

harvest in the calendar year 1964 or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

SAVINGS PROVISION

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

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF PEANUTS

Pub. L. 101-624, title VIII, §801(5), Nov. 28, 1990, 104 Stat. 3459, provided that this section is inapplicable to 1991 through 1995 crops of peanuts.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF PEANUTS

Pub. L. 99-198, title VII, §701(5), Dec. 23, 1985, 99 Stat. 1430, provided that this section is inapplicable to 1986 through 1990 crops of peanuts.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF PEANUTS

Pub. L. 97-98, title VII, §701(5), Dec. 22, 1981, 95 Stat. 1248, provided that this section is inapplicable to 1982 through 1985 crops of peanuts.

§ 1372. Payment, collection, and refund of penalties

(a) The penalty with respect to the marketing, by sale, of wheat, cotton, or rice, if the sale is to any person within the United States, shall be collected by the buyer.

(b) All penalties provided for in part B of this subchapter shall be collected and paid in such manner, at such times, and under such conditions as the Secretary may by regulations prescribe. Such penalties shall be remitted to the Secretary by the person liable for the penalty, except that if any other person is liable for the collection of the penalty, such other person shall remit the penalty. Except as provided in section 1314h¹ 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) by means of such identification without reference to the names of the producers on such farms.

The Secretary is authorized to prescribe regulations governing the filing of such claims and the determination of such refunds.

(d) No penalty shall be collected under this chapter with respect to the marketing of any agricultural commodity grown for experimental purposes only by any publicly owned agricultural experiment station. Effective with the 1978 crops, no penalty shall be collected under this chapter with respect to the marketing of any agricultural commodity grown on State prison farms for consumption within such State prison system.

(Feb. 16, 1938, ch. 30, title III, §372, 52 Stat. 65; Apr. 7, 1938, ch. 107, §11, 52 Stat. 204; July 2, 1940, ch. 521, §6, 54 Stat. 728; Pub. L. 96-113, Nov. 16, 1979, 93 Stat. 850; Pub. L. 99-272, title I, §1106(b), Apr. 7, 1986, 100 Stat. 91.)

Editorial Notes

REFERENCES IN TEXT

Section 1314h of this title, referred to in subsec. (b), was repealed by Pub. L. 108-357, title VI, §611(a), Oct. 22, 2004, 118 Stat. 1522.

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).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-272, title I, §1106(b), Apr. 7, 1986, 100 Stat. 91, provided that the amendment made by that section is effective for the 1986 and subsequent crops of tobacco.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99-272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99-272, set out as a note under section 1301 of this title.

§ 1373. Reports and records

(a) Persons reporting

This subsection shall apply to warehousemen, processors, and common carriers of corn, wheat, cotton, or rice, and¹ all ginners of cotton,² all persons engaged in the business of purchasing corn, wheat, cotton, or rice from producers. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to

¹ See References in Text note below.

¹ So in original. The word “and” probably should not appear.

² So in original. The word “and” probably should appear.

carry out the provisions of this subchapter. Such information shall be reported and such records shall be kept in accordance with forms which the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of such person. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500.

(b) Proof of acreage yield

Farmers engaged in the production of corn, wheat, cotton, or rice for market shall furnish such proof of their acreage, yield, storage, and marketing of the commodity in the form of records, marketing cards, reports, storage under seal, or otherwise as the Secretary may prescribe as necessary for the administration of this subchapter.

(c) Data as confidential

All data reported to or acquired by the Secretary pursuant to this section shall be kept confidential by all officers and employees of the Department, and only such data so reported or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under this subchapter. Nothing in this section shall be deemed to prohibit the issuance of general statements based upon the reports of a number of parties which statements do not identify the information furnished by any person.

(Feb. 16, 1938, ch. 30, title III, §373, 52 Stat. 65; June 13, 1940, ch. 360, §6, 54 Stat. 394; Apr. 3, 1941, ch. 39, §§6, 7, 55 Stat. 92; Pub. L. 86-507, §1(6), June 11, 1960, 74 Stat. 200; Pub. L. 95-113, title VIII, §805, Sept. 29, 1977, 91 Stat. 947; Pub. L. 97-98, title VII, §706, Dec. 22, 1981, 95 Stat. 1256; Pub. L. 97-218, title III, §304, July 20, 1982, 96 Stat. 214; Pub. L. 99-198, title VII, §706, Dec. 23, 1985, 99 Stat. 1441; Pub. L. 101-624, title VIII, §807, Nov. 28, 1990, 104 Stat. 3478; Pub. L. 104-127, title I, §171(a)(2), Apr. 4, 1996, 110 Stat. 937; Pub. L. 107-171, title I, §1309(h)(3), May 13, 2002, 116 Stat. 182; Pub. L. 108-357, title VI, §611(j), Oct. 22, 2004, 118 Stat. 1523.)

Editorial Notes

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-357, §611(j)(2)(B), substituted “\$500.” for “\$500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required by this subsection within fifteen days after notice to him of such violation shall be subject to an additional fine of \$100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided*, That such fine shall not exceed \$5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by certified mail or

by posting the same at any established place of business operated by him, or both.”

Pub. L. 108-357, §611(j)(2)(A), which directed that “all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,” be struck out in first sentence, was executed by striking out “, and all persons engaged in the business of redrying, prizing, or stemming tobacco for producers” before period at end of first sentence, to reflect the probable intent of Congress.

Pub. L. 108-357, §611(j)(1), substituted “or rice” for “rice, or tobacco” in two places in first sentence.

Subsec. (b). Pub. L. 108-357, §611(j)(1), substituted “or rice” for “rice, or tobacco”.

2002—Subsec. (a). Pub. L. 107-171, §1309(h)(3)(A), in first sentence, struck out “peanuts,” after “rice,” in two places, inserted “and” after “from producers,” and substituted “for producers.” for “for producers, all producers engaged in the production of peanuts, all brokers and dealers in peanuts, all agents marketing peanuts for producers, or acquiring peanuts for buyers and dealers, and all peanut growers’ cooperative associations, all persons engaged in the business of cleaning, shelling, crushing, and salting of peanuts and the manufacture of peanut products, and all persons owning or operating peanut-picking or peanut-threshing machines.”

Subsec. (b). Pub. L. 107-171, §1309(h)(3)(B), struck out “peanuts,” after “rice.”

1996—Subsec. (a). Pub. L. 104-127 temporarily inserted “all producers engaged in the production of peanuts,” before “all brokers and dealers in peanuts”. See Effective and Termination Dates of 1996 Amendment note below.

1990—Subsec. (a). Pub. L. 101-624 temporarily inserted “all producers engaged in the production of peanuts,” before “all brokers and dealers in peanuts”. See Effective and Termination Dates of 1990 Amendment note below.

1985—Subsec. (a). Pub. L. 99-198 temporarily inserted “all producers engaged in the production of peanuts,” before “all brokers and dealers in peanuts”. See Effective and Termination Dates of 1985 Amendment note below.

1982—Subsec. (c). Pub. L. 97-218 inserted provision that nothing in this section shall be deemed to prohibit the issuance of general statements based upon the reports of a number of parties which statements do not identify the information furnished by any person.

1981—Subsec. (a). Pub. L. 97-98 temporarily inserted “all farmers engaged in the production of peanuts,” before “all brokers and dealers in peanuts”. See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (a). Pub. L. 95-113 temporarily inserted “all farmers engaged in the production of peanuts,” before “and brokers and dealers in peanuts”. See Effective and Termination Dates of 1977 Amendment note below.

1960—Subsec. (a). Pub. L. 86-507 inserted “or by certified mail” after “registered mail”.

1941—Subsec. (a). Act Apr. 3, 1941, §6, among other changes, inserted “peanuts” after “rice” wherever appearing and inserted “all brokers and dealers in peanuts, all agents marketing peanuts for producers, or acquiring peanuts for buyers and dealers, and all peanut growers’ cooperative associations, all persons engaged in the business of cleaning, shelling, crushing, and salting of peanuts and the manufacture of peanut products, and all persons owning or operating peanut-picking or peanut-threshing machines”.

Subsec. (b). Act Apr. 3, 1941, §7, inserted “peanuts,” after “rice.”

1940—Subsec. (a). Act June 13, 1940, inserted all after “\$500;” in last sentence.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub.

L. 108-357, set out as an Effective Date note under section 518 of this title.

EFFECTIVE AND TERMINATION DATES OF 1996
AMENDMENT

Pub. L. 104-127, title I, §171(a)(2), Apr. 4, 1996, 110 Stat. 937, provided that the amendment made by section 171(a)(2) is effective only for the 1996 through 2002 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1990
AMENDMENT

Pub. L. 101-624, title VIII, §807, Nov. 28, 1990, 104 Stat. 3478, provided that the amendment made by section 807 is effective only for the 1991 through 1995 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1985
AMENDMENT

Pub. L. 99-198, title VII, §706, Dec. 23, 1985, 99 Stat. 1441, provided that the amendment made by section 706 is effective only for the 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1981
AMENDMENT

Pub. L. 97-98, title VII, §706, Dec. 22, 1981, 95 Stat. 1256, provided that the amendment made by section 706 is effective for the 1982 through 1985 crop of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977
AMENDMENT

Pub. L. 95-113, title VIII, §805, Sept. 29, 1977, 91 Stat. 947, provided that the amendment made by section 805 is effective for the 1978 through 1981 crops of peanuts.

SAVINGS PROVISION

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

§ 1374. Measurement of farms and report of plantings; remeasurement

(a) The Secretary shall provide for ascertaining, by measurement or otherwise, the acreage of any agricultural commodity or land use on farms for which the ascertainment of such acreage is necessary to determine compliance under any program administered by the Secretary. Insofar as practicable, the acreage of the commodity and land use shall be ascertained prior to harvest, and, if any acreage so ascertained is not in compliance with the requirements of the program the Secretary, under such terms and conditions as he prescribes, may provide a reasonable time for the adjustment of the acreage of the commodity or land use to the requirements of the program. Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1995 crops, except that, for the 1991 through 1995 crops, the rules shall allow 30 inch rows (or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows) to be taken into account for classifying the acreage planted to cotton and the area skipped. For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops.

(b) With respect to cotton, the Secretary, upon such terms and conditions as he may by regulation prescribe, shall provide, through the county and local committees for the measurement prior to planting of an acreage on the farm equal to the farm acreage allotment if so requested by the farm operator, and any farm on which the acreage planted to cotton does not exceed such measured acreage shall be deemed to be in compliance with the farm acreage allotment.

(c) The Secretary shall by appropriate regulations provide for the remeasurement upon request by the farm operator of the acreage planted to such commodity on the farm and for the measurement of the acreage planted to such commodity on the farm remaining after any adjustment of excess acreage hereunder and shall prescribe the conditions under which the farm operator shall be required to pay the county committee for the expense of the measurement of adjusted acreage or the expense of remeasurement after the initial measurement or the measurement of adjusted acreage. The regulations shall also provide for the refund of any deposit or payment made for the expense of the remeasurement of the initially determined acreage or the adjusted acreage when because of an error in the determination of such acreage the remeasurement brings the acreage within the allotment or permitted acreage or results in a change in acreage in excess of a reasonable variation normal to measurements of acreage of the commodity. Unless the requirements for measurement of adjusted acreage are met by the farm operator, the acreage prior to such adjustment as determined by the county committee shall be considered the acreage of the commodity on the farm in determining whether the applicable farm allotment has been exceeded.

(Feb. 16, 1938, ch. 30, title III, §374, 52 Stat. 65; Apr. 3, 1941, ch. 39, §8, 55 Stat. 92; Aug. 29, 1949, ch. 518, §2(b), 63 Stat. 676; Aug. 28, 1954, ch. 1041, title III, §311(b), 68 Stat. 904; Pub. L. 86-553, §§1, 2, June 30, 1960, 74 Stat. 258; Pub. L. 89-321, title VII, §§701, 702, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 91-524, title VI, §612, Nov. 30, 1970, as added Pub. L. 93-86, §1(25), Aug. 10, 1973, 87 Stat. 236; Pub. L. 95-113, title VI, §605, Sept. 29, 1977, 91 Stat. 940; Pub. L. 97-98, title V, §505, Dec. 22, 1981, 95 Stat. 1241; Pub. L. 99-198, title V, §505, Dec. 23, 1985, 99 Stat. 1418; Pub. L. 101-624, title V, §504, Nov. 28, 1990, 104 Stat. 3440; Pub. L. 102-237, title I, §116(2), Dec. 13, 1991, 105 Stat. 1840.)

Editorial Notes

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237 inserted “(or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows)” after “30 inch rows” and inserted at end “For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops.”

1990—Subsec. (a). Pub. L. 101-624 substituted “1995 crops, except that, for the 1991 through 1995 crops, the rules shall allow 30 inch rows to be taken into account for classifying the acreage planted to cotton and the area skipped” for “1990 crops”.

1985—Subsec. (a). Pub. L. 99-198 substituted “1990 crops” for “1985 crops”.