

§ 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.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-524, temporarily struck out provision limiting the section to only those marketing years for which a wheat marketing allocation program is in effect and inserted provisions authorizing the Secretary to temporarily suspend the requirement for export marketing certificates for the period beginning July 1, 1971, and ending June 30, 1974. See Effective and Termination Dates of 1970 Amendment note below.

1965—Subsec. (b). Pub. L. 89-321, §§504(a), (c), 513(a), among other changes, amended second sentence, and also authorized the Secretary to exempt from the requirements of this subsection wheat produced by a State or agency thereof and processed for use by the State or agency thereof, wheat processed for donations, and wheat processed for uses determined by the Secretary to be noncommercial, permitted exemptions to be made applicable with respect to any wheat processed or exported beginning July 1, 1964, exempted from requirements of this subsection beverage distilled from wheat prior to July 1, 1964, required beverage distilled from wheat after July 1, 1964, to be deemed as being removed for sale or consumption at the time it is placed in barrels for aging, permitted upon the giving of a bond as prescribed by the Secretary, the purchase of and payment for such marketing certificates as may be required to be deferred until such beverage is bottled for sale, required wheat shipped to a Canadian port for storage in bond, or storage under a similar arrangement, and subsequent exportation, to be deemed as having been exported for purposes of this subsection when it is exported from the Canadian port, and, 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, empowered the Secretary to 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.

Subsec. (d). Pub. L. 89-321, §504(b), excluded four second clears not used for human consumption from term “food products”, authorized the Secretary at his election to 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, and permitted, for the purpose of such refunds, the wheat equivalent of flour second clears to 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.

1964—Subsec. (a). Pub. L. 88-297, §202(15), struck out provisions prohibiting persons from acquiring marketing certificates from the producer to whom such certificates were issued, unless such certificates were acquired in connection with acquisition from such producer of a number of bushels of wheat equivalent to the marketing certificates and authorizing the CCC to purchase from producers certificates not accompanied by wheat in cases where the Secretary determined that it would constitute an undue hardship to require the producer to transfer his certificates only in connection with the disposition of wheat and substituted “by any person” for “by persons other than the producer to whom such certificates are issued”.

Subsec. (b). Pub. L. 88-297, §202(16), in cl. (i) substituted “marketing any such food product or removing such food product for sale or consumption” for “marketing any such product for human food in the United States” and inserted “domestic” before “marketing certificates”; in cl. (ii) struck out “or food products” after “wheat” and inserted “export” before “marketing certificates”; inserted references to removals for sale or consumption in two other places and to removals in two places to make it clear that certificates were required on all wheat processed into food products whether sold, removed for sale, or removed for consumption;

required the CCC to refund to the exporter such part of the cost of the certificate as the Secretary determined 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; and authorized the Secretary to exempt from the requirement to have marketing certificates, wheat which was donated abroad and wheat processed for use on the farm where grown.

Subsec. (d). Pub. L. 88-297, §202(17), redefined “food products” to mean flour, semolina, farina, bulgur, beverage, and any other product composed wholly or partly of wheat which the Secretary may determine to be a food product instead of any product composed wholly or partly of wheat to be used for human consumption, including beverage.

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Pub. L. 91-524, title IV, §403(a), formerly §403, Nov. 30, 1970, 84 Stat. 1366, as renumbered by Pub. L. 93-86, §1(10), Aug. 10, 1973, 87 Stat. 228, provided that the amendment made by Pub. L. 91-524 is effective only with respect to the marketing years beginning July 1, 1971, July 1, 1972, and July 1, 1973.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-321, title V, §504(a), Nov. 3, 1965, 79 Stat. 1202, provided that the amendment made by section 504(a) of Pub. L. 89-321 is effective upon the enactment of Pub. L. 89-321 (Nov. 3, 1965).

Pub. L. 89-321, title V, §504(b), Nov. 3, 1965, 79 Stat. 1202, provided in part that: “This subsection [amending this section] shall be effective as to products sold, or removed for sale or consumption on or after sixty days following enactment of this Act [Nov. 3, 1965], unless the Secretary shall by regulation designate an earlier effective date within such sixty-day period.”

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.

Pub. L. 101-624, title III, §302, Nov. 28, 1990, 104 Stat. 3400, provided that: “Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d-1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1991, through May 31, 1996.”

Pub. L. 99-198, title III, §309, Dec. 23, 1985, 99 Stat. 1394, provided that: “Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d-1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1986, through May 31, 1991.”

Pub. L. 97-98, title III, §302, Dec. 22, 1981, 95 Stat. 1227, provided that: “Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i, and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be

applicable to wheat processors or exporters during the period June 1, 1982, through May 31, 1986.”

Pub. L. 95-113, title IV, §403, Sept. 29, 1977, 91 Stat. 926, provided that: “Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i, and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period July 1, 1973, through May 31, 1982.”

Pub. L. 91-524, title IV, §403(b), as added by Pub. L. 93-86, §1(10), Aug. 10, 1973, 87 Stat. 228, provided in part that: “Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978”.

§ 1379e. Assistance in purchase and sale of marketing certificates; regulations; administrative expenses; interest

For the purpose of facilitating the purchase and sale of marketing certificates, the Commodity Credit Corporation is authorized to issue, buy, and sell marketing certificates in accordance with regulations prescribed by the Secretary. Such regulations may authorize the Corporation to issue and sell certificates in excess of the quantity of certificates which it purchases. Such regulations may authorize the Corporation in the sale of marketing certificates to charge, in addition to the face value thereof, an amount determined by the Secretary to be appropriate to cover estimated administrative costs in connection with the purchase and sale of the certificates and estimated interest incurred on funds of the Corporation invested in certificates purchased by it.

(Feb. 16, 1938, ch. 30, title III, §379e, as added Pub. L. 87-703, title III, §324(2), Sept. 27, 1962, 76 Stat. 628; amended Pub. L. 89-321, title V, §516, Nov. 3, 1965, 79 Stat. 1206; Pub. L. 90-559, §1(6), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91-524, title IV, §403(a)(3), Nov. 30, 1970, 84 Stat. 1366.)

Editorial Notes

CODIFICATION

The sentence added by Pub. L. 89-321, as amended by Pub. L. 90-559, which directed the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1966 through 1970 wheat crops to persons processing food products at the face value thereof less any amount by which price support for wheat accompanied by domestic certificates exceeded \$2 per bushel, was omitted as executed.

AMENDMENTS

1970—Pub. L. 91-524, temporarily directed the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1971, 1972, and 1973 crops of wheat to persons engaged in the processing of food products but directed that, in determining the cost to processors of food products, the face value be 75 cents per bushel. See Effective and Termination Dates of 1970 Amendment note below.

1968—Pub. L. 90-559 provided for a one year extension of period for sale of marketing certificates, substituting “1966 through the 1970” for “1966 through the 1969” wheat crops.

1965—Pub. L. 89-321 required the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1966 through the 1969 wheat crops

to persons engaged in the processing of food products at the face value thereof less any amount by which price support for wheat accompanied by domestic certificates exceeds \$2 per bushel.

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 403(a) of Pub. L. 91-524 provided that the amendment made by that section is effective only with respect to marketing years beginning July 1, 1971, July 1, 1972, and July 1, 1973.

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 wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101-624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99-198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97-98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95-113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, set out as a note under section 1379d of this title.

§ 1379f. Conversion factors

The Secretary shall establish conversion factors which shall be used to determine the amount of wheat contained in any food product. The conversion factor for any such food product shall be determined upon the basis of the weight of wheat used in the manufacture of such product.

(Feb. 16, 1938, ch. 30, title III, §379f, as added Pub. L. 87-703, title III, §324(2), Sept. 27, 1962, 76 Stat. 629.)

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.