar.

(c) Sugar beets

The Secretary shall support the price of each of the 1991 through 1997 crops of domestically grown sugar beets through nonrecourse loans at such level for each such crop as the Secretary determines reflects—

(1) an amount that bears the same relation to the support level for the crop of sugarcane under subsection (b) of this section as the weighted average of producer returns for sugar beets bears to the weighted average of producer returns for sugarcane, expressed on a cents per pound basis for refined beet sugar and raw cane sugar, for the most recent 5-year period for which data are available; plus

(2) an amount that covers sugar beet processor fixed marketing expenses.

(d) Adjustment in support price

(1) In general

The Secretary may increase the support price for each of the 1991 through 1997 crops of domestically grown sugarcane and sugar beets from the price determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, and other circumstances that may adversely affect domestic sugar production.

(2) Report

If the Secretary makes a determination not to increase the support price under paragraph

(1), the Secretary shall submit a report containing the findings, decision, and supporting data for the determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) Announcements

The Secretary shall announce the basic loan rates for beet sugar and cane sugar to be applicable during any fiscal year under this section as far in advance of the beginning of that fiscal year as is practicable consistent with the purposes of this section.

(f) Term

Except as provided in subsection (g) of this section, loans under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

- (1) the end of 9 months; or
- (2) the end of the fiscal year.

(g) Supplementary nonrecourse loans

The Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. Such loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

- (1) be made at the loan rate in effect at the time the second loan is made; and
- (2) mature in 9 months less the quantity of time that the first loan was in effect.

(h) Use of Commodity Credit Corporation

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(i) Marketing assessment

(1) Sugarcane

Effective only for marketings of raw cane sugar during the 1992 through 1996 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a non-refundable marketing assessment in an amount equal to—

(A) in the case of marketings during each of fiscal years 1992 through 1994, 1.0 percent of the loan level established under subsection (b) of this section per pound of raw cane sugar (but not more than .18 cents per pound of raw cane sugar), processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

(B) in the case of marketings during each of fiscal years 1995 through 1998, 1.1 percent of the loan level established under subsection (b) of this section per pound of raw cane sugar (but not more than .198 cents per pound of raw cane sugar), processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery

of the sugar to a refinery for further processing or marketing).

(2) Sugar beets

Effective only for marketings of beet sugar during the 1992 through 1996 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a non-refundable marketing assessment in an amount equal to—

(A) in the case of marketings during each of fiscal years 1992 through 1994, 1.0722 percent of the loan level established under subsection (b) of this section per pound of beet sugar (but not more than .193 cents per pound of beet sugar), processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

(B) in the case of marketings during each of fiscal years 1995 through 1998, 1.1794 percent of the loan level established under subsection (b) of this section per pound of beet sugar (but not more than .2123 cents per pound of beet sugar), processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

(3) Collection

(A) Timing

Marketing assessments required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation within 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of that year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

(B) Manner

Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

(4) Penalties

If any person fails to remit the assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of cane sugar or beet sugar involved in the violation; by

(B) the support level for the applicable crop of sugarcane or sugar beets.

(5) Enforcement

The Secretary may enforce this subsection in the courts of the United States.

(6) Excess marketings

In addition to the assessment required under paragraph (1) or (2), a processor who knowingly markets sugar in excess of the allocated allotment of the processor under section 1359dd of this title shall pay an assessment in an amount that is double the applicable as-

assessment required under paragraph (1) or (2) per pound of sugar marketed.

(j) Crops

This section shall be effective only for the 1991 through 1997 crops of sugar beets and sugarcane. (Oct. 31, 1949, ch. 792, title II, §206, as added Nov. 28, 1990, Pub. L. 101624, title IX, §901(2), 104 Stat. 3478; amended Nov. 5, 1990, Pub. L. 101508, title I, §1105(c), 104 Stat. 13885; Dec. 13, 1991, Pub. L. 102237, title I, §111(a), 105 Stat. 1829; Aug. 10, 1993, Pub. L. 10366, title I, §1107(a), 107 Stat. 324.)

AMENDMENTS

1993—Pub. L. 10366, §1107(a)(1), substituted “1997” for “1995” in section catchline.

Subsecs. (a), (c), (d)(1). Pub. L. 10366, §1107(a)(2), substituted “1997” for “1995”.

Subsec. (i)(1). Pub. L. 10366, §1107(a)(3)(A), substituted “equal to—” for “equal to .18 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).” and added subpars. (A) and (B).

Subsec. (i)(2). Pub. L. 10366, §1107(a)(3)(B), substituted “equal to—” for “equal to .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.” and added subpars. (A) and (B).

Subsec. (i)(6). Pub. L. 10366, §1107(a)(3)(C), added par. (6).

Subsec. (j). Pub. L. 10366, §1107(a)(2), substituted “1997” for “1995”.

1991—Subsec. (e). Pub. L. 102237, §111(a)(1), substituted “announce the basic loan rates for beet sugar and cane sugar” for “announce the loan rate”.

Subsec. (f). Pub. L. 102237, §111(a)(2), substituted “Except as provided in subsection (g) of this section, loans” for “Loans”.

Subsec. (g). Pub. L. 102237, §111(a)(3), added subsec. (g) and struck out former subsec. (g) which read as follows: “In the case of sugar beet producing areas in which sugar beets normally are harvested during the last 3 months of a fiscal year, the Secretary shall make available, to each borrower of a loan made and repaid under this section during the last 3 months of the fiscal year on sugar processed from sugar beets so harvested, a supplementary nonrecourse loan in addition to the initial loan. In each case, the supplementary loan shall—

“(1) be made available to the borrower as of the first day of the following fiscal year;

“(2) be made at the same loan rate as the initial loan; and

“(3) mature in 9 months less the amount of time that the initial loan was in effect.”

Subsec. (i)(1) to (3). Pub. L. 102237, §111(a)(4)(A), added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

“(1) SUGARCANE.—Effective only for each of the 1991 through 1995 crops of sugarcane, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .18 cents per pound of raw cane sugar processed by the processor from domestically produced sugarcane.

“(2) SUGAR BEETS.—Effective only for each of the 1991 through 1995 crops of sugar beets, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .193 cents per pound of beet sugar processed by the processor from domestically produced sugar beets.

“(3) COLLECTION.—Marketing assessments required under this subsection shall be collected and remitted to the Commodity Credit Corporation in the manner prescribed by the Secretary and shall be nonrefundable.”

Subsec. (i)(4). Pub. L. 102237, §111(a)(4)(B), substituted “remit the assessment” for “collect or remit the reduction”.

1990—Subsecs. (i), (j). Pub. L. 101508 added subsec. (i) and redesignated former subsec. (i) as (j).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101508, set out as a note under section 511r 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. 101624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

PREVENTION OF SUGAR LOAN FORFEITURES

Section 902 of Pub. L. 99198, as amended by Pub. L. 101624, title IX, §903, title XI, §1161(c), Nov. 28, 1990, 104 Stat. 3488, 3521, provided that:

“(a) Beginning with the quota year for sugar imports which begins after the 1985/1986 quota year, the President shall use all authorities available to the President as is necessary to enable the Secretary of Agriculture to operate the sugar program established under section 206 of the Agricultural Act of 1949 [7 U.S.C. 1446g] at no cost to the Federal Government by preventing the accumulation of sugar acquired by the Commodity Credit Corporation.

“(b) Effective only for the 1985/1986 quota year for sugar imports, the President shall—

“(1) modify the 1985/1986 quota year for imports for sugar so that such quota year will end no earlier than December 31, 1986, and rearrange the shipping schedules so that shipments are divided equally throughout the quota year, as extended; or

“(2) require that the sugar program be administered in such a manner as will result in the forfeiture of sugar held by the Commodity Credit Corporation as collateral for price support loans in a quantity no greater than the total quantity (determined by the Secretary of Agriculture) that would have been forfeited to the Commodity Credit Corporation had the 1985/1986 quota year been modified as prescribed in clause (1).

“(c)(1) Beginning with the quota year for sugar imports which begins after the 1985/1986 quota year, the President shall not allocate any of the sugar import quota under such provisions to any country that is a net importer of sugar derived from sugarcane or sugar beets unless the appropriate officials of that country verify to the President that that country does not import for reexport to the United States any sugar produced in Cuba.

“(2)(A) Effective 90 days after the date of enactment of this paragraph [Nov. 28, 1990] and by August 1 of each year thereafter through 1995, the Secretary of Agriculture shall report to the President and Congress on the extent, if any, of sugar imports from Cuba by the countries described in paragraph (1).

“(B) Commencing with the quota year for sugar imports after the 1990/1991 quota year, the President shall report to Congress by January 1, on—

“(i) the identity of the countries that are net importers of sugar derived from sugarcane or sugar beets who have a quota for the current quota year;

“(ii) the identity of such countries who have verified that they do not import for reexport to the United States any sugar produced in Cuba; and

“(iii) the action, if any, taken by the President with respect to countries reported by the Secretary of Agriculture as net importers of sugar derived from sugarcane or sugar beets who imported the sugar from Cuba who reexported the sugar to the United States during the previous quota year.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1359cc of this title.

§1446h. Honey price support**(a) In general**

For each of the 1991 through 1998 crops of honey, the price of honey shall be supported through loans, purchases, or other operations at not less than—

- (1) 53.8 cents per pound for each of the 1991 through 1993 crop years;
- (2) 50 cents per pound for each of the 1994 and 1995 crop years;
- (3) 49 cents per pound for the 1996 crop year;
- (4) 48 cents per pound for the 1997 crop year; and
- (5) 47 cents per pound for the 1998 crop year.

(b) Marketing loan provisions

The Secretary may permit a producer to repay a loan made to the producer under this section for a crop at a level that is the lesser of—

- (1) the loan level determined for the crop; or
- (2) such level as the Secretary determines will—
 - (A) minimize the number of loan forfeitures;
 - (B) not result in excessive total stocks of honey;
 - (C) reduce the costs incurred by the Federal Government in storing honey; and
 - (D) maintain the competitiveness of honey in the domestic and export markets.

(c) Loan deficiency payments**(1) In general**

The Secretary shall, for each of the 1991 through 1998 crops of honey, make payments available to producers who, although eligible to obtain a loan under subsection (b) of this section, agree to forgo obtaining the loan in return for payments under this subsection.

(2) Computation

A payment under this subsection shall be computed by multiplying—

- (A) the loan payment rate; by
- (B) the quantity of honey the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

(3) Loan payment rate

For purposes of this subsection, the loan payment rate shall be the amount by which—

- (A) the loan level determined for the crop under subsection (a) of this section; exceeds
- (B) the level at which a loan may be repaid under subsection (b) of this section.

(4) Marketing certificates

The Secretary may make payments under this section available in the form of certificates redeemable for any agricultural commodity owned by the Commodity Credit Corporation.

(d) Pledging adulterated or imported honey as collateral**(1) In general**

If the Secretary determines that a person has knowingly pledged adulterated or imported honey as collateral to secure a loan made under this section, the person, in addi-

tion to any other penalty or sanction prescribed by law, shall be ineligible for a loan, purchase, or payment under this section for the 3 crop years succeeding the determination.

(2) Adulterated honey

For purposes of paragraph (1), honey shall be considered adulterated if—

(A) any substance has been substituted wholly or in part for the honey;

(B) the honey contains a poisonous or deleterious substance that may render the honey injurious to health, except that in any case in which the substance is not added to the honey, the honey shall not be considered adulterated if the quantity of the substance in or on the honey does not ordinarily render it injurious to health; or

(C) for any other reason, the honey is unsound, unhealthy, unwholesome, or otherwise unfit for human consumption.

(e) Payment limitations**(1) In general**

The total amount of payments that a person may receive under this section may not exceed—

- (A) \$200,000 in the 1991 crop year;
- (B) \$175,000 in the 1992 crop year;
- (C) \$150,000 in the 1993 crop year;
- (D) \$125,000 in the 1994 crop year;
- (E) \$100,000 in the 1995 crop year;
- (F) \$75,000 in the 1996 crop year; and
- (G) \$50,000 in each of the 1997 and 1998 crop years.

(2) Payments

For the purposes of this subsection, the term “payments” means—

- (A) any gain realized by a producer from repaying a loan for a crop of honey at a lower level than the original loan level under this section; and
- (B) any loan deficiency payment received under subsection (c) of this section.

(3) Person

The Secretary shall issue regulations defining the term “person” for the purposes of this section. The regulations shall provide for the attribution of payments received under this section.

(f) Regulations

The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(g) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(h) Assignment of payments

The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to payments under this section.

(i) Marketing assessment**(1) In general**

Effective only for each of the 1991 through 1993 crops of honey, producers and producer-packers of honey (as defined in paragraphs (5)

and (9), respectively, of section 3 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4602)) shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment on a per pound basis in an amount equal to 1 percent of the national price support level for each such crop as otherwise provided in this section.

(2) Collection

The assessment shall be collected and remitted by the first handler of honey in the manner prescribed by the Secretary which, to the extent practicable, shall be as provided for in the Honey Research, Promotion, and Consumer Information Act [7 U.S.C. 4601 et seq.].

(3) Exemptions

All persons who are exempt from the payment of the assessment authorized by such Act, and all imported honey, shall be exempt from the payment of the assessment required by this subsection.

(4) Penalties

If any person fails to collect or remit the reduction required by this subsection or fails to comply with such requirements for record-keeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of honey involved in the violation; by

(B) the support level for the applicable crop of honey.

(5) Enforcement

The Secretary may enforce this subsection in the courts of the United States.

(j) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1998 crops of honey.

(Oct. 31, 1949, ch. 792, title II, §207, as added Nov. 28, 1990, Pub. L. 101624, title X, §1001, 104 Stat. 3488; amended Nov. 5, 1990, Pub. L. 101508, title I, §1105(d), 104 Stat. 13885; Aug. 10, 1993, Pub. L. 10366, title I, §1110, 107 Stat. 326.)

REFERENCES IN TEXT

The Honey Research, Promotion, and Consumer Information Act, referred to in subsec. (i)(2), (3), is Pub. L. 98590, Oct. 30, 1984, 98 Stat. 3115, as amended, which is classified generally to chapter 77 (§4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

AMENDMENTS

1993—Subsec. (a). Pub. L. 10366, §1110(1), (2), substituted “1998” for “1995”, substituted “than—” for “than 53.8 cents per pound.”, and added pars. (1) to (5).

Subsec. (c)(1). Pub. L. 10366, §1110(1), substituted “1998” for “1995”.

Subsec. (e)(1)(D) to (G). Pub. L. 10366, §1110(3), added subpars. (D) to (G) and struck out former subpar. (D) which read as follows: “\$125,000 in each of the 1994 and subsequent crop years.”

Subsec. (i)(1). Pub. L. 10366, §1110(4), substituted “1993” for “1995”.

Subsec. (j). Pub. L. 10366, §1110(1), substituted “1998” for “1995”.

1990—Subsecs. (i), (j). Pub. L. 101508 added subsec. (i) and redesignated former subsec. (i) as (j).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101508, set out as a note under section 511r 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. 101624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

PROHIBITION ON USE OF FUNDS FOR HONEY PAYMENTS OR LOAN FORFEITURES

Pub. L. 103330, title VII, §723, Sept. 30, 1994, 108 Stat. 2469, provided that: “Notwithstanding any other provision of this Act [see Tables for classification], none of the funds appropriated or otherwise made available by this Act shall be used by the Secretary of Agriculture to provide for a total amount of payments and/or total amount of loan forfeitures to a person to support the price of honey under section 207 of the Agriculture Act of 1949 (7 U.S.C. 1446h) and section 405A of such Act (7 U.S.C. 1425a) in excess of zero dollars in the 1994 and 1995 crop years.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 103111, title VII, §728, Oct. 21, 1993, 107 Stat. 1081.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1425a of this title.

§1446i. Repealed. Pub. L. 103354, title I, §119(a)(6), Oct. 13, 1994, 108 Stat. 3208

Section, act Oct. 31, 1949, ch. 792, title II, §208, as added Nov. 28, 1990, Pub. L. 101624, title XI, §1126, 104 Stat. 3507, related to disaster payments for 1991 through 1995 crops of peanuts, soybeans, sugar beets, and sugarcane.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as an Effective Date of 1994 Amendment note under section 1502 of this title.

§1447. Price support levels for other nonbasic agricultural commodities

The Secretary is authorized to make available through loans, purchases, or other operations price support to producers for any nonbasic agricultural commodity not designated in sections 1446, 1446a, and 1446d of this title at a level not in excess of 90 per centum of the parity price for the commodity.

(Oct. 31, 1949, ch. 792, title III, §301, 63 Stat. 1053; Sept. 29, 1977, Pub. L. 95113, title X, §1003(a), 91 Stat. 950.)

AMENDMENTS

1977—Pub. L. 95113 temporarily inserted provisions authorizing Secretary to make price support available for the 1978 through 1981 crops of flaxseed, dry edible beans, gum naval stores, and, in the case of the 1979 through 1981 crops, sugar beets and sugar cane, and for other nonbasic undesignated commodities. See Effective

tive and Termination Dates of 1977 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 1003(a) of Pub. L. 95113 provided that the amendment made by that section is effective only with respect to 1978 through 1981 crops.

ELIMINATION OF WOOL AND MOHAIR PROGRAMS

Pub. L. 103130, §3(c), Nov. 1, 1993, 107 Stat. 1369, provided that: "Effective beginning December 31, 1995, the Secretary of Agriculture may not provide loans or payments for wool or mohair by using the funds of the Commodity Credit Corporation or under the authority of any law."

OTHER PRICE SUPPORT PROGRAMS IN EFFECT ON SEPTEMBER 29, 1977

Section 1003(b) of Pub. L. 95113 provided that: "The amendment made by this section [amending this section] to the Agricultural Act of 1949 shall not be operative in any manner with respect to any price support program in effect on the date of enactment of this Act [Sept. 29, 1977]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 1449 of this title.

§1448. Price support levels for storable nonbasic agricultural commodities

Without restricting price support to those commodities for which a marketing quota or marketing agreement or order program is in effect, price support shall, insofar as feasible, be made available to producers of any storable nonbasic agricultural commodity for which such a program is in effect and who are complying with such program. The level of such support shall not be in excess of 90 per centum of the parity price of such commodity nor less than the level provided in the following table:

If the supply percentage as of the beginning of the marketing year is: The level of support shall be not less than the following percentage of the parity price:

Table with 2 columns: Supply percentage range and corresponding support level percentage. Rows include: Not more than 102 (90), More than 102 but not more than 104 (89), More than 104 but not more than 106 (88), More than 106 but not more than 108 (87), More than 108 but not more than 110 (86), More than 110 but not more than 112 (85), More than 112 but not more than 114 (84), More than 114 but not more than 116 (83), More than 116 but not more than 118 (82), More than 118 but not more than 120 (81), More than 120 but not more than 122 (80), More than 122 but not more than 124 (79), More than 124 but not more than 126 (78), More than 126 but not more than 128 (77), More than 128 but not more than 130 (76), More than 130 (75).

Provided, That the level of price support may be less than the minimum level provided in the foregoing table if the Secretary, after examination of the availability of funds for mandatory price support programs and consideration of the other factors specified in section 1421(b) of this title, determines that such lower level is desirable and proper.

(Oct. 31, 1949, ch. 792, title III, §302, 63 Stat. 1053.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 1449 of this title.

§1449. Determination of price support level

In determining the level of price support for any nonbasic agricultural commodity under sections 1447 to 1449 of this title, particular consideration shall be given to the levels at which the prices of competing agricultural commodities are being supported.

(Oct. 31, 1949, ch. 792, title III, §303, 63 Stat. 1053.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1446 of this title.

§1450. Repealed. Aug. 28, 1954, ch. 1041, title II, §203(b), 68 Stat. 899

Section, acts Mar. 31, 1950, ch. 81, §5, 64 Stat. 42; Jan. 30, 1954, ch. 2, §5(a), 68 Stat. 7, provided that for the crop year of 1951 and thereafter, no price support would be available for Irish potatoes unless marketing quotas were in effect.

SUBCHAPTER IV—ACREAGE BASE AND YIELD SYSTEM

PRIOR PROVISIONS

A prior subchapter IV of the Agricultural Act of 1949, Act Oct. 31, 1949, ch. 792, title V, as added July 12, 1951, ch. 223, 65 Stat. 119, relating to the recruiting of agricultural workers from Mexico, was omitted pursuant to the provisions of section 510 thereof which provided that no workers would be available under such provisions after Dec. 31, 1964.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 14412, 14442, 1444f, 1445b3a, 2279a of this title.

§1461. Purpose

The purpose of this subchapter is to prescribe a system for establishing crop acreage bases and program payment yields for the wheat, feed grains, upland cotton, and rice programs under this Act that is efficient, equitable, flexible, and predictable.

(Oct. 31, 1949, ch. 792, title V, §501, as added Dec. 23, 1985, Pub. L. 99198, title X, §1031, 99 Stat. 1460; amended Nov. 28, 1990, Pub. L. 101624, title XI, §1101, 104 Stat. 3491.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

PRIOR PROVISIONS

A prior section 1461, act Oct. 31, 1949, ch. 792, title V, §501, as added July 12, 1951, ch. 223, 65 Stat. 119; amended Mar. 16, 1954, ch. 98, 68 Stat. 28, provided for powers, duties, and guaranties of Secretary of Labor as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

AMENDMENTS

1990—Pub. L. 101624 amended section generally. Prior to amendment, section read as follows: "The purpose of this subchapter is to prescribe a system for establish-

ing farm and crop acreage bases and program yields for the wheat, feed grain, upland cotton, and rice programs under this Act that is efficient, equitable, flexible, and predictable.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES

Section 1031 of Pub. L. 99198 provided that this subchapter is effective for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice.

§1462. Definitions

For purposes of this subchapter—

(1) County committee

The term “county committee” means the county committee established under section 590h(b) of title 16 for the county in which the farm is administratively located.

(2) Oilseed

The term “oilseed” means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

(3) Program crop

The term “program crop” means a crop of wheat, corn, grain sorghums, oats, barley, upland cotton, or rice.

(Oct. 31, 1949, ch. 792, title V, §502, as added Dec. 23, 1985, Pub. L. 99198, title X, §1031, 99 Stat. 1461; amended Nov. 28, 1990, Pub. L. 101624, title XI, §1101, 104 Stat. 3491.)

PRIOR PROVISIONS

A prior section 1462, act Oct. 31, 1949, ch. 792, title V, §502, as added July 12, 1951, ch. 223, 65 Stat. 119; amended Aug. 9, 1955, ch. 679, §2, 69 Stat. 615; Oct. 3, 1961, Pub. L. 87345, §1, 75 Stat. 761, related to liabilities and guaranties of employers as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

AMENDMENTS

1990—Pub. L. 101624 amended section generally. Prior to amendment, section read as follows: “For purposes of this subchapter—

“(1) the term ‘program crop’ means any crop of wheat, feed grains, upland cotton, or rice; and

“(2) the term ‘county committee’ means the county committee established under section 590h(b) of title 16 for the county in which the farm is administratively located.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14412, 14442, 1444f, 1445b3a of this title.

§1463. Crop acreage bases

(a) Establishment

(1) In general

The Secretary shall provide for the establishment and maintenance of crop acreage

bases for each program crop, including any program crop produced under an established practice of double cropping.

(2) Limitation

The sum of the crop acreage bases on the farm may not exceed the cropland on the farm, except to the extent there is an established practice of double cropping on the farm.

(3) “Double cropping” defined

As used in this subsection, the term “double cropping” means a farming practice, as defined by the Secretary, that has been carried out on a farm during at least 3 of the 5 crop years immediately preceding the crop year for which the crop acreage base for the farm is established.

(b) Calculation

(1) In general

Except as provided in paragraph (2), the crop acreage base for each program crop for a farm for a crop year shall be the number of acres that is equal to the average of the acreage planted and considered planted to the program crop for harvest on the farm in each of the 5 crop years preceding the crop year.

(2) Cotton and rice

(A) In general

In the case of upland cotton and rice, except as provided in subparagraph (B), the crop acreage base for such crop shall be equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 3 crop years preceding such crop year.

(B) Exception

(i) 1991 crops

In the case of each of the 1991 crops of upland cotton and rice, if the producers on a farm did not participate in the production adjustment program established for the 1989 and 1990 crops of upland cotton and rice, respectively, the crop acreage base for the 1991 crop shall be equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 5 crop years preceding the 1991 crop year, excluding all crop years in which planted and considered planted acreage was not established for the farm. Any crop acreage base established in accordance with this subparagraph shall not exceed a number of acres equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 2 crop years preceding the 1991 crop year.

(ii) 1992 crops

In the case of each of the 1992 crops of upland cotton and rice, if the producers on a farm did not participate in the production adjustment program established for the 1990 and 1991 crops of upland cotton and rice, respectively, the crop acreage base for the 1992 crop shall be equal to the average of the acreage planted and considered planted to such crop for harvest on

the farm in each of the 5 crop years preceding the 1992 crop year, excluding all crop years in which planted and considered planted acreage was not established for the farm. Any crop acreage base established in accordance with this subparagraph shall not exceed a number of acres equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 2 crop years preceding the 1992 crop year.

(c) Acreage considered planted

For purposes of this Act, acreage considered planted to a program crop shall consist of—

(1) any reduced acreage and diverted acreage on the farm;

(2) any acreage on the farm that producers were prevented from planting to the crop because of drought, flood, or other natural disaster, or other condition beyond the control of the producers;

(3) acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is devoted to conservation uses or the production of commodities permitted by the Secretary under the programs established for any of the 1991 through 1997 crops of wheat, feed grains, upland cotton, and rice established under sections 1445b3a(c)(1)(E), 1444f(c)(1)(E), 14442(c)(1)(D), and 14412(c)(1)(D) of this title, respectively;

(4) acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is devoted to the production of commodities in accordance with section 1464 of this title;

(5) any acreage on the farm that the Secretary determines is necessary to be included in establishing a fair and equitable crop acreage base;

(6) acreage in an amount not to exceed 20 percent of the crop acreage base for a crop of feed grains or wheat if—

(A) the acreage is planted to dry peas,¹ (limited to Austrian peas, wrinkled, seed, green, yellow, and umatilla) and lentils; and

(B) payments are not received by producers under sections 1444f(c)(1)(E) and 1445b3a(c)(1)(E) of this title, as the case may be;

(7) the crop acreage base for the crop, if producers on the farm forgo receiving any payments under the program established under subchapter II of this chapter for the crop and certify that no acreage on the farm was planted to—

(A) the crop; or

(B) any fruit or vegetable crop (including potatoes and dry edible beans) not designated as an industrial or experimental crop by the Secretary, in excess of normal plantings; and

(8) any acreage on the farm for which the crop acreage base for the crop on the farm was

adjusted because of a condition or occurrence beyond the control of the producer pursuant to subsection (h) of this section.

(d) Construction of planting history

For the purpose of determining the crop acreage base for the 1991 and subsequent crop years for any farm, the county committee, in accordance with regulations prescribed by the Secretary, may construct a planting history for such crop if—

(1) planting records for such crop for any of the 5 crop years preceding such crop year are incomplete or unavailable; or

(2) during at least one but not more than 4 of the 5 crop years preceding such crop year, the program crop was not produced on the farm.

(e) Crop rotation and other factors

The Secretary shall make adjustments to reflect crop rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable crop acreage base, including adjustments necessary to enable producers to meet the requirements of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

(f) Prevented planting

If a county committee determines, in accordance with regulations prescribed by the Secretary, that the occurrence of a natural disaster or other similar condition beyond the control of the producer prevented the planting of a program crop on any farm within the county (or substantially destroyed any such program crop after it had been planted but before it had been harvested), the producer may plant any other crop, including any other program crop, on the acreage of such farm that, but for the occurrence of such disaster or other condition, would have been devoted to the production of a program crop. For purposes of determining the crop acreage base, any acreage on the farm on which a substitute crop, including any program crop, is planted under this subsection shall be taken into account as if such acreage had been planted to the program crop for which the other crop was substituted.

(g) Subsequent crop years

A producer who is eligible to receive a deficiency payment for any program crop or crop of extra long staple cotton in any crop year with respect to a farm may not use the acreage planted or considered planted to any program crop or crop of extra long staple cotton on the farm in the crop year to increase any crop acreage base established for the farm in a subsequent crop year.

(h) Adjustment of bases

(1) In general

The county committee, in accordance with regulations prescribed by the Secretary, may adjust any crop acreage base for any program crop for any farm if the crop acreage base for the crop on the farm would otherwise be adversely affected by a condition or occurrence beyond the control of the producer.

¹So in original. The comma probably should not appear.

(2) Restoration of crop acreage base**(A) In general**

For the 1992 through 1997 crop years, the county committee shall allow an eligible producer to increase individual crop acreage bases on the farm, subject to subsection (a)(2) of this section, above the levels of base that would otherwise be established under this section, in order to restore the total of crop acreage bases on the farm for the 1992 through 1997 crop years to the same level as the total of crop acreage bases on the farm for the 1990 crop year.

(B) "Eligible producer" defined

For the purposes of this paragraph, the term "eligible producer" means a producer of upland cotton or rice who, the appropriate county committee determines—

- (i) was required to reduce one or more individual crop acreage bases on the farm during the 1991 crop year in order to comply with subsection (a)(2) of this section and the change in the calculation of cotton and rice crop acreage bases to a 3-year formula as provided in this section; and
- (ii) has participated in the price support program during the 1991 crop year and each subsequent crop year through the current crop year.

(C) Regulations

The Secretary shall issue regulations to carry out this paragraph.

(Oct. 31, 1949, ch. 792, title V, §503, as added Dec. 23, 1985, Pub. L. 99198, title X, §1031, 99 Stat. 1461; amended Aug. 11, 1988, Pub. L. 100387, title III, §302(a), 102 Stat. 947; Aug. 14, 1989, Pub. L. 10181, §2, 103 Stat. 563; Nov. 28, 1990, Pub. L. 101624, title XI, §1101, 104 Stat. 3491; Dec. 13, 1991, Pub. L. 102237, title I, §112(a), (b), 105 Stat. 1836; Aug. 10, 1993, Pub. L. 10366, title I, §1101(b)(2)(A), 107 Stat. 314.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Food Security Act of 1985, referred to in subsec. (e), is Pub. L. 99198, Dec. 23, 1985, 99 Stat. 1354, as amended. Title XII of the Act, popularly known as the "Sodbuster Law", is classified principally to chapter 58 (§3801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1463, act Oct. 31, 1949, ch. 792, title V, §503, as added July 12, 1951, ch. 223, 65 Stat. 120; amended Aug. 9, 1955, ch. 679, §3, 69 Stat. 615; Oct. 3, 1961, Pub. L. 87345, §2, 75 Stat. 761, related to certification of need for workers, consultation with employers and workers, and posting of information as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

A prior section 1463a, act Oct. 31, 1949, ch. 792, title V, §504, as added Oct. 3, 1961, Pub. L. 87345, §3, 75 Stat. 761, restricted duration and nature of employment as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

AMENDMENTS

1993—Subsec. (c)(3). Pub. L. 10366, §1101(b)(2)(A)(i), struck out "0/92 or 50/92" before "programs established" and substituted "1997" for "1995".

Subsec. (h)(2)(A). Pub. L. 10366, §1101(b)(2)(A)(ii), substituted "1997" for "1995" in two places.

1991—Subsec. (c)(6) to (8). Pub. L. 102237, §112(a), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

Subsec. (h)(1), (2). Pub. L. 102237, §112(b), designated existing provisions as par. (1), inserted heading, and added par. (2).

1990—Pub. L. 101624 amended section generally, substituting provisions relating to crop acreage bases for provisions relating to the establishment and maintenance of farm acreage bases for 1986 and subsequent crop years.

1989—Subsec. (c)(1). Pub. L. 10181 temporarily struck out "if the acreage limitation percentage established for a crop of feed grains under section 1444e(f) of this title is 12.5 percent or less," after "effective for each of the 1989 and 1990 crops." See Effective and Termination Dates of 1989 Amendment note below.

1988—Subsec. (c). Pub. L. 100387 added subsec. (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 2 of Pub. L. 10181 provided that the amendment made by that section is effective only for 1990 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14412, 14442, 1444f, 1445b3a of this title.

§1464. Planting flexibility**(a) In general**

The producers on a farm may, in accordance with this section, plant for harvest on the crop acreage base established for a program crop a commodity, other than the specific program crop, without suffering a reduction in the crop acreage base as a result of the production.

(b) Specified commodities**(1) Permitted crops**

Except as provided in paragraph (2), for purposes of this section, the commodities that may be planted for harvest on a crop acreage base are—

- (A) any program crop;
- (B) any oilseed;
- (C) any industrial or experimental crop designated by the Secretary;
- (D) any other crop, except any fruit or vegetable crop (including potatoes and dry edible beans) not designated by the Secretary as—

- (i) an industrial or experimental crop; or
- (ii) a crop for which no substantial domestic production or market exists; and

- (E) mung beans.

(2) Limitation

For purposes of this section, the Secretary may, at the discretion of the Secretary, prohibit the planting on a crop acreage base of any crop specified in paragraph (1).

(3) Notification

With regard to commodities that may be planted pursuant to this subsection, the Secretary shall make a determination in each crop year of the commodities that may not be planted pursuant to this subsection and shall make available a list of the commodities.

(c) Limitation on acreage**(1) In general**

Except as provided in paragraph (2), the quantity of the crop acreage base that may be planted to a commodity, other than the specific program crop, under this section may not exceed 25 percent of the crop acreage base.

(2) Exception for soybeans

If on January 1 of any calendar year the Secretary estimates that the national average price of soybeans during the following marketing year for soybeans would be less than 105 percent of the nonrecourse loan level for soybeans established in section 1446f of this title if soybeans were allowed to be planted on up to 25 percent of the crop acreage base under this section, the quantity of the crop acreage base that may be planted to soybeans under this section may not exceed 15 percent of the crop acreage base.

(d) Plantings in excess of permitted acreage

Notwithstanding any other provision of this Act, producers of a program crop who are participating in the production adjustment program for that program crop under this Act shall be allowed to plant that program crop in a quantity that exceeds the permitted acreage for that crop without losing their eligibility for loans, purchases, or payments with respect to that crop under this Act if—

(1) the acreage planted to the program crop on the farm in excess of the permitted acreage does not exceed 25 percent of the crop acreage bases on the farm for other program crops; and

(2) the producer agrees to a reduction in permitted acreage for the other program crops produced on the farm by a quantity equal to the overplanting.

(e) Loan eligibility**(1) In general**

Producers of a specific program crop (referred to in this subsection as the “original program crop”) who plant for harvest on the crop acreage base established for such original program crop another program crop in accordance with this section and who are not participants in the program established for such other program crop shall be eligible to receive loans, purchases, or loan deficiency payments for such other program crop on the same terms and conditions as are provided to participants in a production adjustment program established for such other program crop.

(2) Requirements

Producers shall be eligible to receive loans, purchases, or loan deficiency payments under this subsection if the producers—

(A) plant such other program crop in an amount that does not exceed 25 percent of the crop acreage base established for the original program crop; and

(B) agree to a reduction in the permitted acreage for the original program crop for the particular crop year.

(Oct. 31, 1949, ch. 792, title V, §504, as added Dec. 23, 1985, Pub. L. 99198, title X, §1031, 99 Stat. 1461; amended Feb. 28, 1986, Pub. L. 99253, §4, 100 Stat. 37; Mar. 20, 1986, Pub. L. 99260, §8, 100 Stat. 51; Aug. 11, 1988, Pub. L. 100387, title III, §301(a)(1), 102 Stat. 945; Aug. 14, 1989, Pub. L. 10181, §1, 103 Stat. 563; Aug. 14, 1989, Pub. L. 10182, title VI, §603(a), 103 Stat. 587; Dec. 19, 1989, Pub. L. 101239, title I, §1002(a), 103 Stat. 2106; Nov. 28, 1990, Pub. L. 101624, title XI, §1101, 104 Stat. 3494; Dec. 13, 1991, Pub. L. 102237, title I, §112(c), 105 Stat. 1837.)

REFERENCES IN TEXT

This Act, referred to in subsec. (d), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

PRIOR PROVISIONS

A prior section 1464, act Oct. 31, 1949, ch. 792, title V, §505, formerly §504, as added July 12, 1951, ch. 223, 65 Stat. 120, and renumbered Oct. 3, 1961, Pub. L. 87345, §3, 75 Stat. 761, related to workers subject to immigration laws, dispensed with need of penalty bond, and provided for effect of use of “wetback” labor as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

AMENDMENTS

1991—Subsec. (b)(1)(E). Pub. L. 102237 added subpar. (E).

1990—Pub. L. 101624 amended section generally, substituting provisions authorizing producers to plant crops, other than specific program crops, without a reduction in crop acreage base for provisions relating to the establishment and maintenance of crop acreage bases for each program crop, defining “double cropping” and determining crop acreage bases.

1989—Subsec. (b)(2)(E). Pub. L. 10181, §1(1), temporarily added subpar. (E). Former subpar. (E) redesignated (F). See Effective and Termination Dates of 1989 Amendments note below.

Subsec. (b)(2)(E)(i). Pub. L. 10182 inserted “mung bean, mustard,” after “milkweed.”

Subsec. (b)(2)(F). Pub. L. 10181, §1(2), temporarily redesignated subpar. (E) as (F). See Effective and Termination Dates of 1989 Amendments note below.

Subsec. (e). Pub. L. 101239, in temporarily amending subsec. (e) generally, made provisions applicable to 1990 crops only instead of to 1989 and 1990 crops, authorized planting of safflower permitted acreage, removed 10 percent as minimum acreage required to be planted with program crops, and substituted 110 percent for 115 percent as percentage of loan rate for 1990 crops used to determine permitted acreage. See Effective and Termination Dates of 1989 Amendments note below.

1988—Subsec. (e). Pub. L. 100387 temporarily added subsec. (e). See Effective and Termination Dates of 1988 Amendment note below.

1986—Subsec. (b)(1)(B)(ii). Pub. L. 99253 substituted “clause (i)” for “paragraph (1)(A) and paragraph (1)(B)(i)”.

Subsec. (b)(2)(C). Pub. L. 99260, §8(2), added subpar. (C) and struck out former subpar. (C) which read as follows: “acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is planted to a nonprogram crop, other than soybeans and extra long staple cotton; and”.

Subsec. (b)(2)(D), (E). Pub. L. 99260, §8, added subpar. (D) and redesignated former subpar. (D) as (E).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENTS

Section 1002(a) of Pub. L. 101239 provided that the amendment made by that section is effective only for 1990 crops.

Section 603(b) of Pub. L. 10182 provided that: "The amendment made by subsection (a) [amending this section] shall become effective 1 day after the date of enactment of the Act so entitled [Pub. L. 10181, approved Aug. 14, 1989]."

Section 1 of Pub. L. 10181 provided that the amendment made by that section is effective only for 1990 crops.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Section 301(a)(1) of Pub. L. 100387 provided that the amendment made by that section is effective for 1989 and 1990 crops.

COTTONSEED AND SUNFLOWERSEED OIL

Section 301(b) of Pub. L. 100387, as amended by Pub. L. 101624, title XV, §1541, Nov. 28, 1990, 104 Stat. 3691; Pub. L. 102237, title VI, §602(b), Dec. 13, 1991, 105 Stat. 1878, provided that:

"(1) The Secretary of Agriculture shall determine if the price of cottonseed or cottonseed products is adversely affected by the amendment made by subsection (a)(1) [amending this section]. If the Secretary determines that any such price has been adversely affected, the Secretary shall support the price of cottonseed and cottonseed products through loans, purchases, export assistance, or any other form of assistance, as necessary to offset such adverse effect.

"(2)(A)(i) Effective for each of the fiscal years 1991 through 1995, \$50,000,000 of the funds made available under section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c), shall, to the extent provided in appropriations Acts, be utilized during each such fiscal year as provided for in clause (1) of the second sentence of such section to encourage the sale of additional quantities of sunflowerseed oil and cottonseed oil in world markets at competitive world prices through the payment of benefits in connection with the exportation of such commodities.

"(ii) Clause (i) shall be implemented in such a manner as to maximize the export of such oils by assuring that the sums made available under such clause are fully obligated in the year or years in which—

"(I) such sums are made available; and

"(II) the domestic prices of such oils exceed competitive world prices.

"(iii) In determining sales on which benefits are to be provided under this subparagraph, the Secretary shall take into consideration solely the amount of benefits needed to encourage the sale.

"(iv) In carrying out this subparagraph, the Secretary shall ensure that, to the maximum extent practicable, equivalent amounts of funds are used during each fiscal year to encourage the sale of sunflowerseed oil and cottonseed oil in world markets.

"(B) To the extent practicable, facilitation of cottonseed oil exports shall be accomplished through the use of authorities available to the Secretary other than the authority granted in subparagraph (A).

"(3) Except as otherwise provided in paragraph (2)(A), the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subsection."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14412, 14442, 1444f, 1445b3a, 1463 of this title.

§1465. Farm program payment yields**(a) Establishment**

The Secretary shall provide for the establishment of a farm program payment yield for each farm for each program crop for each crop year in accordance with subsection (b) or (c) of this section.

(b) Farm program payment yields based on 1990 crop year**(1) In general**

If the Secretary determines that farm program payment yields shall be established in accordance with this subsection, except as provided in paragraphs (2) and (3), the farm program payment yield for each of the 1991 through 1997 crop years shall be the farm program payment yield for the 1990 crop year for the farm.

(2) Additional yield payments

In the case of each of the 1991 through 1997 crop years for a commodity, if the farm program payment yield for a farm is reduced more than 10 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 10 percent below the farm program payment yield for the 1985 crop year. The payments shall be made available not later than the time final deficiency payments are made.

(3) No crop or yield available

If no crop of the commodity was produced on the farm or no farm program payment yield was established for the farm for any of the 1981 through 1985 crop years (or, as appropriate, the 1986 through 1990 crop years), the farm program payment yield shall be established on the basis of the average farm program payment yield for the crop years for similar farms in the area.

(4) National, State, or county yields

If the Secretary determines the action is necessary, the Secretary may establish national, State, or county program payment yields on the basis of—

(A) historical yields, as adjusted by the Secretary to correct for abnormal factors affecting the yields in the historical period; or

(B) the Secretary's estimate of actual yields for the crop year involved if historical yield data is not available.

(5) Balancing yields

If national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

(c) Determination of yields**(1) Actual yields**

With respect to the 1991 and subsequent crop years, the Secretary may—

(A) establish the farm program payment yield as provided in subsection (a) of this section; or

(B) establish a farm program payment yield for any program crop for any farm on the basis of the average of the yield per harvested acre for the crop for the farm for each of the 5 crop years immediately preceding the crop year, excluding the crop year with the highest yield per harvested acre, the crop year with the lowest yield per harvested acre, and any crop year in which such crop was not planted on the farm.

(2) Prior yields

For purposes of the preceding sentence, the farm program payment yield for the 1986 crop year and the actual yield per harvested acre with respect to the 1987 and subsequent crop years shall be used in determining farm program payment yields.

(3) Reduction limitation

Notwithstanding any other provision of this paragraph, for purposes of establishing a farm program payment yield for any program crop for any farm for the 1991 and subsequent crop years, the farm program payment yield for the 1986 crop year may not be reduced more than 10 percent below the farm program payment yield for the farm for the 1985 crop year.

(4) Adjustment of yields

The county committee, in accordance with regulations prescribed by the Secretary, may adjust any farm program payment yield for any program crop for any farm if the farm program payment yield for the crop on the farm does not accurately reflect the productive potential of the farm.

(d) Assignment of yields

In the case of any farm for which the actual yield per harvested acre for any program crop referred to in subsection (c) of this section for any crop year is not available, the county committee may assign the farm a yield for the crop for the crop year on the basis of actual yields for the crop for the crop year on similar farms in the area.

(e) Actual yield data

(1) Provision

The Secretary shall, under such terms and conditions as the Secretary may prescribe, allow producers to provide to county committees data with respect to the actual yield for each farm for each program crop.

(2) Maintenance

The Secretary shall maintain the data for at least 5 crop years after receipt in a manner that will permit the data to be used, if necessary, in the administration of the commodity programs.

(3) Notification

The Secretary shall provide timely notification to producers of the provisions of this subsection.

(Oct. 31, 1949, ch. 792, title V, §505, as added Dec. 23, 1985, Pub. L. 99198, title X, §1031, 99 Stat. 1462; amended Nov. 28, 1990, Pub. L. 101624, title XI, §1101, 104 Stat. 3495; Aug. 10, 1993, Pub. L. 10366, title I, §1101(b)(2)(B), 107 Stat. 314.)

PRIOR PROVISIONS

A prior section 1465, act Oct. 31, 1949, ch. 792, title V, §506(c), formerly §505(c), as added July 12, 1951, ch. 223, 65 Stat. 121, and renumbered Oct. 3, 1961, Pub. L. 87345, §3, 75 Stat. 761, provided for an exemption from a head tax as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

A prior section 1465a, act Oct. 31, 1949, ch. 792, title V, §506(d), as added Oct. 3, 1961, Pub. L. 87345, §4, 75 Stat. 761, provided for illness or disability tax as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

AMENDMENTS

1993—Subsec. (b)(1), (2). Pub. L. 10366 substituted “1997” for “1995”.

1990—Pub. L. 101624 amended section generally, substituting provisions establishing farm program payment yields for provisions authorizing Secretary to provide for upward adjustments of any crop acreage base for any farm for any crop year.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

§1466. Planting and production history of farms

Each county committee, in accordance with regulations prescribed by the Secretary, may require any producer who seeks to establish a crop acreage base or farm program payment yield for a farm for a crop year to provide planting and production history of the farm for each of the 5 crop years immediately preceding the crop year.

(Oct. 31, 1949, ch. 792, title V, §506, as added Dec. 23, 1985, Pub. L. 99198, title X, §1031, 99 Stat. 1463; amended Mar. 20, 1986, Pub. L. 99260, §3, 100 Stat. 48; Dec. 22, 1987, Pub. L. 100203, title I, §1109, 101 Stat. 13306; Dec. 12, 1989, Pub. L. 101220, §11(a), 103 Stat. 1882; Nov. 28, 1990, Pub. L. 101624, title XI, §1101, 104 Stat. 3497.)

PRIOR PROVISIONS

A prior section 1466, act Oct. 31, 1949, ch. 792, title V, §507, formerly §506, as added July 12, 1951, ch. 223, 65 Stat. 121; renumbered §507, Oct. 3, 1961, Pub. L. 87345, §3, 75 Stat. 761, related to utilization of Federal and State agencies by Secretary of Labor as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

A prior section 506(a), formerly 505(a), of act Oct. 31, 1949, ch. 792, title V, as added July 12, 1951, ch. 223, 65 Stat. 120; renumbered §506(a), Oct. 3, 1961, Pub. L. 87345, §3, 75 Stat. 761, amended section 410(a)(1) of Title 42, The Public Health and Welfare.

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting provisions authorizing county committees to require producers who seek to establish a crop acreage base or program payment yield to produce a planting and production history of farm for previous 5 crop years, for provisions relating to establishment of program payment yields.

1989—Subsec. (e). Pub. L. 101220 temporarily added subsec. (e). See Effective and Termination Dates of 1989 Amendment note below.

1987—Subsec. (b)(2)(C). Pub. L. 100203 temporarily added subpar. (C). See Effective and Termination Dates of 1987 Amendment note below.

1986—Subsec. (b)(1). Pub. L. 99260, §3(a)(1), substituted “paragraphs (2) and (3)” for “paragraph (2)”.

Subsec. (b)(2) to (5). Pub. L. 99260, §3(a)(2), (3), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively.

Subsec. (c)(1). Pub. L. 99260, §3(b), inserted provision that for purposes of establishing a farm program payment yield for any program crop for any farm for the 1988 and subsequent crop years, the farm program payment yield for the 1986 crop year may not be reduced more than 10 percent below the farm program payment yield for the farm for the 1985 crop year.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 11(a) of Pub. L. 101220 provided that the amendment made by that section is effective for 1989 and 1990 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 1109 of Pub. L. 100203 provided that the amendment made by that section is effective only for 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice.

SUBMISSION OF SOYBEAN ACTUAL YIELD DATA TO COUNTY COMMITTEES

Section 11(b) of Pub. L. 101220 provided that: "With respect to the 1989 and 1990 crop years, the Secretary shall allow producers of soybeans to provide to county committees (as defined in section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462)) data with respect to the actual yield for each farm for each crop of soybeans. The Secretary shall maintain such data for at least five crop years after receipt in such a manner as to be easily accessible. The Secretary shall provide timely notification to producers of the provisions of this section."

§1467. Establishment of bases and yields by county committees

Each county committee may, in accordance with regulations prescribed by the Secretary, provide for the establishment of a crop acreage base, and farm program payment yield with respect to any farm administratively located within the county if the crop acreage base or farm program payment yield cannot otherwise be established under this subchapter. The crop acreage bases and farm program payment yields shall be established in a fair and equitable manner, but no such bases or farm program payment yields shall be established for a farm if the producer on the farm is subject to sanctions under any provision of Federal law for cultivating highly erodible land or converted wetland.

(Oct. 31, 1949, ch. 792, title V, §507, as added Dec. 23, 1985, Pub. L. 99198, title X, §1031, 99 Stat. 1463; amended Nov. 28, 1990, Pub. L. 101624, title XI, §1101, 104 Stat. 3497.)

PRIOR PROVISIONS

A prior section 1467, act Oct. 31, 1949, ch. 792, title V, §508, formerly §507, as added July 12, 1951, ch. 223, 65 Stat. 121; renumbered §508 and amended Oct. 3, 1961, Pub. L. 87345, §§3, 5, 75 Stat. 761, defined "agricultural employment" and "employer" for purposes of the program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting provisions relating to establishment of bases and yields by county committees for provisions requiring producers who want to establish a farm or crop acreage base or program payment yield to produce a 5 year planting and production history of farm.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

§1468. Appeals

The Secretary shall establish an administrative appeal procedure that provides for an administrative review of determinations made with respect to crop acreage bases and farm program payment yields.

(Oct. 31, 1949, ch. 792, title V, §508, as added Dec. 23, 1985, Pub. L. 99198, title X, §1031, 99 Stat. 1464; amended Nov. 28, 1990, Pub. L. 101624, title XI, §1101, 104 Stat. 3497.)

PRIOR PROVISIONS

A prior section 1468, act Oct. 31, 1949, ch. 792, title V, §509, formerly §508, as added July 12, 1951, ch. 223, 65 Stat. 121; renumbered §509, Oct. 3, 1961, Pub. L. 87345, §3, 75 Stat. 761, related to importation of workers from other foreign countries with regard to a program of recruiting agricultural workers from Mexico for employment up to December 31, 1964.

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting provisions relating to establishment of an appeals procedure to review determinations made with respect to crop acreage bases and program payment yields for provisions relating to establishment of bases and yields not otherwise capable of establishment by county committees for farms administratively located within a county.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

§1469. Crops

Notwithstanding any other provision of law, this subchapter shall be effective only for the 1991 through 1997 program crops.

(Oct. 31, 1949, ch. 792, title V, §509, as added Dec. 23, 1985, Pub. L. 99198, title X, §1031, 99 Stat. 1464; amended Nov. 28, 1990, Pub. L. 101624, title XI, §1101, 104 Stat. 3497; Aug. 10, 1993, Pub. L. 10366, title I, §1101(b)(2)(C), 107 Stat. 314.)

PRIOR PROVISIONS

A prior section 509, formerly 508, of act Oct. 31, 1949, was formerly classified to section 1468 of this title. See Prior Provisions note set out under section 1468 of this title.

AMENDMENTS

1993—Pub. L. 10366 substituted "1997" for "1995".
1990—Pub. L. 101624 amended section generally, substituting provisions stating that this subchapter would be effective only for 1991 through 1995 program crops for provisions relating to procedures to review determinations made with respect to farm acreage bases and program payment yields.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

SUBCHAPTER V—EMERGENCY LIVESTOCK FEED ASSISTANCE ACT OF 1988

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1427 of this title.

§1471. Definitions

As used in this subchapter:

(1) The term “livestock producer” means—

(A) a person that is actively engaged in farming and that receives a substantial amount of total income from the production of grain or livestock, as determined by the Secretary, that is—

(i) an established producer or husbander of livestock or a dairy producer who is a citizen of, or legal resident alien in, the United States; or

(ii) a farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in, the United States, if such cooperative, corporation, partnership, or joint operation is engaged in livestock production or husbandry, or dairy production; or

(B) Any¹ of the following entities that is actively engaged in livestock production or husbandry, or dairy production—

(i) any Indian tribe (as defined in section 450b(b) of title 25);²

(ii) any Indian organization or entity chartered under the Act of June 18, 1934 (48 Stat. 984, chapter 576; 25 U.S.C. 461 et seq.), commonly known as the “Indian Reorganization Act”;

(iii) any tribal organization (as defined in section 450b(c) of title 25);² or

(iv) any economic enterprise (as defined in section 1452(e) of title 25);

(2) The term “livestock” means cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, fish used for food, and other animals designated by the Secretary (at the Secretary’s sole discretion) that—

(A) are part of a foundation herd (including producing dairy cattle) or offspring; or

(B) are purchased as part of a normal operation and not to obtain additional benefits under this subchapter.

(3) The term “State” means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

(4) The term “feed”, for the purposes of emergency feed assistance, means any type of feed (including feed grain, oilseed meal, premix or mixed feed, liquid or dry supplemental feed, roughage, pasture, or forage) that—

(A) best suits the livestock producer’s operation; and

(B) is consistent with acceptable feed practices.

(5) The term “area” includes any Indian reservation (as defined in section 1985(e)(1)(D)(ii) of this title).

(Oct. 31, 1949, ch. 792, title VI, §602, as added Aug. 11, 1988, Pub. L. 100387, title I, §101(a), 102 Stat. 926.)

REFERENCES IN TEXT

Section 450b of title 25, referred to in par. (1)(B)(i), (iii), has been amended, and subsecs. (b) and (c) of section 450b no longer define the terms “Indian tribe” and “tribal organization”. However, such terms are defined elsewhere in that section.

Act of June 18, 1934, referred to in par. (1)(B)(ii), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, popularly known as the Indian Reorganization Act, which enacted sections 461, 462, 463, 464, 465, 466 to 470, 471, 472, 473, 474, 475, 476 to 478, and 479 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 461 of Title 25 and Tables.

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

SHORT TITLE

For short title of title VI of act Oct. 31, 1949, ch. 792, which enacted this subchapter, as the “Emergency Livestock Feed Assistance Act of 1988”, see Short Title of 1988 Amendment note set out under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5602 of this title.

§1471a. Emergency livestock assistance

(a) The Secretary shall provide emergency feed assistance under this subchapter for the preservation and maintenance of livestock in any State or area of a State where, because of disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster, the Secretary determines that a livestock emergency exists.

(b)(1) The Secretary shall provide emergency feed assistance under this subchapter for the preservation and maintenance of livestock, to livestock producers that—

(A) conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has determined, under subsection (a) of this section, that a livestock emergency exists, and

(B) are otherwise eligible for assistance under this subchapter.

(2) The Secretary shall accept applications for assistance under this subsection from producers that are affected by the livestock emergency at any time during the eight-month period beginning on the date on which the Secretary determines that such emergency exists in the other county.

(Oct. 31, 1949, ch. 792, title VI, §603, as added Aug. 11, 1988, Pub. L. 100387, title I, §101(a), 102 Stat. 927.)

¹So in original. Probably should not be capitalized.

²See References in Text note below.

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1471c of this title.

§1471b. Determination of need for assistance**(a) Determination and request by Governor or county committee**

(1) Whenever the Governor of a State determines that a livestock emergency due to a natural disaster exists in the State, or a county committee established under section 590h(b) of title 16 determines that such an emergency exists in the county, the Governor or county committee may submit a request for a determination by the Secretary of a livestock emergency in such State or county and for emergency livestock feed assistance under this subchapter.

(2) The request of a Governor or county committee for a livestock emergency determination and for emergency livestock feed assistance shall include, to the extent feasible, recommendations to the Secretary of those options that will most fully use feed available through local sources.

(b) Consideration for assistance without request

The Secretary may consider a State, county, or area in a State for a livestock emergency determination and emergency livestock feed assistance under this subchapter whether or not a request for assistance is submitted, as described in subsection (a) of this section.

(c) Prompt action by Secretary

The Secretary shall act on requests for determinations under subsection (a) of this section and make final determinations on whether a livestock emergency exists in any State, county, or area, under regulations that ensure thorough and prompt action (not later than 30 days after receipt of any such request) and provide for appropriate notification procedures.

(d) Eligibility under prior programs; availability of other programs

Notwithstanding the preceding provisions of this section, any State, county, or area determined eligible, due to drought or related conditions in 1988, for the emergency feed program or emergency feed assistance program conducted prior to the effective date of this subchapter shall continue to be eligible for such programs and may be eligible for other programs under this subchapter for such drought or related condition. As soon as practicable after the effective date of this subchapter, the Secretary shall determine whether any of the programs described in section 1471d of this title, other than the emergency feed program under section 1471d(a)(4) of this title and the emergency feed assistance program under section 1471d(a)(2) of this title, or in section 1471e of this title should be made available in such State, county, or area. If the Secretary makes such determination, the Secretary shall make such programs immediately available to livestock producers in the State, county, or area.

(Oct. 31, 1949, ch. 792, title VI, §604, as added Aug. 11, 1988, Pub. L. 100387, title I, §101(a), 102 Stat. 927.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsec. (d), is 15 days after Aug. 11, 1988, the effective date of section 101(a) of Pub. L. 100387. See section 101(c) of Pub. L. 100387, set out as a note under section 1427 of this title.

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, with subsec. (d) of this section applicable only with respect to any livestock emergency in 1988, see section 101(c) of Pub. L. 100387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471c, 1471i of this title.

§1471c. Eligible producers**(a) Qualifying livestock producers**

(1) If the Secretary determines that a livestock emergency exists in a State, county, or area, qualifying livestock producers located in such State, county, or area, or in a contiguous county as provided for in section 1471a(b) of this title, shall be eligible (under application procedures established by the Secretary) for emergency feed assistance under this subchapter in accordance with this subsection.

(2) For the purposes of this subsection, a "qualifying livestock producer" is a livestock producer who has suffered a substantial loss in feed normally produced on the farm for such producer's livestock as a result of the livestock emergency and, as a result, does not have sufficient feed that has adequate nutritive value and is suitable for each of such producer's particular types of livestock (as of the date of the request, or initiation of consideration, for a determination of a livestock emergency under section 1471b of this title) for the estimated duration of the emergency.

(3) Each qualifying livestock producer shall be eligible for emergency feed assistance under the programs specified in section 1471d(a) of this title that is made available where the producer is located in quantities sufficient to meet such feed deficiency with respect to the producer's livestock normally fed with feed produced by the producer.

(b) Availability of additional assistance

Each livestock producer in such State, county, or area, or in a contiguous county as provided for in section 1471a(b) of this title, regardless of whether the producer qualifies for assistance under subsection (a) of this section, shall be eligible for emergency assistance under the programs specified in section 1471e of this title that are made available where the producer is located.

(c) Program participation option

Any livestock producer, located in a county or area in which benefits under the emergency feed program or the emergency feed assistance program were made available due to the drought or

related condition in 1988 prior to the effective date of this subchapter, who qualifies for assistance under such pre-existing programs shall be eligible for assistance for such drought or related conditions as prescribed in subsection (a) of this section or, at the producer's option, for assistance under such pre-existing programs.

(Oct. 31, 1949, ch. 792, title VI, §605, as added Aug. 11, 1988, Pub. L. 100387, title I, §101(a), 102 Stat. 928.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsec. (c), is 15 days after Aug. 11, 1988, the effective date of section 101(a) of Pub. L. 100387. See section 101(c) of Pub. L. 100387, set out as a note under section 1427 of this title.

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, with subsec. (c) of this section applicable only with respect to any livestock emergency in 1988, see section 101(c) of Pub. L. 100387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471d, 1471i of this title.

§1471d. Assistance programs

(a) Available programs

In accordance with section 1471c(a) of this title, the Secretary shall make one or more of the following assistance programs available to qualifying livestock producers in a State, county or area, if the Secretary determines that the livestock emergency in such State, county or area requires the implementation of such program:

(1) The donation of feed grain owned by the Commodity Credit Corporation to producers who are financially unable to purchase feed under paragraph (2) or to participate in any other program authorized under this subsection.

(2) The sale of feed grain owned by the Commodity Credit Corporation to producers for livestock feed at a price, established by the Secretary, that does not exceed—

(A) with respect to such assistance provided for any livestock emergency determined to exist prior to January 1, 1989, 75 percent of the current basic county loan rate for such feed grain in effect under this Act (or at a comparable price if there is no such current basic county loan rate), or

(B) with respect to such assistance provided for any other livestock emergency, 50 percent of the average market price in the county or area involved, as determined by the Secretary.

(3) Reimbursement of any transportation and handling expenses incurred, not to exceed 50 percent of such expenses, by a producer in connection with feed grain donations or sales under paragraphs (1) and (2).

(4) Reimbursement of not to exceed 50 percent of the cost of feed purchased by a producer for the producer's livestock during the duration of the livestock emergency.

(5) Hay and forage transportation assistance to producers of not to exceed 50 percent of the cost of transporting hay or forage purchased from a point of origin beyond a producer's normal trade area to the livestock, subject to the following limitations:

(A) The transportation assistance may not exceed \$50 per ton of eligible hay or forage (\$12.50 for silage).

(B) The quantity of eligible hay and forage for each producer may not exceed the lesser of—

(i) 20 pounds per day per eligible animal unit; or

(ii) the quantity of additional feed needed by the producer for the duration of the livestock emergency.

(6) Livestock transportation assistance to producers of not to exceed 50 percent of the cost of transporting livestock to and from available grazing locations, except that such assistance may not exceed the lesser of—

(A) \$24 per head of a producer's eligible livestock; or

(B) the local cost of the quantity of additional feed needed by the producer for the eligible livestock for duration of the livestock emergency.

(b) Feed grain through dealer or manufacturer; reimbursement; feed grain stored on farm of producer

If assistance is made available through the furnishing of feed grain under paragraph (1) or (2) of subsection (a) of this section, the Secretary—

(1) may provide for the furnishing of the feed grain through a dealer or manufacturer and the replacing of the feed grain so furnished from feed grain owned by the Commodity Credit Corporation; or

(2) at the option of the livestock producer, shall provide for the furnishing of the feed grain through the use of feed grain stored on the farm of the producer that has been pledged as collateral for a price support loan made under this Act.

(c) Payments or reimbursements through issuance of negotiable certificates

In providing assistance under paragraph (2) or (4) of subsection (a) of this section, the Secretary may make in-kind payments or reimbursements through the issuance of negotiable certificates that the Commodity Credit Corporation shall exchange for a commodity in accordance with rules prescribed by the Secretary.

(d) Approved application prerequisite to benefits

No payment or benefit provided under this section shall be payable or due until such time as a completed application therefor has been approved.

(e) Time for application

A person eligible to receive a payment or benefit under this section with respect to a livestock emergency determined to exist prior to January 1, 1989, shall make application for such payment or benefit not later than March 31, 1989, or such later date that the Secretary, by regulation, may prescribe.

(f) Livestock transportation assistance

The Secretary may make available at least \$25,000,000 to provide livestock transportation assistance under subsection (a)(6) of this section for livestock emergencies in 1989.

(Oct. 31, 1949, ch. 792, title VI, §606, as added Aug. 11, 1988, Pub. L. 100387, title I, §101(a), 102 Stat. 928; amended Aug. 14, 1989, Pub. L. 10182, title II, §§201, 202, 103 Stat. 581.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(2)(A) and (b)(2), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1989—Subsec. (b). Pub. L. 10182, §201, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "If assistance is made available through the furnishing of feed grain under paragraph (1) or (2) of subsection (a) of this section, the Secretary may provide for the furnishing of the feed grain through a dealer or manufacturer and the replacing of the feed grain so furnished from feed grain owned by the Commodity Credit Corporation."

Subsec. (f). Pub. L. 10182, §202, added subsec. (f).

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, with subsecs. (a)(2)(A) and (e) of this section applicable only with respect to any livestock emergency in 1988, see section 101(c) of Pub. L. 100387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

EMERGENCY FORAGE PROGRAM

Section 103 of Pub. L. 100387 provided that:

"(a) IN GENERAL.—The Secretary of Agriculture shall implement an emergency forage program for established pasture damaged by the drought or related condition in 1988, under which the Secretary shall enter into cost-share agreements with owners or operators of such damaged land to provide for reseeding of forage crops on such land to facilitate late fall 1988 and early spring 1989 grazing and haying. Assistance may be provided to such owners and operators only when—

"(1) the forage crop will not regenerate naturally;

"(2) reseeding is the most cost-effective method to reestablish the forage crop; and

"(3) reseeding is not undertaken simply to improve the forage crop damaged by the drought.

"(b) COST-SHARE.—The Secretary shall share half the costs incurred under each agreement entered into under subsection (a), including the costs of seed, fertilizer, and other inputs on reseeded pasture.

"(c) LIMITATIONS.—(1) The total amount of payments an owner or operator of pasture land shall be entitled to receive under this section shall be \$3,500.

"(2) The Secretary may cost-share for reseeding under this section only if the reseeding is to nonannual crops planted for pasture purposes.

"(d) FUNDING.—(1) The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

"(2) Not more than \$50,000,000 of the funds of the Commodity Credit Corporation may be expended under paragraph (1).

"(3) To ensure the equitable award of funds under agreements under this section, as limited under paragraph (2), the Secretary may prorate, and adopt procedures to facilitate proration of, funds made available under this section."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471b, 1471c, 1471e of this title.

§1471e. Additional assistance**(a) Determination by Secretary**

In addition to the assistance provided under section 1471d of this title, if the Secretary determines that the livestock emergency also requires the implementation of one or more of the assistance programs described in subsection (b) of this section, the Secretary shall implement such programs.

(b) Programs authorized

Special assistance under this section includes—

(1) the donation of feed owned by the Commodity Credit Corporation for use in feeding livestock stranded and unidentified as to its owner, including the cost of transporting feed to the affected area, during such period as the Secretary, by regulation, may prescribe;

(2) reimbursement of not to exceed 50 percent of the cost of—

(A) installing pipelines (if that is the least expensive method) or other facilities, including tanks or troughs, for livestock water;

(B) construction or deepening of wells or ponds for livestock water; or

(C) developing springs or seeps for livestock water,

as appropriate in drought areas to facilitate more efficient and better-distributed grazing on land normally used for grazing. Such cost-share assistance may not be made available to provide water for wildlife or recreational livestock, dry lot feeding, or barns or corrals, or to acquire pumping equipment;

(3) reimbursement of not to exceed 50 percent of the cost of burning prickly pear cactus to make it suitable for animal feed; and

(4) making commodities owned by the Commodity Credit Corporation available to livestock producers through the use of a catalog that specifies lots of a size that are economically feasible for a small producer to obtain by means of certificate exchanges.

(c) Water development projects for 1988 and 1989 emergencies

The Secretary may make available at least \$25,000,000 to provide special assistance under subsection (b)(2) of this section for livestock emergencies in 1988 and 1989.

(Oct. 31, 1949, ch. 792, title VI, §607, as added Aug. 11, 1988, Pub. L. 100387, title I, §101(a), 102 Stat. 930; amended Aug. 14, 1989, Pub. L. 10182, title I, §142, title II, §203, 103 Stat. 579, 581.)

AMENDMENTS

1989—Subsec. (b)(2)(B). Pub. L. 10182, §142, inserted "or ponds".

Subsec. (c). Pub. L. 10182, §203, added subsec. (c).

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471b, 1471c of this title.

§1471f. Use of Commodity Credit Corporation

The Secretary shall carry out this subchapter through the use of the funds, facilities, and authorities of the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title VI, §608, as added Aug. 11, 1988, Pub. L. 100387, title I, §101(a), 102 Stat. 930.)

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

§1471g. Benefits limitation**(a) Total amount of benefits**

The total amount of benefits that a person shall be entitled to receive annually under one or more of the programs established under this subchapter may not exceed \$50,000.

(b) Issuance of regulations

The Secretary shall issue regulations—

(1) defining the term “person”, which shall conform, to the extent practicable, to the regulations defining the term “person” issued under section 1308 of this title, or successor statute;

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section; and

(3) providing that the term “person” shall include, in the case of any cooperative association of producers, each member of the association with respect to benefits due to such member of the association.

(c) Receipt of other disaster payments

No person may receive benefits under this subchapter attributable to lost production of a feed commodity due to a natural disaster in 1988 to the extent that such person receives a disaster payment under the Disaster Assistance Act of 1988 on such lost production.

(d) Total combined payment and benefits limitation

Each person otherwise eligible for a livestock emergency benefit under this subchapter in 1988 shall be subject to the combined payment and benefits limitation established under section 211(c) of the Disaster Assistance Act of 1988.

(Oct. 31, 1949, ch. 792, title VI, §609, as added Aug. 11, 1988, Pub. L. 100387, title I, §101(a), 102 Stat. 930.)

REFERENCES IN TEXT

The Disaster Assistance Act of 1988, referred to in subsecs. (c) and (d), is Pub. L. 100387, Aug. 11, 1988, 102 Stat. 924. Section 211(c) of that act is set out as a note under section 1421 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 1421 of this title and Tables.

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, with subsecs. (c) and (d) of this section applicable only with respect to any livestock emergency in 1988, see section 101(c) of Pub. L. 100387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

§1471h. Ineligibility

(a) Any person that has qualifying gross revenues in excess of \$2,500,000 annually, as determined by the Secretary, shall not be eligible to receive any livestock emergency benefits under this subchapter.

(b) For purposes of this section, the term “qualifying gross revenue” means—

(1) if a majority of the person’s annual income is received from farming and ranching operations, the gross revenue from the person’s farming and ranching operations; and

(2) if less than a majority of the person’s annual income is received from farming and ranching operations, the person’s gross revenue from all sources.

(Oct. 31, 1949, ch. 792, title VI, §610, as added Aug. 11, 1988, Pub. L. 100387, title I, §101(a), 102 Stat. 931.)

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

§1471i. Administration**(a) Regulations**

The Commodity Credit Corporation shall issue regulations to carry out this subchapter.

(b) Processing and decisions to be made as quickly as practicable

Such regulations shall establish procedures to ensure that the request for assistance by a Governor or county committee under section 1471b of this title, and individual applications of livestock producers under section 1471c of this title for assistance, are processed and decisions thereon are made as quickly as practicable.

(c) Indigenous plants not considered feed on hand

For purposes of this subchapter, indigenous plants available to a livestock producer but not normally consumed by livestock as feed, such as cactus, may not be considered as feed on hand for such producers.

(Oct. 31, 1949, ch. 792, title VI, §611, as added Aug. 11, 1988, Pub. L. 100387, title I, §101(a), 102 Stat. 931.)

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

§1471j. Penalties

A person that disposes of any feed made available to a livestock producer under this subchapter other than as authorized by the Secretary shall be (1) subject to a civil penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose, and (2) guilty of a misdemeanor and, on conviction thereof, subject to a fine of not more than \$1,000, or imprisonment for not more than one year, or both.

(Oct. 31, 1949, ch. 792, title VI, §612, as added Aug. 11, 1988, Pub. L. 100387, title I, §101(a), 102 Stat. 931.)

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

CHAPTER 36—CROP INSURANCE

- Sec.
1501. Short title; application of other laws.
1502. Purpose and definitions.
- (a) Purpose.
- (b) Definitions.
1503. Federal Crop Insurance Corporation; creation; offices.
1504. Capital stock of Corporation.
- (a) Subscription by United States.
- (b) Appropriations.
- (c) Issuance of stock to Secretary of the Treasury.
- (d) Cancellation of receipts; nonliability of Corporation.
- 1504a. Capitalization of Corporation.
1505. Management of Corporation.
- (a) Establishment, composition, and appointment of Board.
- (b) Vacancies.
- (c) Compensation.
- (d) Manager of Corporation.
1506. General powers.
- (a) Succession.
- (b) Corporate seal.
- (c) Property.
- (d) Suit.
- (e) Bylaws and regulations.
- (f) Mails.
- (g) Assistance.
- (h) Data collection.
- (i) Expenditures.
- (j) Settling claims.
- (k) Other powers.
- (l) Contracts.
- (m) Submission of certain information.
- (n) Penalties.
- (o) Actuarial soundness.
- (p) Regulations.
- (q) Program compliance.
- (r) Purchase of American-made equipment and products.
- 1506a, 1506b. Omitted.
1507. Personnel of Corporation.
- (a) Appointment; civil service exemption; compensation.
- (b) Application of employees' compensation law.
- (c) Use of associations of producers and private insurance companies; payment of administrative and program expenses; sale of crop insurance through private agents and brokers; renewals, exclusion of compensation from premium rates, indemnification for errors or omissions of Commission or its contractors.
- (d) Allotment of funds to Federal and State agencies.
- (e) Utilization of producer cooperative associations.
- (f) Use of resources, data, boards, and committees of Federal agencies.
- (g) Specialty Crops Coordinator.
1508. Crop insurance.
- (a) Authority to offer insurance.
- (b) Catastrophic risk protection.
- (c) General coverage levels.
- (d) Premiums.
- (e) Payment of portion of premium by Corporation.
- (f) Eligibility.

Sec.

- (g) Yield determinations.
- (h) Submission of policies and materials to Board.
- (i) Adoption of rates and coverages.
- (j) Claims for losses.
- (k) Reinsurance.
- (l) Optional coverages.
- (m) Research.
- 1508a. Repealed.
1509. Exemption of indemnities from levy.
1510. Deposit and investment of funds; Federal Reserve banks as fiscal agents.
1511. Tax exemption.
1512. Corporation as fiscal agent of Government.
1513. Books of account and annual reports of Corporation.
1514. Crimes and offenses.
- (a) to (e) Repealed.
- (f) Application of laws on interest of Members of Congress in contracts.
1515. Advisory Committee for Federal Crop Insurance.
- (a) Establishment.
- (b) Primary responsibility.
- (c) Membership.
- (d) Administrative provisions.
- (e) Reports.
- (f) Termination of authority.
1516. Funding.
- (a) Authorization of appropriations.
- (b) Payment of expenses.
- (c) Insurance fund.
1517. Separability.
1518. "Agricultural commodity" defined.
1519. Noninsured crop disaster assistance program.
- (a) Establishment of program.
- (b) Application for noninsured crop disaster assistance.
- (c) Loss requirements.
- (d) Payment.
- (e) Yield determinations.
- (f) Contract payments.
- (g) Payment of losses.
- (h) Exclusions.
- (i) Payment and income limitations.
1520. Producer eligibility.
1521. Ineligibility for catastrophic risk and noninsured assistance payments.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1301, 1391, 1961 of this title; title 12 section 1150a; title 16 sections 3811, 3821; title 21 section 889; title 26 section 6109; title 42 section 405.

§1501. Short title; application of other laws

This chapter may be cited as the "Federal Crop Insurance Act". Except as otherwise expressly provided the provisions in titles I to IV, inclusive, shall not apply with respect to this chapter, and the term "Act" wherever it appears in such titles shall not be construed to include this chapter.

(Feb. 16, 1938, ch. 30, title V, §501, 52 Stat. 72.)

REFERENCES IN TEXT

"Titles I to IV, inclusive," and "such titles", referred to in text, are references to titles I to IV of act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, known as the Agricultural Adjustment Act of 1938, which is classified principally to chapter 35 (§1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103354, title I, §101(a), Oct. 13, 1994, 108 Stat. 3179, provided that: "This title [enacting sections 1433f,

1515, 1521, and 2008f of this title, amending sections 14412, 14442, 1444f, 1445b3a, 1502 to 1509, 1511, 1513, 1516, and 1518 to 1520 of this title, sections 901 and 902 of Title 2, The Congress, and section 1014 of Title 18, Crimes and Criminal Procedure, repealing sections 1446i and 1508a of this title, enacting provisions set out as notes under sections 1502, 1506, and 1508 of this title and sections 901 and 902 of Title 2, and repealing provisions set out as a note under section 1421 of this title] may be cited as the ‘Federal Crop Insurance Reform Act of 1994.’”

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96365, §1, Sept. 26, 1980, 94 Stat. 1312, provided: “That this Act [amending sections 1441, 1444, 1444c, 1445b, 1504, 1505, 1506, 1507, 1508, 1516, and 1518 and repealing section 1515 of this title and enacting provisions set out as notes under sections 1504, 1508, and 1516 of this title] may be cited as the ‘Federal Crop Insurance Act of 1980.’”

§1502. Purpose and definitions

(a) Purpose

It is the purpose of this chapter to promote the national welfare by improving the economic stability of agriculture through a sound system of crop insurance and providing the means for the research and experience helpful in devising and establishing such insurance.

(b) Definitions

As used in this chapter:

(1) Additional coverage

The term “additional coverage” means a plan of crop insurance coverage providing a level of coverage greater than the level available under catastrophic risk protection.

(2) Approved insurance provider

The term “approved insurance provider” means a private insurance provider that has been approved by the Corporation to provide insurance coverage to producers participating in the Federal crop insurance program established under this chapter.

(3) Board

The term “Board” means the Board of Directors of the Corporation established under section 1505(a) of this title.

(4) Corporation

The term “Corporation” means the Federal Crop Insurance Corporation established under section 1503 of this title.

(5) Department

The term “Department” means the United States Department of Agriculture.

(6) Loss ratio

The term “loss ratio” means the ratio of all sums paid by the Corporation as indemnities under any eligible crop insurance policy to that portion of the premium designated for anticipated losses and a reasonable reserve, other than that portion of the premium designated for operating and administrative expenses.

(7) Secretary

The term “Secretary” means the Secretary of Agriculture.

(8) Transitional yield

The term “transitional yield” means the maximum average production per acre or

equivalent measure that is assigned to acreage for a crop year by the Corporation in accordance with the regulations of the Corporation whenever the producer fails—

(A) to certify that acceptable documentation of production and acreage for the crop year is in the possession of the producer; or

(B) to present the acceptable documentation on the demand of the Corporation or an insurance company reinsured by the Corporation.

(Feb. 16, 1938, ch. 30, title V, §502, 52 Stat. 72; June 21, 1941, ch. 214, §1, 55 Stat. 255; Aug. 1, 1947, ch. 440, §4, 61 Stat. 719; Oct. 13, 1994, Pub. L. 103354, title I, §102(a), 108 Stat. 3180.)

AMENDMENTS

1994—Pub. L. 103354 substituted “Purpose and definitions” for “Declaration of purpose” in section catchline, designated existing text as subsec. (a) and added heading, and added subsec. (b).

1947—Act Aug. 1, 1947, amended section generally, restating purpose of chapter to improve all agriculture by crop insurance instead of being limited only to wheat.

1941—Act June 21, 1941, substituted “crop” for “wheat-crop” and “agricultural commodities” for “wheat”.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 120 of title I of Pub. L. 103354 provided that: “Except as otherwise provided in this title, this title [enacting sections 1433f, 1515, 1521, and 2008f of this title, amending this section and sections 14412, 14442, 1444f, 1445b3a, 1503 to 1509, 1511, 1513, 1516, and 1518 to 1520 of this title, sections 901 and 902 of Title 2, The Congress, and section 1014 of Title 18, Crimes and Criminal Procedure, repealing sections 1446i and 1508a of this title, enacting provisions set out as notes under sections 1501, 1506, and 1508 of this title and sections 901 and 902 of Title 2, and repealing provisions set out as a note under section 1421 of this title] and the amendments made by this title shall become effective on the date of enactment of this Act [Oct. 13, 1994] and shall apply to the provision of crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with the 1995 crop year. With respect to the 1994 crop year, the Federal Crop Insurance Act (as in effect on the day before the date of enactment of this Act) shall continue to apply.”

§1503. Federal Crop Insurance Corporation; creation; offices

To carry out the purposes of this chapter, there is hereby created as an agency of and within the Department a body corporate with the name “Federal Crop Insurance Corporation”. The principal office of the Corporation shall be located in the District of Columbia, but there may be established agencies or branch offices elsewhere in the United States under rules and regulations prescribed by the Board.

(Feb. 16, 1938, ch. 30, title V, §503, 52 Stat. 72; Oct. 13, 1994, Pub. L. 103354, title I, §102(b)(1), (4)(A), (B), 108 Stat. 3180, 3181.)

AMENDMENTS

1994—Pub. L. 103354 in first sentence struck out “of Agriculture” after “Department” and “(herein called the Corporation)” before period at end, and in second sentence struck out “of Directors” after “Board”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under

Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

TRANSFER OF FUNCTIONS

Under authority of Ex. Ord. No. 9577, June 29, 1945, Secretary of Agriculture consolidated administration of program of Federal Crop Insurance Corporation in Production and Marketing Administration by Memorandum 1118, Aug. 18, 1945, 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, transferred administration of program of Federal Crop Insurance Corporation to Secretary of Agriculture. In his letter to Congress President stated that purpose of this transfer was to permit Secretary of Agriculture to continue consolidation already effected in Production and Marketing Administration.

Federal Crop Insurance Corporation consolidated with other agencies into Agricultural Conservation and Adjustment Administration for duration of war, see Ex. Ord. No. 9069.

CROSS REFERENCES

Financial control of Corporation, see section 9101 et seq. of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1502 of this title.

§1504. Capital stock of Corporation

(a) Subscription by United States

The Corporation shall have a capital stock of \$500,000,000 subscribed by the United States of America, payment for which shall, with the approval of the Secretary, be subject to call in whole or in part by the Board.

(b) Appropriations

There is authorized to be appropriated such sums as are necessary for the purpose of subscribing to the capital stock of the Corporation.

(c) Issuance of stock to Secretary of the Treasury

Receipts for payments by the United States of America for or on account of such stock shall be issued by the Corporation to the Secretary of the Treasury and shall be evidence of the stock ownership by the United States of America.

(d) Cancellation of receipts; nonliability of Corporation

Within thirty days after September 26, 1980, the Secretary of the Treasury shall cancel, without consideration, receipts for payments for or on account of the stock of the Corporation outstanding on September 26, 1980, and such receipts shall cease to be liabilities of the Corporation.

(Feb. 16, 1938, ch. 30, title V, §504, 52 Stat. 72; Aug. 25, 1949, ch. 512, §§4, 6, 63 Stat. 665; June 16, 1977, Pub. L. 9547, 91 Stat. 228; Nov. 15, 1977, Pub. L. 95181, §1, 91 Stat. 1373; Sept. 26, 1980, Pub. L. 96365, title I, §101, 94 Stat. 1312; Oct. 13, 1994, Pub. L. 103354, title I, §102(b)(2), (4)(C), 108 Stat. 3180, 3181.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103354, §102(b)(2)(A), (4)(C), struck out “of Agriculture” after “Secretary” and “of Directors of the Corporation” after “Board”.

Subsec. (d). Pub. L. 103354, §102(b)(2)(B), struck out “Federal Crop Insurance” before “Corporation outstanding”.

1980—Subsec. (a). Pub. L. 96365, §101(a), substituted “\$500,000,000” for “\$200,000,000”.

Subsec. (d). Pub. L. 96365, §101(b), added subsec. (d).

1977—Subsec. (a). Pub. L. 95181 substituted “\$200,000,000” for “\$150,000,000”.

Pub. L. 9547 substituted “\$150,000,000” for “\$100,000,000”.

1949—Subsec. (a). Act Aug. 25, 1949, §4, struck out second sentence relating to restoration of impairment of capital stock.

Subsec. (b). Act Aug. 25, 1949, §6, authorized appropriations for subscribing to corporation’s capital stock in order to offset losses suffered prior to time program was placed on an experimental basis in 1947.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 112 of Pub. L. 96365 provided that: “Except as otherwise provided in this Act, the provisions of this Act amending the Federal Crop Insurance Act [amending sections 1504, 1505 to 1507, 1508, and 1518 of this title and repealing section 1515 of this title] shall become effective on the date of enactment of this Act [Sept. 26, 1980].”

Section 101(a) of Pub. L. 96365 provided that the amendment made by that section is effective Oct. 1, 1980.

TRANSFER OF FUNCTIONS

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. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

CANCELLATION OF OUTSTANDING RECEIPTS FOR STOCK IN EXCESS OF \$27,000,000

Section 5 of act Aug. 25, 1949, provided that: “The Secretary of the Treasury is authorized and directed to cancel, without consideration, outstanding receipts for payments for or on account of the stock of the Corporation in excess of \$27,000,000.”

INSTITUTION OF EXPANDED PROGRAM; PAYMENT OF COST FOR FISCAL YEAR 1950

Section 11 of act Aug. 25, 1949, provided that: “The expanded program authorized herein [sections 1504, 1505, 1506, 1507, and 1508 of this title] shall be instituted beginning with the 1950 crop year, the additional cost for fiscal year 1950 to be financed, pending the appropriation of supplemental funds, from any appropriation available for operating and administrative expenses of the Corporation for such fiscal year.”

§1504a. Capitalization of Corporation

The payment for capital stock in the Federal Crop Insurance Corporation shall be effected by transfer of funds on the books of the Treasury Department to the credit of the Corporation.

(June 27, 1940, ch. 437, title I, 54 Stat. 640.)

CODIFICATION

Section was not enacted as part of the Federal Crop Insurance Act which comprises this chapter.

TRANSFER OF FUNCTIONS

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. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

§1505. Management of Corporation

(a) Establishment, composition, and appointment of Board

The management of the Corporation shall be vested in a Board subject to the general supervision of the Secretary. The Board shall consist of the manager of the Corporation, the Under Secretary of Agriculture responsible for the Federal crop insurance program, one additional Under Secretary of Agriculture (as designated by the Secretary of Agriculture), one person experienced in the crop insurance business who is not otherwise employed by the Federal Government, and three active farmers who are not otherwise employed by the Federal Government. The Board shall be appointed by, and hold office at the pleasure of, the Secretary. The Secretary shall not be a member of the Board. The Secretary, in appointing the three active farmers who are not otherwise employed by the Federal Government, shall ensure that such members are policyholders and are from different geographic areas of the United States, in order that diverse agricultural interests in the United States are at all times represented on the Board.

(b) Vacancies

Vacancies in the Board so long as there shall be four members in office shall not impair the powers of the Board to execute the functions of the Corporation, and four of the members in office shall constitute a quorum for the transaction of the business of the Board.

(c) Compensation

The Directors of the Corporation who are employed in the Department shall receive no additional compensation for their services as such Directors but may be allowed necessary traveling and subsistence expenses when engaged in business of the Corporation, outside of the District of Columbia. The Directors of the Corporation who are not employed by the Federal Government shall be paid such compensation for their services as Directors as the Secretary shall determine, but such compensation shall not exceed the daily equivalent of the rate prescribed for grade GS18 under section 5332 of title 5 when actually employed, and actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of title 5 for persons in Government service employed intermittently, when on the business of the Corporation away from their homes or regular places of business.

(d) Manager of Corporation

The manager of the Corporation shall be its chief executive officer, with such power and authority as may be conferred by the Board. The manager shall be appointed by, and hold office at the pleasure of, the Secretary.

(Feb. 16, 1938, ch. 30, title V, §505, 52 Stat. 72; Aug. 1, 1947, ch. 440, §8, 61 Stat. 719; Aug. 25, 1949,

ch. 512, §7, 63 Stat. 665; Sept. 26, 1980, Pub. L. 96365, title I, §102, 94 Stat. 1312; Oct. 13, 1994, Pub. L. 103354, title I, §§102(b)(3), (4), 103, 115(a), 108 Stat. 3181, 3204.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103354, §102(b)(3), (4)(A), (C), in first sentence struck out “of Directors (hereinafter called the ‘Board’)” after “Board” and “of Agriculture” after “Secretary”.

Pub. L. 103354, §103, in second sentence struck out “or Assistant Secretary” after “Corporation, the Under Secretary” and substituted “one additional Under Secretary of Agriculture (as designated by the Secretary of Agriculture)” for “the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture”.

Pub. L. 103354, §115(a)(1), substituted “The Board shall be appointed by, and hold office at the pleasure of, the Secretary. The Secretary shall not be a member of the Board.” for former third sentence which read as follows: “The Board shall be appointed by, and hold office at the pleasure of the Secretary, who shall not, himself, be a member of the Board.”

Pub. L. 103354, §102(b)(4)(C), in third sentence struck out “of Agriculture” before “, who shall not”.

Subsec. (c). Pub. L. 103354, §102(b)(4)(B), (C), struck out “of Agriculture” after “Department” in first sentence and after “Secretary” in second sentence.

Subsec. (d). Pub. L. 103354, §§102(b)(4)(C), 115(a)(2), in first sentence struck out “upon him” before “by the Board”, and in second sentence substituted “The manager shall” for “He shall” and struck out “of Agriculture” after “Secretary”.

1980—Subsec. (a). Pub. L. 96365, §102(a), increased Board membership from five persons; substituted provisions including on the Board the Under Secretaries or Assistant Secretaries of Agriculture for crop insurance and farm credit programs and one person experienced in crop insurance business for former provisions including on the Board two other Agriculture Department employees and two persons with insurance business experience; authorized appointment of three active farmers not otherwise Federal employees; and required farmer appointees to be policyholders and representative of agricultural interests of different geographic areas.

Subsec. (b). Pub. L. 96365, §102(b), substituted “four” for “three” in two places.

Subsec. (c). Pub. L. 96365, §102(c), substituted as limitation on compensation of Directors of the Corporation not employed by the Federal Government the daily equivalent of rate prescribed for grade GS18 under section 5332 of title 5 when actually employed, and actual necessary traveling and subsistence expenses, or the per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of title 5 for persons in Government service employed intermittently, when on the business of the Corporation away from their homes or regular places of business for former limitation of \$50 per day when actually employed and transportation expenses plus not to exceed \$10 per diem in lieu of subsistence expenses when on business of the Corporation away from their homes or regular places of business.

1949—Subsec. (c). Act Aug. 25, 1949, reduced compensation of members of Board of Directors who are not Government employees from “not to exceed \$100 per day” to “not to exceed \$50 per day”, and changed from “subsistence expenses” to “transportation expenses and not to exceed \$10 per diem”.

1947—Act Aug. 1, 1947, amended section generally and, among other changes, increased membership of Board from three to five, provided for two members with insurance experience, not Government employees, increased from two to three the number of members necessary to carry on functions and to constitute a quorum, provided for compensation and expenses of Board members not otherwise Government employed, and for appointment of manager of corporation by the

Secretary of Agriculture instead of being selected by the Board.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96365 effective Sept. 26, 1980, see section 112 of Pub. L. 96365, set out as a note under section 1504 of this title.

TRANSFER OF FUNCTIONS

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. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

REFERENCES IN OTHER LAWS TO GS16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101509, set out in a note under section 5376 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1502 of this title.

§1506. General powers

(a) Succession

The Corporation shall have succession in its corporate name.

(b) Corporate seal

The Corporation may adopt, alter, and use a corporate seal, which shall be judicially noticed.

(c) Property

The Corporation may purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of such property held by it upon such terms as it deems appropriate.

(d) Suit

The Corporation, subject to the provisions of section 1508(j) of this title, may sue and be sued in its corporate name, but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property. The district courts of the United States, including the district courts of the District of Columbia and of any territory or possession, shall have exclusive original jurisdiction, without regard to the amount in controversy, of all suits brought by or against the Corporation. The Corporation may intervene in any court in any suit, action, or proceeding in which it has an interest. Any suit against the Corporation shall be brought in the District of Columbia, or in the district wherein the plaintiff resides or is engaged in business.

(e) Bylaws and regulations

The Corporation may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers granted to it by law may be exercised and enjoyed.

(f) Mails

The Corporation shall be entitled to the use of the United States mails in the same manner as the other executive agencies of the Government.

(g) Assistance

The Corporation, with the consent of any board, commission, independent establishment, or executive department of the Government, including any field service thereof, may avail itself of the use of information, services, facilities, officials, and employees thereof in carrying out the provisions of this chapter.

(h) Data collection

The Corporation shall assemble data for the purpose of establishing sound actuarial bases for insurance on agricultural commodities.

(i) Expenditures

The Corporation shall determine the character and necessity for its expenditures under this chapter and the manner in which they shall be incurred, allowed, and paid, without regard to the provisions of any other laws governing the expenditure of public funds and such determinations shall be final and conclusive upon all other officers of the Government.

(j) Settling claims

The Corporation shall have the authority to make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation.

(k) Other powers

The Corporation shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation and all such incidental powers as are customary in corporations generally.

(l) Contracts

The Corporation may enter into and carry out contracts or agreements, and issue regulations, necessary in the conduct of its business, as determined by the Board. State and local laws or rules shall not apply to contracts, agreements, or regulations of the Corporation or the parties thereto to the extent that such contracts, agreements, or regulations provide that such laws or rules shall not apply, or to the extent that such laws or rules are inconsistent with such contracts, agreements, or regulations.

(m) Submission of certain information

(1) Social security account and employer identification numbers

The Corporation shall require, as a condition of eligibility for participation in the multiple peril crop insurance program, submission of social security account numbers, subject to the requirements of section 405(c)(2)(C)(iii) of title 42, and employer identification numbers, subject to the requirements of section 6109(f) of title 26.

(2) Notification by policyholders

Each policyholder shall notify each individual or other entity that acquires or holds a substantial beneficial interest in such policyholder of the requirements and limitations under this chapter.

(3) Identification of holders of substantial interests

The Manager of the Corporation may require each policyholder to provide to the Manager, at such times and in such manner as prescribed by the Manager, the name of each individual that holds or acquires a substantial beneficial interest in the policyholder.

(4) "Substantial beneficial interest" defined

For purposes of this subsection, the term "substantial beneficial interest" means not less than 5 percent of all beneficial interests in the policyholder.

(n) Penalties**(1) False information**

If a person willfully and intentionally provides any false or inaccurate information to the Corporation or to any insurer with respect to an insurance plan or policy under this chapter, the Corporation may, after notice and an opportunity for a hearing on the record—

(A) impose a civil fine of not to exceed \$10,000 on the person; and

(B) disqualify the person from purchasing catastrophic risk protection or receiving noninsured assistance for a period of not to exceed 2 years, or from receiving any other benefit under this chapter for a period of not to exceed 10 years.

(2) Assessment of penalty

In assessing penalties under this subsection, the Corporation shall consider the gravity of the violation.

(o) Actuarial soundness**(1) Projected loss ratio as of October 1, 1995**

The Corporation shall take such actions as are necessary to improve the actuarial soundness of Federal multiperil crop insurance coverage made available under this chapter to achieve, on and after October 1, 1995, an overall projected loss ratio of not greater than 1.1, including—

(A) instituting appropriate requirements for documentation of the actual production history of insured producers to establish recorded or appraised yields for Federal crop insurance coverage that more accurately reflect the associated actuarial risk, except that the Corporation may not carry out this paragraph in a manner that would prevent beginning farmers (as defined by the Secretary) from obtaining Federal crop insurance;

(B) establishing in counties, to the extent practicable, a crop insurance option based on area yields in a manner that allows an insured producer to qualify for an indemnity if a loss has occurred in a specified area in which the farm of the insured producer is located;

(C) establishing a database that contains the social security account and employee

identification numbers of participating producers, agents, and loss adjusters and using the numbers to identify insured producers, agents, and loss adjusters who are high risk for actuarial purposes and insured producers who have not documented at least 4 years of production history, to assess the performance of insurance providers, and for other purposes permitted by law; and

(D) taking any other measures authorized by law to improve the actuarial soundness of the Federal crop insurance program while maintaining fairness and effective coverage for agricultural producers.

(2) Projected loss ratio as of October 1, 1998

The Corporation shall take such actions, including the establishment of adequate premiums, as are necessary to improve the actuarial soundness of Federal multiperil crop insurance made available under this chapter to achieve, on and after October 1, 1998, an overall projected loss ratio of not greater than 1.075.

(3) Nonstandard classification system

To the extent that the Corporation uses the nonstandard classification system, the Corporation shall apply the system to all insured producers in a fair and consistent manner.

(p) Regulations

The Secretary and the Corporation are each authorized to issue such regulations as are necessary to carry out this chapter.

(q) Program compliance**(1) Timeliness**

The Corporation shall work actively with approved insurance providers to address program compliance and integrity issues as the issues develop.

(2) Notification of compliance problems

The Corporation shall notify in writing any approved insurance provider with whom the Corporation has an agreement under this chapter of any error, omission, or failure to follow Corporation regulations or procedures for which the approved insurance provider may be responsible and which may result in a debt owed the Corporation. The notice shall be given within 3 years of the end of the insurance period during which the error, omission, or failure is alleged to have occurred, except that this time limit shall not apply with respect to errors, omissions, or procedural violations that are willful or intentional. The failure to timely provide the notice required under this subsection shall relieve the approved insurance provider from the debt owed the Corporation.

(r) Purchase of American-made equipment and products**(1) Sense of Congress**

It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased by the Corporation using funds made available to the Corporation should be American-made.

(2) Notice requirement

In providing financial assistance to, or entering into any contract with, any entity for

the purchase of equipment and products to carry out this chapter, the Corporation, to the greatest extent practicable, shall provide to the entity a notice describing the statement made in paragraph (1).

(Feb. 16, 1938, ch. 30, title V, §506, 52 Stat. 73; June 21, 1941, ch. 214, §2, 55 Stat. 255; Aug. 1, 1947, ch. 440, §7, 61 Stat. 719; Aug. 25, 1949, ch. 512, §8, 63 Stat. 665; Sept. 26, 1980, Pub. L. 96365, title I, §§103, 107(a), 94 Stat. 1313, 1317; Nov. 28, 1990, Pub. L. 101624, title XXII, §§2201(a), 2202, 104 Stat. 3951, 3954; Dec. 13, 1991, Pub. L. 102237, title VI, §601(1), (2), 105 Stat. 1878; Aug. 10, 1993, Pub. L. 10366, title XIV, §1403(a), 107 Stat. 333; Oct. 13, 1994, Pub. L. 103354, title I, §§104, 119(f)(1), 108 Stat. 3181, 3208.)

AMENDMENTS

1994—Subsec. (d). Pub. L. 103354, §119(f)(1), substituted “1508(j)” for “1508(f)” in first sentence.

Subsec. (j). Pub. L. 103354, §104(2), added subsec. (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 103354, §104(1), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (l).

Subsec. (l). Pub. L. 103354, §104(1), (3), redesignated subsec. (k) as (l), in first sentence inserted “, and issue regulations,” after “agreements”, and in second sentence substituted “contracts, agreements, or regulations” for “contracts or agreements” wherever appearing. Former subsec. (l) redesignated (m).

Subsec. (m). Pub. L. 103354, §104(1), redesignated subsec. (l) as (m). Former subsec. (m) redesignated (n).

Subsec. (n). Pub. L. 103354, §104(1), redesignated subsec. (m) as (n). Former subsec. (n) redesignated (o).

Subsec. (n)(1)(B). Pub. L. 103354, §104(4), added subpar. (B) and struck out former subpar. (B) which read as follows: “disqualify the person from receiving any benefit under this chapter for a period of not to exceed 10 years.”

Subsec. (o). Pub. L. 103354, §104(1), (5)(B), redesignated subsec. (n) as (o) and reenacted heading without change.

Subsec. (o)(1). Pub. L. 103354, §104(5)(B), designated existing provisions as par. (1) and inserted heading. Former par. (1) redesignated subpar. (A).

Subsec. (o)(1)(A). Pub. L. 103354, §104(5)(A), (C), redesignated former par. (1) as subpar. (A) and substituted “(as defined by the Secretary) from obtaining Federal crop insurance” for “from obtaining adequate Federal crop insurance, as determined by the Corporation”.

Subsec. (o)(1)(B). Pub. L. 103354, §104(5)(A), redesignated former par. (2) as subpar. (B).

Subsec. (o)(1)(C). Pub. L. 103354, §104(5)(A), (D), redesignated former par. (3) as subpar. (C) and inserted “, agents, and loss adjusters” after “participating producers” and after “identify insured producers”.

Subsec. (o)(1)(D). Pub. L. 103354, §104(5)(A), redesignated former par. (4) as subpar. (D).

Subsec. (o)(2) to (4). Pub. L. 103354, §104(5)(A), (E), added pars. (2) and (3) and redesignated former pars. (2) to (4) as subpars. (B) to (D), respectively, of par. (1) and realigned their margins.

Subsecs. (p) to (r). Pub. L. 103354, §104(6), added subsecs. (p) to (r).

1993—Subsec. (n). Pub. L. 10366 added subsec. (n).

1991—Subsec. (d). Pub. L. 102237, §601(1), substituted “section 1508(f)” for “section 1508(c)” and a period for semicolon at end.

Subsec. (m)(1). Pub. L. 102237, §601(2), in introductory provisions substituted “willfully” for “wilfully” and in subpar. (A) struck out “to” after “exceed”.

1990—Pub. L. 101624, §2202(b)(1), substituted “General powers” for “General powers of Corporation” as section catchline and struck out “The Corporation—” before subsec. (a).

Subsec. (a). Pub. L. 101624, §2202(b)(2), (13), inserted heading and “The Corporation” and substituted period for semicolon at end.

Subsec. (b). Pub. L. 101624, §2202(b)(3), (13), inserted heading and “The Corporation” and substituted period for semicolon at end.

Subsec. (c). Pub. L. 101624, §2202(b)(4), (13), inserted heading and “The Corporation” and substituted period for semicolon at end.

Subsec. (d). Pub. L. 101624, §2202(b)(5), inserted heading and “The Corporation.”.

Subsec. (e). Pub. L. 101624, §2202(b)(6), (13), inserted heading and “The Corporation” and substituted period for semicolon at end.

Subsec. (f). Pub. L. 101624, §2202(b)(7), (13), inserted heading and “The Corporation” and substituted period for semicolon at end.

Subsec. (g). Pub. L. 101624, §2202(b)(8), (13), inserted heading and “The Corporation,” and substituted period for semicolon at end.

Subsec. (h). Pub. L. 101624, §2202(b)(9), (13), inserted heading and “The Corporation” and substituted period for semicolon at end.

Subsec. (i). Pub. L. 101624, §2202(b)(10), (14), inserted heading and “The Corporation” and substituted period for “; and” at end.

Subsec. (j). Pub. L. 101624, §2202(b)(11), (14), inserted heading and “The Corporation” and substituted period for “; and” at end.

Subsec. (k). Pub. L. 101624, §2202(b)(12), inserted heading and “The Corporation”.

Subsec. (l). Pub. L. 101624, §2201(a), added subsec. (l).

Subsec. (m). Pub. L. 101624, §2202(a), added subsec. (m).

1980—Subsec. (c). Pub. L. 96365, §103(1), substituted “may purchase” for “may make contracts and purchase”. See subsec. (k) of this section.

Subsec. (d). Pub. L. 96365, §103(2), substituted provision granting exclusive original jurisdiction to district courts of the United States, including district courts of the District of Columbia and of any territory or possession, for prior grant to any State court of record having general jurisdiction or any United States district court, authorized intervention by the Corporation in proceedings, and required suits against the Corporation to be brought in the District of Columbia or in district wherein plaintiff resides or is engaged in business.

Subsec. (f). Pub. L. 96365, §103(3), substituted “use of the United States mails” for “free use of the United States mails”.

Subsec. (h). Pub. L. 96365, §107(a), struck out authority for conducting researches, surveys, and investigations relating to crop insurance. See section 1508(i) of this title.

Subsec. (k). Pub. L. 96365, §103(4), added subsec. (k).

1949—Subsec. (h). Act Aug. 25, 1949, struck out obsolete language and included authority for a study of the possibility of developing some type of livestock insurance.

1947—Subsec. (d). Act Aug. 1, 1947, provided for suits in State courts of general jurisdiction or in United States district courts regardless of amount in controversy.

1941—Subsec. (h). Act June 21, 1941, substituted “and preparatory to the application of the chapter to other basic commodities when so provided by law, shall assemble data relative to field corn, for the purpose of establishing a satisfactory actuarial basis for such commodity” for “for wheat and other agricultural commodities.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 1403(c)(1) of Pub. L. 10366 provided that: “Except as provided in paragraph (2), this section [amend-

ing this section and sections 1508 and 1508a of this title] and the amendments made by this section shall become effective on October 1, 1993.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96365 effective Sept. 26, 1980, see section 112 of Pub. L. 96365, set out as a note under section 1504 of this title.

REGULATIONS

Section 1403(c)(2) of Pub. L. 10366 provided that: “Not later than 30 days after the date of enactment of this Act [Aug. 10, 1993], the Secretary of Agriculture shall publish, for public comment, proposed regulations to implement the amendments made by this section [amending this section and sections 1508 and 1508a of this title].”

TRANSFER OF FUNCTIONS

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. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

CROP INSURANCE PROVIDER EVALUATION

Section 118 of Pub. L. 103354 provided that:

“(a) IN GENERAL.—The Comptroller General of the United States and the Federal Crop Insurance Corporation (referred to in this section as the ‘Corporation’) shall jointly evaluate the financial arrangement between the Corporation and approved insurance providers to determine the quality, costs, and efficiencies of providing the benefits of multiple peril crop insurance to producers of agricultural commodities covered under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

“(b) COLLECTION OF INFORMATION AND PROPOSALS.—The Corporation shall require private insurance providers and agents to supply, and the private insurance providers and agents shall supply, records and information necessary to make the determinations and evaluations required under this section. The Corporation shall solicit from the approved insurance providers and agents proposals for modifying or altering the requirements, regulations, procedures, and processes related to implementing the Federal Crop Insurance Act to reduce the operating and administrative costs of the providers and agents.

“(c) INITIAL REPORT.—Not later than 180 days after receipt of information and cost-reduction proposals under subsection (b), the Corporation shall evaluate the information and proposals obtained and report the results of the evaluation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

“(d) FINAL REPORT.—Not later than 2 years after the date of enactment of this Act [Oct. 13, 1994], the Comptroller General and the Corporation shall submit a final report that provides the evaluation required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. In making the evaluation, the Comptroller General and the Corporation shall—

“(1) consider the changes made by the Corporation in response to increased program participation resulting from the enactment of this Act;

“(2) include an evaluation and opinion of the accuracy and reasonableness of—

“(A) the average actual costs for approved insurance providers to deliver multiple peril crop insurance;

“(B) the cost per policy of complying with the requirements, regulations, procedures, and processes of the Federal Crop Insurance Act;

“(C) the cost differences for various provider firm sizes and any business delivered by the Federal Government;

“(D) the adequacy of the standard reimbursement for potential new providers; and

“(E) the identification of any new costs related to the enactment of this Act not previously identified in the information reported by the providers;

“(3) compare delivery costs of multiple peril crop insurance to other insurance coverages that the provider may sell and determine the extent, if any, to which any funds provided to carry out the Federal Crop Insurance Act are being used to fund any other business enterprise operated by the provider;

“(4)(A) assess alternative methods for reimbursing providers for reasonable and necessary expenses associated with delivery of multiple peril crop insurance;

“(B) recommend changes under this paragraph that reasonably demonstrate the need to achieve the greatest operating efficiencies on the part of the provider and the Corporation has been recognized; and

“(C) identify areas for improved operating efficiencies, if any, in the requirements made by the Corporation for compliance and program integrity;

“(5) assess the potential for alternative forms of reinsurance arrangements for providers of different firm sizes, taking into consideration—

“(A) the need to achieve a reasonable return on the capital of the provider compared to other lines of insurance;

“(B) the relative risk borne by the provider for the different lines of insurance;

“(C) the availability and price of commercial reinsurance; and

“(D) any additional costs that may be incurred by the Federal Government in carrying out the Federal Crop Insurance Act; and

“(6) include an analysis of the effect of the current or proposed reinsurance arrangements on providers having different business levels.

“(e) INFORMATION.—

“(1) PRIVACY.—In conducting the evaluation required by this section, the Comptroller General and the Corporation shall maintain the privacy of proprietary information.

“(2) SUBPOENAS.—The Comptroller General shall have the power to subpoena information relevant to the evaluation required by this section from any private insurance provider. The Comptroller General shall allow the Corporation access to the information subpoenaed taking into consideration the necessity of preserving the privacy of proprietary information.”

CROSS REFERENCES

Amount in controversy, generally, see section 1332 of Title 28, Judiciary and Judicial Procedure.

Amount in controversy immaterial in action arising under Act regulating commerce, see section 1337 of Title 28.

Jurisdiction of district court of action by corporation organized under federal law, see section 1349 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1521 of this title; title 26 section 6109; title 42 section 405.

§§1506a, 1506b. Omitted

CODIFICATION

Section 1506a, act July 30, 1947, ch. 356, title II, §202, 61 Stat. 550, which related to authority of Federal Crop Insurance Corporation to make expenditures, was from the Department of Agriculture Appropriation Act, 1948, and was not repeated in subsequent appropriation acts.

Section 1506b, acts June 29, 1954, ch. 409, title II, §201, 68 Stat. 317; May 23, 1955, ch. 43, title II, §201, 69 Stat. 60; June 4, 1956, ch. 355, title II, §201, 70 Stat. 238, which provided that crop inspection costs and loss adjustments could be considered as nonadministrative or non-

operating expenses, was from the Department of Agriculture and Farm Credit Administration Appropriation Acts for fiscal years 1955-57, and was not repeated in subsequent appropriation acts.

§1507. Personnel of Corporation

(a) Appointment; civil service exemption; compensation

The Secretary shall appoint such officers and employees as may be necessary for the transaction of the business of the Corporation pursuant to civil-service laws and regulations, fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, define their authority and duties, and delegate to them such of the powers vested in the Corporation as the Secretary may determine appropriate. However, personnel paid by the hour, day, or month when actually employed may be appointed without regard to civil-service laws and regulations.

(b) Application of employees' compensation law

Insofar as applicable, the benefits of subchapter I of chapter 81 of title 5, shall extend to persons given employment under the provisions of this chapter, including the employees of the committees and associations referred to in subsection (c) of this section and the members of such committees.

(c) Use of associations of producers and private insurance companies; payment of administrative and program expenses; sale of crop insurance through private agents and brokers; renewals, exclusion of compensation from premium rates, indemnification for errors or omissions of Commission or its contractors

In the administration of this chapter, the Board shall, to the maximum extent possible, (1) establish or use committees or associations of producers and make payments to them to cover the administrative and program expenses, as determined by the Board, incurred by them in cooperating in carrying out this chapter, (2) contract with private insurance companies, private rating bureaus, and other organizations as appropriate for actuarial, loss adjustment, and other services to avoid duplication by the Federal Government of services that are or may readily be available in the private sector, and reimburse such companies for the administrative and program expenses, as determined by the Board, incurred by them, under terms and provisions and rates of compensation consistent with those generally prevailing in the insurance industry, and (3) encourage the sale of Federal crop insurance through licensed private insurance agents and brokers and give the insured the right to renew such insurance for successive terms through such agents and brokers, in which case the agent or broker shall be reasonably compensated from premiums paid by the insured for such sales and renewals recognizing the function of the agent or broker to provide continuing services while the insurance is in effect: *Provided*, That such compensation shall not be included in computations establishing premium rates. The Board shall provide such agents and brokers with indemnification, in-

cluding costs and reasonable attorney fees, from the Corporation for errors or omissions on the part of the Corporation or its contractors for which the agent or broker is sued or held liable, except to the extent the agent or broker has caused the error or omission. Nothing in this subsection shall permit the Corporation to contract with other persons to carry out the responsibility of the Corporation to review and approve policies, rates, and other materials submitted under section 1508(h) of this title.

(d) Allotment of funds to Federal and State agencies

The Secretary may allot to bureaus and offices of the Department or transfer to such other agencies of the State and Federal Governments that the Secretary requests to assist in carrying out this chapter any funds made available pursuant to the provisions of section 1516 of this title.

(e) Utilization of producer cooperative associations

In carrying out the provisions of this chapter the Board may, in its discretion, utilize producer-owned and producer-controlled cooperative associations.

(f) Use of resources, data, boards, and committees of Federal agencies

The Board should use, to the maximum extent possible, the resources, data, boards, and the committees of (1) the Soil Conservation Service, in assisting the Board in the classification of land as to risk and production capability and in the development of acceptable conservation practices; (2) the Forest Service, in assisting the Board in the development of a timber insurance plan; (3) the Agricultural Stabilization and Conservation Service, in assisting the Board in the determination of individual producer yields and in serving as a local contact point for farmers where the Board deems necessary; and (4) other Federal agencies in any way the Board deems necessary in carrying out this chapter.

(g) Specialty Crops Coordinator

(1) The Corporation shall establish a management-level position to be known as the Specialty Crops Coordinator.

(2) The Specialty Crops Coordinator shall have primary responsibility for addressing the needs of specialty crop producers, and for providing information and advice, in connection with the activities of the Corporation to improve and expand the insurance program for specialty crops. In carrying out this paragraph, the Specialty Crops Coordinator shall act as the liaison of the Corporation with representatives of specialty crop producers and assist the Corporation with the knowledge, expertise, and familiarity of the producers with risk management and production issues pertaining to specialty crops.

(3) The Specialty Crops Coordinator shall use information collected from Corporation field office directors in States in which specialty crops have a significant economic effect and from other sources, including the extension service and colleges and universities.

(Feb. 16, 1938, ch. 30, title V, §507, 52 Stat. 73; Aug. 1, 1947, ch. 440, §6, 61 Stat. 719; Aug. 25, 1949,

ch. 512, §10, 63 Stat. 665; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; June 6, 1972, Pub. L. 92310, title II, §221(b), 86 Stat. 205; Sept. 26, 1980, Pub. L. 96365, title I, §104, 94 Stat. 1313; Nov. 28, 1990, Pub. L. 101624, title XXII, §2206, 104 Stat. 3958; Dec. 13, 1991, Pub. L. 102237, title VI, §601(3), 105 Stat. 1878; Oct. 13, 1994, Pub. L. 103354, title I, §§102(b)(4)(B), (C), 105, 115(b), 119(f)(2), 108 Stat. 3181, 3182, 3204, 3208.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a), are set out in Title 5, Government Organization and Employees. See, particularly section 3301 et seq. of Title 5.

In subsec. (a), “chapter 51 and subchapter III of chapter 53 of title 5” substituted for “the Classification Act of 1949” on authority of Pub. L. 89554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions that authorized personnel paid by the hour, day, or month when actually employed, and county crop insurance committeemen to have their compensation fixed without regard to “the Classification Act of 1923, as amended” were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973 repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act it did not have the effect of continuing the exceptions contained in this subsection because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Act Sept. 6, 1966, Pub. L. 89554, §8(a), 80 Stat. 632 (of which section 1 revised and enacted Title 5, U.S.C., into law). Section 5102 of Title 5, now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

In subsec. (b), reference to “subchapter I of chapter 81 of title 5” substituted for “the Act entitled ‘An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes’, approved September 7, 1916, as amended” on authority of Pub. L. 89554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103354, §§105(1), 115(b)(1), substituted “as the Secretary may determine appropriate. However;” for “as he may determine: *Provided*, That” and struck out “, and county crop insurance committeemen” before “may be appointed”.

Subsec. (c). Pub. L. 103354, §119(f)(2), substituted “1508(h)” for “1508(b)” in last sentence.

Subsec. (d). Pub. L. 103354, §105(2), made technical amendment to reference to section 1516 of this title and struck out before period at end “, except that employees or agencies responsible for administering this chapter in each county shall be selected and designated by the Corporation and shall be responsible directly to the Corporation without the intervention of any intermediate office or agency”.

Pub. L. 103354, §102(b)(4)(B), (C), 115(b)(2), substituted “Secretary” for “Secretary of Agriculture”, “Department” for “Department of Agriculture”, and “that the Secretary requests” for “as he may request”.

Subsec. (g). Pub. L. 103354, §105(3), added subsec. (g). 1991—Subsec. (c). Pub. L. 102237 inserted a comma after “private insurance companies” in cl. (2).

1990—Subsec. (c). Pub. L. 101624 inserted “private rating bureaus, and other organizations as appropriate for actuarial, loss adjustment, and other services to avoid duplication by the Federal Government of services that

are or may readily be available in the private sector,” after “private insurance companies” and inserted at end “Nothing in this subsection shall permit the Corporation to contract with other persons to carry out the responsibility of the Corporation to review and approve policies, rates, and other materials submitted under section 1508(b) of this title.”

1980—Subsec. (c). Pub. L. 96365, §104(1), inserted “shall, to the maximum extent possible”, incorporated existing provisions in cl. (1), including in cl. (1) provision for payment of program expenses, but omitting provision for inclusion of estimated expenses in insurance premiums, and added cls. (2) and (3) and provisions for exclusion of compensation from premium rates and indemnification of agents and brokers for errors or omissions of Commission or its contractors.

Subsec. (f). Pub. L. 96365, §104(2), added subsec. (f).

1972—Subsec. (a). Pub. L. 92310 struck out provisions which empowered Secretary to require bonds of officers and employees.

1949—Act Oct. 28, 1949, substituted “Classification Act of 1949” for “Classification Act of 1923”.

Act Aug. 25, 1949, inserted requirement that officers and employees be appointed subject to civil service laws and regulations, and exempted personnel paid by hour, day, or month when employed, and county crop insurance committeemen from civil-service laws and regulations or the Classification Act of 1923.

1947—Act Aug. 1, 1947, provided for selection and designation of county employees and agencies and their direct responsibility.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96365 effective Sept. 26, 1980, see section 112 of Pub. L. 96365, set out as a note under section 1504 of this title.

REPEALS

Act Oct. 29, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

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. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

§1508. Crop insurance

(a) Authority to offer insurance

(1) In general

If sufficient actuarial data are available (as determined by the Corporation), the Corporation may insure, or provide reinsurance for insurers of, producers of agricultural commodities grown in the United States under 1 or more plans of insurance determined by the Corporation to be adapted to the agricultural commodity concerned. To qualify for coverage under a plan of insurance, the losses of the insured commodity must be due to drought, flood, or other natural disaster (as determined by the Secretary).

(2) Period

Except in the cases of tobacco and potatoes, insurance shall not extend beyond the period during which the insured commodity is in the field. As used in the preceding sentence, in the case of an aquacultural species, the term "field" means the environment in which the commodity is produced.

(3) Exclusions

Insurance provided under this subsection shall not cover losses due to—

(A) the neglect or malfeasance of the producer;

(B) the failure of the producer to reseed to the same crop in such areas and under such circumstances as it is customary to reseed; or

(C) the failure of the producer to follow good farming practices (as determined by the Secretary).

(4) Expansion to other areas or single producers**(A) Area expansion**

The Corporation may offer plans of insurance or reinsurance for production of agricultural commodities in the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau in the same manner as provided in this section for production of agricultural commodities in the United States.

(B) Producer expansion

In an area in the United States or specified in subparagraph (A) where crop insurance is not available for a particular agricultural commodity, the Corporation may offer to enter into a written agreement with an individual producer operating in the area for insurance coverage under this chapter if the producer has actuarially sound data relating to the production by the producer of the commodity and the data is acceptable to the Corporation.

(5) Dissemination of crop insurance information

The Corporation shall make available to producers through local offices of the Department—

(A) current and complete information on all aspects of Federal crop insurance; and

(B) a listing of insurance agents and companies offering to sell crop insurance in the area of the producers.

(6) Addition of new and specialty crops**(A) Data collection**

Not later than 180 days after October 13, 1994, the Secretary shall issue guidelines for publication in the Federal Register for data collection to assist the Corporation in formulating crop insurance policies for new and specialty crops.

(B) Addition of new crops

Not later than 1 year after October 13, 1994, and annually thereafter, the Corporation

shall report to Congress on the progress and expected timetable for expanding crop insurance coverage under this chapter to new and specialty crops.

(C) Addition of direct sale perishable crops

Not later than 1 year after October 13, 1994, the Corporation shall report to Congress on the feasibility of offering a crop insurance program designed to meet the needs of specialized producers of vegetables and other perishable crops who market through direct marketing channels.

(b) Catastrophic risk protection**(1) In general**

The Corporation shall offer a catastrophic risk protection plan to indemnify producers for crop loss due to loss of yield or prevented planting, if provided by the Corporation, when the producer is unable, because of drought, flood, or other natural disaster (as determined by the Secretary), to plant other crops for harvest on the acreage for the crop year.

(2) Amount of coverage**(A) In general**

Subject to subparagraph (B)—

(i) in the case of each of the 1995 through 1998 crop years, catastrophic risk protection shall offer a producer coverage for a 50 percent loss in yield, on an individual yield or area yield basis, indemnified at 60 percent of the expected market price, or a comparable coverage (as determined by the Corporation); and

(ii) in the case of each of the 1999 and subsequent crop years, catastrophic risk protection shall offer a producer coverage for a 50 percent loss in yield, on an individual yield or area yield basis, indemnified at 55 percent of the expected market price, or a comparable coverage (as determined by the Corporation).

(B) Reduction in actual payment

The amount paid to a producer on a claim under catastrophic risk protection may reflect a reduction that is proportional to the out-of-pocket expenses that are not incurred by the producer as a result of not planting, growing, or harvesting the crop for which the claim is made, as determined by the Corporation.

(3) Yield and loss basis

A producer shall have the option of basing the catastrophic coverage of the producer on an individual yield and loss basis or on an area yield and loss basis, if both options are offered by the Corporation.

(4) Sale of catastrophic risk coverage**(A) In general**

Catastrophic risk coverage may be offered by—

(i) approved insurance providers, if available in an area; and

(ii) at the option of the Secretary that is based on considerations of need, local offices of the Department.

(B) Need

For purposes of considering need under subparagraph (A)(ii), the Secretary may

take into account the most efficient and cost-effective use of resources, the availability of personnel, fairness to local producers, the needs and convenience of local producers, and the availability of private insurance carriers.

(5) Administrative fee

(A) Fee required

Producers shall pay an administrative fee for catastrophic risk protection. The administrative fee for each producer shall be \$50 per crop per county, but not to exceed \$200 per producer per county up to a maximum of \$600 per producer for all counties in which a producer has insured crops. The administrative fee shall be paid by the producer at the time the producer applies for catastrophic risk protection.

(B) Use of fees

(i) Fees up to \$100

(I) Fees collected by USDA offices

Not more than \$100 of the administrative fees paid by a producer for catastrophic risk coverage that are collected by an office of the Department shall be credited to the appropriations account providing funds for the payment of operating and administrative expenses incurred for the delivery of catastrophic risk protection under this section. The fees shall be collected in accordance with appropriation Acts and shall be available until expended without fiscal year limitation for the payment of the expenses.

(II) Fees collected by approved insurance providers

Not more than \$100 of the administrative fees paid by a producer for catastrophic risk coverage that are collected by an approved insurance provider shall be retained by the provider as payment for operating and administrative expenses incurred for the delivery of catastrophic risk protection.

(ii) Fees in excess of \$100

Notwithstanding the authority granted to the Secretary under the Federal Crop Insurance Corporation account provisions of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995, all fees collected under this subsection in excess of \$100 per producer per county shall be deposited in the crop insurance fund established under section 1516(c) of this title, to be available for the programs and activities of the Corporation.

(C) Waiver of fee

The Corporation shall waive the administrative fee for limited resource farmers, as defined by the Corporation.

(6) Participation requirement

A producer may obtain catastrophic risk coverage for a crop of the producer on land in the county only if the producer obtains the coverage for the crop on all insurable land of the producer in the county.

(7) Eligibility for Department programs

(A) In general

To be eligible for any price support or production adjustment program, the conservation reserve program, or any benefit described in section 2008f of this title, the producer must obtain at least the catastrophic level of insurance for each crop of economic significance grown on each farm in the county in which the producer has an interest, if insurance is available in the county for the crop.

(B) "Crop of economic significance" defined

As used in this paragraph, the term "crop of economic significance" means a crop that has contributed, or is expected to contribute, 10 percent or more of the total expected value of all crops grown by the producer.

(8) Limitation due to risk

The Corporation may limit catastrophic risk coverage in any county or area, or on any farm, on the basis of the insurance risk concerned.

(9) Transitional coverage for 1995 crops

Effective only for a 1995 crop planted or for which insurance attached prior to January 1, 1995, the Corporation shall allow producers of the crops until not later than the end of the 180-day period beginning on the date of enactment of the Federal Crop Insurance Reform Act of 1994 [Oct. 13, 1994] to obtain catastrophic risk protection for the crop. On enactment of such Act, a producer who made timely purchases of a crop insurance policy before the date of enactment of such Act, under the provisions of this chapter then in effect, shall be eligible for the same benefits to which a producer would be entitled under comparable additional coverage under subsection (c) of this section.

(10) Simplification

(A) Catastrophic risk protection plans

In developing and carrying out the policies and procedures for a catastrophic risk protection plan under this chapter, the Corporation shall, to the maximum extent practicable, minimize the paperwork required and the complexity and costs of procedures governing applications for, processing, and servicing of the plan for all parties involved.

(B) Other plans

To the extent that the policies and procedures developed under subparagraph (A) may be applied to other plans of insurance offered under this chapter without jeopardizing the actuarial soundness or integrity of the crop insurance program, the Corporation shall apply the policies and procedures to the other plans of insurance within a reasonable period of time (as determined by the Corporation) after the effective date of this paragraph.

(c) General coverage levels

(1) Additional coverage generally

(A) In general

The Corporation shall offer to producers of agricultural commodities grown in the

United States plans of crop insurance that provide additional coverage.

(B) Purchase

To be eligible for additional coverage, a producer must apply to an approved insurance provider for purchase of additional coverage if the coverage is available from an approved insurance provider. If additional coverage is unavailable privately, the Corporation may offer additional coverage plans of insurance directly to producers.

(2) Transfer of relevant information

If a producer has already applied for catastrophic risk protection at the local office of the Department and elects to purchase additional coverage, the relevant information for the crop of the producer shall be transferred to the approved insurance provider servicing the additional coverage crop policy.

(3) Yield and loss basis

A producer shall have the option of purchasing additional coverage based on an individual yield and loss basis or on an area yield and loss basis, if both options are offered by the Corporation.

(4) Level of coverage

The level of coverage shall be dollar denominated and may be purchased at any level not to exceed 85 percent of the individual yield or 95 percent of the area yield (as determined by the Corporation). Not later than the beginning of the 1996 crop year, the Corporation shall provide producers with information on catastrophic risk and additional coverage in terms of dollar coverage (within the allowable limits of coverage provided in this paragraph).

(5) Price level

The Corporation shall establish a price level for each commodity on which insurance is offered that—

(A) shall not be less than the projected market price for the commodity (as determined by the Corporation); or

(B) at the discretion of the Corporation, may be based on the actual market price at the time of harvest (as determined by the Corporation).

(6) Price elections

(A) In general

Subject to subparagraph (B), insurance coverage shall be made available to a producer on the basis of any price election that equals or is less than the price election established by the Corporation. The coverage shall be quoted in terms of dollars per acre.

(B) Minimum price elections

The Corporation may establish minimum price elections below which levels of insurance shall not be offered.

(C) Wheat classes and malting barley

The Corporation shall, as the Corporation determines practicable, offer producers different price elections for classes of wheat and malting barley (including contract prices in the case of malting barley), in addi-

tion to the standard price election, that reflect different market prices, as determined by the Corporation. The Corporation shall, as the Corporation determines practicable, offer additional coverage for each class determined under this subparagraph and charge a premium for each class that is actuarially sound.

(7) Fire and hail coverage

For levels of additional coverage equal to 65 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, a producer may elect to delete from the additional coverage any coverage against damage caused by fire and hail if the producer obtains an equivalent or greater dollar amount of coverage for damage caused by fire and hail from an approved insurance provider. On written notice of the election to the company issuing the policy providing additional coverage and submission of evidence of substitute coverage on the commodity insured, the premium of the producer shall be reduced by an amount determined by the Corporation to be actuarially appropriate, taking into account the actuarial value of the remaining coverage provided by the Corporation. In no event shall the producer be given credit for an amount of premium determined to be greater than the actuarial value of the protection against losses caused by fire and hail that is included in the additional coverage for the crop.

(8) State premium subsidies

The Corporation may enter into an agreement with any State or agency of a State under which the State or agency may pay to the approved insurance provider an additional premium subsidy to further reduce the portion of the premium paid by producers in the State.

(9) Limitations on additional coverage

The Board may limit the availability of additional coverage under this subsection in any county or area, or on any farm, on the basis of the insurance risk involved. The Board shall not offer additional coverage equal to less than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage.

(10) Administrative fee

(A) Fee required

Except as otherwise provided in this paragraph, if a producer elects to purchase additional coverage for a crop at a level that is less than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the producer shall pay an administrative fee for the additional coverage. Subsection (b)(5) of this section shall apply in determining the amount and use of the administrative fee or in determining whether to waive the administrative fee.

(B) Exception

If a producer elects to purchase additional coverage for a crop equal to 65 percent or

more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the producer shall not be subject to the administrative fee required by this paragraph or subsection (b)(5) of this section. If the producer has already paid the administrative fee for a lower level of coverage for the crop, the administrative fee shall be refunded to the producer unless the refund would reduce to less than \$200 the total amount of the administrative fees paid by the producer for 2 or more crops in the same county for which a lower level of coverage is obtained.

(C) Additional fee

If a producer elects to purchase additional coverage for a crop equal to or exceeding 65 percent of the recorded or appraised average yield and 100 percent of the expected market price or an equivalent coverage, the producer shall pay an administrative fee of \$10 for the coverage. If a producer has already paid an administrative fee for lesser coverage for the crop, the fee for lesser coverage shall be refunded to the producer unless the producer has paid the maximum fee for lesser coverage and refund of the fee will not reduce the amount to be paid below the maximum amount.

(D) Deposit of fees

Notwithstanding the authority granted to the Secretary under the Federal Crop Insurance Corporation account provisions of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995, administrative fees collected under subparagraph (B) in excess of \$100 per producer per county and under subparagraph (C) shall be deposited in the insurance fund established under section 1516(c) of this title to be available for the programs and activities of the Corporation.

(d) Premiums

(1) Premiums required

The Corporation shall fix adequate premiums for all the plans of insurance of the Corporation at such rates as the Board determines are actuarially sufficient to attain an expected loss ratio of not greater than 1.1 through September 30, 1998, and not greater than 1.075 after October 1, 1998.

(2) Premium amounts

The premium amounts for catastrophic risk protection under subsection (b) of this section and additional coverage under subsection (c) of this section shall be fixed as follows:

(A) In the case of catastrophic risk protection, the amount of the premium shall be sufficient to cover anticipated losses and a reasonable reserve.

(B) In the case of additional coverage below 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, but greater than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market

price, or an equivalent coverage, the amount of the premium shall—

- (i) be sufficient to cover anticipated losses and a reasonable reserve; and
- (ii) include an amount for operating and administrative expenses, as determined by the Corporation.

(C) In the case of additional coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount of the premium shall—

- (i) be sufficient to cover anticipated losses and a reasonable reserve; and
- (ii) include an amount for operating and administrative expenses, as determined by the Corporation, on an industry-wide basis as a percentage of the amount of the premium used to define loss ratio.

(e) Payment of portion of premium by Corporation

(1) In general

For the purpose of encouraging the broadest possible participation of producers in the catastrophic risk protection provided under subsection (b) of this section and the additional coverage provided under subsection (c) of this section, the Corporation shall pay a part of the premium in the amounts provided in accordance with this subsection.

(2) Amount of payment

The amount of the premium to be paid by the Corporation shall be as follows:

(A) In the case of catastrophic risk protection, the amount shall be equivalent to the premium established for catastrophic risk protection under subsection (d)(2)(A) of this section.

(B) In the case of coverage below 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, but greater than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount shall be equivalent to the amount of premium established for catastrophic risk protection coverage and the amount of operating and administrative expenses established under subsection (d)(2)(B) of this section.

(C) In the case of coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, on an individual or area basis, the amount shall be equivalent to an amount equal to the premium established for 50 percent loss in yield indemnified at 75 percent of the expected market price and the amount of operating and administrative expenses established under subsection (d)(2)(C) of this section.

(3) Premium reduction

If an approved insurance provider determines that the provider may provide insurance more efficiently than the expense reim-

bursement amount established by the Corporation, the approved insurance provider may reduce, subject to the approval of the Corporation, the premium charged the insured by an amount corresponding to the efficiency. The approved insurance provider shall apply to the Corporation for authority to reduce the premium before making such a reduction, and the reduction shall be subject to the rules, limitations, and procedures established by the Corporation.

(4) Individual and area crop insurance coverage

The Corporation shall allow approved insurance providers to offer a plan of insurance to producers that combines both individual yield coverage and area yield coverage at a premium rate determined by the provider under the following conditions:

(A) The individual yield coverage shall be equal to or greater than catastrophic risk protection as described in subsection (b) of this section.

(B) The combined policy shall include area yield coverage that is offered by the Corporation or similar area coverage, as determined by the Corporation.

(C) The Corporation shall provide reinsurance on the area yield portion of the combined policy at the request of the provider, except that the provider shall agree to pay to the producer any portion of the area yield and loss indemnity payment received from the Corporation or a commercial reinsurer that exceeds the individual indemnity payment made by the provider to the producer.

(D) The Corporation shall pay a part of the premium equivalent to—

(i) the amount authorized under paragraph (2) (except provisions regarding operating and administrative expenses); and

(ii) the amount of operating and administrative expenses authorized by the Corporation for the area yield coverage portion of the combined policy.

(E) The provider shall provide all underwriting services for the combined policy, including the determination of individual yield coverage premium rates, the terms and conditions of the policy, and the acceptance and classification of applicants into risk categories, subject to subparagraph (F).

(F) The Corporation shall approve the combined policy unless the Corporation determines that the policy is not actuarially sound or that the interests of producers are not adequately protected.

(f) Eligibility

(1) In general

To participate in catastrophic risk protection coverage under this section, a producer shall submit an application at the local office of the Department or to an approved insurance provider.

(2) Sales closing date

For coverage under this chapter, each producer shall purchase crop insurance on or before the sales closing date for the crop by pro-

viding the required information and executing the required documents. Subject to the goal of ensuring actuarial soundness for the crop insurance program, the sales closing date shall be established by the Corporation to maximize convenience to producers in obtaining benefits under price and production adjustment programs of the Department. Beginning with the 1995 crop year, the Corporation shall establish, for an insurance policy for each insurable crop that is planted in the spring, a sales closing date that is 30 days earlier than the corresponding sales closing date that was established for the 1994 crop year.

(3) Records and reporting

To obtain catastrophic risk protection under subsection (b) of this section or additional coverage under subsection (c) of this section, a producer shall—

(A) provide, to the extent required by the Corporation, records acceptable to the Corporation of historical acreage and production of the crops for which the insurance is sought or accept a yield determined by the Corporation; and

(B) report acreage planted and prevented from planting by the designated acreage reporting date for the crop and location as established by the Corporation.

(g) Yield determinations

(1) In general

Subject to paragraph (2), the Corporation shall establish crop insurance underwriting rules that ensure that yield coverage, as specified in this subsection, is provided to eligible producers obtaining catastrophic risk protection under subsection (b) of this section or additional coverage under subsection (c) of this section.

(2) Yield coverage plans

(A) Actual production history

Subject to subparagraph (B), the yield for a crop shall be based on the actual production history for the crop, if the crop was produced on the farm without penalty during each of the 4 crop years immediately preceding the crop year for which actual production history is being established, building up to a production data base for each of the 10 consecutive crop years preceding the crop year for which actual production history is being established.

(B) Assigned yield

If the producer does not provide satisfactory evidence of the yield of a commodity under subparagraph (A), the producer shall be assigned a yield that is not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Corporation for continuous years), as specified in regulations issued by the Corporation based on production history requirements.

(C) Area yield

The Corporation may offer a crop insurance plan based on an area yield that allows an insured producer to qualify for an indem-

nity if a loss has occurred in an area (as specified by the Corporation) in which the farm of the producer is located. Under an area yield plan, an insured producer shall be allowed to select the level of area production at which an indemnity will be paid consistent with such terms and conditions as are established by the Corporation.

(D) Commodity-by-commodity basis

A producer may choose between individual yield or area yield coverage or combined coverage (as provided in subsection (e)(4) of this section), if available, on a commodity-by-commodity basis.

(3) Transitional yields for producers of feed or forage

(A) In general

If a producer does not provide satisfactory evidence of a yield under paragraph (2)(A), the producer shall be assigned a yield that is at least 80 percent of the transitional yield established by the Corporation (adjusted to reflect the actual production history of the producer) if the Secretary determines that—

- (i) the producer grows feed or forage primarily for on-farm use in a livestock, dairy, or poultry operation; and
- (ii) over 50 percent of the net farm income of the producer is derived from the operation.

(B) Yield calculation

The Corporation shall—

- (i) for the first year of participation of a producer, provide the assigned yield under this paragraph to the producer of feed or forage; and
- (ii) for the second year of participation of the producer, apply the actual production history or assigned yield requirement, as provided in this subsection.

(C) Termination of authority

The authority provided by this paragraph shall terminate on the date that is 3 years after the effective date of this paragraph.

(h) Submission of policies and materials to Board

(1) In general

In addition to any standard forms or policies that the Board may require be made available to producers under subsection (c) of this section, a person may prepare for submission or propose to the Board—

- (A) other crop insurance policies and provisions of policies; and
- (B) rates of premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn, and any other crops determined by the Secretary.

(2) Submission of policies

A policy or other material submitted to the Board under this subsection may be prepared without regard to the limitations contained in this chapter, including the requirements concerning the levels of coverage and rates and the requirement that a price level for each commodity insured must equal the expected

market price for the commodity as established by the Board. In the case of such a policy, the payment by the Corporation of a portion of the premium of the policy may not exceed the amount that would otherwise be authorized under subsection (e) of this section.

(3) Review and approval by the Board

A policy or other material submitted to the Board under this subsection shall be reviewed by the Board and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to the producers are actuarially appropriate, shall be approved by the Board for reinsurance and for sale to producers as an additional choice at actuarially appropriate rates and under appropriate terms and conditions. The Corporation may enter into more than 1 reinsurance agreement with the approved insurance provider simultaneously to facilitate the offering of the new policies.

(4) Guidelines for submission and review

The Corporation shall issue regulations to establish guidelines for the submission, and Board review, of policies or other material submitted to the Board under this subsection. At a minimum, the guidelines shall ensure the following:

(A) A proposal submitted to the Board under this subsection shall be considered as confidential commercial or financial information for purposes of section 552(b)(4) of title 5 until approved by the Board. A proposal disapproved by the Board shall remain confidential commercial or financial information.

(B) The Board shall provide an applicant with the opportunity to present the proposal to the Board in person if the applicant so desires.

(C) The Board shall provide an applicant with notification of intent to disapprove a proposal not later than 30 days prior to making the disapproval. An applicant that receives the notification may modify the application of the applicant. Any modification shall be considered an original application for purposes of this paragraph.

(D) Specific guidelines shall prescribe the timing of submission of proposals under this subsection and timely consideration by the Board so that any approved proposal may be made available to all persons reinsured by the Corporation in a manner permitting the persons to participate, if the persons so desire, in offering such a proposal in the first crop year in which the proposal is approved by the Board for reinsurance, premium subsidy, or other support offered by this chapter.

(5) Required publication

Any policy, provision of a policy, or rate approved under this subsection shall be published as a notice in the Federal Register and made available to all persons contracting with or reinsured by the Corporation under the terms and conditions of the contract between the Corporation and the person originally submitting the policy or other material.

(6) Pilot cost of production risk protection plan**(A) In general**

The Corporation shall offer, to the extent practicable, a cost of production risk protection plan of insurance that indemnifies producers (including new producers) for insurable losses as provided in this paragraph.

(B) Pilot basis

The cost of production risk protection plan shall—

- (i) be established as a pilot project for each of the 1996 and 1997 crop years; and
- (ii) be carried out in a number of counties that is determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among producers for the plan.

(C) Insurable loss

An insurable loss shall be incurred by a producer if the gross income of the producer (as determined by the Corporation) is less than an amount determined by the Corporation, as a result of a reduction in yield or price resulting from an insured cause.

(D) "New producer" defined

As used in this paragraph, the term "new producer" means a person that has not been actively engaged in farming for a share of the production of the insured crop for more than 2 crop years, as determined by the Secretary.

(7) Additional prevented planting policy coverage**(A) In general**

Beginning with the 1995 crop year, the Corporation shall offer to producers additional prevented planting coverage that insures producers against losses in accordance with this paragraph.

(B) Approved insurance providers

Additional prevented planting coverage shall be offered by the Corporation through approved insurance providers.

(C) Timing of loss

A crop loss shall be covered by the additional prevented planting coverage if—

- (i) crop insurance policies were obtained for—
 - (I) the crop year the loss was experienced; and
 - (II) the crop year immediately preceding the year of the prevented planting loss; and
- (ii) the cause of the loss occurred—
 - (I) after the sales closing date for the crop in the crop year immediately preceding the loss; and
 - (II) before the sales closing date for the crop in the year in which the loss is experienced.

(8) Pilot program of assigned yields for new producers**(A) Program required**

For each of the 1995 and 1996 crop years, the Corporation shall carry out a pilot pro-

gram to assign to eligible new producers higher assigned yields than would otherwise be assigned to the producers under subsection (g) of this section. The Corporation shall include in the pilot program 30 counties that are determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among new producers for increased assigned yields.

(B) Increased assigned yields

In the case of an eligible new producer participating in the pilot program, the Corporation shall assign to the new producer a yield that is equal to not less than 110 percent of the transitional yield otherwise established by the Corporation.

(C) Eligible new producer

The Secretary shall establish a definition of new producer for purposes of determining eligibility to participate in the pilot program.

(i) Adoption of rates and coverages

The Corporation shall adopt, as soon as practicable, rates and coverages that will improve the actuarial soundness of the insurance operations of the Corporation for those crops that are determined to be insured at rates that are not actuarially sound, except that no rate may be increased by an amount of more than 20 percent over the comparable rate of the preceding crop year.

(j) Claims for losses**(1) In general**

Under rules prescribed by the Corporation, the Corporation may provide for adjustment and payment of claims for losses. The rules prescribed by the Corporation shall establish standards to ensure that all claims for losses are adjusted, to the extent practicable, in a uniform and timely manner.

(2) Denial of claims**(A) In general**

Subject to subparagraph (B), if a claim for indemnity is denied by the Corporation or an approved provider, an action on the claim may be brought against the Corporation or Secretary only in the United States district court for the district in which the insured farm is located.

(B) Statute of limitations

A suit on the claim may be brought not later than 1 year after the date on which final notice of denial of the claim is provided to the claimant.

(3) Indemnification

The Corporation shall provide approved insurance providers with indemnification, including costs and reasonable attorney fees incurred by the approved insurance provider, due to errors or omissions on the part of the Corporation.

(k) Reinsurance**(1) In general**

Notwithstanding any other provision of this chapter, the Corporation shall, to the maxi-

mum extent practicable, provide reinsurance to insurers approved by the Corporation that insure producers of any agricultural commodity under 1 or more plans acceptable to the Corporation.

(2) Terms and conditions

The reinsurance shall be provided on such terms and conditions as the Board may determine to be consistent with subsections (b) and (c) of this section and sound reinsurance principles.

(3) Share of risk

The reinsurance agreements of the Corporation with the reinsured companies shall require the reinsured companies to bear a sufficient share of any potential loss under the agreement so as to ensure that the reinsured company will sell and service policies of insurance in a sound and prudent manner, taking into consideration the financial condition of the reinsured companies and the availability of private reinsurance.

(4) Rate

The rate established by the Board to reimburse approved insurance providers and agents for the administrative and operating costs of the providers and agents shall not exceed—

(A) for the 1997 reinsurance year, 29 percent of the premium used to define loss ratio;

(B) for the 1998 reinsurance year, 28 percent of the premium used to define loss ratio; and

(C) for the 1999 reinsurance year, 27.5 percent of the premium used to define loss ratio.

(5) Cost and regulatory reduction

Consistent with section 118 of the Federal Crop Insurance Reform Act of 1994, and consistent with maintenance of program integrity, prevention of fraud and abuse, the need for program expansion, and improvement of quality of service to customers, the Board shall alter program procedures and administrative requirements in order to reduce the administrative and operating costs of approved insurance providers and agents in an amount that corresponds to any reduction in the reimbursement rate required under paragraph (4) during the 5-year period beginning on October 13, 1994.

(6) Agency discretion

The determination of whether the Corporation is achieving, or has achieved, corresponding administrative cost savings shall not be subject to administrative review, and is wholly committed to agency discretion within the meaning of section 701(a)(2) of title 5.

(7) Plan

The Corporation shall submit to Congress a plan outlining the measures that will be used to achieve the reduction required under paragraph (5). If the Corporation can identify additional cost reduction measures, the Corporation shall describe the measures in the plan.

(l) Optional coverages

The Corporation may offer specific risk protection programs, including protection against

prevented planting, wildlife depredation, tree damage and disease, and insect infestation, under such terms and conditions as the Board may determine, except that no program may be undertaken if insurance for the specific risk involved is generally available from private companies.

(m) Research

(1) In general

Except as provided in paragraph (2), the Corporation may conduct research, surveys, pilot programs, and investigations relating to crop insurance and agriculture-related risks and losses including insurance on losses involving reduced forage on rangeland caused by drought and by insect infestation, livestock poisoning and disease, destruction of bees due to the use of pesticides, and other unique special risks related to fruits, nuts, vegetables, aquacultural species, forest industry needs (including appreciation), and other agricultural products as determined by the Board.

(2) Exception

No action may be undertaken with respect to a risk under paragraph (1) if insurance protection against the risk is generally available from private companies.

(3) Evaluation

After the completion of any pilot program under this subsection, the Corporation shall evaluate the pilot program and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report of the operations of the pilot program, including the evaluation by the Corporation of the pilot program and the recommendations of the Corporation with respect to implementing the program on a national basis.

(Feb. 16, 1938, ch. 30, title V, §508, 52 Stat. 74; June 22, 1938, ch. 563, 52 Stat. 835; June 21, 1941, ch. 214, §§37, 10, 55 Stat. 255, 256; Dec. 23, 1944, ch. 713, §§13, 58 Stat. 918, 919; Aug. 1, 1947, ch. 440, §§13, 61 Stat. 718; Aug. 25, 1949, ch. 512, §§13, 63 Stat. 663; Aug. 13, 1953, ch. 431, 67 Stat. 575; July 23, 1957, Pub. L. 85111, 71 Stat. 309; Aug. 4, 1959, Pub. L. 86131, 73 Stat. 278; Sept. 12, 1964, Pub. L. 88589, 78 Stat. 933; Sept. 26, 1980, Pub. L. 96365, title I, §§105, 106, 107(b), 94 Stat. 1314, 1315, 1317; Aug. 11, 1988, Pub. L. 100387, title II, §208(a), 102 Stat. 941; Nov. 28, 1990, Pub. L. 101624, title XXII, §§22032205, 104 Stat. 39553957; Dec. 13, 1991, Pub. L. 102237, title VI, §601(4), (5), 105 Stat. 1878; Aug. 10, 1993, Pub. L. 10366, title XIV, §1403(b)(1), (2), 107 Stat. 333, 334; Oct. 13, 1994, Pub. L. 103354, title I, §106, 108 Stat. 3183.)

REFERENCES IN TEXT

The Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995, referred to in subsections (b)(5)(B)(ii) and (c)(10)(D), is Pub. L. 103330, Sept. 30, 1994, 108 Stat. 2345. Provisions of the Act relating to the Federal Crop Insurance Corporation (108 Stat. 2447) are not classified to the Code. For complete classification of this Act to the Code, see Tables.

For the effective date of this paragraph, referred to in subsections (b)(10)(B) and (g)(3)(C), as being Oct. 13, 1994, see Effective Date of 1994 Amendment note below.

Section 118 of the Federal Crop Insurance Reform Act of 1994, referred to in subsec. (k)(5), is section 118 of Pub. L. 103354, which is set out as a note under section 1506 of this title.

AMENDMENTS

1994—Pub. L. 103354 amended section generally, substituting present provisions for former provisions which related to: in subsec. (a), authority to offer insurance; in subsec. (b), submission of policies and materials to Board; in subsec. (c), actuarial soundness; in subsec. (d), adoption of rates and coverages; in subsec. (e), premiums; in subsec. (f), claims for losses; in subsec. (g), special rule for cotton; in subsec. (h), reinsurance; in subsec. (i), application to other areas; in subsec. (j), optional coverages; in subsec. (k), research; in subsec. (l), crop insurance for dry edible beans; in subsec. (m), information collection on crop insurance; and in subsec. (n), area yield plan.

1993—Subsec. (h). Pub. L. 10366, §1403(b)(1), substituted fifth sentence for former fifth sentence which read as follows: "The Corporation shall also pay operating and administrative costs to insurers of policies on which the Corporation provides reinsurance to the same extent that such costs are covered by the Corporation on the Corporation's policies of insurance."

Subsec. (n). Pub. L. 10366, §1403(b)(2), added subsec. (n).

1991—Subsec. (a). Pub. L. 102237, §601(4), struck out par. (1) designation.

Subsecs. (k) to (n). Pub. L. 102237, §601(5), redesignated subsecs. (l) to (n) as (k) to (m), respectively.

1990—Pub. L. 101624, §2204(b)(1), inserted section catchline and struck out "To carry out the purposes of this chapter the Corporation is authorized and empowered—" before subsec. (a).

Subsec. (a). Pub. L. 101624, §2205(1), inserted heading, substituted "the Corporation may insure" for "to insure" in first sentence, and inserted provisions relating to amount of insurance to be provided in cases where Agricultural Stabilization and Conservation Service has established adjusted yields, and provisions relating to establishment of a price level for each commodity beginning with the 1992 crop year.

Subsecs. (b) to (d). Pub. L. 101624, §2204(a)(1), (2), added subsecs. (b) to (d) and redesignated subsecs. (b) to (d) as (e) to (g), respectively.

Subsec. (e). Pub. L. 101624, §2204(a)(1), (b)(2), redesignated subsec. (b) as (e), inserted heading, and substituted "The Corporation may fix" for "To fix" in par. (1). Former subsec. (e) redesignated (h).

Subsec. (f). Pub. L. 101624, §2204(a)(1), redesignated subsec. (c) as (f). Former subsec. (f) redesignated (i).

Pub. L. 101624, §2203(a), inserted heading, substituted "The Corporation may adjust and pay claims for losses as provided under subsection (a) of this section" for "To adjust and pay claims for losses", and inserted after first sentence "The rules prescribed by the Board shall establish standards to ensure that all claims for losses are adjusted to the extent practicable in a uniform and timely manner."

Subsec. (g). Pub. L. 101624, §2204(a)(1), (b)(3), redesignated subsec. (d) as (g), inserted heading, and substituted "the Corporation may include" for "to include". Former subsec. (g) redesignated (j).

Subsec. (h). Pub. L. 101624, §2204(a)(1), redesignated subsec. (e) as (h). Former subsec. (h) redesignated (k).

Pub. L. 101624, §2203(b), inserted heading, substituted "The Corporation is directed" for "And directed", and inserted sentence at end relating to revision of reinsurance agreements beginning with the 1992 reinsurance year.

Subsec. (i). Pub. L. 101624, §2204(a)(1), (b)(4), redesignated subsec. (f) as (i), inserted heading, and substituted "The Corporation may provide" for "To provide". Former subsec. (i) redesignated (l).

Subsec. (j). Pub. L. 101624, §2204(a)(1), (b)(5), redesignated subsec. (g) as (j), inserted heading, and substituted "The Corporation may offer" for "To offer". Former subsec. (j) redesignated (m).

Subsec. (k). Pub. L. 101624, §2205(2), struck out subsec. (k) which set out a special rule for calculating premiums and indemnities, with respect to insuring timber and forest yields.

Pub. L. 101624, §2204(a)(1), (b)(6), redesignated subsec. (h) as (k), inserted heading, and substituted "The Corporation may include" for "To include".

Subsec. (l). Pub. L. 101624, §2204(a)(1), (b)(7), redesignated subsec. (i) as (l), inserted heading, substituted "The Corporation may conduct" for "To conduct", and struck out second and third sentences which read as follows: "Beginning in the 1981 crop year and ending after the 1985 crop year, the Corporation shall also conduct a pilot program of individual risk underwriting of crop insurance in not less than twenty-five counties. Under this pilot program, to the extent that appropriate yield data are available, the Corporation shall make available to producers in such counties crop insurance under this chapter based on personalized rates and with guarantees determined from the producer's actual yield history."

Subsec. (m). Pub. L. 101624, §2204(b)(8), added subsec. (m) and struck out former subsec. (m) which read as follows: "To accumulate, prior to the 1989 crop year, sufficient actuarial data to enable the Corporation to provide crop insurance that meets the differentiated needs of producers of different types of dry edible beans. Commencing with the 1989 crop year, the Corporation shall make such crop insurance available to producers."

Pub. L. 101624, §2204(a)(1), redesignated subsec. (j) as (m).

Subsec. (n). Pub. L. 101624, §2204(a)(3), added subsec. (n).

1988—Subsec. (j). Pub. L. 100387 added subsec. (j).

1980—Subsec. (a). Pub. L. 96365, §105, authorized Corporation, if sufficient actuarial data is available, to insure producers of any agricultural commodity grown in the United States under any plan of insurance determined to be adapted to the commodity involved; defined "field" in the case of aquacultural species to mean the environment in which the commodity is produced; in revising percentage limitations for crop insurance coverage, prescribed 75 per centum protection for recorded or appraised average yield (previously protected up to such percentage), offered producers lesser levels of coverage including 50 per centum of recorded or appraised average yield as adjusted, barred protection exceeding 75 per centum, offered price election approximating (but not less than 90 per centum of) projected market price for commodity involved, and struck out requirement for downward adjustment of minimum percentage in yield which may be insured to reflect investment in crop; and struck out limitations on Federal crop insurance program which: limited crop insurance to not more than seven agricultural commodities in 1948 and to not more than three additional commodities yearly thereafter, beginning with 1954 crop authorized yearly expansion of crop insurance program to not more than 150 counties in addition to counties offered insurance the previous year, limited reinsurance for private insurance companies to 20 counties, and required counties selected by the Board for crop insurance to be representative of areas where the commodity involved normally was produced; and struck out general reinsurance provision, covered in subsec. (e) of this section.

Subsec. (b). Pub. L. 96365, §106(1), designated existing provisions as par. (1), struck out "in the agricultural commodity or in cash," after "premiums for insurance" and proviso from first sentence authorizing establishment of premiums on the basis of the parity or comparable price for the commodity as determined and published by Secretary of Agriculture, or on the basis of an average market price designated by the Board and second sentence providing for collection of premiums at such time or times, or for securing in such manner, as the Board may determine, which is covered in par. (4), required the rates to be actuarially sufficient, added pars. (2) and (3), incorporated existing provision in par. (4), and added pars. (5) and (6).

Subsec. (c). Pub. L. 96365, §106(2), struck out “in the agricultural commodity or in cash,” after “claims for losses” and provisions respecting: determination of indemnities on same price basis as premiums were determined for the crop with respect to which the indemnities were paid; requirement that the Corporation post annually for each county at the county courthouse a list of indemnities paid for losses on farms in the county; action on claims in any court of the State having general jurisdiction, sitting in the county where the insured farm was located; and jurisdiction of district courts without regard to amount in controversy.

Subsec. (d). Pub. L. 96365, §106(3), redesignated subsec. (e) as (d) and struck out prior subsec. (d) authorizing Corporation to purchase, handle, store, insure, provide storage facilities for, and sell agricultural commodities.

Subsec. (e). Pub. L. 96365, §106(4), added subsec. (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 96365, §106(4), substituted provisions for insurance and reinsurance in the territories and possessions for prior provision for reinsurance in Puerto Rico when not available from recognized private sources.

Subsecs. (g), (h). Pub. L. 96365, §106(4), added subsecs. (g) and (h).

Subsec. (i). Pub. L. 96365, §107(b), added subsec. (i).

1964—Subsec. (a). Pub. L. 88589 increased from 100 to 150 the number of counties into which the Federal crop insurance program may be extended.

1959—Subsec. (a). Pub. L. 86131 struck out provision prohibiting Federal crop insurance in a county unless two hundred farms or one third of the farms normally producing the commodity apply for such insurance, excluding farms refused insurance on the basis of risk involved.

1957—Subsec. (f). Pub. L. 85111 added subsec. (f).

1953—Subsec. (a). Act Aug. 13, 1953, authorized extension of Federal crop insurance program into an additional 100 counties, struck out commodity formula basis on which this expansion may take place, and provided an exception to the strict county limitation by providing that producers on farms situated in a local producing area bordering on a county with a crop insurance program may be included in that county's program.

1949—Subsec. (a). Act Aug. 25, 1949, §1, provided for an annual increase in number of counties in which insurance now offered by Corporation can be issued.

Subsec. (b). Act Aug. 25, 1949, §2, struck out provision under which Corporation's administrative expenses are restricted, after the crop year 1949, to a sum equivalent to 25 percent of the premiums collected in the preceding year.

Subsec. (c). Act Aug. 25, 1949, §3, struck out provision which required prorating of losses beginning with crop year 1950.

1947—Subsec. (a). Act Aug. 1, 1947, §1, amended subsec. (a) generally, and among other changes, provided for crop insurance, commencing with crops planted for harvest in 1948, made provision for reinsurance, enumerated specific crops insurable in 1948, provided for additional crops in subsequent years, limited number of counties in which certain crops were insurable, increased required number of applications in any one county from fifty to two hundred, and authorized Board to refuse insurance in any county where agricultural commodity to be insured constitutes an unimportant part of total agricultural income.

Subsec. (b). Act Aug. 1, 1947, §2, inserted proviso relating to basis for premiums.

Subsec. (c). Act Aug. 1, 1947, §3, inserted first proviso relating to determination of price basis for indemnities.

1944—Subsec. (a). Act Dec. 23, 1944, §1, amended subsec. (a) generally to provide insurance against loss not only for wheat and cotton crops but also for flax, corn, oats, etc.

Subsec. (b). Act Dec. 23, 1944, §2, provided for the establishment of such rates as would cover crop losses and build up a reasonable reserve, and inserted proviso.

Subsec. (c). Act Dec. 23, 1944, §3, inserted first proviso, and inserted “and received” after “mailed to” in last proviso.

1941—Subsec. (a). Act June 21, 1941, §§35, struck out comma after “1939” and inserted “and with the cotton crop planted for harvest in 1942”, and substituted “producers of the agricultural commodity against loss in yields of the agricultural commodity” for “producers of wheat against loss in yields of wheat” in the first sentence, and “the agricultural commodity” for “wheat” in the third sentence, respectively.

Subsecs. (b), (c). Act June 21, 1941, §6, substituted “the agricultural commodity” for “wheat” wherever appearing.

Subsec. (d). Act June 21, 1941, §§6, 10, substituted “the agricultural commodity” for “wheat” wherever appearing, and inserted second sentence.

Subsec. (e). Act June 21, 1941, §7, added subsec. (e).

1938—Subsec. (a). Act June 22, 1938, inserted second proviso in first sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 10366 effective Oct. 1, 1993, see section 1403(c) of Pub. L. 10366, set out as a note under section 1506 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 105 of Pub. L. 96365 provided that the amendment made by that section is effective with respect to 1981 and subsequent crops.

Section 106 of Pub. L. 96365 provided that the amendment made by that section is effective with respect to 1981 and subsequent crops.

Amendment by section 107(b) of Pub. L. 96365 effective Sept. 26, 1980, see section 112 of Pub. L. 96365, set out as a note under section 1504 of this title.

TRANSFER OF FUNCTIONS

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. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

PREVENTED PLANTING

Section 116 of Pub. L. 103354 provided that:

“(a) IN GENERAL.—Effective for the 1994 crop year, a producer described in subsection (b) shall receive compensation under the prevented planting coverage policy provision described in subsection (b)(1) by—

“(1) obtaining from the Secretary of Agriculture the applicable amount that is payable under the conserving use program described in subsection (b)(4); and

“(2) obtaining from the Federal Crop Insurance Corporation the amount that is equal to the difference between—

“(A) the amount that is payable under the conserving use program; and

“(B) the amount that is payable under the prevented planting coverage policy.

“(b) ELIGIBLE PRODUCERS.—Subsection (a) shall apply to a producer who—

“(1) purchased a prevented planting policy for the 1994 crop year from the Federal Crop Insurance Corporation prior to the spring sales closing date for the 1994 crop year;

“(2) is unable to plant a crop due to major, widespread flooding in the Midwest, or excessive ground moisture, that occurred prior to the spring sales closing date for the 1994 crop year;

“(3) had a reasonable expectation of planting a crop on the prevented planting acreage for the 1994 crop year; and

“(4) participates in a conserving use program established for the 1994 crop of wheat, feed grains, upland cotton, or rice established under section 107B(c)(1)(E), 105B(c)(1)(E), 103B(c)(1)(D), or 101B(c)(1)(D), respectively, of the Agricultural Act of 1949 (7 U.S.C. 1445b3a(c)(1)(E), 1444f(c)(1)(E), 14442(c)(1)(D), or 14412(c)(1)(D)).

“(c) OILSEED PREVENTED PLANTING PAYMENTS.—

“(1) IN GENERAL.—Effective for the 1994 crop year, a producer of a crop of oilseeds (as defined in section 205(a) of the Agricultural Act of 1949 (7 U.S.C. 1446f(a))) shall receive a prevented planting payment for the crop if the requirements of paragraphs (1), (2), and (3) of subsection (b) are satisfied.

“(2) SOURCE OF PAYMENT.—The total amount of payments required under this subsection shall be made by the Federal Crop Insurance Corporation.

“(d) PAYMENT.—A payment under this section may not be made before October 1, 1994.”

REPORT ON IMPROVING DISSEMINATION OF CROP INSURANCE INFORMATION

Section 117 of Pub. L. 103354 provided that: “Not later than 180 days after the date of enactment of this Act [Oct. 13, 1994] and at the end of each of the 2 1-year periods thereafter, the Federal Crop Insurance Corporation shall submit a report to Congress containing a plan to implement a sound program for producer education regarding the crop insurance program and for the dissemination of crop insurance information to producers, as required by section 508(a)(5) of the Federal Crop Insurance Act [7 U.S.C. 1508(a)(5)] (as amended by section 106).”

FEDERAL CROP INSURANCE COMMISSION

Pub. L. 100546, Oct. 28, 1988, 102 Stat. 2730, provided for establishment, membership, compensation, etc., of Commission for the Improvement of the Federal Crop Insurance Program, directed Commission to study and determine why participation in program had not reached levels anticipated when Federal Crop Insurance Act of 1980 was enacted, to identify States and commodities to which lack of participation in program is most serious, and to prepare findings and recommendations setting forth means by which participation in program could be increased and natural protection for producers of agricultural commodities could be improved, required Commission to submit an interim report to Congressional committees and Secretary of Agriculture, not later than Apr. 1, 1989, containing findings and recommendations for immediate administrative improvement in program, aimed at improving program in 1990 sales year, and a final report, not later than July 1, 1989, to include Commission's findings and recommendation and a status report on improvement of program, authorized Commission to continue to monitor program and to submit monthly reports beginning July 1, 1989, and ending Dec. 31, 1990, and terminated Commission on Dec. 31, 1990.

LOSS ADJUSTMENT OBLIGATIONS

Pub. L. 100203, title I, §1507, Dec. 22, 1987, 101 Stat. 133029, provided that: “It is the sense of Congress that, in carrying out the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation—

“(1) should not be required to assume 100 percent of all loss adjustments in the Federal crop insurance program; and

“(2) should assume and perform the loss adjustment obligations of a reinsured company if the Corporation determines that such company's loss adjustment per-

formance and practices are not carried out in accordance with the applicable reinsurance agreement.”

NOTICE TO PRODUCERS OF RIGHT TO ELECT SUBSIDIZED CROP INSURANCE OR DISASTER PAYMENTS ON 1981 CROPS

Section 202 of Pub. L. 96365 provided that: “The Secretary of Agriculture, after consultation with the Board of Directors of the Federal Crop Insurance Corporation, shall, at least sixty days prior to the beginning of the planting of the 1981 crops of wheat, feed grains, upland cotton, and rice, or thirty days after the date of enactment of this Act [Sept. 26, 1980], whichever is the later, notify producers of those commodities of their right to elect, with respect to the 1981 crop, between (1) declaring the farm acreage of the respective commodity eligible for disaster payments under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], or (2) covering such farm acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act [subsec. (b)(3) or (e) of this section]. Such notice shall include a statement of the percent of crop insurance premium that will be paid by the Corporation.”

STUDY OF ALTERNATIVE ALL-RISK, ALL-CROP INSURANCE PROGRAMS

Pub. L. 95181, §2, Nov. 15, 1977, 91 Stat. 1373, provided that: “The Secretary of Agriculture shall undertake an immediate study of alternative programs which could be established for an all-risk, all-crop insurance to help provide protection to those suffering crop losses in floods, droughts, and other natural disasters, including alternative methods of administration, Federal assistance, reinsurance, rate setting and private insurance industry involvement, as well as variations on the existing crop insurance program, and such other matters as he determines are relevant, and shall report his findings and recommendations to the President for transmission to the Congress by March 1, 1978. The Secretary shall consult with the Secretary of Housing and Urban Development on behalf of the Federal Insurance Administration; the Secretary of Treasury and representatives of the private insurance industry in the course of the study and shall identify the views of each in forwarding his findings and recommendations to the President. Such sums, not exceeding \$200,000, as are appropriated for fiscal year 1978 under section 504 of the Federal Crop Insurance Act, as amended [section 1504 of this title], may be utilized to conduct such a study.”

VALIDITY AND TERMINATION OF PRIOR INSURANCE CONTRACTS

Section 5 of Act Aug. 1, 1947, provided: “Nothing in this Act [amending sections 1502, 1505 (a to d), 1506(d), 1507(d), and 1508 (a to c) of this title] shall be construed to affect the validity of any insurance contract entered into prior to the enactment of this Act [Aug. 1, 1947] insofar as such contract covers the 1947 crop year. Any such contract which purports to cover a crop in the 1948 or any subsequent crop year in any county in which insurance on such crop will be discontinued pursuant to this Act is hereby terminated at the end of the 1947 crop year.”

CROSS REFERENCES

Amount in controversy, generally, see section 1332 of Title 28, Judiciary and Judicial Procedure.

Amount in controversy immaterial in action arising under Act regulating commerce, see section 1337 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1433f, 1506, 1507, 1515, 1518, 1519, 2008f of this title.

§1508a. Repealed. Pub. L. 103354, title I, §107, Oct. 13, 1994, 108 Stat. 3197

Section, act Feb. 16, 1938, ch. 30, title V, §508A, as added Aug. 14, 1989, Pub. L. 10182, title VI, §604, 103 Stat. 587; amended Aug. 10, 1993, Pub. L. 10366, title XIV, §1403(b)(3), 107 Stat. 334, related to crop insurance yield coverage. See section 1508(g) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as an Effective Date of 1994 Amendment note under section 1502 of this title.

§1509. Exemption of indemnities from levy

Claims for indemnities under this chapter shall not be liable to attachment, levy, garnishment, or any other legal process before payment to the insured or to deduction on account of the indebtedness of the insured or the estate of the insured to the United States except claims of the United States or the Corporation arising under this chapter.

(Feb. 16, 1938, ch. 30, title V, §509, 52 Stat. 75; Oct. 13, 1994, Pub. L. 103354, title I, §115(c), 108 Stat. 3204.)

AMENDMENTS

1994—Pub. L. 103354 substituted “or the estate of the insured” for “or his estate”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

TRANSFER OF FUNCTIONS

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. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Attachment and garnishment, see rules 64 and 70, Title 28, Appendix, Judiciary and Judicial Procedure.

§1510. Deposit and investment of funds; Federal Reserve banks as fiscal agents

All money of the Corporation not otherwise employed may be deposited with the Treasurer of the United States or in any bank approved by the Secretary of the Treasury, subject to withdrawal by the Corporation at any time, or with the approval of the Secretary of the Treasury may be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States. Subject to the approval of the Secretary of the Treasury, the Federal Reserve banks are hereby authorized and directed to act as depositories, custo-

dians, and fiscal agents for the Corporation in the performance of its powers conferred by this chapter.

(Feb. 16, 1938, ch. 30, title V, §510, 52 Stat. 75.)

TRANSFER OF FUNCTIONS

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. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

§1511. Tax exemption

The Corporation, including its franchise, its capital, reserves, and surplus, and its income and property, shall be exempt from all taxation on or after February 16, 1938, imposed by the United States or by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. A contract of insurance of the Corporation, and a contract of insurance reinsured by the Corporation, shall be exempt from taxation imposed by any State, municipality, or local taxing authority.

(Feb. 16, 1938, ch. 30, title V, §511, 52 Stat. 75; Oct. 13, 1994, Pub. L. 103354, title I, §108, 108 Stat. 3197.)

AMENDMENTS

1994—Pub. L. 103354 inserted at end “A contract of insurance of the Corporation, and a contract of insurance reinsured by the Corporation, shall be exempt from taxation imposed by any State, municipality, or local taxing authority.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

TRANSFER OF FUNCTIONS

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. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

§1512. Corporation as fiscal agent of Government

When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by said Secretary; and it may also be employed as a financial agent of the Government; and it shall perform all such reasonable duties, as a depository of public money and financial agent of the Government, as may be required of it.

(Feb. 16, 1938, ch. 30, title V, §512, 52 Stat. 75.)

TRANSFER OF FUNCTIONS

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. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

§1513. Books of account and annual reports of Corporation

The Corporation shall at all times maintain complete and accurate books of accounts and shall file annually with the Secretary a complete report as to the business of the Corporation.

(Feb. 16, 1938, ch. 30, title V, §513, 52 Stat. 76; Jan. 2, 1975, Pub. L. 93604, title VI, §603, 88 Stat. 1963; Oct. 13, 1994, Pub. L. 103354, title I, §102(b)(4)(C), 108 Stat. 3181.)

AMENDMENTS

1994—Pub. L. 103354 substituted “Secretary” for “Secretary of Agriculture”.

1975—Pub. L. 93604 struck out provisions that financial transactions of Corporation shall be audited at least once each year by the General Accounting Office for the sole purpose of making a report to Congress, together with such recommendations as the Comptroller General of the United States may deem advisable and the proviso that such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer the same, and to file a statement which shall be submitted by Comptroller General with his report.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

TRANSFER OF FUNCTIONS

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. See note set out under section 1503 of this title.

Wartime consolidation of Federal Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

AUDIT OF GOVERNMENT CORPORATIONS

Section 9105(f) of Title 31, Money and Finance, provides that an audit under subsection (a) of that section is in place of an audit of the financial transactions of a Government corporation the Comptroller General is required to make in reporting to Congress or the President under another law.

§1514. Crimes and offenses

(a) to (e). Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

(f) Application of laws on interest of Members of Congress in contracts

The provisions of section 22 of title 41 shall not apply to any crop insurance agreements made under this chapter.

(Feb. 16, 1938, ch. 30, title V, §514, 52 Stat. 76; June 25, 1948, ch. 645, §4, 21, 62 Stat. 859, 862.)

AMENDMENTS

1948—Subsecs. (a) to (e). Act June 25, 1948, §21, repealed provisions relating to crimes and offenses. See sections 371, 433, 657, 658, 1006, 1014, and former section 1093 of Title 18, Crimes and Criminal Procedure.

Subsec. (f). Act June 25, 1948, §4, struck out provisions relating to former sections 202 to 207 of Title 18. See sections 202, 216, 431 to 433 of Title 18.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act June 25, 1948, effective Sept. 1, 1948, see section 20 of that act.

TRANSFER OF FUNCTIONS

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. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

§1515. Advisory Committee for Federal Crop Insurance

(a) Establishment

The Secretary may establish within the Department an advisory committee to be known as the “Advisory Committee for Federal Crop Insurance”.

(b) Primary responsibility

The primary responsibility of the Advisory Committee shall be to advise the Secretary on the implementation of this chapter and on other issues related to crop insurance, as determined by the Manager of the Corporation.

(c) Membership

The Advisory Committee shall be composed of the Manager of the Corporation, the Secretary (or a designee of the Secretary), and not fewer than 12 members representing organizations and agencies involved in the provision of crop insurance under this chapter. Not fewer than 3 of the members of the Advisory Committee shall be representatives of the specialty crops industry. The organizations or agencies represented by members on the Advisory Committee may include insurance companies, insurance agents, farm producer organizations, experts on agronomic practices, and banking and lending institutions.

(d) Administrative provisions

(1) Terms

Members of the Advisory Committee (other than the Manager of the Corporation and the Secretary) shall be appointed by the Secretary for a term of up to 2 years from nominations made by the organizations and agencies specified in subsection (c) of this section. The terms of the members (other than the Manager of the Corporation and the Secretary) shall be staggered.

(2) Chairperson

The Advisory Committee shall be chaired by the Manager of the Corporation.

(3) Meetings

The Advisory Committee shall meet at least annually. The meetings of the Advisory Com-

mittee shall be publicly announced in advance and shall be open to the public. Appropriate records of the activities of the Advisory Committee shall be kept and made available to the public on request.

(e) Reports

Not later than June 30 of each year, the Advisory Committee shall submit to the Secretary a report specifying the conclusions and recommendations of the Advisory Committee regarding—

- (1) the progress toward implementation of this chapter;
- (2) the actuarial soundness of the Federal crop insurance program;
- (3) the rate of producer participation in both catastrophic risk protection under section 1508(b) of this title and additional coverage under section 1508(c) of this title; and
- (4) the progress toward improved crop insurance coverage for new and specialty crops.

(f) Termination of authority

The authority provided by this section shall terminate on September 30, 1998.

(Feb. 16, 1938, ch. 30, title V, §515, as added Oct. 13, 1994, Pub. L. 103354, title I, §109, 108 Stat. 3197.)

PRIOR PROVISIONS

A prior section, act Feb. 16, 1938, ch. 30, title V, §515, 52 Stat. 77, provided for appointment and compensation of an advisory committee, prior to repeal by Pub. L. 96365, title I, §108, Sept. 26, 1980, 94 Stat. 1317.

EFFECTIVE DATE

Section effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as an Effective Date of 1994 Amendment note under section 1502 of this title.

§1516. Funding

(a) Authorization of appropriations

(1) Discretionary expenses

There are authorized to be appropriated for each of fiscal years 1995 through 2001 such sums as are necessary to cover—

- (A) the salaries and expenses of the Corporation; and
- (B) the administrative and operating expenses of the Corporation for the sales commissions of agents.

(2) Mandatory expenses

There are authorized to be appropriated such sums as are necessary to cover—

- (A) in the case of each of the 1995 through 1997 reinsurance years, the administrative and operating expenses of the Corporation for the sales commissions of agents, consistent with subsection (b)(1) of this section;
- (B) premium subsidies, including the administrative and operating expenses of an approved insurance provider for the delivery of policies with additional coverage; and
- (C) payments for noninsured assistance losses under section 1519 of this title.

(b) Payment of expenses

(1) Administrative and operating expenses

(A) In general

Except as provided in subparagraph (B), in the case of each of the 1995 through 1997 reinsurance years, the Corporation is authorized to pay from the insurance fund established under subsection (c) of this section, the administrative and operating expenses of an approved insurance provider, including expenses covered by subsection (a)(1)(B) of this section.

(B) Sales commissions for 1997 reinsurance year

In the case of the 1997 reinsurance year, the amount of the payments from the insurance fund established under subsection (c) of this section for the expenses of the Corporation for the sales commissions of agents may not exceed 8.5 percent of the total amount of premiums paid for additional coverage for the 1997 reinsurance year.

(2) Other expenses

The Corporation is authorized to pay from the insurance fund established under subsection (c) of this section—

- (A) all other expenses of the Corporation (other than expenses covered by subsection (a)(1) of this section), including all premium subsidies, noninsured assistance benefits, and indemnities;
- (B) subject to paragraph (1)(B), in the case of each of the 1995 through 1997 reinsurance years, all administrative and expense reimbursements due under a reinsurance agreement with an approved insurance provider; and
- (C) to the extent necessary, expenses incurred by the Corporation to carry out research and development.

(c) Insurance fund

(1) In general

There is established an insurance fund, for the deposit of premium income and amounts made available under subsection (a)(2) of this section, to be available without fiscal year limitation.

(2) Commodity Credit Corporation funds

If at any time the amounts in the insurance fund are insufficient to enable the Corporation to carry out subsection (b) of this section, to the extent the funds of the Commodity Credit Corporation are available—

- (A) the Corporation may request the Secretary to use the funds of the Commodity Credit Corporation to carry out subsection (b) of this section; and
- (B) the Secretary may use the funds of the Commodity Credit Corporation to carry out subsection (b) of this section.

(Feb. 16, 1938, ch. 30, title V, §516, 52 Stat. 77; June 21, 1941, ch. 214, §§6, 8, 55 Stat. 255, 256; Aug. 3, 1956, ch. 950, §10, 70 Stat. 1034; Sept. 26, 1980, Pub. L. 96365, title I, §§109, 110, 94 Stat. 1317, 1318; May 22, 1981, Pub. L. 9711, 95 Stat. 13; Dec. 23, 1985, Pub. L. 99198, title X, §1021, 99 Stat. 1459; Oct. 13, 1994, Pub. L. 103354, title I, §110, 108 Stat. 3198.)

AMENDMENTS

1994—Pub. L. 103354 amended section generally, substituting subsecs. (a) to (c) for former subsecs. (a) to (d) relating to authorization of appropriations to cover operating and administrative costs of Corporation, issuance of regulations, emergency funding, and borrowing authority.

1985—Subsec. (c)(1). Pub. L. 99198 struck out provision that Secretary's authority to use the funds of Commodity Credit Corporation for purposes of this subsection would expire one year after date on which that authority was first used.

1981—Subsec. (a). Pub. L. 9711 designated existing provisions as par. (1) and added par. (2).

1980—Subsec. (a). Pub. L. 96365, §109, substituted appropriations authorization of necessary sums for former limitation of \$12,000,000 for each fiscal year beginning after June 30, 1938; included as costs agents' and brokers' commissions, interest on Treasury notes and other obligations, partial premium payments by the Corporation, and the direct cost of loss adjusters for crop inspections and loss adjustments and authorized payment of these costs from premium income and other Corporation funds and restoration of such payments through subsequent year appropriations; prescribed limitation on employment of additional personnel except during emergencies; and deleted provisions for for consideration as being nonadministrative or nonoperating expenses such expenses as related to purchase, transportation, handling, or sale of the agricultural commodity and the direct cost of loss adjusters for crop inspections and loss adjustments and provision for use of premium income for administrative and operating costs within limits prescribed in applicable appropriations.

Subsecs. (c), (d). Pub. L. 96365, §110, added subsecs. (c) and (d).

1956—Subsec. (a). Act Aug. 3, 1956, added to list of costs which may be considered as nonadministrative or nonoperating, the direct cost of loss adjusters for crop inspections and loss adjustment, and authorized use of premium income for administrative and operating costs within limits prescribed by applicable appropriation.

1941—Subsec. (a). Act June 21, 1941, substituted "the agricultural commodity" for "wheat", and "\$12,000,000" for "\$6,000,000".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 109 of Pub. L. 96365 provided that the amendment made by that section is effective Oct. 1, 1980.

Section 110 of Pub. L. 96365 provided that the amendment made by that section is effective Oct. 1, 1980.

TRANSFER OF FUNCTIONS

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. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

ADDITIONAL APPROPRIATION

Act Dec. 23, 1944, ch. 713, §6, 58 Stat. 920, provided an additional appropriation not to exceed \$3,000,000 to be available for the fiscal year 1945 to carry out the provisions of this chapter for the fiscal years 1943 and 1944.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1507, 1508, 1519 of this title.

§1517. Separability

The sections of this chapter and subdivisions of sections are declared to be separable, and in the event any one or more sections or parts of the same of this chapter be held to be unconstitutional, the same shall not affect the validity of other sections or parts of sections of this chapter.

(Feb. 16, 1938, ch. 30, title V, §517, 52 Stat. 77.)

§1518. "Agricultural commodity" defined

"Agricultural commodity", as used in this chapter, means wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugar cane, tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, potatoes, timber and forests, nursery crops, citrus, and other fruits and vegetables, nuts, tame hay, native grass, aquacultural species (including, but not limited to, any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant propagated or reared in a controlled or selected environment), or any other agricultural commodity, excluding livestock and stored grain, determined by the Board under subsection (a) or (m) of section 1508 of this title, or any one or more of such commodities, as the context may indicate.

(Feb. 16, 1938, ch. 30, title V, §518, as added June 21, 1941, ch. 214, §9, 55 Stat. 256; amended Dec. 23, 1944, ch. 713, §4, 58 Stat. 919; Aug. 25, 1949, ch. 512, §9, 63 Stat. 665; Sept. 26, 1980, Pub. L. 96365, title I, §111, 94 Stat. 1319; Dec. 13, 1991, Pub. L. 102237, title VI, §601(6), 105 Stat. 1878; Oct. 13, 1994, Pub. L. 103354, title I, §119(f)(3), 108 Stat. 3208.)

PRIOR PROVISIONS

A former section 1518, act Feb. 16, 1938, ch. 30, title V, §518, 52 Stat. 77, was transferred to section 1519 of this title at the time of the renumbering of such section 518 of act Feb. 16, 1938, as section 519 by act June 21, 1941, ch. 214, §9, 55 Stat. 256.

AMENDMENTS

1994—Pub. L. 103354 substituted "(m)" for "(k)" after "subsection (a) or".

1991—Pub. L. 102237 substituted "subsection (a) or (k)" for "subsection (a) or (i)".

1980—Pub. L. 96365 extended definition of "agricultural commodity" to include tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, nursery crops, and aquacultural species as illustrated but not limited, excluded livestock and stored grain, substituted "sugar cane" for "sugarcane", and inserted reference to subsec. (i) of section 1508 of this title.

1949—Act Aug. 25, 1949, amended section to correct a clerical error in citation of "subsection (a) of section 1508".

1944—Act Dec. 23, 1944, increased scope of definition of "agricultural commodity" from "wheat or cotton" to include all crops now set out.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under

Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96365 effective Sept. 26, 1980, see section 112 of Pub. L. 96365, set out as a note under section 1504 of this title.

§1519. Noninsured crop disaster assistance program

(a) Establishment of program

(1) Establishment

In the case of an eligible crop described in paragraph (2), the Corporation shall establish a noninsured crop disaster assistance program to provide coverage equivalent to the catastrophic risk protection otherwise available under section 1508(b) of this title.

(2) Eligible crops

(A) In general

As used in this section, the term “eligible crop” means each commercial crop or other agricultural commodity (except livestock)—

- (i) for which catastrophic risk protection under section 1508(b) of this title is not available; and
- (ii) that is produced for food or fiber.

(B) Crops specifically included

The term “eligible crop” shall include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, and industrial crops.

(3) Cause of loss

To qualify for assistance under this section, the losses of the noninsured commodity shall be due to drought, flood, or other natural disaster, as determined by the Secretary.

(b) Application for noninsured crop disaster assistance

(1) Timely application

To be eligible for assistance under this section, a producer shall submit an application for noninsured crop disaster assistance at a local office of the Department. The application shall be in such form, contain such information, and be submitted at such time as the Corporation may require.

(2) Records

A producer shall annually provide records, as required by the Corporation, of previous crop acreage, acreage yields, and production, or the producer shall accept a yield under subsection (e)(3) of this section determined by the Corporation.

(3) Acreage reports

A producer shall provide reports on acreage planted or prevented from being planted, as required by the Corporation, by the designated acreage reporting date for the crop and location as established by the Corporation.

(c) Loss requirements

(1) Required area loss

A producer of an eligible crop shall not receive noninsured crop disaster assistance un-

less the average yield for that crop, or an equivalent measure in the event yield data are not available, in an area falls below 65 percent of the expected area yield, as established by the Corporation.

(2) Prevented planting

Subject to paragraph (1), the Corporation shall make a prevented planting noninsured crop disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.

(3) Reduced yields

Subject to paragraph (1), the Corporation shall make a reduced yield noninsured crop disaster assistance payment to a producer if the total quantity of the eligible crop that the producer is able to harvest on any farm is, because of drought, flood, or other natural disaster as determined by the Secretary, less than 50 percent of the expected individual yield for the crop, as determined by the Corporation, factored for the interest of the producer for the crop.

(d) Payment

The Corporation shall make available to a producer eligible for noninsured assistance under this section a payment computed by multiplying—

(1) the quantity that is less than 50 percent of the established yield for the crop; by

(2)(A) in the case of each of the 1995 through 1998 crop years, 60 percent of the average market price for the crop (or any comparable coverage determined by the Corporation); or

(B) in the case of each of the 1999 and subsequent crop years, 55 percent of the average market price for the crop (or any comparable coverage determined by the Corporation); by

(3) a payment rate for the type of crop (as determined by the Corporation) that—

(A) in the case of a crop that is produced with a significant and variable harvesting expense, reflects the decreasing cost incurred in the production cycle for the crop that is—

- (i) harvested;
- (ii) planted but not harvested; and
- (iii) prevented from being planted because of drought, flood, or other natural disaster (as determined by the Secretary); and

(B) in the case of a crop that is not produced with a significant and variable harvesting expense, is determined by the Corporation.

(e) Yield determinations

(1) Establishment

The Corporation shall establish farm yields for purposes of providing noninsured crop disaster assistance under this section.

(2) Actual production history

The Corporation shall determine yield coverage using the actual production history of the producer over a period of not less than the 4 previous consecutive crop years and not

more than 10 consecutive crop years. Subject to paragraph (3), the yield for the year in which noninsured crop disaster assistance is sought shall be equal to the average of the actual production history of the producer during the period considered.

(3) Assignment of yield

If a producer does not submit adequate documentation of production history to determine a crop yield under paragraph (2), the Corporation shall assign to the producer a yield equal to not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Corporation for continuous years), as specified in regulations issued by the Corporation based on production history requirements.

(4) Prohibition on assigned yields in certain counties

(A) In general

(i) Documentation

If sufficient data are available to demonstrate that the acreage of a crop in a county for the crop year has increased by more than 100 percent over any year in the preceding 7 crop years or, if data are not available, if the acreage of the crop in the county has increased significantly from the previous crop years, a producer must provide such detailed documentation of production costs, acres planted, and yield for the crop year for which benefits are being claimed as is required by the Corporation. If the Corporation determines that the documentation provided is not sufficient, the Corporation may require documenting proof that the crop, had the crop been harvested, could have been marketed at a reasonable price.

(ii) Prohibition

Except as provided in subparagraph (B), a producer who produces a crop on a farm located in a county described in clause (i) may not obtain an assigned yield.

(B) Exception

A crop or a producer shall not be subject to this subsection if—

(i) the planted acreage of the producer for the crop has been inspected by a third party acceptable to the Secretary; or

(ii)(I) the County Executive Director and the State Executive Director recommend an exemption from the requirement to the Deputy Administrator for State and County Operations of the Agricultural Stabilization and Conservation Service; and

(II) the Deputy Administrator approves the recommendation.

(5) Limitation on receipt of subsequent assigned yield

A producer who receives an assigned yield for the current year of a natural disaster because required production records were not submitted to the local office of the Department shall not be eligible for an assigned yield for the year of the next natural disaster unless

the required production records of the previous 1 or more years (as applicable) are provided to the local office.

(6) Yield variations due to different farming practices

The Corporation shall ensure that noninsured crop disaster assistance accurately reflects significant yield variations due to different farming practices, such as between irrigated and nonirrigated acreage.

(f) Contract payments

A producer who has received a guaranteed payment for production, as opposed to delivery, of a crop pursuant to a contract shall have the production of the producer adjusted upward by the amount of the production equal to the amount of the contract payment received.

(g) Payment of losses

Payments for noninsured crop disaster assistance losses under this section shall be made from the insurance fund established under section 1516 of this title. The losses shall not be included in calculating the premiums charged to producers for insurance under section 1508 of this title.

(h)¹ Exclusions

Noninsured crop disaster assistance under this section shall not cover losses due to—

(1) the neglect or malfeasance of the producer;

(2) the failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed; or

(3) the failure of the producer to follow good farming practices, as determined by the Corporation.

(h)¹ Payment and income limitations

(1) Definitions

As used in this subsection:

(A) Person

The term “person” has the meaning provided the term in regulations issued by the Secretary. The regulations shall conform, to the extent practicable, to the regulations defining the term “person” issued under section 1308 of this title.

(B) Qualifying gross revenues

The term “qualifying gross revenues” means—

(i) if a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue from the farming, ranching, and forestry operations of the person; and

(ii) if less than a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue of the person from all sources.

(2) Payment limitation

The total amount of payments that a person shall be entitled to receive annually under this chapter may not exceed \$100,000.

¹So in original. Two subsecs. (h) have been enacted.

(3) Limitation on multiple benefits for same loss

If a producer who is eligible to receive benefits under catastrophic risk protection under section 1508(b) of this title or noninsured crop disaster assistance under this section is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this chapter or under the other program, but not both. A producer who purchases additional coverage under section 1508(c) of this title may also receive assistance for the same loss under other programs administered by the Secretary, except that the amount received for the loss under the additional coverage together with the amount received under the other programs may not exceed the amount of the actual loss of the producer.

(4) Income limitation

A person who has qualifying gross revenues in excess of the amount specified in section 2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) (as in effect on November 28, 1990) during the taxable year (as determined by the Secretary) shall not be eligible to receive any noninsured assistance payment under this section.

(5) Regulations

The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and equitable application of section 1308 of this title, the general payment limitation regulations of the Secretary, and the limitations established under this subsection.

(Feb. 16, 1938, ch. 30, title V, §519, formerly §518, 52 Stat. 77; renumbered §519, June 21, 1941, ch. 214, §9, 55 Stat. 256; amended Oct. 13, 1994, Pub. L. 103354, title I, §§111, 112, 108 Stat. 3199, 3202.)

REFERENCES IN TEXT

Section 2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (h)(4), is section 2266(a) of Pub. L. 101624, Nov. 28, 1990, 104 Stat. 3976, as amended by Pub. L. 102237, title I, §114(a)(13), Dec. 13, 1991, 105 Stat. 1839, which was set out in a note under section 1421 of this title prior to repeal by Pub. L. 103354, title I, §119(c), Oct. 13, 1994, 108 Stat. 3208.

CODIFICATION

Section was formerly classified to section 1518 of this title.

AMENDMENTS

1994—Pub. L. 103354, §111, amended section generally. Prior to amendment, section read as follows: “The right to alter, amend, or repeal this chapter is reserved.”

Subsec. (h). Pub. L. 103354, §112, added subsec. (h) relating to payment and income limitations.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1516 of this title.

§1520. Producer eligibility

Except as otherwise provided in this chapter, a producer shall not be denied insurance under this chapter if—

(1) for purposes of catastrophic risk protection coverage, the producer is a “person” (as defined by the Secretary); and

(2) for purposes of any other plan of insurance, the producer is 18 years of age and has a bona fide insurable interest in a crop as an owner-operator, landlord, tenant, or sharecropper.

(Feb. 16, 1938, ch. 30, title V, §520, as added July 28, 1972, Pub. L. 92357, 86 Stat. 501; amended Oct. 13, 1994, Pub. L. 103354, title I, §113, 108 Stat. 3203.)

AMENDMENTS

1994—Pub. L. 103354 substituted “Producer eligibility” for “Persons under twenty-one years of age” in section catchline and amended text generally. Prior to amendment, text read as follows: “Notwithstanding any other provision of law, no person shall be denied insurance under this chapter solely on the ground that he is under twenty-one years of age if such person is (1) over eighteen years of age, and (2) has a bona fide insurable interest in a crop as an owner-operator, landlord, tenant or sharecropper: *Provided*, That any such person who enters into a Federal Crop Insurance contract shall be subject to the same legal liability and have the same legal rights with respect to such contract as any person over the age of twenty-one years.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as a note under section 1502 of this title.

§1521. Ineligibility for catastrophic risk and noninsured assistance payments

If the Secretary determines that a person has knowingly adopted a material scheme or device to obtain catastrophic risk, additional coverage, or noninsured assistance benefits under this chapter to which the person is not entitled, has evaded this chapter, or has acted with the purposes of evading this chapter, the person shall be ineligible to receive all benefits applicable to the crop year for which the scheme or device was adopted. The authority provided by this section shall be in addition to, and shall not supplant, the authority provided by section 1506(n) of this title.

(Feb. 16, 1938, ch. 30, title V, §521, as added Oct. 13, 1994, Pub. L. 103354, title I, §114, 108 Stat. 3203.)

EFFECTIVE DATE

Section effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103354, set out as an Effective Date of 1994 Amendment note under section 1502 of this title.

CHAPTER 37—SEEDS

- Sec.
1551. Short title.
- SUBCHAPTER I—DEFINITIONS
1561. Definition of terms.
1562. False representations as certified seed; required provisions.
- SUBCHAPTER II—INTERSTATE COMMERCE
1571. Prohibitions relating to interstate commerce in certain seeds.
1572. Records.
1573. Exemptions.
 (a) Carrier transporting seeds.
 (b) Seeds not for seeding purposes.
 (c) Emergency preventing presentation of information.
 (d) Intermixture of unidentified seeds; percentages of kind or kind and variety of seeds.
 (e) Name of substance used in treatment of seeds.
1574. Disclaimers, limited warranties and non-warranties.
1575. False advertising.
- SUBCHAPTER III—FOREIGN COMMERCE
1581. Prohibitions relating to importations.
1582. Procedure relating to importations; disposal of refuse; exceptions.
1583, 1584. Repealed.
1585. Certain seeds not adapted for general agricultural use.
1586. Certain acts prohibited.
- SUBCHAPTER IV—GENERAL PROVISIONS
1591. Delegation of duties.
1592. Rules and regulations.
1593. Standards, tests, tolerances.
1593a. Seed variety information and survey.
 (a) Information.
 (b) Survey.
 (c) Analysis of variety survey data.
1594. Prohibition against alterations.
1595. Seizure.
1596. Penalties.
1597. Agent's acts as binding principal.
1598. Notice of intention to prosecute.
1599. Cease and desist proceedings.
 (a) Hearing.
 (b) Report of Secretary of Agriculture.
 (c) Amendment of report.
 (d) Service.
1600. Appeal to court of appeals.
1601. Enforcement of order.
1602. Separability.
1603. Procedural powers; witness fees and mileage.
1604. Publication.
1605. Authorization of appropriations.
1606. Authorization of expenditures.
1607. Cooperation with other governmental agencies.
1608. Separability.
1609. Repeals.
1610. Effective date.

SUBCHAPTER V—SALE OF UNCERTIFIED SEED OF PROTECTED VARIETY

1611. Illegal sales of uncertified seed.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2811 of this title; title 15 sections 1459, 2311.

§1551. Short title

This chapter may be cited as the "Federal Seed Act."

(Aug. 9, 1939, ch. 615, §1, 53 Stat. 1275.)

EFFECTIVE DATE

See section 1610 of this title.

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 97439, §1, Jan. 8, 1983, 96 Stat. 2287, provided that: "This Act [amending sections 1561, 1571, 1581, 1582, 1585, and 1586 of this title and repealing sections 1583 and 1584 of this title] may be cited as the 'Federal Seed Act Amendments of 1982'."

SUBCHAPTER I—DEFINITIONS

§1561. Definition of terms

(a) When used in this chapter—

(1) The term "United States" means the several States, District of Columbia, and Puerto Rico.

(2) The term "person" includes a partnership, corporation, company, society, or association.

(3) The term "interstate commerce" means—

(A) commerce between any State, Territory, possession, or the District of Columbia, and any other State, Territory, possession, or the District of Columbia; or

(B) commerce between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or

(C) commerce within the District of Columbia.

(4) For the purposes of this chapter with respect to labeling for treatment, variety and origin (but not in anywise limiting the foregoing definition), seeds shall be considered to be in interstate commerce, or delivered for transportation in interstate commerce, if such seeds are part of, or delivered for transportation in, that current of commerce usual in the transportation and/or merchandising of seeds, whereby such seeds are sent from one State with the expectation that they will end their transit in another, including, in addition to cases within the above general description, all cases where seeds are transported or delivered for transportation to another State, or for processing or cleaning for seeding purposes within the State and shipment outside the State of the processed or cleaned seeds. Seeds normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter.

(5) The term "foreign commerce" means commerce between the United States, its possessions, or any Territory of the United States, and any foreign country.

(6)(a) The term "district court of the United States" means any court exercising the powers of a district court of the United States,

(b) Omitted

(7) The term—

(A) "Agricultural seeds" shall mean grass, forage, and field crop seeds which the Secretary of Agriculture finds are used for seeding purposes in the United States and which he lists in the rules and regulations prescribed under section 1592 of this title.

(B) "Vegetable seeds" shall include the seeds of those crops that are or may be grown in gardens or on truck farms and are or may be generally known and sold under the name of vegetable seeds.

(8) For the purpose of subchapter II of this chapter, the term "weed seeds" means the seeds or bulblets of plants recognized as weeds either by the law or rules and regulations of—

(A) The State into which the seed is offered for transportation, or transported; or

(B) Puerto Rico, Guam, or District of Columbia into which transported, or District of Columbia in which sold.

(9)(A) For the purpose of subchapter II of this chapter, the term "noxious-weed seeds" means the seeds or bulblets of plants recognized as noxious—

(i) by the law or rules and regulations of the State into which the seed is offered for transportation, or transported;

(ii) by the law or rules and regulations of Puerto Rico, Guam, or the District of Columbia, into which transported, or District of Columbia in which sold; or

(iii) by the rules and regulations of the Secretary of Agriculture under this chapter, when after investigation he shall determine that a weed is noxious in the United States or in any specifically designated area thereof.

(B) For the purpose of subchapter III of this chapter, the term "noxious-weed seeds" means the seeds of *Lepidium draba* L., *Lepidium repens* (Schrenk) Boiss., *Hymenophyllum pubescens* C. A., Mey., white top; *Cirsium arvense* (L.) Scop., Canada thistle; *Cuscuta* spp., dodder; *Agropyron repens* (L.) Beauv., quackgrass; *Sorghum halepense* (L.) Pers., Johnson grass; *Convolvulus arvensis* L., bindweed; *Centaurea picris* Pall., Russian knapweed; *Sonchus arvensis* L., perennial sowthistle; *Euphorbia esula* L., leafy spurge; and seeds or bulblets of any other kinds which after investigation the Secretary of Agriculture finds should be included.

(10) The term "origin" means the State, District of Columbia, Puerto Rico, or possession of the United States, or the foreign country, or designated portion thereof, where the seed was grown.

(11) The term "kind" means one or more related species or subspecies which singly or collectively is known by one common name, for example, soybean, flax, carrot, radish, cabbage, cauliflower, and so forth.

(12) The term "variety" means a subdivision of a kind which is characterized by growth, plant, fruit, seed, or other characters by which it can be differentiated from other sorts of the same kind, for example, Marquis wheat, Flat Dutch cabbage, Manchu soybeans, Oxheart carrot, and so forth.

(13) The term "type" means either (A) a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions, or (B) when used with a variety name means seed of the variety named which may be mixed with seed of other varieties of the same kind and of

similar character, the manner of and the circumstances connected with the use of the designation to be governed by rules and regulations prescribed under section 1592 of this title.

(14) The term "germination" means the percentage of seeds capable of producing normal seedlings under ordinarily favorable conditions (not including seeds which produce weak, malformed, or obviously abnormal sprouts), determined by methods prescribed under section 1593 of this title.

(15) The term "hard seeds" means the percentage of seeds which because of hardness or impermeability do not absorb moisture or germinate under prescribed tests but remain hard during the period prescribed for germination of the kind of seed concerned, determined by methods prescribed under section 1593 of this title.

(16) The term "inert matter" means all matter not seeds, and includes among others broken seeds, sterile florets, chaff, fungus bodies, and stones, determined by methods prescribed under section 1593 of this title.

(17) The term "label" means the display or displays of written, printed, or graphic matter upon or attached to the container of seed.

(18) The term "labeling" includes all labels, and other written, printed, and graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

(19) The term "advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this chapter.

(20) Subject to such tolerances as the Secretary of Agriculture is authorized to prescribe under the provisions of this chapter—

(A) the term "false labeling" means any labeling which is false or misleading in any particular;

(B) the term "false advertisement" means any advertisement which is false or misleading in any particular.

(21) The term "screenings" shall include chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed in any way from any seeds in any kind of cleaning or processing and which contain less than 25 per centum of live agricultural or vegetable seeds.

(22) The term "in bulk" refers to seed when loose either in vehicles of transportation or in storage, and not to seed in bags or other containers.

(23) The term "treated" means given an application of a substance or subjected to a process designed to reduce, control, or repel disease organisms, insects or other pests which attack seeds or seedlings growing therefrom.

(24) The term "seed certifying agency" means (A) an agency authorized under the laws of a State, Territory, or possession, to officially certify seed and which has standards and procedures approved by the Secretary (after due notice, hearings, and full consideration of the views of farmer users of certified seed and other interested parties) to assure

the genetic purity and identity of the seed certified, or (B) an agency of a foreign country determined by the Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under (A).

(Aug. 9, 1939, ch. 615, title I, §101, 53 Stat. 1275; June 25, 1948, ch. 646, §1, 62 Stat. 870; Aug. 1, 1956, ch. 852, §1, 70 Stat. 908; Aug. 1, 1958, Pub. L. 85581, §§13, 72 Stat. 476; Oct. 15, 1966, Pub. L. 89686, §§13, 19, 80 Stat. 975, 979; Oct. 17, 1969, Pub. L. 9189, §1, 83 Stat. 134; Jan. 8, 1983, Pub. L. 97439, §5(a), 96 Stat. 2288.)

CODIFICATION

Section was enacted without a subsec. (b).

Former subsec. (a)(6)(b), which extended the former term "circuit court of appeals," in case the principal place of business or residence of the person against whom a cease and desist order was issued was in the District of Columbia, to the United States Court of Appeals for the District of Columbia, for purposes of this chapter, has been omitted from the Code as obsolete due to the enactment of act June 25, 1948. The District of Columbia is now a judicial circuit under sections 41 and 43 of Title 28, Judiciary and Judicial Procedure. See, also, Change of Name notes under sections 1599, 1600, and 1601 of this title.

AMENDMENTS

1983—Subsec. (a)(8). Pub. L. 97439, §5(a)(1)(B), struck out "(A)" before "For the purpose of subchapter II of this chapter".

Subsec. (a)(8)(A). Pub. L. 97439, §5(a)(1)(C), substituted "(A)" for "(i)" before "The State into which".

Subsec. (a)(8)(B). Pub. L. 97439, §5(a)(1)(A), (D), substituted "(B)" for "(ii)" before "Puerto Rico, Guam, or District of Columbia" and struck out a former subpar. (B) which had, for purposes of subchapter III, defined "weed seeds" to mean seeds or bulblets of plants found by Secretary to be detrimental to agricultural interests of the United States or any part thereof.

Subsec. (a)(17). Pub. L. 97439, §5(a)(2), redesignated par. (18) as (17). Former par. (17), which, for purposes of subchapter III, had defined "pure live seed" as the portion of any lot of seed subject to this chapter consisting of live agricultural or vegetable seed determined by methods prescribed under section 1593 of this title, was struck out.

Subsec. (a)(18) to (25). Pub. L. 97439, §5(a)(2), redesignated pars. (18) through (25) as (17) through (24), respectively.

1969—Subsec. (a)(25). Pub. L. 9189 inserted provision authorizing Secretary (after due notice, hearing, and full consideration of the views of interested parties) to approve of the standards and procedures of seed certifying agencies authorized under the laws of a State, Territory, or possession.

1966—Subsec. (a)(1). Pub. L. 89686, §1, struck out references to "Alaska," and "Hawaii," before and after "District of Columbia,".

Subsec. (a)(4). Pub. L. 89686, §19, inserted "treatment" before "variety".

Subsec. (a)(7)(A). Pub. L. 89686, §2, redefined "agricultural seeds" to be such as are listed in rules and regulations rather than in statutory text as added to or taken therefrom pursuant to rules and regulations.

Subsec. (a)(8)(A)(ii), (9)(A)(ii). Pub. L. 89686, §1, struck out reference to "Alaska, Hawaii," before "Puerto Rico".

Subsec. (a)(10). Pub. L. 89686, §1, struck out references to "Alaska," and "Hawaii," before and after "District of Columbia,".

Subsec. (a)(11). Pub. L. 89686, §3, substituted "soybean, flax, carrot, radish" for "wheat, oat, vetch, sweetclover".

1958—Subsec. (a)(7)(A). Pub. L. 85581, §1, included sugar beets in list of seeds subject to this chapter by striking out "excluding sugar beet" after "Beta vulgaris L.—Field beet".

Subsec. (a)(24). Pub. L. 85581, §2, added par. (24).

Subsec. (a)(25). Pub. L. 85581, §3, added par. (25).

1956—Subsec. (a)(8)(A)(ii). Act Aug. 1, 1956, §1(a), inserted "Guam" after "Puerto Rico".

Subsec. (a)(9)(A)(ii). Act Aug. 1, 1956, §1(b), inserted "Guam" after "Puerto Rico".

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85581, §16, provided that: "This Act, and the amendments [amending sections 1561, 1562, 1571 to 1574, 1581, 1582, and 1586 of this title] made hereby, shall take effect upon the date of enactment [Aug. 1, 1958]."

EFFECTIVE DATE

See section 1610 of this title.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 863, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1571 of this title.

§1562. False representations as certified seed; required provisions

Any labeling, advertisement, or other representation subject to this chapter which represents that any seed is certified seed or any class thereof shall be deemed to be false in this respect unless (a) it has been determined by a seed certifying agency that such seed conformed to standards of genetic purity and identity as to kind or variety, and is in compliance with the rules and regulations of such agency pertaining to such seed; and (b) the seed bears an official label issued for such seed by a seed certifying agency certifying that the seed is of a specified class and a specified kind or variety. Seed of a variety for which a certificate of plant variety protection under the Plant Variety Protection Act [7 U.S.C. 2321 et seq.] specifies sale only as a class of certified seed shall be certified only when

(1) the basic seed from which the variety was produced furnished by authority of the owner of the variety if the certification is made during the term of protection, and

(2) it conforms to the number of generations designated by the certificate, if the certificate contains such a designation.

(Aug. 9, 1939, ch. 615, title I, §102, as added Aug. 1, 1958, Pub. L. 85581, §4, 72 Stat. 476; amended Oct. 17, 1969, Pub. L. 9189, §2, 83 Stat. 134; Dec. 24, 1970, Pub. L. 91577, title III, §142(b), 84 Stat. 1558.)

REFERENCES IN TEXT

The Plant Variety Protection Act, referred to in text, is Pub. L. 91577, Dec. 24, 1970, 84 Stat. 1542, as amended, which is classified principally to chapter 57 (§2321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2321 of this title and Tables.

AMENDMENTS

1970—Pub. L. 91577 inserted provisions setting out conditions for certification of seed of any variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed.

1969—Pub. L. 9189 struck out references to registered seed, and required labels, advertisement, or other representations to certify that the seed contained therein was determined by a seed certifying agency to be of a specified class and a specified kind of variety in conformity with the standards of genetic purity and identity as to kind or variety.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91577 effective Dec. 24, 1970, see section 141 of Pub. L. 91577, set out as an Effective Date note under section 2321 of this title.

SUBCHAPTER II—INTERSTATE COMMERCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1561 of this title.

§1571. Prohibitions relating to interstate commerce in certain seeds

It shall be unlawful for any person to transport or deliver for transportation in interstate commerce—

(a) Any agricultural seeds or any mixture of agricultural seeds for seeding purposes, unless each container bears a label giving the following information, in accordance with rules and regulations prescribed under section 1592 of this title.

(1) The name of the kind or kind and variety for each agricultural seed component present in excess of 5 per centum of the whole and the percentage by weight of each: *Provided*, That (A), except with respect to seed mixtures intended for lawn and turf purposes, if any such component is one which the Secretary of Agriculture has determined, in rules and regulations prescribed under section 1592 of this title, is generally labeled as to variety, the label shall bear, in addition to the name of the kind, either the name of such variety or the statement "Variety Not Stated", (B) in the case of any such component which is a hybrid seed it shall, in addition to the above requirements, be designated as hybrid on the label, and (C) seed mixtures intended for lawn and turf purposes shall be designated as a mixture on the label and each seed component shall be listed on the label in the order of predominance;

(2) Lot number or other identification;

(3) Origin, stated in accordance with paragraph (a)(1) of this section, of each agricultural seed present which has been designated by the Secretary of Agriculture as one on which a knowledge of the origin is important from the standpoint of crop production, if the origin is known, and if each such seed is present in excess of 5 per centum. If the origin of such agricultural seed or seeds is unknown, that fact shall be stated;

(4) Percentage by weight of weed seeds, including noxious-weed seeds;

(5) Kinds of noxious-weed seeds and the rate of occurrence of each, which rate shall be ex-

pressed in accordance with and shall not exceed the rate allowed for shipment, movement, or sale of such noxious-weed seeds by the law and regulations of the State into which the seed is offered for transportation or transported or in accordance with the rules and regulations of the Secretary of Agriculture, when under the provisions of section 1561(a)(9)(A)(iii) of this title he shall determine that weeds other than those designated by State requirements are noxious;

(6) Percentage by weight of agricultural seeds other than those included under paragraph (a)(1) of this section;

(7) Percentage by weight of inert matter;

(8) For each agricultural seed, in excess of 5 per centum of the whole, stated in accordance with paragraph (a)(1) of this section, and each kind or variety or type of agricultural seed shown in the labeling to be present in a proportion of 5 per centum or less of the whole, (A) percentage of germination, exclusive of hard seed, (B) percentage of hard seed, if present, and (C) the calendar month and year the test was completed to determine such percentages, except that, in the case of a seed mixture, it is only necessary to state the calendar month and year of such test for the kind or variety or type of agricultural seed contained in such mixture which has the oldest calendar month and year test date among the tests conducted on all the kinds or varieties or types of agricultural seed contained in such mixture;

(9) Name and address of (A) the person who transports, or delivers for transportation, said seed in interstate commerce, or (B) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce;

(10) The year and month beyond which an inoculant, if shown in the labeling, is no longer claimed to be effective.

(b) Any vegetable seeds, for seeding purposes, in containers, unless each container bears a label giving the following information in accordance with rules and regulations prescribed under section 1592 of this title:

(1) For containers of one pound or less of seed that germinates equal to or above the standard last established by the Secretary of Agriculture, as provided under section 1593(c) of this title—

(A) The name of each kind and variety of seed, and if two or more kinds or varieties are present, the percentage of each, and further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label; and

(B) Name and address of—

(i) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(ii) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations

prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce;

(2) For containers of one pound or less of seed that germinates less than the standard last established by the Secretary of Agriculture, as provided under section 1593(c) of this title—

(A) The name of each kind and variety of seed, and if two or more kinds or varieties are present, the percentage of each, and further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label; and

(B) For each named kind and variety of seed—

(i) the percentage of germination, exclusive of hard seed;

(ii) the percentage of hard seed, if present;

(iii) the calendar month and year the test was completed to determine such percentages;

(iv) the words "Below Standard"; and

(C) Name and address of—

(i) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(ii) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce.

(3) For containers of more than one pound of seed—

(A) The name of each kind and variety of seed, and if two or more kinds or varieties are present, the percentage of each and, further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label;

(B) Lot number or other lot identification;

(C) For each named kind and variety of seed—

(i) the percentage of germination, exclusive of hard seed;

(ii) the percentage of hard seed, if present;

(iii) the calendar month and year the test was completed to determine such percentages; and

(D) Name and address of—

(i) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(ii) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce.

(c) Any agricultural or vegetable seed unless the test to determine the percentage of germina-

tion required by this section shall have been completed within a five-month period, exclusive of the calendar month in which the test was completed, immediately prior to transportation or delivery for transportation in interstate commerce: *Provided, however*, That the Secretary of Agriculture may by rules and regulations designate: (1) a shorter period for kinds of agricultural or vegetable seed which he finds under ordinary conditions of handling will not maintain, during the aforesaid five-month period, a germination within the established limits of tolerance; or (2) a longer period for any kind of agricultural or vegetable seed which (A) is packaged in such container materials and under such other conditions prescribed by the Secretary of Agriculture as he finds will, during such longer period, maintain the viability of said seed under ordinary conditions of handling; or (B) the Secretary finds will maintain a percentage of germination within the limits of tolerance established under this chapter under ordinary conditions of handling.

(d) Any agricultural seeds or vegetable seeds having a false labeling, or pertaining to which there has been a false advertisement, or to sell or offer for sale such seed for interstate shipment by himself or others.

(e) Seed which is required to be stained under the provisions of this chapter and the regulations made and promulgated thereunder, and is not so stained.

(f) Seed which has been stained to resemble seed stained in accordance with the provisions of this chapter and the regulations made and promulgated thereunder.

(g) Seed which is a mixture of seeds which are required to be stained or which are stained with different colors under the provisions of this chapter and of the regulations made and promulgated thereunder, or which is a mixture of any seed required to be stained under the provisions of this chapter and of the regulations made and promulgated thereunder, with seed of the same kind produced in the United States.

(h) Screenings of any seed subject to this chapter, unless they are not intended for seeding purposes; and it is stated on the label, if in containers, or on the invoice if in bulk, that they are intended for cleaning, processing, or manufacturing purposes, and not for seeding purposes.

(i) Any agricultural seeds or any mixture thereof or any vegetable seeds or any mixture thereof, for seeding purposes, that have been treated, unless each container thereof bears a label giving the following information and statements in accordance with rules and regulations prescribed under section 1592 of this title:

(1) A word or statement indicating that the seeds have been treated;

(2) The commonly accepted coined, chemical (generic), or abbreviated chemical name of any substance used in such treatment;

(3) If the substance used in such treatment in the amount remaining with the seeds is harmful to humans or other vertebrate animals, an appropriate caution statement approved by the Secretary of Agriculture as adequate for the protection of the public, such as "Do not use for food or feed or oil purposes": *Provided*, That the caution statement for mer-

curials and similarly toxic substances, as defined in said rules and regulations, shall be a representation of a skull and crossbones and a statement such as "This seed has been treated with POISON", in red letters on a background of distinctly contrasting color; and

(4) A description, approved by the Secretary of Agriculture as adequate for the protection of the public, of any process used in such treatment.

(Aug. 9, 1939, ch. 615, title II, §201, 53 Stat. 1279; Aug. 1, 1958, Pub. L. 85581, §§58, 72 Stat. 476; Oct. 15, 1966, Pub. L. 89686, §§410, 80 Stat. 975977; Jan. 8, 1983, Pub. L. 97439, §§24, 96 Stat. 2287.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 97439, §2(a), struck out "except as provided in paragraph (j) of this section for seed mixtures intended for lawn and turf purposes," after "following information" in provisions preceding par. (1).

Subsec. (a)(1)(A). Pub. L. 97439, §2(b)(1), inserted "(A), except with respect to seed mixtures intended for lawn and turf purposes," after "Provided, That".

Subsec. (a)(1)(B). Pub. L. 97439, §2(b)(2), substituted ", (B)" for "": *And provided further, That*".

Subsec. (a)(1)(C). Pub. L. 97439, §2(b)(3), added cl. (C).

Subsec. (a)(8). Pub. L. 97439, §3, inserted exception relating to the case of a seed mixture.

Subsec. (c)(1). Pub. L. 97439, §4(1), substituted "(1)" for "(a)".

Subsec. (c)(2). Pub. L. 97439, §4(2), substituted "(2)" for "(b)".

Subsec. (c)(2)(A). Pub. L. 97439, §4(3), inserted "(A)" after "vegetable seed which".

Subsec. (c)(2)(B). Pub. L. 97439, §4(4), added cl. (B).

Subsec. (j). Pub. L. 97439, §2(c), struck out subsec. (j) which directed that seed mixtures intended for lawn and turf purposes be transported or delivered for transport in interstate commerce in containers of fifty pounds or less, and specified the information to be placed on the label.

1966—Subsec. (a). Pub. L. 89686, §4, inserted in introductory text, "except as provided in subsection (j) of this section for seed mixtures intended for lawn and turf purposes,".

Subsec. (a)(1). Pub. L. 89686, §5, amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The name of (A) kind, or (B) kind and variety, or (C) kind and type, for each agricultural seed component present in excess of 5 per centum of the whole and the percentage by weight of each: *Provided, That* such components are expressed in accordance with the category designated under (A), (B), or (C);".

Subsec. (a)(10). Pub. L. 89686, §6, added par. (10).

Subsec. (b). Pub. L. 89686, §7, substituted provisions respecting labeling requirements for containers of one pound or less of seed that germinates equal to or above the standard last established by the Secretary of Agriculture in par. (1), containers of one pound or less of seed that germinates less than the standard last established by the Secretary in par. (2), and containers of more than one pound of seed in par. (3), for former labeling requirements which prescribed in par. (1) name of each kind and variety of seed and if two or more kinds or varieties are present, the percentage of each, in par. (2) for each variety of vegetable seed which germinates less than the standard last established by the Secretary of Agriculture, as provided under section 1593(c) of this title, the percentage of germination, exclusive of hard seed; (ii) percentage of hard seed, if present; (iii) the calendar month and year the test was completed to determine such percentages; (iv) the words "Below Standard"; and in par. (3), name and address of—

(A) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(B) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce.

Subsec. (c). Pub. L. 89686, §8, substituted in cl. (b) "a longer period for any kind of agricultural or vegetable seed which is packaged in such container materials and under such other conditions prescribed by the Secretary of Agriculture as he finds will, during such longer period, maintain the viability of said seed under ordinary conditions of handling" for "a longer period not to exceed nine months, exclusive of the calendar month in which the test was completed, for kinds of agricultural or vegetable seed which he finds under ordinary conditions of handling will maintain during such longer period a germination within the established limits of tolerance".

Subsec. (i)(4). Pub. L. 89686, §9, transposed "of any process used in such treatment" which followed "description" to end of sentence, inserting a comma preceding such phrase.

Subsec. (j). Pub. L. 89686, §10, added subsec. (j).

1958—Subsec. (a)(8). Pub. L. 85581, §5, inserted "and each kind or variety or type of agricultural seed shown in the labeling to be present in a proportion of 5 per centum or less of the whole".

Subsec. (b)(1). Pub. L. 85581, §6, required label on container to show percentage where two or more varieties of seed are present.

Subsec. (b)(2). Pub. L. 85581, §7, substituted "For each variety of vegetable seed" for "For seeds".

Subsec. (i). Pub. L. 85581, §8, added subsec. (i).

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1573, 1593 of this title.

§1572. Records

All persons transporting, or delivering for transportation, in interstate commerce, agricultural seeds shall keep for a period of three years a complete record of origin, treatment, germination, and purity of each lot of such agricultural seeds, and all persons transporting, or delivering for transportation, in interstate commerce, vegetable seeds shall keep for a period of three years a complete record of treatment, germination and variety of such vegetable seeds. The Secretary of Agriculture, or his duly authorized agents, shall have the right to inspect such records for the purpose of the effective administration of this chapter.

(Aug. 9, 1939, ch. 615, title II, §202, 53 Stat. 1281; Aug. 1, 1958, Pub. L. 85581, §9, 72 Stat. 477; Oct. 15, 1966, Pub. L. 89686, §11, 80 Stat. 978.)

AMENDMENTS

1966—Pub. L. 89686 required record of treatment of agricultural and vegetable seeds.

1958—Pub. L. 85581 required keeping of records of vegetable seeds.

EFFECTIVE DATE

See section 1610 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1573 of this title.

§1573. Exemptions**(a) Carrier transporting seeds**

The provisions of sections 1571 and 1572 of this title shall not apply to any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier: *Provided*, That such carrier is not engaged in processing or merchandising seed subject to the provisions of this chapter; and such provisions shall not apply to seeds produced by any farmer on his own premises and sold by him directly to the consumer, provided such farmer is not engaged in the business of selling seeds not produced by him: *And provided further*, That such seeds produced or sold by him when transported or offered for transportation to any State, Territory, or District, shall not be exempted from the provisions of sections 1571 and 1572 of this title unless said seeds shall be in compliance with the operation and effect of the laws of such State, Territory, or District, enacted in the exercise of its police power, to the same extent and in the same manner as though such seed had been produced, sold, offered or exposed for sale in such State, Territory, or District, and shall not be exempted therefrom by reason of being introduced therein in original packages or otherwise: *And provided further*, That such seeds produced or sold by him are in compliance with the seed laws of the State into which the seed is transported.

(b) Seeds not for seeding purposes

The provisions of section 1571(a), (b), or (i) of this title shall not apply—

(1) to seed or grain not intended for seeding purposes when transported or offered for transportation in ordinary channels of commerce usual for such seed or grain intended for manufacture or for feeding; or

(2) to seed intended for seeding purposes when transported or offered for transportation in interstate commerce—

(A) if in bulk, in which case, however, the invoice or other records accompanying and pertaining to such seed shall bear the various statements required for the respective seeds under section 1571(a), (b), and (i) of this title; or

(B) if in containers and in quantities of twenty thousand pounds or more: *Provided*, That (i) the omission from each container of the information required under section 1571(a), (b), and (i) of this title is with the knowledge and consent of the consignee prior to the transportation or delivery for transportation of such seed in interstate commerce, (ii) each container shall have stenciled upon it or bear a label containing a lot designation, and (iii) the invoice or other records accompanying and pertaining to such seed shall bear the various statements required for the respective seeds under section 1571(a), (b), and (i) of this title; or

(C) if consigned to a seed cleaning or processing establishment, to be cleaned or processed for seeding purposes: *Provided*, That (i) this fact is so stated in the invoice or other records accompanying and pertaining to

such seed if the seed is in bulk or if the seed is in containers and in quantities of twenty thousand pounds or more, (ii) this fact is so stated on attached labels if the seed is in containers and in quantities less than twenty thousand pounds, and (iii) any such seed later to be labeled as to origin and/or variety shall be labeled as to origin and/or variety in accordance with rules and regulations prescribed under section 1592 of this title.

(c) Emergency preventing presentation of information

When the Secretary of Agriculture finds that, because of the time interval between seed harvesting and sowing, or because of an emergency beyond human control, the information required by this chapter as to the germination, and hard seed of certain kinds of seeds, cannot be given prior to transportation or delivery for transportation in interstate commerce, he may promulgate, with or without a hearing, rules and regulations providing that the provisions of section 1571(a) and (b) of this title as to the required labeling for germination and hard seed shall not apply for such period and to such kinds of seed as he may specify in his said rules and regulations.

(d) Intermixture of unidentified seeds; percentages of kind or kind and variety of seeds

The provisions of sections 1571(a) and (b) of this title relative to the labeling of agricultural and vegetable seeds with the percentages of the kind or kind and variety of seeds shall not be deemed violated if there are seeds in the container or bulk which could not be, or were not, identified because of their indistinguishability in appearance from the seeds intended to be transported or delivered for transportation in interstate commerce: *Provided*, That the records of the person charged with the duty under said section of labeling or invoicing the seeds, kept in accordance with the rules and regulations of the Secretary of Agriculture, together with other pertinent facts, disclose that said person has taken reasonable precautions to insure the identity of the seeds to be that stated.

(e) Name of substance used in treatment of seeds

The provisions of section 1571(i) of this title relative to the labeling of agricultural and vegetable seeds with the name of any substance used in the treatment of seeds shall not be deemed violated if the substance or substances used in such treatment could not be or were not identified because of their indistinguishability from the substance or substances intended to be used in the treatment of the seeds: *Provided*, That the records of the person charged with the duty under said section of labeling or invoicing the seeds, kept in accordance with the rules and regulations of the Secretary of Agriculture, together with other pertinent facts, disclosed that said person has taken reasonable precautions to insure the identity of the substance or substances to be as stated.

(Aug. 9, 1939, ch. 615, title II, §203, 53 Stat. 1281; Aug. 1, 1958, Pub. L. 85581, §10, 72 Stat. 477; Oct. 15, 1966, Pub. L. 89686, §12, 80 Stat. 978.)

AMENDMENTS

1966—Subsec. (d). Pub. L. 89686, §12(a), substituted “the kind or kind and variety of seeds”, “if there are seeds”, “: *Provided, That*”, and “reasonable precautions to insure the identity of the seed to be that stated” for “the kind or variety or type of seeds”, “if there be other seeds”, “, provided that”, and “proper precautions to insure the identity to be that stated”, respectively.

Subsec. (e). Pub. L. 89686, §12(b), added subsec. (e).

1958—Subsec. (b). Pub. L. 85581 inserted references to section 1571(i) of this title and eased labeling requirements with respect to shipment of seed in containers and in quantities of twenty thousand pounds or more.

EFFECTIVE DATE

See section 1610 of this title.

§1574. Disclaimers, limited warranties and non-warranties

The use of a disclaimer, limited warranty, or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution or other proceeding brought under the provisions of this chapter, or the rules and regulations made and promulgated thereunder. Nothing in this section is intended to preclude the use of a disclaimer, limited warranty, or nonwarranty clause as a defense in any proceeding not brought under this chapter.

(Aug. 9, 1939, ch. 615, title II, §204, 53 Stat. 1282; July 9, 1956, ch. 520, §2, 70 Stat. 508; Aug. 1, 1958, Pub. L. 85581, §11, 72 Stat. 478.)

AMENDMENTS

1958—Pub. L. 85581 precluded use of limited warranty clause as defense in prosecution or other proceeding brought under provisions of this chapter and stated that use of enumerated clauses as defenses in proceedings not brought under this chapter is not barred.

1956—Act July 9, 1956, substituted “or other proceeding” for “, or in any proceeding for confiscation of seeds,”.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendments made by act July 9, 1956, applicable only with respect to violations occurring after July 9, 1956, see note set out under section 1596 of this title.

EFFECTIVE DATE

See section 1610 of this title.

§1575. False advertising

It shall be unlawful for any person to disseminate, or cause to be disseminated, any false advertisement concerning seed, by the United States mails, or in interstate or foreign commerce, in any manner or by any means, including radio broadcasts: *Provided, however*, That no person, advertising agency, or medium for the dissemination of advertising, except the person who transported, delivered for transportation, sold, or offered for sale seed to which the false advertisement relates, shall be liable under this section by reason of disseminating or causing to be disseminated any false advertisement, unless he or it has refused, on the request of the Secretary of Agriculture, to furnish the Secretary the name and post-office address of the person, or advertising agency, residing in the United

States, who caused, directly or indirectly, the dissemination of such advertisement.

(Aug. 9, 1939, ch. 615, title II, §205, 53 Stat. 1282.)

EFFECTIVE DATE

See section 1610 of this title.

SUBCHAPTER III—FOREIGN COMMERCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1561, 1592 of this title.

§1581. Prohibitions relating to importations

The importation into the United States is prohibited of—

(1) any agricultural or vegetable seeds if any such seed contains noxious-weed seeds or the labeling of which is false or misleading in any respect;

(2) screenings of any seeds subject to this subchapter (except that this shall not apply to screenings of wheat, oats, rye, barley, buckwheat, field corn, sorghum, broomcorn, flax, millet, proso, soybeans, cowpeas, field peas, or field beans, which are not imported for seeding purposes and are declared for cleaning, processing, or manufacturing purposes, and not for seeding purposes);

(3) any seed containing 10 per centum or more of any agricultural or vegetable seeds, unless the invoice pertaining to such seed and any other labeling of such seed bear a lot identification and the name of each kind and variety of vegetable seed present in any amount and each kind or kind and variety of agricultural seed present in excess of 5 per centum of the whole, and unless in the case of hybrid seed present in excess of 5 per centum of the whole it is designated as hybrid.¹

(4) any agricultural seeds or any mixture thereof, or any vegetable seeds or any mixture thereof, for seeding purposes, that have been treated, unless each container thereof bears a label giving the following information and statements in accordance with rules and regulations prescribed under section 1592 of this title:

(A) A word or statement indicating that the seeds have been treated;

(B) The commonly accepted coined, chemical (generic), or abbreviated chemical name of any substance used in such treatment;

(C) If the substance used in such treatment in the amount remaining with the seeds is harmful to humans or other vertebrate animals, an appropriate caution statement approved by the Secretary of Agriculture as adequate for the protection of the public, such as “Do not use for food or feed or oil purposes”; *Provided, That* the caution statement for mercurials and similarly toxic substances, as defined in said rules and regulations, shall be a representation of a skull and crossbones and a statement such as “This seed has been treated with POISON”, in red letters on a background of distinctly contrasting color; and

(D) A description, approved by the Secretary of Agriculture as adequate for the

¹So in original. The period probably should be a semicolon.

protection of the public, of any process used in such treatment.

(Aug. 9, 1939, ch. 615, title III, §301, 53 Stat. 1282; Aug. 1, 1958, Pub. L. 85581, §12, 72 Stat. 478; Oct. 15, 1966, Pub. L. 89686, §§13, 14, 80 Stat. 978; Jan. 8, 1983, Pub. L. 97439, §5(b)(1), 96 Stat. 2288; Dec. 8, 1994, Pub. L. 103465, title IV, §441(1), 108 Stat. 4973.)

AMENDMENTS

1994—Pub. L. 103465 struck out “(a)” before “The importation” in introductory provisions, struck out “, or is required to be stained and is not so stained, under the terms of this subchapter,” after “noxious-weed seeds” in par. (1), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: “any seed containing 10 per centum or more of the seeds of alfalfa or red clover, which has been stained prior to being offered for entry in a manner that does not permit compliance with the provisions of this subchapter and the regulations made and promulgated thereunder.”

1983—Subsec. (a)(1). Pub. L. 97439 substituted “any agricultural or vegetable seeds if any such seed contains noxious weed seeds” for “any seed containing 10 per centum or more of any agricultural or vegetable seeds if any such seed is adulterated or unfit for seeding purposes”.

1966—Subsec. (a)(4). Pub. L. 89686, §13, prohibited importation of any seed containing 10 per centum or more of any agricultural seeds and prescribed as additional prerequisites to importation a lot identification for the invoice and any other labeling, the kind and variety of seed present in any amount, each kind or kind and variety of seed present in excess of 5 per centum of the whole, and hybrid designation in case of hybrid seed present in excess of 5 per centum of the whole.

Subsec. (a)(5). Pub. L. 89686, §14, added par. (5).

1958—Subsec. (a)(4). Pub. L. 85581 added par. (4).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE DATE

See section 1610 of this title.

§1582. Procedure relating to importations; disposal of refuse; exceptions

(a) The Secretary of the Treasury shall deliver to the Secretary of Agriculture, subject to joint rules and regulations prescribed under section 1592 of this title, samples of seed and screenings which are being imported into the United States, or offered for import, giving notice thereof to the owner or consignee, and if it appears from the examination of such samples that any seed or screenings offered to be imported into the United States are subject to the provisions of this subchapter and do not comply with the provisions of this subchapter, or if the labeling of such seed is false or misleading in any respect, such seed or screenings shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the owner or consignee, who may appear, however, before the Secretary of Agriculture and show cause why the seed or screenings should be admitted. Seed or screenings refused admission and not exported by the owner or consignee within twelve

months from the date of notice of such refusal shall be destroyed in accordance with joint rules and regulations prescribed under section 1592 of this title: *Provided*, That the Secretary of the Treasury may authorize the delivery of seed or screenings which are being imported or offered for import to the owner or consignee thereof, pending decision as to the admission of such seed or screenings and for cleaning, labeling, or other reconditioning if required to bring such seed or screenings into compliance with the provisions of this chapter, upon the execution by such owner or consignee of a good and sufficient bond conditioned upon redelivery of the seed or screenings upon demand unless redelivery is waived because the seed is reconditioned to bring it into compliance with this chapter or is destroyed under Government supervision under this chapter, and providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury: *And provided further*, That all expenses incurred by the United States (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the supervision of cleaning, labeling, other reconditioning, or destruction, of seed or screenings under this subchapter shall be reimbursed to the United States by the owner or consignee of the seed or screenings, and such reimbursements shall be credited to the appropriation from which the expenses were paid, the amount of such expenses to be determined in accordance with joint regulations under section 1592 of this title, and all expenses in connection with the storage, cartage, and labor on the seed or screenings which are refused admission or delivery, shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against future importations made by such owner or consignee.

(b) The refuse from any seeds or screenings which are allowed to be cleaned under bond shall be destroyed in accordance with joint rules and regulations prescribed under section 1592 of this title.

(c) The provisions of this subchapter shall not apply—

(1) when seed is shipped in bond through the United States, or

(2) when the Secretary of Agriculture finds that a substantial proportion of the importations of any kind of seed is used for other than seeding purposes, and he provides by rules and regulations that seed of such kind not imported for seeding purposes shall be exempted from the provisions of the chapter: *Provided*, That importations of such kinds of seed shall be accompanied by a declaration setting forth the use for which imported when and as required under joint rules and regulations prescribed under section 1592 of this title.

(d) The provisions of this subchapter prohibiting the importation of seed shall not apply—

(1) when seed grown in the United States is returned from a foreign country without having been admitted into the commerce of any foreign country: *Provided*, That there is satisfactory proof as provided for in the joint rules and regulations prescribed under section 1592

of this title, that the seed was grown in the United States and was not admitted into the commerce of a foreign country and was not commingled with other seed, or

(2) when seed is imported for sowing for experimental or breeding purposes and not for sale: *Provided*, That declarations are filed, and importations are limited in quantity, as provided for in the rules and regulations prescribed under section 1592 of this title, to assure that the importations are for experimental or breeding purposes.

(Aug. 9, 1939, ch. 615, title III, §302, 53 Stat. 1283; Aug. 1, 1958, Pub. L. 85581, §§13, 14, 72 Stat. 478, 479; Oct. 15, 1966, Pub. L. 89686, §§1517, 80 Stat. 979; Jan. 8, 1983, Pub. L. 97439, §5(b)(2), (3), 96 Stat. 2288; Sept. 28, 1988, Pub. L. 100449, title III, §301(e), 102 Stat. 1868; Dec. 8, 1993, Pub. L. 103182, title III, §361(a), 107 Stat. 2122; Dec. 8, 1994, Pub. L. 103465, title IV, §441(2), 108 Stat. 4973.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103465, §441(2)(A), struck out “staining,” before “cleaning, labeling,” in two places.

Subsec. (e). Pub. L. 103465, §441(2)(B), struck out subsec. (e) which read as follows: “The provisions of this subchapter requiring certain seeds to be stained shall not apply—

“(1) to alfalfa or clover seed originating in Canada or Mexico, or

“(2) when seeds otherwise required to be stained will not be sold within the United States and will be used for seed production only by or for the importer or consignee and the importer of record or consignee files a statement in accordance with the rules and regulations prescribed under section 1592 of this title certifying that such seeds will be used only for seed production by or for the importer or consignee.”

1993—Subsec. (e)(1). Pub. L. 103182 inserted “or Mexico” after “Canada”.

1988—Pub. L. 100449 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “The provisions of this subchapter requiring certain seeds to be stained shall not apply when such seed will not be sold within the United States and will be used for seed production only by or for the importer or consignee: *Provided*, That the importer of record or consignee files a statement in accordance with the rules and regulations prescribed under section 1592 of this title certifying that such seed will be used only for seed production by or for the importer or consignee.”

1983—Subsec. (a). Pub. L. 97439, §5(b)(2), struck out provision that Secretary may apply statistical sampling and inspection techniques to samples and screenings to determine whether pure-live seed requirement of any kind of seed was being met, in event of which he was to advise importer of each lot of seed not examined for pure-live seed percentage.

Subsec. (d). Pub. L. 97439, §5(b)(3)(A), struck out “that is adulterated or unfit for seeding purposes” after “importation of seed” in provisions preceding par. (1).

Subsec. (d)(3). Pub. L. 97439, §5(b)(3)(B), struck out cl. (3) which described the situation when seed not meeting the pure-live seed requirements of section 1584 of this title would not be sold within the United States and would be used for seed production only by or for the importer or consignee, providing that the importer of record or consignee filed a statement in accordance with the rules and regulations prescribed under section 1592 of this title certifying that such seed would be used only for seed production by or for the importer or consignee.

1966—Subsec. (a). Pub. L. 89686, §15, authorized Secretary of Agriculture to apply statistical sampling and inspection techniques to samples and screenings to determine whether the pure-live seed requirement of any kind of seed is being met and to advise importer of each lot of seed not examined for pure-live seed percentage.

Subsec. (d)(3). Pub. L. 89686, §16, added par. (3).

Subsec. (e). Pub. L. 89686, §17, added subsec. (e).

1958—Subsec. (a). Pub. L. 85851, §13, inserted “owner or” before “consignee” wherever appearing, except in the two provisos, changed first proviso to bring its wording in line with practices generally followed with other commodities illegally placed into consumption, and provided in second proviso for reimbursement of all costs to the Federal Government incident to supervision required under this chapter.

Subsec. (d). Pub. L. 85581, §14, added subsec. (d).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100449 effective on the date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on the date the Agreement ceases to be in force, see section 501(a), (c), of Pub. L. 100449, set out in a note under section 2112 of Title 19, Customs Duties.

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§§1583, 1584. Repealed. Pub. L. 97439, §5(b)(4), Jan. 8, 1983, 96 Stat. 2288

Section 1583, act Aug. 9, 1939, ch. 615, title III, §303, 53 Stat. 1283, related to adulterated seed.

Section 1584, acts Aug. 9, 1939, ch. 615, title III, §304, 53 Stat. 1284; Oct. 15, 1966, Pub. L. 89686, §18, 80 Stat. 979, related to seed unfit for seeding purposes.

§1585. Certain seeds not adapted for general agricultural use

Whenever the Secretary of Agriculture, after a public hearing, determines that seed of alfalfa or red clover from any foreign country is not adapted for general agricultural use in the United States, the Secretary shall publish the determination and the reasons for the determination.

(Aug. 9, 1939, ch. 615, title III, §303, as added Dec. 8, 1994, Pub. L. 103465, title IV, §441(3), 108 Stat. 4973.)

PRIOR PROVISIONS

A prior section 1585, act Aug. 9, 1939, ch. 615, title III, §303, formerly §305, 53 Stat. 1284; renumbered §303, Jan. 8, 1983, Pub. L. 97439, §5(b)(4), 96 Stat. 2288, related to requirement that certain seeds containing alfalfa and/or red clover be stained, prior to repeal by Pub. L. 103465, title IV, §441(3), Dec. 8, 1994, 108 Stat. 4973.

EFFECTIVE DATE

Section effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103465, set out as a note under section 3601 of Title 19, Customs Duties.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§1586. Certain acts prohibited

It shall be unlawful for any person—

(a) To sell or offer for sale—

(1) any seed for seeding purposes if imported under this subchapter for other than seeding purposes;

(2) any screenings of any seeds for seeding purposes if imported under this subchapter for other than seeding purposes; or

(3) any seed which is prohibited entry under the provisions of this chapter.

(b) To make any false or misleading representation with respect to any seed subject to this subchapter being imported into the United States or offered for import: *Provided*, That this subsection shall not be deemed violated by any person if the false or misleading representation is the name of a variety indistinguishable in appearance from the seed being imported or offered for import and the records and other pertinent facts reveal that such person relied in good faith upon representations with respect to the name of the indistinguishable variety made by the shipper of the seed.

(Aug. 9, 1939, ch. 615, title III, §304, formerly §306, 53 Stat. 1285; Aug. 1, 1958, Pub. L. 85581, §15, 72 Stat. 479; renumbered §304, Jan. 8, 1983, Pub. L. 97439, §5(b)(4), 96 Stat. 2288; Dec. 8, 1994, Pub. L. 103465, title IV, §441(4), 108 Stat. 4973.)

AMENDMENTS

1994—Subsec. (a)(4) to (7). Pub. L. 103465, §441(4)(A), struck out pars. (4) to (7) which read as follows:

“(4) any seed which has been stained to resemble seed stained in accordance with the provisions of this chapter and the rules and regulations made and promulgated thereunder;

“(5) any seed stained under the provisions of this chapter and the rules and regulations made and promulgated thereunder, when mixed with seed of the same kind produced in the United States;

“(6) any seed stained with different colors;

“(7) any seed stained under the provisions of this chapter, the labeling of which states that such seed is adapted.”

Subsecs. (b), (c). Pub. L. 103465, §441(4)(B), (C), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “To change the proportion of seeds stained under the provisions of this chapter and the rules and regulations made and promulgated thereunder or to alter, modify, conceal, or remove in any manner or by any means the color of such stained seeds.”

1958—Subsec. (c). Pub. L. 85581 added subsec. (c).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE DATE

See section 1610 of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

§1591. Delegation of duties

Any duties devolving upon the Secretary of Agriculture by virtue of the provisions of this chapter may with like force and effect be executed by such officer or officers, agent or

agents, of the Department of Agriculture as the Secretary may designate for the purpose.

(Aug. 9, 1939, ch. 615, title IV, §401, 53 Stat. 1285.)

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§1592. Rules and regulations

(a) The Secretary of Agriculture shall make such rules and regulations as he may deem necessary for the effective enforcement of this chapter, except as otherwise provided in this section.

(b) The Secretary of the Treasury and the Secretary of Agriculture shall make, jointly or severally such rules and regulations as they may deem necessary for the effective enforcement of subchapter III of this chapter.

(c) Prior to the promulgation of any rule or regulation under this chapter, due notice shall be given by publication in the Federal Register of intention to promulgate and the time and place of a public hearing to be held with reference thereto, and no rule or regulation may be promulgated until after such hearing. Any rule or regulation shall become effective on the date fixed in the promulgation, which date shall be not less than thirty days after publication in the Federal Register and may be amended or revoked in the manner provided for its promulgation.

(Aug. 9, 1939, ch. 615, title IV, §402, 53 Stat. 1285.)

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1561, 1571, 1573, 1581, 1582, 1593 of this title.

§1593. Standards, tests, tolerances

(a) The samplings, analyses, tests, or examinations of seeds made in connection with the administration of this chapter shall be made by methods set forth by rules and regulations prescribed under section 1592 of this title.

(b) The Secretary of Agriculture is authorized and directed to make and promulgate by rules and regulations, reasonable tolerances as to the percentages and rates of occurrence required to be stated or required by this chapter.

(c) For the purpose of section 1571(b) of this title, the Secretary of Agriculture is authorized and directed to investigate, determine, establish, and promulgate from time to time such reasonable standards of germination for each kind of vegetable seed as will in his judgment best protect crop production.

(Aug. 9, 1939, ch. 615, title IV, §403, 53 Stat. 1285.)

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1561, 1571 of this title.

§1593a. Seed variety information and survey**(a) Information****(1) In general**

Grain submitted for public testing shall be evaluated for selected specific agronomic performance characteristics and intrinsic end-use performance characteristics, as determined by the Secretary, with the results of the evaluations made available to the Secretary.

(2) Dissemination of information

The Secretary shall disseminate varietal performance information obtained under paragraph (1) to plant breeders, producers, and end users.

(b) Survey

The Secretary shall periodically conduct, compile, and publish a survey of grain varieties commercially produced in the United States.

(c) Analysis of variety survey data

The Secretary shall analyze the variety surveys conducted under subsection (b) of this section in conjunction with available applied research information on intrinsic quality characteristics of the varieties, to evaluate general intrinsic crop quality characteristics and trends in production related to intrinsic quality characteristics. This information shall be disseminated as required by subsection (a)(2) of this section.

(Pub. L. 101624, title XX, §2013, Nov. 28, 1990, 104 Stat. 3933.)

CODIFICATION

Section was enacted as part of the Grain Quality Incentives Act of 1990, and also as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Federal Seed Act which comprises this chapter.

§1594. Prohibition against alterations

No person shall detach, alter, deface, or destroy any label provided for in this chapter or the rules and regulations made and promulgated thereunder by the Secretary of Agriculture, or alter or substitute seed in a manner that may defeat the purpose of this chapter.

(Aug. 9, 1939, ch. 615, title IV, §404, 53 Stat. 1286.)

EFFECTIVE DATE

See section 1610 of this title.

§1595. Seizure

(a) Any seed sold, delivered for transportation in interstate commerce, or transported in interstate or foreign commerce in violation of any of the provisions of this chapter shall, at the time of such violation or at any time thereafter, be liable to be proceeded against on libel of information and condemned in any district court of

the United States within the jurisdiction of which the seed is found.

(b) If seed is condemned by a decree of the court as being in violation of the provisions of this chapter, it may be disposed of by the court by—

(1) sale; or

(2) delivery to the owner thereof after he has appeared as claimant and paid the court costs and fees and storage and other proper expenses and executed and delivered a bond with good and sufficient sureties that such seed will not be sold or disposed of in any jurisdiction contrary to the provisions of this chapter and the rules and regulations made and promulgated thereunder, or the laws of such jurisdiction; or

(3) destruction.

(c) If such seed is disposed of by sale, the proceeds of the sale, less the court costs and fees and storage and other proper expenses, shall be paid into the Treasury as miscellaneous receipts, but such seed shall not be sold or disposed of in any jurisdiction contrary to the provisions of this chapter and the rules and regulations made and promulgated thereunder, or the laws of such jurisdiction.

(d) The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case; and such proceedings shall be at the suit of and in the name of the United States.

(Aug. 9, 1939, ch. 615, title IV, §405, 53 Stat. 1286.)

EFFECTIVE DATE

See section 1610 of this title

FEDERAL RULES OF CIVIL PROCEDURE

Admiralty and maritime rules of practice (which included libel procedures) were superseded, and civil and admiralty procedures in United States district courts were unified, effective July 1, 1966, see rule 1 and Supplemental Rules for Certain Admiralty and Maritime Claims, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Proceedings for forfeitures and seizures, see section 2461 of Title 28, Judiciary and Judicial Procedure.

United States as plaintiff, jurisdiction of district courts, see section 1345 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1602 of this title.

§1596. Penalties

(a) Any person who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this chapter or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000.

(b) Any person who violates any provision of this chapter or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less than \$25 or more than \$500, for each such violation, which forfeit-

ure shall be recoverable in a civil suit brought in the name of the United States.

(Aug. 9, 1939, ch. 615, title IV, §406, 53 Stat. 1286; July 9, 1956, ch. 520, §1, 70 Stat. 508.)

AMENDMENTS

1956—Act July 9, 1956, designated existing provisions as subsec. (a), inserted “knowingly or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts,” and added subsec. (b).

EFFECTIVE DATE OF 1956 AMENDMENT

Section 4 of act July 9, 1956, provided that: “The amendments made by this Act [amending sections 1574, 1596, and 1602 of this title] shall be applicable only with respect to violations occurring after the enactment of this Act [July 9, 1956].”

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Fines, penalties and forfeitures, see section 2461 et seq. of Title 28, Judiciary and Judicial Procedure.

United States as party generally, see section 2401 et seq. of Title 28.

United States as plaintiff, jurisdiction of district courts, see section 1345 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1602 of this title.

§1597. Agent's acts as binding principal

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person, partnership, corporation, company, society, or association, shall in every case be also deemed to be the act, omission, or failure of such person, partnership, corporation, company, society, or association, as well as that of the person employed.

(Aug. 9, 1939, ch. 615, title IV, §407, 53 Stat. 1286.)

EFFECTIVE DATE

See section 1610 of this title.

§1598. Notice of intention to prosecute

Before any violation of this chapter is reported by the Secretary of Agriculture to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present¹ his views, either orally or in writing, with regard to such contemplated proceeding.

(Aug. 9, 1939, ch. 615, title IV, §408, 53 Stat. 1286.)

EFFECTIVE DATE

See section 1610 of this title.

§1599. Cease and desist proceedings

(a) Hearing

Whenever the Secretary of Agriculture has reason to believe that any person has violated or is violating any of the provisions of this chapter or the rules and regulations made and promul-

gated thereunder, he shall cause a complaint in writing to be served upon the person, stating his charges in that respect, and requiring the person to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the person a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such rules and regulations as the Secretary of Agriculture may prescribe. At any time prior to the close of the hearing the Secretary of Agriculture may amend the complaint; but in case of any amendment adding new provisions the hearing shall, on the request of the person, be adjourned for a period not exceeding fifteen days.

(b) Report of Secretary of Agriculture

If, after such hearing, the Secretary of Agriculture finds that the person has violated or is violating any provisions of the chapter or rules and regulations covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the person an order requiring such person to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture.

(c) Amendment of report

Until the record in such hearing has been filed in a court of appeals as provided in section 1600 of this title, the Secretary of Agriculture at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the person to be heard, may amend or set aside the report or order, in whole or in part.

(d) Service

Complaints, orders, and other processes of the Secretary of Agriculture under this section may be served by anyone duly authorized by the Secretary of Agriculture, either (1) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2) by leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation; or (3) by mailing a copy thereof by registered mail or by certified mail addressed to such person, partnership, or corporation at his or its last known principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said order shall be proof of the same, and the return post-office receipt for said complaint, order, or other process mailed by registered mail or by certified mail as aforesaid shall be proof of the service of the same.

(Aug. 9, 1939, ch. 615, title IV, §409, 53 Stat. 1287; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85791, §24(a), 72 Stat. 949; June 11, 1960, Pub. L. 86507, §1(7), 74 Stat. 200.)

¹So in original. Probably should be “present”.

AMENDMENTS

1960—Subsec. (d). Pub. L. 86507 substituted “mailing a copy thereof by registered mail or by certified mail” for “registering and mailing a copy thereof” and “mailed by registered mail or by certified mail” for “registered and mailed”.

1958—Subsec. (c). Pub. L. 85791 struck out “a transcript of” before “the record”.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted “court of appeals” for “circuit court of appeals” which appeared in subsec. (c) of this section.

EFFECTIVE DATE

See section 1610 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1600, 1601, 1602 of this title.

§1600. Appeal to court of appeals

An order made under section 1599 of this title shall be final and conclusive unless within thirty days after the service the person appeals to the court of appeals for the circuit in which such person resides or has his principal place of business by filing with the clerk of such court a written petition praying that the Secretary’s order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such person will pay the costs of the proceedings if the court so directs.

The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28. If before such record is filed, the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

At any time after such petition is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the person and his officers, directors, agents, and employees from violating any of the provisions of the order pending the final determination of the appeal.

The evidence so taken or admitted and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case.

The court may affirm, modify, or set aside the order of the Secretary.

If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the person and his

officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

(Aug. 9, 1939, ch. 615, title IV, §410, 53 Stat. 1287; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85791, §24(b), 72 Stat. 949; Nov. 8, 1984, Pub. L. 98620, title IV, §402(7)(A), 98 Stat. 3357.)

AMENDMENTS

1984—Pub. L. 98620 in fourth par., struck out provisions requiring proceedings in such cases in the court of appeals to be made a preferred cause and expedited in every way.

1958—Pub. L. 85791 substituted, in first sentence of second par., “thereupon file in the court the record in such proceedings as provided in section 2112 of title 28” for “forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, and the report and order”, substituted, in second sentence of second par., “record” for “transcript”, substituted in third par., “petition” for “transcript”, and struck out, in fourth par., “, duly certified” after “admitted”.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted “court of appeals” for “circuit court of appeals” wherever appearing.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

See section 1610 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1599, 1601, 1602 of this title.

§1601. Enforcement of order

If any person against whom an order is issued under section 1599 of this title fails to obey the order, the Secretary of Agriculture, or the United States, by its Attorney General, may apply to the court of appeals of the United States, within the circuit where the person against whom the order was issued resides or has his principal place of business, for the enforcement of the order, and shall file the record in such proceedings, as provided in section 2112 of title 28. Upon such filing of the application the court shall cause notice thereof to be served upon the person against whom the order was issued. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as provided in section 1600 of this title for applications to set aside or modify orders.

(Aug. 9, 1939, ch. 615, title IV, §411, 53 Stat. 1288; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85791, §24(c), 72 Stat. 949; Nov. 8, 1984, Pub. L. 98620, title IV, §402(7)(B), 98 Stat. 3357.)

AMENDMENTS

1984—Pub. L. 98620 struck out second par. which required proceedings in such cases to be made a preferred cause and expedited in every way.

1958—Pub. L. 85791 substituted “file the record in such proceedings as provided in section 2112 of title 28”

for “certify and file with its application a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, the report, and the order” in first sentence, and struck out “and transcript” after “application” in second sentence.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1948, as amended by act May 24, 1949, substituted “court of appeals” for “circuit court of appeals” wherever appearing in this section.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

See section 1610 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1602 of this title.

§1602. Separability

The institution of any one of the proceedings provided for in sections 1595, 1596, 1599 to 1601 of this title shall not bar institution of any of the others, except that action shall not be instituted under both subsections 1596(a) and (b) of this title for the same cause of action. Nothing in this chapter shall be construed as requiring the Secretary of Agriculture to recommend prosecution, or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this chapter or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning.

(Aug. 9, 1939, ch. 615, title IV, §412, 53 Stat. 1288; July 9, 1956, ch. 520, §3, 70 Stat. 508.)

AMENDMENTS

1956—Act July 9, 1956, inserted references to civil penalties as well as criminal penalties under section 1596 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendments made by act July 9, 1956, applicable only with respect to violations occurring after July 9, 1956, see section 4 of act July 9, 1956, set out as a note under section 1596 of this title.

EFFECTIVE DATE

See section 1610 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Admiralty and maritime rules of practice (which included libel procedures) were superseded, and civil and admiralty procedures in United States district courts were unified, effective July 1, 1966, see rule 1 and Supplemental Rules for Certain Admiralty and Maritime Claims, Title 28, Appendix, Judiciary and Judicial Procedure.

§1603. Procedural powers; witness fees and mileage

(a) In carrying on the work herein authorized, the Secretary of Agriculture, or any officer or employee designated by him for such purpose, shall have power to hold hearings, administer

oaths, sign and issue subpoenas, examine witnesses, take depositions, and require the production of books, records, accounts, memoranda, and papers, and have access to office and warehouse premises. Upon refusal by any person to appear, testify, or produce pertinent books, records, accounts, memoranda, and papers in response to a subpoena, or to permit access to premises, the proper United States district court shall have power to compel obedience thereto.

(b) Witnesses summoned before the Secretary or any officer or employee designated by him shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like service in the courts of the United States.

(Aug. 9, 1939, ch. 615, title IV, §413, 53 Stat. 1289.)

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Fees of witnesses, see section 1821 et seq. of Title 28, Judiciary and Judicial Procedure.

§1604. Publication

After judgment by the court, or the issuance of a cease and desist order, in any case arising under this chapter, notice thereof shall be given by publication in such manner as may be prescribed in the rules and regulations made and promulgated under this chapter.

(Aug. 9, 1939, ch. 615, title IV, §414, 53 Stat. 1289.)

EFFECTIVE DATE

See section 1610 of this title.

§1605. Authorization of appropriations

(a) There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for administering this chapter.

(b) Funds appropriated for carrying into effect the purpose of this chapter shall be available for allotment by the Secretary of Agriculture to the bureaus and offices of the Department of Agriculture and for transfer to other departments and agencies of the Government which the Secretary of Agriculture may call upon to assist or cooperate in carrying out such purposes or for services rendered or to be rendered in connection therewith.

Appropriations made under this authorization, within the limit prescribed in such appropriations, may be expended for the share of the United States in the expense of the International Seed Testing Congress in carrying out plans for correlating the work of the various adhering governments on problems relating to seed analyses or other subjects which the Congress may determine to be necessary in the interest of international seed trade.

(Aug. 9, 1939, ch. 615, title IV, §415, 53 Stat. 1289; Sept. 21, 1944, ch. 412, title VII, §701(b), 58 Stat. 741.)

AMENDMENTS

1944—Act Sept. 21, 1944, added last par.

EFFECTIVE DATE

See section 1610 of this title.

§1606. Authorization of expenditures

The Secretary of Agriculture is authorized to make such expenditures for rent, outside of the District of Columbia, printing, binding, telegrams, telephones, books of reference, publications, furniture, stationery, office and laboratory equipment, travel, and other supplies, including reporting services, such research necessary to develop methods of processing, bulking, blending, sampling, testing, and merchandising seeds necessary to the administration of this chapter and other necessary expenses in the District of Columbia and elsewhere, and as may be appropriated for by the Congress.

(Aug. 9, 1939, ch. 615, title IV, §416, 53 Stat. 1289.)

EFFECTIVE DATE

See section 1610 of this title.

§1607. Cooperation with other governmental agencies

The Secretary of Agriculture is authorized to cooperate with any other department or agency of the Federal Government; or with any State, Territory, District, or possession, or department, agency, or political subdivision thereof; or with any producing, trading, or consuming organization, whether operating in one or more jurisdictions, in carrying out the provisions of this chapter.

(Aug. 9, 1939, ch. 615, title IV, §417, 53 Stat. 1289.)

EFFECTIVE DATE

See section 1610 of this title.

§1608. Separability

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

(Aug. 9, 1939, ch. 615, title IV, §418, 53 Stat. 1290.)

EFFECTIVE DATE

See section 1610 of this title.

§1609. Repeals

Sections 111 to 116 of this title are repealed on the one hundred and eightieth day after August 9, 1939: *Provided, however*, That the notices with respect to imported alfalfa and red clover seed promulgated by the Secretary of Agriculture under the authority of sections 111 to 116 of this title, and in effect on August 9, 1939, shall remain with the same full force and effect as if promulgated under this chapter.

(Aug. 9, 1939, ch. 615, title IV, §419, 53 Stat. 1290.)

EFFECTIVE DATE

See section 1610 of this title.

§1610. Effective date

This chapter shall take effect as follows: As to agricultural seeds, and the importation of vegetable seeds, on the one hundred and eightieth day after August 9, 1939; as to vegetable seeds in interstate commerce, one year after August 9, 1939; and as to sections 1591 to 1593 of this title, on August 9, 1939.

(Aug. 9, 1939, ch. 615, title IV, §420, 53 Stat. 1290.)

SUBCHAPTER V—SALE OF UNCERTIFIED SEED OF PROTECTED VARIETY

§1611. Illegal sales of uncertified seed

It shall be unlawful in the United States or in interstate or foreign commerce to sell or offer for sale or advertise, by variety name, seed not certified by an official seed certifying agency, when it is a variety for which a certificate of plant variety protection under the Plant Variety Protection Act [7 U.S.C. 2321 et seq.] specifies sale only as a class of certified seed: *Provided*, That seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owners of the variety.

(Aug. 9, 1939, ch. 615, title V, §501, as added Dec. 24, 1970, Pub. L. 91577, title III, §142(a), 84 Stat. 1558; amended Dec. 22, 1981, Pub. L. 9798, title XI, §1118, 95 Stat. 1272.)

REFERENCES IN TEXT

The Plant Variety Protection Act, referred to in text, is Pub. L. 91577, Dec. 24, 1970, 84 Stat. 1542, as amended, which is classified principally to chapter 57 (§2321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2321 of this title and Tables.

AMENDMENTS

1981—Pub. L. 9798 substituted “sell or offer for sale or advertise, by variety name, seed” for “sell by variety name seed”, “certifying agency, when” for “certifying agency when”, and “owners of the variety” for “owner of the variety”.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 9798 effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Section effective Dec. 24, 1970, see section 141 of Pub. L. 91577, set out as a note under section 2321 of this title.

CHAPTER 38—DISTRIBUTION AND MARKETING OF AGRICULTURAL PRODUCTS

Sec.

1621. Congressional declaration of purpose; use of existing facilities; cooperation with States.
1622. Duties of Secretary relating to agricultural products.
- (a) Determination of methods of processing, packaging, marketing, etc.; publication of results.
 - (b) Determination of costs.
 - (c) Improvement of standards of quality, condition, etc.; standard of quality for ice cream.
 - (d) Elimination of artificial barriers to free movement.

Sec.

- (e) Development of new markets.
 - (f) Increasing consumer education.
 - (g) Collection and dissemination of marketing information.
 - (h) Inspection and certification of products in interstate commerce; credit and future availability of funds; investment; certificates as evidence; penalties.
 - (i) Development of facilities for assembling, processing, transporting, etc.
 - (j) Improvement of transportation facilities and rates.
 - (k) Collection and dissemination of marketing statistics.
 - (l) Development of procurement standards and specifications.
 - (m) Promotion of research for handling, storing, preserving, etc.
 - (n) General research, services, and activities.
- 1622a. Authority to assist farmers and elevator operators.
1623. Authorization of appropriations; allotments to States.
- 1623a. Minimum sum for contracting.
1624. Cooperation with Government and State agencies, private research organizations, etc.; rules and regulations.
1625. Transfer and consolidation of functions, powers, bureaus, etc.
1626. Definitions.
1627. Appointment of personnel; compensation; employment of specialists.
1628. Repealed.
1629. Establishment of committees to assist in research and service programs.
1630. Omitted.
1631. Protection for purchasers of farm products.
- (a) Congressional findings.
 - (b) Declaration of purpose.
 - (c) Definitions.
 - (d) Purchases free of security interest.
 - (e) Purchases subject to security interest.
 - (f) Law governing "receipt".
 - (g) Commission merchants or selling agents: sales free of or subject to security interest; law governing "receipt".
 - (h) Security agreements; identity lists; notice of identity or accounting for proceeds; violations.
 - (i) Regulations.
 - (j) Effective date.
1632. Market expansion research.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 6104 of this title; title 21 section 1033.

§1621. Congressional declaration of purpose; use of existing facilities; cooperation with States

The Congress declares that a sound, efficient, and privately operated system for distributing and marketing agricultural products is essential to a prosperous agriculture and is indispensable to the maintenance of full employment and to the welfare, prosperity, and health of the Nation. It is further declared to be the policy of Congress to promote through research, study, experimentation, and through cooperation among Federal and State agencies, farm organizations, and private industry a scientific approach to the problems of marketing, transportation, and distribution of agricultural products

similar to the scientific methods which have been utilized so successfully during the past eighty-four years in connection with the production of agricultural products so that such products capable of being produced in abundance may be marketed in an orderly manner and efficiently distributed. In order to attain these objectives, it is the intent of Congress to provide for (1) continuous research to improve the marketing, handling, storage, processing, transportation, and distribution of agricultural products; (2) cooperation among Federal and State agencies, producers, industry organizations, and others in the development and effectuation of research and marketing programs to improve the distribution processes; (3) an integrated administration of all laws enacted by Congress to aid the distribution of agricultural products through research, market aids and services, and regulatory activities, to the end that marketing methods and facilities may be improved, that distribution costs may be reduced and the price spread between the producer and consumer may be narrowed, that dietary and nutritional standards may be improved, that new and wider markets for American agricultural products may be developed, both in the United States and in other countries, with a view to making it possible for the full production of American farms to be disposed of usefully, economically, profitably, and in an orderly manner. In effectuating the purposes of this chapter, maximum use shall be made of existing research facilities owned or controlled by the Federal Government or by State agricultural experiment stations and of the facilities of the Federal and State extension services. To the maximum extent practicable marketing research work done under this chapter in cooperation with the States shall be done in cooperation with the State agricultural experiment stations; marketing educational and demonstrational work done under this chapter in cooperation with the States shall be done in cooperation with the State agricultural extension service; market information, inspection, regulatory work and other marketing service done under this chapter in cooperation with the State agencies shall be done in cooperation with the State departments of agriculture, and State bureaus and departments of markets.

(Aug. 14, 1946, ch. 966, title II, §202, 60 Stat. 1087.)

SHORT TITLE

Section 201 of act Aug. 14, 1946, provided that: "This title [enacting this chapter] may be cited as the 'Agricultural Marketing Act of 1946'."

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.

NATIONAL COMMISSION ON FOOD MARKETING

Pub. L. 88354, July 3, 1964, 78 Stat. 269, as amended by Pub. L. 8920, May 15, 1965, 79 Stat. 111, provided for the establishment of a bipartisan National Commission on Food Marketing composed of fifteen members, five from the Senate, five from the House of Representatives and five from outside the Federal Government, to study and appraise the marketing structure of the food

industry and to make a final report of its findings and conclusions to the President and to the Congress by July 1, 1966. The Commission ceased to exist ninety days after submission of its final report.

CROSS REFERENCES

Marketing of agricultural products, cooperation with state agencies in administration and enforcement of laws relating to, see section 450 of this title.

Poultry and poultry products inspection, see section 451 et seq. of Title 21, Food and Drugs.

§1622. Duties of Secretary relating to agricultural products

The Secretary of Agriculture is directed and authorized:

(a) Determination of methods of processing, packaging, marketing, etc.; publication of results

To conduct, assist, and foster research, investigation, and experimentation to determine the best methods of processing, preparation for market, packaging, handling, transporting, storing, distributing, and marketing agricultural products: *Provided*, That the results of such research shall be made available to the public for the purpose of expanding the use of American agricultural products in such manner as the Secretary of Agriculture may determine.

(b) Determination of costs

To determine costs of marketing agricultural products in their various forms and through the various channels and to foster and assist in the development and establishment of more efficient marketing methods (including analyses of methods and proposed methods), practices, and facilities, for the purpose of bringing about more efficient and orderly marketing, and reducing the price spread between the producer and the consumer.

(c) Improvement of standards of quality, condition, etc.; standard of quality for ice cream

To develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices. Within thirty days after September 29, 1977, the Secretary shall by regulation adopt a standard of quality for ice cream which shall provide that ice cream shall contain at least 1.6 pounds of total solids to the gallon, weigh not less than 4.5 pounds to the gallon and contain not less than 20 percent total milk solids, constituted of not less than 10 percent milkfat. In no case shall the content of milk solids not fat be less than 6 percent. Whey shall not, by weight, be more than 25 percent of the milk solids not fat. Only those products which meet the standard issued by the Secretary may bear a symbol thereon indicating that they meet the Department of Agriculture standard for "ice cream".

(d) Elimination of artificial barriers to free movement

To conduct, assist, foster, and direct studies and informational programs designed to eliminate artificial barriers to the free movement of agricultural products.

(e) Development of new markets

To foster and assist in the development of new or expanded markets (domestic and foreign) and

new and expanded uses and in the moving of larger quantities of agricultural products through the private marketing system to consumers in the United States and abroad.

(f) Increasing consumer education

To conduct and cooperate in consumer education for the more effective utilization and greater consumption of agricultural products: *Provided*, That no money appropriated under the authority of this chapter shall be used to pay for newspaper or periodical advertising space or radio time in carrying out the purposes of this section and subsection (e) of this section.

(g) Collection and dissemination of marketing information

To collect and disseminate marketing information, including adequate outlook information on a market-area basis, for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income, and bringing about a balance between production and utilization of agricultural products.

(h) Inspection and certification of products in interstate commerce; credit and future availability of funds; investment; certificates as evidence; penalties

To inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary of Agriculture may prescribe, including assessment and collection of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered, to the end that agricultural products may be marketed to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality product which they desire, except that no person shall be required to use the service authorized by this subsection. Any fees collected under this subsection, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall be credited to the trust fund account that incurs the cost of the services provided under this subsection and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing such services. Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any official certificate issued under the authority of this subsection shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the statements therein contained. Whoever knowingly shall falsely make, issue, alter, forge, or counterfeit any official certificate, memorandum, mark, or other identification, or device for making such mark or identification, with respect to inspection, class, grade, quality, size, quantity, or condition, issued or authorized under this section or knowingly cause or procure, or aid, assist in, or be a party to, such false making, issuing, altering, forging, or counterfeiting, or whoever knowingly shall possess, without promptly notifying the Secretary of Agriculture or his

representative, utter, publish, or use as true, or cause to be uttered, published, or used as true, any such falsely made, altered, forged, or counterfeited official certificate, memorandum, mark, identification, or device, or whoever knowingly represents that an agricultural product has been officially inspected or graded (by an authorized inspector or grader) under the authority of this section when such commodity has in fact not been so graded or inspected shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(i) Development of facilities for assembling, processing, transporting, etc.

To determine the needs and develop or assist in the development of plans for efficient facilities and methods of operating such facilities for the proper assembly, processing, transportation, storage, distribution, and handling of agricultural products.

(j) Improvement of transportation facilities and rates

To assist in improving transportation services and facilities and in obtaining equitable and reasonable transportation rates and services and adequate transportation facilities for agricultural products and farm supplies by making complaint or petition to the Interstate Commerce Commission, the Maritime Commission,¹ or other Federal or State transportation regulatory body, or the Secretary of Transportation, with respect to rates, charges, tariffs, practices, and services, or by working directly with individual carriers or groups of carriers.

(k) Collection and dissemination of marketing statistics

To collect, tabulate, and disseminate statistics on marketing agricultural products, including, but not restricted to statistics on market supplies, storage stocks, quantity, quality, and condition of such products in various positions in the marketing channel, utilization of such products, and shipments and unloads thereof.

(l) Development of procurement standards and specifications

To develop and promulgate, for the use and at the request of any Federal agency or State, procurement standards and specifications for agricultural products, and submit such standards and specifications to such agency or State for use or adoption for procurement purposes.

(m) Promotion of research for handling, storing, preserving, etc.

To conduct, assist, encourage, and promote research, investigation, and experimentation to determine the most efficient and practical means, methods, and processes for the handling, storing, preserving, protecting, processing, and distributing of agricultural commodities to the end that such commodities may be marketed in an orderly manner and to the best interest of the producers thereof.

(n) General research, services, and activities

To conduct such other research and services and to perform such other activities as will fa-

cilitate the marketing, distribution, processing, and utilization of agricultural products through commercial channels.

(Aug. 14, 1946, ch. 966, title II, §203, 60 Stat. 1087; Aug. 9, 1955, ch. 632, §1, 69 Stat. 553; Sept. 29, 1977, Pub. L. 95113, title II, §206, 91 Stat. 920; Aug. 6, 1981, Pub. L. 9731, §12(2), 95 Stat. 153; Aug. 28, 1984, Pub. L. 98403, §2, 98 Stat. 1480; Oct. 4, 1984, Pub. L. 98443, §9(j), 98 Stat. 1708.)

AMENDMENTS

1984—Subsec. (h). Pub. L. 98403 inserted provisions relating to the credit of certain funds to the trust fund account which incurs the cost of services provided under this subsection, the future availability of those funds, and investment thereof by the Secretary of Agriculture or the Secretary of the Treasury.

Subsec. (j). Pub. L. 98443 struck out “the Civil Aeronautics Board” after “the Maritime Commission.”

1981—Subsec. (j). Pub. L. 9731 inserted reference to Secretary of Transportation.

1977—Subsec. (c). Pub. L. 95113 inserted provisions relating to the setting of a standard of quality for ice cream.

1955—Subsec. (h). Act Aug. 9, 1955, inserted sentence to provide penalties for forgery or alteration of inspection certificates, unauthorized use of official grade marks or designations, and false or deceptive reference to United States grade standards or services.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95113, set out as a note under section 1307 of this title.

TRANSFER OF FUNCTIONS

Section 304 of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out in the Appendix to Title 5, Government Organization and Employees, abolished Federal Maritime Board, including offices of members of Board. Functions of Board transferred either to Federal Maritime Commission or to Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

United States Maritime Commission abolished by 1950 Reorg. Plan No. 21, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273, set out in the Appendix of Title 5, Government Organization and Employees, which transferred part of its functions and part of functions of its Chairman to Federal Maritime Board and Chairman thereof, such Board having created by that Plan as an agency within Department of Commerce with an independent status in some respects, and transferred remainder of such Commission's functions and functions of its Chairman to Secretary of Commerce, with power vested in Secretary to authorize their performance by Maritime Administrator, head of Maritime Administration, which likewise was established by Plan in Department of Commerce with provision that chairman of said Federal Maritime Board should, ex officio, be such Administrator.

Executive and administrative functions of Maritime Commission transferred to Chairman of Maritime Commission by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069, set out in the Appendix to Title 5.

LAMB PRICE AND SUPPLY REPORTING SERVICES REPORT AND SYSTEM

Pub. L. 102237, title I, §124, Dec. 13, 1991, 105 Stat. 1844, provided that:

¹So in original.

“(a) REPORT.—Not later than 90 days after the date of enactment of this Act [Dec. 13, 1991], the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on measures that are necessary to improve the lamb price and supply reporting services of the Department of Agriculture, including recommendations to establish a complete information gathering system that reflects the market structure of the national lamb industry. In preparing the report, the Secretary shall examine measures to improve information on—

“(1) price reporting series of wholesale, retail, box, carcass, pelt, offal, and live lamb sales in the United States, including markets in—

“(A) California (including San Francisco);

“(B) the East Coast region (including Washington, D.C.);

“(C) the Midwest region (including Chicago, Illinois);

“(D) Texas;

“(E) the Rocky Mountain region; and

“(F) Florida;

“(2) sheep and lamb inventories, including on-feed reports;

“(3) the price and supply relationships between retailers and breakers;

“(4) the viability of voluntary or mandatory reporting for sheep prices; and

“(5) information on the import and export of sheep, analyzed by cut, carcass, box, breeder stock, and sex.

“(b) PRICE DISCOVERY AND REPORTING SYSTEM.—

“(1) SYSTEM REQUIRED.—Based on the report required under subsection (a), the Secretary shall—

“(A) develop a price discovery system formula for the lamb market, such as carcass equivalent pricing; and

“(B) establish a price discovery and reporting system for the lamb market to assist lamb producers to better allocate their resources and make informed production and marketing decisions.

“(2) IMPLEMENTATION.—The price discovery and reporting system for the lamb market shall be implemented by the Secretary not later than 180 days after the date of the submission of the report.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to develop and establish the system required under this subsection.

“(c) CONSULTATION.—In preparing the report required under subsection (a) and establishing the price discovery and reporting system required under subsection (b), the Secretary shall consult with lamb producers and other persons in the national lamb industry.”

RESEARCH TO INVESTIGATE EXTENT TO WHICH GRADE STANDARDS GOVERNING COSMETIC APPEARANCE AFFECT PESTICIDE USE IN PRODUCTION OF PERISHABLE COMMODITIES; ADVISORY COMMITTEE; REPORT

Pub. L. 101624, title XIII, subtitle C, Nov. 28, 1990, 104 Stat. 3566, as amended by Pub. L. 102237, title I, §114(a)(3), Dec. 13, 1991, 105 Stat. 1838, provided that:

“SEC. 1351. DEFINITION.

“As used in this subtitle, the term ‘cosmetic appearance’ means the exterior appearance of an agricultural commodity, including changes to that appearance resulting from superficial damage or other alteration that do not significantly affect yield, taste, or nutritional value.

“SEC. 1352. RESEARCH.

“(a) REQUIREMENT.—The Secretary of Agriculture shall conduct research to examine the effects, to the extent listed in subsection (b), of grade standards and other regulations, as developed and promulgated pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), and other statutes governing cosmetic appearance.

“(b) SCOPE OF RESEARCH.—The primary goal of this research is to investigate the extent to which grade

standards and other regulations governing cosmetic appearance affect pesticide use in the production of perishable commodities. The research shall also—

“(1) determine pesticide application levels for United States perishable commodity production and assess trends, and factors influencing those trends, of pesticide application levels since 1975;

“(2) determine the extent to which Federal grade standards and other regulations affect pesticide use in agriculture for cosmetic appearance;

“(3) determine the effect of reducing emphasis on cosmetic appearance in grade standards and other regulations on—

“(A) the application and availability of pesticides in agriculture;

“(B) the adoption of agricultural practices that result in reduced pesticide use;

“(C) production and marketing costs;

“(D) domestic and international markets and trade for perishable commodities;

“(4) determine the extent to which grade standards and other regulations reflect consumer preferences;

“(5) develop options for implementation of food marketing policies and practices that will remove obstacles that may exist to pesticide use reduction, based on the findings of research conducted under this section.

“(c) FIELD RESEARCH.—

“(1) LENGTH OF PROJECTS.—The Secretary of Agriculture shall implement, not later than 12 months after the date of enactment of this Act [Nov. 28, 1990], a minimum of three, 2-year market research projects, in at least three States, to demonstrate and evaluate the feasibility of consumer education and information programs.

“(2) SCOPE OF FIELD RESEARCH.—Research under paragraph (1) shall be conducted to evaluate programs designed to—

“(A) offer consumers choices among perishable commodities produced with different production practices;

“(B) provide consumers with information about agricultural practices used in the production of perishable commodities; or

“(C) educate the public about the relationship, as determined in the research conducted under this subtitle, between the cosmetic appearance of perishable commodities and pesticide use.

“(d) DISSEMINATION OF RESULTS.—The Secretary of Agriculture shall disseminate to concerned parties the results obtained from prior scientifically valid research concerning Federal marketing policies and practices described in this section to avoid any duplication of effort and to ensure that current knowledge concerning such policies and practices is enhanced.

“(e) ADVISORY COMMITTEE.—

“(1) ESTABLISHMENT.—The Secretary of Agriculture shall establish an advisory committee for the purpose of providing ongoing review of the implementation of the requirements in this section and providing the Secretary of Agriculture with recommendations regarding the implementation of those requirements.

“(2) MEMBERSHIP.—The Advisory Committee shall consist of 12 members comprised of three representatives from not-for-profit consumer organizations, three representatives from not-for-profit environmental organizations, three representatives from production agriculture and the perishable commodity grower and shipper community, and three representatives from the food retailing sector, each with experience in the policy issues discussed in this section.

“(f) REPORT.—The Secretary of Agriculture shall report to Congress on the research conducted under this section no later than September 30, 1992. The Secretary shall report on the research conducted under subsection (c) no later than September 30, 1993.

“SEC. 1353. CHANGES IN PROCEDURAL REGULATIONS.

“With regard to Federal grade standards developed and promulgated pursuant to the Agricultural Market-

ing Act of 1946 (7 U.S.C. 1621 et seq.), the Secretary of Agriculture shall:

“(1) Take into account the impact of those standards on the ability of perishable commodity growers to reduce the use of pesticides.

“(2) Provide for citizens outside of the perishable commodity industry fair and reasonable opportunity to formally petition a change in grade standards.

“(3) Provide for a comment period after a formal petition to change grade standards has been made to enable all interested parties to submit information. The Secretary of Agriculture shall evaluate the information and consider it in the revision process.

“(4) Provide interested parties with annual status reports during the period 1992 through 1994, updated upon request, on all pending grade standard changes the Department of Agriculture is considering.

“SEC. 1354. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out the activities required under this subtitle, \$4,000,000 for each fiscal year.”

CROSS REFERENCES

Investigation of quality and condition of produce received in interstate commerce, see section 499n of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2276 of this title; title 40 section 474.

§1622a. Authority to assist farmers and elevator operators

The Secretary may provide technical assistance (including information on such financial assistance as may be available) to grain producers and elevator operators to assist such producers and operators in installing or improving grain cleaning, drying or storage equipment.

(Pub. L. 101624, title XX, §2014, Nov. 28, 1990, 104 Stat. 3933.)

CODIFICATION

Section was enacted as part of the Grain Quality Incentives Act of 1990, and also as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

§1623. Authorization of appropriations; allotments to States

(a) In order to conduct research and service work in connection with the preparation for market, processing, packaging, handling, storing, transporting, distributing, and marketing of agricultural products as authorized by this chapter, there is hereby authorized to be appropriated the following sums:

(1) \$2,500,000 for the fiscal year ending June 30, 1947, and each subsequent fiscal year.

(2) An additional \$2,500,000 for the fiscal year ending June 30, 1948, and each subsequent fiscal year.

(3) An additional \$5,000,000 for the fiscal year ending June 30, 1949, and each subsequent fiscal year.

(4) An additional \$5,000,000 for the fiscal year ending June 30, 1950, and each subsequent fiscal year.

(5) An additional \$5,000,000 for the fiscal year ending June 30, 1951, and each subsequent fiscal year.

(6) In addition to the foregoing, such additional funds beginning with the fiscal year

ending June 30, 1952, and thereafter, as the Congress may deem necessary.

Such sums appropriated in pursuance of this chapter shall be in addition to, and not in substitution for, sums appropriated or otherwise made available to the Department of Agriculture.

(b) The Secretary of Agriculture is authorized to make available from such funds such sums as he may deem appropriate for allotment to State departments of agriculture, State bureaus and departments of markets, State agricultural experiment stations, and other appropriate State agencies for cooperative projects in marketing service and in marketing research to effectuate the purposes of this chapter: *Provided*, That no such allotment and no payment under any such allotment shall be made for any fiscal year to any State agency in excess of the amount which such State agency makes available out of its own funds for such research. The funds which State agencies are required to make available in order to qualify for such an allotment shall be in addition to any funds now available to such agencies for marketing services and for marketing research. The allotments authorized under this section shall be made to the agency or agencies best equipped and qualified to conduct the specific project to be undertaken. Such allotments shall be covered by cooperative agreements between the Secretary of Agriculture and the cooperating agency and shall include appropriate provisions for preventing duplication or overlapping of work within the State or States cooperating. Should duplication or overlapping occur subsequent to approval of a cooperative project or allotment of funds, the Secretary of Agriculture is authorized and directed to withhold unexpended balances on such projects notwithstanding the prior approval thereof.

(Aug. 14, 1946, ch. 966, title II, §204, 60 Stat. 1089.)

§1623a. Minimum sum for contracting

Not less than \$1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, and July 28, 1954, and¹ (7 U.S.C. 427, 16211629), and by chapter 63 of title 31 shall be available for contracting in accordance with said Acts and chapter.

(Sept. 30, 1994, Pub. L. 103330, title VII, §703, 108 Stat. 2466.)

CODIFICATION

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

Oct. 21, 1993, Pub. L. 103111, title VII, §703, 107 Stat. 1078.

Aug. 14, 1992, Pub. L. 102341, title VII, §703, 106 Stat. 906.

Oct. 28, 1991, Pub. L. 102142, title VII, §704, 105 Stat. 911.

¹So in original.

Nov. 5, 1990, Pub. L. 101506, title VI, §604, 104 Stat. 1346.

Nov. 21, 1989, Pub. L. 101161, title VI, §604, 103 Stat. 982.

Oct. 1, 1988, Pub. L. 100460, title VI, §604, 102 Stat. 2259.
Dec. 22, 1987, Pub. L. 100202, §101(k) [title VI, §604], 101 Stat. 1329322, 1329353.

Oct. 18, 1986, Pub. L. 99500, §101(a) [title VI, §604], 100 Stat. 1783, 178327, and Oct. 30, 1986, Pub. L. 99591, §101(a) [title VI, §604], 100 Stat. 3341, 334127.

Dec. 19, 1985, Pub. L. 99190, §101(a) [H.R. 3037, title VI, §604], 99 Stat. 1185.

Oct. 12, 1984, Pub. L. 98473, title I, §101(a) [H.R. 5743, title VI, §604], 98 Stat. 1837.

Nov. 14, 1983, Pub. L. 98151, §101(d) [H.R. 3223, title VI, §604], 97 Stat. 972.

Dec. 18, 1982, Pub. L. 97370, title VI, §604, 96 Stat. 1810.

Dec. 23, 1981, Pub. L. 97103, title VI, §604, 95 Stat. 1487.

Dec. 15, 1980, Pub. L. 96528, title VI, §604, 94 Stat. 3116.

Nov. 9, 1979, Pub. L. 96108, title VI, §603, 93 Stat. 840.

Oct. 11, 1978, Pub. L. 95448, title VI, §603, 92 Stat. 1092.

Aug. 12, 1977, Pub. L. 9597, title VI, §603, 91 Stat. 828.

July 12, 1976, Pub. L. 94351, title VI, §603, 90 Stat. 868.

Oct. 21, 1975, Pub. L. 94122, title VI, §605, 89 Stat. 667.

Dec. 31, 1974, Pub. L. 93563, title V, §505, 88 Stat. 1842.

Oct. 24, 1973, Pub. L. 93135, title V, §506, 87 Stat. 490.

Aug. 22, 1972, Pub. L. 92399, title V, §506, 86 Stat. 611.

Aug. 10, 1971, Pub. L. 9273, title V, §506, 85 Stat. 201.

Dec. 22, 1970, Pub. L. 91566, title V, §506, 84 Stat. 1496.

Nov. 26, 1969, Pub. L. 91127, title V, §506, 83 Stat. 260.

Aug. 8, 1968, Pub. L. 90463, title V, §506, 82 Stat. 653.

Oct. 24, 1967, Pub. L. 90113, title V, §506, 81 Stat. 335.

Sept. 7, 1966, Pub. L. 89556, title V, §506, 80 Stat. 704.

Nov. 2, 1965, Pub. L. 89316, title V, §506, 79 Stat. 1179.

Sept. 2, 1964, Pub. L. 88573, title V, §506, 78 Stat. 876.

Dec. 30, 1963, Pub. L. 88250, title VI, §606, 77 Stat. 833.

Oct. 24, 1962, Pub. L. 87879, title VI, §606, 76 Stat. 1215.

July 26, 1961, Pub. L. 87112, title V, §506, 75 Stat. 241.

June 29, 1960, Pub. L. 86532, title IV, §406, 74 Stat. 244.

July 8, 1959, Pub. L. 8680, title IV, §406, 73 Stat. 180.

June 13, 1958, Pub. L. 86459, title IV, §406, 72 Stat. 199.

Aug. 2, 1957, Pub. L. 85118, title V, §506, 71 Stat. 340.

June 4, 1956, ch. 355, title V, §506, 70 Stat. 241.

May 23, 1955, ch. 43, title V, §506, 69 Stat. 63.

June 29, 1954, ch. 409, title V, §506, 68 Stat. 319.

§1624. Cooperation with Government and State agencies, private research organizations, etc.; rules and regulations

(a) In carrying out the provisions of this chapter, the Secretary of Agriculture may cooperate with other branches of the Government, State agencies, private research organizations, purchasing and consuming organizations, boards of trade, chambers of commerce, other associations of business or trade organizations, transportation and storage agencies and organizations, or other persons or corporations engaged in the production, transportation, storing, processing, marketing, and distribution of agricultural products whether operating in one or more jurisdictions. The Secretary of Agriculture shall have authority to enter into contracts and agreements under the terms of regulations promulgated by him with States and agencies of States, private firms, institutions, and individuals for the purpose of conducting research and service work, making and compiling reports and surveys, and carrying out other functions relating thereto when in his judgment the services or functions to be performed will be carried out more effectively, more rapidly, or at less cost than if performed by the Department of Agriculture. Contracts under this section may be made for work to be performed within a period not more than four years from the date of any

such contract, and advance, progress, or other payments may be made. The provisions of section 3324(a) and (b) of title 31 and section 5 of title 41 shall not be applicable to contracts or agreements made under the authority of this section. Any unexpended balances of appropriations obligated by contracts as authorized by this section may, notwithstanding the provisions of section 5 of the Act of June 20, 1874, as amended (31 U.S.C., sec. 713), remain upon the books of the Treasury for not more than five fiscal years before being carried to the surplus fund and covered into the Treasury. Any contract made pursuant to this section shall contain requirements making the result of such research and investigations available to the public by such means as the Secretary of Agriculture shall determine.

(b) The Secretary of Agriculture shall promulgate such orders, rules, and regulations as he deems necessary to carry out the provisions of this chapter.

(Aug. 14, 1946, ch. 966, title II, §205, 60 Stat. 1090; Aug. 30, 1954, ch. 1076, §1(7), 68 Stat. 966.)

REFERENCES IN TEXT

Section 5 of the Act of June 20, 1874, as amended (31 U.S.C. sec. 713), referred to in subsec. (a), was repealed by act July 6, 1949, ch. 299, §3, 63 Stat. 407.

CODIFICATION

In subsec. (a), "section 3324(a) and (b) of title 31" substituted for reference to section 3648 (31 U.S.C., sec. 529) of the Revised Statutes on authority of Pub. L. 97258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1954—Subsec. (b). Act Aug. 30, 1954, repealed second sentence requiring Secretary of Agriculture to include in his annual report to Congress a complete statement of research work being performed under contracts or cooperative agreements under this chapter.

DISTRIBUTION OF SURPLUS COMMODITIES

Pub. L. 97253, title I, §191, Sept. 8, 1982, 96 Stat. 787, provided that:

“(a) The Congress finds that—

“(1) for an increasing number of people in the United States, these are times of great suffering and deprivation;

“(2) rising unemployment, decreasing appropriations for social services, and increasingly adverse economic conditions have all contributed to produce hunger and want on a scale not experienced since the time of the Great Depression;

“(3) the demand for every conceivable form of assistance for the hungry and needy people of the United States grows more critical daily, while the availability of goods and services to meet the needs of such people is rapidly diminishing;

“(4) soup kitchens, food banks, and other organizations which provide food to the hungry report an astronomical increase in the number of persons seeking the assistance of such organizations;

“(5) according to a study completed by the General Accounting Office in 1977, one hundred and thirty-seven million tons of food, or more than 20 per centum of this country's total annual food production, is wasted or discarded in the United States each year;

“(6) at wholesale and retail food distributors, shipping terminals, and other establishments all across the country, enormous quantities of fresh fruits and vegetables and dated dairy and bakery products are discarded each day, while growing numbers of Americans go to bed hungry and undernourished each night;

“(7) in these times of budget constraints and appeals for reductions in Federal spending, the use of private resources to meet the basic food requirements of our citizens should be encouraged; and

“(8) many States and local governments have not enacted laws which limit the liability of food donors, such as so-called Good Samaritan Acts and donor liability laws, and thus have discouraged donation of food to the needy by private persons.

“(b) It is the sense of the Congress that—

“(1) departments and agencies of the Federal Government should take such steps as may be necessary to distribute to hungry people of the United States surplus food or food which would otherwise be discarded;

“(2) State and local governments which have not yet enacted so-called Good Samaritan or donor liability laws to encourage private cooperative efforts to provide food for hungry people within their respective jurisdictions should do so as quickly as possible; and

“(3) wholesale and retail food distributors, shipping terminals, and other establishments should work more closely with religious, community, and other charitable organizations to make wholesome food which is currently being wasted or discarded by such establishments available for immediate distribution to hungry people of the United States.”

CROSS REFERENCES

Marketing of agricultural products, cooperation with state agencies in administration and enforcement of laws relating to, see section 450 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 35 section 210; title 42 section 418.

§1625. Transfer and consolidation of functions, powers, bureaus, etc.

In order to facilitate administration and to increase the effectiveness of the marketing research, service, and regulatory work of the Department of Agriculture to the fullest extent practicable, the Secretary of Agriculture is authorized, notwithstanding any other provisions of law, to transfer, group, coordinate, and consolidate the functions, powers, duties, and authorities of each and every agency, division, bureau, service, section, or other administrative unit in the Department of Agriculture primarily concerned with research, service, or regulatory activities in connection with the marketing, transportation, storage, processing, distribution of, or service or regulatory activities in connection with, the utilization of, agricultural products, into a single administrative agency. In making such changes as may be necessary to carry out effectively the purposes of this chapter, the records, property, personnel, and funds of such agencies, divisions, bureaus, services, sections, or other administrative units in the Department of Agriculture affected are authorized to be transferred to and used by such administrative agency to which the transfer may be made, but such unexpended balances of appropriations so transferred shall be used only for the purposes for which such appropriations were made.

(Aug. 14, 1946, ch. 966, title II, §206, 60 Stat. 1090.)

§1626. Definitions

When used in this chapter, the term “agricultural products” includes agricultural, horti-

cultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured product thereof, and the term “State” when used in this chapter shall include the Virgin Islands and Guam.

(Aug. 14, 1946, ch. 966, title II, §207, 60 Stat. 1091; June 23, 1972, Pub. L. 92318, title V, §506(f), 86 Stat. 351.)

AMENDMENTS

1972—Pub. L. 92318 inserted definition of “State” as including Virgin Islands and Guam.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92318 effective after June 30, 1970, see section 506(n) of Pub. L. 92318, set out as a note under section 326a of this title.

§1627. Appointment of personnel; compensation; employment of specialists

The Secretary of Agriculture shall have the power to appoint, remove, and fix, in accordance with existing law, the compensation of such officers and employees, and to make such expenditures as he deems necessary, including expenditures for rent outside the District of Columbia, travel, supplies, books, equipment, and such other expenditures as may be necessary to the administration of this chapter: *Provided*, That the Secretary of Agriculture may appoint any technically qualified person, firm, or organization by contract or otherwise on a temporary basis and for a term not to exceed six months in any fiscal year to perform research, inspection, classification, technical, or other special services, without regard to the civil-service laws.

(Aug. 14, 1946, ch. 966, title II, §208, 60 Stat. 1091.)

REFERENCES IN TEXT

The civil-service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

Provisions that authorized the Secretary of Agriculture to “fix the compensation” of any technically qualified person, firm, or organization by contract or otherwise on a temporary basis and for a term not to exceed six months in any fiscal year to perform research, inspection, classification, technical or other special services, without regard to the “Classification Act of 1923, as amended” were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973 repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exceptions contained in this subsection because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Pub. L. 89554, §8(a), Sept. 6, 1966, 80 Stat. 632 (of which section 1 revised and enacted Title 5, U.S.C., into law). Section 5102 of Title 5, now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

§1628. Repealed. Pub. L. 9386, §2, Aug. 10, 1973, 87 Stat. 246

Section, acts Aug. 14, 1946, ch. 966, title III, §301, 60 Stat. 1091; Dec. 29, 1967, Pub. L. 90233, 81 Stat. 752, provided for establishment and staffing of a national advisory committee to aid in implementing the research and service work authorized under this chapter, sections 427 and 427i of this title and former sections 427h and 427j of this title, and set forth functions of such committee.

§1629. Establishment of committees to assist in research and service programs

In the furtherance of the research and service work authorized by sections 427 and 427i of this title and this chapter, the Secretary of Agriculture may, in addition to the national advisory committee, establish appropriate committees, including representatives of producers, industry, government and science, to assist in effectuating specific research and service programs.

(Aug. 14, 1946, ch. 966, title III, §302, 60 Stat. 1091.)

REFERENCES IN TEXT

The national advisory committee, referred to in text, was established by section 1628 of this title, which was subsequently repealed by Pub. L. 9386, §2, Aug. 10, 1973, 87 Stat. 246.

CODIFICATION

Section was not enacted as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

§1630. Omitted

CODIFICATION

Section, act June 4, 1956, ch. 355, title V, §508, 70 Stat. 241, which provided for availability of appropriations for committee expenses in effectuating research and service work, was from the Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, and was not repeated in subsequent appropriation acts.

Similar provisions were contained in the following prior appropriation acts:

May 23, 1955, ch. 43, title V, §509, 69 Stat. 64.

June 29, 1954, ch. 409, title V, §509, 68 Stat. 319.

§1631. Protection for purchasers of farm products

(a) Congressional findings

Congress finds that—

(1) certain State laws permit a secured lender to enforce liens against a purchaser of farm products even if the purchaser does not know that the sale of the products violates the lender's security interest in the products, lacks any practical method for discovering the existence of the security interest, and has no reasonable means to ensure that the seller uses the sales proceeds to repay the lender;

(2) these laws subject the purchaser of farm products to double payment for the products, once at the time of purchase, and again when the seller fails to repay the lender;

(3) the exposure of purchasers of farm products to double payment inhibits free competition in the market for farm products; and

(4) this exposure constitutes a burden on and an obstruction to interstate commerce in farm products.

(b) Declaration of purpose

The purpose of this section is to remove such burden on and obstruction to interstate commerce in farm products.

(c) Definitions

For the purposes of this section—

(1) The term "buyer in the ordinary course of business" means a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations who is in the business of selling farm products.

(2) The term "central filing system" means a system for filing effective financing statements or notice of such financing statements on a statewide basis and which has been certified by the Secretary of the United States Department of Agriculture; the Secretary shall certify such system if the system complies with the requirements of this section; specifically under such system—

(A) effective financing statements or notice of such financing statements are filed with the office of the Secretary of State of a State;

(B) the Secretary of State records the date and hour of the filing of such statements;

(C) the Secretary of State compiles all such statements into a master list—

(i) organized according to farm products;

(ii) arranged within each such product—

(I) in alphabetical order according to the last name of the individual debtors, or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors; and

(II) in numerical order according to the social security number of the individual debtors or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number of such debtors; and

(III) geographically by county or parish; and

(IV) by crop year;

(iii) containing the information referred to in paragraph (4)(D);

(D) the Secretary of State maintains a list of all buyers of farm products, commission merchants, and selling agents who register with the Secretary of State, on a form indicating—

(i) the name and address of each buyer, commission merchant and selling agent;

(ii) the interest of each buyer, commission merchant, and selling agent in receiving the lists described in subparagraph (E); and

(iii) the farm products in which each buyer, commission merchant, and selling agent has an interest;

(E) the Secretary of State distributes regularly as prescribed by the State to each buyer, commission merchant, and selling agent on the list described in subparagraph (D) a copy in written or printed form of those portions of the master list described in paragraph¹ (C) that cover the farm products

¹So in original. Probably should be "subparagraph".

in which such buyer, commission merchant, or selling agent has registered an interest;

(F) the Secretary of State furnishes to those who are not registered pursuant to (2)(D) of this section² oral confirmation within 24 hours of any effective financing statement on request followed by written confirmation to any buyer of farm products buying from a debtor, or commission merchant or selling agent selling for a seller covered by such statement.

(3) The term “commission merchant” means any person engaged in the business of receiving any farm product for sale, on commission, or for or on behalf of another person.

(4) The term “effective financing statement” means a statement that—

(A) is an original or reproduced copy thereof;

(B) is signed and filed with the Secretary of State of a State by the secured party;

(C) is signed by the debtor;

(D) contains,

(i) the name and address of the secured party;

(ii) the name and address of the person indebted to the secured party;

(iii) the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number of such debtor;

(iv) a description of the farm products subject to the security interest created by the debtor, including the amount of such products where applicable; and a reasonable description of the property, including³ county or parish in which the property is located;

(E) must be amended in writing, within 3 months, similarly signed and filed, to reflect material changes;

(F) remains effective for a period of 5 years from the date of filing, subject to extensions for additional periods of 5 years each by re-filing or filing a continuation statement within 6 months before the expiration of the initial 5 year period;

(G) lapses on either the expiration of the effective period of the statement or the filing of a notice signed by the secured party that the statement has lapsed, whichever occurs first;

(H) is accompanied by the requisite filing fee set by the Secretary of State; and

(I) substantially complies with the requirements of this subparagraph even though it contains minor errors that are not seriously misleading.

(5) The term “farm product” means an agricultural commodity such as wheat, corn, soybeans, or a species of livestock such as cattle, hogs, sheep, horses, or poultry used or produced in farming operations, or a product of such crop or livestock in its unmanufactured state (such as ginned cotton, wool-clip, maple

syrup, milk, and eggs), that is in the possession of a person engaged in farming operations.

(6) The term “knows” or “knowledge” means actual knowledge.

(7) The term “security interest” means an interest in farm products that secures payment or performance of an obligation.

(8) The term “selling agent” means any person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of any farm product on behalf of a person engaged in farming operations.

(9) The term “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(10) The term “person” means any individual, partnership, corporation, trust, or any other business entity.

(11) The term “Secretary of State” means the Secretary of State or the designee of the State.

(d) Purchases free of security interest

Except as provided in subsection (e) of this section and notwithstanding any other provision of Federal, State, or local law, a buyer who in the ordinary course of business buys a farm product from a seller engaged in farming operations shall take free of a security interest created by the seller, even though the security interest is perfected; and the buyer knows of the existence of such interest.

(e) Purchases subject to security interest

A buyer of farm products takes subject to a security interest created by the seller if—

(1)(A) within 1 year before the sale of the farm products, the buyer has received from the secured party or the seller written notice of the security interest organized according to farm products that—

(i) is an original or reproduced copy thereof;

(ii) contains,

(I) the name and address of the secured party;

(II) the name and address of the person indebted to the secured party;

(III) the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number of such debtor;

(IV) a description of the farm products subject to the security interest created by the debtor, including the amount of such products where applicable, crop year, county or parish, and a reasonable description of the property; and

(iii) must be amended in writing, within 3 months, similarly signed and transmitted, to reflect material changes;

(iv) will lapse on either the expiration period of the statement or the transmission of a notice signed by the secured party that the

²So in original. Probably should be “pursuant to subparagraph (D)”.

³So in original. Probably should be followed by “the”.

statement has lapsed, whichever occurs first; and

(v) any⁴ payment obligations imposed on the buyer by the secured party as conditions for waiver or release of the security interest; and

(B) the buyer has failed to perform the payment obligations, or

(2) in the case of a farm product produced in a State that has established a central filing system—

(A) the buyer has failed to register with the Secretary of State of such State prior to the purchase of farm products; and

(B) the secured party has filed an effective financing statement or notice that covers the farm products being sold; or

(3) in the case of a farm product produced in a State that has established a central filing system, the buyer—

(A) receives from the Secretary of State of such State written notice as provided in subparagraph⁵ (c)(2)(E) or (c)(2)(F) that specifies both the seller and the farm product being sold by such seller as being subject to an effective financing statement or notice; and

(B) does not secure a waiver or release of the security interest specified in such effective financing statement or notice from the secured party by performing any payment obligation or otherwise; and⁶

(f) Law governing “receipt”

What constitutes receipt, as used in this section, shall be determined by the law of the State in which the buyer resides.

(g) Commission merchants or selling agents; sales free of or subject to security interest; law governing “receipt”

(1) Except as provided in paragraph (2) and notwithstanding any other provision of Federal, State, or local law, a commission merchant or selling agent who sells, in the ordinary course of business, a farm product for others, shall not be subject to a security interest created by the seller in such farm product even though the security interest is perfected and even though the commission merchant or selling agent knows of the existence of such interest.

(2) A commission merchant or selling agent who sells a farm product for others shall be subject to a security interest created by the seller in such farm product if—

(A) within 1 year before the sale of such farm product the commission merchant or selling agent has received from the secured party or the seller written notice of the security interest; organized according to farm products, that—

(i) is an original or reproduced copy thereof;

(ii) contains,

(I) the name and address of the secured party;

(II) the name and address of the person indebted to the secured party;

(III) the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number of such debtor;

(IV) a description of the farm products subject to the security interest created by the debtor, including the amount of such products, where applicable, crop year, county or parish, and a reasonable description of the property, etc.; and

(iii) must be amended in writing, within 3 months, similarly signed and transmitted, to reflect material changes;

(iv) will lapse on either the expiration period of the statement or the transmission of a notice signed by the secured party that the statement has lapsed, whichever occurs first; and

(v) any⁷ payment obligations imposed on the commission merchant or selling agent by the secured party as conditions for waiver or release of the security interest; and

(B) the commission merchant or selling agent has failed to perform the payment obligations;

(C) in the case of a farm product produced in a State that has established a central filing system—

(i) the commission merchant or selling agent has failed to register with the Secretary of State of such State prior to the purchase of farm products; and

(ii) the secured party has filed an effective financing statement or notice that covers the farm products being sold; or

(D) in the case of a farm product produced in a State that has established a central filing system, the commission merchant or selling agent—

(i) receives from the Secretary of State of such State written notice as provided in subsection (c)(2)(E) or (c)(2)(F) of this section that specifies both the seller and the farm products being sold by such seller as being subject to an effective financing statement or notice; and

(ii) does not secure a waiver or release of the security interest specified in such effective financing statement or notice from the secured party by performing any payment obligation or otherwise.

(3) What constitutes receipt, as used in this section, shall be determined by the law of the State in which the buyer resides.

(h) Security agreements; identity lists; notice of identity or accounting for proceeds; violations

(1) A security agreement in which a person engaged in farming operations creates a security interest in a farm product may require the person to furnish to the secured party a list of the buyers, commission merchants, and selling agents to or through whom the person engaged in farming operations may sell such farm product.

⁴So in original. Probably should be preceded by “contains”.

⁵So in original. Probably should be “subsection”.

⁶So in original. A period probably should appear instead of “; and”.

⁷So in original. Probably should be preceded by “contains”.

(2) If a security agreement contains a provision described in paragraph (1) and such person engaged in farming operations sells the farm product collateral to a buyer or through a commission merchant or selling agent not included on such list, the person engaged in farming operations shall be subject to paragraph (3) unless the person—

(A) has notified the secured party in writing of the identity of the buyer, commission merchant, or selling agent at least 7 days prior to such sale; or

(B) has accounted to the secured party for the proceeds of such sale not later than 10 days after such sale.

(3) A person violating paragraph (2) shall be fined \$5,000 or 15 per centum of the value or benefit received for such farm product described in the security agreement, whichever is greater.

(i) Regulations

The Secretary of Agriculture shall prescribe regulations not later than 90 days after December 23, 1985, to aid States in the implementation and management of a central filing system.

(j) Effective date

This section shall become effective 12 months after December 23, 1985.

(Pub. L. 99198, title XIII, §1324, Dec. 23, 1985, 99 Stat. 1535.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§1632. Market expansion research

(a) The Secretary of Agriculture, using available funds, shall increase and intensify research programs conducted by or for the Department of Agriculture that are directed at developing technology to overcome barriers to expanded sales of United States agricultural commodities and the products thereof in domestic and foreign markets, including research programs for the development of procedures to meet plant quarantine requirements and improvement in the transportation and handling of perishable agricultural commodities.

(b)(1) The Secretary of Agriculture shall conduct a research and development program to formulate new uses for farm and forest products. Such program shall include, but not be limited to, research and development of industrial, new, and value-added products.

(2) To the extent practicable, the Secretary of Agriculture shall carry out the program authorized in this subsection with colleges and universities, private industry, and Federal and State entities through a combination of grants, cooperative agreements, contracts, and interagency agreements.

(3)(A) There are authorized to be appropriated such sums as are necessary to carry out the program authorized under this subsection.

(B) In addition, the Secretary may use funds appropriated or made available to the Secretary under provisions of law other than subparagraph (A) to carry out such program.

(C) To the extent requests are made for matching funds under such program, the total amount of funds used by the Secretary to carry out the program under this subsection may not be less than \$10,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990.

(4) Funds appropriated under subparagraph (A) or made available under subparagraph (B) may be transferred among appropriation accounts to carry out the purposes of the program authorized under this subsection.

(5) Notwithstanding any other provision of law, the Federal share of the cost of each research or development project funded under this subsection may not exceed 50 percent of the cost of such project.

(Pub. L. 99198, title XIV, §1436, Dec. 23, 1985, 99 Stat. 1558.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

CHAPTER 39—STABILIZATION OF INTERNATIONAL WHEAT MARKET

Sec.

- | | |
|-------|---|
| 1641. | Availability of wheat for export; utilization of funds and facilities; prices; authorization of appropriations. |
| 1642. | Enforcement by President. <ul style="list-style-type: none"> (a) Rules or regulations. (b) Reports; keeping and examination of books and records. (c) Penalty for violation. (d) Forfeiture for excessive exports or imports. (e) Jurisdiction and venue of actions; remedies, fines, and forfeitures as additional. (f) Delegation of authority. (g) Authorization of appropriations. (h) Use of funds. (i) Exclusion from Administrative Procedure Act. (j) "Person" defined. |

§1641. Availability of wheat for export; utilization of funds and facilities; prices; authorization of appropriations

The President is authorized, acting through the Commodity Credit Corporation, to make available or cause to be made available, notwithstanding the provisions of any other law, such quantities of wheat and wheat-flour and at such prices as are necessary to exercise the rights, obtain the benefits, and fulfill the obligations of the United States under the International Wheat Agreement of 1949 signed by Australia, Canada, France, the United States, Uruguay, and certain wheat importing countries, along with the agreements signed by the United States and certain other countries revising and renewing such agreement of 1949 for periods through July 31, 1965 (hereinafter collectively called the "International Wheat Agreement"). Nothing in this chapter shall be con-

strued to preclude the Secretary of Agriculture, in carrying out programs to encourage the exportation of agricultural commodities and products thereof pursuant to section 612c of this title, from utilizing funds available for such programs in such manner as, either separately or jointly with the Commodity Credit Corporation, to exercise the rights, obtain the benefits, and fulfill all or any part of the obligations of the United States under the International Wheat Agreement or to preclude the Commodity Credit Corporation in otherwise carrying out wheat and wheat-flour export programs as authorized by law. Nothing contained in this chapter shall limit the duty of the Commodity Credit Corporation to the maximum extent practicable consistent with the fulfillment of the Corporation's purposes and the effective and efficient conduct of its business to utilize the usual and customary channels, facilities, and arrangements of trade and commerce in making available or causing to be made available wheat and wheat-flour under this chapter. The pricing provisions of section 1510(e)¹ of title 22 and section 713a9 of title 15, shall not be applicable to domestic wheat and wheat-flour supplied to countries which are parties to the International Wheat Agreement and credited to their guaranteed purchases thereunder on and after August 1, 1949, and up to and including June 30, 1950. Where prices in excess of the International Wheat Agreement prices have been paid for such wheat and wheat-flour financed by the Economic Cooperation Administration on or after August 1, 1949, and up to and including June 30, 1950, the Secretary of Agriculture or Commodity Credit Corporation is authorized to reimburse the Economic Cooperation Administration for such excess amounts. Funds realized from such reimbursement shall revert to the respective appropriation or appropriations from which funds were expended for the procurement of such wheat and wheat-flour. There are authorized to be appropriated such sums as may be necessary to make payments to the Commodity Credit Corporation of its estimated or actual net costs of carrying out its functions hereunder. Such net costs in connection with the International Wheat Agreement, 1959, shall include those with respect to all transactions which qualify as commercial purchases (as defined in such agreement) from the United States by importing member countries. Such net costs in connection with the International Wheat Agreement, 1962, shall include those with respect to all transactions which qualify as commercial purchases (as defined in such agreement) from the United States by member and provisional member importing countries, including transactions entered into prior to the deposit of instruments of acceptance or accession by any of the countries involved, if the loading period is not earlier than the date the agreement enters into force. The Commodity Credit Corporation is authorized in carrying out its functions under this chapter to utilize, in advance of such appropriations or payments, any assets available to it.

(Oct. 27, 1949, ch. 772, §2, 63 Stat. 945; Aug. 1, 1953, ch. 306, §1, 67 Stat. 358; Aug. 3, 1956, ch. 911, §1,

70 Stat. 966; Sept. 21, 1959, Pub. L. 86336, 73 Stat. 600; Sept. 5, 1962, Pub. L. 87632, 76 Stat. 434.)

REFERENCES IN TEXT

Section 1510 of title 22, referred to in text, was repealed by act Aug. 26, 1954, ch. 937, title V, §542(a), 68 Stat. 861.

AMENDMENTS

1962—Pub. L. 87632 extended authority of President to act under wheat agreements revising and renewing the Agreement of 1949 for periods through July 31, 1965, included within the net costs connected with the International Wheat Agreement of 1962, those with respect to commercial purchases from the United States by member and provisional member importing countries, including transactions entered into prior to deposit of instruments of acceptance or accession, if the loading period is not earlier than the date the agreement enters force.

1959—Pub. L. 86336 authorized this chapter to be used to implement the 1959 agreement and provided that net costs in connection with the 1959 agreement include those with respect to all transactions which qualify as commercial purchases from the United States by importing member countries.

1956—Act Aug. 3, 1956, permitted this chapter to be used to implement the new agreement ratified on July 11, 1956.

1953—Act Aug. 1, 1953, permitted this chapter to be used to implement the new agreement ratified on July 14, 1953.

SHORT TITLE

Section 1 of act Oct. 27, 1949, provided that: "This Act [enacting this chapter] shall be known as the 'International Wheat Agreement Act of 1949'."

TRANSFER OF FUNCTIONS

Economic Cooperation Administration abolished by act Oct. 10, 1951, ch. 479, 65 Stat. 373. Its functions are exercised by Agency for International Development. See section 2381 of Title 22, Foreign Relations and Intercourse.

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.

REFERENCES TO INTERNATIONAL WHEAT AGREEMENT OF 1949

Section 2 of act Aug. 3, 1956, provided that: "Reference in any law to the International Wheat Agreement of 1949 shall be deemed to include the Agreement (International Wheat Agreement, 1956) revising and renewing the International Wheat Agreement for a period ending July 31, 1959."

Section 2 of act Aug. 1, 1953, provided that: "Reference in any law to the International Wheat Agreement of 1949 shall be deemed to include the agreement revising and renewing the International Wheat Agreement."

§1642. Enforcement by President

(a) Rules or regulations

The President is further authorized to take such other action, including prohibiting or restricting the importation or exportation of wheat or wheat-flour and to issue such rules or

¹See References in Text note below.

regulations which shall have the force and effect of law, as may be necessary in his judgment in the implementation of the International Wheat Agreement.

(b) Reports; keeping and examination of books and records

All persons exporting or importing wheat or wheat-flour or selling wheat or wheat-flour for export shall report to the President such information as he may from time to time require and keep such records as he finds to be necessary to enable him to carry out the purposes of this chapter. Such information shall be reported and such records shall be kept in accordance with such regulations as the President may prescribe. For the purposes 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 President is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as are relevant to transactions under the International Wheat Agreement and are within the control of any such person.

(c) Penalty for violation

Any person failing to make any report or keep any record as required by or pursuant to this section, or making any false report or record or knowingly violating any rule or regulation of the President issued pursuant to this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$1,000 for each violation.

(d) Forfeiture for excessive exports or imports

Any person who knowingly and willfully exports wheat or wheat-flour from the United States, or who knowingly and willfully imports wheat or wheat-flour into the United States for consumption therein, in excess of the quantity of wheat or wheat-flour permitted to be exported or imported, as the case may be, under regulations issued by the President shall forfeit to the United States a sum equal to two times the market value at the time of the commission of any such act, of the quantity of wheat or wheat-flour by which any such exportation or importation exceeds the authorized amount which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(e) Jurisdiction and venue of actions; remedies, fines, and forfeitures as additional

The district courts of the United States shall have jurisdiction of violations of this chapter or the rules and regulations thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by this chapter or the rules and regulations thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by this chapter or rules and regulations thereunder, or to enjoin any violation of such chapter or rules and regulations, may be brought in any such district wherein the defendant is found or is a resident or transacts business. The remedies, fines, and forfeitures provided for in this chapter shall be in addition to, and not exclusive of, any of

the remedies, fines, and forfeitures under existing law.

(f) Delegation of authority

Any power, authority, or discretion conferred on the President by this chapter may be exercised through such department, agency, or officer of the Government as the President may direct, and shall be exercised in conformity with such rules or regulations as he may prescribe.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including the necessary expenses and contributions of the United States in connection with the administration of the International Wheat Agreement.

(h) Use of funds

Funds appropriated under authority of this chapter may be used for the purchase or hire of passenger motor vehicles, for printing and binding, for rent and personal services in the District of Columbia and elsewhere without regard to the limitation contained in section 607(g) of the Federal Employees Pay Act of 1945, as amended [5 U.S.C. 947(g)],¹ and for the employment of experts or consultants or organization thereof, on a temporary basis, by contract or otherwise, without regard to chapter 51 and subchapter III of chapter 53 of title 5, at rates not in excess of \$50 per diem.

(i) Exclusion from Administrative Procedure Act

The functions exercised under authority of this chapter shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of sections 3 and 10 thereof.

(j) "Person" defined

The term "person" as used in this section shall include the singular and the plural and any individual, partnership, corporation, association, or any other organized group of persons.

(Oct. 27, 1949, ch. 772, §3, 63 Stat. 946; Oct. 28, 1949, ch. 782, title II, §202(27), title XI, §1106(a), 63 Stat. 956, 972.)

REFERENCES IN TEXT

Section 607(g) of the Federal Employees Pay Act of 1945, as amended, referred to in subsec. (h), was repealed by act Sept. 12, 1950, ch. 946, title III, §301 (85), 64 Stat. 843.

The Administrative Procedure Act, referred to in subsec. (i), is act June 11, 1946, ch. 324, 60 Stat. 237, as amended, which was repealed and reenacted as subchapter II of chapter 5, and chapter 7, of Title 5, Government Organization and Employees, by Pub. L. 89554, Sept. 6, 1966, 80 Stat. 378, which enacted Title 5. Sections 3 and 10 thereof are covered by section 552 and chapter 7, respectively, of Title 5.

CODIFICATION

The words "and the District Court of the United States for the District of Columbia" in subsection (e) following "district courts of the United States" have been deleted as superfluous in view of section 132 (a) of Title 28, Judiciary and Judicial Procedure, which states that "There shall be in each judicial district a district court which shall be a court of record known as the

¹See References in Text note below.

United States District Court for the district", and section 88 of said Title 28 which states that "The District of Columbia constitutes one judicial district".

In subsec. (h), "chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949" on authority of Pub. L. 89554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1949—Subsec. (h). Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act [of 1923]".

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

EXECUTIVE ORDER NO. 11108

Ex. Ord. No. 11108, May 22, 1963, 28 F.R. 5185, which delegated to Secretary of Agriculture authority of President under this chapter, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

FEDERAL RULES OF CRIMINAL PROCEDURE

Proceedings to be in district and division in which offense committed, see rule 18, Title 18, Appendix, Crimes and Criminal Procedure.

CROSS REFERENCES

Fines, penalties and forfeitures, see section 2461 et seq. of Title 28, Judiciary and Judicial Procedure.

Jurisdiction of district courts of actions for recovery of fine, penalty or forfeiture, see section 1355 of Title 28.

United States as party generally, see section 2401 et seq. of Title 28.

United States as plaintiff, jurisdiction of district courts, see section 1345 of Title 28.

Words denoting number, gender, etc., see section 1 of Title 1, General Provisions.

CHAPTER 40—HALOGETON GLOMERATUS CONTROL

Sec.	
1651.	Government policy for control of Halogeton glomeratus.
1652.	Authority of Secretaries of Agriculture and Interior; surveys; control measures; consent of other departments.
1653.	Expenditure of funds; discretion of Secretaries; utilization of available services.
1654.	Contributions by States.
1655.	Authorization of appropriations; use.
1656.	Extent of authority.

§1651. Government policy for control of Halogeton glomeratus

In order to protect the livestock industry from losses caused by the poisonous weed Halogeton glomeratus now or hereafter existing on lands in the several States, to provide for the maintenance and development of valuable forage plants on range and pasture lands, and to prevent destruction or impairment of range and pasture lands and other lands by the growth, spread, and development of the poisonous weed known as Halogeton glomeratus, it shall be the policy of the Federal Government, acting independently or in cooperation with the several States and political subdivisions thereof, private associa-

tions and organizations, and individuals, to control, suppress, and eradicate this weed, poisonous to livestock, on lands in the several States irrespective of ownership.

(July 14, 1952, ch. 721, §2, 66 Stat. 597.)

SHORT TITLE

Section 1 of act July 14, 1952, provided that: "This Act [enacting this chapter] may be cited as the 'Halogeton Glomeratus Control Act'."

§1652. Authority of Secretaries of Agriculture and Interior; surveys; control measures; consent of other departments

The Secretary of the Interior with respect to lands under his jurisdiction, including trust or restricted Indian lands, and the Secretary of Agriculture with respect to any other lands, either independently or in cooperation with any State or political subdivision thereof, private association or organization, or individual, are severally authorized, upon such conditions as they respectively deem necessary—

(1) to conduct surveys to detect the presence and effect of Halogeton glomeratus on lands in such State;

(2) to determine those measures and operations which are necessary to control, suppress, and eradicate such weed; and

(3) to plan, organize, direct, and carry out such measures and operations as either of them may deem necessary to carry out the purposes of this chapter.

(b) Measures and operations to control, suppress, or eradicate Halogeton glomeratus on lands under the jurisdiction of any department, agency, independent establishment, or corporation of the Federal Government shall not be conducted without the consent of the department, agency, independent establishment, or corporation concerned.

(July 14, 1952, ch. 721, §3, 66 Stat. 598.)

§1653. Expenditure of funds; discretion of Secretaries; utilization of available services

The Secretary of Agriculture in his discretion may allocate, out of any sums appropriated to him under authority of this chapter, to any department, agency, independent establishment, or corporation of the Federal Government having jurisdiction over any land on which there exists Halogeton glomeratus, such amounts as he deems necessary for the control, suppression, and eradication of such weed by such department, agency, independent establishment, or corporation, as the case may be. Sums appropriated to the Secretary of the Interior under authority of this chapter shall be expended for work on, or of benefit to, lands under his jurisdiction, including trust or restricted Indian lands. Either Secretary may also accept and utilize such voluntary and uncompensated services of Federal, State, and local officers and employees as are available.

(July 14, 1952, ch. 721, §4, 66 Stat. 598.)

§1654. Contributions by States

In the discretion of the Secretary of Agriculture or the Secretary of the Interior, as the

case may be, no expenditures shall be made from funds appropriated under this chapter to control, suppress, or eradicate Halogeton glomeratus on lands in the several States until there have been made or agreed upon such contributions, in the form of funds, materials, services, or otherwise, by the States and political subdivisions thereof, private associations, and organizations, and individuals, toward the work of controlling, suppressing, or eradicating such weed, as the Secretary of Agriculture or the Secretary of the Interior, respectively, may require.

(July 14, 1952, ch. 721, §5, 66 Stat. 598.)

§1655. Authorization of appropriations; use

(a) There are hereby authorized to be appropriated to the Secretary of Agriculture and to the Secretary of the Interior such sums as the Congress may from time to time determine to be necessary to carry out the purposes of this chapter.

(b) Any sums so appropriated shall be available for expenditure for the employment of persons and means in the District of Columbia and elsewhere, for the purchase, hire, maintenance, operation, and exchange of aircraft and passenger-carrying vehicles, and for such other expenses as may be necessary to carry out the purposes of this chapter.

(c) Such sums shall not be used to pay the cost or value of any property injured or destroyed in carrying out the purposes of this chapter.

(July 14, 1952, ch. 721, §6, 66 Stat. 598.)

§1656. Extent of authority

The authority contained in this chapter shall be in addition to, and shall not limit or supersede, authority contained in existing law with respect to the control, suppression, and eradication of pests, plants, and plant diseases.

(July 14, 1952, ch. 721, §7, 66 Stat. 599.)

CHAPTER 41—AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE

Sec.	
1691.	United States policy.
1691a.	Global food aid needs.
	SUBCHAPTER I—BARTER
1692.	Transferred.
1693 to 1697.	Repealed.
	SUBCHAPTER II—TRADE AND DEVELOPMENT ASSISTANCE
1701.	Trade and development assistance.
	(a) In general.
	(b) General authority.
1702.	Eligible countries.
	(a) In general.
	(b) Priority.
1703.	Terms and conditions of sales.
	(a) Payment.
	(b) Interest.
	(c) Duration.
	(d) Deferral of payments.
	(e) Delivery of commodities.
1704.	Use of local currency payment.

Sec.	
	(a) In general.
	(b) Special account.
	(c) Activities.
	(d) Fiscal requirements regarding use of local currencies.
1704a.	Agreements for use of foreign currencies; reports to Congress.
1704b.	Repealed.
1704c.	Payments by Secretary of Defense in liquidation of amount due for foreign currencies.
1705.	Value-added foods.
	(a) Policy.
	(b) Partial waiver of repayment.
	(c) Minimize impact.
1706.	Debt-for-health-and-protection swap.
	(a) Definition.
	(b) Assistance for commercial debt swap.
	(c) Eligible projects.
	(d) Terms and conditions of exchange.
	(e) Authorization of appropriations.
1707 to 1715.	Omitted or Repealed.

SUBCHAPTER III—EMERGENCY AND PRIVATE ASSISTANCE PROGRAMS

1721.	General authority.
1722.	Provision of agricultural commodities.
	(a) Emergency assistance.
	(b) Non-emergency assistance.
	(c) Uses of assistance.
	(d) Eligible organizations.
	(e) Support for private voluntary organizations and cooperatives.
	(f) Effective use of commodities.
	(g) Labeling.
1723.	Generation and use of foreign currencies by private voluntary organizations and cooperatives.
	(a) Local sale and barter of commodities.
	(b) Minimum level of local sales.
	(c) Description of intended uses.
	(d) Use.
1724.	Levels of assistance.
	(a) Minimum levels.
	(b) Use of value-added commodities.
1725.	Food Aid Consultative Group.
	(a) Establishment.
	(b) Membership.
	(c) Chairperson.
	(d) Consultations.
	(e) Advisory Committee Act.
	(f) Termination.
1726.	Maximum level of expenditures.
	(a) Maximum expenditures.
	(b) Waiver by President.
1726a.	Administration.
	(a) Proposals.
	(b) Notice and comment.
	(c) Regulations.
	(d) Deadline for submission of commodity orders.
1726b.	Omitted.
	SUBCHAPTER IIIA—FOOD FOR DEVELOPMENT
1727.	Bilateral grant program.
	(a) In general.
	(b) General authority.
1727a.	Eligible countries.

Sec.	(a) Least developed countries. (b) Indicators of food deficit countries. (c) Priority.	Sec.	(a) Appointment by President. (b) Service in Executive Office of President. (c) Required functions. (d) Compensation.
1727b.	Grant programs.	1736a.	Administrative provisions. (a) Subchapter II programs. (b) Reporting of fees. (c) Agents. (d) Subchapters III and IIIA program. (e) Timing of shipments. (f) Deadline for agreements under Subchapters II and IIIA of this chapter. (g) Annual reports. (h) World Food Day report.
1727c.	Direct uses or sales of commodities.	1736b.	Expiration date.
1727d.	Local currency accounts. (a) Retention of proceeds. (b) Ownership and programming of accounts. (c) Overall development strategy.	1736c.	Regulations.
1727e.	Use of local currency proceeds. (a) In general. (b) Support of indigenous nongovernmental organizations. (c) Investment of local currencies by nongovernmental organizations. (d) Support for certain educational institutions.	1736d.	Independent evaluation of programs. (a) Subchapter II program. (b) Subchapter III program. (c) Subchapter IIIA program. (d) Report to Congress.
1727f, 1727g.	Omitted.	1736e.	Debt forgiveness. (a) Authority. (b) Request for debt relief by President. (c) Appropriations action required. (d) Limitation on new credit assistance. (e) Applicability.
	SUBCHAPTER IIIB—EMERGENCY FOOD ASSISTANCE	1736f.	Authorization of appropriations. (a) Reimbursement. (b) Limitations. (c) Transfer of funds. (d) Budget. (e) Value of commodities.
1728.	Findings regarding emergency food assistance.	1736f1.	Food security wheat reserve. (a) Establishment by President. (b) Initial establishment by designation of wheat owned by Commodity Credit Corporation; replenishment by purchase or by designation of wheat acquired by Corporation. (c) Release of wheat stocks by President for emergency food assistance to developing countries. (d) Release of wheat to meet famine or other relief requirements. (e) Management of wheat in reserve to avoid spoilage. (f) Wheat in reserve as part of total domestic supply for purposes of other laws. (g) Use of Commodity Credit Corporation funds, facilities, and authorities; reimbursement of Corporation. (h) Finality of determinations by President or Secretary. (i) Expiration of authority to replenish stocks of wheat; disposal of remaining stocks.
1728a.	President's Emergency Food Assistance Fund. (a) Establishment; authority of President to furnish assistance from Fund. (b) Types of assistance authorized. (c) Authorization of appropriations. (d) Authority of President.		
1728b.	Reports on emergency food assistance.		
	SUBCHAPTER IV—GENERAL AUTHORITIES AND REQUIREMENTS		
1731.	Commodity determinations. (a) Available commodities. (b) Modification. (c) Commodities not available. (d) Policies for implementing chapter. (e) Ineligible commodities. (f) Market development activities.		
1732.	Definitions.		
1733.	General provisions. (a) Prohibition. (b) Consultations. (c) Transshipment. (d) Private trade channels and small business. (e) World prices. (f) Publicity. (g) Participation of private sector. (h) Safeguard usual marketings. (i) Military distribution of food aid. (j) Violations of human rights. (k) Abortion prohibition.		
1734.	Agreements. (a) In general. (b) Terms of agreement. (c) Multi-year agreements. (d) Review of agreements.		
1735.	Consultation.		
1736.	Use of Commodity Credit Corporation. (a) In general. (b) Included expenses. (c) Commodity Credit Corporation. (d) Availability of funds.	1736g.	Coordination of foreign assistance programs.
17361.	Special Assistant for Agricultural Trade and Food Assistance.	1736g1.	Assistance in furtherance of narcotics control objectives of United States. (a) Substantial injury. (b) Exception for narcotics control.

Sec. 1736h.	Congressional consultation on bilateral commodity supply agreements.	Sec. 1736v to 1736x.	Repealed.
1736i to 1736k.	Repealed.	1736y.	Contract sanctity and producer embargo protection.
1736l.	Consultation on grain marketing.	1736z, 1736aa.	Repealed.
1736m.	Expansion of international markets for United States agricultural commodities and products; purposes; implementation authorities.	1736bb.	Agricultural aid and trade missions. (a) Establishment. (b) Composition. (c) Terms. (d) Compensation and travel expenses.
1736n.	Increased usage of protein byproducts derived from alcohol fuel production. (a) Purposes. (b) Investigative authorities. (c) Additional investigative authorities. (d) Reporting requirements.	1736bb1.	Required and additional missions; eligible countries. (a) Required missions. (b) Additional missions. (c) Criteria. (d) Eligibility of Poland.
1736o.	Food for progress. (a) Short title. (b) Agreements with developing countries and emerging democracies to furnish commodities. (c) "Commodities" defined. (d) Considerations for agreements. (e) Availability of commodities; financing sale and exportation of commodities; payment of costs and charges. (f) Provision to developing countries on grant basis; minimum metric ton amount available; purchase of commodities by Commodity Credit Corporation; funds for implementation; cost of commodities and expenses. (g) Maximum amount of metric tons of commodities to be furnished. (h) Prohibition on resale of transshipment of commodities. (i) Agreements not to displace other sales of United States commodities. (j) Agreements for distribution or sale on multiyear basis. (k) Effective and termination dates. (l) Additional assistance in administration of food assistance programs. (m) Agreements for sale of commodities to independent states of former Soviet Union. (n) "Independent states of the former Soviet Union" defined.	1736bb2.	Functions.
		1736bb3.	Mission reports.
		1736bb4.	Progress reports.
		1736bb5.	Authorization of appropriations.
		1736bb6.	Definitions.
		1736cc.	Repealed.
		SUBCHAPTER V—FARMER-TO-FARMER PROGRAM	
		1737.	Farmer-to-farmer program. (a) In general. (b) Definitions. (c) Minimum funding.
		SUBCHAPTER VI—ENTERPRISE FOR THE AMERICAS INITIATIVE	
		1738.	Establishment of Facility.
		1738a.	Purpose.
		1738b.	Eligibility for benefits under Facility. (a) Requirements. (b) Eligibility determination.
		1738c.	Reduction of certain debt. (a) Authority to reduce debt. (b) Limitation. (c) Exchange of obligations.
		1738d.	Repayment of principal. (a) Currency of payment. (b) Deposit of payments.
		1738e.	Interest of new obligations. (a) Rate of interest. (b) Currency of payment, deposits. (c) Interest previously paid.
		1738f.	Environmental framework agreements. (a) Authority. (b) Requirements. (c) Administering body.
		1738g.	Enterprise for the Americas environmental funds. (a) Establishment. (b) Investment.
		1738h.	Disbursement of environmental funds.
		1738i.	Enterprise for the Americas Board. (a) Establishment. (b) Membership and chairperson. (c) Responsibilities.
		1738j.	Oversight.
		1738k.	Eligible activities and grantees. (a) Eligible entities. (b) Regulation. (c) Setting of priorities. (d) Grants. (e) Priority.
		1738l.	Encouraging multilateral debt donations. (a) Encouraging donations from official creditors. (b) Encouraging donations from other sources.
		1738m.	Annual report to Congress.
1736s, 1736t.	Repealed.		
1736u.	Cooperator market development program. (a) Sense of Congress. (b) Exemption from requirements of OMB circular.		

Sec.	(a) In general. (b) Supplemental views in annual report.
1738n.	Consultations with Congress.
1738o.	Sale of qualified debt to eligible countries. (a) In general. (b) Terms and conditions. (c) Appropriations requirement. (d) Certain prohibitions inapplicable. (e) Implementation by Facility. (f) Deposit of proceeds. (g) Debtor consultation.
1738p.	Sale, reduction, or cancellation of qualified debt to facilitate certain debt swaps. (a) Authority to sell, reduce, or cancel qualified debt. (b) Terms and conditions. (c) Eligible purchasers and eligible payors. (d) Debtor consultation and right of first refusal. (e) Limitation. (f) Administration. (g) Appropriations requirement. (h) Deposit of proceeds. (i) Eligible debt swaps.
1738q.	Notification to congressional committees. (a) Notice of negotiations. (b) Transmittal of text of agreements. (c) Annual report. (d) Designated congressional committees.
1738r.	“Qualified debt” defined.

CROSS REFERENCES

Dairy products and wheat from Commodity Credit Corporation stocks, costs of distribution to be in addition to levels of assistance programmed under this chapter, see section 1431(b) of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1431, 1446c1, 1736f1, 1736n, 1736o, 1765b, 5201, 5603, 5693, 5713 of this title; title 13 section 301; title 16 section 1537; title 22 sections 1922, 2151a, 2291, 2292n, 2353, 2354, 2362, 2370, 2371, 2394, 2455, 2775, 5413, 5425, 6006; title 46 App. section 1241f.

§1691. United States policy

It is the policy of the United States to use its abundant agricultural productivity to promote the foreign policy of the United States by enhancing the food security of the developing world through the use of agricultural commodities and local currencies accruing under this chapter to—

- (1) combat world hunger and malnutrition and their causes;
- (2) promote broad-based, equitable, and sustainable development, including agricultural development;
- (3) expand international trade;
- (4) develop and expand export markets for United States agricultural commodities; and
- (5) foster and encourage the development of private enterprise and democratic participation in developing countries.

(July 10, 1954, ch. 469, §2, 68 Stat. 454; Nov. 11, 1966, Pub. L. 89808, §2(A), 80 Stat. 1526; Dec. 20,

1975, Pub. L. 94161, title II, §201, 89 Stat. 850; Dec. 23, 1985, Pub. L. 99198, title XI, §1111(a), 99 Stat. 1474; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3633.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions declaring policy of United States to expand trade, develop export markets, encourage economic development and private enterprise in developing countries, improve local food production and promote foreign policy, and requiring President to give priority to countries most affected by food shortages, encourage other donors, link assistance to local agricultural and related development, seek expanded markets for American commodities, and recognize and support American farm economy.

1985—Pub. L. 99198 included Congressional declaration of policy to use accrued foreign currencies to foster and encourage the development of private enterprise in developing countries and to enhance food security in developing countries through local food production in first sentence.

1975—Pub. L. 94161 inserted provisions of second sentence, including cls. (1) to (5), respecting considerations in furnishing food aid under this chapter.

1966—Pub. L. 89808 restated the Congressional declaration of policy to include the use of the abundant agricultural productivity of the United States to combat hunger and malnutrition and the emphasis on assistance to those developing countries that are determined to improve their own agricultural production and to exclude statement of a policy to facilitate the convertibility of currency, to make maximum efficient use of surplus agricultural commodities in furtherance of the foreign policy of the United States, to purchase strategic materials, to pay United States obligations abroad, and to promote collective strength.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1513 of Pub. L. 101624 provided that: “The amendment made by section 1512 [enacting sections 1736g1 and 1737 to 1738m of this title, amending this section and sections 1691a, 1701 to 1705, 1721 to 1726a, 1727 to 1727e, 1731 to 1736, 1736a to 1736f, and 1736g of this title, and enacting provisions set out as a note under this section] shall become effective on January 1, 1991.”

EFFECTIVE DATE OF 1966 AMENDMENT

Section 5 of Pub. L. 89808 provided that: “This Act [enacting sections 1707a, 1710, 1725, and 1736a to 1736d of this title, amending this section and sections 1431, 1431b, 1446a1, 1701 to 1704, 1705, 1707, 1708, 1709, 1721 to 1724, and 1731 to 1736 of this title, repealing sections 1693 to 1697 of this title, and amending provisions set out as a note under section 1701 of this title] shall take effect as of January 1, 1967, except that section 4 [enacting section 1707a of this title] shall take effect upon enactment [Nov. 11, 1966].”

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102532, §1, Oct. 27, 1992, 106 Stat. 3509, provided that: “This Act [enacting sections 1738o to 1738r, 3294, and 5404 of this title and amending section 1738m of this title] may be cited as the ‘Enterprise for the Americas Initiative Act of 1992.’”

Pub. L. 102532, §2, Oct. 27, 1992, 106 Stat. 3509, which enacted sections 1738o to 1738r of this title, is popularly known as the “Good Neighbor Environmental Act of 1992”.

SHORT TITLE OF 1990 AMENDMENT

Section 1501 of title XV of Pub. L. 101624 provided that: “This title [see Tables for classification] may be cited as the ‘Agricultural Development and Trade Act of 1990.’”

Section 1511 of Pub. L. 101624 provided that: “This subtitle [subtitle A (§§15111517) of title XV of Pub. L.

101624, enacting sections 1706, 1736g1 and 1737 to 1738m of this title and sections 1241g to 1241v of Appendix to Title 46, Shipping, amending this section and sections 1431, 1691a, 1701 to 1705, 1721 to 1726a, 1727 to 1727e, 1731 to 1736g, 1736o, 1736bbb6 of this title, and section 1241f of Appendix to Title 46, and enacting provisions set out as notes under this section] may be cited as the ‘Mickey Leland Food for Peace Act.’”

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100576, §1, Oct. 31, 1988, 102 Stat. 2897, provided that: “This Act [amending section 1727 of this title and enacting provisions set out as a note under section 1727 of this title] may be cited as the ‘Bangladesh Disaster Assistance Act of 1988.’”

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100202, §16, as added by Pub. L. 100418, title IV, §4610(a), Aug. 23, 1988, 102 Stat. 1411, provided that: “Section 1 through this section under the heading ‘Agricultural Aid and Trade Missions Act’ [enacting sections 1726b and 1736bb to 1736bb6 of this title, and amending sections 1701, 1703, 1709, 1722, 1726, and 1726a of this title] may be cited as the ‘Agricultural Aid and Trade Missions Act.’”

SHORT TITLE OF 1966 AMENDMENT

Section 1 of Pub. L. 89808 provided: “That this Act [enacting sections 1707a, 1710, 1725, and 1736a to 1736d, amending this section and sections 1431, 1431b, 1446a1, 1701 to 1704, 1705, 1707, 1708, 1709, 1721 to 1724, and 1731 to 1736, repealing sections 1693 to 1697 of this title, and amending provisions set out as a note under section 1701 of this title] may be cited as the ‘Food for Peace Act of 1966.’”

SHORT TITLE

Section 1 of act July 10, 1954, as amended by act Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3633, provided that: “This Act [enacting this chapter] may be cited as the ‘Agricultural Trade Development and Assistance Act of 1954.’”

MINIMUM LEVEL OF FOOD ASSISTANCE

Pub. L. 100418, title IV, §4310, Aug. 23, 1988, 102 Stat. 1399, provided that:

“(a) ANNUAL MINIMUM.—It is the sense of Congress that—

“(1) the United States should maintain its historic proportion of food assistance constituting one-third of all United States foreign economic assistance; and

“(2) accordingly, the total amount of food assistance made available to foreign countries under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) and section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) should not be less than one-third of the total amount of foreign economic assistance provided for each fiscal year.

“(b) DEFINITION.—For purposes of this section, the term ‘foreign economic assistance’ includes—

“(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), or any other law authorizing economic assistance for foreign countries; and

“(2) United States contributions to the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other multilateral development bank.”

FOOD AID AND MARKET DEVELOPMENT

Pub. L. 100418, title IV, §4311, Aug. 23, 1988, 102 Stat. 1400, which declared it to be the policy of the United States to use food aid and agriculturally-related for-

eign economic assistance programs more effectively to develop markets for United States agricultural commodities and products, and which directed the President (or, as appropriate, the Secretary of Agriculture) to encourage recipient countries under food assistance agreements entered into under any program administered by the Secretary to agree to give preference to United States food and food products in future food purchases, was repealed by Pub. L. 101624, title XV, §1571, Nov. 28, 1990, 104 Stat. 3702.

AGRICULTURAL TRADE AND EXPORT POLICY COMMISSION ACT

Subtitle C (§§12171224) of title XII of Pub. L. 9798, as added Pub. L. 98412, Aug. 30, 1984, 98 Stat. 1576, known as the Agricultural Trade and Export Policy Commission Act, established a National Commission on Agricultural Trade and Export Policy to conduct a study of agriculture-related trade and export policies, programs, and practices of United States, directed Commission to submit to President and Congress a final report and recommendations by July 1, 1986, and provided for termination of Commission 60 days thereafter.

USE OF NONPRICE-SUPPORTED COMMODITIES

Pub. L. 95113, title XII, §1209, Sept. 29, 1977, 91 Stat. 957, provided that: “It is the sense of Congress that there be no discrimination between ‘price-supported’ and ‘nonprice-supported’ commodities in the programming of commodities under the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480) [which enacted this chapter and amended sections 1427 and 1431 of this title].”

SPECIAL TASK FORCE

Pub. L. 95113, title XII, §1210, Sept. 29, 1977, 91 Stat. 957, required the Secretary of Agriculture, not later than eighteen months after Sept. 29, 1977, to appoint a special task force to review and report to Congress upon the administration of the Agricultural Trade Development and Assistance Act of 1954, 7 U.S.C. 1961 et seq.

EXECUTIVE ORDER NO. 10560

Ex. Ord. No. 10560, Sept. 13, 1954, 19 F.R. 5927, as amended by Ex. Ord. No. 10575, Nov. 8, 1954, 19 F.R. 7249; Ex. Ord. No. 10685, Oct. 29, 1956, 21 F.R. 8261; Ex. Ord. No. 10708, May 6, 1957, 22 F.R. 3213; Ex. Ord. No. 10746, Dec. 13, 1957, 22 F.R. 10027; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 8, 1958, 23 F.R. 6971; Ex. Ord. No. 10799, Jan. 16, 1959, 24 F.R. 447; Ex. Ord. No. 10827, June 25, 1959, 24 F.R. 5233; Ex. Ord. No. 10884, Aug. 17, 1960, 25 F.R. 8019, which provided for the delegation of administrative functions, was superseded by Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, formerly set out as a note under this section, and was revoked by section 1502(a) of Ex. Ord. No. 12220, June 27, 1980, 45 F.R. 44247, formerly set out below.

EXECUTIVE ORDER NO. 10685

Ex. Ord. No. 10685, Oct. 29, 1956, 21 F.R. 8261, which designated the International Cooperation Administration as the Federal agency to which funds required for ocean freight costs could be transferred by the Commodity Credit Corporation, was superseded by Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, formerly set out as a note under this section, and was revoked by section 1502(b) of Ex. Ord. No. 12220, June 27, 1980, 45 F.R. 44247, formerly set out below.

EXECUTIVE ORDER NO. 10900

Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, as amended by Ex. Ord. No. 10915, Jan. 24, 1961, 26 F.R. 781; Ex. Ord. No. 10972, Nov. 3, 1961, 26 F.R. 10469; Ex. Ord. No. 11036, July 1, 1962, 27 F.R. 6653; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683; Ex. Ord. No. 11963, Jan. 19, 1977, 42 F.R. 4325; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, which re-

lated to the delegation of administrative functions, was revoked by section 1501 of Ex. Ord. No. 12220, June 27, 1980, 45 F.R. 44247, formerly set out below.

EXECUTIVE ORDER No. 11252

Ex. Ord. No. 11252, Oct. 20, 1965, 30 F.R. 13507, as amended by Ex. Ord. No. 12527, Aug. 7, 1985, 50 F.R. 32157, which transferred to the Secretary of State all functions of the Director of the Food-For-Peace Program, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EXECUTIVE ORDER No. 12220

Ex. Ord. No. 12220, June 27, 1980, 45 F.R. 44245, which provided for delegation of administrative functions relating to agricultural trade development, was revoked by section 6 of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out below.

EX. ORD. NO. 12752. IMPLEMENTATION OF AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954, AS AMENDED, AND FOOD FOR PROGRESS ACT OF 1985, AS AMENDED

Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8255, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.], as amended by Public Law 101624 ("Agricultural Trade Development Act"), the Food for Progress Act of 1985 [7 U.S.C. 1736o], as amended by Public Law 101624 ("Food for Progress Act"), and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. *Establishment of Programs.* There is hereby established:

(a) a program under title I of the Agricultural Trade Development Act [7 U.S.C. 1701 et seq.] to provide for the sale of agricultural commodities to developing countries. Such program shall be implemented by the Secretary of Agriculture (hereafter referred to as the "Secretary").

(b) a program under title II of the Agricultural Trade Development Act [7 U.S.C. 1721 et seq.] to provide for the donation of agricultural commodities to foreign countries. Such program shall be implemented by the Administrator of the Agency for International Development (hereafter referred to as the "Administrator").

(c) a program under title III of the Agricultural Trade Development Act [7 U.S.C. 1727 et seq.] to provide for the donation of agricultural commodities to least developed countries. Such program shall be implemented by the Administrator.

SEC. 2. *International Negotiations and Accounting for Foreign Currencies.* (a) The Secretary with respect to title I, and the Administrator with respect to titles II and III of the Agricultural Trade Development Act, shall negotiate and execute agreements under the Agricultural Trade Development Act in accord with section 112b of title I [sic] of the United States Code and applicable regulations and procedures of the Department of State.

(b)(1) Foreign currencies that accrue to the United States under titles I and III of the Agricultural Trade Development Act may be used for the purposes set forth in section 104 and section 306 of that Act [7 U.S.C. 1704, 1727e], respectively, in amounts consistent with applicable provisions of law and agreements. Such foreign currencies shall be subject to regulations of the Department of the Treasury governing the purchase, custody, deposit, transfer, and sale of foreign currencies received under the Agricultural Trade Development Act.

(2) The Director of the Office of Management and Budget (hereafter referred to as the "Director") shall determine the amount of foreign currencies to be used for the purposes of section 104(c)(8) of the Agricultural Trade Development Act, and such purposes shall be carried out by the agencies with authority to pay the obligations abroad. The purposes of the remaining para-

graphs of section 104(c) of that Act shall be carried out by the Department of Agriculture, utilizing, where appropriate, the expertise of other agencies.

(3) The Secretary and Administrator shall transmit the reports required by the provisions of paragraph 5 of the Act of August 13, 1957 (71 Stat. 345; 7 U.S.C. 1704a), as related to the use of foreign currencies accruing under title I and title III of the Agricultural Trade Development Act, respectively.

SEC. 3. *Policy Coordination.* (a) To ensure policy coordination of assistance provided under the Agricultural Trade Development Act and the Food for Progress Act, there is hereby established a Food Assistance Policy Council (hereafter referred to as the "Council").

(b) The Council will include senior representatives of the Department of Agriculture, the Agency for International Development, the Department of State, and the Office of Management and Budget. Meetings of the Council shall be called by the Secretary or his designee at the request of any senior representative of the Council.

(c) The Council shall advise the President on appropriate policies under the Agricultural Trade Development Act and the Food for Progress Act and shall coordinate decisions on allocations and other policy issues, as well as prepare the report required by section 407(g)(1) of the Agricultural Trade Development Act [7 U.S.C. 1736a(g)(1)].

(d) As necessary for effective coordination, the Council shall provide its advice to the President through the appropriate Cabinet-level body.

SEC. 4. *Delegation of Responsibilities.* (a) The consultation required by section 401(a) of the Agricultural Trade Development Act [7 U.S.C. 1731(a)] shall be undertaken through the Council.

(b) The function conferred upon the President in section 403(j) of the Agricultural Trade Development Act [7 U.S.C. 1733(j)] is hereby delegated to the Secretary of State.

(c) The function conferred upon the President by section 407(h) of the Agricultural Trade Development Act [7 U.S.C. 1736a(h)] is hereby delegated to the Administrator.

(d) The functions conferred upon the President by section 411 of the Agricultural Trade Development Act [7 U.S.C. 1736e] are hereby delegated to the Secretary, in consultation with the Council and the Department of the Treasury.

(e) The functions conferred upon the President by section 412(c) of the Agricultural Trade Development Act [7 U.S.C. 1736f(c)] are hereby delegated to the Director, who shall consult with the Council on these functions.

(f) The functions conferred upon the President by title V of the Agricultural Trade Development Act [7 U.S.C. 1737] are hereby delegated to the Administrator.

(g) The functions conferred upon the President by the Food for Progress Act, as amended [7 U.S.C. 1736o], are hereby delegated to the Secretary.

SEC. 5. *Regulatory Review.* Policies, regulations, and analyses required by this Executive order shall be fully consistent with the standards and criteria, analyses and procedures set forth in Executive Order Nos. 12291 and 12498 [formerly 5 U.S.C. 601 notes].

SEC. 6. *Revocations.* Executive Order No. 12220 of June 27, 1980, and Executive Order No. 12583 of February 19, 1987, are revoked.

GEORGE BUSH.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701, 1727, 1727b, 1727e of this title.

§1691a. Global food aid needs

In view of the principal findings of the National Research Council of the National Academy of Sciences that doubling food aid above 1990 levels of about 10,000,000 metric tons per

year would be necessary to meet projected global food needs throughout the decade of the nineties, it is the sense of Congress that the President should—

- (1) increase the contributions of food aid by the United States, and encourage other donor countries to increase their contributions toward meeting new food aid requirements; and
- (2) encourage other advanced nations to make increased food aid contributions to combat world hunger and malnutrition, particularly through the expansion of international food and agricultural assistance programs.

(July 10, 1954, ch. 469, §3, as added Dec. 20, 1975, Pub. L. 94161, title II, §202, 89 Stat. 851; amended Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3633.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions urging President to maintain United States food assistance and encourage other countries to increase their contributions, in order to meet annual goal of World Food Conference of providing 10,000,000 tons of food assistance annually for needy nations.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

WORLD FOOD CONFERENCE RECOMMENDATIONS

Pub. L. 94161, title II, §213, Dec. 20, 1975, 89 Stat. 855, which directed the President to strengthen the efforts of the United States to carry out the recommendations of the World Food Conference and to submit a detailed report to the Congress not later than Nov. 1, 1976, was repealed by Pub. L. 97113, title VII, §734(a)(7), Dec. 29, 1981, 95 Stat. 1560.

SUBCHAPTER I—BARTER

§1692. Transferred

CODIFICATION

Section, acts July 10, 1954, ch. 469, title III, §310, formerly §303, 68 Stat. 459, as amended and renumbered, which related to bartering authority of Secretary, was transferred to section 1727g of this title.

§§1693 to 1697. Repealed. Pub. L. 89808, §2(D), Nov. 11, 1966, 80 Stat. 1535

Section 1693, acts July 10, 1954, ch. 469, title III, §304, 68 Stat. 459; Aug. 13, 1957, Pub. L. 85128, §1(6), 71 Stat. 345; Oct. 8, 1964, Pub. L. 88638, §1(16), 78 Stat. 1037, provided for assistance to friendly nations in being independent of Russian or Communist Chinese trade, prevention of increased availability of commodities to unfriendly nations, and nonauthorization of transactions with Russia or Communist China. See section 1703(j) of this title.

Section 1694, acts July 10, 1954, ch. 469, title III, §305, 68 Stat. 459; Sept. 21, 1959, Pub. L. 86341, title I, §10, 73 Stat. 607, provided for identification of packages and containers by appropriate markings. See section 1722 of this title.

Section 1695, act July 10, 1954, ch. 469, title III, §306, as added Sept. 21, 1959, Pub. L. 86341, title I, §11, 73 Stat. 608, provided for distribution of surplus food commodities to needy persons in United States: authorization, term of program, and cost limitation; duties of Secretary of Agriculture; issuance of food stamps and their redemption; receipt of benefits not deemed income or resources under provisions of other laws; availability of

surplus foods for distribution; definition of needy person; report to Congress; and authorization of appropriations. See Food Stamp Program classified to chapter 51 of this title.

Section 1696, act July 10, 1954, ch. 469, title III, §307, as added Sept. 21, 1959, Pub. L. 86341, title I, §12, 73 Stat. 609, provided for availability of surplus commodities for distribution to needy families and persons in United States. See Food Stamp Program classified to chapter 51 of this title and provisions of section 1721 et seq. of this title relating to donations of food on a government-to-government basis and through voluntary organizations.

Section 1697, act July 10, 1954, ch. 469, title III, §308, as added Sept. 21, 1959, Pub. L. 86341, title I, §13, 73 Stat. 609; amended Sept. 27, 1962, Pub. L. 87703, title II, §203, 76 Stat. 611, related to disposal of animal fats and edible oils. See section 1721 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as an Effective Date of 1966 Amendment note under section 1691 of this title.

SUBCHAPTER II—TRADE AND DEVELOPMENT ASSISTANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1431, 1731, 1734, 1736a, 1736d, 1736e, 1736f, 1736o, 1736bb6, 1738c, 1743, 1766b, 5676 of this title; title 22 section 2103; title 46 App. section 1241f.

§1701. Trade and development assistance

(a) In general

The President shall establish a program under this subchapter to provide for the sale of agricultural commodities to developing countries for dollars on credit terms, or for local currencies (including for local currencies on credit terms) for use under this subchapter. Such program shall be implemented by the Secretary.

(b) General authority

To carry out the policies and accomplish the objectives described in section 1691 of this title, the Secretary may negotiate and execute agreements with developing countries to finance the sale and exportation of agricultural commodities to such countries.

(July 10, 1954, ch. 469, title I, §101, 68 Stat. 455; Sept. 6, 1958, Pub. L. 85931, §1, 72 Stat. 1790; Aug. 8, 1961, Pub. L. 87128, title II, §201(1), 75 Stat. 306; Dec. 16, 1963, Pub. L. 88205, pt. IV, §403(a), 77 Stat. 390; Oct. 8, 1964, Pub. L. 88638, §1(1), (2), 78 Stat. 1035; Nov. 11, 1966, Pub. L. 89808, §2(B), 80 Stat. 1526; Dec. 29, 1981, Pub. L. 97113, title IV, §401(1), 95 Stat. 1537; Dec. 23, 1985, Pub. L. 99198, title XI, §1111(c), 99 Stat. 1474; Dec. 22, 1987, Pub. L. 100202, §8, 101 Stat. 1329447; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3633.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions authorizing President to negotiate agreements with friendly countries for sales of commodities for dollars on credit terms, or for foreign currencies, on credit or on terms permitting conversion to dollars, setting minimum level for sales in foreign currencies, limiting extent of sales for foreign currency to amounts that can be productively used in private sector of foreign country, and requiring that sales for foreign currency through financial intermediaries be on terms and conditions specified in agreements.

1987—Subsec. (b)(1). Pub. L. 100202, §8(1), inserted provisions which required for each of fiscal years 1988 through 1990 that each agreement provide for some sale of foreign currencies for use under section 1708 of this title unless the President determines that the level of agricultural commodities furnished under this subchapter will be significantly reduced as a result of this sentence.

Subsec. (b)(2). Pub. L. 100202, §8(2), inserted “, or enter into sales agreements not providing for sales for foreign currencies for use under section 1708 of this title,” after “currencies”.

1985—Pub. L. 99198 in amending section generally, incorporated existing text in provisions designated subsec. (a) and added subsecs. (b) to (d).

1981—Pub. L. 97113 substituted “, to the extent that sales for dollars under the terms applicable to such sales are not possible, for foreign currencies on credit terms and on terms which permit conversion to dollars at the exchange rate applicable to the sales agreement” for “for foreign currencies”.

1966—Pub. L. 89808 substituted “agreements with friendly countries to provide for the sale of agricultural commodities for dollars on credit terms or for foreign currencies” for “agreements with friendly nations or organizations of friendly nations to provide for the sale of surplus agricultural commodities for foreign currencies” and struck out subsecs. (a) to (d), (f), and (g), relating to safeguarding usual marketings and disruption of world prices and normal patterns of commercial trade with friendly countries, use of private channels to maximum extent practicable, development and expansion of foreign markets, restrictive commitments from participating countries, exchange rates, and currency conversion, now covered by section 1703(c), (e) to (h), and (m)(1) of this title, respectively, and subsec. (e), relating to maximum opportunity for friendly nation to purchase surplus agricultural commodities.

1964—Subsec. (f). Pub. L. 88638, §1(1), inserted “, and which are not less favorable than the highest of exchange rates obtainable by any other nation”, and struck out “from the government or agencies thereof” before “in the respective countries”.

Subsec. (g). Pub. L. 88638, §1(2), added subsec. (g).

1963—Subsec. (f). Pub. L. 88205 substituted “the highest of exchange rates legally obtainable from the Government or agencies thereof” for “the rates at which United States Government agencies can buy currencies from the United States disbursing officers”.

1961—Subsec. (f). Pub. L. 87128 added subsec. (f).

1958—Subsec. (a). Pub. L. 85931 required President to take reasonable precautions to assure that sales of surplus commodities would not disrupt normal patterns of commercial trade with friendly countries.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

EMERGENCY FOOD ASSISTANCE TO INDIA

Pub. L. 907, Apr. 1, 1967, 81 Stat. 7, provided: “That the Congress approves the participation of the United States in cooperation with other countries and with multilateral organizations, including the International Bank for Reconstruction and Development, the Organization for Economic Cooperation and Development, the Food and Agriculture Organization, and others, in urgent international efforts designed to—

“(a) develop a comprehensive self-help approach to the war on hunger based on a fair sharing of the burden among the nations of the world;

“(b) encourage and assist the Government of India in achieving food self-sufficiency; and

“(c) help meet India’s critical food and nutritional needs by making available agricultural commodities or other resources needed for food procurement or production.

“Because uncertainty in connection with Public Law 480 transactions tends to depress market prices, it is the sense of Congress that, in carrying out this Aid to India program, the Administration should, subject to the requirement of section 401 of Public Law 480 [section 1731 of this title] with respect to the availability of the commodity at the time of exportation, make announcements of intention, purchases and shipments of commodities on schedules and under circumstances which will protect and strengthen farm market prices to the maximum extent possible.

“The Congress endorses the President’s policy of equal participation on the part of the United States with all other nations, under terms and conditions set forth in Public Law 480, as amended [this chapter], in assisting the Government of India to meet these needs.

“Further, the Congress recommends, on the basis of estimates now available, that the United States provide an additional amount of food grain not to exceed three million tons at an estimated cost of \$190,000,000 as the United States share toward meeting the India food deficit, provided it is appropriately matched, and specifically extends its support to the allocation of approximately \$190,000,000 of funds available to the Commodity Credit Corporation in calendar year 1967 which will be required to accomplish this purpose.

“The Congress further recommends that the President provide an additional \$25,000,000 of emergency food relief for distribution by CARE and other American voluntary agencies.”

COTTON AND COTTON PRODUCTS

Section 8 of Pub. L. 85931 as amended by Pub. L. 89808, §3(d), Nov. 11, 1966, 80 Stat. 1538, provided that: “In carrying out the provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended [this chapter], extra long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act [this subchapter] in the same manner as upland cotton or any other surplus agricultural commodity is made available, and products manufactured entirely from upland or long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act [this subchapter] as long as cotton is in surplus supply in the same manner as any other agricultural commodity or product is made available, and no discriminatory or other conditions shall be imposed which will prevent or tend to interfere with their sale or availability for sale under the Act [this chapter].”

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

CARGO PREFERENCE LAW EXEMPTION

Section 3 of act Aug. 3, 1956, ch. 933, 70 Stat. 988, provided that: “Sales of fresh fruit and the products thereof under title I of the Act [sections 1701 to 1704, 1705 to 1707, 1708 to 1711 of this title] shall be exempt from the requirements of the cargo preference laws (Public Resolution 17, Seventy-third Congress [46 App. U.S.C. 12411] and section 901(b) of the Merchant Marine Act, 1936 [46 App. U.S.C. 1241(b)]).”

IMPLEMENTATION OF PROGRAM

Program under this subchapter to provide for sale of agricultural commodities to developing countries to be implemented by Secretary of Agriculture, see Ex. Ord. No. 12752, §1(a), Feb. 25, 1991, 56 F.R. 8255, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 1922.

§1702. Eligible countries**(a) In general**

A country shall be considered to be a developing country and eligible for assistance under this subchapter if such country has a shortage of foreign exchange earnings and has difficulty meeting all of its food needs through commercial channels, as determined by the Secretary.

(b) Priority

In determining whether and to what extent agricultural commodities will be made available to developing countries under this subchapter, the Secretary shall give priority to developing countries that—

- (1) demonstrate the greatest need for food;
- (2) are undertaking measures for economic development purposes to improve food security and agricultural development, alleviate poverty, and promote broad-based equitable and sustainable development; and
- (3) have the demonstrated potential to become commercial markets for competitively priced United States agricultural commodities.

(July 10, 1954, ch. 469, title I, §102, 68 Stat. 455; Apr. 25, 1955, ch. 27, 69 Stat. 44; Oct. 8, 1964, Pub. L. 88638, §1(3), 78 Stat. 1035; Nov. 11, 1966, Pub. L. 89808, §2(B), 80 Stat. 1526; July 29, 1968, Pub. L. 90436, §9, 82 Stat. 451; Aug. 3, 1977, Pub. L. 9588, title II, §201(a), 91 Stat. 545; Sept. 29, 1977, Pub. L. 95113, title XII, §1201, 91 Stat. 955; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3634.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions authorizing Commodity Credit Corporation to finance sales from its own and private stocks, and allowing it, upon request, to serve as purchasing and/or shipping agent.

1977—Pub. L. 95113 inserted provisions authorizing the Corporation, when requested by the purchaser of commodities, to serve as the purchasing or shipping agent, or both, in arranging the purchasing or shipping of the commodities.

Pub. L. 9588 struck out proviso prohibiting the financing by the Commodity Credit Corporation of the sale and export of agricultural commodities where the exporter had engaged in any sales, trade, or commerce with North Vietnam, or with any resident thereof, or which owned or controlled any company so engaged either directly or indirectly, and struck out an additional proviso requiring that financing applications be accompanied by statements in which were listed the branches, etc., in which the applicant had a controlling interest and the companies which had a controlling interest in the applicant company.

1968—Pub. L. 90436 inserted proviso that the Commodity Credit Corporation should not finance the sale and export of any agricultural commodities where the exporter has engaged in any sales, trade or commerce with North Vietnam, or with any resident thereof, or which owns or controls any company so engaged, or which is owned or controlled by any company or person so engaged either directly or indirectly, and the further proviso that the financing application be accompanied by a statement in which are listed the branches, etc., in which the applicant has a controlling interest and the companies which have a controlling interest in the applicant company.

1966—Pub. L. 89808 incorporated provisions formerly constituting subsec. (a)(2), and struck out other provisions of subsec. (a) and (a)(1) relating to availability of

stocks acquired in price support operations and ocean freight charges, such charges now covered by section 1708 of this title, and subsec. (b) for letters of commitment against funds or guaranties and establishment of accounts.

1964—Subsec. (a). Pub. L. 88638 authorized Commodity Credit Corporation to finance ocean freight charges incurred under agreements entered into after Dec. 31, 1964, to extent such charges are higher because of requirement that commodities be shipped in United States flag vessels, and provided that such agreements require balance of such charges to be paid in dollars.

1955—Subsec. (a). Act Apr. 25, 1955, struck out requirement that exporters of privately owned stocks acquire an equivalent quantity of Commodity Credit Corporation stocks.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95113, set out as a note under section 1307 of this title.

Section 215 of Pub. L. 9588 provided that: "The provisions of this title [enacting sections 1712 to 1714 and 1727 to 1727f of this title, amending this section and sections 1427, 1431, 1692, 1703, 1706, 1711, 1721, 1722, 1723, 1726, 1731, and 1736b of this title, and enacting provisions set out as notes under sections 1708 and 1722 of this title] shall become effective October 1, 1977."

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

§1703. Terms and conditions of sales**(a) Payment****(1) Dollars**

Except as provided in paragraph (2), agreements under this subchapter shall require that payment for agricultural commodities be made in dollars.

(2) Local currencies**(A) In general**

The Secretary may permit a recipient country to make payment under an agreement under this subchapter in the local currency of such country in order to use the proceeds from such payments to carry out activities under section 1704 of this title.

(B) Rates of exchange

Payments in local currency shall be at rates of exchange that are no less favorable than the highest exchange rate legally obtainable in the country and that are no less favorable than the highest exchange rate obtainable by any other country.

(b) Interest

Such agreements shall provide that interest accrue on the payment deferred under such agreement at a concessional rate as determined appropriate by the Secretary.

(c) Duration

Payments required under such agreements may be made in reasonable annual amounts over the period (not less than 10 nor more than 30 years from the date of the last delivery of com-

modities in each year under such agreement) specified in the agreement.

(d) Deferral of payments

The Secretary may defer the date on which the recipient country is required to begin making payment, under such agreements, for a period of not in excess of 7 years after the date of the last delivery of commodities in each year under the agreement, and interest shall be computed from the date of such last delivery.

(e) Delivery of commodities

Delivery of the commodities shall be made in accordance with the terms of the agreement.

(July 10, 1954, ch. 469, title I, §103, 68 Stat. 456; Aug. 12, 1955, ch. 873, §1, 69 Stat. 721; May 28, 1956, ch. 327, title II, §208(a), 70 Stat. 201; Aug. 3, 1956, ch. 933, §1, 70 Stat. 988; Aug. 13, 1957, Pub. L. 85128, §1(2), 71 Stat. 345; Sept. 6, 1958, Pub. L. 85931, §2, 72 Stat. 1790; Sept. 21, 1959, Pub. L. 86341, title I, §2, 73 Stat. 606; May 4, 1961, Pub. L. 8728, 75 Stat. 64; Aug. 8, 1961, Pub. L. 87128, title II, §201(2), 75 Stat. 306; Oct. 8, 1964, Pub. L. 88638, §1(4), (5), 78 Stat. 1035; Nov. 11, 1966, Pub. L. 89808, §2(B), 80 Stat. 1526; July 29, 1968, Pub. L. 90436, §§4, 5, 82 Stat. 450; Nov. 30, 1970, Pub. L. 91524, title VII, §703, as added Aug. 10, 1973, Pub. L. 9386, §1(26), 87 Stat. 237; Oct. 18, 1973, Pub. L. 93125, §1(e), 87 Stat. 450; Dec. 20, 1975, Pub. L. 94161, title II, §203, 89 Stat. 851; Aug. 3, 1977, Pub. L. 9588, title II, §§201(b), 211(b)(1), 91 Stat. 545, 551; Oct. 6, 1978, Pub. L. 95424, title I, §102(b)(2)(B), 92 Stat. 941; Aug. 14, 1979, Pub. L. 9653, title II, §201, 93 Stat. 368; Dec. 29, 1981, Pub. L. 97113, title IV, §401(2)(4), 95 Stat. 1537; Dec. 23, 1985, Pub. L. 99198, title XI, §1111(d), 99 Stat. 1475; Dec. 22, 1987, Pub. L. 100202, §9, 101 Stat. 1329448; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3634.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions requiring President to consider efforts of recipients to increase agricultural production, determine amount needed in foreign currencies, protect other markets for United States commodities, make sales only to friendly countries, use private trade channels whenever practicable, consider expansion of markets, prevent resale by recipients, obtain favorable exchange rates, emphasize production of food crops, assist friendly countries in avoiding Communist domination, require payment of at least 5 per centum of purchase price upon delivery in dollars or convertible currency, obtain commitments from recipients to publicize source of food, require convertibility of foreign currencies, avoid displacement of sales that would otherwise have been made, assure United States obtains fair share in increase of commercial purchases by recipients, assure convertibility of foreign currencies at uniform exchange rates, and favor countries promoting private sector in allocation of commodities.

1987—Subsec. (r). Pub. L. 100202 added subsec. (r).

1985—Subsec. (b). Pub. L. 99198, §1111(d)(1), inserted “, in section 1708 of this title,” after “section 1704 of this title”.

Subsec. (d). Pub. L. 99198, §1111(d)(2), struck out “for dollars on credit terms” after “agricultural commodities”.

Subsec. (m). Pub. L. 99198, §1111(d)(3), inserted introductory text “except as provided in section 1708 of this title,” substituted a period for the semicolon at end of cl. (2), and inserted provisions respecting period for convertibility of foreign currencies into dollars and es-

tablishment in the agreement for sale of a schedule for conversion without specifying the exchange rate.

Subsec. (n). Pub. L. 99198, §1111(d)(4), struck out “for dollars on credit terms” after “sales” and “for cash dollars” after “made”.

Subsec. (o). Pub. L. 99198, §1111(d)(5), substituted “take” for “Take”.

Subsecs. (p), (q). Pub. L. 99198, §1111(d)(6), (7), substituted “except as provided in section 1708 of this title, assure convertibility” for “Assure convertibility”.

1981—Subsec. (b). Pub. L. 97113, §401(2), struck out requirement that President take steps to assure a progressive transition from sales for foreign currencies to sales for dollars (or to the extent that transition to sales for dollars under the terms applicable to such sales is not possible, transition to sales for foreign currencies on credit terms no less favorable to the United States than those for development loans made under section 2151t of title 22, and on terms which permit conversion to dollars at the exchange rate applicable to the sales agreement) at a rate whereby the transition can be completed by Dec. 31, 1971; and struck out reference to subsec. (c) of section 1704 of this title.

Subsec. (d). Pub. L. 97113, §401(3), in defining “friendly country”, struck out provision excluding from term “for the purpose only of sales of agricultural commodities for foreign currencies under this subchapter, any country or area dominated by a Communist government”.

Subsec. (l). Pub. L. 97113, §401(4), struck out requirement that President obtain commitments from friendly purchasing countries that will insure, insofar as practicable, that food commodities sold for foreign currencies under this subchapter shall be marked or identified at point of distribution or sale as being provided on a concessional basis to the recipient government through the generosity of the people of the United States of America.

1979—Subsec. (f). Pub. L. 9653 substituted provisions requiring Presidential consideration to the development and expansion of markets for United States agricultural commodities and local foodstuffs, for provisions requiring special Presidential consideration to the development and expansion of foreign markets for United States agricultural commodities.

1978—Subsec. (b). Pub. L. 95424 substituted “section 2151t of title 22” for “section 2161 of title 22”.

1977—Subsec. (b). Pub. L. 9588, §211(b)(1), substituted “and in subchapters I and IIIA of this chapter” for “and in section 1706(b)(2) of this title” after “uses specified in subsections (a), (b), (c), (e), and (h) of section 1704”.

Subsec. (d). Pub. L. 9588, §201(b), struck out provisions that “friendly country” not include, for the purpose only of sales of agricultural commodities under this subchapter, any nation which sold or furnished or permitted ships or aircraft under its registry to transport to or from Cuba or North Vietnam (excluding United States installations in Cuba) any equipment, materials, or commodities so long as they were governed by a Communist regime: *Provided*, That this exclusion from the definition of “friendly country” could be waived by the President if he determined that such waiver was in the national interest and reported such determination to the Congress within 10 days of the date of such determination, and struck out provisions that “friendly country” also not include, for the purposes only of sales under this subchapter, the United Arab Republic, unless the President determined that such sale was in the national interest of the United States, that no sales to the United Arab Republic be based upon the requirements of that nation for more than one fiscal year, and that the President keep the President of the Senate and the Speaker of the House of Representatives fully and currently informed with respect to sales made to the United Arab Republic under this subchapter.

1975—Subsec. (a). Pub. L. 94161, §203(1), substituted “efforts to increase their own agricultural production, especially through small, family farm agriculture, to improve their facilities for transportation, storage, and distribution of food commodities, and to reduce their

rate of population growth" for "efforts to meet their problems of food production and population growth".

Subsec. (b). Pub. L. 94161, §203(2), substituted "section 1704 and in section 1706(b)(2) of this title" for "section 1704 of this title".

Subsec. (d). Pub. L. 94161, §203(3), substituted second proviso "Provided, That this exclusion from the definition of 'friendly country' may be waived by the President if he determines that such waiver is in the national interest and reports such determination to the Congress within 10 days of the date of such determination" for "Provided, That with respect to furnishing, selling, or selling and transporting to Cuba medical supplies, non-strategic raw materials for agriculture, and non-strategic agricultural or food commodities, sales agreements may be entered into if the President finds with respect to each such country and so informs the Senate and the House of Representatives of the reasons therefor, that the making of each such agreement would be in the national interest of the United States and all such findings and reasons therefor shall be published in the Federal Register".

1973—Subsec. (o). Pub. L. 93125 made technical correction to Pub. L. 9386, see 1973 Amendment note below.

Pub. L. 91524, §703, as added by Pub. L. 9386 as amended by Pub. L. 93125, inserted "and that commercial supplies are available to meet demands developed through programs carried out under this chapter." before the semicolon at end.

1968—Subsec. (b). Pub. L. 90436, §4, made mandatory, except when determined by President to be inconsistent with objectives of this chapter, proviso that President, in agreements for credit sales, require immediate payment in dollars or in foreign currencies upon delivery of agricultural commodities, such payment to be considered as an advance payment of earliest obligations.

Subsecs. (o) to (q). Pub. L. 90436, §5, added subsecs. (o) to (q).

1966—Subsec. (a). Pub. L. 89808 substituted provisions respecting self-help measures for meeting problems of food production and population growth for former provisions for appropriations for reimbursement of Commodity Credit Corporation, advance use of other funds, and classification of expenditures, now provided for in part by section 1733 of this title.

Subsec. (b). Pub. L. 89808 substituted provisions respecting taking steps to assure a progressive transition from sales for foreign currencies to sales for dollars (such transition to be completed by December 31, 1971) but authorizing payment in foreign currencies for purposes of section 1704(a) to (c), (e), and (h) of this title for former limitation on transactions, now provided for by section 1710 of this title.

Subsec. (c). Pub. L. 89808 redesignated provisions of former section 1701(a) of this title as subsec. (c), substituting "subchapter" for "chapter".

Subsec. (d). Pub. L. 89808 redesignated provisions of former section 1707 of this title as subsec. (d), provided for sales agreements only with friendly countries and for periodic reports to Congress of status of such countries, deleted from definition of "friendly country" (formerly "friendly nation") clause "(1) the U.S.S.R.", redesignated cls. (2) to (4) as (1) to (3), substituted "country" for "nation", struck out "or controlled" after "dominated" in cl. (2), amended cl. (3) to include North Vietnam, insert selling or furnishing ships or aircraft, substitute "so long as they are governed by a Communist regime" for "so long as Cuba is governed by the Castro regime", and provided for entry into sales agreements when in the national interest for furnishing, selling, or selling and transporting to Cuba medical supplies, etc., upon information to Congress and publication in Federal Register, designated existing provisions as cl. (4), and substituted requirement of information to the President of the Senate of sales to United Arab Republic rather than the Foreign Relations Committee and Appropriations Committee of the Senate.

Subsec. (e). Pub. L. 89808 redesignated provisions of former section 1701(b) of this title as subsec. (e), insert-

ing provision for the taking of steps to assure that small business has adequate and fair opportunity to participate in sales made under authority of this chapter.

Subsec. (f). Pub. L. 89808 redesignated provisions of former section 1701(c) of this title as subsec. (f), substituting "the development and expansion of foreign markets for United States agricultural commodities" for "utilizing the authority and funds provided by this chapter, in order to develop and expand continuous market demand abroad for agricultural commodities" and "emphasis on more adequate storage, handling, and food distribution facilities as well as long-term development of new and expanding markets by encouraging economic growth" for "emphasis on underdeveloped and new market areas".

Subsec. (g). Pub. L. 89808 redesignated provisions of former section 1701(d) of this title as subsec. (g), substituted "obtain", "purchasing countries", and "subchapter" for "seek and secure", "participating countries", and "chapter" and struck out "surplus" before "agricultural commodities".

Subsec. (h). Pub. L. 89808 redesignated provisions of former section 1701(f) of this title as subsec. (h).

Subsec. (i). Pub. L. 89808 added subsec. (i).

Subsec. (j). Pub. L. 89808 incorporated in provisions added as subsec. (j) former section 1693 of this title, substituting "to be independent of domination or control by any world Communist movement" for "to be independent of trade with the Union of Soviet Socialist Republics or the Communist regime in China and with nations dominated or controlled by the Union of Soviet Socialist Republics" and "sales agreements under this subchapter with any government or organization controlling a world Communist movement or with any country with which the United States does not have diplomatic relations" for "transactions under this subchapter or subchapter I of this title with the Union of Soviet Socialist Republics or any of the areas dominated or controlled by the Communist regime in China" and struck out provision for prevention of increased availability of commodities to unfriendly nations.

Subsec. (k). Pub. L. 89808 added subsec. (k).

Subsec. (l). Pub. L. 89808 added subsec. (l).

Subsec. (m). Pub. L. 89808 redesignated provisions of former section 1701(g) of this title as par. (1) and added par. (2).

Subsec. (n). Pub. L. 89808 incorporated in provisions added as subsec. (n) part of former section 1734 of this title requiring the Secretary to take such reasonable precautions as he determines necessary to avoid replacing any sales which the Secretary found and determined would otherwise be made for cash dollars.

1964—Subsec. (a). Pub. L. 88638, §1(4), directed the President to classify expenditures under this chapter as for international affairs and finance rather than for agriculture and agricultural resources.

Subsec. (b). Pub. L. 88638, §1(5), substituted "1965" for "1962", "1966" for "1964", and "\$2,700,000,000 plus any amount by which agreements entered into in prior years have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than authorized for such prior years by this chapter as in effect during such years" for "\$4,500,000,000".

1961—Subsec. (b). Pub. L. 87128 substituted authorization provision of \$4,500,000,000 for period beginning January 1, 1962, and ending December 31, 1964, with a limitation of \$2,500,000,000 for any one calendar year, for authorization provision of \$1,500,000,000 plus any amount by which agreements entered into in the preceding calendar year called for appropriations in amount less than authorized for such preceding year by this chapter as in effect during the preceding year for period beginning January 1, 1960, and ending December 31, 1961.

Pub. L. 8728 authorized agreements during the calendar year 1961 calling for appropriations of not more than \$3,500,000,000 plus any unused authority carried over from 1960.

1959—Subsec. (b). Pub. L. 86341 substituted "in any calendar year during the period beginning January 1,

1960, and ending December 31, 1961” for “during the period beginning July 1, 1958, and ending December 31, 1959”, “\$1,500,000,000” for “\$2,250,000,000”, “in the preceding calendar year” for “in prior fiscal years”, “for such preceding year” for “for such prior fiscal years”, and “during such preceding year” for “during such fiscal years”.

1958—Subsec. (b). Pub. L. 85931 amended subsec. (b) generally, substituting “Agreements entered into” for “Transactions carried out”, providing for \$2,250,000,000 for sales between July 1, 1958, and Dec. 31, 1959, and for carrying over unused authorizations from one fiscal to succeeding fiscal years, and striking out clause that limitation on sales shall not be apportioned by year or by country and shall be considered as an objective to be reached as rapidly as possible within the safeguards of this chapter.

1957—Subsec. (b). Pub. L. 85128 substituted “\$4,000,000,000” for “\$3,000,000,000”.

1956—Subsec. (a). Act May 28, 1956, authorized appropriations equal to all Commodity Credit Corporation funds expended for ocean freight costs.

Subsec. (b). Act Aug. 3, 1956, increased from \$1,500,000,000 to \$3,000,000,000 the limitation on sales.

1955—Subsec. (b). Act Aug. 12, 1955, increased from \$700,000,000 to \$1,500,000,000 the limitation on sales, and provided that this limitation shall not be apportioned by year or by country.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 9653 effective Oct. 1, 1979, see section 512(a) of Pub. L. 9653, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95424 effective Oct. 1, 1978, see section 605 of Pub. L. 95424, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 9588 effective Oct. 1, 1977, see section 215 of Pub. L. 9588, set out as a note under section 1702 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 1(5) of Pub. L. 88638 provided that the amendment made by that section is effective Jan. 1, 1965.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 201(2) of Pub. L. 87128 provided that the amendment made by that section is effective Jan. 1, 1962.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 2 of Pub. L. 86341 provided that the amendment made by that section is effective Jan. 1, 1960.

§1704. Use of local currency payment

(a) In general

Agreements under this subchapter may provide that the Secretary shall use payments made in local currencies by the recipient country in accordance with this section.

(b) Special account

Foreign currencies received by the Secretary under this subchapter shall be deposited in a

separate account, that may be interest-bearing, to the credit of the United States and such currencies and interest thereon shall be used as provided for in this section.

(c) Activities

The proceeds from the payments referred to in subsection (a) of this section may be used in the recipient country for the following:

(1) Trade development

To carry out programs to help develop markets for United States agricultural commodities on a mutually beneficial basis in the recipient country.

(2) Agricultural development

To support—

(A) increased agricultural production, including availability of agricultural inputs, with emphasis on small farms, processing of agricultural commodities, forestry management, and land and water management;

(B) credit policies for private-sector agriculture development;

(C) establishment and expansion of institutions for basic and applied agricultural research and the use of such research through development of extension services; and

(D) programs to control rodents, insects, weeds, and other animal or plant pests.

(3) Agricultural business development loans

To make loans to United States business entities (including cooperatives) and branches, subsidiaries, or affiliates of such entities for agricultural business development and agricultural trade expansion in such recipient countries.

(4) Agricultural facilities loans

To make loans to domestic or foreign entities (including cooperatives) for the establishment of facilities for aiding in the utilization or distribution of, or otherwise increasing the consumption of and markets for, United States agricultural products.

(5) Trade promotion

To promote agricultural trade development, under procedures established by the Secretary, by making loans or through other activities (including trade fairs) that the Secretary determines to be appropriate.

(6) Private sector agricultural trade development

To conduct private sector agricultural trade development activities in the recipient country, as determined appropriate by the Secretary.

(7) Research

To conduct research in agriculture, forestry, and aquaculture, including collaborative research which is mutually beneficial to the United States and the recipient country.

(8) United States obligations

To make payments of United States obligations (including obligations entered into pursuant to other laws).

(d) Fiscal requirements regarding use of local currencies**(1) Exemption**

Section 1306 of title 31 shall not apply to local currencies used by the President under paragraphs (1) through (7) of subsection (c) of this section.

(2) Use of currencies by other agencies

Any department or agency of the Federal Government other than the Department of Agriculture using any such local currencies for a purpose for which funds have been appropriated shall reimburse the Commodity Credit Corporation in an amount equivalent to the dollar value of the currencies used.

(July 10, 1954, ch. 469, title I, §104, 68 Stat. 456; Aug. 26, 1954, ch. 937, title V, §544(h), (i), as added July 18, 1956, ch. 627, §11(a), 70 Stat. 564, 565; amended Aug. 3, 1956, ch. 933, §2, 70 Stat. 988; Aug. 13, 1957, Pub. L. 85128, §1(4), 71 Stat. 345; Aug. 26, 1954, ch. 937, title V, §544(c), as added Aug. 14, 1957, Pub. L. 85141, §11(b)(2), 71 Stat. 365; June 30, 1958, Pub. L. 85477, ch. V, §502(l), 72 Stat. 275; Sept. 6, 1958, Pub. L. 85931, §3, 72 Stat. 1790; July 24, 1959, Pub. L. 86108, ch. VII, §701(d), 73 Stat. 258; Sept. 21, 1959, Pub. L. 86341, title I, §§49, 73 Stat. 606, 607; Aug. 8, 1961, Pub. L. 87128, title II, §201(3), 75 Stat. 306; Sept. 4, 1961, Pub. L. 87195, pt. III, §612(b), pt. IV, §704, 75 Stat. 443, 463; Oct. 18, 1962, Pub. L. 87839, §2, 76 Stat. 1074; Dec. 16, 1963, Pub. L. 88205, pt. III, §301(d)(2), 77 Stat. 386; Oct. 8, 1964, Pub. L. 88638, §1(6)(10), 2, 78 Stat. 10351038; Aug. 4, 1965, Pub. L. 89106, §5, 79 Stat. 432; Nov. 11, 1966, Pub. L. 89808, §2(B), 80 Stat. 1528; July 29, 1968, Pub. L. 90436, §2(a), 3, 6, 82 Stat. 450, 451; Nov. 30, 1970, Pub. L. 91524, title VII, §702, 84 Stat. 1379; Dec. 20, 1975, Pub. L. 94161, title II, §204, 89 Stat. 852; Aug. 14, 1979, Pub. L. 9653, title I, §121, 93 Stat. 366; Dec. 29, 1981, Pub. L. 97113, title IV, §§401(5), 402, 95 Stat. 1537; Aug. 23, 1988, Pub. L. 100418, title IV, §4401, 102 Stat. 1400; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3635.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions authorizing President to use local currencies received as payments to pay United States obligations, for agricultural market development, for educational and cultural exchange, for scientific activities, for purchase of real property abroad, for purchase of foreign books, periodicals, etc., for United States libraries, to meet emergency relief requirements, for loans to United States businesses for trade expansion and to firms for development of facilities increasing market for commodities, for loans to recipients to improve food production and marketing, to purchase goods and services for other friendly countries, to pay for food production assistance programs, for sale for dollars to United States citizens, to pay for animal and plant pest control, and provisions relating to application of section 1306 of title 31, and to use of currencies of which United States has amounts in excess of needs for next two fiscal years.

1988—Subsec. (b)(1). Pub. L. 100418 inserted "(including wood and processed wood products of the United States)" after first reference to "agricultural commodities".

1981—Pub. L. 97113, §401(5)(A), (B), substituted in introductory text "agreements for such sales entered into prior to January 1, 1972," for "this subchapter"

and struck out from penultimate proviso, par. (3), "except as provided in subsection (c) of this section)," after "foreign currencies".

Subsec. (d). Pub. L. 97113, §402, increased fiscal year limitation to \$10,000,000 from \$5,000,000.

1979—Subsec. (f). Pub. L. 9653 substituted "Agency for International Development" for "Advisory Committee on Voluntary Foreign Aid".

1975—Pub. L. 94161 inserted references to the House Committee on International Relations and the Senate Committee on Foreign Relations in first proviso of subsec. (b)(1), in par. (3) of penultimate proviso following subsec. (k), and in last sentence of section and repealed subsec. (c) which read: "To procure equipment, materials, facilities, and services for the common defense including internal security;" respectively.

1970—Pub. L. 91524 inserted provision allowing appropriation acts to specifically authorize the use of foreign currencies in the educational and cultural exchange program without requiring the appropriation of dollars for the purchase of those same foreign currencies.

1968—Subsec. (b)(2). Pub. L. 90436, §3, authorized the financing with at least 2 percent of the total sales proceeds each year in each country of additional activities to strengthen the resources of American schools, colleges, universities, and other public and nonprofit private educational agencies for international studies and research pursuant to programs authorized by title VI of the National Defense Education Act, the Mutual Educational and Cultural Exchange Act of 1961, the International Education Act of 1966, the Higher Education Act of 1965, the Elementary and Secondary Education Act of 1965, the National Foundation on the Arts and the Humanities Act of 1965, and the Public Broadcasting Act of 1967.

Subsec. (h). Pub. L. 90436, §2(a), inserted provision that not less than 5 percent of the total sales proceeds, if requested by the foreign country, be used for voluntary programs to control population growth.

Subsec. (k). Pub. L. 90436, §6, added subsec. (k).

1966—Pub. L. 89808, in introductory text, struck out "section 724 of title 31, or" after "Notwithstanding", substituted "foreign countries or international organizations" for "friendly nations, or organizations of nations", and inserted "in connection with sales for foreign currencies" after "accrue".

Subsec. (a). Pub. L. 89808 redesignated subsec. (f) as (a), struck out "abroad" after "obligations" and inserted "(including obligations entered into pursuant to other legislation)". Former subsec. (a) redesignated (b)(1).

Subsec. (b). Pub. L. 89808 struck out subsec. (b) which provided for purchase, in such amounts as may be specified from time to time in appropriation acts, strategic or other materials for a supplemental stockpile of such materials as the president may determine from time to time.

Subsec. (b)(1). Pub. L. 89808 redesignated former subsec. (a) as (b)(1), inserted "For carrying out programs of United States Government agencies to—" preceding par. (1) and restriction against making a release until expiration of requisite number of days following transmittal to congressional committees, struck out "after September 21, 1959," before "shall be set aside" and "Provided further, That no such funds shall be allocated under this subsection after June 30, 1960, except as may be specified from time to time, in appropriation acts" before convertibility of proceeds provision, substituted "as he determines cannot be effectively used for agricultural market development purposes under this section" for "as he determines not to be needed, within a reasonable period of time, for such purpose:" and "sale of agricultural commodities" for "sale of surplus agricultural commodities" and inserted provisions of utilization of nonprofit agricultural trade organizations to maximum extent possible in carrying out agricultural market development activities and inclusion as a purpose of subsec. (b) such representation of agricultural industries as may be required during course of discussions on trade programs relating either to individual commodities or groups of commodities.

Subsec. (b)(2). Pub. L. 89808 incorporated in provisions designated as par. (2) provisions of subsec. (h) which provided for financing of international exchange activities under programs authorized by section 1641(b)(2) of Appendix to title 50 and for financing in such amounts as may be specified from time to time in appropriation acts of programs for interchange of persons under section 1446 of title with a particular effort for allocation of funds with regard to countries where adequate funds are not available from other sources for such purposes and countries where agreements can be negotiated to establish a fund to be available over a period of years for such purposes, including setting aside of such amounts from sale proceeds and loan repayments not in excess of \$1,000,000 a year in any one country for not more than 5 years in advance, as determined to be required for such purposes by the Secretary of State.

Subsec. (b)(3). Pub. L. 89808 redesignated subsec. (k) as par. (3), included use of foreign currencies for family planning programs, and struck out proviso for availability of foreign currencies for subsec. (k) purposes (in addition to funds otherwise made available for such purposes) only in such amounts as may be specified from time to time in appropriation Acts.

Subsec. (b)(4). Pub. L. 89808 redesignated subsec. (l) as par. (4), striking out subsec. (l) proviso for availability of foreign currencies for subsec. (l) purposes (in addition to funds otherwise made available for such purposes) in such amounts as may be specified from time to time in appropriation acts.

Subsec. (b)(5). Pub. L. 89808 redesignated subsec. (n)(1) to (3) as par. (5)(A) to (C), striking out provision for use of foreign currencies "in such amounts as may be specified from time to time in appropriation acts".

Subsec. (c). Pub. L. 89808 reenacted existing provisions.

Subsec. (d). Pub. L. 89808 redesignated subsec. (q) as (d). Former subsec. (d) redesignated (g).

Subsec. (e). Pub. L. 89808 substituted provisions for use of foreign currencies to maximum extent and for due consideration to be given to the continued expansion of markets for United States agricultural commodities or products thereof in proviso for former provisions for availability of such currencies to maximum usable extent and for manufacture or production of any commodity to be marketed in competition with United States agricultural commodities or products thereof in the proviso, authorized loans to cooperatives and for private home construction in foreign countries, struck out introductory phrase for uses of such currencies "For promoting balanced economic development and trade among nations", and that loans be mutually agreeable to the agency and the country making the agreement, and inserted "intended" in proviso.

Subsec. (f). Pub. L. 89808 redesignated subsec. (g) as (f), provided for promotion of agricultural development, establishment of procedures by the President, use of funds in any other manner than loans as determined by the President to be in the national interest, assistance to programs of recipient countries designed to promote, increase, or improve food production, processing, distribution, or marketing in food-deficit countries friendly to the United States, and utilization for such purpose to extent practicable the services of registered and approved nonprofit voluntary agencies, prohibited use of funds to promote religious activities, and struck out provisions for loans made through established banking facilities of the friendly nation from which the foreign currency was obtained or in any other manner which the President may deem to be appropriate and authorization for acceptance of strategic materials, services, or foreign currencies in payment of such loans. Former subsec. (f) redesignated (a).

Subsec. (g). Pub. L. 89808 redesignated former subsec. (d) as (g), struck out "financing" before "the purchase". Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 89808 added subsec. (h) Former subsec. (h) redesignated (b)(2).

Subsec. (i). Pub. L. 89808 substituted provisions respecting use of foreign currencies for paying costs out-

side the United States of carrying out food production assistance programs for former provisions for financing (\$5,000,000 fiscal year limitation) translation, publication, and distribution of books and periodicals, including Government publications, abroad.

Subsec. (j). Pub. L. 89808 redesignated subsec. (t) as (j), authorized sale of foreign currencies to nonprofit organizations, and struck out provisions making the currencies available for sale at United States embassies or other convenient locations, describing such currencies as acquired through operations under Foreign Assistance Act of 1961, as amended, Mutual Security Act of 1954, as amended, or any Act repealed thereby, or Agricultural Trade Development and Assistance Act of 1954, as amended, prohibiting such sales for travel purposes under agreement entered into with another country or when so committed by agreement to other uses, depositing dollars from such sales into United States Treasury as miscellaneous receipts, and treating dollars deposited into the CCC account as a reimbursement under section 1705 of this title. Former subsec. (j) provided for assistance to schools, libraries, and community centers abroad founded or sponsored by United States citizens and serving as demonstration centers, and is now covered by subsec. (b)(2) of this section.

Subsecs. (k), (l). Pub. L. 89808 redesignated subsecs. (k) and (l) as (b)(3) and (4).

Subsec. (m). Pub. L. 89808 struck out subsec. (m) which provided for financing in such amounts as may be specified from time to time in appropriation acts trade fair participation and related activities and agricultural and horticultural fair participation and related activities.

Subsec. (n). Pub. L. 89808 redesignated subsec. (n) as (b)(5).

Subsecs. (o), (p). Pub. L. 89808 struck out subsec. (o) which provided for assistance, in such amounts as may be specified from time to time in appropriation acts, in expansions or operation in foreign countries of schools, colleges, or universities founded or sponsored by United States citizens for carrying out programs of vocational, professional, scientific, technological, or general education, and subsec. (p) which provided for supporting workshops in American studies or American educational techniques, and supporting chairs in American studies.

Subsec. (q). Pub. L. 89808 redesignated subsec. (q) as (d).

Subsec. (r). Pub. L. 89808 struck out subsec. (r) which provided for financing (\$2,500,000 fiscal year limitation) preparation, distribution, and exhibition of audio-visual informational and educational materials abroad without limiting or affecting use of foreign currencies for such materials in connection with trade fairs and other market development activities under subsec. (a) of this section.

Subsecs. (s), (t). Pub. L. 89808 incorporated subsecs. (s) and (t) in subsec. (j), and struck out from former subsec. (s) "under such terms and conditions as the President may prescribe".

Penultimate proviso. Pub. L. 89808 incorporated part of existing proviso following subsec. (t) in provisions designated as par. (1) and inserted reference to subsec. (b).

Pub. L. 89808 incorporated part of existing initial proviso and second proviso following subsec. (t) in provisions designated as par. (2), substituted references to subsecs. (f) and (g) for (d) and (e), and struck out a third proviso restricting the availability of foreign currencies pursuant to subsecs. (k), (p), and (r) to such amounts as may be specified from time to time in appropriation Acts.

Pub. L. 89808 redesignated penultimate par. as par. (3) and struck out "and then only if, between the date of transmittal and the expiration of such period there has not been passed by either of the two Committees a resolution stating in substance that that Committee does not favor such agreement or proposal" after "sessions."

Pub. L. 89808 redesignated last par. as par. (4) and substituted "after consultation with the advisory com-

mittee established under section 1736a of this title" for "upon the recommendation of the advisory committee herein established".

Ultimate proviso. Pub. L. 89808 inserted ultimate proviso making pars. (2) to (4) of penultimate proviso inapplicable in the case of any nation where the foreign currencies or credits owned by the United States and available for use by it in such nation are determined by the Secretary of the Treasury to be in excess of the normal requirements of Federal departments and agencies for expenditures in such nations for two fiscal years following fiscal year in which such determination is made.

Concluding text. Pub. L. 89808 inserted provisions for devotion of excess foreign currencies to acquisition of sites, buildings, and grounds under subsec. (b)(4) of this section, for assistance in self-help measures, and for reports to congressional committees of determinations of existence of excess foreign currencies with respect to any nation, uses for such excess, and effects of such use.

Pub. L. 89808 struck out pars. for establishment of an advisory committee and for consultations with such committee respecting loan, currency convertibility, and currency reservations (in sales agreements) policies and for establishment of higher than minimum interest rate for dollar sales. Advisory committee provisions are now covered in section 1736a of this title.

1965—Subsec. (a). Pub. L. 89106 authorized the Secretary of Agriculture to release such amounts of the foreign currencies set aside for the market development program as he determined not to be needed, within a reasonable period of time, for that purpose.

1964—Subsec. (c). Pub. L. 88638, §1(6), inserted "including internal security" and struck out "military" before "equipment".

Subsec. (e). Pub. L. 88638, §1(7), substituted "currencies shall also be available to the maximum usable extent" for "not more than 25 per centum of the currencies received pursuant to each such agreement shall be available".

Subsec. (t). Pub. L. 88638, §2, redesignated subsec. (b) of section 612 of Pub. L. 87195, as subsec. (t) of this section, inserted "For sale to United States citizens as provided herein", substituted "the Foreign Assistance Act of 1961, as amended" for "this chapter", and provided that except in the case of foreign currencies acquired under this subchapter, dollars received from the sale of foreign currencies shall be deposited to the account of the Commodity Credit Corporation and shall be treated as a reimbursement to such Corporation.

Pub. L. 88638, §1(8)(10), established an advisory committee, specified its composition, directed it to review the status and usage of foreign currencies accruing under this subchapter and to make various recommendations, provided that the committee be consulted with respect to various matters, for the transmittal of certain proposals to congressional committees, and that any loan under this section shall bear interest as the President shall determine, within certain limits and taking various matters into consideration, and inserted "pursuant to agreements entered into on or before December 31, 1964 and to not less than 20 per centum in the aggregate of the foreign currencies which accrue pursuant to agreements entered into thereafter" in first proviso.

1963—Subsec. (t). Pub. L. 88205 added subsec. (b) to section 612 of Pub. L. 87195, which was designated as subsec. (t) of this section by Pub. L. 88638.

1962—Subsec. (m). Pub. L. 87839 inserted "or section 1122b of title 46".

1961—Pub. L. 87128, §201(3)(a), inserted "including principal and interest from loan repayments," after "foreign currencies", in opening provisions.

Subsec. (a). Pub. L. 87128, §201(3)(d), inserted, in second sentence, "each year" after "made" and "set aside in the amounts and kinds of foreign currencies specified by the Secretary of Agriculture and" after "be", where "made" and "be" first appear; substituted, in third sentence, "Provision shall be made" for "Particu-

lar regard shall be given to provide" and "the Secretary of Agriculture determines to" for "may" and inserted "(not less than 2 per centum)" after "thereof"; inserted sentence concerning conversion of monies into foreign currencies and deposit in special Treasury account; and substituted, in last sentence, "the Secretary of Agriculture is authorized and directed to enter into agreements" for "agreements may be entered into".

Subsec. (e). Pub. L. 87195 substituted "procedures established by such agency as the President shall direct for loans mutually agreeable to said agency" for "procedures established by the Export-Import Bank for loans mutually agreeable to said bank".

Subsec. (s). Pub. L. 87128, §201(3)(c), added subsec. (s).

Pub. L. 87128, §201(3)(b), substituted in final proviso "pursuant to" for "for the purpose of subsection (p) of this section, except in such amounts as may be specified from time to time in appropriation Acts, and no foreign currencies shall be allocated under any provision of this chapter after June 30, 1960, for the purposes specified in".

1959—Subsec. (a). Pub. L. 86341, §4, provided that from sale proceeds and loan repayments under this subchapter not less than the equivalent of 5 per centum of the total sales made under this subchapter after September 21, 1959, shall be made available in advance for use as provided by this subsection over such period of years as the Secretary of Agriculture determines will most effectively carry out the purposes of this subsection, prohibited the allocation of such funds after June 30, 1960, except as may be specified in appropriation acts, required particular regard to be given for provisions in sale and loan agreements for the convertibility of such amount of the proceeds thereof as may be needed to carry out the purpose of this subsection in those countries which are or offer reasonable potential of becoming dollar markets for United States agricultural commodities, and permitted the entering into agreements for the sale of surplus agricultural commodities in such amounts as the Secretary of Agriculture determines to be adequate and for the use of the proceeds to carry out the purpose of this subsection in cases where sufficient foreign currencies for carrying out the purpose of this subsection in such countries are not otherwise available.

Subsec. (b). Pub. L. 86341, §5, among other changes, substituted "strategic or other materials" for "strategic and critical materials" in two places, limited purchases or contracts to purchase to such amounts as may be specified from time to time in appropriation acts, and eliminated provisions which authorized contracts, including advance payment contracts, for supply extending over periods up to ten years, and which permitted the strategic and critical materials acquired under authority of this subchapter to be additional to the amounts acquired under authority of the Strategic and Critical Materials Stockpile Act.

Subsec. (k). Pub. L. 86341, §6, authorized the use of foreign currencies to promote and support programs of medical and scientific research, cultural and educational development, health, nutrition, and sanitation.

Pub. L. 86108 substituted "conduct research and support" for "conduct and support", and "Provided, That foreign currencies shall be available for the purposes of this subsection (in addition to funds otherwise made available for such purposes) only in such amounts as may be specified from time to time in appropriation Acts;" for "but no foreign currencies shall be used for the purposes of this subsection unless specific appropriations be made therefor".

Subsec. (o). Pub. L. 86341, §7, struck out provisions which permitted the use of foreign currencies in the supporting of workshops in American studies or American educational techniques, and supporting chairs in American studies. See subsec. (p) of this section.

Subsecs. (p) to (r). Pub. L. 86341, §8, added subsecs. (p) to (r).

Pub. L. 86341, §9, inserted proviso in closing provisions limiting availability of foreign currencies for the

purpose of subsec. (p) of this section to such amounts as may be specified from time to time in appropriation Acts, and prohibiting allocation of foreign currencies after June 30, 1960, for the purposes specified in subsections (k), (p), and (r) of this section to such amounts as may be specified from time to time in appropriation Acts.

1958—Subsec. (h). Pub. L. 85931, §3(a), authorized use of foreign currencies to finance programs for interchange of persons between United States and foreign countries.

Subsec. (k). Pub. L. 85477 added subsec. (k).

Subsecs. (l) to (o). Pub. L. 85931, §3(b), added subsecs. (l) to (o).

1957—Subsec. (e). Pub. L. 85128 provided that not more than 25 percent of the currencies received pursuant to each agreement be available through the Export-Import Bank for loans mutually agreeable to said bank and the country with which the agreement is made for business development in such countries and for loans to domestic or foreign firms for facilities to aid markets for United States agricultural products, provided no such loans be made for the manufacture of products to be exported to United States in competition with United States products or for manufacture or production of any commodity to be marketed in competition with United States agricultural commodities or products thereof, and that foreign currencies may be accepted in repayment of such loans.

Subsec. (h). Pub. L. 85141, §11(b)(2), added section 544(c) to act Aug. 26, 1954, which section inserted provisions in this subsection authorizing the setting aside of amounts from sale proceeds and loan repayments.

1956—Subsec. (h). Act July 18, 1956, added section 544(h) to act Aug. 26, 1954, which section inserted provisions in this section relating to allocation of funds and to the special and particular effort to be made to provide for the purposes of this subsection.

Subsec. (i). Act Aug. 26, 1954, §544(i), as added by act July 18, 1956, added subsec. (i).

Subsec. (j). Act Aug. 3, 1956, added subsec. (j).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 9653 effective Oct. 1, 1979, see section 512(a) of Pub. L. 9653, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

REPEALS

Section 704 of Pub. L. 87195, cited as a credit to this section, was repealed by section 401 of Pub. L. 87565, pt. IV, Aug. 1, 1962, 76 Stat. 263, except insofar as section 704 affected this section.

Pub. L. 85477, ch. IV, §401(h), June 30, 1958, 72 Stat. 270, repealed section 544(c) of act Aug. 26, 1954, cited as a credit to this section, except insofar as such section 544(c) affected this section.

Pub. L. 85141, §11(b)(1), repealed section 544(h), (i) of act Aug. 26, 1954, cited as a credit to this section, except insofar as such section 544(h), (i) affected this section.

PAYMENT FROM FOREIGN CURRENCIES FOR FAMILY HOUSING PROJECTS OR COMMUNITY FACILITIES CONSTRUCTED OR ACQUIRED BY DEPARTMENT OF DEFENSE

Section 509 of Pub. L. 86500, title V, June 8, 1960, 74 Stat. 186, provided that: "Notwithstanding the provisions of any other law, at least 75 per centum of the total cost of any family housing project or community

facility hereafter constructed or acquired in any foreign country by the Department of Defense or any military department shall be paid for from foreign currencies acquired by the Commodity Credit Corporation pursuant to the provisions of the Agricultural Trade Development and Assistance Act of 1954 [this chapter]; except that the following projects authorized pursuant to this Act shall not be subject to this requirement:

"Air Force activities, Japan, one hundred fifty units;
 "Cigli Air Base, Turkey, community facilities;
 "Clark Air Force Base, Philippine Islands, one hundred units;
 "Iraklion Air Station, Crete, community facilities;
 "Kirknewton RAF, United Kingdom, fifty units;
 "Naval Air Station, Naha, Okinawa, two hundred; and
 "Site I5, Italy, one hundred units and community facilities."

LIMITATION ON USE OF FOREIGN CURRENCIES FOR PARTICIPATION IN TRADE, AGRICULTURAL AND HORTICULTURAL FAIRS

Pub. L. 8630, title I, §101, May 20, 1959, 73 Stat. 35, provided that: "Subject to allocation in such manner as may now or hereafter be prescribed by the President, foreign currencies which have accrued under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704) [this section] may be used without fiscal year limitation for the purposes of section 104(m) of that Act [former subsec. (m) of this section], including administrative expenses directly related thereto, in an amount not to exceed the equivalent of \$1,275,000."

INTERNATIONAL COOPERATION IN HEALTH RESEARCH, RESEARCH TRAINING, AND RESEARCH PLANNING

Use of foreign currencies accruing under this subchapter to carry out purposes of International Health Research Act of 1960, see section 2103 of Title 22, Foreign Relations and Intercourse.

USE OF FOREIGN CURRENCIES

Foreign currencies accruing to United States under this subchapter may be used for purposes set forth in this section, see Ex. Ord. No. 12752, §2(b)(1), (2), Feb. 25, 1991, 56 F.R. 8255, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1703, 1856 of this title; title 22 section 1922; title 50 section 98c.

§1704a. Agreements for use of foreign currencies; reports to Congress

Within sixty days after any agreement is entered into for the use of any foreign currencies, a full report thereon shall be made to the Senate and the House of Representatives of the United States and to the Committees on Agriculture and Appropriations thereof.

(Pub. L. 85128, §1(5), Aug. 13, 1957, 71 Stat. 345.)

CODIFICATION

Section was not enacted as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

TRANSMISSION OF REPORTS

For provisions requiring Secretary of Agriculture and Administrator of Agency for International Development to transmit reports required by this section as related to use of foreign currencies accruing under subchapters II and IIIA of this chapter, see section 2(b)(3) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8255, set out as a note under section 1691 of this title.

§1704b. Repealed. Pub. L. 97214, §7(4), July 12, 1982, 96 Stat. 173

Section, Pub. L. 86149, title IV, §420, Aug. 10, 1959, 73 Stat. 324, related to utilization of foreign currencies for construction of military projects and reimbursement of Commodity Credit Corporation.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing before, on, or after such date, see section 12(a) of Pub. L. 97214, set out as an Effective Date note under section 2801 of Title 10, Armed Forces.

§1704c. Payments by Secretary of Defense in liquidation of amount due for foreign currencies

The Secretary of Defense shall pay to the Commodity Credit Corporation an amount not to exceed \$6,000,000 per year until the amount due for foreign currencies used for housing constructed or acquired under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 17211726) has been liquidated.

(Pub. L. 97214, §9(a), July 12, 1982, 96 Stat. 174.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 17211726), referred to in text, is act July 10, 1954, ch. 469, 68 Stat. 457, as amended. Title II of the Agricultural Trade Development and Assistance Act is classified generally to subchapter III (§1721 et seq.) of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

CODIFICATION

Section consists of section 9(a) of Pub. L. 97214. Section 9(b) of Pub. L. 97214 is classified as a note set out under section 1594k of Title 42, The Public Health and Welfare. Section was enacted as part of the Military Construction Codification Act, and not as part of the Agricultural Trade and Assistance Act of 1954 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing before, on or after such date, see section 12(a) of Pub. L. 97214, set out as a note under section 2801 of Title 10, Armed Forces.

§1705. Value-added foods

(a) Policy

Congress declares it to be the policy of the United States to assist developing countries that are or have been recipients of high protein, blended, or fortified foods under subchapter III of this chapter to continue to combat hunger and malnutrition among the lower income segments of the population of such countries, especially children, through the continued provision of such foods under this subchapter.

(b) Partial waiver of repayment

In implementing the policy declared in subsection (a) of this section, the Secretary, in entering into agreements for the sale of high protein, blended, or fortified foods under this subchapter with countries that—

(1) provide assurances that the benefits of any waiver granted under this subsection will

be passed on to the individual recipients of such foods; and

(2) have a reasonable potential for transferring benefits of such waiver to commercial purchasers of such foods;

may make provisions for a waiver of payment of not to exceed an amount equal to the value of that part of the product that is attributable to the costs of processing, enrichment, or fortification of such product.

(c) Minimize impact

In implementing this section, the Secretary shall, to the extent practicable, minimize the impact of this section on other commercial and concessional sales of whole grains.

(July 10, 1954, ch. 469, title I, §105, 68 Stat. 457; Dec. 16, 1963, Pub. L. 88205, pt. IV, §403(b), 77 Stat. 390; Nov. 11, 1966, Pub. L. 89808, §2(B), 80 Stat. 1532; Dec. 23, 1985, Pub. L. 99198, title XI, §1111(e), 99 Stat. 1475; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3636.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions establishing a special account for foreign currencies, requiring departments using such funds to reimburse Commodity Credit Corporation, and requiring President to use such funds to reduce any deficit in United States balance of payments.

1985—Pub. L. 99198 inserted reference to section 1708 of this title.

1966—Pub. L. 89808 substituted “chapter and sections 1427 and 1431 of this title” for “subchapter” in two places.

1963—Pub. L. 88205 required the President to utilize foreign currencies received pursuant to this subchapter in such manner as will, to the maximum extent possible, reduce any deficit in the balance of payments of the United States.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

§1706. Debt-for-health-and-protection swap

(a) Definition

For purposes of this section, the term “debt-for-health-and-protection swap” means the voluntary cancellation of the foreign debt of the government of a foreign country in exchange for—

(1) the making available by such country, to a grantee under subsection (b) of this section, local currencies (including through the issuance of bonds) to be used only for eligible projects involving the research, study, prevention, or control of animal and plant pests and diseases in that country; or

(2) the financial and policy commitment of such country to research, study, prevent, or control animal and plant pests and diseases in that country.

(b) Assistance for commercial debt swap

(1) Grants

The Secretary is authorized to furnish assistance in the form of grants, on such terms

and conditions as the Secretary determines to be necessary and appropriate, to United States and foreign nongovernmental organizations, including colleges and universities, for the purchase of discounted external commercial debt of a foreign government (on the secondary market) to be canceled under the terms of an agreement that is entered into by the Secretary with that government as part of a debt-for-health-and-protection swap.

(2) Interest on grants

The recipient of a grant under this section (or any subgrantee of such recipient) may retain the interest earned on the proceeds of any resulting debt-for-health-and-protection swap if such recipient (or subgrantee) disburses such funds for approved program purposes, and such interest need not be deposited in the Treasury of the United States and is not subject to further appropriations by Congress.

(3) Reinvestment of interest

Interest accrued in accordance with paragraph (2) shall be reinvested by the recipient of the grant under this section in an approved project in the host country or used for the establishment of an endowment for the purpose for which the grant was provided.

(c) Eligible projects

(1) Mutual benefit

The Secretary shall ensure that a debt-for-health-and-protection swap under this section is designed to be of mutual benefit to both the agricultural sector of the United States and the agricultural sector of the recipient country.

(2) Identification of immediate areas of need

In cooperation with the Agency for International Development, international organizations, domestic or foreign nongovernmental organizations, colleges, and universities, the Secretary shall attempt to identify those areas which, because of their imminent threat to agriculture, are in particular need of immediate attention in terms of supporting and promoting the prevention or control of plant and animal pests and diseases in the Western Hemisphere.

(d) Terms and conditions of exchange

(1) Regulations

Not later than 180 days after November 28, 1990, the Secretary shall issue regulations to implement this section. Such regulations shall include provisions—

(A) that describe the general terms and conditions necessary for any proposed exchange to gain approval under paragraph (2); and

(B) to protect against the use of any assistance provided under subsection (b) of this section that is contrary to the provisions of this section.

(2) Other assistance

Grants made under this section are intended to supplement, and not to be a substitute for, any assistance that is otherwise available to a foreign country from the Department of Agriculture.

(3) Prohibition

The Department of Agriculture is prohibited from accepting any title or interest in any project or program under this section, or any interest accrued on the amount of the grant, as a condition of the debt-for-health-and-protection swap.

(e) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 101624, title XV, §1517, Nov. 28, 1990, 104 Stat. 3664.)

CODIFICATION

Section was enacted as part of the Mickey Leland Food for Peace Act, and also as part of the Agricultural Development and Trade Act of 1990 and the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

PRIOR PROVISIONS

A prior section 1706, acts July 10, 1954, ch. 469, title I, §106, 68 Stat. 457; Aug. 12, 1955, ch. 873, §2, 69 Stat. 721; Aug. 8, 1961, Pub. L. 87128, title II, §201(4), 75 Stat. 307; Dec. 16, 1963, Pub. L. 88205, pt. IV, §403 (c)(1), 77 Stat. 390; Nov. 11, 1966, Pub. L. 89808, §2(B), 80 Stat. 1532; Dec. 20, 1975, Pub. L. 94161, title II, §205, 89 Stat. 852; Aug. 3, 1977, Pub. L. 9588, title II, §211(b)(2), 91 Stat. 551; Oct. 6, 1978, Pub. L. 95424, title I, §102(b)(2)(C), 92 Stat. 941; Dec. 29, 1981, Pub. L. 97113, title IV, §401(6), 95 Stat. 1537; Dec. 23, 1985, Pub. L. 99198, title XI, §1111(f), (g), 99 Stat. 1475, related to payments for commodities and use of proceeds prior to the general revision of this chapter by Pub. L. 101624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3633.

§1707. Omitted

CODIFICATION

Section, acts July 10, 1954, ch. 469, title I, §107, 68 Stat. 457; Oct. 8, 1964, Pub. L. 88638, §1(11), 78 Stat. 1036; Sept. 6, 1965, Pub. L. 89171, pt. III, §401, 79 Stat. 662; Nov. 11, 1966, Pub. L. 89808, §2(B), 80 Stat. 1532, relating to policy of encouraging overseas sales of commodities, was omitted in the general revision of this chapter by Pub. L. 101624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3633.

§1707a. Repealed. Pub. L. 101624, title XV, §1574, Nov. 28, 1990, 104 Stat. 3702

Section, Pub. L. 89808, §4, Nov. 11, 1966, 80 Stat. 1538; Pub. L. 95501, title I, §101, Oct. 21, 1978, 92 Stat. 1685; Pub. L. 9798, title XII, §1201, Dec. 22, 1981, 95 Stat. 1274; Pub. L. 98623, title IV, §405(c), Nov. 8, 1984, 98 Stat. 3409; Pub. L. 99198, title XI, §§1130, 1131, Dec. 23, 1985, 99 Stat. 1486; Pub. L. 100418, title IV, §4402(b), Aug. 23, 1988, 102 Stat. 1400, provided for an export credit sales program. See section 5621 et seq. of this title.

§§1707b to 1707d. Omitted

CODIFICATION

Sections were omitted as part of the complete revision of the Agricultural Trade Act of 1978 (Pub. L. 95501) by Pub. L. 101624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3668. See chapter 87 (§5601 et seq.) of this title.

Section 1707b, Pub. L. 95501, title II, §201, Oct. 21, 1978, 92 Stat. 1686, provided for a program of deferred payment sales of agricultural commodities.

Section 1707c, Pub. L. 95501, title II, §202, Oct. 21, 1978, 92 Stat. 1687, provided for a program of credit sales to People's Republic of China.

Section 1707d, Pub. L. 95501, title II, §203, Oct. 21, 1978, 92 Stat. 1687, defined "agricultural commodity".

§§1708 to 1715. Omitted

CODIFICATION

Sections were omitted in the general revision of this chapter by Pub. L. 101624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3633.

Section 1708, act July 10, 1954, ch. 469, title I, §108, as added Dec. 23, 1985, Pub. L. 99198, title XI, §1111(h), 99 Stat. 1476; amended Aug. 23, 1988, Pub. L. 100418, title II, §2309, 102 Stat. 1346, related to agreements with financial intermediaries in developing countries for purchase of commodities. A prior section 1708, acts July 10, 1954, ch. 469, title I, §108, 68 Stat. 457; Oct. 8, 1964, Pub. L. 88638, §1(12), 78 Stat. 1037; Nov. 11, 1966, Pub. L. 89808, §2(B), 80 Stat. 1533, which authorized Commodity Credit Corporation to finance ocean freight charges pursuant to agreements for sales of agricultural commodities for foreign currencies, was repealed by Pub. L. 97113, title IV, §401(7), Dec. 29, 1981, 95 Stat. 1537.

Section 1709, acts July 10, 1954, ch. 469, title I, §109, 68 Stat. 457; Aug. 13, 1957, Pub. L. 85128, §1(1), 71 Stat. 345; Sept. 6, 1958, Pub. L. 85931, §4, 72 Stat. 1791; Sept. 21, 1959, Pub. L. 86341, title I, §1, 73 Stat. 606; Aug. 8, 1961, Pub. L. 87128, title II, §201(5), 75 Stat. 307; Oct. 8, 1964, Pub. L. 88638, §1(15), 78 Stat. 1037; Nov. 11, 1966, Pub. L. 89808, §2(B), 80 Stat. 1533; July 29, 1968, Pub. L. 90436, §2(b), 82 Stat. 450; Dec. 20, 1975, Pub. L. 94161, title II, §206, 89 Stat. 853; Dec. 22, 1981, Pub. L. 9798, title XII, §1210, 95 Stat. 1281; Dec. 29, 1981, Pub. L. 97113, title IV, §401(8), 95 Stat. 1537; Dec. 23, 1985, Pub. L. 99198, title XI, §1112(a)(1), 99 Stat. 1478; Dec. 22, 1987, Pub. L. 100202, §10, 101 Stat. 1329448, related to self-help measures developing countries should take before entering into agreements for purchases of commodities.

Section 1710, act July 10, 1954, ch. 469, title I, §110, as added Nov. 11, 1966, Pub. L. 89808, §2(B), 80 Stat. 1534, limited agreements under this subchapter so that they would not call for appropriations of more than \$1,900,000,000 for any calendar year.

Section 1711, act July 10, 1954, ch. 469, title I, §111, as added Dec. 20, 1975, Pub. L. 94161, title II, §207, 89 Stat. 853; amended Aug. 3, 1977, Pub. L. 9588, title II, §202, 91 Stat. 545, restricted 75% of food aid under this subchapter to countries meeting International Development Association poverty criterion.

Section 1712, act July 10, 1954, ch. 469, title I, §112, as added Aug. 3, 1977, Pub. L. 9588, title II, §203, 91 Stat. 545; amended H. Res. 89, Feb. 5, 1979; Dec. 16, 1980, Pub. L. 96533, title VII, §701(c), 94 Stat. 3156, prohibited financing of commodity sales to foreign governments engaging in gross violations of human rights.

Section 1713, act July 10, 1954, ch. 469, title I, §113, as added Aug. 3, 1977, Pub. L. 9588, title II, §204, 91 Stat. 546, required priority to be given to financing sales of food and fiber commodities.

Section 1714, act July 10, 1954, ch. 469, title I, §114, as added Aug. 3, 1977, Pub. L. 9588, title II, §205, 91 Stat. 546, related to provision of high protein, blended and fortified foods to developing countries, and waiver of repayments.

Section 1715, act July 10, 1954, ch. 469, title I, §115, as added Sept. 29, 1977, Pub. L. 95113, title XII, §1202, 91 Stat. 955; amended H. Res. 89, Feb. 5, 1979; Dec. 22, 1981, Pub. L. 9798, title XII, §1211, 95 Stat. 1281, related to commodity sale procedures.

SUBCHAPTER III—EMERGENCY AND PRIVATE ASSISTANCE PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1431, 1704c, 1705, 1731, 1732, 1736a, 1736d, 1736f, 1736f1, 1736bb6, 1743 of this title; title 10 section 2681; title 46 App. sections 1241f, 1241u.

§1721. General authority

The President shall establish a program under this subchapter to provide agricultural commod-

ities to foreign countries on behalf of the people of the United States to—

- (1) address famine or other urgent or extraordinary relief requirements;
- (2) combat malnutrition, especially in children and mothers;
- (3) carry out activities that attempt to alleviate the causes of hunger, mortality and morbidity;
- (4) promote economic and community development;
- (5) promote sound environmental practices; and
- (6) carry out feeding programs.

Such program shall be implemented by the Administrator.

(July 10, 1954, ch. 469, title II, §201, 68 Stat. 457; May 28, 1956, ch. 327, title II, §208(b), 70 Stat. 201; Aug. 3, 1956, ch. 933, §4, 70 Stat. 988; Nov. 11, 1966, Pub. L. 89808, §2(C), 80 Stat. 1534; Dec. 20, 1975, Pub. L. 94161, title II, §208, 89 Stat. 853; Aug. 3, 1977, Pub. L. 9588, title II, §206, 91 Stat. 547; Dec. 29, 1981, Pub. L. 97113, title IV, §404, 95 Stat. 1538; Aug. 8, 1985, Pub. L. 9983, title X, §1002, 99 Stat. 270; Dec. 23, 1985, Pub. L. 99198, title XI, §1102, 1103, 99 Stat. 1465; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3636.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions requiring President to furnish commodities to meet famine, combat malnutrition, promote economic development in friendly countries, and for needy persons and school lunch and preschool feeding programs, setting minimum quantity for distribution, requiring use of certain distribution networks, requiring President to consider benefits of distributing processed and protein-fortified foods, nutritional needs of recipients, cost effectiveness of particular commodities, and purposes of this subchapter, requiring that 75 percent of commodities distributed be in form of processed or fortified products or bagged commodities, and authorizing waiver of such 75 percent requirement.

1985—Subsec. (b). Pub. L. 99198, §1102, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The minimum quantity of agricultural commodities distributed under this subchapter—

“(1) for fiscal years 1978 through 1980 shall be 1,600,000 metric tons, of which not less than 1,300,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program;

“(2) for fiscal year 1981 shall be 1,650,000 metric tons, of which not less than 1,350,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; and

“(3) for fiscal year 1982 and each fiscal year thereafter shall be 1,700,000 metric tons, of which not less than 1,200,000 metric tons for nonemergency programs shall be distributed through nonprofit voluntary agencies and the World Food Program, except that for fiscal year 1986 the minimum quantity distributed shall be 1,800,000 metric tons, of which not less than 1,300,000 metric tons for nonemergency programs shall be distributed through nonprofit voluntary agencies and the World Food Program, and for fiscal year 1987 the minimum quantity distributed shall be 1,900,000 metric tons, of which not less than 1,425,000 metric tons for nonemergency programs shall be distributed through nonprofit voluntary agencies and the World Food Program;

unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this subchapter: *Provided*, That such minimum quan-

tity shall not exceed the total quantity of commodities determined to be available for disposition under this chapter pursuant to section 1731 of this title, less the quantity of commodities required to meet famine or other urgent or extraordinary relief requirements."

Pub. L. 9983 inserted provisions relating to minimum quantities for fiscal years 1986 and 1987.

Subsec. (c). Pub. L. 99198, §1103, added subsec. (c).

1981—Subsec. (b)(3). Pub. L. 97113 substituted "1,200,000 metric tons for nonemergency programs" for "1,400,000 metric tons".

1977—Subsec. (b). Pub. L. 9588 substituted provisions increasing and setting specific minimums for commodities to be distributed for fiscal years 1978 through 1980, for 1981, and for fiscal year 1982 and each fiscal year thereafter, for provisions which had set a fixed minimum of 1,300,000 tons of agricultural commodities each fiscal year, of which the minimum to be distributed through nonprofit voluntary agencies and the World Food Program was 1,000,000 tons each fiscal year.

1975—Pub. L. 94161 designated existing provisions as subsec. (a) and added subsec. (b).

1966—Pub. L. 89808 expanded scope of assistance to include emergency relief without regard to recipient being a friendly people, combating malnutrition in children, promotion of economic and community development in friendly developing areas, and for nonprofit school lunch and preschool feeding programs outside the United States and to be furnished from available commodities rather than surplus agricultural commodities.

1956—Act Aug. 3, 1956, inserted "or extraordinary" after "urgent" wherever appearing.

Act May 28, 1956, struck out "f.o.b. vessels in United States ports," before "as he may request".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 9983 effective Oct. 1, 1985, see section 1301 of Pub. L. 9983, set out as a note under section 21511 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 9588 effective Oct. 1, 1977, see section 215 of Pub. L. 9588, set out as a note under section 1702 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

AUTHORIZATION FOR COMMODITY CREDIT CORPORATION TO PURCHASE AND DONATE FLOUR AND CORNMEAL

Pub. L. 85683, Aug. 19, 1958, 72 Stat. 635, as authorizing Commodity Credit Corporation to purchase and donate flour and cornmeal when it has wheat or corn available for donation pursuant to this subchapter, see note set out under section 1431 of this title.

IMPLEMENTATION OF PROGRAM

Program under this subchapter to provide for donation of agricultural commodities to foreign countries to be implemented by Administrator of the Agency for International Development, see Ex. Ord. No. 12752, §1(b), Feb. 25, 1991, 56 F.R. 8255, set out as a note under section 1691 of this title.

§1722. Provision of agricultural commodities

(a) Emergency assistance

Notwithstanding any other provision of law, the Administrator may provide agricultural

commodities to meet emergency food needs under this subchapter through governments and public or private agencies, including intergovernmental organizations such as the World Food Program and other multilateral organizations, in such manner and on such terms and conditions as the Administrator determines appropriate to respond to the emergency.

(b) Non-emergency assistance

The Administrator may provide agricultural commodities for non-emergency assistance under this subchapter through eligible organizations (as described in subsection (d) of this section) that have entered into an agreement with the Administrator to use such commodities in accordance with this subchapter.

(c) Uses of assistance

Agricultural commodities provided under this subchapter may be made available for direct distribution, sale, barter, or other appropriate disposition.

(d) Eligible organizations

To be eligible to receive assistance under subsection (b) of this section an organization shall be—

(1) a private voluntary organization or cooperative that is, to the extent practicable, registered with the Administrator; or

(2) an intergovernmental organization, such as the World Food Program.

(e) Support for private voluntary organizations and cooperatives

(1) In general

Of the funds made available in each fiscal year under this subchapter to the Administrator, not less than \$10,000,000, and not more than \$13,500,000, shall be made available in each fiscal year to private voluntary organizations and cooperatives to assist such organizations and cooperatives in—

(A) establishing new programs under this subchapter; and

(B) meeting specific administrative, management, personnel and internal transportation and distribution costs for carrying out programs in foreign countries under this subchapter.

(2) Request for funds

In order to receive funds made available under paragraph (1), a private voluntary organization or cooperative must submit a request for such funds (which must be approved by the Administrator) when submitting a proposal to the Administrator for an agreement under this subchapter. Such request for funds shall include a specific explanation of—

(A) the program costs to be offset by such funds;

(B) the reason why such funds are needed in carrying out the particular assistance program; and

(C) the degree to which such funds will improve the provision of food assistance to foreign countries (particularly those in sub-Saharan Africa suffering from acute, long-term food shortages).

(3) Assistance with respect to sale

Upon the request of a private voluntary organization or cooperative, the Administrator

may provide assistance to that organization or cooperative with respect to the sale of agricultural commodities made available to it under this subchapter.

(f) Effective use of commodities

To ensure that agricultural commodities made available under this subchapter are used effectively and in the areas of greatest need, organizations or cooperatives through which such commodities are distributed shall—

(1) to the extent feasible, work with indigenous institutions and employ indigenous workers;

(2) assess and take into account nutritional and other needs of beneficiary groups;

(3) help such beneficiary groups design and carry out mutually acceptable projects;

(4) recommend to the Administrator methods of making assistance available that are the most appropriate for each local setting;

(5) supervise the distribution of commodities provided and the implementation of programs carried out under this subchapter; and

(6) periodically evaluate the effectiveness of projects undertaken under this subchapter.

(g) Labeling

Commodities provided under this subchapter shall, to the extent practicable, be clearly identified with appropriate markings on the package or container of such commodity in the language of the locality in which such commodities are distributed, as being furnished by the people of the United States of America.

(July 10, 1954, ch. 469, title II, §202, 68 Stat. 458; May 14, 1960, Pub. L. 86472, ch. VI, §601 (a)(1), 74 Stat. 140; Dec. 16, 1963, Pub. L. 88205, pt. IV, §403(d), 77 Stat. 390; Nov. 11, 1966, Pub. L. 89808, §2(C), 80 Stat. 1534; Aug. 3, 1977, Pub. L. 9588, title II, §§207, 208(a), 91 Stat. 547; Aug. 14, 1979, Pub. L. 9653, title I, §121, title II, §202, 93 Stat. 366, 368; Aug. 8, 1985, Pub. L. 9983, title X, §§1003, 1004(a), 1005, 99 Stat. 270, 271; Dec. 22, 1987, Pub. L. 100202, §11, 101 Stat. 1329448; Nov. 5, 1990, Pub. L. 101508, title I, §1204(b)(1), 104 Stat. 138811; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3636.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions relating to furnishing commodities through friendly governments, agencies, and organizations, assistance for community and other self-help activities, and multiyear agreements for distribution of commodities through nonprofit voluntary agencies and cooperatives.

Subsec. (e)(1). Pub. L. 101508, in introductory provisions, substituted “the Administrator, not less than \$10,000,000, and not more than \$13,500,000, shall be made available in each fiscal year to private voluntary organizations and cooperatives” for “private voluntary organizations and cooperatives, not less than \$10,000,000 and not more than \$13,500,000 shall be made available by the Administrator”.

1987—Subsec. (a). Pub. L. 100202 inserted “or cooperatives” after “voluntary agencies”.

1985—Subsec. (a). Pub. L. 9983, §1003, inserted provisions relating to appropriate disposition under section 1721 of this title.

Subsec. (b)(4). Pub. L. 9983, §1004(a), added par. (4).

Subsec. (c). Pub. L. 9983, §1005, added subsec. (c).

1979—Subsec. (a). Pub. L. 9653, §121, substituted “Agency for International Development” for “Advisory

Committee on Voluntary Foreign Aid”, and “Advisory Committee” wherever appearing.

Subsec. (b)(2). Pub. L. 9653, §202, substituted provisions relating to encouragement of entities distributing commodities to work with indigenous institutions and to employ indigenous workers, for provisions relating to employment of indigenous workers.

1977—Subsec. (a). Pub. L. 9588, §§207(1), (2), 208(a), designated existing provisions as subsec. (a), struck out requirement that assistance to needy persons, insofar as practicable, be directed toward community and other self-help activities designed to alleviate the causes of the need for such assistance, and inserted provisions authorizing the President to utilize a foreign nonprofit voluntary agency which is registered with and approved by the Advisory Committee on Voluntary Foreign Aid if no United States nonprofit voluntary agency registered with and approved by the Advisory Committee is available.

Subsec. (b). Pub. L. 9588, §207(3), added subsec. (b).

1966—Pub. L. 89808 substituted provisions for furnishing commodities for prescribed purposes through use of friendly governments, agencies, and organizations, using to extent practicable registered and approved nonprofit voluntary agencies, identification of source of commodities, determination by the President of the manner and terms and conditions of furnishing the commodities and for directions of the assistance toward community and self-help activities for former provisions for transfer of commodities on a grant bases to assist the prescribed programs.

1963—Pub. L. 88205 substituted “economic and community development” for “economic developments”.

1960—Pub. L. 86472 substituted “In order to facilitate the utilization of surplus agricultural commodities in meeting the requirements of needy peoples, and in order to promote economic development in underdeveloped areas in addition to that which can be accomplished under sections 1701 to 1704 and 1705 to 1709 of this title, the” for “The”.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

Amendment by Pub. L. 101508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101508, set out as a note under section 511r of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 9983 effective Oct. 1, 1985, see section 1301 of Pub. L. 9983, set out as a note under section 21511 of Title 22, Foreign Relations and Inter-course.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 9653 effective Oct. 1, 1979, see section 512(a) of Pub. L. 9653, set out as a note under section 2151 of Title 22, Foreign Relations and Inter-course.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 9588 effective Oct. 1, 1977, see section 215 of Pub. L. 9588, set out as a note under section 1702 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

REGISTRATION OF FOREIGN NONPROFIT VOLUNTARY AGENCIES

Section 208(b) of Pub. L. 9588 provided that: “For purposes of implementing the amendment made by sub-section (a) [providing for the utilization by the President of foreign nonprofit voluntary agencies], the President shall issue regulations governing registration

with an approval by the Advisory Committee on Voluntary Foreign Aid of foreign nonprofit voluntary agencies.”

CONTINUATION OF AUTHORITY

Section 601(a)(2) of Pub. L. 86472, which provided that the amendment of this section by section 601(a)(1) shall expire June 30, 1961, was repealed by Pub. L. 8792, July 20, 1961, 75 Stat. 211.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1724 of this title.

§1723. Generation and use of foreign currencies by private voluntary organizations and cooperatives

(a) Local sale and barter of commodities

An agreement entered into between the Administrator and a private voluntary organization or cooperative to provide food assistance through such organization or cooperative under this subchapter may provide for the sale or barter in the recipient country of the commodities to be provided under such agreement.

(b) Minimum level of local sales

In carrying out agreements of the type referred to in subsection (a) of this section, the Administrator shall permit private voluntary organizations and cooperatives to sell, in recipient countries, an amount of commodities equal to not less than 10 percent of the aggregate amounts of all commodities distributed under non-emergency programs under this subchapter for each fiscal year, to generate foreign currency proceeds to be used as provided in this section.

(c) Description of intended uses

A private voluntary organization or cooperative submitting a proposal to enter into a non-emergency food assistance agreement under this subchapter shall include in such proposal a description of the intended uses of any foreign currency proceeds that may be generated through the sale, in the recipient country, of any commodities provided under an agreement entered into between the Administrator and the organization or cooperative.

(d) Use

Foreign currencies generated from any partial or full sale or barter of commodities by a private voluntary organization or cooperative under a non-emergency food assistance agreement under this subchapter may—

(1) be used to transport, store, distribute, and otherwise enhance the effectiveness of the use of agricultural commodities provided under this subchapter;

(2) be used to implement income generating, community development, health, nutrition, cooperative development, agricultural, and other developmental activities within the recipient country; or

(3) be invested and any interest earned on such investment may be used for the purposes for which the assistance was provided to that organization, without further appropriation by Congress.

(July 10, 1954, ch. 469, title II, §203, 68 Stat. 458; May 28, 1956, ch. 327, title II, §208(c), 70 Stat. 201;

Aug. 13, 1957, Pub. L. 85128, §1(3), 71 Stat. 345; Sept. 21, 1959, Pub. L. 86341, title I, §3, 73 Stat. 606; May 14, 1960, Pub. L. 86472, ch. VI, §601(b), 74 Stat. 140; Aug. 8, 1961, Pub. L. 87128, title II, §202(1), 75 Stat. 307; Oct. 8, 1964, Pub. L. 88638, §1(13), (14), 78 Stat. 1037; Nov. 11, 1966, Pub. L. 89808, §2(C), 80 Stat. 1535; Aug. 3, 1977, Pub. L. 9588, title II, §209, 91 Stat. 548; Oct. 12, 1984, Pub. L. 98473, title III, §305, 98 Stat. 2195; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3638.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions relating to the payment of costs and charges by the Commodity Credit Corporation for packaging, enrichment, preservation, processing, transportation, handling, and other incidental charges relating to commodities.

1984—Pub. L. 98473 inserted following cl. (4): “in the case of commodities for urgent and extraordinary relief requirements, including pre-positioned commodities, transportation costs from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs;”.

1977—Pub. L. 9588 substituted “transportation from United States ports to designated points of entry abroad in the case (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specific country are unavailable, or (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports” for “, or, in the case of landlocked countries, transportation from United States ports to designated points of entry abroad”.

1966—Pub. L. 89808 reenacted, with linguistic changes, existing provisions for payment of costs and charges, included costs of acquisition, packaging, enrichment, preservation, fortification, processing, handling, other incidents, struck out provisions for authorization of appropriations for reimbursement of CCC, limitation on amount, and use of funds for purchase of foreign currencies, now covered by section 1724 of this title, and deleted other provisions for use of agencies, organizations, and facilities in making transfers, now covered by section 1722 of this title, and provision for transfer of funds from the CCC to such other Federal agency designated by the President for payment of ocean freight costs or for purchase of foreign currencies under this subchapter.

1964—Pub. L. 88638 substituted “1965”; for “1961”, “1966” for “1964”, and “\$400,000,000” for “\$300,000,000”, inserted “or donated under said section 1431, or section 1431b or 1697 of this title”, provisions authorizing use of funds available under subchapter III, not exceeding \$7,500,000 annually, to purchase foreign currencies accruing under subchapter II in order to meet costs designed to assure that commodities available under subchapters I or III are used to carry out more effectively the purposes for which such commodities are made available or to promote activities to alleviate the causes of the need for such assistance, provided that such funds are used to supplement, not substitute for, funds normally available for such purposes from other non-United States Government sources, and “or for the purchase of foreign currencies” after “ocean freight costs”.

1961—Pub. L. 87128 substituted authorization provision for period beginning January 1, 1961, and ending December 31, 1964, for authorization provision beginning January 1, 1960, and ending December 31, 1961, and made the annual limitation applicable to the amount programmed rather than to the amount spent.

1960—Pub. L. 86472 authorized payment for transportation from United States ports to designated points of entry abroad in the case of landlocked countries, and permitted the payment of charges for general average contributions arising out of the ocean transport of transferred commodities.

1959—Pub. L. 86341 amended first sentence generally. Prior to amendment, first sentence read as follows: “Not more than \$800,000,000 (including the Corporation’s investment in such commodities) shall be expended for all such transfers and for other costs authorized by this subchapter.”

1957—Pub. L. 85128 increased limitation on expenditures from \$500,000,000 to \$800,000,000.

1956—Act May 28, 1956, increased limitation on expenditures from \$300,000,000 to \$500,000,000, and authorized payment of ocean freight charges.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 9588 effective Oct. 1, 1977, see section 215 of Pub. L. 9588, set out as a note under section 1702 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 1(13) of Pub. L. 88638 provided that the substitution of “1965” for “1961”, “1966” for “1964”, and “\$400,000,000” for “\$300,000,000” are not effective until Jan. 1, 1965.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 3 of Pub. L. 86341 provided that the amendment made by that section is effective Jan. 1, 1960.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1736*o* of this title.

§1724. Levels of assistance

(a) Minimum levels

(1) Minimum assistance

Except as provided in paragraph (3), the Administrator shall make agricultural commodities available for food distribution under this subchapter in an amount that—

(A) for fiscal year 1991, is not less than 1,925,000 metric tons;

(B) for fiscal year 1992, is not less than 1,950,000 metric tons;

(C) for fiscal year 1993, is not less than 1,975,000 metric tons;

(D) for fiscal year 1994, is not less than 2,000,000 metric tons; and

(E) for fiscal year 1995, is not less than 2,025,000 metric tons.

(2) Minimum non-emergency assistance

Of the amounts specified in paragraph (1), and except as provided in paragraph (3), the Administrator shall make agricultural commodities available for non-emergency food distribution through eligible organizations under section 1722 of this title in an amount that—

(A) for fiscal year 1991, is not less than 1,450,000 metric tons;

(B) for fiscal year 1992, is not less than 1,475,000 metric tons;

(C) for fiscal year 1993, is not less than 1,500,000 metric tons;

(D) for fiscal year 1994, is not less than 1,525,000 metric tons; and

(E) for fiscal year 1995, is not less than 1,550,000 metric tons.

(3) Exception

The Administrator may waive the requirements of paragraphs (1) and (2) for any fiscal year if the Administrator determines that such quantities of commodities cannot be used effectively to carry out this subchapter or in order to meet an emergency. In making a waiver under this paragraph, the Administrator shall prepare and submit to the Committee on Foreign Affairs and Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the reasons for the waiver.

(b) Use of value-added commodities

(1) Minimum levels

Except as provided in paragraph (2), in making agricultural commodities available under this subchapter, the Administrator shall ensure that not less than 75 percent of the quantity of such commodities required to be distributed during each fiscal year under subsection (a)(2) of this section be in the form of processed, fortified, or bagged commodities.

(2) Waiver of minimum

The Administrator may waive the requirement of paragraph (1) for any fiscal year in which the Administrator determines that the requirements of the programs established under this subchapter will not be best served by the enforcement of such requirement under such paragraph.

(July 10, 1954, ch. 469, title II, §204, 68 Stat. 458; Aug. 13, 1957, Pub. L. 85128, §1(1), 71 Stat. 345; Sept. 6, 1958, Pub. L. 85931, §5, 72 Stat. 1791; Sept. 21, 1959, Pub. L. 86341, title I, §1, 73 Stat. 606; Aug. 8, 1961, Pub. L. 87128, title II, §202(2), 75 Stat. 307; Oct. 8, 1964, Pub. L. 88638, §1(15), 78 Stat. 1037; Nov. 11, 1966, Pub. L. 89808, §2(C), 80 Stat. 1535; Sept. 29, 1977, Pub. L. 95113, title XII, §1203, 91 Stat. 956; Dec. 22, 1981, Pub. L. 9798, title XII, §1212, 95 Stat. 1281; Dec. 23, 1985, Pub. L. 99198, title XI, §1101, 99 Stat. 1465; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3639.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions relating to authorization of appropriations for reimbursement of Commodity Credit Corporation for costs incurred in connection with programs of assistance undertaken under this subchapter, and appropriations for purchase of foreign currencies.

1985—Pub. L. 99198 substituted “fiscal” for “calendar” in two places in first sentence and authorized a waiver of limitation on assistance when the President determines waiver is necessary to undertake programs of assistance to meet humanitarian needs.

1981—Pub. L. 9798 substituted “\$1,000,000,000” for “\$750,000,000”.

1977—Pub. L. 95113 substituted “\$750,000,000” for “\$600,000,000”.

1966—Pub. L. 89808 substituted part of provisions of former section 1723 of this title relating to authorization of appropriations for reimbursement of the CCC, limitations on amount, and use of funds for purchase of foreign currencies for former provisions for termination date for assistance under this subchapter (Dec. 31, 1966), now provided for by section 1736*c* of this title.

1964—Pub. L. 88638 extended termination date from Dec. 31, 1964, to Dec. 31, 1966.

1961—Pub. L. 87128 extended termination date from Dec. 31, 1961, to Dec. 31, 1964.

1959—Pub. L. 86341 extended termination date from Dec. 31, 1959, to Dec. 31, 1961.

1958—Pub. L. 85931 extended termination date from June 30, 1958, to Dec. 31, 1959.

1957—Pub. L. 85128 extended termination date from June 30, 1957, to June 30, 1958.

CHANGE OF NAME

Committee on Foreign Affairs of House of Representatives changed to Committee on International Relations of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1101 of Pub. L. 99198 provided that the amendment made by that section is effective Oct. 1, 1985.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 9798 effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

§1725. Food Aid Consultative Group

(a) Establishment

There is established a Food Aid Consultative Group (hereinafter referred to in this section as the "Group") that shall meet regularly to review and address issues concerning the effectiveness of the regulations and procedures that govern food assistance programs established and implemented under this subchapter, and the implementation of other provisions of this subchapter that may involve private voluntary organizations, cooperatives and indigenous non-governmental organizations.

(b) Membership

The Group shall be composed of—

- (1) the Administrator;
- (2) the Under Secretary for International Affairs and Commodity Programs;
- (3) the Inspector General of the Agency for International Development;
- (4) a representative of each private voluntary organization and cooperative participating in a program under this subchapter, or receiving planning assistance funds from the Agency to establish programs under this subchapter; and
- (5) representatives from African, Asian and Latin American indigenous non-governmental organizations determined appropriate by the Administrator.

(c) Chairperson

The Administrator shall be the chairperson of the Group.

(d) Consultations

In preparing regulations, handbooks, or guidelines implementing this subchapter, or significant revisions thereto, the Administrator shall provide such proposals to the Group for review and comment. The Administrator shall consult and, when appropriate, meet with the Group regarding such proposed regulations, handbooks, guidelines, or revisions thereto prior to the issuance of such.

(e) Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Group.

(f) Termination

The Group shall terminate on December 31, 1995.

(July 10, 1954, ch. 469, title II, §205, as added Nov. 11, 1966, Pub. L. 89808, §2(C), 80 Stat. 1535; amended Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3639.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (e), is Pub. L. 92463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions declaring sense of Congress that President should encourage advanced nations to increase contributions for combating hunger, particularly through expansion of international food and agricultural assistance programs, and that United States should work for expansion of United Nations World food program.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as an Effective Date of 1966 Amendment note under section 1691 of this title.

§1726. Maximum level of expenditures

(a) Maximum expenditures

Except as provided in subsection (b) of this section, programs of assistance shall not be undertaken under this subchapter during any fiscal year if such programs necessitate an appropriation of more than \$1,000,000,000 to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available).

(b) Waiver by President

The President may waive the limitation contained in subsection (a) of this section if the President determines that such waiver is necessary to undertake programs of assistance to meet urgent humanitarian or emergency needs.

(July 10, 1954, ch. 469, title II, §206, as added Dec. 20, 1975, Pub. L. 94161, title II, §209, 89 Stat. 854; amended Aug. 3, 1977, Pub. L. 9588, title II, §210, 91 Stat. 548; Aug. 14, 1979, Pub. L. 9653, title II, §203, 93 Stat. 368; Dec. 23, 1985, Pub. L. 99198, title

XI, §1112(a)(2), 99 Stat. 1478; Dec. 22, 1987, Pub. L. 100202, §§12, 13, 101 Stat. 1329448; Aug. 23, 1988, Pub. L. 100418, title IV, §4610(d), 102 Stat. 1411; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3640.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions prohibiting assistance, except to meet famine or other emergencies, or for non-emergency programs conducted by non-profit entities, generating foreign currency proceeds, unless recipient country is undertaking self-help measures, specific uses for currencies are set forth in agreement, and agreement provides that currencies will go to alleviating causes of need for assistance, to improving food distribution, and increasing availability of commodities to neediest persons, or to health programs, and provisions requiring annual report by President to Congress on sales and barter and use of foreign currency proceeds.

1988—Pub. L. 100418 amended directory language of Pub. L. 100202, §13. See 1987 Amendment note below.

1987—Subsec. (a). Pub. L. 100202, as amended by Pub. L. 100418, designated existing provisions as subsec. (a), inserted “or for nonemergency programs conducted by nonprofit voluntary agencies or cooperatives,” after “requirements,” and added subsec. (b).

1985—Pub. L. 99198 in cl. (3) added subcl. (C).

1979—Pub. L. 9653 in cl. (3) added subcl. (A) and designated existing provisions as subcl. (B).

1977—Pub. L. 9588 substituted “used for increasing the effectiveness of the programs of food distribution and increasing the availability of food commodities provided under this subchapter to the neediest individuals in recipient countries” for “used for purposes specified in section 2151a of title 22”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 9653 effective Oct. 1, 1979, see section 512(a) of Pub. L. 9653, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 9588 effective Oct. 1, 1977, see section 215 of Pub. L. 9588, set out as a note under section 1702 of this title.

§1726a. Administration

(a) Proposals

(1) Time for decision

Not later than 45 days after the receipt by the Administrator of a proposal submitted—

(A) by a private voluntary organization or cooperative, with the concurrence of the appropriate United States field mission, for commodities; or

(B) by a United States field mission to make commodities available to a private voluntary organization or cooperative;

under this subchapter, the Administrator shall make a decision concerning such proposal.

(2) Denial

If a proposal under paragraph (1) is denied, the response shall specify the reasons for denial and the conditions that must be met for the approval of such proposal.

(b) Notice and comment

Not later than 30 days prior to the issuance of a final guideline to carry out this subchapter, the Administrator shall—

(1) provide notice of the existence of a proposed guideline, and that such guideline is available for review and comment, to private voluntary organizations and cooperatives that participate in programs under this subchapter, and to other interested persons;

(2) make the proposed guideline available, on request, to the organizations, cooperatives, and other persons referred to in paragraph (1); and

(3) take any comments received into consideration prior to the issuance of the final guideline.

(c) Regulations

(1) In general

The Administrator shall promptly issue all necessary regulations and make revisions to agency guidelines with respect to changes in the operation or implementation of the program established under this subchapter.

(2) Requirements

The Administrator shall develop regulations with the intent of—

(A) simplifying procedures for participation in the programs established under this subchapter;

(B) reducing paperwork requirements under such programs;

(C) establishing reasonable and realistic accountability standards to be applied to eligible organizations participating in the programs established under this subchapter, taking into consideration the problems associated with carrying out programs in developing countries; and

(D) providing flexibility for carrying out programs under this subchapter.

(3) Handbooks

Handbooks developed by the Administrator to assist in carrying out the program under this subchapter shall be designed to foster the development of programs under this subchapter by eligible organizations.

(d) Deadline for submission of commodity orders

Not later than 15 days after receipt from a United States field mission of a call forward for agricultural commodities for programs that meet the requirements of this subchapter, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.

(July 10, 1954, ch. 469, title II, §207, as added Dec. 23, 1985, Pub. L. 99198, title XI, §1104(a), 99 Stat. 1466; amended Dec. 22, 1987, Pub. L. 100202, §14, 101 Stat. 1329449; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3640.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions relating to requests by nonprofit voluntary agency or cooperative for nonemergency food assistance agreements, and uses of foreign currency proceeds.

1987—Subsec. (a). Pub. L. 100202, §14(1), inserted “or cooperative” after “agency”.

Subsec. (b). Pub. L. 100202, §14(2), substituted “10 percent” for “5 percent”.

Subsec. (c). Pub. L. 100202, §14(3), added subsec. (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE

Section 1104(b) of Pub. L. 99198 provided that: “Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (as added by subsection (a)) [this section] shall apply with respect to agreements entered into after December 31, 1985.”

§1726b. Omitted

CODIFICATION

Section, act July 10, 1954, ch. 469, title II, §208, as added Dec. 22, 1987, Pub. L. 100202, §15, 101 Stat. 1329449, which related to periods for review of proposals for famine relief and promulgation of guidelines for such proposals, was omitted in the general revision of this chapter by Pub. L. 101624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3633.

SUBCHAPTER IIIA—FOOD FOR DEVELOPMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1431, 1734, 1736a, 1736d, 1736f, 1736bb6 of this title.

§1727. Bilateral grant program

(a) In general

The President shall establish a program under which agricultural commodities are donated in accordance with this subchapter to least developed countries. The revenue generated by the sale of such commodities in the recipient country may be utilized for economic development activities. Such program shall be implemented by the Administrator.

(b) General authority

To carry out the policies and accomplish the objectives described in section 1691 of this title, the Administrator may negotiate and execute agreements with least developed countries to provide commodities to such countries on a grant basis.

(July 10, 1954, ch. 469, title III, §301, as added Aug. 3, 1977, Pub. L. 9588, title II, §211(a)(2), 91 Stat. 548; amended Aug. 14, 1979, Pub. L. 9653, title II, §204(a), 93 Stat. 369; Dec. 23, 1985, Pub. L. 99198, title XI, §1112(a)(3), 99 Stat. 1478; Oct. 31, 1988, Pub. L. 100576, §4(a)(1), 102 Stat. 2898; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3641.)

PRIOR PROVISIONS

A prior section 301 of act July 10, 1954, ch. 469, title III, 68 Stat. 458, which amended section 1427 of this title, was renumbered section 308 by Pub. L. 9588, title II, §211(a)(1), Aug. 3, 1977, 91 Stat. 548.

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions outlining Congressional purpose with regard to Food for Development Program, establishment of program, goal of as-

sistance under program, range of assistance and emphasized activities, and use of funds for disaster assistance.

1988—Subsec. (c). Pub. L. 100576 added subsec. (c).

1985—Subsec. (b). Pub. L. 99198 inserted “(including immunization of children)” after “health services”.

1979—Subsec. (a). Pub. L. 9653 inserted “, or the dollar sales value of the commodities themselves,” after “the local sale of such commodities”, and substituted “in the participating country of funds from the sale of such commodities or of the commodities themselves” for “of funds from the sale of such commodities in the participating country”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 9653 effective Oct. 1, 1979, see section 512(a) of Pub. L. 9653, set out as a note under section 2151 of Title 22, Foreign Relations and Inter-course.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 9588, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

AMENDMENT OF FOOD FOR DEVELOPMENT AGREEMENTS; DISASTER ASSISTANCE FOR BANGLADESH

Section 4(a)(2), (3) of Pub. L. 100576 provided that:

“(2) Food for Development agreements entered into under title III of that Act [this subchapter] before the date of enactment of this Act [Oct. 31, 1988] may be amended in order to implement the amendment made by paragraph (1) [amending this section].

“(3) Pending amendment pursuant to paragraph (2) of Food for Development agreements with the Government of Bangladesh, the use of funds accruing under those agreements, with the approval of the United States Government, for flood-related disaster assistance authorized by the amendment made by paragraph (1) shall be deemed to be consistent with the applicable agreement.”

INCREASED IMMUNIZATIONS OF CHILDREN; REPORTING REQUIREMENT

Section 1112(b) of Pub. L. 99198 provided that: “In the implementation of health programs undertaken in relation to assistance provided under the Agricultural Trade Development and Assistance Act of 1954 [this chapter], it shall be the goal of the organizations and agencies involved to provide as many additional immunizations of children as possible. Such increased immunization activities should be taken in coordination with similar efforts of other organizations and in keeping with any national plans for expanded programs of immunization. The President shall include information concerning such immunization activities in the annual reports required by section 634 of the Foreign Assistance Act of 1961 [22 U.S.C. 2394], including a report on the estimated number of immunizations provided each year pursuant to this subsection.”

IMPLEMENTATION OF PROGRAM

Program under this subchapter to provide for donation of agricultural commodities to least developed countries to be implemented by Administrator of the Agency for International Development, see Ex. Ord. No. 12752, §1(c), Feb. 25, 1991, 56 F.R. 8255, set out as a note under section 1691 of this title.

§1727a. Eligible countries

(a) Least developed countries

A country shall be considered to be a least developed country and eligible for the donation of

agricultural commodities under this subchapter if—

(1) such country meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference for providing financial assistance; or

(2) such country is a food deficit country and is characterized by high levels of malnutrition among significant numbers of its population, as determined by the Administrator under subsection (b) of this section.

(b) Indicators of food deficit countries

To make a finding under subsection (a)(2) of this section that a country is a food deficit country and is characterized by high levels of malnutrition, the Administrator must determine that the country meets all of the following indicators of national food deficit and malnutrition:

(1) Calorie consumption

That the daily per capita calorie consumption of the country is less than 2300 calories.

(2) Food security requirements

That the country cannot meet its food security requirements through domestic production or imports due to a shortage of foreign exchange earnings.

(3) Child mortality rate

That the mortality rate of children under 5 years of age in the country is in excess of 100 per 1000 births.

(c) Priority

In determining whether and to what extent agricultural commodities shall be made available to least developed countries under this subchapter, the Administrator shall give priority to countries that—

(1) demonstrate the greatest need for food;

(2) demonstrate the capacity to use food assistance effectively;

(3) have demonstrated a commitment to policies to promote food security, including policies to reduce measurably hunger and malnutrition through efforts such as establishing and institutionalizing supplemental nutrition programs targeted to reach those who are nutritionally at risk; and

(4) have a long-term plan for broad-based, equitable, and sustainable development.

(July 10, 1954, ch. 469, title III, §302, as added Aug. 3, 1977, Pub. L. 9588, title II, §211(a)(2), 91 Stat. 549; amended Aug. 14, 1979, Pub. L. 9653, title II, §205, 93 Stat. 369; Aug. 8, 1985, Pub. L. 9983, title X, §1004(b), 99 Stat. 271; Dec. 23, 1985, Pub. L. 99198, title XI, §1108, 99 Stat. 1467; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3642.)

PRIOR PROVISIONS

A prior section 302 of act July 10, 1954, ch. 469, title III, 68 Stat. 458, which amended section 1431 of this title, was renumbered section 309 by Pub. L. 9588, title II, §211(a)(1), Aug. 3, 1977, 91 Stat. 548.

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions setting out

criteria for eligibility of developing countries for distribution of commodities, minimum aggregate value of agreements for such distribution, waiver of minimum, and participatory requirements.

1985—Subsec. (c)(1)(C). Pub. L. 99198 substituted “10” for “15” percent.

Subsec. (c)(4). Pub. L. 9983 inserted “and of United States nonprofit voluntary agencies and cooperatives”.

1979—Subsec. (c)(4). Pub. L. 9653 added par. (4).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 9983 effective Oct. 1, 1985, see section 1301 of Pub. L. 9983, set out as a note under section 21511 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 9653 effective Oct. 1, 1979, see section 512(a) of Pub. L. 9653, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 9588, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§1727b. Grant programs

To carry out the policies and accomplish the objectives described in section 1691 of this title, the Administrator may negotiate and execute agreements with least developed countries to provide commodities to such countries on a grant basis either through the Commodity Credit Corporation or through private trade channels.

(July 10, 1954, ch. 469, title III, §303, as added Aug. 3, 1977, Pub. L. 9588, title II, §211(a)(2), 91 Stat. 550; amended Aug. 14, 1979, Pub. L. 9653, title II, §204(c), 93 Stat. 369; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3642.)

PRIOR PROVISIONS

A prior section 303 of act July 10, 1954, ch. 469, title III, 68 Stat. 459, which enacted section 1692 of this title, was renumbered section 310 by Pub. L. 9588, title II, §211(a)(1), Aug. 3, 1977, 91 Stat. 548.

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions relating to a multiyear utilization proposal regarding value and amount of commodities proposed to be distributed, integration with other forms of development assistance, and non-replacement of other programs.

1979—Subsec. (a). Pub. L. 9653 struck out “for each year such funds are to be disbursed” after “on an annual basis”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 9653 effective Oct. 1, 1979, see section 512(a) of Pub. L. 9653, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 9588, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1731 of this title.

§1727c. Direct uses or sales of commodities

Agricultural commodities provided to a least developed country under this section—

(1) may be used in such country for—

(A) direct feeding programs, including programs that include activities that deal directly with the special health needs of children and mothers consistent with section 2151b(c)(2) of title 22, relating to the Child Survival Fund; or

(B) the development of emergency food reserves; or

(2) may be sold in such country by the government of the country or the Administrator (or their designees) as provided in the agreement, and the proceeds of such sale used in accordance with this subchapter.

(July 10, 1954, ch. 469, title III, §304, as added Aug. 3, 1977, Pub. L. 9588, title II, §211(a)(2), 91 Stat. 550; amended Oct. 6, 1978, Pub. L. 95424, title II, §202, 92 Stat. 955; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3642.)

PRIOR PROVISIONS

A prior section 304 of act July 10, 1954, ch. 469, title III, 68 Stat. 459, which enacted section 1693 of this title, was repealed by Pub. L. 89808, §2(D), Nov. 11, 1966, 80 Stat. 1535.

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions relating to furnishing of credit by Commodity Credit Corporation to participating country for purchase of commodities, payment by recipient government, waiver of requirements to meet humanitarian or developmental objectives, and payment of freight charges of relatively least developed countries.

1978—Subsec. (d), Pub. L. 95424 added subsec. (d).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95424 effective Oct. 1, 1978, see section 605 of Pub. L. 95424, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 9588, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1727d, 1727e of this title.

§1727d. Local currency accounts**(a) Retention of proceeds**

To the extent determined to be appropriate by the Administrator, revenues generated from the sale, under section 1727c(2) of this title, of agri-

cultural commodities provided under this subchapter shall be deposited into a separate account (that may be interest bearing) in the recipient country to be disbursed for the benefit of such country in accordance with local currency agreements entered into between the recipient country and the Administrator. The Administrator may determine not to deposit such revenues in a separate account if—

(1) local currencies are to be programmed for specific economic development purposes listed in section 1727e(a) of this title; and

(2) the recipient country programs an equivalent amount of money for such purposes as specified in an agreement entered into by the Administrator and the recipient country.

(b) Ownership and programming of accounts

The proceeds of sales pursuant to section 1727c(2) of this title shall be the property of the recipient country or the United States, as specified in the applicable agreement. Such proceeds shall be utilized for the benefit of the recipient country, shall be jointly programmed by the Administrator and the government of the recipient country, and shall be disbursed for the benefit of such country in accordance with local currency agreements between the Administrator and that government.

(c) Overall development strategy

The Administrator shall consider the local currency proceeds as an integral part of the overall development strategy of the Agency for International Development and the recipient country.

(July 10, 1954, ch. 469, title III, §305, as added Aug. 3, 1977, Pub. L. 9588, title II, §211(a)(2), 91 Stat. 550; amended Oct. 6, 1978, Pub. L. 95424, title II, §203, 92 Stat. 955; Aug. 14, 1979 Pub. L. 9653, title II, §§204(b), 206, 93 Stat. 369; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3643.)

PRIOR PROVISIONS

A prior section 305 of act July 10, 1954, ch. 469, title III, 68 Stat. 459, which enacted section 1694 of this title, was repealed by Pub. L. 89808, §2(D), Nov. 11, 1966, 80 Stat. 1535.

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions authorizing deposit of funds generated from sale of commodities into special account, providing that disbursements shall be considered payment by recipient government or as full forgiveness of repayment obligations, consideration of disbursements as payment with respect to credit obligations or annual repayment obligations, and application of dollar sales value of commodities against repayment obligations.

1979—Subsec. (a), Pub. L. 9653, §206, inserted provisions relating to disbursements from the special account equal to the dollar value of credit furnished by the Commodity Credit Corporation under section 1727c(a) of this title.

Subsec. (c), Pub. L. 9653, §204(b), added subsec. (c).

1978—Subsecs. (a), (b), Pub. L. 95424 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 9653 effective Oct. 1, 1979, see section 512(a) of Pub. L. 9653, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95424 effective Oct. 1, 1978, see section 605 of Pub. L. 95424, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 9588, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1727e of this title.

§1727e. Use of local currency proceeds**(a) In general**

The local currency proceeds of sales pursuant to section 1727c(2) of this title shall be used in the recipient country for specific economic development purposes, including—

(1) the promotion of specific policy reforms to improve food security and agricultural development within the country and to promote broad-based, equitable, and sustainable development;

(2) the establishment of development programs, projects, and activities that promote food security, alleviate hunger, improve nutrition, and promote family planning, maternal and child health care, oral rehydration therapy, and other child survival objectives consistent with section 2151b(c)(2) of title 22, relating to the Child Survival Fund;

(3) the promotion of increased access to food supplies through the encouragement of specific policies and programs designed to increase employment and incomes within the country;

(4) the promotion of free and open markets through specific policies and programs;

(5) support for United States private voluntary organizations and cooperatives and encouragement of the development and utilization of indigenous nongovernmental organizations;

(6) the purchase of agricultural commodities (including transportation and processing costs) produced in the country—

(A) to meet urgent or extraordinary relief requirements in the country or in neighboring countries; or

(B) to develop emergency food reserves;

(7) the purchase of goods and services (other than agricultural commodities and related services) to meet urgent or extraordinary relief requirements;

(8) the payment, to the extent practicable, of the costs of carrying out the program authorized in subchapter V of this chapter;

(9) private sector development activities designed to further the policies set forth in section 1691 of this title, including loans to financial intermediaries for use in making loans to private individuals, cooperatives, corporations, or other entities;

(10) activities of the Peace Corps that relate to agricultural production;

(11) the development of rural infrastructure such as roads, irrigation systems, and electrification to enhance agricultural production;

(12) research on malnutrition and its causes, as well as research relating to the identification and application of policies and strategies for targeting resources made available under this section to address the problem of malnutrition; and

(13) support for research (including collaborative research which is mutually beneficial to the United States and the recipient country), education, and extension activities in agricultural sciences.

Section 1306 of title 31 shall not apply to the use under this subsection of local currency proceeds that are owned by the United States.

(b) Support of indigenous nongovernmental organizations

To the extent practicable, not less than 10 percent of the amounts contained in an account established for a recipient country under section 1727d(a) of this title shall be used by such country to support the development and utilization of indigenous nongovernmental organizations and cooperatives that are active in rural development, agricultural education, sustainable agricultural production, other measures to assist poor people, and environmental protection projects within such country.

(c) Investment of local currencies by nongovernmental organizations

A nongovernmental organization may invest local currencies that accrue to that organization as a result of assistance under subsection (a) of this section, and any interest earned on such investment may be used for the purpose for which the assistance was provided to that organization without further appropriation by the Congress.

(d) Support for certain educational institutions

If the Administrator determines that local currencies deposited in a special account pursuant to this subchapter are not needed for any of the activities prescribed in paragraphs (1) through (13) of subsection (a) of this section or for any other specific economic development purpose in the recipient country, the Administrator may use those currencies to provide support for any institution (other than an institution whose primary purpose is to provide religious education) located in the recipient country that provides education in agricultural sciences or other disciplines for a significant number of United States nationals (who may include members of the United States Armed Forces or the Foreign Service or dependents of such members).

(July 10, 1954, ch. 469, title III, §306, as added Aug. 3, 1977, Pub. L. 9588, title II, §211(a)(2), 91 Stat. 551; amended Aug. 14, 1979, Pub. L. 9653, title II, §207(a), 93 Stat. 369; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3643.)

PRIOR PROVISIONS

A prior section 306 of act July 10, 1954, ch. 469, title III, as added Sept. 21, 1959, Pub. L. 86341, title I, §11, 73

Stat. 608, which enacted section 1695 of this title, was repealed by Pub. L. 89808, §2(D), Nov. 11, 1966, 80 Stat. 1535.

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions requiring submission of annual report by recipient countries to President on activities and progress of Food for Development Program.

1979—Pub. L. 9653 inserted provisions relating to detailed description of the use of the commodities.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 9653 effective Oct. 1, 1979, see section 512(a) of Pub. L. 9653, set out as a note under section 2151 of Title 22, Foreign Relations and Inter-course.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 9588, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

USE OF FOREIGN CURRENCIES

Foreign currencies accruing to United States under this subchapter may be used for purposes set forth in this section, see Ex. Ord. No. 12752, §2(b)(1), Feb. 25, 1991, 56 F.R. 8255, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1727d of this title.

§§1727f, 1727g. Omitted

CODIFICATION

Sections were omitted in the general revision of this chapter by Pub. L. 101624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3633.

Section 1727f, act July 10, 1954, ch. 469, title III, §307, as added Aug. 3, 1977, Pub. L. 9588, title II, §211(a)(2), 91 Stat. 551; amended Aug. 14, 1979, Pub. L. 9653, title II, §207(b), 93 Stat. 369, related to annual presidential review of agreements for use of proceeds from sales of commodities.

A prior section 307 of act July 10, 1954, ch. 469, title III, as added Sept. 21, 1959, Pub. L. 86341, title I, §12, 73 Stat. 609, which enacted section 1696 of this title, was repealed by Pub. L. 89808, §2(D), Nov. 11, 1966, 80 Stat. 1535.

Section 1727g, acts July 10, 1954, ch. 469, title III, §310, formerly §303, 68 Stat. 459; Sept. 6, 1958, Pub. L. 85931, §6, 72 Stat. 1791; July 29, 1968, Pub. L. 90436, §7, 82 Stat. 451; renumbered §310, Aug. 3, 1977, Pub. L. 9588, title II, §211(a)(1), 91 Stat. 548; Dec. 23, 1985, Pub. L. 99198, title XI, §1167(c), 99 Stat. 1503, related to authority of Secretary to barter agricultural commodities for strategic and other materials.

BARTER OF AGRICULTURAL COMMODITIES FOR STRATEGIC AND CRITICAL MATERIALS

Section 1167(a) of Pub. L. 99198, which provided for findings by Congress concerning the barter or exchange of agricultural commodities for strategic and critical materials for the national defense stockpile, was repealed by Pub. L. 101624, title XV, §1572(3), Nov. 28, 1990, 104 Stat. 3702.

SUBCHAPTER IIIB—EMERGENCY FOOD ASSISTANCE

§1728. Findings regarding emergency food assistance

The Congress finds that—

(1) acute food crises continue to cause loss of life, severe malnutrition, and general human suffering in many areas of the Third World, especially in sub-Saharan Africa;

(2) the United States continues to respond to these needs, as a reflection of its humanitarian concern for the people of the Third World, with emergency food and other necessary assistance to alleviate the suffering of those affected by severe food shortages;

(3) the timely provision of food and other necessary assistance to those in need is of paramount importance if the worst effects of such food crises are to be mitigated; and

(4) the ability of the United States to provide food and other necessary assistance on a timely basis, and to ensure that such assistance is distributed to those in need, should be enhanced in order to better enable the United States to help those affected by severe food shortages.

(Pub. L. 98473, title III, §302, Oct. 12, 1984, 98 Stat. 2194.)

CODIFICATION

Section was not enacted as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

SHORT TITLE

Section 301 of title III of Pub. L. 98473 provided that: “This title [enacting this subchapter and amending section 1723 of this title] may be cited as the ‘President’s Emergency Food Assistance Act of 1984.’”

§1728a. President’s Emergency Food Assistance Fund

(a) Establishment; authority of President to furnish assistance from Fund

There is hereby established the President’s Emergency Food Assistance Fund (hereafter in this subchapter referred to as the “Fund”). Whenever the President determines it to be in the national interest of the United States, he is authorized to furnish, in accordance with the provisions of this subchapter, and on such terms and conditions as he may determine, assistance from the Fund for the purpose of alleviating the human suffering of peoples outside the United States caused by acute food shortages. Such assistance may be provided through such governments or other entities, private or public, including intergovernmental and multilateral organizations, as the President deems appropriate.

(b) Types of assistance authorized

Because the effects of severe food shortages will vary with the country or region, assistance to alleviate human suffering may include the provision of food assistance or such activities as the provision of seed, animal fodder, animal vaccines, and transportation (including inland transportation) and distribution services.

(c) Authorization of appropriations

There are authorized to be appropriated to the President \$50,000,000 each for fiscal year 1985 and

fiscal year 1986 to carry out the purposes of this subchapter, to remain available until expanded.¹

(d) Authority of President

The President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and international and intergovernmental organizations in furtherance of the purposes and within the limitations of this subchapter.

(Pub. L. 98473, title III, §303, Oct. 12, 1984, 98 Stat. 2194.)

CODIFICATION

Section was not enacted as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

§1728b. Reports on emergency food assistance

Not later than December 31 of each year, the President shall submit a comprehensive report to the appropriate committees of Congress detailing all activities carried out under the authority of this subchapter during the previous fiscal year.

(Pub. L. 98473, title III, §304, Oct. 12, 1984, 98 Stat. 2195.)

CODIFICATION

Section was not enacted as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

SUBCHAPTER IV—GENERAL AUTHORITIES
AND REQUIREMENTS

§1731. Commodity determinations

(a) Available commodities

After consulting with other agencies of the Federal Government affected and within policies established by the President for implementing this chapter, and after taking into consideration productive capacity, domestic requirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary shall determine, prior to the beginning of each fiscal year, the agricultural commodities and quantities thereof available for disposition under this chapter.

(b) Modification

The Secretary may, during the fiscal year, modify a determination made under subsection (a) of this section if the Secretary provides to the Congress prior notice of that modification (including a statement of the reasons for the modification).

(c) Commodities not available

No commodity shall be available for disposition under this chapter if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary, unless the Secretary determines that some part

of the supply should be used to carry out urgent humanitarian purposes under this chapter.

(d) Policies for implementing chapter

The Secretary shall, to the extent practicable, seek to maintain a stable level of available agricultural commodities under this chapter of the kind and type needed to provide food assistance to developing countries and should attempt to make such commodities available to the degree necessary to fulfill multi-year agreements entered into under this chapter.

(e) Ineligible commodities

(1) Alcoholic beverages

Alcoholic beverages shall not be made available for disposition under this chapter.

(2) Tobacco

Tobacco or the products thereof shall not be made available under section 1727b of this title or subchapter III of this chapter.

(f) Market development activities

Subsection (e)(1) of this section shall not be construed to prohibit representatives of the United States wine, beer, distilled spirits, or other alcoholic beverage industry from participating in agricultural market development activities carried out by the Secretary with foreign currencies made available under subchapter II of this chapter.

(July 10, 1954, ch. 469, title IV, §401, as added Sept. 21, 1959, Pub. L. 86341, title I, §14, 73 Stat. 610; amended Sept. 27, 1962, Pub. L. 87703, title II, §201(1), 76 Stat. 610; Nov. 11, 1966, Pub. L. 89808, §2(E), 80 Stat. 1535; Aug. 3, 1977, Pub. L. 9588, title II, §212, 91 Stat. 551; Sept. 29, 1977, Pub. L. 95113, title XII, §1204, 91 Stat. 956; Aug. 14, 1979, Pub. L. 9653, title II, §208, 93 Stat. 370; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3645.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions authorizing Secretary to determine types and quantities of commodities available for distribution, limiting distribution where domestic supply is threatened, and requiring available storage facilities in recipient country prior to making commodities available to such country as well as finding that distribution will not result in interference with production or marketing in that country.

1979—Subsec. (b)(2). Pub. L. 9653 substituted “to or interference with domestic production or marketing in” for “to domestic production in”.

1977—Subsec. (a). Pub. L. 95113 inserted provisions under which commodities may be made available for disposition if the Secretary of Agriculture determines that some part of the supply of commodities should be used to carry out urgent humanitarian purposes, even though such disposition would reduce the domestic supply of those commodities below that needed to meet domestic requirements, provide adequate carryover, and allow for anticipated exports.

Pub. L. 9588 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 9588 added subsec. (b).

1966—Pub. L. 89808 substituted provisions relating to determination and criteria for such determination by the Secretary of Agriculture of agricultural commodities available for disposition for former statement of purpose of provisions relating to long-term supply contracts, now covered by subchapter II of this chapter.

¹So in original. Probably should be “expended.”

1962—Pub. L. 87703 included in the statement of purpose the stimulation and increase of sales of surplus agricultural commodities for dollars through long-term supply contracts and through the extension of credit for the purchase of such commodities, by agreements with friendly nations or with private trade.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 9653 effective Oct. 1, 1979, see section 512(a) of Pub. L. 9653, set out as a note under section 2151 of Title 22, Foreign Relations and Inter-course.

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95113, set out as a note under section 1307 of this title.

Amendment by Pub. L. 9588 effective Oct. 1, 1977, see section 215 of Pub. L. 9588, set out as a note under section 1702 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

EXPORT SALES OF DAIRY PRODUCTS

Pub. L. 99198, title XI, §1163, Dec. 23, 1985, 99 Stat. 1499, as amended by Pub. L. 100435, title I, §107, Sept. 19, 1988, 102 Stat. 1651; Pub. L. 101624, title I, §111, Nov. 28, 1990, 104 Stat. 3380; Pub. L. 103465, title IV, §411(c), Dec. 8, 1994, 108 Stat. 4963, provided that:

“(a) In each fiscal year, the Secretary of Agriculture may sell dairy products for export, at such prices as the Secretary determines appropriate, in a quantity and allocated as determined by the Secretary, consistent with the obligations undertaken by the United States set forth in the Uruguay Round Agreements, if the disposition of the commodities will not interfere with the usual marketings of the United States nor disrupt world prices of agricultural commodities and patterns of commercial trade.

“(b) Such sales shall be made through the Commodity Credit Corporation under existing authority available to the Secretary or the Commodity Credit Corporation.

“(c) Through September 30, 1995, the Secretary shall report semiannually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the volume of sales made under this section.”

[Amendment of section 1163 of Pub. L. 99198, set out above, by Pub. L. 103465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.]

[Amendment of section 1163 of Pub. L. 99198, set out above, by Pub. L. 100435 effective and implemented on Oct. 1, 1988, see section 701 of Pub. L. 100435, set out as a note under section 2012 of this title.]

CONSULTATION THROUGH FOOD ASSISTANCE POLICY COUNCIL

Consultation required by subsec. (a) of this section to be undertaken through Food Assistance Policy Council, see Ex. Ord. No. 12752, §4(a), Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1736, 1736f1, 1736o of this title.

§1732. Definitions

As used in this chapter:

(1) Administrator

The term “Administrator” means the Administrator of the Agency for International Development, unless otherwise specified in this chapter.

(2) Agricultural commodity

The term “agricultural commodity”, unless otherwise provided for in this chapter, includes any agricultural commodity or the products thereof produced in the United States, including wood and processed wood products, fish, and livestock as well as value-added, fortified, or high-value agricultural products. Effective beginning on October 1, 1991, for purposes of subchapter III of this chapter, a product of an agricultural commodity shall not be considered to be produced in the United States if it contains any ingredient that is not produced in the United States, if that ingredient is produced and is commercially available in the United States at fair and reasonable prices.

(3) Cooperative

The term “cooperative” means a private sector organization whose members own and control the organization and share in its services and its profits and that provides business services and outreach in cooperative development for its membership.

(4) Developing country

The term “developing country” means a country that has a shortage of foreign exchange earnings and has difficulty meeting all of its food needs through commercial channels.

(5) Food security

The term “food security” means access by all people at all times to sufficient food and nutrition for a healthy and productive life.

(6) Indigenous nongovernmental organization

The term “indigenous nongovernmental organization” means an organization that operates under the laws of the recipient country, or that has its principal place of activity in such country, and that works at the local level to solve development problems in the foreign country in which it is located, except that the term does not include an organization that is primarily an agent or instrumentality of the foreign government.

(7) Private voluntary organization

The term “private voluntary organization” means a not-for-profit, nongovernmental organization (in the case of a United States organization, an organization that is exempt from Federal income taxes under section 501(c)(3) of title 26) that receives funds from private sources, voluntary contributions of money, staff time, or in-kind support from the public, and that is engaged in or is planning to engage in voluntary, charitable, or development assistance activities (other than religious activities).

(8) Secretary

The term “Secretary” means the Secretary of Agriculture, unless otherwise specified in this chapter.

(July 10, 1954, ch. 469, title IV, §402, as added Sept. 21, 1959, Pub. L. 86341, title I, §14, 73 Stat. 610; amended Sept. 27, 1962, Pub. L. 87703, title II, §201(2), 76 Stat. 611; Nov. 11, 1966, Pub. L. 89808, §2(E), 80 Stat. 1536; July 1, 1971, Pub. L. 9242, 85 Stat. 99; Sept. 29, 1977, Pub. L. 95113, title XII, §1205, 91 Stat. 956; Sept. 29, 1979, Pub. L. 9672, §24, 93 Stat. 536; Dec. 22, 1981, Pub. L. 9798, title XII, §1213, 95 Stat. 1281; Nov. 8, 1984, Pub. L. 98623, title IV, §405(b), 98 Stat. 3409; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3645.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions defining agricultural commodity.

1984—Pub. L. 98623 inserted “(including fish, without regard to whether such fish are harvested in aquacultural operations)” and struck out provision that subject to the availability of appropriations therefor, any domestically produced fishery product could be made available under this chapter.

1981—Pub. L. 9798 substituted “wine, beer, distilled spirits, or other alcoholic beverage” for “wine or beer”.

1979—Pub. L. 9672 inserted reference to beer.

1977—Pub. L. 95113 required that in allocation of funds made available under subchapter II of this chapter priority be given to financing the sale of food and fiber commodities.

1971—Pub. L. 9242 inserted sentence that proviso excluding alcoholic beverages from term “agricultural commodity” shall not be construed as prohibiting domestic wine industry from participating in market development activities for expansion of export sales of domestic agricultural commodities.

1966—Pub. L. 89808 substituted definition of agricultural commodity and provisions as to availability of fishery products for former provisions respecting agreements for delivery of surplus agricultural commodities, period, and security for payments in relation to long-term supply contracts, now covered by subchapter II of this chapter. See section 1707 of this title.

1962—Pub. L. 87703 authorized executive agreements with financial institutions acting in behalf of friendly nations and administrative sales agreements with foreign and United States private trade with provision for security for payments.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98623 to be considered as having taken effect before Sept. 8, 1982, for purposes of section 135 of Pub. L. 97253 (set out as a note under section 612c of this title), see section 405(d) of Pub. L. 98623, set out as a note under section 1707a of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 9798 effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1736o of this title.

§1733. General provisions

(a) Prohibition

No agricultural commodity shall be made available under this chapter unless it is determined that—

(1) adequate storage facilities will be available in the recipient country at the time of the arrival of the commodity to prevent the spoilage or waste of the commodity; and

(2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country.

(b) Consultations

The Secretary or the Administrator, as appropriate, shall consult with representatives from the International Monetary Fund, the International Bank for Reconstruction and Development, the World Bank, and other donor organizations to ensure that the importation of United States agricultural commodities and the use of local currencies for development purposes will not have a disruptive impact on the farmers or the local economy of the recipient country.

(c) Transshipment

The Secretary or the Administrator, as appropriate, shall, under such terms and conditions as are determined to be appropriate, require commitments from countries designed to prevent or restrict the resale or transshipment to other countries, for use for other than domestic purposes, of agricultural commodities donated or purchased under this chapter.

(d) Private trade channels and small business

Private trade channels shall be used under this chapter to the maximum extent practicable in the United States and in the recipient countries with respect to—

- (1) sales from privately owned stocks;
- (2) sales from stocks owned by the Commodity Credit Corporation; and
- (3) donations.

Small businesses shall be provided adequate and fair opportunity to participate in such sales.

(e) World prices

In carrying out this chapter, reasonable precautions shall be taken to assure that sales or donations of agricultural commodities will not unduly disrupt world prices for agricultural commodities or normal patterns of commercial trade with foreign countries.

(f) Publicity

Commitments shall be obtained from countries receiving commodities under this chapter that such countries will widely publicize, to the extent practicable, through the use of the public media and through other means, that such commodities are being provided through the friendship of the American people as food for peace.

(g) Participation of private sector

The Secretary or the Administrator, as appropriate, shall encourage the private sector of the United States and private importers in developing countries to participate in the programs established under this chapter.

(h) Safeguard usual marketings

In carrying out this chapter, reasonable precautions shall be taken to safeguard the usual marketings of the United States and to avoid displacing any sales of the United States agricultural commodities that the Secretary or Administrator determines would otherwise be made.

(i) Military distribution of food aid**(1) In general**

The Secretary or the Administrator, as appropriate, shall attempt to ensure that agricultural commodities made available under this chapter will be provided without regard to the political affiliation, geographic location, ethnic, tribal, or religious identity of the recipient or without regard to other extraneous factors.

(2) Prohibition on handling of commodities by military**(A) In general**

Except as provided in subparagraph (B), the Secretary or the Administrator, as appropriate, shall not enter into an agreement under this chapter to provide agricultural commodities if such agreement requires or permits the distribution, handling, or allocation of such commodities by the military forces of any government or insurgent group.

(B) Exception

Notwithstanding subparagraph (A), the Secretary or the Administrator, as appropriate, may authorize the handling or distribution of commodities by the military forces of a country in exceptional circumstances in which—

- (i) nonmilitary channels are not available for such handling or distribution;
- (ii) such action is consistent with the requirements of paragraph (1); and
- (iii) the Secretary or the Administrator, as appropriate, determines that such action is necessary to meet the emergency health, safety, or nutritional requirements of the recipient population.

(C) Report

Not later than 30 days after an authorization is provided under subparagraph (B), the Secretary or the Administrator, as appropriate, shall prepare and submit to the appropriate committees of Congress a report concerning such authorization and include in any such report the reason for the authorization, including an explanation of why no alternatives to such handling or distribution were available.

(3) Encouragement of safe passage

When entering into agreements under this chapter that involve areas within recipient countries that are experiencing protracted warfare or civil strife, the Secretary or the Administrator, as appropriate, shall, to the extent practicable, encourage all parties to the conflict to permit safe passage of the commodities and other relief supplies and to establish safe zones for medical and humani-

tarian treatment and evacuation of injured persons.

(j) Violations of human rights**(1) Ineligible countries**

The Secretary or the Administrator, as appropriate, shall not enter into any agreement under this chapter to provide agricultural commodities, or to finance the sale of agricultural commodities, to the government of any country determined by the President to engage in a consistent pattern of gross violations of internationally recognized human rights, including—

- (A) the torture or cruel, inhuman, or degrading treatment or punishment of individuals;
- (B) the prolonged detention of individuals without charges;
- (C) the responsibility for causing the disappearance of individuals through the abduction and clandestine detention of such individuals; or
- (D) other flagrant denials of the right to life, liberty, and the security of persons.

(2) Waiver

Paragraph (1) shall not prohibit the provision of assistance to such a country if the assistance is targeted to the most needy people in such country and is made available in such country through channels other than the government.

(k) Abortion prohibition

Local currencies that are made available for use under this chapter may not be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

(July 10, 1954, ch. 469, title IV, §403, as added Sept. 21, 1959, Pub. L. 86341, title I, §14, 73 Stat. 610; amended Sept. 27, 1962, Pub. L. 87703, title II, §201(3), 76 Stat. 611; Oct. 8, 1964, Pub. L. 88638, §1(17), 78 Stat. 1037; Nov. 11, 1966, Pub. L. 89808, §2(E), 80 Stat. 1536; Sept. 29, 1977, Pub. L. 95113, title XII, §1206, 91 Stat. 956; Dec. 16, 1980, Pub. L. 96533, title IV, §407, 94 Stat. 3151; Dec. 22, 1981, Pub. L. 9798, title XII, §1214, 95 Stat. 1282; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3646; Dec. 13, 1991, Pub. L. 102237, title III, §321, 105 Stat. 1857.)

AMENDMENTS

1991—Subsec. (i)(2)(C). Pub. L. 102237 substituted “committees” for “Committees”.

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions authorizing appropriations necessary for this chapter, classifying such expenditures under international affairs and finance rather than agriculture, valuing commodity, for purpose of reimbursing Commodity Credit Corporation, at price not greater than export market price at time commodity was made available, and authorizing President to transfer up to 15 percent of funding for any fiscal year from any subchapter of this chapter to any other subchapter.

1981—Subsec. (b). Pub. L. 9798 inserted “a price not greater than”.

1980—Subsec. (c). Pub. L. 96533 added subsec. (c).

1977—Pub. L. 95113 designated existing provisions as subsec. (a) and added subsec. (b).

1966—Pub. L. 89808 substituted provisions for authorization of appropriations, including reimbursement of

Commodity Credit Corporation, and classification of expenditures, formerly covered in former section 1703(a) of this title, for provision for payment for commodities, now provided for by section 1706(a) of this title.

1964—Pub. L. 88638 substituted “less than the minimum rate required by section 2161 of Title 22 for loans made under that section” for “more than the cost of the funds to the United States Treasury as determined by the Secretary of the Treasury, taking into consideration the current average market yields on outstanding marketable obligations of the United States having maturity comparable to the maturities of loans made by the President under this section”.

1962—Pub. L. 87703 substituted “reasonable” for “approximately equal” annual amounts and provided for deferral of date for beginning annual payment.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 9798 effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (j) of this section delegated to Secretary of State by section 4(b) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1431, 1736 of this title; title 46 App. section 1241h.

§1734. Agreements

(a) In general

Before entering into agreements under subchapters II and IIIA of this chapter for the provision of commodities, the Secretary or the Administrator, as appropriate, shall consider the extent to which the recipient country is undertaking measures for economic development purposes in order to improve food security and agricultural development, alleviate poverty, and promote broad-based, equitable, and sustainable development.

(b) Terms of agreement

An agreement entered into under this chapter shall—

(1) include an estimate of the annual value or volume of agricultural commodities proposed to be made available to the country or eligible organization under the agreement;

(2) with respect to agreements entered into under subchapters II and IIIA of this chapter, include a statement of the manner in which the agricultural commodities provided under the agreement or the revenues generated by the sale of such commodities (if such commodities are sold), will be integrated into the over-

all development plans of the country to improve food security and agricultural development, alleviate poverty, and promote broad-based, equitable, and sustainable agriculture;

(3) with respect to agreements entered into under subchapters II and IIIA of this chapter, include a statement of the manner in which competitive private sector participation within the recipient country in the storage, marketing, transportation, and distribution of agricultural commodities made available under this chapter will be encouraged;

(4) include a statement that such agreement shall be subject to the availability, during each fiscal year to which the agreement applies, of the necessary appropriations and agricultural commodities; and

(5) contain such other terms and conditions as the Secretary or the Administrator, as appropriate, determines to be necessary.

(c) Multi-year agreements

(1) In general

Agreements to provide assistance on a multi-year basis under this chapter shall be made available to recipient countries or to eligible organizations.

(2) Exception

The Secretary or the Administrator, as appropriate, may determine not to make assistance available on a multi-year basis with respect to a recipient country or an eligible organization if it is determined that assistance should be provided to such country or through such organization only on an annual basis because—

(A) the past performance of the country or organization in meeting program objectives does not warrant a multi-year agreement;

(B) it is anticipated that the need of the country or organization for food aid does not extend beyond 1 year; or

(C) other circumstances, as determined by the Secretary or the Administrator, as appropriate, indicate there is only a need for a 1 year agreement.

(d) Review of agreements

The Secretary or the Administrator, as appropriate, may make a determination to terminate, or refuse to enter into, a multi-year agreement with respect to a recipient country if the Secretary or the Administrator determines that such country is not fulfilling the objectives or requirements of this chapter. In making such a determination, the Secretary or the Administrator, as appropriate, may consider the extent to which the country is—

(1) making significant economic development reforms;

(2) promoting free and open markets for food and agricultural producers; and

(3) fostering increased food security.

(July 10, 1954, ch. 469, title IV, §404, as added Sept. 21, 1959, Pub. L. 86341, title I, §14, 73 Stat. 610; amended Nov. 11, 1966, Pub. L. 89808, §2(E), 80 Stat. 1536; Aug. 14, 1979, Pub. L. 9653, title II, §209, 93 Stat. 370; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3648.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions outlining

aims of assistance programs, namely humanitarian and national interest objectives, and requiring assessments of recipient countries to determine types and quantities of commodities needed, conditions under which distribution should take place, most suitable timing for delivery, etc.

1979—Pub. L. 9653 designated existing provisions as subsec. (a), substituted provisions relating to aims of programs of assistance conducted under this chapter and sections 1427 and 1431 of this title and the types and quantities of agricultural commodities to be made available, for provisions relating to aims of assistance programs undertaken pursuant to this chapter and sections 1427 and 1431 of this title, and added subsec. (b).

1966—Pub. L. 89808 substituted provision declaratory of aims of assistance programs as the attainment of humanitarian objectives and the national interest for provisions requiring the Secretary of Agriculture to maximize the sale of commodities and avoid displacement of cash sales, now provided for by sections 1703(n) and 1707(b) of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 9653 effective Oct. 1, 1979, see section 512(a) of Pub. L. 9653, set out as a note under section 2151 of Title 22, Foreign Relations and Inter-course.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

§1735. Consultation

The Secretary and the Administrator shall cooperate and consult in the implementation of this chapter.

(July 10, 1954, ch. 469, title IV, §405, as added Sept. 21, 1959, Pub. L. 86341, title I, §14, 73 Stat. 610; amended Sept. 27, 1962, Pub. L. 87703, title II, §201(4), 76 Stat. 611; Nov. 11, 1966, Pub. L. 89808, §2(E), 80 Stat. 1536; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3650.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions requiring funds and authority under this chapter be used to assist friendly countries determined to increase their self-reliance in food production and managing population growth.

1966—Pub. L. 89808 substituted provisions respecting self-help in meeting food requirements and in resolving problems relative to population growth for provisions respecting entry into agreements for participation in supply and assistance program on a proportionate and equitable basis.

1962—Pub. L. 87703 substituted “In the case of such agreements, the Secretary may enter into agreements with other friendly and historic supplying nations” for “In entering into such agreements, the Secretary shall endeavor to reach agreement with other exporting nations”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

§1736. Use of Commodity Credit Corporation

(a) In general

The Commodity Credit Corporation shall acquire and make available such agricultural commodities (that have been determined to be available under section 1731(a) of this title) as necessary to carry out agreements under this chapter.

(b) Included expenses

With respect to commodities made available under this chapter, the Commodity Credit Corporation may pay—

- (1) the cost of acquiring such commodities;
- (2) the costs associated with packaging, enrichment, preservation, and fortification of such commodities;
- (3) the processing, transportation, handling, and other incidental costs up to the time of the delivery of such commodities free on board vessels in United States ports;
- (4) the ocean freight charges from United States ports to designated ports of entry abroad;
- (5) the costs associated with transporting such commodities from United States ports to designated points of entry abroad in the case—
 - (A) of landlocked countries;
 - (B) of ports that cannot be used effectively because of natural or other disturbances;
 - (C) of the unavailability of carriers to a specific country; or
 - (D) of substantial savings in costs or time that may be effected by the utilization of points of entry other than ports;

(6) in the case of commodities for urgent and extraordinary relief requirements (including extra-positioned commodities) the transportation costs incurred in moving the commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs; and

(7) the charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

(c) Commodity Credit Corporation

The funds, facilities, and authorities of the Commodity Credit Corporation may be used to carry out this chapter.

(d) Availability of funds

Funds shall be available under this chapter only to the extent provided in advance in appropriation Acts.

(July 10, 1954, ch. 469, title IV, §406, as added Sept. 21, 1959, Pub. L. 86341, title I, §14, 73 Stat. 610; amended Sept. 27, 1962, Pub. L. 87703, title II, §201(5), 76 Stat. 611; Nov. 11, 1966, Pub. L. 89808, §2(E), 80 Stat. 1536; Dec. 20, 1975, Pub. L. 94161, title II, §214, 89 Stat. 855; Nov. 5, 1990, Pub. L. 101508, title I, §1204(b)(2), 104 Stat. 138811; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3650; Dec. 13, 1991, Pub. L. 102237, title III, §323, 105 Stat. 1857.)

AMENDMENTS

1991—Subsec. (b)(5)(D). Pub. L. 102237 substituted “time” for “items”.

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions authorizing appropriations and authorizing the President to administer a program of farmer-to-farmer assistance, enter into agreements or make grants to train farmers in recipient countries, seek exchange of farm youth and farm leaders with developing countries, conduct research in tropical and subtropical agriculture, coordinate program with other foreign assistance programs, establish conditions for eligibility in farmer-to-farmer program, and pay costs of program through use of foreign currencies accruing from sale of commodities.

Subsec. (d). Pub. L. 101508 added subsec. (d).

1975—Subsec. (a). Pub. L. 94161, §214(1), substituted “the President” for “the Secretary of Agriculture”.

Subsec. (a)(1). Pub. L. 94161, §214(2), struck out “through existing agencies of the Department of Agriculture” after “establish and administer”.

Subsec. (a)(5). Pub. L. 94161, §214(3), substituted “with other foreign assistance activities of the United States” for “with the activities of the Peace Corps, the Agency for International Development, and other agencies of the United States and to assign, upon agreement with such agencies, such persons to work with and under the administration of such agencies: *Provided*, That nothing in this section shall be construed to infringe upon the powers or functions of the Secretary of State”.

1966—Pub. L. 89808 substituted food production assistance provisions for provision respecting applicability of other laws, now provided for by section 1707(d) of this title.

1962—Pub. L. 87703 made section 1701(b) and (c) applicable to this subchapter.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

Amendment by Pub. L. 101508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101508, set out as a note under section 511r of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89808 effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as a note under section 1691 of this title.

FARMER-TO-FARMER PROGRAMS FOR FISCAL YEARS 1986 THROUGH 1990

Pub. L. 99198, title XI, §1107, Dec. 23, 1985, 99 Stat. 1467, as amended by Pub. L. 100277, §6, Apr. 4, 1988, 102 Stat. 69, provided that:

“(a) Notwithstanding any other provision of law, not less than one-tenth of 1 percent of the funds available for each of the fiscal years ending September 30, 1986 through September 30, 1990, to carry out the Agricultural Trade Development and Assistance Act of 1954 [this chapter] shall be used to carry out paragraphs (1) and (2) of section 406(a) of that Act [7 U.S.C. 1736(a)(1), (2)]. Any such funds used to carry out paragraph (2) of section 406(a) shall not constitute more than one-fourth of the funds used as provided by the first sentence of this subsection, shall be used for activities in direct support of the farmer-to-farmer program under paragraph (1) of section 406(a), and shall be administered whenever possible in conjunction with programs under sections 296 through 300 of the Foreign Assistance Act of 1961 [22 U.S.C. 2220a2220e].

“(b) Not later than 120 days after the date of enactment of this Act [Dec. 23, 1985], the Administrator of the Agency for International Development, in conjunction with the Secretary of Agriculture, shall submit to Congress a report indicating the manner in which the Agency intends to implement the provisions of paragraphs (1) and (2) of section 406(a) of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1736(a)(1), (2)] with the funds made available under subsection (a).”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1431 of this title; title 22 section 5423.

§17361. Special Assistant for Agricultural Trade and Food Assistance

(a) Appointment by President

The President shall appoint a Special Assistant to the President for Agricultural Trade and Food Assistance (hereinafter in this section referred to as the “Special Assistant”). The President shall appoint the initial Special Assistant not later than May 1, 1986.

(b) Service in Executive Office of President

The Special Assistant shall serve in the Executive Office of the President.

(c) Required functions

The Special Assistant shall—

(1) assist and advise the President in order to improve and enhance food assistance programs carried out in the United States and foreign countries;

(2) be available to receive suggestions and complaints concerning the implementation of United States food aid and agricultural export programs anywhere in the United States Government and provide prompt responses thereto, including expediting the program implementation in any instances in which there is unreasonable delay;

(3) make recommendations to the President on means to coordinate and streamline the manner in which food assistance programs are carried out by the Department of Agriculture and the Agency for International Development, in order to improve their overall effectiveness;

(4) make recommendations to the President on measures to be taken to increase use of United States agricultural commodities and the products thereof through food assistance programs;

(5) advise the President on agricultural trade;

(6) advise the President on the Food for Progress Program and expedite its implementation;

(7) serve as a member of the Development Coordination Committee and the Food Aid Subcommittee of such Committee;

(8) advise departments and agencies of the Federal Government on their policy guidelines on basic issues of food assistance policy to the extent necessary to assure the coordination of food assistance programs, consistent with law, and with the advice of such Subcommittee; and

(9) submit a report to the President and Congress each year through 1990 containing—

(A) a global analysis of world food needs and production; and

(B) a detailed plan for using available export and food aid authorities to increase United States agricultural exports to those targeted countries.

(d) Compensation

Compensation for the Special Assistant shall be fixed by the President at an annual rate of

basic pay of not less than the rate applicable to positions in level III of the Executive Schedule. (Pub. L. 99198, title XI, §1113(a)(d), Dec. 23, 1985, 99 Stat. 1479; Pub. L. 99260, §4(a)(1), (b), (d), Mar. 20, 1986, 100 Stat. 49; Pub. L. 101624, title XV, §1572(2), Nov. 28, 1990, 104 Stat. 3702.)

REFERENCES IN TEXT

Level III of the Executive Schedule, referred to in subsec. (d), is set out in section 5314 of Title 5, Government Organization and Employees.

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

Another section 1113(d) of Pub. L. 99198 amended section 5312 of Title 5, Government Organization and Employees.

AMENDMENTS

1990—Subsec. (c)(9)(B), (C). Pub. L. 101624 redesignated subpar. (C) as (B) and struck out former subpar. (B) which required that report contain identification of at least 15 target countries most likely to emerge as growth markets for commodities in next 5 to 10 years.

1986—Pub. L. 99260, §4(a)(1)(A), substituted “Food Assistance” for “Food Aid” in section catchline.

Subsec. (a). Pub. L. 99260, §4(a)(1)(B), (b), substituted “Food Assistance” for “Food Aid” and inserted provision that the President appoint the initial Special Assistant not later than May 1, 1986.

Subsec. (d). Pub. L. 99260, §4(d), amended subsec. (d) generally, substituting provision relating to compensation of the Special Assistant for provision relating to additional required functions of the Special Assistant.

§1736a. Administrative provisions

(a) Subchapter II programs

(1) Acquisitions

The importing country shall acquire the agricultural commodities to be financed under subchapter II of this chapter.

(2) Invitation for bid

No purchase of agricultural commodities from private stock or purchase of ocean transportation shall be financed under subchapter II of this chapter unless such purchases are made on the basis of an invitation for bid that is publicly advertised in the United States, and on the basis of bid offerings that shall conform to such invitation and be received and publicly opened in the United States. All awards in the purchase of commodities or ocean transportation financed under subchapter II of this chapter shall be consistent with open, competitive, and responsive bid procedures, as determined appropriate by the Secretary.

(b) Reporting of fees

(1) Requirement

Notwithstanding any other provision of law, any commission, fee, or other compensation of any kind paid, or to be paid, by any supplier of an agricultural commodity, or any ocean transportation financed by the Commodity Credit Corporation under subchapter II of this chapter to any agents, brokers, or other representatives of the importer or importing country shall be reported to the Secretary by

the supplier of the commodity or ocean transportation.

(2) Content

A report filed under paragraph (1) shall identify the person or entity to whom the payment is made and the amount of the commission or fees paid.

(3) Publication of information

The Secretary shall—

(A) maintain all information provided under this section for public inspection;

(B) annually publish a report containing the information referred to in subparagraph (A); and

(C) forward a copy of the annual report referred to in subparagraph (B) to the appropriate committees of Congress.

(4) Failure to file

A supplier of a commodity or ocean transportation who fails to file a report required under this subsection, or who files a false report, shall be ineligible to furnish, directly or indirectly, commodities or ocean transportation financed under subchapter II of this chapter for a period of not to exceed 5 years.

(c) Agents

(1) Authority of Secretary or Commodity Credit Corporation

(A) General rule

Except as provided in subparagraph (B), if it is determined appropriate, the Secretary or the Commodity Credit Corporation may serve as the purchasing or shipping agent, or both, for the importing country in arranging the purchase or shipping of commodities financed under subchapter II of this chapter.

(B) Exception

Notwithstanding subparagraph (A), the Secretary or the Commodity Credit Corporation may award, under a competitive bidding process, contracts for establishing freight agents who shall act on behalf of the Secretary or the Corporation to handle the shipping of commodities financed under this chapter.

(2) Avoidance of conflict of interest of contractors

Freight agents employed by the Secretary or the Commodity Credit Corporation under subchapter II of this chapter shall not represent any foreign government during the period of their contract with the United States Government.

(2) Reasonable fees and commissions

(A) Fees

Notwithstanding any other provision of law, the Secretary or the Commodity Credit Corporation may enter into an agreement with the importing country that contains the terms and conditions that will govern the provision of purchasing or shipping agent services by the Secretary or the Corporation, including the establishment of fees for such services. Any such fees shall be fair and reasonable in relation to the services

performed and shall be available as reimbursement for costs incurred in providing such services.

(B) Prohibition on commissions

Commissions, fees, or other payments to any selling agent or to any agent of a purchaser shall be prohibited in the purchase of agricultural commodities that are financed under subchapter II of this chapter.

(3) Limitations

No commission, fees, or other payments to an agent, broker, consultant, or other representative of the importer or importing country for ocean transportation brokerage services in connection with the carriage of commodities provided under subchapter II of this chapter may—

(A) be paid in excess of an amount determined appropriate by the Secretary; and

(B) be shared by such person with the importer or importing country or any agent thereof.

(4) Avoidance of conflict of interest

A person may not be an agent, broker, consultant, or other representative of the United States Government, an importer, or an importing country in connection with agricultural commodities provided under this chapter during a fiscal year in which such person provides or acts as an agent, broker, consultant, or other representative of a person engaged in providing ocean transportation or transportation-related services for such commodities. For the purpose of this paragraph, the term “transportation-related services” means lightening, stevedoring, bagging, or inland transportation to the destination point.

(d) Subchapters III and IIIA program

(1) Acquisition

The Administrator shall transfer, arrange for the transportation, and take other steps necessary to make available agricultural commodities to be provided under subchapter III and subchapter IIIA of this chapter.

(2) Full and open competition

No purchase of agricultural commodities from private stocks or purchase of ocean transportation services by the United States Government shall be financed under subchapters III and IIIA of this chapter unless such purchases are made on the basis of full and open competition utilizing such procedures as are determined necessary and appropriate by the Administrator.

(3) Avoidance of conflict of interest

Freight agents employed by the Agency for International Development under subchapters III and IIIA of this chapter shall not represent any foreign government during the period of their contract with the United States Government.

(4) Ocean transportation services

Notwithstanding any provision of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or other similar provisions relating to the making or perform-

ance of Federal Government contracts, the Administrator may procure ocean transportation services under this chapter under such full and open competitive procedures as the Administrator determines are necessary and appropriate.

(e) Timing of shipments

In determining the timing of the shipment of agricultural commodities to be provided under this chapter, the Secretary or the Administrator, as appropriate, shall consider—

(1) the time of harvest of any competing commodities in the recipient country; and

(2) such other concerns determined to be appropriate.

(f) Deadline for agreements under subchapters II and IIIA of this chapter

An agreement under subchapters II and IIIA of this chapter shall, to the extent practicable, be entered into not later than—

(1) November 30 of the first fiscal year in which agricultural commodities are to be shipped under the agreement; or

(2) 60 days after the date of enactment of the annual Rural Development, Agriculture, and Related Agencies Appropriations Act for the first fiscal year in which agricultural commodities are to be shipped under the agreement,

whichever is later.

(g) Annual reports

(1) In general

The President shall prepare an annual report concerning the programs and activities implemented under this chapter for the preceding fiscal year.

(2) Contents

Each report shall include—

(A) the countries and organizations receiving food and other assistance provided to each country and organization under this chapter;

(B) a general description of the projects or activities implemented under this chapter, including local currency funded activities; and

(C) a statement of the amount of agricultural commodities made available to each country pursuant to section 1431(b) of this title and the Food for Progress Act of 1985 [7 U.S.C. 1736o].

(3) Submission

The President shall submit such report not later than January 15 of each year to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(h) World Food Day report

On World Food Day, October 16 of each year, the President shall submit to the appropriate committees of Congress a report, prepared with the assistance of the Secretary and the Administrator, assessing progress towards food security in each country receiving United States Government food assistance. Special emphasis should

be given in such report to the nutritional status of the poorest populations in such countries.

(July 10, 1954, ch. 469, title IV, §407, as added Nov. 11, 1966, Pub. L. 89808, §2(E), 80 Stat. 1537; amended July 29, 1968, Pub. L. 90436, §8, 82 Stat. 451; Dec. 20, 1975, Pub. L. 94161, title II, §210, 89 Stat. 854; Nov. 5, 1990, Pub. L. 101508, title I, §1204(b)(3), 104 Stat. 138811; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3650; Dec. 13, 1991, Pub. L. 102237, title III, §§319, 324, 325, 328, 329, 332, 105 Stat. 1857, 1858.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (d)(4), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of the Act relating to procurement procedures are classified generally to subchapter IV (§251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40, Public Buildings, Property, and Works, and Tables.

The Food for Progress Act of 1985, referred to in subsec. (g)(2)(C), is Pub. L. 99198, title XI, §1110, Dec. 23, 1985, 99 Stat. 1472, as amended, which is classified to section 1736o of this title.

AMENDMENTS

1991—Subsec. (b)(1). Pub. L. 102237, §329, struck out “or agricultural commodity donated” after “ocean transportation financed”.

Subsec. (c)(1)(A). Pub. L. 102237, §324, substituted “subchapter II of this chapter” for “this section”.

Subsec. (c)(1)(C). Pub. L. 102237, §325, struck out “other” before “foreign government”.

Subsec. (c)(2)(B), (3). Pub. L. 102237, §319, inserted “subchapter II of” before “this chapter”.

Subsec. (c)(4). Pub. L. 102237, §328(a), inserted “provides or” after “in which such person” and substituted “of a person” for “if the person is”.

Subsec. (d)(3). Pub. L. 102237, §328(b), struck out “other” before “foreign government”.

Subsec. (d)(4). Pub. L. 102237, §332, substituted “the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)” for “the Federal Property Act of 1949, as amended.”.

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions which established an Advisory Committee to survey the general policies relating to the administration of this chapter, including implementation of self-help provisions, uses to be made of foreign currencies, amount of currencies to be reserved in sales agreements for loans to private industry, rates of exchange, interest rates, and terms under which dollar credit sales are made.

Subsec. (c)(4). Pub. L. 101508 substituted “providing ocean transportation or” for “providing ocean”.

1975—Pub. L. 94161 inserted “, or their designees (who shall be members of such committees or, in the case of members from the executive branch, who shall have been confirmed by the Senate)” in first sentence.

1968—Pub. L. 90436 struck out provisions that the vice chairman and one ranking minority member of the specified House committees and the next ranking majority member and one ranking minority member of the specified Senate committees be members of the Advisory Committee, and inserted provisions requiring the Advisory Committee to meet not less than four times during each calendar year and setting forth the order of precedence at such meetings.

CHANGE OF NAME

Committee on Foreign Affairs of House of Representatives changed to Committee on International Relations of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

Amendment by Pub. L. 101508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101508, set out as a note under section 511r of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as an Effective Date of 1966 Amendment note under section 1691 of this title.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (h) of this section delegated to Administrator of the Agency for International Development by section 4(c) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

PREPARATION OF ANNUAL REPORT

For provisions requiring Food Assistance Policy Council to prepare annual report pursuant to subsec. (g)(1) of this section, see Ex. Ord. No. 12752, §3(c), Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1431, 1736n of this title.

§1736b. Expiration date

No agreements to finance sales or to provide other assistance under this chapter shall be entered into after December 31, 1995.

(July 10, 1954, ch. 469, title IV, §408, as added Nov. 11, 1966, Pub. L. 89808, §2(E), 80 Stat. 1537; amended Dec. 20, 1975, Pub. L. 94161, title II, §211, 89 Stat. 854; Aug. 3, 1977, Pub. L. 9588, title II, §213, 91 Stat. 551; Sept. 29, 1977, Pub. L. 95113, title XII, §1207, 91 Stat. 957; Oct. 19, 1980, Pub. L. 96470, title II, §213, 94 Stat. 2246; Dec. 22, 1981, Pub. L. 9798, title XII, §1215, 95 Stat. 1282; Aug. 8, 1985, Pub. L. 9983, title X, §1006, 99 Stat. 271; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3653.)

PRIOR PROVISIONS

Provisions covering the termination date for agreements to finance sales under subchapter II and programs of assistance under subchapter III were covered by section 1736c of this title prior to amendment of that section by Pub. L. 101624, and by sections 1709, 1724 of this title prior to the amendment of those sections by Pub. L. 89808.

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions relating to Presidential reports to Congress concerning activities carried out under this chapter, a global assessment of food production and needs and planned programming of food assistance, and a comparative cross-country evaluation of programs conducted under portions of this chapter, provisions requiring the Secretary to issue revised regulations governing operations of subchapter II of this chapter, and provisions relating to the delivery of bagged commodities.

1985—Subsec. (b). Pub. L. 9983 inserted reference to subchapter III in two places.

1981—Subsec. (a). Pub. L. 9798 substituted “February 15” for “April 1”.

1980—Subsec. (b). Pub. L. 96470 struck out requirement that the President submit a report not later than March 31 of each year.

1977—Subsec. (b). Pub. L. 9588 substituted provisions that, not later than September 30 of each year, the President submit to the Congress a report containing a global assessment of food production and needs and setting forth planned programing of food assistance under subchapter II of this chapter for the coming fiscal year, and that, not later than December 31, March 31, and June 30 of each year, the President submit a report to the Congress showing the current status of planned programing of food assistance under subchapter II of this chapter for the current fiscal year, for provisions that, in his presentation to the Congress of planned programing of food assistance for each fiscal year, the President include a global assessment of food production and needs, self-help steps which are being taken by food-short countries under section 1709(a) of this title, steps which are being taken to encourage other countries to increase their participation in food assistance or the financing of food assistance, and the relationship between food assistance provided to each country under this chapter and other foreign assistance provided to such country by the United States and other donors.

Subsec. (c). Pub. L. 9588 substituted provisions that, beginning Oct. 1, 1978, and at each five-year interval thereafter, the President submit to the Congress a comparative cross-country evaluation of programs conducted under subchapters I, III, and IIIA of this chapter, and that such evaluations cover no fewer than five countries sampled from the developing regions (Asia, Africa, Latin America, and Caribbean), and assess the nutritional and other impacts, achievements, problems, and future prospects for programs thereunder, for provisions that, not later than November 1 of each calendar year the President submit to the House Committee on Agriculture, the House Committee on International Relations, the Senate Committee on Agriculture and Forestry, and the Senate Committee on Foreign Relations a revised global assessment of food production and needs, and revised planned programing of food assistance for the current fiscal year, to reflect, to the maximum extent feasible, the actual availability of commodities for food assistance.

Subsecs. (d), (e). Pub. L. 95113 added subsecs. (d) and (e).

1975—Pub. L. 94161 designated existing provisions as subsec. (a), substituted "fiscal" for "calendar" in first sentence, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 9983 effective Oct. 1, 1985, see section 1301 of Pub. L. 9983, set out as a note under section 21511 of Title 22, Foreign Relations and Inter-course.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 9798 effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95113, set out as a note under section 1307 of this title.

Amendment by Pub. L. 9588 effective Oct. 1, 1977, see section 215 of Pub. L. 9588, set out as a note under section 1702 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as an Effective Date of 1966 Amendment note under section 1691 of this title.

§1736c. Regulations

Not later than 180 days after November 28, 1990, regulations shall be issued to implement the provisions of this chapter.

(July 10, 1954, ch. 469, title IV, §409, as added Nov. 11, 1966, Pub. L. 89808, §2(E), 80 Stat. 1537; amended July 29, 1968, Pub. L. 90436, §1, 82 Stat. 450; Nov. 30, 1970, Pub. L. 91524, title VII, §701, 84 Stat. 1379; Aug. 10, 1973, Pub. L. 9386, §1(26), 87 Stat. 237; Sept. 29, 1977, Pub. L. 95113, title XII, §1208, 91 Stat. 957; Dec. 22, 1981, Pub. L. 9798, title XII, §1216, 95 Stat. 1282; Dec. 23, 1985, Pub. L. 99198, title XI, §1105, 99 Stat. 1466; Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3653; Dec. 13, 1991, Pub. L. 102237, title III, §322, 105 Stat. 1857.)

AMENDMENTS

1991—Pub. L. 102237 substituted "November 28, 1990" for "the date of enactment of this Act".

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions prohibiting entering into agreements under subchapter II of this chapter and programs of assistance under subchapter III of this chapter after Dec. 31, 1990, and specifying that new spending authority for subchapter II of this chapter under Agriculture and Food Act of 1981 and Food Security Act of 1985 is effective only in amounts as provided in appropriation Acts.

1985—Pub. L. 99198 substituted in first sentence "1990" for "1985", and in second sentence substituted "amendments" for "amendment" and inserted reference to the Food Security Act of 1985.

1981—Pub. L. 9798 substituted "1985" for "1981", and "Agriculture and Food Act of 1981" for "Food and Agriculture Act of 1977".

1977—Pub. L. 95113 substituted "1981" for "1977", and inserted directive that new spending authority provided for subchapter II of this chapter by the amendment to this section by the Food and Agriculture Act of 1977 be effective for any fiscal year only to the extent or in any such amounts as are provided for in appropriation acts.

1973—Pub. L. 9386 substituted "1977" for "1973".

1970—Pub. L. 91524 substituted "1973" for "1970".

1968—Pub. L. 90436 substituted "1970" for "1968".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 9798 effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95113, set out as a note under section 1307 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as an Effective Date of 1966 Amendment note under section 1691 of this title.

§1736d. Independent evaluation of programs

(a) Subchapter II program

Not later than 2 years after November 28, 1990, and 2 years thereafter, the Comptroller General of the United States shall select five countries that receive assistance under subchapter II of this chapter that are representative of all coun-

tries in three geographic regions and evaluate the uses of the funds under subchapter II of this chapter in such countries with respect to the impact of such uses on agricultural development, agricultural trade development, and the financial management of those funds, with reference to personnel requirements to manage these funds.

(b) Subchapter III program

Not later than 2 years after November 28, 1990, and 2 years thereafter, the Comptroller General of the United States shall select five countries that receive assistance under subchapter III of this chapter that are representative of all countries in three geographic regions and evaluate the uses of the assistance provided under such subchapter, including an evaluation of the impact of such assistance on enhancing food security in such countries and an evaluation of the use of local currencies for economic development, as well as the financial management of those funds, with reference to personnel requirements to manage these funds.

(c) Subchapter IIIA program

Not later than 2 years after November 28, 1990, and 2 years thereafter, the Comptroller General of the United States shall select five countries that receive assistance under subchapter IIIA of this chapter that are representative of all such countries in three geographic regions and evaluate—

- (1) the uses of the commodities provided under such subchapter in such countries; and
- (2) the uses of the special account funds established in such countries under subchapter IIIA of this chapter;

with respect to the impact of such uses and funds on enhancing food security, including nutrition, in such countries and the financial management of those funds, with reference to personnel requirements to manage such funds.

(d) Report to Congress

The Comptroller General of the United States shall prepare and submit, to the Committee on Foreign Affairs and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the evaluations made under this section.

(July 10, 1954, ch. 469, title IV, §410, as added Nov. 11, 1966, Pub. L. 89808, §2(E), 80 Stat. 1538; amended Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3653; Dec. 13, 1991, Pub. L. 102237, title III, §322, 105 Stat. 1857.)

AMENDMENTS

1991—Subsecs. (a) to (c). Pub. L. 102237 substituted “November 28, 1990” for “the date of enactment of this Act”.

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions specifying that section 2370(e) of title 22 relating to expropriation and nationalization of property of United States citizens is applicable to assistance under subchapter II of this chapter.

CHANGE OF NAME

Committee on Foreign Affairs of House of Representatives changed to Committee on International Rela-

tions of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89808, set out as an Effective Date of 1966 Amendment note under section 1691 of this title.

§1736e. Debt forgiveness

(a) Authority

The President, taking into account the financial resources of a country, may waive payments of principal and interest that such country would otherwise be required to make to the Commodity Credit Corporation under dollar sales agreements under subchapter II of this chapter if—

- (1) that country is a least developed country; and
- (2) either—

(A) an International Monetary Fund standby agreement is in effect with respect to that country;

(B) a structural adjustment program of the International Bank for Reconstruction and Development or of the International Development Association is in effect with respect to that country;

(C) a structural adjustment facility, enhanced structural adjustment facility, or similar supervised arrangement with the International Monetary Fund is in effect with respect to that country; or

(D) even though such an agreement, program, facility, or arrangement is not in effect, the country is pursuing national economic policy reforms that would promote democratic, market-oriented, and long term economic development.

(b) Request for debt relief by President

The President may provide debt relief under subsection (a) of this section only if a notification is submitted to Congress at least 10 days prior to providing the debt relief. Such a notification shall—

- (1) specify the amount of official debt the President proposes to liquidate; and
- (2) identify the countries for which debt relief is proposed and the basis for their eligibility for such relief.

(1) specify the amount of official debt the President proposes to liquidate; and

- (2) identify the countries for which debt relief is proposed and the basis for their eligibility for such relief.

(c) Appropriations action required

The aggregate amount of principal and interest waived under this section may not exceed the amount approved for such purpose in an Act appropriating funds to carry out this chapter.

(d) Limitation on new credit assistance

If the authority of this section is used to waive payments otherwise required to be made by a country pursuant to this chapter, the President may not provide any new credit assistance for that country under this chapter during the 2-year period beginning on the date such waiver authority is exercised, unless the President provides to the Congress, before the assistance is

provided, a written justification for the provision of such new credit assistance.

(e) Applicability

The authority of this section applies with respect to credit sales agreements entered into before November 28, 1990.

(July 10, 1954, ch. 469, title IV, §411, as added Nov. 30, 1970, Pub. L. 91524, title VII, §704, as added Aug. 10, 1973, Pub. L. 9386, §1(26), 87 Stat. 237; amended Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3654; Dec. 13, 1991, Pub. L. 102237, title III, §§322, 326, 336, 105 Stat. 1857, 1859.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102237, §326, substituted “subchapter II of this chapter” for “this subchapter” in introductory provisions.

Subsec. (b). Pub. L. 102237, §336, inserted “at least 10 days prior to providing the debt relief” before period at end of first sentence.

Subsec. (e). Pub. L. 102237, §322, substituted “November 28, 1990” for “the date of enactment of this Act”.

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions prohibiting assistance under subchapters II, III and IIIA of this chapter to North Vietnam after July 1, 1973, unless specifically authorized by Act of Congress.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Agriculture, in consultation with Food Assistance Policy Council and Department of the Treasury, by section 4(d) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

RENEGOTIATION OF PAYMENT TERMS OF LOANS FOR SALE OF AGRICULTURAL COMMODITIES

Pub. L. 10227, title II, Apr. 10, 1991, 105 Stat. 147, provided that: “Title I of the Public Law 480 [7 U.S.C. 1701 et seq.] program allowed for the repayment of loans for the sale of agricultural commodities in foreign or local currencies until December 31, 1971. Since that time, until the law was changed in the 1985 farm bill [probably means Pub. L. 99198, see Tables for classification], all sales have been on dollar credit terms. In view of the present financial situation, it is impossible for many countries to repay their loans in dollars. Therefore, the President may use the authority in section 411 and section 604 of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1736e, 1738c] to renegotiate the payment on Public Law 480 debt in eligible countries in Latin America, the Caribbean and sub-Saharan Africa.”

§1736f. Authorization of appropriations

(a) Reimbursement

There are authorized to be appropriated such sums as may be necessary to carry out—

- (1) the concessional credit sales program established under subchapter II of this chapter;
- (2) the emergency and private assistance program under subchapter III of this chapter; and
- (3) the grant program established under subchapter IIIA of this chapter,

including such amounts as may be required to make payments to the Commodity Credit Cor-

poration to the extent the Commodity Credit Corporation is not reimbursed under the programs under this chapter for the actual costs incurred or to be incurred by such Corporation in carrying out such programs.

(b) Limitations

Of the amounts made available in each fiscal year to carry out subchapters II and IIIA of this chapter, not less than—

- (1) 40 percent shall be made available to carry out the credit sales program established under subchapter II of this chapter; and
- (2) 40 percent shall be made available to carry out the grant program established under subchapter IIIA of this chapter.

(c) Transfer of funds

Notwithstanding any other provision of law and except as provided in subsection (b) of this section, if the President determines it to be necessary for purposes of this chapter, the President may direct that not in excess of 15 percent of the funds available in any fiscal year for carrying out any subchapter of this chapter be used to carry out any other subchapter of this chapter.

(d) Budget

In presenting the Budget of the United States, the President shall classify expenditures under this chapter as expenditures for international affairs and finance rather than for agriculture and agricultural resources.

(e) Value of commodities

Notwithstanding any other provision of law, in determining the reimbursement due the Commodity Credit Corporation for all expenses incurred under this chapter, commodities from the inventory of the Commodity Credit Corporation that were acquired under title I of the Agricultural Act of 1949 [7 U.S.C. 1441 et seq.] shall be valued at a price not greater than the export market price for such commodities, as determined by the Secretary, as of the time such commodity is made available under this chapter.

(July 10, 1954, ch. 469, title IV, §412, as added Dec. 20, 1975, Pub. L. 94161, title II, §212, 89 Stat. 855; amended Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3655.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (e), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended. Title I of the Act is classified generally to subchapter II (§1441 et seq.) of chapter 35A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions authorizing President to seek agreement for international food reserve, with costs to be shared equitably among nations, and with safeguards against price disruptions.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (c) of this section delegated to Director of the Office of Management and Budget by section 4(e) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

§1736f1. Food security wheat reserve**(a) Establishment by President**

To provide for a wheat reserve solely for emergency humanitarian food needs in developing countries, the President shall establish a reserve stock of wheat of up to four million metric tons for use for the purposes specified in subsection (c) of this section.

(b) Initial establishment by designation of wheat owned by Commodity Credit Corporation; replenishment by purchase or by designation of wheat acquired by Corporation

(1) The reserve stock of wheat under this section shall be established initially by designation for that purpose by the Secretary of Agriculture of wheat owned by the Commodity Credit Corporation.

(2)(A) Subject to the provisions of subsection (i) of this section, stocks of wheat to replenish the reserve may be acquired (i) through purchases from producers or in the market if the Secretary of Agriculture determines that such purchases will not unduly disrupt the market, and (ii) by designation by the Secretary of stocks of wheat otherwise acquired by the Commodity Credit Corporation. Any use of funds to acquire wheat through purchases from producers or in the market to replenish the reserve must be authorized in appropriation Acts.

(B) Not later than 18 months after the release of stocks from the reserve, the Secretary of Agriculture shall replenish the reserve—

(i) through purchases under subparagraph (A)(i), to the extent of available appropriations; or

(ii) by designating an equivalent quantity of wheat from uncommitted stocks of the Commodity Credit Corporation, to the extent sufficient appropriations are not available under subparagraph (A)(i), except to the extent that the Secretary reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that there are not sufficient uncommitted stocks of the Commodity Credit Corporation available.

(c) Release of wheat stocks by President for emergency food assistance to developing countries

Notwithstanding any other provision of law, stocks of wheat designated or acquired for the reserve under this section may be released by the President to provide, on a donation or sale basis, emergency food assistance to developing countries at any time that the domestic supply of wheat is so limited that quantities of wheat cannot be made available for disposition under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.], except for urgent humanitarian purposes, under the criteria of section 401 of that Act [7 U.S.C. 1731]. Notwithstanding the provisions of the preceding

sentence, up to three hundred thousand metric tons of wheat may be released from the reserve under this section in any fiscal year, without regard to the domestic supply situation, for use under title II of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1721 et seq.] in providing urgent humanitarian relief in any developing country suffering a major disaster, as determined by the President, whenever the wheat needed for relief cannot be programed for such purpose in a timely manner under the normal means of obtaining commodities for food assistance due to circumstances of unanticipated and exceptional need. Wheat released from the reserve may be processed in the United States and shipped to a developing country in the form of flour when conditions in the recipient country require such processing in the United States.

(d) Release of wheat to meet famine or other relief requirements

Wheat released from the reserve for the purposes of subsection (c) of this section shall be made available under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.] to meet famine or other urgent or extraordinary relief requirements, except that section 401 of that Act [7 U.S.C. 1731], with respect to determinations of availability, shall not be applicable thereto.

(e) Management of wheat in reserve to avoid spoilage

The Secretary of Agriculture shall provide for the management of stocks of wheat in the reserve as to location and class of wheat needed to meet emergency situations and for the periodic rotation of stocks of wheat in the reserve to avoid spoilage and deterioration of such stocks, using programs authorized by the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.] and any other provision of law, but any quantity of wheat removed from the reserve for the purposes of this subsection shall be promptly replaced with an equivalent quantity of wheat.

(f) Wheat in reserve as part of total domestic supply for purposes of other laws

Stocks of wheat in the reserve shall not be considered a part of the total domestic supply (including carryover) for the purposes of subsection (c) of this section or for the purposes of administering the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.] and shall not be subject to any quantitative limitations on exports that may be imposed under section 2406 of the Appendix to title 50.

(g) Use of Commodity Credit Corporation funds, facilities, and authorities; reimbursement of Corporation

(1) The funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary of Agriculture in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of Commodity Credit Corporation owned or controlled commodities shall not apply with respect to the acquisition, storage, or disposal of wheat for or in the reserve.

(2) Effective beginning October 1, 1981, the Commodity Credit Corporation shall be reimbursed from funds made available for carrying out the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.] for wheat released from the reserve that is made available under such Act, such reimbursement to be made on the basis of actual costs incurred by the Commodity Credit Corporation with respect to such wheat or the export market price of wheat (as determined by the Secretary) as of the time the wheat is released from the reserve for such purpose, whichever is lower. Such reimbursement may be made from funds appropriated for that purpose in subsequent years.

(h) Finality of determinations by President or Secretary

Any determination by the President or the Secretary of Agriculture under this section shall be final.

(i) Expiration of authority to replenish stocks of wheat; disposal of remaining stocks

The authority to replace stocks of wheat to maintain the reserve under this section shall expire September 30, 1995, after which stocks released from the reserve may not be replenished. Stocks of wheat remaining in the reserve after September 30, 1995, shall be disposed of by release for use in providing for emergency food needs in developing countries as provided in this section.

(Pub. L. 96494, title III, §302, Dec. 3, 1980, 94 Stat. 2578; Pub. L. 99198, title X, §1013, Dec. 23, 1985, 99 Stat. 1456; Pub. L. 101624, title XI, §1143, title XV, §1515(c), Nov. 28, 1990, 104 Stat. 3515, 3663.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954, referred to in subsecs. (c) to (f) and (g)(2), is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to this chapter (§1691 et seq.). Title II of the Act is classified to subchapter III (§1721 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food Security Wheat Reserve Act of 1980 which is title III of the Agricultural Act of 1980, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

AMENDMENTS

1990—Subsec. (b)(2). Pub. L. 101624, §1143(b), designated existing provisions as subpar. (A), redesignated cls. (A) and (B) as (i) and (ii), respectively, and added subpar. (B).

Subsecs. (c), (d). Pub. L. 101624, §1515(c), substituted “section 401” for “section 401(a)”.

Subsec. (i). Pub. L. 101624, §1143(a), substituted “1995” for “1990” in two places.

1985—Subsec. (i). Pub. L. 99198 substituted “1990” for “1985” wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1143 of Pub. L. 101624 effective beginning with the 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101624, set out as a note under section 1421 of this title.

EFFECTIVE DATE

Section 303 of title III of Pub. L. 96494 provided that: “Except as otherwise provided herein, this title [enact-

ing this section and provisions set out as a note under this section] shall become effective October 1, 1980, or the date of enactment [Dec. 3, 1980], whichever is later.”

SHORT TITLE

Section 301 of title III of Pub. L. 96494 provided that: “This title [enacting this section and provisions set out as a note under this section] may be cited as the ‘Food Security Wheat Reserve Act of 1980’.”

EX. ORD. NO. 12266. ESTABLISHMENT AND COMPOSITION OF FOOD SECURITY WHEAT RESERVE

Ex. Ord. No. 12266, Jan. 15, 1981, 46 F.R. 4667, provided: By the authority vested in me as President of the United States of America by Section 302(a) of the Food Security Wheat Reserve Act of 1980 (Title III of the Agricultural Act of 1980 (Public Law 96494)) [7 U.S.C. 1736f1(a)], it is hereby ordered as follows:

1101. There is hereby established a Food Security Wheat Reserve composed of a reserve stock of wheat, which shall not exceed four million metric tons.

1102. The Secretary of Agriculture is responsible for designating, in accordance with Section 302 of the Food Security Wheat Reserve Act of 1980 [7 U.S.C. 1736f1], the specific reserve stocks of wheat which shall comprise the Food Security Wheat reserve.

JIMMY CARTER.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4001 of this title; title 46 App. section 1241f.

§1736g. Coordination of foreign assistance programs

To the maximum extent practicable, assistance for a foreign country under this chapter shall be coordinated and integrated with United States development assistance objectives and programs for that country and with the overall development strategy of that country. Special emphasis should be placed on, and funds devoted to, activities that will increase the nutritional impact of programs of assistance under this chapter, and child survival programs and projects, in least developed countries by improving the design and implementation of such programs and projects.

(July 10, 1954, ch. 469, title IV, §413, as added Aug. 14, 1979, Pub. L. 9653, title II, §210, 93 Stat. 370; amended Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3656.)

AMENDMENTS

1990—Pub. L. 101624 amended section generally, substituting present provisions for provisions requiring, to maximum extent practicable, availability of commodities on multiyear basis.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as a note under section 1691 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 512(a) of Pub. L. 9653, set out as an Effective Date of 1979 Amendment note under section 2151 of Title 22, Foreign Relations and Intercourse.

§1736g1. Assistance in furtherance of narcotics control objectives of United States

(a) Substantial injury

Local currencies that are made available for use under this chapter may not be used to fi-

nance the production for export of agricultural commodities (or products thereof) that would compete in the world market with similar agricultural commodities (or products thereof) produced in the United States, if such competition would cause substantial injury to the United States producers, as determined by the President.

(b) Exception for narcotics control

Notwithstanding subsection (a) of this section, the President may provide assistance under this chapter, including assistance through the use of local currencies generated by the sale of commodities under such chapter, for economic development activities undertaken in an eligible country that is a major illicit drug producing country (as defined in section 2291(i)(2)¹ of title 22), for the purpose of reducing the dependence of the economy of such country on the production of crops from which narcotic and psychotropic drugs are derived.

(July 10, 1954, ch. 469, title IV, §414, as added Nov. 28, 1990, Pub. L. 101624, title XV, §1512, 104 Stat. 3656.)

EFFECTIVE DATE

Section effective Jan. 1, 1991, see section 1513 of Pub. L. 101624, set out as an Effective Date of 1990 Amendment note under section 1691 of this title.

§1736h. Congressional consultation on bilateral commodity supply agreements

As soon as practicable before the Government of the United States enters into any bilateral international agreement, other than a treaty, involving a commitment on the part of the United States to assure access by a foreign country or instrumentality thereof to United States agricultural commodities or products thereof on a commercial basis, the President is encouraged to notify and consult with the appropriate committees of Congress for the purpose of setting forth in detail the terms of and reasons for negotiating such agreement.

(Pub. L. 9798, title XII, §1202, Dec. 22, 1981, 95 Stat. 1275.)

CODIFICATION

Section was enacted as part of the Agriculture and Food Act of 1981, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as a note under section 4301 of this title.

§§1736i to 1736k. Repealed. Pub. L. 101624, title XV, §1573, Nov. 28, 1990, 104 Stat. 3702

Section 1736i, Pub. L. 9798, title XII, §1203, Dec. 22, 1981, 95 Stat. 1275, provided for a special standby export subsidy program.

Section 1736j, Pub. L. 9798, title XII, §1204, Dec. 22, 1981, 95 Stat. 1276; Pub. L. 99198, title XI, §1133(b), Dec. 23, 1985, 99 Stat. 1489, provided for protection against agricultural embargo. See section 5672 of this title.

Section 1736k, Pub. L. 9798, title XII, §1205, Dec. 22, 1981, 95 Stat. 1277, provided for development of plans, recommendations, and programs to alleviate the ad-

verse impact of export embargoes on agricultural commodities. See section 5672 of this title.

§1736l. Consultation on grain marketing

Congress encourages the Secretary of Agriculture, in coordination with other appropriate Federal departments and agencies, to continue to consult with representatives of other major grain exporting nations toward the goal of establishing more orderly marketing of grain and achieving higher farm income for producers of grain.

(Pub. L. 9798, title XII, §1206, Dec. 22, 1981, 95 Stat. 1278.)

CODIFICATION

Section was enacted as part of the Agriculture and Food Act of 1981, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as a note under section 4301 of this title.

§1736m. Expansion of international markets for United States agricultural commodities and products; purposes; implementation authorities

(a) It is the sense of Congress that, in order to further assist in the development, maintenance, and expansion of international markets for United States agricultural commodities and the products thereof, the Secretary of Agriculture should and is requested to—

(1) use the intermediate credit program authorized under section 1707a¹ of this title to improve the capability of importing nations to purchase and use United States agricultural commodities and the products thereof on a long-term basis;

(2) ask Congress, at the earliest practicable date, for funds for the agricultural export credit revolving fund in an amount sufficient to meet the demand for short-term credit authorized to be made available under section 1707a¹ of this title;

(3) establish, insofar as practicable, the maximum number of United States Agricultural Trade Offices in other nations authorized by section 1765a of this title;

(4) use, to the maximum extent practicable, existing authority to ensure full utilization of the levy-free quota, established during the Tokyo round of the multilateral trade negotiations, for the export sale of United States high quality beef to the European Economic Community;

(5) expand, to the fullest extent possible, the market development activities of the Foreign Agricultural Service of the Department of Agriculture in developed, developing, market, and nonmarket foreign countries with particular emphasis on (A) continuation of the co-operator programs at the same funding level (adjusted for inflation) as provided during fiscal year 1970; (B) funding an export market development program for value-added farm products and processed foods at a higher funding

¹So in original. Probably should be section “2291(e)(2)”.

¹See References in Text note below.

level than that provided during the fiscal year ending September 30, 1985; and (C) the implementation of a full-scale program for forestry products, including commodity information, trade policy, and market development for such products;

(6) ensure that the European Economic Community observes its commitments under the General Agreement on Tariffs and Trade regarding the tariff-free binding on imports of soybeans and corn gluten feed;

(7) consult with the appropriate officials of the Government of Japan with the objective of increasing the export sales of citrus fruits and high quality beef to Japan and to develop mutually acceptable standards for the certification of lettuce and other specialty crops for export to Japan; and

(8) use the authority under section 612c of this title, to establish a special standby export subsidy program for United States agricultural commodities and the products thereof, the export of which has been restricted by foreign government subsidies.

(b) It is further declared to be the sense of Congress that any special standby export subsidy program established by the Secretary of Agriculture pursuant to subsection (a)(8) of this section should be (1) consistent with United States international obligations, and (2) designed to neutralize the effects of those foreign agricultural commodity subsidy programs that—

(A) the President has determined, pursuant to section 2411 of title 19, are acts, policies, or practices described in section 2411(a) of title 19 that should be eliminated by appropriate action of the United States; and

(B) have, as the result of the appropriate dispute settlement procedures, been found to be in violation of the General Agreement on Tariffs and Trade or the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures), if applicable.

(Pub. L. 9798, title XII, §1207, Dec. 22, 1981, 95 Stat. 1278; Pub. L. 99198, title XI, §1126(c), Dec. 23, 1985, 99 Stat. 1482.)

REFERENCES IN TEXT

Section 1707a of this title, referred to in subsec. (a)(1), (2), was repealed by Pub. L. 101624, title XV, §1574, Nov. 28, 1990, 104 Stat. 3702.

CODIFICATION

Section was enacted as part of the Agriculture and Food Act of 1981, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

AMENDMENTS

1985—Subsec. (a)(5)(B). Pub. L. 99198 substituted “funding an export market development program for value-added farm products and processed foods at a higher funding level than that provided during the fiscal year ending September 30, 1985” for “a more active export market development program for value added farm products and processed foods”.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as a note under section 4301 of this title.

§1736n. Increased usage of protein byproducts derived from alcohol fuel production

(a) Purposes

Congress finds that the use of the protein byproduct resulting from the production of fuel alcohol from agricultural commodities may make it possible for the United States to make available significantly increased amounts of protein to meet the food needs of developing countries without any increase in handling, storage, and transportation facilities. It is the sense of Congress that serious consideration should be given to the potential of this protein byproduct and that, if found to be feasible, this protein byproduct should be included in the Department of Agriculture's commodity export and donation programs.

(b) Investigative authorities

Accordingly, the Secretary of Agriculture shall continue to investigate the potential for using the protein byproduct resulting from the production of fuel alcohol from agricultural commodities in meeting the food needs of developing countries through food for peace programs carried out under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.] and through the export credit sales program carried out under section 1707a¹ of this title and section 714c(f) of title 15.

(c) Additional investigative authorities

The Secretary shall also continue to investigate the potential for using the protein byproduct resulting from the production of fuel alcohol from agricultural commodities in the distribution of food products under the commodity donation program carried out under clause (3)¹ of section 1431 of this title and under section 1859 of this title.

(d) Reporting requirements

(1) Not later than twelve months after December 22, 1981, the Secretary shall include the results of the investigations referred to in subsections (b) and (c) of this section in an appropriate report to Congress.

(2) The Secretary shall thereafter provide to Congress each year a description of the efforts being made by the Department to make available, as part of the programs referred to in subsections (b) and (c) of this section, the protein byproduct resulting from the production of fuel alcohol from agricultural commodities. The information for all such programs shall be included in the report submitted pursuant to section 407(g) of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1736a(g)], or in any other appropriate annual report to Congress.

(Pub. L. 9798, title XII, §1208, Dec. 22, 1981, 95 Stat. 1280; Pub. L. 101624, title XV, §1515(a), Nov. 28, 1990, 104 Stat. 3663.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954, referred to in subsec. (b), is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to this chapter (§1691 et seq.). For complete

¹See References in Text note below.

classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

Section 1707a of this title, referred to in subsec. (b), was repealed by Pub. L. 101624, title XV, §1574, Nov. 28, 1990, 104 Stat. 3702.

Clause (3) of section 1431 of this title, referred to in subsec. (c), was redesignated subsec. (a)(3) of section 1431 of this title by Pub. L. 98258, title V, §502(1), Apr. 10, 1984, 98 Stat. 137.

CODIFICATION

Section was enacted as part of the Agriculture and Food Act of 1981, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

AMENDMENTS

1990—Subsec. (d)(2). Pub. L. 101624 substituted “section 407(g)” for “section 408(a)”.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 9798, set out as a note under section 4301 of this title.

§1736o. Food for progress

(a) Short title

This section may be cited as the “Food for Progress Act of 1985”.

(b) Agreements with developing countries and emerging democracies to furnish commodities

(1) In order to use the food resources of the United States more effectively in support of developing countries, and countries that are emerging democracies, that have made commitments to introduce or expand free enterprise elements in their agricultural economies through changes in commodity pricing, marketing, input availability, distribution, and private sector involvement, the President is authorized to enter into agreements with the governments of such countries (including the independent states of the former Soviet Union), or with private voluntary organizations, nonprofit agricultural organizations, cooperatives, or other private entities, to furnish commodities made available pursuant to subsections (e) and (f) of this section. Such agreements may provide for commodities to be furnished on a multiyear basis.

(2) The annual tonnage limitation contained in subsection (g) of this section shall not apply with respect to commodities furnished to the independent states of the former Soviet Union during fiscal year 1993.

(c) “Commodities” defined

As used in this section, the term “commodities” means agricultural commodities and the products thereof.

(d) Considerations for agreements

In determining whether to enter into an agreement under this section, the President shall consider whether a potential recipient country is committed to carry out, or is carrying out, policies that promote economic freedom, private, domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of such commodities. Such policies may provide for, among other things—

(1) access, on the part of farmers in the country, to private, competitive markets for their product;

(2) market pricing of commodities to foster adequate private sector incentives to individual farmers to produce food on a regular basis for the country’s domestic needs;

(3) establishment of market-determined foreign exchange rates;

(4) timely availability of production inputs (such as seed, fertilizer, or pesticides) to farmers;

(5) access to technologies appropriate to the level of agricultural development in the country; and

(6) construction of facilities and distribution systems necessary to handle perishable products.

(e) Availability of commodities; financing sale and exportation of commodities; payment of costs and charges

(1) The Commodity Credit Corporation shall make available to the President such commodities determined to be available under section 401 of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1731] as the President may request for purposes of furnishing commodities under this section.

(2) Notwithstanding any other provision of law, the Commodity Credit Corporation may use funds appropriated to carry out title I of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1701 et seq.] in carrying out this section with respect to commodities made available under that Act [7 U.S.C. 1691].

(3) The Commodity Credit Corporation may finance the sale and exportation of commodities, made available under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.], which are furnished under this section. Payment for commodities made available under that Act which are purchased on credit terms under this section shall be on the same basis as the terms provided in section 106¹ of that Act.

(4) In the case of commodities made available under the Agricultural Trade Development and Assistance Act of 1954 for purposes of this section, section 203¹ of that Act [7 U.S.C. 1723] shall apply to commodities furnished on a grant basis under this section and sections 402, 403(a), 403(c), and 403(i) of that Act [7 U.S.C. 1732, 1733(a), (c), (i)] shall apply to all commodities furnished under this section.

(f) Provision to developing countries on grant basis; minimum metric ton amount available; purchase of commodities by Commodity Credit Corporation; funds for implementation; cost of commodities and expenses

(1) The Commodity Credit Corporation may provide for—

(A) grants, or

(B) in the case of the independent states of the former Soviet Union, sales on credit terms,

of commodities made available under section 1431(b) of this title for use in carrying out this section.

(2) Not less than 75,000 metric tons shall be made available pursuant to section 1431(b)(10)(C)

¹See References in Text note below.

of this title to carry out this section unless the President determines there are an insufficient number of eligible recipients.

(3) In carrying out section 1431(b) of this title, the Commodity Credit Corporation may purchase commodities for use under this section if—

(A) the Commodity Credit Corporation does not hold stocks of such commodities; or

(B) Commodity Credit Corporation stocks are insufficient to satisfy commitments made in agreements entered into under this section and such commodities are needed to fulfill such commitments.

(4) No funds of the Commodity Credit Corporation in excess of \$30,000,000 (exclusive of the cost of commodities) may be used to carry out this section with respect to commodities made available under section 1431(b) of this title unless authorized in advance in appropriation Acts.

(5) The cost of commodities made available under section 1431(b) of this title which are furnished under this section, and the expenses incurred in connection with furnishing such commodities, shall be in addition to the level of assistance programmed under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.] and may not be considered expenditures for international affairs and finance.

(g) Maximum amount of metric tons of commodities to be furnished

Not more than 500,000 metric tons of commodities may be furnished under this section in each of the fiscal years 1986 through 1995.

(h) Prohibition on resale of transshipment of commodities

An agreement entered into under this section shall prohibit the resale or transshipment of the commodities provided under the agreement to other countries.

(i) Agreements not to displace other sales of United States commodities

In entering into agreements under this section, the President shall take reasonable steps to avoid displacement of any sales of United States commodities that would otherwise be made to such countries.

(j) Agreements for distribution or sale on multi-year basis

In carrying out this section, the President shall, on request and subject to the availability of commodities, approve agreements that provide for commodities to be made available for distribution or sale by the recipient on a multi-year basis if the agreements otherwise meet the requirements of this section.

(k) Effective and termination dates

This section shall be effective during the period beginning October 1, 1985, and ending December 31, 1995.

(l) Additional assistance in administration of food assistance programs

(1) To enhance the development of private sector agriculture in countries receiving assistance under this section the President may, in each of the fiscal years 1991 through 1995, use in addition

to any amounts or commodities otherwise made available under this section for such activities, not to exceed \$10,000,000 of Commodity Credit Corporation funds (or commodities of an equal value owned by the Corporation), to provide assistance in the administration, sale, and monitoring of food assistance programs to strengthen private sector agriculture in recipient countries.

(2) To carry out this subsection, the President may provide agricultural commodities under agreements entered into under this section in a manner that uses the commodity transaction as a means of developing in the recipient countries a competitive private sector that can provide for the importation, transportation, storage, marketing and distribution of such commodities.

(3) The President may use the assistance provided under this subsection and local currencies derived from the sale of commodities under paragraph (2) to design, monitor, and administer activities undertaken with such assistance, for the purpose of strengthening or creating the capacity of recipient country private enterprises to undertake commercial transactions, with the overall goal of increasing potential markets for United States agricultural commodities.

(m) Agreements for sale of commodities to independent states of former Soviet Union

In carrying out this section with respect to the independent states of the former Soviet Union, the President shall approve, as determined appropriate by the President, agreements with private voluntary organizations and cooperatives that provide for—

(1) the sale of commodities, including the marketing of these commodities through the private sector; and

(2) the use in the independent states of the proceeds generated in the humanitarian and development programs of such private voluntary organizations and cooperatives.

(n) "Independent states of the former Soviet Union" defined

As used in this section, the term "independent states of the former Soviet Union" means the independent states of the former Soviet Union as defined in section 5602(8) of this title.

(Pub. L. 99198, title XI, §1110, Dec. 23, 1985, 99 Stat. 1472; Pub. L. 100418, title IV, §4303, Aug. 23, 1988, 102 Stat. 1397; Pub. L. 101624, title XV, §§1516, 1572(1), Nov. 28, 1990, 104 Stat. 3663, 3702; Pub. L. 102237, title III, §335, Dec. 13, 1991, 105 Stat. 1859; Pub. L. 102511, title VII, §701, Oct. 24, 1992, 106 Stat. 3348.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954, referred to in subsecs. (e), (f)(5), is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to this chapter (§1691 et seq.). Title I of the Act is classified to subchapter II (§1701 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

Section 106 of that Act, referred to in subsec. (e)(3), meaning section 106 of the Agricultural Trade Development and Assistance Act of 1954, which was classified to former section 1706 of this title, was omitted in the general revision of this chapter by Pub. L. 101624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3633.

Section 203 of that Act, referred to in subsec. (e)(4), means section 203 of the Agricultural Trade Development and Assistance Act of 1954, which is classified to section 1723 of this title, and was amended generally by Pub. L. 101624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3638. As amended, section 1723 relates to generation and use of foreign currencies by private voluntary organizations and cooperatives rather than to payment of costs and charges. See section 1736(b) of this title.

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102511, §701(1), designated existing provisions as par. (1), inserted “(including the independent states of the former Soviet Union)” after “such countries”, substituted “cooperatives, or other private entities” for “or cooperatives”, and added par. (2).

Subsec. (f)(1). Pub. L. 102511, §701(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Commodities made available under section 1431(b) of this title for use in carrying out this section shall be provided on a grant basis.”

Subsecs. (m) and (n). Pub. L. 102511, §701(3), added subsecs. (m) and (n).

1991—Subsec. (k). Pub. L. 102237, §335(1), (3), redesignated subsec. (l) as (k) and struck out “September 30,” before “December 31”.

Subsecs. (l), (m). Pub. L. 102237, §335(2), (3), redesignated subsec. (m) as (l) and substituted “this section” for “this Act” wherever appearing.

1990—Subsec. (b). Pub. L. 101624, §1516(1), substituted “developing countries, and countries that are emerging democracies, that” for “countries that”, and “the governments of such countries, or with private voluntary organizations, nonprofit agricultural organizations, or cooperatives,” for “developing countries”.

Subsec. (d). Pub. L. 101624, §1516(2), struck out “with countries” before “under this section” in introductory provisions.

Subsec. (e)(3). Pub. L. 101624, §1516(3), struck out “to a developing country” before “under this section”, and “by a developing country” before “for commodities”.

Subsec. (e)(4). Pub. L. 101624, §1516(4), struck out “to a developing country” before “under this section” in two places, and substituted “sections 402, 403(a), 403(c), and 403(i)” for “section 401(b)”.

Subsec. (f)(1). Pub. L. 101624, §1516(5), struck out “to developing countries” before “on a grant basis”.

Subsec. (g). Pub. L. 101624, §1516(6), substituted “1995” for “1990”.

Subsec. (j). Pub. L. 101624, §1572(1), redesignated subsec. (k) as (j) and struck out former subsec. (j) which read as follows: “Within 90 days after the end of each fiscal year in which an agreement under this section is in effect with respect to a country, the President shall report to the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the status of such agreement and the progress being made to implement private, free enterprise agricultural policies for long-term agricultural development in such country.”

Pub. L. 101624, §1516(7), struck out “entered into with a country” before “under this section”, and inserted “with respect to a country” after “effect”.

Subsec. (k). Pub. L. 101624, §1572(1)(B), redesignated subsec. (k) as (j).

Pub. L. 101624, §1516(8), substituted “the recipient” for “recipient countries”.

Subsec. (l). Pub. L. 101624, §1516(9), substituted “December 31, 1995” for “1990”.

Subsec. (m). Pub. L. 101624, §1516(10), added subsec. (m).

1988—Subsecs. (k), (l). Pub. L. 100418 added subsec. (k) and redesignated former subsec. (k) as (l).

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Agriculture, by section 4(g) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

EXECUTIVE ORDER NO. 12583

Ex. Ord. No. 12583, Feb. 19, 1987, 52 F.R. 5427, which related to the delegation of functions relating to entering into agreements with developing countries and waiving minimum tonnage requirements, was revoked by section 6 of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1431, 1736a, 1736bb6 of this title; title 22 sections 5413, 5425.

§1736p. Trade policy declaration

(a) Congressional findings

Congress finds that—

(1) the volume and value of United States agricultural exports have significantly declined in recent years as a result of unfair foreign competition and the high value of the dollar;

(2) this decline has been exacerbated by the lack of uniform and coherent objectives in United States agricultural trade policy and the absence of direction and coordination in trade policy formulation;

(3) agricultural interests have been underrepresented in councils of government responsible for determining economic policy that has contributed to a strengthening of the United States dollar;

(4) foreign policy objectives of the United States have been introduced into the trade policy process in a manner injurious to the goal of maximizing United States economic interests through trade; and

(5) the achievement of that goal is in the best interests of the United States.

(b) Congressional declaration of policy

It is hereby declared to be the agricultural trade policy of the United States to—

(1) provide through all means possible agricultural commodities and their products for export at competitive prices, with full assurance of quality and reliability of supply;

(2) support the principle of free trade and the promotion of fairer trade in agricultural commodities and their products;

(3) cooperate fully in all efforts to negotiate with foreign countries reductions in current barriers to fair trade;

(4) counter aggressively unfair foreign trade practices using all available means, including export restitution, export bonus programs, and, if necessary, restrictions on United States imports of foreign agricultural commodities and their products, as a means to encourage fairer trade;

(5) remove foreign policy constraints to maximize United States economic interests through agricultural trade; and

(6) provide for consideration of United States agricultural trade interests in the design of national fiscal and monetary policy that may foster continued strength in the value of the dollar.

(Pub. L. 99198, title XI, §1121, Dec. 23, 1985, 99 Stat. 1480.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

§1736q. Trade liberalization

(a) Congressional findings

Congress finds that—

(1) the present high level of agricultural protectionism contrasts sharply with the general trade liberalization that has been achieved since the inception of the General Agreement on Tariffs and Trade (hereinafter referred to as "GATT"); and

(2) GATT procedures should explicitly recognize the protective effect of domestic subsidies that alter trade indirectly by reducing the demand for imports and increasing the supply of exports.

(b) Sense of Congress

It is the sense of Congress that the President should negotiate with other parties to GATT to revise GATT rules and codes with the goal of reducing agricultural export subsidies, tariffs, and nontariff barriers to trade.

(Pub. L. 99198, title XI, §1122, Dec. 23, 1985, 99 Stat. 1480.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

§1736r. Agricultural trade consultations

(a) Effectuation of purposes by Secretary of Agriculture in coordination with United States Trade Representative

To improve the orderly marketing of United States agricultural commodities, to achieve higher income for United States producers of agricultural commodities, and to reduce the likelihood of an agricultural commodity price war and the need for export subsidy programs, the Secretary of Agriculture shall, in coordination with the United States Trade Representative, confer with representatives of other major agricultural producing countries and, at the earliest possible date, initiate and pursue agricultural trade consultations among major agricultural producing countries.

(b) Sense of Congress for objectives of consultations

It is the sense of Congress that the objectives of the consultations called for in subsection (a) of this section should be to—

(1) increase the exchange of information on worldwide agricultural production, demand, and commodity supply levels;

(2) determine a more equitable sharing of responsibility for maintaining agricultural commodity reserves and managing supplies of agricultural commodities; and

(3) attain increased cooperation in restraining export subsidy programs.

(c) Reporting requirements

The Secretary of Agriculture shall report to Congress by July 1, 1986, and annually thereafter through fiscal year 1990, on the progress of efforts to initiate and pursue the consultations called for in subsection (a) of this section, including any agreements reached with respect to the objectives set forth in subsection (b) of this section.

(Pub. L. 99198, title XI, §1123, Dec. 23, 1985, 99 Stat. 1481.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

§§1736s, 1736t. Repealed. Pub. L. 101624, title XV, §1572(3), Nov. 28, 1990, 104 Stat. 3702

Section 1736s, Pub. L. 99198, title XI, §1124, Dec. 23, 1985, 99 Stat. 1481; Pub. L. 99260, §5, Mar. 20, 1986, 100 Stat. 49; Pub. L. 100418, title IV, §4304, Aug. 23, 1988, 102 Stat. 1397; Pub. L. 101239, title I, §1005(b), Dec. 19, 1989, 103 Stat. 2109, provided for targeted export assistance for fiscal years 1986 through 1990.

Section 1736t, Pub. L. 99198, title XI, §1125, Dec. 23, 1985, 99 Stat. 1482; Pub. L. 100418, title IV, §4402(a), Aug. 23, 1988, 102 Stat. 1400, provided for short-term export credits.

EXPORT CREDIT GUARANTEE PROGRAM

Pub. L. 100418, title IV, §4305, Aug. 23, 1988, 102 Stat. 1398, which stated the sense of Congress that, to the extent that the Commodity Credit Corporation made a specified allocation of credit guarantees available under the export credit guarantee program referred to in section 1736t for short-term credit extended to finance the export sales of United States agricultural commodities and products, such allocation was to be made on a country-only basis and not on a commodity basis or a commodity and country basis, was repealed by Pub. L. 101624, title XV, §1571, Nov. 28, 1990, 104 Stat. 3702.

§1736u. Cooperator market development program

(a) Sense of Congress

It is the sense of Congress that the cooperator market development program of the Foreign Agricultural Service should be continued to help develop new markets and expand and maintain existing markets for United States agricultural commodities, using nonprofit agricultural trade organizations to the maximum extent practicable.

(b) Exemption from requirements of OMB circular

The cooperator market development program shall be exempt from the requirements of Circular A 110 issued by the Office of Management and Budget.

(Pub. L. 99198, title XI, §1126(a), (b), Dec. 23, 1985, 99 Stat. 1482.)

CODIFICATION

Section consists of subsecs. (a) and (b) of section 1126 of Pub. L. 99198. Subsec. (c) of section 1126 amended section 1736m(a)(5)(B) of this title.

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

opment and Assistance Act of 1954 which comprises this chapter.

§§1736v to 1736x. Repealed. Pub. L. 101624, title XV, §1572(3), Nov. 28, 1990, 104 Stat. 3702

Section 1736v, Pub. L. 99198, title XI, §1127, Dec. 23, 1985, 99 Stat. 1483; Pub. L. 99260, §6, Mar. 20, 1986, 100 Stat. 50; Pub. L. 100418, title IV, §4306, Aug. 23, 1988, 102

Stat. 1398, provided for program to develop and expand markets for United States agricultural commodities.

Section 1736w, Pub. L. 99198, title XI, §1128, Dec. 23, 1985, 99 Stat. 1485, provided for program of export sales of poultry, beef and pork meats and meat-food products for 1986 through 1989.

Section 1736x, Pub. L. 99198, title XI, §1132, Dec. 23, 1985, 99 Stat. 1488; Pub. L. 100418, title IV, §4307, Aug. 23, 1988, 102 Stat. 1398, provided for reports by agricultural attachés. See section 1748 of this title.