

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97-98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95-113, set out as a note under section 1331 of this title.

Pub. L. 91-524, title IV, §404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, §1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

#### DATE OF REFERENDUM FOR 1954 CROP

Act July 14, 1953, ch. 194, §4(b), 67 Stat. 152, provided that the referendum with respect to 1954 crop of wheat could be held as late as Aug. 15, 1953.

### § 1337. Repealed. Pub. L. 87-703, title III, §317, Sept. 27, 1962, 76 Stat. 622

Section, act Feb. 16, 1938, ch. 30, title III, §337, 52 Stat. 55, related to adjustment and suspension of quotas.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF REPEAL

Repeal effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

### § 1338. Transfer of quotas

Farm marketing quotas for wheat shall not be transferable, but, in accordance with regulations prescribed by the Secretary for such purpose, any farm marketing quota in excess of the supply of wheat for such farm for any marketing year may be allocated to other farms on which the acreage allotment has not been exceeded.

(Feb. 16, 1938, ch. 30, title III, §338, 52 Stat. 55; Pub. L. 99-198, title III, §307, Dec. 23, 1985, 99 Stat. 1382.)

#### Editorial Notes

##### 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.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Pub. L. 99-198, title III, §307, Dec. 23, 1985, 99 Stat. 1382, provided that the amendment made by Pub. L. 99-198 is effective only for the 1987 through 1990 crops of wheat.

##### INAPPLICABILITY OF SECTION

Section inapplicable to 2014 through 2018 crops of covered commodities, cotton, and sugar and inapplicable to milk during period beginning Feb. 7, 2014, through Dec. 31, 2018, see section 9092(a)(1) of this title.

Section inapplicable to 2008 through 2012 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning June 18, 2008, through Dec. 31, 2012, see section 8782(a)(1) of this title.

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

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

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101-624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99-198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97-98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95-113, set out as a note under section 1331 of this title.

Pub. L. 91-524, title IV, §404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, §1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

### § 1339. Land use

#### (a) Penalties: computation, lien, joint and several liability and interest; exceptions: nonsurplus supply crops, substantial impairment, and nonproduction of wheat; diverted acreage: amount, annual identity, and grazing; crops available for marketing

(1) During any year in which marketing quotas for wheat are in effect, the producers on any farm (except a new farm receiving an allotment from the reserve for new farms) on which any crop is produced on acreage required to be diverted from the production of wheat shall be subject to a penalty on such crop, in addition to any marketing quota penalty applicable to such crops, as provided in this subsection unless (1) the crop is designated by the Secretary as one which is not in surplus supply and will not be in surplus supply if it is permitted to be grown on the diverted acreage, or as one the production of which will not substantially impair the purpose of the requirements of this section, or (2) no wheat is produced on the farm, and the producers have not filed an agreement or a statement of intention to participate in the payment program formulated pursuant to subsection (b) of this section. The acreage required to be diverted from the production of wheat on the farm shall be an acreage of cropland equal to the number of acres determined by multiplying the farm acreage allotment by the diversion factor determined by dividing the number of acres by which the national acreage allotment (less an acreage equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title) is reduced below fifty-five million acres by the number of acres in the national acreage allotment (less an acreage equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title). The actual production of any crop subject to penalty under this subsection shall be regarded as available for marketing and the penalty on such crop shall be computed on the actual acreage of such crop at the rate of 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which such crop is harvested, multiplied by the normal yield of wheat per acre established for the farm.

Until the producers on any farm pay the penalty on such crop, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty. Each producer having an interest in the crop or crops on acreage diverted or required to be diverted from the production of wheat shall be jointly and severally liable for the entire amount of the penalty. The persons liable for the payment or collection of the penalty under this section shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(2) The Secretary may require that the acreage on any farm diverted from the production of wheat be land which was diverted from the production of wheat in the previous year, to the extent he determines that such requirement is necessary to effectuate the purposes of this part.

(3) The Secretary may permit the diverted acreage to be grazed in accordance with regulations prescribed by the Secretary.

**(b) Payment program for 1964 through 1970 crops; terms and conditions; amount; additional diverted acreage; conservation and soil-conserving uses; adjustment; knowledge of exceeding acreage allotment; acreage allotment not exceeded by delivery to Secretary of farm marketing excess or storage in accordance with regulations to avoid or postpone payment of penalty or by farms exempt from marketing quota; new farms ineligible for payments; sharing and medium of payments**

The Secretary is authorized to formulate and carry out a program with respect to the crops of wheat planted for harvest in the calendar years 1964 through 1970 under which, subject to such terms and conditions as he determines are desirable to effectuate the purposes of this section, payments may be made in amounts not in excess of 50 per centum of the estimated basic county support rate for wheat not accompanied by marketing certificates on the normal production of the acreage diverted taking into account the income objectives of the chapter, determined by the Secretary to be fair and reasonable with respect to acreage diverted pursuant to subsection (a) of this section. Any producer who complies with his 1964 farm acreage allotment for wheat and with the other requirements of the program shall be eligible to receive payments under the program for the 1964 crop of wheat. The Secretary may permit producers on any farm to divert from the production of wheat an acreage, in addition to the acreage diverted pursuant to subsection (a), 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), 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 sum-

mer 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 Pub. L. 87-703, title III, § 318, Sept. 27, 1962, 76 Stat. 622; amended Pub. L. 88-297, title II, § 202(7)-(9), Apr. 11, 1964, 78 Stat. 179; Pub. L. 89-321, title V, §§ 501(9), (10), 507, Nov. 3, 1965, 79 Stat. 1201, 1204; Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996.)

**Editorial Notes**

**PRIOR PROVISIONS**

A prior section 1339, act Feb. 16, 1938, ch. 30, title III, § 339, 52 Stat. 55, related to penalties for marketing wheat in excess of quotas, prior to repeal by act July 14, 1953, ch. 194, §§ 2, 5, 67 Stat. 151, 152, effective with respect to the 1954 and subsequent crops of wheat. See section 1340(2) of this title.

**AMENDMENTS**

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

1965—Subsec. (a)(1). Pub. L. 89-321, § 507, inserted “(less an acreage equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title)” after “national acreage allotment” wherever appearing.

Subsec. (b). Pub. L. 89-321, § 501(9), substituted “crops of wheat planted for harvest in the calendar years 1964 through 1969” for “1964 and 1965 crops of wheat”, “50 per centum of the farm acreage allotment” for “20 per centum of the farm acreage allotment”, and “twenty-five acres” for “fifteen acres”.

Subsec. (e). Pub. L. 89-321, § 501(10), authorized Secretary to permit all or part of diverted acreage to be devoted to mustardseed, crambe, and plantago ovato in addition to previously authorized guar, sesame, safflower, sunflower, castor beans, and flax, if he determines that such production of the commodity is needed, is not likely to increase cost of price-support program, and will not adversely affect farm income, and removed from proviso the prohibition against making available price supports for production of such crops on diverted acreage.

1964—Subsec. (a)(1). Pub. L. 88-297, § 202(7), temporarily suspended land-use penalties and made the diversion of land from the production of wheat only a condition of eligibility for receiving wheat marketing certificates. See Effective and Termination Dates of 1964 Amendment note below.

Subsec. (b). Pub. L. 88-297, § 202(8), inserted in first sentence “for wheat not accompanied by marketing certificates” after “basic county support rate” and inserted after first sentence “Any producer who complies with his 1964 farm acreage allotment for wheat and with the other requirements of the program shall be eligible to receive payments under the program for the 1964 crop of wheat.”

Subsec. (h). Pub. L. 88-297, § 202(9), substituted “June 30, 1965” for “June 30, 1963”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1965 AMENDMENT**

Amendment by section 501 of Pub. L. 89-321 effective beginning with crop planted for harvest in calendar year 1966, see section 501 of Pub. L. 89-321, set out as a note under section 1332 of this title.

Pub. L. 89-321, title V, § 507, Nov. 3, 1965, 79 Stat. 1204, provided that the amendment made by that section is effective beginning with the crop planted for harvest in calendar year 1967.

**EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT**

Pub. L. 88-297, title II, § 202(7), Apr. 11, 1964, 78 Stat. 179, as amended by Pub. L. 89-321, title V, § 505(1), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by section 202(7) of Pub. L. 88-297 is effective only with respect to the crops planted for harvest in calendar years 1964 through 1970.

**EFFECTIVE DATE**

Section effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as an Effective Date of 1962 Amendment note under section 1301 of this title.

**INAPPLICABILITY OF SECTION**

Section inapplicable to 2014 through 2018 crops of covered commodities, cotton, and sugar and inapplicable to milk during period beginning Feb. 7, 2014, through Dec. 31, 2018, see section 9092(a)(1) of this title.

Section inapplicable to 2008 through 2012 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning June 18, 2008, through Dec. 31, 2012, see section 8782(a)(1) of this title.

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

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

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101-624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 through 1990 crops of wheat, see section 310(b) of Pub. L. 99-198, set out as a note under section 1331 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97-98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95-113, set out as a note under section 1331 of this title.

Pub. L. 91-524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

**WHEAT DIVERSION PROGRAMS; CREDITS IN ESTABLISHMENT OF STATE, COUNTY AND FARM ACREAGE ALLOTMENTS FOR WHEAT**

Credits to State, county and farm of acreage diverted from production of wheat as though actually devoted to such production, see section 1339b of this title.

**§ 1339a. Repealed. Pub. L. 107-171, title I, § 1613(j)(1), May 13, 2002, 116 Stat. 221**

Section, Pub. L. 87-703, title III, §326, Sept. 27, 1962, 76 Stat. 631; Pub. L. 88-26, §4, May 20, 1963, 77 Stat. 47; Pub. L. 89-321, title III, §303, Nov. 3, 1965, 79 Stat. 1192; Pub. L. 101-624, title XI, §1132(c), Nov. 28, 1990, 104 Stat. 3515; Pub. L. 102-237, title I, §118(d), Dec. 13, 1991, 105 Stat. 1842, related to good faith reliance.

**§ 1339b. Wheat diversion programs; credits in establishment of State, county and farm acreage allotments for wheat**

In the establishment of State, county, and farm acreage allotments for wheat under the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1281 et seq.], 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 339 of the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1339], 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.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Agricultural Adjustment Act of 1938, referred to in text, is act Feb. 16, 1938, ch. 30, 52 Stat. 31, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

Section 307 of this Act and section 124 of the Agricultural Act of 1961, referred to in text, are, respectively, section 307 of Pub. L. 87-703 and section 124 of Pub. L. 87-128, which were formerly 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.)

**Editorial Notes**

**AMENDMENTS**

1965—Pub. L. 89-321 authorized the Secretary, in establishing terms and conditions for permitting wheat to be planted in lieu of oats and rye, to take into account the number of feed units per acre of wheat in relation to the number of feed units per acre of oats and rye.

**CODIFICATION**

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

**§ 1339d. Hay production on set-aside or diverted acreage; storage; emergency use; loans**

(a) Notwithstanding any other provision of law, the Secretary shall permit any producer who is participating in the wheat program under title IV of this Act, in the feed grain program under title V of this Act, or in the cotton program under title VI of this Act, in any year in which an acreage diversion or set-aside program is in effect, under any such program in which such producer is participating, subject to the conditions prescribed in subsection (b) of this section, to plant and harvest hay from 25 percentum 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.)