

plicable in the case of burley tobacco” before period at end of par. (6), and struck out subsecs. (b) and (c), which related to combination of tracts in contiguous counties, and to burley tobacco poundage quota when a farm is divided through reconstitution, respectively.

1999—Subsec. (b). Pub. L. 106-78 inserted “or flue-cured” after “Burley”.

1991—Subsecs. (a)(4) to (7), (c). Pub. L. 102-237 struck out “or” at end of par. (4), substituted “; or” for period at end of par. (5), substituted a period for “; or” at end of par. (6), and redesignated par. (7) as subsec. (c) and moved subsec. (c) to follow subsec. (b).

1990—Subsec. (a)(7). Pub. L. 101-577 added par. (7).

1983—Pub. L. 98-180 designated existing provisions as subsec. (a) and added subsec. (b).

1970—Pub. L. 91-524 temporarily inserted provision that term “acreage allotments” include the farm base acreage allotments for upland cotton and the domestic allotment for wheat. See Effective and Termination Dates of 1970 Amendment note below.

#### 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 1970 AMENDMENT

Pub. L. 91-524, title IV, § 404, title VI, § 605, Nov. 30, 1970, 84 Stat. 1366, 1378, as amended by Pub. L. 93-86, § 1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided that the amendments made by sections 404 and 605 are effective only with respect to the 1971 through 1977 crops.

##### SAVINGS PROVISION

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

#### PART D—WHEAT MARKETING ALLOCATION

#### § 1379a. Legislative findings

Wheat, in addition to being a basic food, is one of the great export crops of American agriculture and its production for domestic consumption and for export is necessary to the maintenance of a sound national economy and to the general welfare. The movement of wheat from producer to consumer, in the form of the commodity or any of the products thereof, is preponderantly in interstate and foreign commerce. Unreasonably low prices of wheat to producers impair their purchasing power for non-agriculture products and place them in a position of serious disparity with other industrial groups. The conditions affecting the production of wheat are such that without Federal assistance, producers cannot effectively prevent disastrously low prices for wheat. It is necessary, in order to assist wheat producers in obtaining fair prices, to regulate the price of wheat used for domestic food and for exports in the manner provided in this part.

(Feb. 16, 1938, ch. 30, title III, § 379a, as added Pub. L. 87-703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 626.)

#### Statutory Notes and Related Subsidiaries

##### 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)(3) 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)(3) 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)(3) of this title.

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

#### § 1379b. Wheat marketing allocation; amount; national allocation percentage; commercial and noncommercial wheat-producing areas

During any marketing year for which a marketing quota is in effect for wheat, beginning with the marketing year for the 1964 crop, a wheat marketing allocation program shall be in effect as provided in this part. Whenever a wheat marketing allocation program is in effect for any marketing year the Secretary shall determine (1) the wheat marketing allocation for such year which shall be the amount of wheat which in determining the national marketing quota for such marketing year he estimated would be used during such year for food products for consumption in the United States, and that portion of the amount of wheat which in determining such quota he estimated would be exported in the form of wheat or products thereof during the marketing year on which the Secretary determines that marketing certificates shall be issued to producers in order to achieve, insofar as practicable, the price and income objectives of this part, and (2) the national allocation percentage which shall be the percentage which the national marketing allocation is of the national marketing quota. Each farm shall receive a wheat marketing allocation for such marketing year equal to the number of bushels obtained by multiplying the number of acres in the farm acreage allotment for wheat by the projected farm yield, and multiplying the resulting number of bushels by the national allocation percentage. If a noncommercial wheat-producing area is established for any marketing year, farms in such area shall be given wheat marketing allocations which are determined by the Secretary to be fair and reasonable in relation to the wheat marketing allocation given producers in the commercial wheat-producing area.

(Feb. 16, 1938, ch. 30, title III, § 379b, as added Pub. L. 87-703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 626; amended Pub. L. 88-297, title II, § 202(10), (11), Apr. 11, 1964, 78 Stat. 179, 180; Pub. L. 89-321, title V, §§ 502, 503, Nov. 3, 1965, 79 Stat. 1202; Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91-524, title IV, § 402(a), (b)(B), (C), Nov. 30, 1970, 84 Stat. 1362, as renumbered and amended Pub. L. 93-86, § 1(9), Aug. 10, 1973, 87 Stat. 225.)

#### Editorial Notes

##### AMENDMENTS

1973—Subsec. (c)(1). Pub. L. 91-524, § 402(b)(B)(i)-(vi), as added by Pub. L. 93-86, temporarily substituted

“payments authorized by section 1445a(c) of this title” for “certificates on wheat”, “wheat allotment” for “domestic wheat allotment”, “thirteen and three-tenths million” for “13.3 million”, “1971 crop; plus, if required by the Secretary, (ii) the acreage” for “1971 crop or 15 million acres in the case of the 1972 or 1973 crop, plus (ii) the acreage”, “The Secretary is authorized for the 1974 through 1977 crops to limit” for “The Secretary is authorized for the 1971, 1972, and 1973 crops to limit”, “such percentage of the acreage allotment” for “such percentage of the domestic wheat allotment as he determines necessary to provide an orderly transition to the program provided for under this section”, “The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and” for “Grazing shall not be permitted during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of Title 16 and subject to this limitation (1) the Secretary shall permit producers to plant and graze on the set-aside acreage sweet sorghum, and (2) the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to”, and “flaxseed, triticale, oats, rye, or other commodity” for “flaxseed, or other commodity”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(2). Pub. L. 91-524, § 402(b)(B)(i), as added by Pub. L. 93-86, temporarily substituted “payments authorized by section 1445a(c) of this title” for “certificates authorized in subsection (b) of this section”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(3). Pub. L. 91-524, § 402(b)(B)(vii), as added by Pub. L. 93-86, temporarily inserted provisions authorizing the Secretary, in the case of programs for the 1974 through 1977 crops, to pay an appropriate share of the cost of practices designated to protect set-aside acreage against erosion, insects, weeds, and rodents and to devote such acreage to wildlife food plots or wildlife habitat. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(4). Pub. L. 91-524, § 402(b)(B)(i), as added by Pub. L. 93-86, temporarily substituted “payments authorized by section 1445a(c) of this title” for “marketing certificates”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (d). Pub. L. 91-524, § 402(b)(C), as added by Pub. L. 93-86, temporarily struck out “certificates issued and of” before “payments made”. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (e). Pub. L. 91-524, § 402(b)(C), as added by Pub. L. 93-86, temporarily struck out references to the issuance of certificates. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (g). Pub. L. 91-524, § 402(b)(C), as added by Pub. L. 93-86, temporarily reenacted subsec. (g) without change. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (i). Pub. L. 91-524, § 402(b)(C), as added by Pub. L. 93-86, temporarily reenacted subsec. (i) without change. See Effective and Termination Dates of 1973 Amendment note below.

1970—Pub. L. 91-524, § 402(a), formerly § 402, temporarily substituted provisions covering the issuance of domestic certificates to producers and a voluntary set-aside program for wheat for provisions for a wheat marketing allocation program for the 1964 to 1970 crops. See Effective and Termination Dates of 1970 Amendment note below.

1968—Pub. L. 90-559 temporarily provided for a one year extension through 1970.

1965—Pub. L. 89-321, § 502, temporarily amended section generally and, among other changes, extended the wheat marketing allocation program from 1964 and 1965 to 1966 through 1969, put a minimum limitation of five hundred million bushels on the amount of wheat in-

cluded in the marketing allocation for food products for consumption in the United States, and required the cost of any domestic marketing certificates issued to producers in excess of the number of certificates acquired by processors as a result of the application of the five hundred million bushel minimum or an overestimate of the amount of wheat used during such year for food products for consumption in the United States to be borne by the Commodity Credit Corporation. See Effective and Termination Dates of 1965 Amendment note below.

Pub. L. 89-321, § 503, substituted “projected farm yield” for “normal wheat for the farm as projected by the Secretary”.

1964—Pub. L. 88-297, § 202(10), temporarily struck out introductory phrase “During any marketing year for which a marketing quota is in effect for wheat”, reduced the national allocation percentage by the expected production on the acreage allotments for farms which will not be in compliance with the requirements of the program, and struck out provisions for wheat marketing allocations to non-commercial wheat-producing areas reasonably related to such allocations to producers in commercial wheat-producing areas. See Effective and Termination Dates of 1964 Amendment note below.

Pub. L. 88-297, § 202(11), substituted “food products for consumption in the United States” for “human consumption in the United States, as food, food products, and beverages, composed wholly or partly of wheat” in second sentence.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Pub. L. 91-524, title IV, § 402(b)(B), as added by Pub. L. 93-86, § 1(9), Aug. 10, 1973, 87 Stat. 226, provided that subsec. (c) of this section, as amended by section 402(a), (b)(B) of Pub. L. 91-524, is effective with respect to the 1974 through 1977 crops of wheat.

Pub. L. 91-524, title IV, § 402(b)(C), as added by Pub. L. 93-86, § 1(9), Aug. 10, 1973, 87 Stat. 226, provided that subsecs. (d), (e), (g), and (i) of this section, as amended by section 402(a), (b)(C) of Pub. L. 91-524, is effective for the 1974 through 1977 crops.

##### EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Pub. L. 91-524, title IV, § 402(a), formerly § 402, Nov. 30, 1970, 84 Stat. 1362, as renumbered by Pub. L. 93-86, § 1(9), Aug. 10, 1973, 87 Stat. 225, provided that the amendment made by section 402(a) of Pub. L. 91-524 is effective only with respect to the 1971, 1972, and 1973 crops of wheat.

##### EFFECTIVE AND TERMINATION DATES OF 1965 AMENDMENT

Pub. L. 89-321, title V, § 502, Nov. 3, 1965, 79 Stat. 1202, as amended by Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by section 502 of Pub. L. 89-321 is effective only with respect to the crops of wheat planted for harvest in calendar years 1966 through 1970, and marketing years for such crops.

Pub. L. 89-321, title V, § 503, Nov. 3, 1965, 79 Stat. 1202, provided that the amendment made by section 503 of Pub. L. 89-321 is effective beginning with the 1970 crop.

##### EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Pub. L. 88-297, title II, § 202(10), Apr. 11, 1964, 78 Stat. 179, provided that the amendment made by section 202(10) of Pub. L. 88-297 is effective only with respect to crops planted for harvest in 1964 and 1965.

Pub. L. 88-297, title II, § 202(11), Apr. 11, 1964, 78 Stat. 180, provided that the amendment made by section 202(11) of Pub. L. 88-297 is effective with respect to the crops planted for harvest in calendar year 1966 and any subsequent year.

## INAPPLICABILITY OF SECTION

Section inapplicable to 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)(3) 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)(3) 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)(3) of this title.

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

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

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

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

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

Pub. L. 91-524, title IV, §402(b)(A), as added by Pub. L. 93-86, §1(9), Aug. 10, 1973, 87 Stat. 226, provided that: "Section 379b of the Agricultural Adjustment Act of 1938 [7 U.S.C. 1379b] (which provides for a wheat marketing certificate program) shall not be applicable to the 1974 through 1977 crops of wheat, except as provided in paragraphs (B) and (C) of this subsection [amending this section and enacting provisions set out as notes under this section]."

**§ 1379c. Marketing certificates****(a) Issuance; amount; reduction; sharing among producers; domestic and export certificates**

The Secretary shall provide for the issuance of wheat marketing certificates for each marketing year for which a wheat marketing allocation program is in effect for the purpose of enabling producers on any farm with respect to which certificates are issued to receive, in addition to the other proceeds from the sale of wheat, an amount equal to the value of such certificates. The wheat marketing certificates issued with respect to any farm for any marketing year shall be in the amount of the farm wheat marketing allocation for such year, but not to exceed (i) the actual acreage of wheat planted on the farm for harvest in the calendar year in which the marketing year begins multiplied by the normal yield of wheat for the farm, plus (ii) the amount of wheat stored under subsection (b) 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.