

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.

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 Pub. L. 87-703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 627; amended Pub. L. 88-297, title II, § 202(12)-(14), Apr. 11, 1964, 78 Stat. 180, 181; Pub. L. 89-112, § 3, Aug. 6, 1965, 79 Stat. 447; Pub. L. 89-321, title V, §§ 508, 510(a), 513(b), (c), 515, 517, Nov. 3, 1965, 79 Stat. 1204-1206; Pub. L. 89-451, § 3, June 17, 1966, 80 Stat. 202; Pub. L. 91-524, title IV, § 402(a), (b)(D), Nov. 30, 1970, 84 Stat. 1364, as renumbered and amended Pub. L. 93-86, § 1(9), Aug. 10, 1973, 87 Stat. 225.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Pub. L. 91-524, title IV, §402(b)(D), as added by Pub. L. 93-86, §1(9), Aug. 10, 1973, 87 Stat. 227, provided that the amendment made by section 402(b)(D) of Pub. L. 91-524 is effective only with respect to the 1974 through 1977 crops of wheat.

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 DATE OF 1965 AMENDMENT

Pub. L. 89-321, title V, §508, Nov. 3, 1965, 79 Stat. 1204, provided that the amendment made by section 508 of Pub. L. 89-321 is effective beginning with the crop planted for harvest in calendar year 1966.

Pub. L. 89-321, title V, §510(a), Nov. 3, 1965, 79 Stat. 1205, provided that the amendment made by section 510(a) of Pub. L. 89-321 is effective beginning with the 1966 crop.

Pub. L. 89-321, title V, §515, Nov. 3, 1965, 79 Stat. 1206, provided that the amendment made by section 515 of Pub. L. 89-321 is effective beginning with the crop planted for harvest in calendar year 1964.

EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Pub. L. 88-297, title II, §202(13), Apr. 11, 1964, 78 Stat. 180, 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 section 202(13) of Pub. L. 88-297 is effective with respect to crops planted for harvest in calendar years 1965 through 1970.

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.

REDUCTION OF WHEAT STORED BY PRODUCERS PRIOR TO 1971 CROP

Pub. L. 91-524, title IV, §407, Nov. 30, 1970, 84 Stat. 1367, as amended by Pub. L. 93-86, §1(14), Aug. 10, 1973, 87 Stat. 229, provided that: "The amount of any wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1379c(b)], 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, 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."

§ 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 Pub. L. 87-703, title III, §324(2), Sept. 27, 1962, 76 Stat. 628; amended Pub. L. 88-297, title II, §202(15)-(17), Apr. 11, 1964, 78 Stat. 181, 182; Pub. L. 89-321, title V, §§504(a)-(c), 513(a), Nov. 3, 1965, 79 Stat. 1202, 1203, 1205; Pub. L. 91-524, title IV, §403(a)(1), (2), formerly §403(1), (2), Nov. 30, 1970, 84 Stat. 1366, as renumbered Pub. L. 93-86, §1(10), Aug. 10, 1973, 87 Stat. 228.)

Editorial Notes

REFERENCES IN TEXT

This part, referred to in subsec. (d), commences with section 1379a of this title.