

Editorial Notes

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. 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 provisions of the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1281 et seq.] (hereinafter referred to as the Act)—

(1) The farm marketing quota for any crop of wheat shall be the actual production of the acreage planted to such crop of wheat on the farm less the farm marketing excess. The farm marketing excess shall be an amount equal to twice the projected farm yield multiplied by the number of acres of such crop of wheat on the farm in excess of the farm acreage allotment for such crop unless the producer, in accordance with regulations issued by the Secretary and within the time prescribed therein, establishes to the satisfaction of the Secretary the actual production of such crop of wheat on the farm. If such actual production is so established, the farm marketing excess shall be an amount equal to the actual production of the number of acres of wheat on the farm in excess of the farm acreage allotment for such crop. In determining the farm marketing quota and farm marketing excess, any acreage of wheat remaining after the date prescribed by the Secretary for the disposal of excess acres of wheat shall be included as acreage of wheat on the farm, and the production thereof shall be appraised in such manner as the Secretary determines will provide a reasonably accurate estimate of such production. Any acreage of wheat disposed of in accordance with regulations issued by the Secretary prior to such date as may be prescribed by the Secretary shall be excluded in determining the farm marketing quota and farm marketing excess. Self-seeded (volunteer) wheat shall be included in determining the acreage of wheat. Marketing quotas for any marketing year shall be

in effect with respect to wheat harvested in the calendar year in which such marketing year begins notwithstanding that the wheat is marketed prior to the beginning of such marketing year.

(2) Whenever farm marketing quotas are in effect with respect to any crop of wheat, the producers on a farm shall be subject to a penalty on the farm marketing excess of wheat at a rate per bushel equal to 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which the crop is harvested. Each producer having an interest in the crop of wheat on any farm for which a farm marketing excess of wheat is determined shall be jointly and severally liable for the entire amount of the penalty on the farm marketing excess.

(3) The farm marketing excess for wheat shall be regarded as available for marketing, and the penalty and the storage amount or amounts to be delivered to the Secretary of the commodity shall be computed upon twice the normal production of the excess acreage. Where, upon the application of the producer for an adjustment of penalty or of storage, it is shown to the satisfaction of the Secretary that the actual production of the excess acreage is less than twice the normal production thereof, the difference between the amount of the penalty or storage as computed upon the basis of twice the normal production and as computed upon the basis of actual production shall be returned to or allowed the producer. The Secretary shall issue regulations under which the farm marketing excess of the commodity for the farm may be stored or delivered to him. Upon failure to store or deliver to the Secretary the farm marketing excess within such time as may be determined under regulations prescribed by the Secretary, the penalty computed as aforesaid shall be paid by the producer. Any wheat delivered to the Secretary hereunder shall become the property of the United States and shall be disposed of by the Secretary for relief purposes in the United States or in foreign countries or in such other manner as he shall determine will divert it from the normal channels of trade and commerce.

(4) Until the producers on any farm store, deliver to the Secretary, or pay the penalty on, the farm marketing excess of any crop of wheat, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty.

(5) The penalty upon wheat stored shall be paid by the producer at the time, and to the extent, of any depletion in the amount of the commodity so stored, except depletion resulting from some cause beyond the control of the producer.

(6) Whenever the planted acreage of the then current crop of wheat on any farm is less than the farm acreage allotment for such commodity, the total amount of the commodity from any previous crops required to be stored in order to postpone or avoid payment of pen-

alty 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 326(b) and (c) of the Act [7 U.S.C. 1326(b), (c)] 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 302 of the Act [7 U.S.C. 1302] and this section.

(9) Omitted.

(10) The provisions of this section are amendatory of and supplementary to the Act, and all provisions of law applicable in respect of marketing quotas and loans under such Act as so amended and supplemented shall be applicable, but nothing in this section shall be construed to amend or repeal sections 301(b)(6), 323(b), or 335(d) of the Act [7 U.S.C. 1301(b)(6), 1323(b), 1335(d)].

(11) The persons liable for the payment or collection of the penalty on any amount of wheat shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(12) If marketing quotas for wheat are not in effect for any marketing year, all previous marketing quotas applicable to wheat shall be terminated, effective as of the first day of such marketing year. Such termination shall not abate any penalty previously incurred by a producer or relieve any buyer of the duty to remit penalties previously collected by him.

(May 26, 1941, ch. 133, 55 Stat. 203; Dec. 26, 1941, ch. 626, § 2, 55 Stat. 860; Dec. 26, 1941, ch. 636, 55 Stat. 872; Aug. 29, 1949, ch. 518, § 3(b), 63 Stat. 676; July 14, 1953, ch. 194, § 3, 67 Stat. 151; Aug. 28, 1954, ch. 1041, title III, § 313, 68 Stat. 905; Pub. L. 87-128, title I, § 122(d), Aug. 8, 1961, 75 Stat. 297; Pub. L. 87-703, title III, §§ 309, 319, Sept. 27, 1962, 76 Stat. 618, 624; Pub. L. 87-801, Oct. 11, 1962, 76 Stat. 909; Pub. L. 89-321, title V, § 511(b), Nov. 3, 1965, 79 Stat. 1205.)

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 302 of the Act, referred to in par. (8), which was classified to section 1302 of this title, was repealed by act Oct. 31, 1949, ch. 792, title IV, § 414, 63 Stat. 1057.

Section 323(b) of the Act, referred to in par. (10), which was classified to section 1323(b) of this title, 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 335(d) of the Act, referred to in par. (10), which was classified to section 1335(d) of this title, 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).

Statutory Notes and Related Subsidiaries

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.

INAPPLICABILITY OF SECTION

Section inapplicable to crops of wheat planted for harvest in calendar years 2014 through 2018, see section 9092(c) of this title.

Section inapplicable to crops of wheat planted for harvest in calendar years 2008 through 2012, see section 8782(c) of this title.

Section inapplicable to crops of wheat planted for harvest in calendar years 2002 through 2007, see section 7992(c) of this title.

Section inapplicable to crops of wheat planted for harvest in calendar years 1996 through 2002, see section 7301(c) of this title.

Pub. L. 101-624, title III, §304, Nov. 28, 1990, 104 Stat. 3400, provided that: “The joint resolution entitled ‘A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended’, approved May 26, 1941 (7 U.S.C. 1330 and 1340) shall not be applicable to the crops of wheat planted for harvest in the calendar years 1991 through 1995.”

Pub. L. 99-198, title III, §311, Dec. 23, 1985, 99 Stat. 1395, provided that: “The joint resolution entitled ‘A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended’, approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1986 through 1990.”

Pub. L. 97-98, title III, §304, Dec. 22, 1981, 95 Stat. 1227, provided that: “Public Law 74, Seventy-seventh Congress (55 Stat. 203, as amended) [this section] shall not be applicable to the crops of wheat planted for harvest in the calendar years 1982 through 1985.”

Pub. L. 95-113, title IV, §406, Sept. 29, 1977, 91 Stat. 927, provided that: “Public Law 74, Seventy-seventh Congress (55 Stat. 203, as amended) [this section] shall not be applicable to the crops of wheat planted for harvest in the calendar years 1978 through 1981.”

Pub. L. 91-524, title IV, §406, Nov. 30, 1970, 84 Stat. 1367, as amended by Pub. L. 93-86, §1(13), Aug. 10, 1973, 87 Stat. 229, provided that: “Public Law 74, Seventy-seventh Congress (68 Stat. 905) [this section], shall not be applicable to the crops of wheat planted for harvest in the calendar years 1971 through 1977.”

Executive Documents

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.

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 in-