

**AGRICULTURAL ADJUSTMENT ACT OF 1938**

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**AGRICULTURAL ADJUSTMENT ACT OF 1938**

[As Amended Through P.L. 110-246, Effective May 22, 2008]

**AN ACT**

To provide for the conservation of national soil resources and to provide an adequate and balanced flow of agricultural commodities in interstate and foreign commerce and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [7 U.S.C. 1281]* That this Act may be cited as the “Agricultural Adjustment Act of 1938”.

## DECLARATION OF POLICY

SEC. 2. [7 U.S.C. 1282] It is hereby declared to be the policy of Congress to continue the Soil Conservation and Domestic Allotment Act, as amended, for the purpose of conserving national resources, preventing the wasteful use of soil fertility, and of preserving, maintaining, and rebuilding the farm and ranch land resources in the national public interest; to accomplish these purposes through the encouragement of soil-building and soil-conserving crops and practices; to assist in the marketing of agricultural commodities for domestic consumption and for export; and to regulate interstate and foreign commerce in cotton, wheat, corn, and rice to the extent necessary to provide an orderly, adequate, and balanced flow of such commodities in interstate and foreign commerce through storage of reserve supplies, loans, marketing prices for such commodities and parity of income, and assisting consumers to obtain an adequate and steady supply of such commodities at fair prices.

TITLE I—AMENDMENTS TO SOIL CONSERVATION AND  
DOMESTIC ALLOTMENT ACT

[This title contains amendments to the Soil Conservation and Domestic Allotment Act, as amended. Insofar as now applicable, these amendments are incorporated in the Soil Conservation Laws Vol.]

**TITLE II—ADJUSTMENT IN FREIGHT RATES, NEW USES AND  
MARKETS, AND DISPOSITION OF SURPLUSES****ADJUSTMENTS IN FREIGHT RATES FOR FARM PRODUCTS**

**SEC. 201. [7 U.S.C. 1291]** (a) The Secretary of Agriculture is authorized to make complaint to the Surface Transportation Board with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, and to prosecute the same before the Board. Before hearing or disposing of any complaint (filed by any person other than the Secretary) with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, the Board shall cause the Secretary to be notified, and, upon application by the Secretary, shall permit the Secretary to appear and be heard.

(b) If such rate, charge, tariff, or practice complained of is one affecting the public interest, upon application by the Secretary, the Board shall make the Secretary a party to the proceeding. In such case the Secretary shall have the rights of a party before the Board and the rights of a party to invoke and pursue original and appellate judicial proceedings involving the Board's determination. The liability of the Secretary in any such case shall extend only to liability for court costs.

(c) For the purposes of this section, the Surface Transportation Board is authorized to avail itself of the cooperation, records, services, and facilities of the Department of Agriculture.

(d) The Secretary is authorized to cooperate with and assist cooperative associations of farmers making complaint to the Surface Transportation Board with respect to rates, charges, tariffs, and practices relating to the transportation of farm products.

**NEW USES AND NEW MARKETS FOR FARM COMMODITIES**

**SEC. 202. [7 U.S.C. 1292]** (a) The Secretary is hereby authorized and directed to establish, equip, and maintain four regional research laboratories, one in each major farm producing area, and, at such laboratories to conduct researches into and to develop new scientific, chemical, and technical uses and new and extended markets and outlets for farm commodities and products and byproducts thereof. Such research and development shall be devoted primarily to those farm commodities in which there are regular or seasonal surpluses, and their products and byproducts.

(b) For the purposes of subsection (a), the Secretary is authorized to acquire land and interests therein, and to accept in the name of the United States donations of any property, real or personal, to any laboratory established pursuant to this section, and to utilize voluntary or uncompensated services at such laboratories. Donations to any one of such laboratories shall not be available for use by any other of such laboratories.

(c) In carrying out the purposes of subsection (a), the Secretary is authorized and directed to cooperate with other departments or agencies of the Federal Government, States, State agricultural experiment stations, and other State agencies and institutions, counties, municipalities, business or other organizations, corporations, associations, universities, scientific societies, and individuals, upon such terms and conditions as he may prescribe.

(d) To carry out the purposes of subsection (a), the Secretary is authorized to utilize in each fiscal year, beginning with the fiscal

year beginning July 1, 1938, a sum not to exceed \$4,000,000 of the funds appropriated pursuant to section 391 of this Act, or section 15 of the Soil Conservation and Domestic Allotment Act, as amended, for such fiscal year. The Secretary shall allocate one-fourth of such sum annually to each of the four laboratories established pursuant to this section.

[(e)<sup>202-1</sup> \* \* \* ]

(f) There is hereby allocated to the Secretary of Commerce for each fiscal year, beginning with the fiscal year beginning July 1, 1938, out of funds appropriated for such fiscal year pursuant to section 391 of this Act, or section 15 of the Soil Conservation and Domestic Allotment Act, as amended, the sum of \$1,000,000 to be expended for the promotion of the sale of farm commodities and products thereof in such manner as he shall direct. Of the sum allocated under this subsection to the Secretary of Commerce for the fiscal year beginning July 1, 1938, \$100,000 shall be devoted to making a survey and investigation of the cause or causes of the reduction in exports of agricultural commodities from the United States, in order to ascertain methods by which the sales in foreign countries of basic agricultural commodities produced in the United States may be increased.

(g) It shall be the duty of the Secretary to use available funds to stimulate and widen the use of all farm commodities in the United States and to increase in every practical way the flow of such commodities and the products thereof into the markets of the world.

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<sup>202-1</sup> Sec. 202(e) was repealed by P.L. 706, 83d Cong., 68 Stat. 966, Aug. 30, 1954.

TITLE III—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

SUBTITLE A—DEFINITIONS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS

DEFINITIONS

SEC. 301. [7 U.S.C. 1301] (a) GENERAL DEFINITIONS.—For the purposes of this title and the declaration of policy—

(1)(A) The “parity price” for any agricultural commodity, as of any date, shall be determined by multiplying the adjusted base price of such commodity as of such date by the parity index as of such date.

(B) The “adjusted base price” of any agricultural commodity, as of any date, shall be (i) the average of the prices received by farmers for such commodity, at such time as the Secretary may select during each year of the ten-year period ending on the 31st of December last before such date, or during each marketing season beginning in such period if the Secretary determines use of a calendar year basis to be impracticable, divided by (ii) the ratio of the general level of prices received by farmers for agricultural commodities during such period to the general level of prices received by farmers for agricultural commodities during the period January 1910 to December 1914, inclusive. As used in this subparagraph, the term “prices” shall include wartime subsidy payments made to producers under programs designed to maintain maximum prices established under the Emergency Price Control Act of 1942.

(C) The “parity index”, as of any date, shall be the ratio of (i) the general level of prices for articles and services that farmers buy, wages paid hired farm labor, interest on farm indebtedness secured by farm real estate, and taxes on farm real estate, for the calendar month ending last before such date to (ii) the general level of such prices, wages, rates, and taxes during the period January 1910 to December 1914, inclusive.

(D) The prices and indices provided for herein, and the data used in computing them, shall be determined by the Secretary, whose determination shall be final.

(E)<sup>301-1</sup> [ \* \* \* ]

(F) Notwithstanding the provisions of subparagraphs (A) and (E), if the parity price for any agricultural commodity, computed as provided in subparagraphs (A) and (E) appears to be seriously out of line with the parity prices of other agricultural commodities, the Secretary may, and upon the request of a substantial number of interested producers shall, hold public hearings to determine the proper relationship between the parity price of such commodity and the parity prices of other agricultural commodities. Within sixty days after commencing such hearing the Secretary shall complete such hearing, proclaim his findings as to whether the facts require a revision of the method of computing the parity price of such commodity, and put into effect any revision so found to be required.

<sup>301-1</sup> Subpara. (E) provides for computing transitional parity prices, which were last computed in 1955.

(G)<sup>301-2</sup> [ \* \* \* ]

(2) "Parity", as applied to income, shall be that gross income from agriculture which will provide the farm operator and his family with a standard of living equivalent to those afforded persons dependent upon other gainful occupations. "Parity" as applied to income from any agricultural commodity for any year, shall be that gross income which bears the same relationship to parity income from agriculture for such year as the average gross income from such commodity for the preceding ten calendar years bears to the average gross income from agriculture for such ten calendar years.

(3) The term "interstate and foreign commerce" means sale, marketing, trade, and traffic between any State or Territory or the District of Columbia or Puerto Rico, and any place outside thereof; or between points within the same State or Territory or within the District of Columbia or Puerto Rico, through any place outside thereof; or within any Territory or within the District of Columbia or Puerto Rico.

(4) The term "affect interstate and foreign commerce" means, among other things, in such commerce, or to burden or obstruct such commerce or the free and orderly flow thereof; or to create or tend to create a surplus of any cultural commodity which burdens or obstructs such commerce or the free and orderly flow thereof.

(5) The term "United States" means the several States and Territories and the District of Columbia and Puerto Rico.

(6) The term "State" includes a Territory and the District of Columbia and Puerto Rico.

(7) The term "Secretary" means the Secretary of Agriculture, and the term "Department" means the Department of Agriculture.

(8) The term "person" means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State.

(9) The term "corn" means field corn.

(b) DEFINITIONS APPLICABLE TO ONE OR MORE COMMODITIES.—  
For the purposes of this title—

(1)(A) "Actual production" as applied to any acreage of corn means the number of bushels of corn which the local committee determines would be harvested as grain from such acreage if all the corn on such acreage were so harvested. In case of a disagreement between the farmer and the local committee as to the actual production of the acreage of corn on the farm, or in case the local committee determines that such actual production is substantially below normal, the local committee, in accordance with regulations of the Secretary, shall weigh representative samples of ear corn taken from the acreage involved, make proper deductions for moisture content, and determine the actual production of such acreage on the basis of such samples.

(B) "Actual production" of any number of acres of cotton, rice or peanuts on a farm means the actual average yield for the farm times such number of acres.

(2) "Bushel" means in the case of ear corn that amount of ear corn, including not to exceed 15½ per centum of moisture

<sup>301-2</sup> Subpara. (G) was applicable only to the six-year period beginning Jan. 1, 1950.



content, which weighs seventy pounds, and in the case of shelled corn, means that amount of shelled corn including not to exceed 15½ per centum of moisture content, which weighs fifty-six pounds.

(3)(A) "Carry-over", in the case of corn, rice, and peanuts for any marketing year shall be the quantity of the commodity on hand in the United States at the beginning of such marketing year, not including any quantity which was produced in the United States during the calendar year then current.

(B) "Carry-over" of cotton for any marketing year shall be the quantity of cotton on hand in the United States at the beginning of such marketing year, not including any part of the crop which was produced in the United States during the calendar year then current.

(C) "Carry-over" of wheat, for any marketing year shall be the quantity of wheat on hand in the United States at the beginning of such marketing year, not including any wheat which was produced in the United States during the calendar year then current, and not including any wheat held by the Federal Crop Insurance Corporation under title V.<sup>301-3</sup>

(4)<sup>301-4</sup> [ \* \* \* ]

(5)<sup>301-5</sup> [ \* \* \* ]

(6)(A) "Market", in the case of corn, cotton, rice, and wheat, means to dispose of, in raw or processed form, by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos, and, in the case of corn and wheat, by feeding (in any form) to poultry or livestock which, or the products of which, are sold, bartered, or exchanged, or to be so disposed of, but does not include disposing of any of such commodities as premium to the Federal Crop Insurance Corporation under Title V.<sup>301-6</sup>

(B) "Marketed", "marketing", and "for market" shall have corresponding meanings to the term "market" in the connection in which they are used.

(C) "Market", in the case, of peanuts, means to dispose of peanuts, including farmers' stock peanuts, shelled peanuts, cleaned peanuts, or peanuts in processed form, by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos.

(7) "Marketing year"<sup>301-7</sup> means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

Corn, September 1–August 31;

Cotton, August 1–July 31;

Rice, August 1–July 31;

Tobacco (flue-cured), July 1–June 30;

Tobacco (other than flue-cured), October 1–September 30;

Wheat, June 1–May 31.

(8)(A) "National average yield" as applied to cotton or wheat shall be the national average yield per acre of the commodity during the ten calendar years in the case of wheat, and during the five calendar years in the case of cotton, preceding

<sup>301-3</sup> Title V of this Act is the Federal Crop Insurance Act.

<sup>301-4</sup> The definitions in subsecs. (4) and (5) relate to marketing quotas and acreage allotments for corn, which are no longer applicable.

<sup>301-5</sup> See footnote 301-4.

<sup>301-6</sup> See footnote 301-3.

<sup>301-7</sup> The marketing year for peanuts is defined as August 1–July 31 by sec. 359(a).

the year in which such national average yield is used in any computation authorized in this title, adjusted for abnormal weather conditions and, in the case of wheat, but not in the case of cotton, for trends in yields.

(B) "Projected national yield" as applied to any crop of wheat shall be determined on the basis of the national yield per harvested acre of the commodity during each of the five calendar years immediately preceding the year in which such projected national yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices.

(9) "Normal production" as applied to any number of acres of corn or rice means the normal yield for the farm times such number of acres. "Normal production" as applied to any number of acres of cotton or wheat means the projected farm yield times such number of acres.

(10)(A) "Normal supply" in the case of corn, rice, wheat, and peanuts for any marketing year shall be (i) the estimated domestic consumption of the commodity for the marketing year ending immediately prior to the marketing year for which normal supply is being determined, plus (ii) the estimated exports of the commodity for the marketing year for which normal supply is being determined, plus (iii) an allowance for carry-over. The allowance for carry-over shall be the following percentage of the sum of the consumption and exports used in computing normal supply: 15 per centum in the case of corn; 10 per centum in the case of rice; 20 per centum in the case of wheat; and 15 per centum in the case of peanuts. In determining normal supply the Secretary shall make such adjustments for current trends in consumption and for unusual conditions as he may deem necessary.

(B) The "normal supply" of cotton for any marketing year shall be the estimated domestic consumption of cotton for the marketing year for which such normal supply is being determined, plus the estimated exports of cotton for such marketing year, plus 30 per centum of the sum of such consumption and exports as an allowance for carry-over.

(11)(A) "Normal year's domestic consumption", in the case of corn and wheat, shall be the yearly average quantity of the commodity, wherever produced, that was consumed<sup>301-8</sup> in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(B) "Normal year's domestic consumption", in the case of cotton, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(C) "Normal year's domestic consumption", in the case of rice, shall be the yearly average quantity of rice produced in the United States that was consumed in the United States during the five marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

<sup>301-8</sup> The word "consumed" appears in the original legislation as "cosumed."

(12) "Normal year's exports" in the case of corn, cotton, rice, and wheat shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years (or, in the case of rice, the five marketing years) immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

(13)[(A)<sup>301-9</sup> \* \* \* ]

(B) "Normal yield" for any county, in the case of peanuts, shall be the average yield per acre of peanuts for the county, adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined.

(C) In applying subparagraph (A) or (B), if for any such year the data are not available, or there is no actual yield, an appraised yield for such year determined in accordance with regulations issued by the Secretary, shall be used as the actual yield for such year. In applying such subparagraphs, if, on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield in any year of such ten-year period or five-year period, as the case may be, is less than 75 per centum of the average (computed without regard to such year) such year shall be eliminated in calculating the normal yield per acre.

(D) "Normal yield" for any county, in the case of rice and wheat, shall be the average yield per acre of rice or wheat, as the case may be, for the county during the five calendar years immediately preceding the year for which such normal yield is determined in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat, adjusted for abnormal weather conditions and for trends in yields. If for any such year data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, taking into consideration the yields obtained in surrounding counties during such year and the yield in years for which data are available, shall be used as the actual yield for such year.

(E) "Normal yield" for any farm, in the case of rice and wheat, shall be the average yield per acre of rice or wheat, as the case may be, for the farm during the five calendar years immediately preceding the year for which such normal yield is determined in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat, adjusted for abnormal weather conditions and for trends in yields. If for any such year the data are not available or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations issued by the Secretary, taking into consideration abnormal weather conditions, trends in yields, the normal yield for the county, the yields obtained on adjacent farms during such year and the yield in years for which data are available.

(F) In applying subparagraphs (D) and (E), if on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield for any year of such five-year pe-

<sup>301-9</sup> Repealed by P.L. 87-703, 76 Stat. 625, Sept. 27, 1962.

riod is less than 75 per centum of the average, 75 per centum of such average shall be substituted therefor in calculating the normal yield per acre. If, on account of abnormally favorable weather conditions, the yield for any year of such five-year period is in excess of 125 per centum of the average, 125 per centum of such average shall be substituted therefor in calculating the normal yield per acre.

(G) "Normal yield" for any farm, in the case of corn or peanuts, shall be the average yield per acre of corn or peanuts, as the case may be, for the farm, adjusted for abnormal weather conditions during the five calendar years immediately preceding the year in which such normal yield is determined. If for any such year the data are not available or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations of the Secretary, taking into consideration abnormal weather conditions, the normal yield for the county, and the yield in years for which data are available.

(H) "Normal yield" for any county, for any crop of cotton, shall be the average yield per acre of cotton for the county, adjusted for abnormal weather conditions and any significant changes in production practices during the five calendar years immediately preceding the year in which the national marketing quota for such crop is proclaimed. If for any such year the data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, shall be used as the actual yield for such year.

(I) "Normal yield" for any farm, for any crop of cotton, shall be the average yield per acre of cotton for the farm, adjusted for abnormal weather conditions and any significant changes in production practices during the three calendar years immediately preceding the year in which such normal yield is determined. If for any such year the data are not available, or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations of the Secretary, taking into consideration abnormal weather conditions, the normal yield for the county, changes in production practices, and the yield in years for which data are available.

(J) "Projected county yield" for any crop of wheat shall be determined on the basis of the yield per harvested acre of such commodity in the county during each of the five calendar years immediately preceding the year in which such projected county yield is determined, adjusted for abnormal weather conditions affecting such yield for trends to yields and for any significant changes in production practices.

(K) "Projected farm yield" for any crop of wheat shall be determined on the basis of the yield per harvested acre of such commodity on the farm during each of the three calendar years<sup>301-10</sup> immediately preceding the year in which such projected farm yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices, but in no event shall such projected farm yield be less than the normal yield

<sup>301-10</sup>The parenthetical clause "(five calendar years in the case of wheat)" which was added after the words "calendar years" by sec. 1(12) of the Agriculture and Consumer Protection Act of 1973, P.L. 93-86, 87 Stat. 229, Aug. 10, 1973, was effective only with respect to the 1974 through 1977 crops.

for such farm as provided in subparagraph (E) of this paragraph.

(L) "Projected national, State, and county yields" for any crop of cotton shall be determined on the basis of the yield per harvested acre of such crop in the United States, the State and the county, respectively, during each of the five calendar years immediately preceding the year in which such projected yield for the United States, the State, and the county, respectively, is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yield, and for any significant changes in production practices.

(M) "Projected farm yield" for any crop of cotton shall be determined on the basis of the yield per harvested acre of such crop on the farm during each of the three calendar years immediately preceding the year in which such projected farm yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields, and for any significant changes in production practices, but in no event shall such projected farm yield be less than the normal yield for such farm as provided in subparagraph (I) of this paragraph.

(14) "Reserve supply level", in the case of corn, shall be a normal year's domestic consumption and exports of corn plus 10 per centum of a normal year's domestic consumption and exports, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

(15)(A) "Total supply" of wheat, corn, rice, and peanuts for any marketing year shall be the carry-over of the commodity for such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports of the commodity into the United States during such marketing year.

(B) "Total supply" of cotton for any marketing year shall be the carry-over at the beginning of such marketing year, plus the estimated production of cotton in the United States during the calendar year in which such marketing year begins and the estimated imports of cotton into United States during such marketing year.

(c) The latest available statistics of the Federal Government shall be used by the Secretary in making the determinations required to be made by the Secretary under this Act.

(d) In making any determination under this Act or under the Agricultural Act of 1949 with respect to the carryover of any agricultural commodity, the Secretary shall exclude from such determination the stocks of any commodity acquired pursuant to, or under the authority of the Strategic and Critical Materials Stock Piling Act (60 Stat. 596).

[LOANS ON AGRICULTURAL COMMODITIES]

[SEC. 302.<sup>302-1</sup> \* \* \* ]

<sup>302-1</sup> Sec. 302, which provided for loans by Commodity Credit Corporation, was repealed by P.L. 81-439, 63 Stat. 1057, Oct. 31, 1949.

## PARITY PAYMENTS

SEC. 303. [7 U.S.C. 1303] If and when appropriations are made therefor, the Secretary is authorized and directed to make payments to producers of corn, wheat, cotton, or rice, on their normal production of such commodities in amounts which, together with the proceeds thereof, will provide a return to such producers which is as nearly equal to parity price as the funds so made available will permit. All funds available for such payment with respect to these commodities shall, unless otherwise provided by law, be apportioned to these commodities in proportion to the amount by which each fails to reach the parity income. Such payments shall be in addition to and not in substitution for any other payments authorized by law.

## CONSUMER SAFEGUARDS

SEC. 304. [7 U.S.C. 1304] The powers conferred under this Act shall not be used to discourage the production of supplies of foods and fibers sufficient to maintain normal domestic human consumption as determined by the Secretary from the records of domestic human consumption in the years 1920 to 1929, inclusive, taking into consideration increased population, quantities of any commodity that were forced into domestic consumption by decline in exports during such period, current trends in domestic consumption and exports of particular commodities, and the quantities of substitutes available for domestic consumption within any general class of food commodities. In carrying out the purposes of this Act it shall be the duty of the Secretary to give due regard to the maintenance of a continuous and stable supply of agricultural commodities from domestic production adequate to meet consumer demand at prices fair to both producers and consumers.

[SUBTITLE B—MARKETING QUOTAS]

[PART I—MARKETING QUOTAS—TOBACCO<sup>311-1</sup>]

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<sup>311-1</sup> Effective beginning with the 2005 crop of each kind of tobacco, sec. 611(a) of P.L. 108-357, 108 Stat. 1522, Oct. 22, 2004, repealed part I (relating to marketing quotas for tobacco).

Sec. 614 of P.L. 108-357, 108 Stat. 1524, Oct. 22, 2004, provided that the amendments made by subtitle A of title VI shall not affect the liability of any person under any provision of law so amended with respect to the 2004 or an earlier crop of each kind of tobacco.

***[Part II was made inapplicable to the 2008 through 2012 crops of corn.]***

PART II—ACREAGE ALLOTMENTS—CORN<sup>321-1</sup>

[MARKETING QUOTAS FOR CORN]

[SECS. 321 to 325.<sup>321-2</sup> \* \* \* ]

ADJUSTMENT OF FARM MARKETING QUOTAS

SEC. 326.<sup>326-1</sup> [7 U.S.C. 1326] (a) Whenever in any county or other area the Secretary finds that the actual production of corn plus the amount of corn stored under seal in such county or other area is less than the normal production of the marketing percentage of the farm acreage allotment in such county or other area, the Secretary shall terminate farm marketing quotas for corn in such county or other area.

(b) Whenever, upon any farm, the actual production of the acreage of corn is less than the normal production of the marketing percentage of the farm acreage allotment, there may be marketed, without penalty, from such farm an amount of corn from the corn stored under seal pursuant to section 324 which, together with the actual production of the then current crop, will equal the normal production of the marketing percentage of the farm acreage allotment.

(c) Whenever, in any marketing year, marketing quotas are not in effect with respect to the crop of corn produced in the calendar year in which such marketing year begins, all marketing quotas applicable to previous crops of corn shall be terminated.

[ADMINISTRATION]

[SECS. 327 to 329.<sup>327-1</sup> \* \* \* ]

NONESTABLISHMENT OF ACREAGE ALLOTMENTS

SEC. 330.<sup>330-1</sup> [7 U.S.C. 1329a] Notwithstanding any other provision of law, acreage allotments and a commercial corn-producing area shall not be established for the 1959 and subsequent crops of corn.

<sup>321-1</sup> Part II was made inapplicable to the 2008 through 2012 crops of corn by sec. 1602(a)(1) of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, 122 Stat. 1729.

An acreage allotment program is not in effect for corn due to the results of the corn referendum held on Nov. 25, 1958, in which farmers approved a price support program without acreage allotments for the 1959 and subsequent crops. Accordingly, section 330 became effective.

<sup>321-2</sup> Secs. 321-325, containing provisions relating to marketing quotas for corn, were repealed by P.L. 83-690, 68 Stat. 902, Aug. 28, 1954.

<sup>326-1</sup> Section 326 was repealed by P.L. 83-690, 68 Stat. 902 insofar as it was applicable to corn; (b) and (c) below were made applicable to wheat by para. (6), P.L. 74, 77th Congress, 55 Stat. 203. Sec. 326 as set forth below is inapplicable to the 1996 through 2002 crops of corn. See footnote 321-1.

<sup>327-1</sup> See footnote 321-1. Secs. 327 through 329 are omitted from this Handbook because of the reasons stated in footnote 321-1.

<sup>330-1</sup> See footnote 321-1.



***[Part III was made inapplicable to the 2008 through 2012 crops of wheat.]***

PART III—MARKETING QUOTAS—WHEAT<sup>331-1</sup>

LEGISLATIVE FINDINGS

*SEC. 331.<sup>331-2</sup> [7 U.S.C. 1331] Wheat is a basic source of food for the Nation, is produced throughout the United States by more than a million farmers, is sold on the country-wide market and, as wheat or flour, flows almost entirely through instrumentalities of interstate and foreign commerce from producers to consumers.*

*Abnormally excessive and abnormally deficient supplies of wheat on the country-wide market acutely and directly affect, burden, and obstruct interstate and foreign commerce. Abnormally excessive supplies overtax the facilities of interstate and foreign transportation, congest terminal markets and milling centers in the flow of wheat from producers to consumers, depress the price of wheat in interstate and foreign commerce and otherwise disrupt the orderly marketing of such commodity in such commerce. Abnormally deficient supplies result in an inadequate flow of wheat and its products in interstate and foreign commerce with consequent injurious effects to the instrumentalities of such commerce and with excessive increases in the prices of wheat and its products in interstate and foreign commerce.*

*It is in the interest of the general welfare that interstate and foreign commerce in wheat and its products be protected from such burdensome surpluses and distressing shortages, and that a supply of wheat be maintained which is adequate to meet domestic consumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of such burdensome surpluses. Such surpluses result in disastrously low prices of wheat and other grains to wheat producers, destroy the purchasing power of grain producers for industrial products, and reduce the value of the agricultural assets supporting the national credit structure. Such shortages of wheat result in unreasonably high prices of flour and bread to consumers and loss of market outlets by wheat producers.*

*The conditions affecting the production and marketing of wheat are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of such surpluses and shortages and the burdens on interstate and foreign commerce resulting therefrom, maintain normal supplies of wheat, or provide for the orderly marketing thereof in interstate and foreign commerce.*

*Wheat which is planted and not disposed of prior to the date prescribed by the Secretary for the disposal of excess acres of wheat is an addition to the total supply of wheat and has a direct effect on the price of wheat in interstate and foreign commerce and may also affect the supply and price of livestock and livestock products. In the circumstances, wheat not disposed of prior to such date must*

<sup>331-1</sup> Part III was made inapplicable to the 2008 through 2012 crops of wheat by sec. 1602(a)(1) of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, 122 Stat. 1729.

<sup>331-2</sup> See footnote 331-1.

*be considered in the same manner as mechanically harvested wheat in order to achieve the policy of the Act.*

*The diversion of substantial acreages from wheat to the production of commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage would burden, obstruct, and adversely affect interstate and foreign commerce in such commodities, and would adversely affect the prices of such commodities in interstate and foreign commerce. Small changes in the supply of a commodity could create a sufficient surplus to affect seriously the price of such commodity in interstate and foreign commerce. Large changes in the supply of such commodity could have a more acute effect on the price of the commodity in interstate and foreign commerce and, also, could overtax the handling, processing, and transportation facilities through which the flow of interstate and foreign commerce in such commodity is directed. Such adverse effects caused by overproduction in one year could further result in a deficient supply of the commodity in the succeeding year, causing excessive increases in the price of the commodity in interstate and foreign commerce in such year. It is, therefore, necessary to prevent acreage diverted from the production of wheat to be used to produce commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage.*

*The provisions of this part affording a cooperative plan to wheat producers are necessary in order to minimize recurring surpluses and shortages of wheat in interstate and foreign commerce, to provide for the maintenance of adequate reserve supplies thereof, to provide for an adequate and orderly flow of wheat and its products in interstate and foreign commerce at prices which are fair and reasonable to farmers and consumers, and to prevent acreage diverted from the production of wheat from adversely affecting other commodities in interstate and foreign commerce.*

#### PROCLAMATIONS OF SUPPLIES AND ALLOTMENTS

**SEC. 332.**<sup>332-1</sup> **[7 U.S.C. 1332]** (a) *Whenever prior to April 15 in any calendar year the Secretary determines that the total supply of wheat in the marketing year beginning in the next succeeding calendar year will, in the absence of a marketing quota program, likely be excessive, the Secretary shall proclaim that a national marketing quota for wheat shall be in effect for such marketing year and for either the following marketing year or the following two marketing years, if the Secretary determines and declares in such proclamation that a two- or three-year marketing quota program is necessary to effectuate the policy of the Act.*

(b) *If a national marketing quota for wheat has been proclaimed for any marketing year, the Secretary shall determine and proclaim the amount of the national marketing quota for such marketing year not earlier than January 1 or later than April 15 of the calendar year preceding the year in which such marketing year begins. The amount of the national marketing quota for wheat for any marketing year shall be an amount of wheat which the Secretary estimates (i) will be utilized during such marketing year for human consumption in the United States as food, food products, and beverages, composed wholly or partly of wheat, (ii) will be utilized dur-*

<sup>332-1</sup> See footnote 331-1.

ing such marketing year in the United States for seed, (iii) will be exported either in the form of wheat or products thereof and (iv) will be utilized during such marketing year in the United States as live-stock (including poultry) feed, excluding the estimated quantity of wheat which will be utilized for such purpose as a result of the substitution of wheat for feed grains under section 328 of the Food and Agriculture Act of 1962; less (A) an amount of wheat equal to the estimated imports of wheat into the United States during such marketing year and, (B) if the stocks of wheat owned by the Commodity Credit Corporation are determined by the Secretary to be excessive, an amount of wheat determined by the Secretary to be a desirable reduction in such marketing year in such stocks to achieve the policy of the Act: Provided, That if the Secretary determines that the total stocks of wheat in the Nation are insufficient to assure an adequate carryover for the next succeeding marketing year, the national marketing quota otherwise determined shall be increased by the amount the Secretary determines to be necessary to assure an adequate carryover: And provided further, That the national marketing quota for wheat for any marketing year shall be not less than one billion bushels.

(c) If after the proclamation of a national marketing quota for wheat for any marketing year, the Secretary has reason to believe that, because of a national emergency or because of a material increase in the demand for wheat, the national marketing quota should be terminated or the amount thereof increased, he shall cause an immediate investigation to be made to determine whether such action is necessary in order to meet such emergency or increase in the demand for wheat. If on the basis of such investigation, the Secretary finds that such action is necessary, he shall immediately proclaim such finding and the amount of any such increase found by him to be necessary and thereupon such national marketing quota shall be so increased or terminated. In case any national marketing quota is increased under this subsection, the Secretary shall provide for such increase by increasing acreage allotments established under this part by a uniform percentage.

(d) Notwithstanding any other provision of this Act, the Secretary shall not proclaim a national marketing quota for the crops of wheat planted for harvest in the calendar years 1966 through 1970, and farm marketing quotas shall not be in effect for such crops of wheat.

#### NATIONAL ACREAGE ALLOTMENT

SEC. 333.<sup>333-1</sup> [7 U.S.C. 1333] *The Secretary shall proclaim a national acreage allotment for each crop of wheat. The amount of the national acreage allotment for any crop of wheat shall be the number of acres which the Secretary determines on the basis of the projected national yield and expected underplantings (acreage other than that not harvested because of program incentives) of farm acreage allotments will produce an amount of wheat equal to the national marketing quota for wheat for the marketing year for such crop, or if a national marketing quota was not proclaimed, the quota which would have been determined if one had been proclaimed.*

<sup>333-1</sup> See footnote 331-1.

## APPORTIONMENT OF NATIONAL ACREAGE ALLOTMENT

SEC. 334.<sup>334-1</sup> [7 U.S.C. 1334] (a) *The national allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment as provided in this subsection and less the special acreage reserve provided for in this subsection, shall be apportioned by the Secretary among the States on the basis of the preceding year's allotment for each such State, including all amounts allotted to the State and including for 1967 the increased acreage in the State allotted for 1966 under section 335, adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors. The reserve acreage set aside herein for apportionment by the Secretary shall be used (1) to make allotments to counties in addition to the county allotments made under subsection (b) of this section, on the basis of the relative needs of counties for additional allotments because of reclamation and other new areas coming into production of wheat, or (2) to increase the allotment for any county, in which wheat is the principal crop produced, on the basis of its relative need for such increase if the average ratio of wheat acreage allotment to cropland on old wheat farms in such county is less by at least 20 per centum than such average ratio on old wheat farms in an adjoining county or counties in which wheat is the principal grain crop produced or if there is a definable contiguous area consisting of at least 10 per centum of the cropland acreage in such county in which the average ratio of wheat acreage allotment to cropland on old wheat farms is less by at least 20 per centum than such average ratio on the remaining old wheat farms in such county, provided that such low ratio of wheat acreage allotment to cropland is due to the shift prior to 1951 from wheat to one or more alternative income-producing crops which, because of plant disease or sustained loss of markets, may no longer be produced at a fair profit and there is no other alternative income-producing crop suitable for production in the area or county. The increase in the county allotment under clause (2) of the preceding sentence shall be used to increase allotments for old wheat farms in the affected area to make such allotments comparable with those on similar farms in the adjoining areas or counties but the average ratio of increased allotments to cropland on such farms shall not exceed the average ratio of wheat acreage allotment to cropland on old wheat farms in the adjoining areas or counties. There also shall be made available a special acreage reserve of not in excess of one million acres as determined by the Secretary to be desirable for the purposes hereof which shall be in addition to the national acreage reserve provided for in this subsection. Such special acreage reserve shall be made available to the States to make additional allotments to counties on the basis of the relative needs of counties, as determined by the Secretary, for additional allotments to make adjustments in the allotments on old wheat farms (that is, farms on which wheat has been seeded or regarded as seeded to one or more of the, three crops immediately preceding the crop for which the allotment is established) on which the ratio of wheat acreage allotment to cropland on the farm is less than one-half the average ratio of wheat*

<sup>334-1</sup> See footnote 331-1.

acreage allotment to cropland on old wheat farms in the county. Such adjustments shall not provide an allotment for any farm which would result in an allotment-cropland ratio for the farm in excess of one-half of such county average ratio and the total of such adjustments in any county shall not exceed the acreage made available therefor in the county. Such apportionment from the special acreage reserve shall be made only to counties where wheat is a major income-producing crop, only to farms on which there is limited opportunity for production of an alternative income-producing crop, and only if an efficient farming operation on the farm requires the allotment of additional acreage from the special acreage reserve. For the purposes of making adjustments hereunder the cropland on the farm shall not include any land developed as cropland subsequent to the 1963 crop year.

(b) The State acreage allotment for wheat, less a reserve of not to exceed 3 per centum thereof for apportionment as provided in subsection (c) of this section, shall be apportioned by the Secretary among the counties in the State, on the basis of the preceding year's wheat allotment in each such county, including for 1967, the increased acreage in the county allotted for 1966 pursuant to section 335, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors.

(c)(1) The allotment to the county shall be apportioned by the Secretary, through the local committees, among the farms within the county on the basis of past acreage of wheat, tillable acres, crop rotation practices, type of soil, and topography: Not more than 3 per centum of the State allotment shall be apportioned to farms on which wheat has not been planted during any of the three marketing years immediately preceding the marketing year in which the allotment is made. For the purpose of establishing farm acreage allotments—(i) the past acreage of wheat on any farm for 1958 or 1965 shall be the base acreage determined for the farm under the regulations issued by the Secretary for determining 1958 or 1965 farm wheat acreage allotments; (ii) if subsequent to the determination of such base acreage the 1958 or 1965 wheat acreage allotment for the farm is increased through administrative, review, or court proceedings, the 1958 or 1965 farm base acreage shall be increased in the same proportion; and (iii) the past acreage of wheat for 1959 and any subsequent year except 1965 shall be the wheat acreage on the farm which is not in excess of the farm wheat acreage allotment, plus, in the case of any farm which is in compliance with its farm wheat acreage allotment, the acreage diverted under such wheat allotment programs: Provided, That for 1959 and subsequent years in the case of any farm on which 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, the past acreage of wheat for the year in which such farm marketing excess is so delivered or stored shall be the farm base acreage of wheat determined for the farm under the regulations issued by the Secretary for determining farm wheat acreage allotments for such year, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion for the purpose of establishing farm wheat acreage allotments subsequent to such deple-

tion the past acreage of wheat or the farm for the year in which the excess was produced shall be reduced to the farm wheat acreage allotment for such year.

(2) Notwithstanding any other provision of law, each old or new farm acreage allotment for the 1962 crop of wheat as determined on the basis of a minimum national acreage allotment of fifty million acres shall be reduced by 10 per centum. In the event notices of farm acreage allotments for the 1962 crop of wheat have been mailed to farm operators prior to the effective date of this subparagraph (2), new notices showing the required reduction shall be mailed to farm operators as soon as practicable.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, the past acreage of wheat for 1967 and any subsequent year shall be the acreage of wheat planted, plus the acreage regarded as planted, for harvest as grain on the farm which is not in excess of the farm acreage allotment.

(4) Notwithstanding any other provision of this subsection (c), the farm acreage allotment for the 1967 and any subsequent crop of wheat shall be established for each old farm by apportioning the county wheat acreage allotment among farms in the county on which wheat has been planted, or is considered to have been planted, for harvest as grain in any one of the three years immediately preceding the year for which allotments are determined on the past acreage of wheat and the farm acreage allotment for the year immediately preceding the year for which the allotment is being established, adjusted as hereinafter provided. For purposes of this paragraph, the acreage allotment for the immediately preceding year may be adjusted to reflect established crop rotation practices, may be adjusted downward to reflect a reduction in the tillable acreage on the farm, and may be adjusted upward to reflect such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable allotment: Provided, That (i) for the purposes of computing the allotment for any year, the acreage allotment for the farm for the immediately preceding year shall be decreased by 7 per centum if for the year immediately preceding the year for which such reduction is made neither a voluntary diversion program nor a voluntary certificate program was in effect and there was noncompliance with the farm acreage allotment for such year; (ii) for purposes of clause (i) any farm on which the entire amount of farm marketing excess is delivered to the Secretary, stored, or adjusted to zero in accordance with applicable regulations to avoid or postpone payment of the penalty when farm marketing quotas are in effect, shall be considered in compliance with the allotment, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion, the allotment for such farm next computed after determination of such depletion shall be reduced by reducing the allotment for the immediately preceding year by 7 per centum and (iii) for purposes of clause (i) if the Secretary determines that the reduction in the allotment does not provide fair and equitable treatment to producers on farms following special crop rotation practices, he may modify such reduction in the allotment as he determines to be necessary' to provide fair and equitable treatment to such producers.

[(d)<sup>334-2</sup> \* \* \* ]

<sup>334-2</sup>Subsec. (d) was repealed by P.L. 89-321, 79 Stat. 1201, approved Nov. 3, 1965, effective with the 1966 crop of wheat.

(e) <sup>334-3</sup> [ \* \* \* ]

(f) <sup>334-4</sup> [ \* \* \* ]

(g) *Notwithstanding any other provision of law, no acreage in the commercial wheat producing area seeded to wheat for harvest as grain in 1958 or thereafter except 1965 in excess of acreage allotments shall be considered in establishing future State and county acreage allotments. The planting on a farm in the commercial wheat producing area of wheat of the 1958 or any subsequent crop for which no farm wheat acreage allotment was established shall not make the farm eligible for an allotment as an old farm pursuant to the first sentence of subsection (c) of this section nor shall such farm by reason of such planting be considered ineligible for an allotment as a new farm under the second sentence of such subsection.*

[(h) <sup>334-5</sup> \* \* \* ]

(i) *If with respect to any crop of wheat, the Secretary finds that the acreage allotments of farms producing any type of wheat are inadequate to provide for the production of a sufficient quantity of such type of wheat to satisfy the demand therefor, the wheat acreage allotment for such crop for each farm located in a county designated by the Secretary as a county which (1) is capable of producing such type of wheat, and (2) has produced such type of wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested, shall be increased by such uniform percentage as he deems necessary to provide for such quantity. No increase shall be made under this subsection in the wheat acreage allotment of any farm for any crop if any wheat other than such type of wheat is planted on such farm for such crop. Any increases in wheat acreage allotments authorized by this subsection shall be in addition to the National, State, and county wheat acreage allotments, and such increases shall not be considered in establishing future State, county, and farm allotments. The provisions of paragraph (6) of Public Law 74, Seventy-seventh Congress (7 U.S.C. 1340(6)), and section 326(b) of this Act, relating to the reduction of the storage amount of wheat shall apply to the allotment for the farm established without regard to this subsection and not to the increased allotment under this subsection. The land use provisions of section 339 shall not be applicable to any farm receiving an increased allotment under this subsection and the producers on such farms shall not be required to comply with such provisions as a condition of eligibility for price support.*

(j) *Notwithstanding any other provision of this Act, the Secretary shall increase the acreage allotments for the 1970 and subsequent crops of wheat for privately owned farms in the irrigable portion of the area known as the Tulelake division of the Klamath project of California located in Modoc and Siskiyou Counties, California, as defined by the United States Department of the Interior, Bureau of Reclamation, and hereinafter referred to as the area. The increase for the area for each such crop shall be determined by adding, to the extent applications are made therefor, to the total allotments established for privately owned farms in the area for the particular crop without regard to this subsection (hereinafter referred to as the original allotments) an acreage sufficient to make available*

<sup>334-3</sup> Subsec. (e) was applicable only with respect to the 1962 and 1963 crops of Durum wheat.

<sup>334-4</sup> Subsec. (f) was applicable only with respect to the 1955, 1956 and 1957 crops of wheat.

<sup>334-5</sup> There is no subsec. (h) for 1964 and subsequent crops.

*for each such crop a total allotment of twelve thousand acres for the area. The additional allotments made available by this subsection shall be in addition to the National, State, and county allotments otherwise established under this section, and the acreage planted to wheat pursuant to such increases in allotments shall not be taken into account in establishing future State, county, and farm acreage allotments except as may be desirable in providing increases in allotments for subsequent years under this subsection for the production of Durum wheat. The Secretary shall apportion the additional allotment acreage made available under this subsection between Modoc and Siskiyou Counties on the basis of the relative needs for additional allotments for the portion of the area in each county. The Secretary shall allot such additional acreage to individual farms in the area for which applications for increased acreages are made on the basis of tillable acres, crop rotation practices, type of soil and topography, and the original allotment for the farm, if any. The increase in the wheat acreage allotment for any farm under this subsection (1) shall not be taken into account in computing the farm wheat marketing allocation under section 379b, and (2) shall be conditioned upon the production of Durum wheat on the original allotment and on the increased acreage. The producers on a farm receiving an increased allotment under this subsection shall not be eligible for diversion payments under section 339.*

*(k) Notwithstanding any other provision of this Act, if the Secretary determines that because of a natural disaster a portion of the farm wheat acreage allotments in a county cannot be timely planted or replanted, he may authorize the transfer of all or a part of the wheat acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of wheat and will share in the proceeds thereof in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be planted on the farm which it was transferred for the purposes of acreage history credits under this Act.*

[WHEAT DIVERSION PROGRAMS]

**[SEC. 327 OF FOOD AND AGRICULTURE ACT OF 1962.<sup>334-6</sup> [7 U.S.C. 1339b]]** In the establishment of State, county, and farm acreage allotments for wheat under the Agricultural Adjustment Act of 1938, as amended, the acreage which is determined under regulations of the Secretary to have been diverted from the production of wheat under the special programs formulated pursuant to section 307 of this Act, section 339 of the Agricultural Adjustment Act of 1938, as amended, and section 124 of the Agricultural Act of 1961, shall be credited to the State, county, and farm as though such acreage had actually been devoted to the production of wheat.】

COMMERCIAL AREA

**SEC. 334a.<sup>334a-1</sup> [7 U.S.C. 1334b]]** *If the acreage allotment for any State for any crop of wheat is twenty five thousand acres or less, the Secretary, in order to promote efficient administration of this Act and the Agricultural Act of 1949, may designate such State as out-*

<sup>334-6</sup> P.L. 87-703, 76 Stat. 605, Sept. 27, 1962.

<sup>334a-1</sup> See footnote 331-1.



*side the commercial wheat producing area for the marketing year for such crop. If such State is so designated, acreage allotments for such crop and marketing quotas for the marketing year therefor shall not be applicable to any farm in such State. Acreage allotments in any State shall not be increased by reason of such designation.*

MARKETING PENALTIES

SEC. 335.<sup>335-1</sup> [7 U.S.C. 1335] [ \* \* \* ]

REFERENDUM

SEC. 336.<sup>336-1</sup> [7 U.S.C. 1336] *If a national marketing quota for wheat for one, two or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 335 to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period. Notwithstanding any other provision hereof the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.*

[ADJUSTMENT AND SUSPENSION OF QUOTA]

[SEC. 337.<sup>337-1</sup> \* \* \* ]

TRANSFER OF QUOTAS

SEC. 338.<sup>338-1</sup> [7 U.S.C. 1338] *Farm marketing quotas for wheat shall not be transferable, but, in accordance with regulations prescribed by the Secretary for such purpose, any farm marketing quota in excess of the supply of wheat for such farm for any marketing year may be allocated to other farms on which the acreage allotment has not been exceeded.*

<sup>335-1</sup> Sec. 335 was amended effective only for the 1987 through 1990 crops of wheat by sec. 305 of the Food Security Act of 1985, P.L. 99-198, 99 Stat. 1380, Dec. 23, 1985.

<sup>336-1</sup> See footnote 331-1.

<sup>337-1</sup> Sec. 337 was repealed by P.L. 87-703, 76 Stat. 622, Sept. 27, 1962, effective as to the 1964 and subsequent crops.

<sup>338-1</sup> See footnote 331-1.

## LAND USE

SEC. 339.<sup>339-1</sup> [7 U.S.C. 1339] (a)(1) *During any year in which marketing quotas for wheat are in effect, the producers on any farm (except a new farm receiving an allotment from the reserve for new farms) on which any crop is produced on acreage required to be diverted from the production of wheat shall be subject to a penalty on such crop, in addition to any marketing quota penalty applicable to such crops, as provided in this subsection unless (1) the crop is designated by the Secretary as one which is not in surplus supply and will not be in surplus supply if it is permitted to be grown on the diverted acreage, or as one the production of which will not substantially impair the purpose of the requirements of this section, or (2) no wheat is produced on the farm, and the producers have not filed an agreement or a statement of intention to participate in the payment program formulated pursuant to subsection (b) of this section. The acreage required to be diverted from the production of wheat on the farm shall be an acreage of cropland equal to the number of acres determined by multiplying the farm acreage allotment by the diversion factor determined by dividing the number of acres by which the national acreage allotment (less an acreage equal to the increased acreage allotment for 1966 pursuant to section 335) is reduced below fifty-five million acres by the number of acres in the national acreage allotment (less an acreage equal to the increased acreage allotted for 1966 pursuant to section 335). The actual production of any crop subject to penalty under this subsection shall be regarded as available for marketing and the penalty on such crop shall be computed on the actual acreage of such crop at the rate of 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which such crop is harvested, multiplied by the normal yield of wheat per acre established for the farm. Until the producers on any farm pay the penalty on such crop, 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. Each producer having an interest in the crop or crops on acreage diverted or required to be diverted from the production of wheat shall be jointly and severally liable for the entire amount of the penalty. The persons liable for the payment or collection of the penalty under this section 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.*

(2) *The Secretary may require that the acreage on any farm diverted from the production of wheat be land which was diverted from the production of wheat in the previous year, to the extent he determines that such requirement is necessary to effectuate the purposes of this subtitle.*

(3) *The Secretary may permit the diverted acreage to be grazed in accordance with regulations prescribed by the Secretary.*

(b) <sup>339-2</sup> [ \* \* \* ]

(c) <sup>339-3</sup> [ \* \* \* ]

(d) <sup>339-4</sup> [ \* \* \* ]

<sup>339-1</sup> See footnote 331-1.

<sup>339-2</sup> Subsecs. (b), (c), (d), (e), (f) and (h) were effective only through the 1970 crop.

<sup>339-3</sup> See footnote 339-2.

<sup>339-4</sup> See footnote 339-2.

(e) <sup>339-5</sup> [ \* \* \* ]

(f) <sup>339-6</sup> [ \* \* \* ]

(g) *The Secretary is authorized to promulgate such regulations as may be desirable to carry out the provisions of this section.*

(h) <sup>339-7</sup> [ \* \* \* ]

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<sup>339-5</sup> See footnote 339-2.

<sup>339-6</sup> See footnote 339-2.

<sup>339-7</sup> See footnote 339-2.

**[Part IV was made inapplicable to the 2008 through 2012 crops of cotton.]**

PART IV—MARKETING QUOTAS—COTTON<sup>341-1</sup>

LEGISLATIVE FINDINGS

SEC. 341.<sup>341-2</sup> [7 U.S.C. 1341] *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 industrial products moving in interstate and foreign commerce with consequent diminution of the volume of such commerce in industrial products.*

*The conditions affecting the production and marketing of cotton are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of excessive supplies of cotton and fluctuations in supplies, cannot prevent indiscriminate dumping of excessive supplies on the Nation-wide and foreign markets, cannot maintain normal carryovers of cotton, and cannot provide for the orderly marketing of cotton in interstate and foreign commerce.*

*It is in the interest of the general welfare that interstate and foreign commerce in cotton be protected from the burdens caused by the marketing of excessive supplies of cotton in such commerce, that a supply of cotton be maintained which is adequate to meet domestic consumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of excessive supplies of cotton.*

*The provisions of this part affording a cooperative plan to cotton producers are necessary and appropriate to prevent the burdens on interstate and foreign commerce caused by the marketing in such commerce of excessive supplies, and to promote, foster, and maintain an orderly flow of an adequate supply of cotton in such commerce.*

<sup>341-1</sup> Part IV was made inapplicable to the 2008 through 2012 crops of cotton by sec. 1602(a)(1) of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, 122 Stat. 1729.

<sup>341-2</sup> See footnote 341-1.

## NATIONAL MARKETING QUOTA

SEC. 342.<sup>342-1</sup> [7 U.S.C. 1342] *Whenever during any calendar year the Secretary determines that the total supply of cotton for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year, the Secretary shall proclaim such fact and a national marketing quota shall be in effect for the crop of cotton produced in the next calendar year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the number of bales of cotton (standard bales of five hundred pounds gross weight) adequate, together with (1) the estimated carryover at the beginning of the marketing year which begins in the next calendar year and (2) the estimated imports during such marketing year, to make available a normal supply of cotton: Provided, That beginning with the 1961 crop, the national marketing quota shall be not less than a number of bales equal to the estimated domestic consumption and estimated exports (less estimated imports) for the marketing year for which the quota is proclaimed, except that the Secretary shall make such adjustments in the amount of such quota as he determines necessary after taking into consideration the estimated stocks of cotton in the United States (including the qualities of such stocks) and stocks in foreign countries which would be available for the marketing year for which the quota is being proclaimed if no adjustment of such quota is made hereunder, to assure the maintenance of adequate but not excessive stocks in the United States to provide a continuous and stable supply of the different qualities of cotton needed in the United States and in foreign cotton consuming countries, and for purposes of national security but the Secretary, in making such adjustments, may not reduce the national marketing quota or any year below (i) one million bales less than the estimated domestic consumption and estimated exports for the marketing year for which such quota is being proclaimed, or (ii) ten million bales, whichever is larger. Such proclamation shall be made not later than October 15 of the calendar year in which such determination is made. [ \* \* \* <sup>342-2</sup>] Notwithstanding any other provision of this Act, the national marketing quota for upland cotton for 1959 and subsequent years shall be not less than the number of bales required to provide a national acreage allotment for each such year of sixteen million acres.*

## [NATIONAL COTTON PRODUCTION GOAL]

SEC. 342a.<sup>342a-1</sup> [7 U.S.C. 1342a] *The Secretary shall, not later than November 15, of the calendar years 1970 through 1976, proclaim a national cotton production goal for the 1971 and subsequent crops of upland cotton. The national cotton production goal for any year shall be the number of bales of upland cotton (standard bales of four hundred and eighty pounds net weight) equal to the estimated domestic consumption and estimated exports for the marketing year beginning in the calendar year for which such national cotton production goal is proclaimed, plus an allowance of not less than 5 per centum of such estimated consumption and estimated exports for market expansion except that the Secretary shall make such*

<sup>342-1</sup> See footnote 341-1.

<sup>342-2</sup> Proviso effective only to the 1957 and 1958 crops of cotton has been omitted.

<sup>342a-1</sup> See footnote 341-1.

*adjustments in the amount of such production goal as he determines necessary after taking into consideration the estimated stocks of upland cotton in the United States (including the qualities of such stocks) and stocks in foreign countries, which would be available for the marketing year, to assure the maintenance of adequate but not excessive carryover stocks in the United States (not less than 50 per centum of the average offtake for the three preceding marketing years) to provide a continuous and stable supply of the different qualities of upland cotton needed in the United States and in foreign cotton consuming countries and, in addition, to provide an adequate reserve for purposes of national security.*

#### REFERENDUM

SEC. 343.<sup>343-1</sup> [7 U.S.C. 1343] *Not later than December 15 following the issuance of the marketing quota proclamation provided for in section 342, the Secretary shall conduct a referendum, by secret ballot, of farmers engaged in the production of cotton in the calendar year in which the referendum is held, to determine whether such farmers are in favor of or opposed to the quota so proclaimed: Provided, That [ \* \* \* <sup>343-2</sup> ] If more than one third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become ineffective upon proclamation of the results of the referendum. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum. Notwithstanding any other provision hereof the referendum with respect to the national marketing quota for cotton for the marketing year beginning August 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.*

#### ACREAGE ALLOTMENTS

SEC. 344.<sup>344-1</sup> [7 U.S.C. 1344] (a) *Whenever a national marketing quota is proclaimed under section 342, the Secretary shall determine and proclaim a national acreage allotment for the crop of cotton to be produced in the next calendar year. The national acreage allotment for cotton shall be that acreage, based upon the national average yield per acre of cotton for the four years immediately preceding the calendar year in which the national marketing quota is proclaimed, required to make available from such crop an amount of cotton equal to the national marketing quota.*

(b) *The national acreage allotment for cotton for 1953 and subsequent years shall be apportioned to the States on the basis of the acreage planted to cotton (including the acreages regarded as having been planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) during the five calendar years immediately preceding the calendar year in which the national marketing quota is proclaimed, with adjustments for abnormal weather conditions during such period: Provided, That [ \* \* \* <sup>344-2</sup> ] Provided, That there is hereby established a national acreage reserve consisting of three hundred and ten thousand acres which shall be in addition to the*

<sup>343-1</sup> See footnote 341-1.

<sup>343-2</sup> Proviso effective only as to 1950 crop cotton omitted.

<sup>344-1</sup> See footnote 341-1.

<sup>344-2</sup> A proviso which was effective only with respect to the 1957 and 1958 crops of cotton has been deleted.

*national acreage allotment; and such reserve shall be apportioned to the States on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1), as determined by the Secretary without regard to State and county acreage reserves (except that the amount apportioned to Nevada shall be one thousand acres). For the 1960 and succeeding crops of cotton, the needs of States (other than Nevada) for such additional acreage for such purpose may be estimated by the Secretary, after taking into consideration such needs as determined or estimated for the preceding crop of cotton and the size of the national acreage allotment for such crop. The additional acreage so apportioned to the State shall be apportioned to the counties on the basis of the needs of the counties for such additional acreage for such purpose, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreage). Additional acreage apportioned to a State for any year under the foregoing proviso shall not be taken into account in establishing future State acreage allotments. Needs for additional acreage under the foregoing provisions and under the last provision in subsection (e) shall be determined or estimated as though allotments were first computed without regard to subsection (f)(1).*

(c) <sup>344-3</sup> [ \* \* \* ]

(d) <sup>344-4</sup> [ \* \* \* ]

(e) *The State acreage allotment for cotton shall be apportioned to counties on the same basis as to years and conditions as is applicable to the State under subsections (b), (c), and (d) of this section: Provided, That the State committee may reserve not to exceed 10 per centum of its State acreage allotment (15 per centum if the State's 1948 planted acreage was in excess of one million acres and less than half its 1943 allotment) which shall be used to make adjustments in county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardship: Provided further, That [ \* \* \* <sup>344-5</sup>]. Provided further, That if the additional acreage allocated to a State under the proviso in subsection (b) is less than the requirements as determined or estimated by the Secretary for establishing minimum farm allotments for the State under subsection (f)(1), the acreage reserved under this subsection shall not be less than the smaller of (1) the remaining acreage so determined or estimated to be required for establishing minimum farm allotments or (2) 3 per centum of the State acreage allotment; and the acreage which is required to be reserved under this proviso shall be allocated to counties on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1), and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreages).*

<sup>344-3</sup> Subsec. (c) was applicable only to the 1950 and 1951 crops of cotton.

<sup>344-4</sup> Subsec. (d) was applicable only to the 1952 crop of cotton.

<sup>344-5</sup> A proviso which was effective only with respect to the 1957 and 1958 crops of cotton has been deleted.

*(f) The county acreage allotment, less not to exceed the percentage provided for in paragraph (3) of this subsection shall be apportioned to farms on which cotton has been planted (or regarded as having been planted under the provisions of Public Law 12, Seventy-ninth Congress) in any one of the three years immediately preceding the year for which such allotment is determined on the following basis:*

*(1) Insofar as such acreage is available, there shall be allotted the smaller of the following: (A) ten acres; or (B) the acreage allotment established for the farm for the 1958 crop.*

*(2) The remainder shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) so that the allotment to each farm under this paragraph together with the amount of the allotment to such farm under paragraph (1)(A) shall be a prescribed percentage (which percentage shall be the same for all such farms in the county or administrative areas) of the acreage, during the preceding year, on the farm which is tilled annually or in regular rotation, excluding from such acreages the acres devoted to the production of sugar cane for sugar, sugar beets for sugar, wheat, tobacco, or rice for market; peanuts picked and threshed; wheat or rice or feeding to livestock for market; or lands determined to be voted primarily to orchards or vineyards, and nonirrigated lands in irrigated area: Provided, however, That if a farm would be allotted under this paragraph an acreage together with the amount of the allotment to such farm under paragraph (1)(A) in excess of the largest acreage planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) to cotton during any of the preceding three years, the acreage allotment for such farm shall not exceed such largest acreage so planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) in any such year.*

*(3) The county committee may reserve not in excess of 15 per centum of the county allotment [ \* \* \* <sup>344-6</sup> ] which, in addition to the acreage made available under the proviso in subsection (e), shall be used for (A) establishing allotments for farms on which cotton was not planted (or regarded as planted under Public Law 12, Seventy-ninth Congress) during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other physical facilities affecting the production of cotton; and (B) making adjustments of the farm acreage allotments established under paragraphs (1) and (2) of this subsection so as to establish allotments which are fair and reasonable in relation to the factors set forth in this paragraph and abnormal conditions of production on such farms, or in making adjustments in farm acreage allotments to correct inequities and to prevent hardship: Provided, That not less than 20 percent of the acreage reserved under this subsection shall, to the extent required, be allotted upon such basis as the Secretary deems fair and reasonable to farms (other than farms to which an allotment has been made under subsection (f)(1)(B), if any, to which*

<sup>344-6</sup> Material omitted which does not change 15 per centum maximum.



*an allotment of not exceeding fifteen acres may be made under other provisions of this subsection.*

(4)<sup>344-7</sup>

(5)<sup>344-8</sup>

(6) *Notwithstanding the provisions of paragraph (2) of this subsection, if the county committee recommends such action and the Secretary determines that such action will result in a more equitable distribution of the county allotment among farms in the county, the remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment of such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county) of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined, adjusted as may be necessary for abnormal conditions affecting plantings during such three year period: Provided, That the county committee may in its discretion limit any farm acreage allotment established under the provisions of this paragraph for any year to an acreage not in excess of 50 per centum of the cropland on the farm, as determined pursuant to the provisions of paragraph (2) of this subsection: Provided further, That any part of the county acreage allotment not apportioned under this paragraph by reason of the initial application of such 50 per centum limitation shall be added to the county acreage reserve under paragraph (3) of this subsection and shall be available for the purposes specified therein. If the county acreage allotment is apportioned among the farms of the county in accordance with the provisions of this paragraph, the acreage reserved under paragraph (3) of this subsection may be used to make adjustments so as to establish allotments which are fair and reasonable to farms receiving allotments under this paragraph in relation to the factors set forth in paragraph (3).*

(7)(A) *In the event that any farm acreage allotment is less than that prescribed by paragraph (1), such acreage allotment shall be increased to the acreage prescribed by paragraph (1). The additional acreage required to be allotted to farms under this paragraph shall be in addition to the county, State, and national acreage allotments and the production from such acreage shall be in addition to the national marketing quota.*

(B) *Notwithstanding any other provision of law—*

*(i) the acreage by which any farm acreage allotment for 1959 or any subsequent crop established under paragraph (1) exceeds the acreage which would have been allotted to such farm if its allotment had been computed on the basis of the same percentage factor applied to other farms in the county under paragraph (2), (6), or (8) shall not be taken into account in establishing the acreage allotment for such farm for any crop for which acreage is allotted to such farm under paragraph (2), (6), or (8); and acreage shall be allot-*

<sup>344-7</sup> Paras. (4) and (5) were applicable only to the 1950 crop of cotton.

<sup>344-8</sup> See footnote 344-7.

*ted under paragraph (2), (6), or (8) to farms which did not receive 1958 crop allotments in excess of ten acres if and only if the Secretary determines (after considering the allotments to other farms in the county for such crop compared with their 1958 allotments and other relevant factors) that equity and justice require the allotment of additional acreage to such farm under paragraph (2), (6), or (8),*

*(ii) the acreage by which any county acreage allotment for 1959 or any subsequent crop is increased from the national or State reserve on the basis of its needs for additional acreage for establishing minimum farm allotments shall not be taken into account in establishing future county acreage allotments, and*

*(iii) the additional acreage allotted pursuant to subparagraph (A) of this paragraph (7) shall not be taken into account in establishing future State, county, or farm acreage allotments.*

*(8) Notwithstanding the foregoing provisions of paragraphs (2) and (6) of this subsection, the Secretary shall, if allotments were in effect the preceding year, provide for the county acreage allotment for the 1959 and succeeding crops of cotton, less the acreage reserved under paragraph (3) of this subsection, to be apportioned to farms on which cotton has been planted in any one of the three years immediately preceding the year for which such allotment is determined, on the basis of the farm acreage allotment for the year immediately preceding the year for which such apportionment is made, adjusted as may be necessary (i) for any change in the acreage of cropland available for the production of cotton, or (ii) to meet the requirements of any provision (other than those contained in paragraphs (2) and (6)) with respect to the counting of acreage for history purposes: Provided, That, beginning with allotments established for the 1961 crop of cotton, if the acreage actually planted (or regarded as planted under the Soil Bank Act, the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985, and the release and reapportionment provisions of subsection (m)(2) of this section) to cotton on the farm in the preceding year was less than 75 per centum of the farm allotment for such year or, in the case of a farm which qualified for price support on the crop produced in such year under section 103(b) of the Agricultural Act of 1949, as amended, 75 per centum of the farm domestic allotment established under section 350 for such year, whichever is smaller, in lieu of using such allotment as the farm base as provided in this paragraph, the base shall be the average of (1) the cotton acreage for the farm for the preceding year as determined for purposes of this proviso and (2) the allotment established for the farm pursuant to the provisions of this subsection (f) for such preceding year; and the 1958 allotment used for establishing the minimum farm allotment under paragraph (1) of this subsection (f) shall be adjusted to the average acreage so determined. The base for a farm shall not be adjusted as provided in this paragraph if the county committee determines that failure to plant at least 75 per centum of the farm allotment was due to conditions beyond the control of producers on the farm. The Secretary shall establish limitations to prevent allocations of allotment to farms not*

affected by the foregoing proviso, which would be excessive on the basis of the cropland, past cotton acreage, allotments for other commodities, and good soil conservation practices on such farms.

(g) Notwithstanding the foregoing provisions of this section—

(1) State, county, and farm acreage allotments and yields for cotton shall be established in conformity with Public Law 28, Eighty-first Congress.

(2) In apportioning the county allotment among the farms within the county, the Secretary, through the local committees, shall take into consideration different conditions within separate administrative areas within a county if any exist, including types, kinds, and productivity of the soil so as to prevent discrimination among the administrative areas of the county.

[(3)<sup>344-9</sup> \* \* \* ]

[(h)<sup>344-10</sup> \* \* \* ]

(i) Notwithstanding any other provision of this Act, any acreage planted to cotton in excess of the farm acreage allotment shall not be taken into account in establishing State, county, and farm acreage allotments. Notwithstanding any other provision of this Act, beginning with the 1960 crop the planting of cotton on a farm in any of the immediately preceding three years that allotments were in effect but no allotment was established for such farm for any year of such three year period shall not make the farm eligible for an allotment as an old farm under subsection (f) of this section: Provided, however, That by reason of such planting the farm need not be considered as ineligible for a new farm allotment under subsection (f)(3) of this section.

(j) Notwithstanding any other provision of this Act, State and county committees shall make available for inspection by owners or operators of farms receiving cotton acreage allotments all records pertaining to cotton acreage allotments and marketing quotas.

(k)<sup>344-11</sup> Notwithstanding any other provision of this section except subsection (g)(1), there shall be allotted to each State for which an allotment is made under this section not less than the smaller of (A) four thousand acres or (B) the highest acreage planted to cotton in any one of the three calendar years immediately preceding the year for which the allotment is made.

[(l)<sup>344-12</sup> [ \* \* \* ]

(m) Notwithstanding any other provision of law—

(1) (Applicable only to 1954 crop of cotton.)

(2) Any part of any farm cotton acreage allotment on which cotton will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of cotton, land, labor, equipment available for the production of cotton, crop rotation practices, and soil and other physical facilities affecting the production of cotton. If all of the allotted acreage voluntarily sur-

<sup>344-9</sup> Para. (3) was repealed by P.L. 86-172, 73 Stat. 394, Aug. 18, 1959.

<sup>344-10</sup> Subsec. (h) was repealed by P.L. 85-835, 72 Stat. 996, Aug. 28, 1958.

<sup>344-11</sup> Subsec. 347(c) of the Act, *infra*, excepts subsec. (k) from the provisions of the Act applicable to extra long staple cotton.

<sup>344-12</sup> Subsec. (l), relating to war crops under P.L. 79-12, does not apply to the 1955 and succeeding crops of cotton.

*rendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used for the same purposes as the State acreage reserve under subsection (e) of this section. Any allotment released under this provision shall be regarded for the purposes of establishing future allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred, except that this shall not operate to make the farm from which the allotment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period: Provided, That notwithstanding any other provisions of law, any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein. Acreage released under this paragraph shall be credited to the State in determining future allotments. The provisions of this paragraph shall apply also to extra long staple cotton covered by section 341 of this Act.*

(3)<sup>344-13</sup> [ \* \* \* ]

*(n) Notwithstanding any other provision of this Act, if the Secretary determines for any year that because of a natural disaster a portion of the farm cotton acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or part of the cotton acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this paragraph shall be deemed to be released acreage for the purpose of acreage history credits under section 344(f)(8), 344(m)(2), and 377 of this Act: Provided, That, notwithstanding the provisions of section 344(m)(2) of this Act, the transfer of any farm allotment under this subsection for any year shall operate to make the farm from which the allotment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period.*

SALES, LEASE AND TRANSFER OF UPLAND COTTON ACREAGE  
ALLOTMENTS

**SEC. 344a. [7 U.S.C. 1344b]** *(a)<sup>344a-1</sup> Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the program involved, (1) may permit the owner and operator of any farm for which a cotton acreage allotment is established to sell or lease all or any part or the right to all or any part of such allotment (excluding that part of the allotment which the Secretary determines was apportioned to the farm from the national acreage reserve) to any other owner or operator of a farm for transfer to such farm; (2) may permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him: Provided, That the authority granted under this section may be exercised for the calendar years 1966 through*

<sup>344-13</sup> Para. (3) was applicable only to the 1954 crop of cotton.

<sup>344a-1</sup> See footnote 341-1.

1970, but all transfers hereunder shall be for such period of years as the parties thereto may agree.

(b) Transfers under this section shall be subject to the following conditions: (i) no allotment shall be transferred to a farm in another State or to a person for use in another State; (ii) no farm allotment may be sold or leased for transfer to a farm in another county unless the producers of cotton in the county from which transfer is being made have voted in a referendum within three years of the date of such transfer, by a two-thirds majority of the producers participating in such referendum, to permit the transfer of allotments to farms outside the county, which referendum, insofar as practicable, shall be held in conjunction with the marketing quota referendum for the commodity; (iii) no transfer of an allotment from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lien-holder; (iv) no sale of a farm allotment shall be permitted if any sale of cotton allotment to the same farm has been made within the three immediately preceding crop years; (v) the total cotton allotment for any farm to which allotment is transferred by sale or lease shall not exceed the farm acreage allotment (excluding reapportioned acreage) established for such farm for 1965 by more than one hundred acres; (vi) the cotton in excess of the remaining acreage allotment on the farm shall be planted on any farm from which the allotment (or part of an allotment) is sold for a period of five years following such sale, nor shall any cotton in excess of the remaining acreage allotment on the farm be planted on any farm from which the allotment (or part of an allotment) is leased during the period of such lease, and the producer on such farm shall so agree as a condition precedent to the Secretary's approval of any such sale or lease; and (vii) no transfer of allotment shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section. Such record may be filed with such committee only during the period beginning June 1 and ending December 31.

(c) The transfer of an allotment shall have the effect of transferring also the acreage history, farm base, and marketing quota attributable to such allotment and if the transfer is made prior to the determination of the allotment for any year the transfer shall include the right of the owner or operator to have an allotment determined for the farm for such year: Provided, That in the case of a transfer by lease, the amount of the allotment shall be considered for purposes of determining allotments after the expiration of the lease to have been planted on the farm from which such allotment is transferred.

(d) The land in the farm from which the entire cotton allotment and acreage history have been transferred shall not be eligible for a new farm cotton allotment during the five years following the year in which such transfer is made.

(e) The transfer of a portion of a farm allotment which was established under minimum farm allotment provisions for cotton or which operates to bring the farm within the minimum farm allotment provision for cotton shall cause the minimum farm allotment or base to be reduced to an amount equal to the allotment remaining on the farm after such transfer.

(f) The Secretary shall prescribe regulations for the administration of this section, which shall include provisions for adjusting the

*size of the allotment transferred if the farm to which the allotment is transferred has a substantially higher yield per acre and such other terms and conditions as he deems necessary.*

*(g) If the sale or lease occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, cropland adjustment agreement, or other similar land utilization agreement, the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the allotment is transferred.*

*(h) The Secretary shall by regulations authorize the exchange between farms in the same county, or between farms in adjoining counties within a State, of cotton acreage allotment for rice acreage allotment. Any such exchange shall be made on the basis of application filed with the county committee by the owners and operators of the farms, and the transfer of allotment between the farms shall include transfer of the related acreage history for the commodity. The exchange shall be acre for acre or on such other basis as the Secretary determines is fair and reasonable, taking into consideration the comparative productivity of the soil for the farms involved and other relevant factors. No farm from which the entire cotton or rice allotment has been transferred shall be eligible for an allotment of cotton or rice as a new farm within a period of five crop years after the date of such exchange.*

*(i) The provisions of this section relating to cotton shall apply only to upland cotton.*

#### FARM MARKETING QUOTAS

**SEC. 345.**<sup>345-1</sup> [7 U.S.C. 1345] *The farm marketing quota for any crop of cotton shall be the actual production of the acreage planted to cotton on the farm less the farm marketing excess. The farm marketing excess shall be the normal production of that acreage planted to cotton on the farm which is in excess of the farm acreage allotment: Provided, That such farm marketing excess shall not be larger than the amount by which the actual production of cotton on the farm exceeds the normal production of the farm acreage allotment, if the producer establishes such actual production to the satisfaction of the Secretary.*

#### PENALTIES; EXPORT MARKET ACREAGE

**SEC. 346.**<sup>346-1</sup> [7 U.S.C. 1346] *(a) Whenever farm marketing quotas are in effect with respect to any crop of cotton the producer shall be subject to a penalty on the farm marketing excess at a rate per pound equal to 50 per centum of the parity price per pound for cotton as of June 15 of the calendar year in which such crop is produced.*

*(b) The farm marketing excess of cotton shall be regarded as available for marketing and the amount of penalty shall be computed upon the normal production of the acreage on the farm planted to cotton in excess of the farm acreage allotment. If a downward adjustment in the amount of the farm marketing excess is made pur-*

<sup>345-1</sup> See footnote 341-1.

<sup>346-1</sup> See footnote 341-1.

*suant to the proviso in section 345, the difference between the amount of the penalty computed upon the farm marketing excess before such adjustment and as computed upon the adjusted farm marketing excess shall be returned to or allowed the producer.*

*(c) The person liable for payment or collection of the penalty 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.*

*(d) Until the penalty on the farm marketing excess is paid, all cotton produced on the farm and marketed by the producers shall be subject to the penalty provided by this section and a lien on the entire crop of cotton produced on the farm shall be in effect in favor of the United States.*

*(e)* <sup>346-2</sup> [ \* \* \* ]

[EXTRA LONG STAPLE COTTON]

[SEC. 347. <sup>347-1</sup> [7 U.S.C. 1347] \* \* \* ]

COTTON EQUALIZATION PAYMENTS

SEC. 348. <sup>348-1</sup> [7 U.S.C. 1348] [ \* \* \* ]

EXPORT MARKET ACREAGE

SEC. 349. <sup>349-1</sup> [7 U.S.C. 1349] [ \* \* \* ]

DOMESTIC ACREAGE ALLOTMENTS

SEC. 350. <sup>350-1</sup> [7 U.S.C. 1350] [ \* \* \* ]

<sup>346-2</sup> Subsec. (e) was applicable only to the 1966 through 1970 crops of cotton.

<sup>347-1</sup> Sec. 347 was repealed beginning with the 1984 crop of extra long staple cotton by sec. 2 of the Extra Long Staple Cotton Act of 1983, P.L. 98-88, 97 Stat. 494, Aug. 26, 1983.

<sup>348-1</sup> Sec. 348 provided for payments on upland cotton through July 31, 1966. Sec. 349 provided for export market acreage for the 1964 and 1965 crops of upland cotton.

<sup>349-1</sup> See footnote 348-1.

<sup>350-1</sup> Sec. 350 was applicable only through the 1977 crop of upland cotton.

**[Part V was made inapplicable to the 2008 through 2012 crops of rice.]**

PART V—MARKETING QUOTAS—RICE <sup>351-1</sup>

LEGISLATIVE FINDINGS

SEC. 351. <sup>351-2</sup> [7 U.S.C. 1351] (a) *The marketing of rice constitutes one of the great basic industries of the United States with ramifying activities which directly affect interstate and foreign commerce at every point, and stable conditions therein are necessary to the general welfare. Rice produced for market is sold on a Nation-wide market, and, with its products, moves almost wholly in interstate and foreign commerce from the producer to the ultimate consumer. The farmers producing such commodity are subject in their operations to uncontrollable natural causes, in many cases such farmers carry on their farming operations on borrowed money or leased lands, and are not so situated as to be able to organize effectively, as can labor and industry, through unions and corporations enjoying Government sanction and protection for joint economic action. For these reasons, among others, the farmers are unable without Federal assistance to control effectively the orderly marketing of such commodity with the result that abnormally excessive supplies thereof are produced and dumped indiscriminately on the Nation-wide market.*

(b) *The disorderly marketing of such abnormally excessive supplies affects, burdens, and obstructs interstate and foreign commerce by (1) materially affecting the volume of such commodity marketed therein, (2) disrupting the orderly marketing of such commodity therein, (3) reducing the prices for such commodity with consequent injury and destruction of such commerce in such commodity, and (4) causing a disparity between the prices for such commodity in interstate and foreign commerce and industrial products therein, with a consequent diminution of the volume of interstate and foreign commerce in industrial products.*

(c) *Whenever an abnormally excessive supply of rice exists, the marketing of such commodity by the producers thereof directly and substantially affects interstate and foreign commerce in such commodity and its products, and the operation of the provisions of this part becomes necessary and appropriate in order to promote, foster, and maintain an orderly flow of such supply in interstate and foreign commerce.*

[NATIONAL ACREAGE ALLOTMENT AND ALLOCATION]

[SEC. 352. <sup>352-1</sup> [7 U.S.C. 1352] \* \* \* ]

[APPORTIONMENT OF NATIONAL ACREAGE ALLOTMENT]

[SEC. 353. <sup>353-1</sup> [7 U.S.C. 1353] \* \* \* ]

[MARKETING QUOTAS]

[SEC. 354. <sup>354-1</sup> [7 U.S.C. 1354] \* \* \* ]

<sup>351-1</sup> Part V was made inapplicable to the 2008 through 2012 crops of rice by sec. 1602(a)(1) of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, 122 Stat. 1729.

<sup>351-2</sup> See footnote 351-1.

<sup>352-1</sup> Repealed by sec. 601, P.L. 97-98, 95 Stat. 1242, Dec. 22, 1981, effective beginning with the 1982 crop of rice.

<sup>353-1</sup> See footnote 352-1.

<sup>354-1</sup> See footnote 352-1.



[AMOUNT OF FARM MARKETING QUOTA]

[SEC. 355.<sup>355-1</sup> [7 U.S.C. 1355] \* \* \* ]

[PENALTIES AND STORAGE]

[SEC. 356.<sup>356-1</sup> [7 U.S.C. 1356] \* \* \* ]

[PART VI—MARKETING QUOTAS—PEANUTS]<sup>357-1</sup>

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<sup>355-1</sup> See footnote 352-1.

<sup>356-1</sup> See footnote 352-1.

<sup>357-1</sup> Part VI of subtitle B of title III was repealed by sec. 1309(a)(1) of the Farm Security and Rural Investment Act of 2002, 116 Stat. 179, May 13, 2002.

## PART VII—FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR

### SEC. 359a. [7 U.S.C. 1359aa] DEFINITIONS.

In this part:

(1) **HUMAN CONSUMPTION.**—The term “human consumption”, when used in the context of a reference to sugar (whether in the form of sugar, in-process sugar, syrup, molasses, or in some other form) for human consumption, includes sugar for use in human food, beverages, or similar products.

(2) **MAINLAND STATE.**—The term “mainland State” means a State other than an offshore State.

(3) **MARKET.**—

(A) **IN GENERAL.**—The term “market” means to sell or otherwise dispose of in commerce in the United States.

(B) **INCLUSIONS.**—The term “market” includes—

(i) the forfeiture of sugar under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272);

(ii) with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process; and

(iii) the sale of sugar for the production of ethanol or other bioenergy product, if the disposition of the sugar is administered by the Secretary under section 9010 of the Farm Security and Rural Investment Act of 2002.

(C) **MARKETING YEAR.**—Forfeited sugar described in subparagraph (B)(i) shall be considered to have been marketed during the crop year for which a loan is made under the loan program described in that subparagraph.

(4) **OFFSHORE STATE.**—The term “offshore State” means a sugarcane producing State located outside of the continental United States.

(5) **STATE.**—Notwithstanding section 301, the term “State” means—

(A) a State;

(B) the District of Columbia; and

(C) the Commonwealth of Puerto Rico.

(6) **UNITED STATES.**—The term “United States”, when used in a geographical sense, means all of the States.

### SEC. 359b. [7 U.S.C. 1359bb] FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.

(a) **SUGAR ESTIMATES.**—

(1) **IN GENERAL.**—Not later than August 1 before the beginning of each of the 2008 through 2012 crop years for sugarcane and sugar beets, the Secretary shall estimate—

(A) the quantity of sugar that will be subject to human consumption in the United States during the crop year;

(B) the quantity of sugar that would provide for reasonable carryover stocks;

(C) the quantity of sugar that will be available from carry-in stocks for human consumption in the United States during the crop year;

(D) the quantity of sugar that will be available from the domestic processing of sugarcane, sugar beets, and in-process beet sugar; and

(E) the quantity of sugars, syrups, and molasses that will be imported for human consumption or to be used for the extraction of sugar for human consumption in the United States during the crop year, whether the articles are under a tariff-rate quota or are in excess or outside of a tariff-rate quota.

(2) EXCLUSION.—The estimates under this subsection shall not apply to sugar imported for the production of polyhydric alcohol or to any sugar refined and reexported in refined form or in products containing sugar.

(3) REESTIMATES.—The Secretary shall make reestimates of sugar consumption, stocks, production, and imports for a crop year as necessary, but not later than the beginning of each of the second through fourth quarters of the crop year.

(b) SUGAR ALLOTMENTS.—

(1) ESTABLISHMENT.—By the beginning of each crop year, the Secretary shall establish for that crop year appropriate allotments under section 359c for the marketing by processors of sugar processed from sugar cane or sugar beets or in-process beet sugar (whether the sugar beets or in-process beet sugar was produced domestically or imported) at a level that is—

(A) sufficient to maintain raw and refined sugar prices above forfeiture levels so that there will be no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272); but

(B) not less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

(2) PRODUCTS.—The Secretary may include sugar products, the majority content of which is sucrose for human consumption, derived from sugar cane, sugar beets, molasses, or sugar in the allotments established under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part.

(c) COVERAGE OF ALLOTMENTS.—

(1) IN GENERAL.—The marketing allotments under this part shall apply to the marketing by processors of sugar intended for domestic human consumption that has been processed from sugar cane, sugar beets, or in-process beet sugar, whether such sugar beets or in-process beet sugar was produced domestically or imported.

(2) EXCEPTIONS.—Consistent with the administration of marketing allotments for each of the 2002 through 2007 crop years, the marketing allotments shall not apply to sugar sold—

(A) to facilitate the exportation of the sugar to a foreign country, except that the exports of sugar shall not be eligible to receive credits under reexport programs for refined sugar or sugar containing products administered by the Secretary;

(B) to enable another processor to fulfill an allocation established for that processor; or

(C) for uses other than domestic human consumption, except for the sale of sugar for the production of ethanol or

other bioenergy if the disposition of the sugar is administered by the Secretary under section 9010 of the Farm Security and Rural Investment Act of 2002.

(3) REQUIREMENT.—The sale of sugar described in paragraph (2)(B) shall be—

(A) made prior to May 1; and

(B) reported to the Secretary.

(d) PROHIBITIONS.—

(1) IN GENERAL.—During all or part of any crop year for which marketing allotments have been established, no processor of sugar beets or sugarcane shall market for domestic human consumption a quantity of sugar in excess of the allocation established for the processor, except—

(A) to enable another processor to fulfill an allocation established for that other processor; or

(B) to facilitate the exportation of the sugar.

(2) CIVIL PENALTY.—Any processor who knowingly violates paragraph (1) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar involved in the violation.

**SEC. 359c. [7 U.S.C. 1359cc] ESTABLISHMENT OF FLEXIBLE MARKETING ALLOTMENTS.**

(a) IN GENERAL.—The Secretary shall establish flexible marketing allotments for sugar for any crop year in which the allotments are required under section 359b(b) in accordance with this section.

(b) OVERALL ALLOTMENT QUANTITY.—

(1) IN GENERAL.—The Secretary shall establish the overall quantity of sugar to be allotted for the crop year (referred to in this part as the “overall allotment quantity”) at a level that is—

(A) sufficient to maintain raw and refined sugar prices above forfeiture levels to avoid forfeiture of sugar to the Commodity Credit Corporation; but

(B) not less than a quantity equal to 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

(2) ADJUSTMENT.—Subject to paragraph (1), the Secretary shall adjust the overall allotment quantity to maintain—

(A) raw and refined sugar prices above forfeiture levels to avoid the forfeiture of sugar to the Commodity Credit Corporation; and

(B) adequate supplies of raw and refined sugar in the domestic market.

(c) MARKETING ALLOTMENT FOR SUGAR DERIVED FROM SUGAR BEETS AND SUGAR DERIVED FROM SUGARCANE.—The overall allotment quantity for the crop year shall be allotted between—

(1) sugar derived from sugar beets by establishing a marketing allotment for a crop year at a quantity equal to the product of multiplying the overall allotment quantity for the crop year by 54.35 percent; and

(2) sugar derived from sugarcane by establishing a marketing allotment for a crop year at a quantity equal to the product of multiplying the overall allotment quantity for the crop year by 45.65 percent.

## (d) FILLING CANE SUGAR AND BEET SUGAR ALLOTMENTS.—

(1) CANE SUGAR.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane.

(2) BEET SUGAR.—Each marketing allotment for beet sugar established under this section may only be filled with sugar domestically processed from sugar beets or in-process beet sugar.

## (e) STATE CANE SUGAR ALLOTMENTS.—

(1) IN GENERAL.—The allotment for sugar derived from sugarcane shall be further allotted, among the States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner as provided in this subsection and section 359d(b)(1)(D).

## (2) OFFSHORE ALLOTMENT.—

(A) COLLECTIVELY.—Prior to the allotment of sugar derived from sugarcane to any other State, 325,000 short tons, raw value shall be allotted to the offshore States.

(B) INDIVIDUALLY.—The collective offshore State allotment provided for under subparagraph (A) shall be further allotted among the offshore States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

(ii) the ability of processors to market the sugar covered under the allotments for the crop year; and

(iii) past processings of sugar from sugarcane, based on the 3-year average of the 1998 through 2000 crop years.

(3) MAINLAND ALLOTMENT.—The allotment for sugar derived from sugarcane, less the amount provided for under paragraph (2), shall be allotted among the mainland States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

(A) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

(B) the ability of processors to market the sugar covered under the allotments for the crop year; and

(C) past processings of sugar from sugarcane, based on the 3 crop years with the greatest processings (in the mainland States collectively) during the 1991 through 2000 crop years.

(f) FILLING CANE SUGAR ALLOTMENTS.—Except as provided in section 359e, a State cane sugar allotment established under subsection (e) for a crop year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.

## (g) ADJUSTMENT OF MARKETING ALLOTMENTS.—

## (1) ADJUSTMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall, based on reestimates under section 359b(a)(3), adjust upward or downward marketing allotments in a fair and equitable manner, as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.

(B) LIMITATION.—In carrying out subparagraph (A), the Secretary may not reduce the overall allotment quantity to a quantity of less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

(2) ALLOCATION TO PROCESSORS.—In the case of any increase or decrease in an allotment, each allocation to a processor of the allotment under section 359d, and each proportionate share established with respect to the allotment under section 359f(c), shall be increased or decreased by the same percentage that the allotment is increased or decreased.

(3) CARRY-OVER OF REDUCTIONS.—Whenever a marketing allotment for a crop year is required to be reduced during the crop year under this subsection, if, at the time of the reduction, the quantity of sugar marketed exceeds the processor's reduced allocation, the allocation of an allotment next established for the processor shall be reduced by the quantity of the excess sugar marketed.

**SEC. 359d. [7 U.S.C. 1359dd] ALLOCATION OF MARKETING ALLOTMENTS.**

(a) ALLOCATION TO PROCESSORS.—Whenever marketing allotments are established for a crop year under section 359c, in order to afford all interested persons an equitable opportunity to market sugar under an allotment, the Secretary shall allocate each such allotment among the processors covered by the allotment.

(b) HEARING AND NOTICE.—

(1) CANE SUGAR.—

(A) IN GENERAL.—The Secretary shall make allocations for cane sugar after a hearing, if requested by the affected sugarcane processors and growers, and on such notice as the Secretary by regulation may prescribe, in such manner and in such quantities as to provide a fair, efficient, and equitable distribution of the allocations under this paragraph. Each such allocation shall be subject to adjustment under section 359c(g).

(B) MULTIPLE PROCESSOR STATES.—Except as provided in subparagraphs (C) and (D), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based on—

(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from among the 1996 through 2000 crops;

(ii) the ability of processors to market sugar covered by that portion of the allotment allocated for the crop year; and

(iii) past processings of sugar from sugarcane, based on the average of the 3 highest years of production during the 1996 through 2000 crop years.

(C) TALISMAN PROCESSING FACILITY.—In the case of allotments under subparagraph (B) attributable to the oper-

ations of the Talisman processing facility before the date of enactment of this subparagraph, the Secretary shall allocate the allotment among processors in the State under subparagraph (A) in accordance with the agreements of March 25 and 26, 1999, between the affected processors and the Secretary of the Interior.

(D) PROPORTIONATE SHARE STATES.—In the case of States subject to section 359f(c), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based on—

(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from among the 1997 through 2001 crop years;

(ii) the ability of processors to market sugar covered by that portion of the allotments allocated for the crop year; and

(iii) past processings of sugar from sugarcane, based on the average of the 2 highest crop years of crop production during the 1997 through 2001 crop years.

(E) NEW ENTRANTS.—

(i) IN GENERAL.—Notwithstanding subparagraphs (B) and (D), the Secretary, on application of any processor that begins processing sugarcane on or after the date of enactment of this subparagraph, and after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, may provide the processor with an allocation that provides a fair, efficient and equitable distribution of the allocations from the allotment for the State in which the processor is located.

(ii) PROPORTIONATE SHARE STATES.—In the case of proportionate share States, the Secretary shall establish proportionate shares in a quantity sufficient to produce the sugarcane required to satisfy the allocations.

(iii) LIMITATIONS.—The allotment for a new processor under this subparagraph shall not exceed—

(I) in the case of the first crop year of operation of a new processor, 50,000 short tons (raw value); and

(II) in the case of each subsequent crop year of operation of the new processor, a quantity established by the Secretary in accordance with this subparagraph and the criteria described in subparagraph (B) or (D), as applicable.

(iv) NEW ENTRANT STATES.—

(I) IN GENERAL.—Notwithstanding subparagraphs (A) and (C) of section 359c(e)(3), to accommodate an allocation under clause (i) to a new processor located in a new entrant mainland State, the Secretary shall provide the new entrant mainland State with an allotment.

(II) EFFECT ON OTHER ALLOTMENTS.—The allotment to any new entrant mainland State shall

be subtracted, on a pro rata basis, from the allotments otherwise allotted to each mainland State under section 359c(e)(3).

(v) ADVERSE EFFECTS.—Before providing an initial processor allocation or State allotment to a new entrant processor or a new entrant State under this subparagraph, the Secretary shall take into consideration any adverse effects that the provision of the allocation or allotment may have on existing cane processors and producers in mainland States.

(vi) ABILITY TO MARKET.—Consistent with section 359c and this section, any processor allocation or State allotment made to a new entrant processor or to a new entrant State under this subparagraph shall be provided only after the applicant processor, or the applicable processors in the State, have demonstrated the ability to process, produce, and market (including the transfer or delivery of the raw cane sugar to a refinery for further processing or marketing) raw cane sugar for the crop year for which the allotment is applicable.

(vii) PROHIBITION.—Not more than 1 processor allocation provided under this subparagraph may be applicable to any individual sugar processing facility.

(F) TRANSFER OF OWNERSHIP.—If a sugarcane processor is sold or otherwise transferred to another owner or is closed as part of an affiliated corporate group processing consolidation, the Secretary shall transfer the allotment allocation for the processor to the purchaser, new owner, successor in interest, or any remaining processor of an affiliated entity, as applicable, of the processor.

(2) BEET SUGAR.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph and sections 359c(g), 359e(b), and 359f(b), the Secretary shall make allocations for beet sugar among beet sugar processors for each crop year that allotments are in effect on the basis of the adjusted weighted average quantity of beet sugar produced by the processors for each of the 1998 through 2000 crop years, as determined under this paragraph.

(B) QUANTITY.—The quantity of an allocation made for a beet sugar processor for a crop year under subparagraph (A) shall bear the same ratio to the quantity of allocations made for all beet sugar processors for the crop year as the adjusted weighted average quantity of beet sugar produced by the processor (as determined under subparagraphs (C) and (D)) bears to the total of the adjusted weighted average quantities of beet sugar produced by all processors (as so determined).

(C) WEIGHTED AVERAGE QUANTITY.—Subject to subparagraph (D), the weighted quantity of beet sugar produced by a beet sugar processor during each of the 1998 through 2000 crop years shall be (as determined by the Secretary)—

(i) in the case of the 1998 crop year, 25 percent of the quantity of beet sugar produced by the processor during the crop year;



(ii) in the case of the 1999 crop year, 35 percent of the quantity of beet sugar produced by the processor during the crop year; and

(iii) in the case of the 2000 crop year, 40 percent of the quantity of beet sugar produced by the processor (including any quantity of sugar received from the Commodity Credit Corporation) during the crop year.

(D) ADJUSTMENTS.—

(i) IN GENERAL.—The Secretary shall adjust the weighted average quantity of beet sugar produced by a beet sugar processor during the 1998 through 2000 crop years under subparagraph (C) if the Secretary determines that the processor—

(I) during the 1996 through 2000 crop years, opened a sugar beet processing factory;

(II) during the 1998 through 2000 crop years, closed a sugar beet processing factory;

(III) during the 1998 through 2000 crop years, constructed a molasses desugarization facility; or

(IV) during the 1998 through 2000 crop years, suffered substantial quality losses on sugar beets stored during any such crop year.

(ii) QUANTITY.—The quantity of beet sugar produced by a beet sugar processor under subparagraph (C) shall be—

(I) in the case of a processor that opened a sugar beet processing factory, increased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each sugar beet processing factory that is opened by the processor;

(II) in the case of a processor that closed a sugar beet processing factory, decreased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each sugar beet processing factory that is closed by the processor;

(III) in the case of a processor that constructed a molasses desugarization facility, increased by 0.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each molasses desugarization facility that is constructed by the processor; and

(IV) in the case of a processor that suffered substantial quality losses on stored sugar beets, increased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998

through 2000 crop years (without consideration of any adjustment under this subparagraph).

(E) PERMANENT TERMINATION OF OPERATIONS OF A PROCESSOR.—If a processor of beet sugar has been dissolved, liquidated in a bankruptcy proceeding, or otherwise has permanently terminated operations (other than in conjunction with a sale or other disposition of the processor or the assets of the processor), the Secretary shall—

(i) eliminate the allocation of the processor provided under this section; and

(ii) distribute the allocation to other beet sugar processors on a pro rata basis.

(F) SALE OF ALL ASSETS OF A PROCESSOR TO ANOTHER PROCESSOR.—If a processor of beet sugar (or all of the assets of the processor) is sold to another processor of beet sugar, the Secretary shall transfer the allocation of the seller to the buyer unless the allocation has been distributed to other sugar beet processors under subparagraph (E).

(G) SALE OF FACTORIES OF A PROCESSOR TO ANOTHER PROCESSOR.—

(i) EFFECT OF SALE.—Subject to subparagraphs (E) and (F), if 1 or more factories of a processor of beet sugar (but not all of the assets of the processor) are sold to another processor of beet sugar during a crop year, the Secretary shall assign a pro rata portion of the allocation of the seller to the allocation of the buyer to reflect the historical contribution of the production of the sold 1 or more factories to the total allocation of the seller, unless the buyer and the seller have agreed upon the transfer of a different portion of the allocation of the seller, in which case, the Secretary shall transfer that portion agreed upon by the buyer and seller.

(ii) APPLICATION OF ALLOCATION.—The assignment of the allocation under clause (i) shall apply—

(I) during the remainder of the crop year for which the sale described in clause (i) occurs; and

(II) during each subsequent crop year.

(iii) USE OF OTHER FACTORIES TO FILL ALLOCATION.—If the assignment of the allocation under clause (i) to the buyer for the 1 or more purchased factories cannot be filled by the production of the 1 or more purchased factories, the remainder of the allocation may be filled by beet sugar produced by the buyer from other factories of the buyer.

(H) NEW ENTRANTS STARTING PRODUCTION, REOPENING, OR ACQUIRING AN EXISTING FACTORY WITH PRODUCTION HISTORY.—

(i) DEFINITION OF NEW ENTRANT.—

(I) IN GENERAL.—In this subparagraph, the term “new entrant” means an individual, corporation, or other entity that—

(aa) does not have an allocation of the beet sugar allotment under this part;

(bb) is not affiliated with any other individual, corporation, or entity that has an allocation of beet sugar under this part (referred to in this clause as a "third party"); and

(cc) will process sugar beets produced by sugar beet growers under contract with the new entrant for the production of sugar at the new or re-opened factory that is the basis for the new entrant allocation.

(II) AFFILIATION.—For purposes of subclause (I)(bb), a new entrant and a third party shall be considered to be affiliated if—

(aa) the third party has an ownership interest in the new entrant;

(bb) the new entrant and the third party have owners in common;

(cc) the third party has the ability to exercise control over the new entrant by organizational rights, contractual rights, or any other means;

(dd) the third party has a contractual relationship with the new entrant by which the new entrant will make use of the facilities or assets of the third party; or

(ee) there are any other similar circumstances by which the Secretary determines that the new entrant and the third party are affiliated.

(ii) ALLOCATION FOR A NEW ENTRANT THAT HAS CONSTRUCTED A NEW FACTORY OR REOPENED A FACTORY THAT WAS NOT OPERATED SINCE BEFORE 1998.—If a new entrant constructs a new sugar beet processing factory, or acquires and reopens a sugar beet processing factory that last processed sugar beets prior to the 1998 crop year and there is no allocation currently associated with the factory, the Secretary shall—

(I) assign an allocation for beet sugar to the new entrant that provides a fair and equitable distribution of the allocations for beet sugar so as to enable the new entrant to achieve a factory utilization rate comparable to the factory utilization rates of other similarly-situated processors; and

(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the allocation to the new entrant.

(iii) ALLOCATION FOR A NEW ENTRANT THAT HAS ACQUIRED AN EXISTING FACTORY WITH A PRODUCTION HISTORY.—

(I) IN GENERAL.—If a new entrant acquires an existing factory that has processed sugar beets from the 1998 or subsequent crop year and has a production history, on the mutual agreement of the new entrant and the company currently holding the allocation associated with the factory, the Secretary shall transfer to the new entrant a portion of the allocation of the current allocation hold-

er to reflect the historical contribution of the production of the 1 or more sold factories to the total allocation of the current allocation holder, unless the new entrant and current allocation holder have agreed upon the transfer of a different portion of the allocation of the current allocation holder, in which case, the Secretary shall transfer that portion agreed upon by the new entrant and the current allocation holder.

(II) PROHIBITION.—In the absence of a mutual agreement described in subclause (I), the new entrant shall be ineligible for a beet sugar allocation.

(iv) APPEALS.—Any decision made under this subsection may be appealed to the Secretary in accordance with section 359i.

**SEC. 359e. [7 U.S.C. 1359ee] REASSIGNMENT OF DEFICITS.**

(a) ESTIMATES OF DEFICITS.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

(b) REASSIGNMENT OF DEFICITS.—

(1) CANE SUGAR.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the crop year—

(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors;

(C) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit to the Commodity Credit Corporation and shall sell such quantity of sugar from inventories of the Corporation unless the Secretary determines that such sales would have a significant effect on the price of sugar; and

(D) if after the reassignments and sales, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports of raw cane sugar.

(2) BEET SUGAR.—If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit to the Commodity Credit Corporation and shall sell such quantity of sugar from inventories of the Corporation unless the Secretary determines that such sales would have a significant effect on the price of sugar; and

(C) if after the reassignments and sales, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports of raw cane sugar.

(3) CORRESPONDING INCREASE.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a crop year shall be increased to reflect the reassignment.

**SEC. 359f. [7 U.S.C. 1359ff] PROVISIONS APPLICABLE TO PRODUCERS.**

(a) PROCESSOR ASSURANCES.—

(1) IN GENERAL.—If allotments for a crop year are allocated to processors under section 359d, the Secretary shall obtain from the processors such assurances as the Secretary considers adequate that the allocation will be shared among producers served by the processor in a fair and equitable manner that adequately reflects producers' production histories.

(2) ARBITRATION.—

(A) IN GENERAL.—Any dispute between a processor and a producer, or group of producers, with respect to the sharing of the allocation to the processor shall be resolved through arbitration by the Secretary on the request of either party.

(B) PERIOD.—The arbitration shall, to the maximum extent practicable, be—

(i) commenced not more than 45 days after the request; and

(ii) completed not more than 60 days after the request.

(b) SUGAR BEET PROCESSING FACILITY CLOSURES.—

(1) IN GENERAL.—If a sugar beet processing facility is closed and the sugar beet growers that previously delivered beets to the facility elect to deliver their beets to another processing company, the growers may petition the Secretary to modify allocations under this part to allow the delivery.

(2) INCREASED ALLOCATION FOR PROCESSING COMPANY.—The Secretary may increase the allocation to the processing company to which the growers elect to deliver their sugar beets, with the approval of the processing company, to a level that does not exceed the processing capacity of the processing company, to accommodate the change in deliveries.

(3) DECREASED ALLOCATION FOR CLOSED COMPANY.—The increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been closed and the remaining allocation shall be unaffected.

(4) TIMING.—The determinations of the Secretary on the issues raised by the petition shall be made within 60 days after the filing of the petition.

(c) PROPORTIONATE SHARES OF CERTAIN ALLOTMENTS.—

(1) DEFINITION OF SEED.—

(A) IN GENERAL.—In this subsection, the term “seed” means only those varieties of seed that are dedicated to the production of sugarcane from which is produced sugar for human consumption.

(B) EXCLUSION.—The term “seed” does not include seed of a high-fiber cane variety dedicated to other uses, as determined by the Secretary <sup>359f-1</sup>

(2) IN GENERAL.—

(A) STATES AFFECTED.—In any case in which a State allotment is established under section 359c(f) and there are in excess of 250 sugarcane producers in the State (other than Puerto Rico), the Secretary shall make a determination under subparagraph (B).

(B) DETERMINATION.—The Secretary shall determine, for each State allotment described in subparagraph (A), whether the production of sugarcane, in the absence of proportionate shares, will be greater than the quantity needed to enable processors to fill the allotment and provide a normal carryover inventory of sugar.

(3) ESTABLISHMENT OF PROPORTIONATE SHARES.—If the Secretary determines under paragraph (2) that the quantity of sugar produced from sugarcane produced by producers in the area covered by a State allotment for a crop year will be in excess of the quantity needed to enable processors to fill the allotment for the crop year and provide a normal carryover inventory of sugar, the Secretary shall establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during the crop year the allotment is in effect as provided in this subsection. Each such proportionate share shall be subject to adjustment under paragraph (8) and section 359c(g).

(4) METHOD OF DETERMINING.—For purposes of determining proportionate shares for any crop of sugarcane:

(A) The Secretary shall establish the State’s per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the 2 highest years from among the 1999, 2000, and 2001 crop years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

(C) The Secretary shall convert the State allotment for the crop year involved into a State acreage allotment for

<sup>359f-1</sup> Lack of period at end of sentence is so in original.

the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

(5) ACREAGE BASE.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in the 2 highest of the 1999, 2000, and 2001 crop years.

(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

(6) VIOLATION.—

(A) IN GENERAL.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the crop year, or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

(B) DETERMINATION OF VIOLATION.—No producer shall be considered to have violated subparagraph (A) unless the processor of the sugarcane harvested by such producer from acreage in excess of the proportionate share of the farm markets an amount of sugar that exceeds the allocation of such processor for a crop year.

(C) CIVIL PENALTY.—Any producer on a farm who violates subparagraph (A) by knowingly harvesting, or allowing to be harvested, an acreage of sugarcane for sugar in excess of the farm's proportionate share shall be liable to the Commodity Credit Corporation for a civil penalty equal to one and one-half times the United States market value of the quantity of sugar that is marketed by the processor of such sugarcane in excess of the allocation of such processor for the crop year. The Secretary shall prorate penalties imposed under this subparagraph in a fair and equitable manner among all the producers of sugarcane harvested from excess acreage that is acquired by such processor.

(7) WAIVER.—Notwithstanding the preceding subparagraph, the Secretary may authorize the county and State com-

mittees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other proportionate share requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of proportionate shares.

(8) ADJUSTMENTS.—Whenever the Secretary determines that, because of a natural disaster or other condition beyond the control of producers that adversely affects a crop of sugarcane subject to proportionate shares, the amount of sugar from sugarcane produced by producers subject to the proportionate shares will not be sufficient to enable processors in the State to meet the State's cane sugar allotment and provide a normal carryover inventory of sugar, the Secretary may uniformly allow producers to harvest an amount of sugarcane in excess of their proportionate share, or suspend proportionate shares entirely, as necessary to enable processors to meet the State allotment and provide a normal carryover inventory of sugar.

**SEC. 359g. [7 U.S.C. 1359gg] SPECIAL RULES.**

(a) TRANSFER OF ACREAGE BASE HISTORY.—

(1) TRANSFER AUTHORIZED.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f(c), the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

(2) CONVERTED ACREAGE BASE.—

(A) IN GENERAL.—Sugarcane acreage base established under section 359f(c) that has been or is converted to non-agricultural use on or after May 13, 2002, may be transferred to other land suitable for the production of sugarcane that can be delivered to a processor in a proportionate share State in accordance with this paragraph.

(B) NOTIFICATION.—Not later than 90 days after the Secretary becomes aware of a conversion of any sugarcane acreage base to a nonagricultural use, the Secretary shall notify the 1 or more affected landowners of the transferability of the applicable sugarcane acreage base.

(C) INITIAL TRANSFER PERIOD.—The owner of the base attributable to the acreage at the time of the conversion shall be afforded 90 days from the date of the receipt of the notification under subparagraph (B) to transfer the base to 1 or more farms owned by the owner.

(D) GROWER OF RECORD.—If a transfer under subparagraph (C) cannot be accomplished during the period specified in that subparagraph, the grower of record with regard to the acreage base on the date on which the acreage was converted to nonagricultural use shall—

(i) be notified; and

(ii) have 90 days from the date of the receipt of the notification to transfer the base to 1 or more farms operated by the grower.

(E) POOL DISTRIBUTION.—

(i) IN GENERAL.—If transfers under subparagraphs (B) and (C) cannot be accomplished during the periods specified in those subparagraphs, the county com-



mittee of the Farm Service Agency for the applicable county shall place the acreage base in a pool for possible assignment to other farms.

(ii) ACCEPTANCE OF REQUESTS.—After providing reasonable notice to farm owners, operators, and growers of record in the county, the county committee shall accept requests from owners, operators, and growers of record in the county.

(iii) ASSIGNMENT.—The county committee shall assign the acreage base to other farms in the county that are eligible and capable of accepting the acreage base, based on a random drawing from among the requests received under clause (ii).

(F) STATEWIDE REALLOCATION.—

(i) IN GENERAL.—Any acreage base remaining unassigned after the transfers and processes described in subparagraphs (A) through (E) shall be made available to the State committee of the Farm Service Agency for allocation among the remaining county committees in the State representing counties with farms eligible for assignment of the base, based on a random drawing.

(ii) ALLOCATION.—Any county committee receiving acreage base under this subparagraph shall allocate the acreage base to eligible farms using the process described in subparagraph (E).

(G) STATUS OF REASSIGNED BASE.—After acreage base has been reassigned in accordance with this subparagraph, the acreage base shall—

(i) remain on the farm; and

(ii) be subject to the transfer provisions of paragraph (1).

(b) PRESERVATION OF ACREAGE BASE HISTORY.—If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 359f(c), the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 5 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share.

(c) REVISIONS OF ALLOCATIONS AND PROPORTIONATE SHARES.—The Secretary, after such notice as the Secretary by regulation may prescribe, may revise or amend any allocation of a marketing allotment under section 359d, or any proportionate share established or adjusted for a farm under section 359f(c), on the same basis as the initial allocation or proportionate share was required to be established.

(d) TRANSFERS OF MILL ALLOCATIONS.—

(1) TRANSFER AUTHORIZED.—A producer in a proportionate share State, upon written consent from all affected crop-share owners (or the representative of the affected crop-share owners) of a farm may deliver sugarcane to another processing company if the additional delivery, when combined with such other proc-

essing company's existing deliveries, does not exceed the processing capacity of the company.

(2) ALLOCATION ADJUSTMENT.—Notwithstanding section 359d, the Secretary shall adjust the allocations of each of such processing companies affected by a transfer under paragraph (1) to reflect the change in deliveries, based on—

(A) the number of acres of sugarcane base being transferred; and

(B) the pro rata amount of allocation at the processing company holding the applicable allocation that equals the contribution of the grower to allocation of the processing company for the sugarcane acreage base being transferred.

**SEC. 359h. [7 U.S.C. 1359hh] REGULATIONS; VIOLATIONS; PUBLICATION OF SECRETARY'S DETERMINATIONS; JURISDICTION OF THE COURTS; UNITED STATES ATTORNEYS.**

(a) REGULATIONS.—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this part.

(b) VIOLATION.—Any person knowingly violating any regulation of the Secretary issued under subsection (a) shall be subject to a civil penalty of not more than \$5,000 for each violation.

(c) PUBLICATION IN FEDERAL REGISTER.—Each determination issued by the Secretary to establish, adjust, or suspend allotments under this part shall be promptly published in the Federal Register and shall be accompanied by a statement of the reasons for the determination.

(d) JURISDICTION OF COURTS; UNITED STATES ATTORNEYS.—

(1) JURISDICTION OF COURTS.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this part or any regulation issued thereunder.

(2) UNITED STATES ATTORNEYS.—Whenever the Secretary shall so request, it shall be the duty of the several United States attorneys, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties provided for in this part. The Secretary may elect not to refer to a United States attorney any violation of this part or regulation when the Secretary determines that the administration and enforcement of this part would be adequately served by written notice or warning to any person committing the violation.

(e) NONEXCLUSIVITY OF REMEDIES.—The remedies and penalties provided for in this part shall be in addition to, and not exclusive of, any remedies or penalties existing at law or in equity.

**SEC. 359i. [7 U.S.C. 1359ii] APPEALS.**

(a) IN GENERAL.—An appeal may be taken to the Secretary from any decision under section 359d establishing allocations of marketing allotments, or under section 359f or 359g(d), by any person adversely affected by reason of any such decision.

(b) PROCEDURE.—

(1) NOTICE OF APPEAL.—Any such appeal shall be taken by filing with the Secretary, within 20 days after the decision complained of is effective, notice in writing of the appeal and a statement of the reasons therefor. Unless a later date is specified by the Secretary as part of the Secretary's decision, the de-

cision complained of shall be considered to be effective as of the date on which announcement of the decision is made. The Secretary shall deliver a copy of any notice of appeal to each person shown by the records of the Secretary to be adversely affected by reason of the decision appealed, and shall at all times thereafter permit any such person to inspect and make copies of appellant's reasons for the appeal and shall on application permit the person to intervene in the appeal.

(2) HEARING.—The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.

**SEC. 359j. [7 U.S.C. 1359jj] ADMINISTRATION.**

(a) USE OF CERTAIN AGENCIES.—In carrying out this part, the Secretary may use the services of local committees of sugar beet or sugarcane producers, sugarcane processors, or sugar beet processors, State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the departments and agencies of the United States Government.

(b) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the services, facilities, funds, and authorities of the Commodity Credit Corporation to carry out this part.

**SEC. 359k. [7 U.S.C. 1359kk] ADMINISTRATION OF TARIFF RATE QUOTAS.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, at the beginning of the quota year, the Secretary shall establish the tariff-rate quotas for raw cane sugar and refined sugars at the minimum level necessary to comply with obligations under international trade agreements that have been approved by Congress.

(2) EXCEPTION.—Paragraph (1) shall not apply to specialty sugar.

(b) ADJUSTMENT.—

(1) BEFORE APRIL 1.—Before April 1 of each fiscal year, if there is an emergency shortage of sugar in the United States market that is caused by a war, flood, hurricane, or other natural disaster, or other similar event as determined by the Secretary—

(A) the Secretary shall take action to increase the supply of sugar in accordance with sections 359c(b)(2) and 359e(b), including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, and domestic raw cane sugar refining capacity has been maximized, the Secretary may increase the tariff-rate quota for refined sugars sufficient to accommodate the supply increase, if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

(2) ON OR AFTER APRIL 1.—On or after April 1 of each fiscal year—

(A) the Secretary may take action to increase the supply of sugar in accordance with sections 359c(b)(2) and 359e(b), including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, the Secretary may increase the tariff-rate quota for raw cane sugar if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

**SEC. 359I. [7 U.S.C. 1359I] PERIOD OF EFFECTIVENESS.**

(a) IN GENERAL.—This part shall be effective only for the 2008 through 2012 crop years for sugar.

(b) TRANSITION.—The Secretary shall administer flexible marketing allotments for sugar for the 2007 crop year for sugar on the terms and conditions provided in this part as in effect on the day before the date of enactment of this section.

SUBTITLE C—ADMINISTRATIVE PROVISIONS

PART I—PUBLICATION AND REVIEW OF QUOTAS

APPLICATION OF PART

**SEC. 361. [7 U.S.C. 1361]** This part shall apply to the publication and review of farm marketing quotas established for corn, wheat, cotton, and rice, established under subtitle B.

PUBLICATION AND NOTICE OF QUOTA

**SEC. 362. [7 U.S.C. 1362]** All acreage allotments, and the farm marketing quotas established for farms in a county or other local administrative area shall, in accordance with regulations of the Secretary, be made and kept freely available for public inspection in such county or other local administrative area. An additional copy of this information shall be kept available in the office of the county agricultural extension agent or with the chairman of the local committee. Notice of the farm marketing quota of his farm shall be mailed to the farmer.

Notice of the farm acreage allotment established for each farm shown by the records of the county committee to be entitled to such allotment shall insofar as practicable be mailed to the farm operator in sufficient time to be received prior to the date of the referendum.

REVIEW BY REVIEW COMMITTEE

**SEC. 363. [7 U.S.C. 1363]** Any farmer who is dissatisfied with his farm marketing quota may, within fifteen days after mailing to him of notice as provided in section 362, have such quota reviewed by a local review committee composed of three farmers from the same or nearby counties appointed by the Secretary. Such committee shall not include any member of the local committee which determined the farm acreage allotment, the normal yield, or the farm marketing quota for such farm. Unless application for review

is made within such period, the original determination of the farm marketing quota shall be final.

#### REVIEW COMMITTEE

SEC. 364. [7 U.S.C. 1364] The members of the review committee shall receive as compensation for their services the same per diem as that received by the members of the committee utilized for the purposes of the Soil Conservation and Domestic Allotment Act, as amended. The members of the review committee shall not be entitled to receive compensation for more than thirty days in any one year.

#### INSTITUTION OF PROCEEDINGS

SEC. 365. [7 U.S.C. 1365] If the farmer is dissatisfied with the determination of the review committee, he may, within fifteen days after a notice of such determination is mailed to him by registered mail or by certified mail, file a bill in equity against the review committee as defendant in the United States district court, or institute proceedings for review in any court of the State having general jurisdiction, sitting in the county or the district in which his farm is located, for the purpose of obtaining a review of such determination. Bond shall be given in an amount and with surety satisfactory to the court to secure the United States for the costs of the proceeding. The bill of complaint in such proceeding may be served by delivering a copy thereof to any one of the members of the review committee. Thereupon the review committee shall certify and file in the court a transcript of the record upon which the determination complained of was made, together with its findings of fact.

#### COURT REVIEW

SEC. 366. [7 U.S.C. 1366] The review by the court shall be limited to questions of law, and the findings of fact by the review committee, if supported by evidence, shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the review committee, the court may direct such additional evidence to be taken before the review committee in such manner and upon such terms and conditions as to the court may seem proper. The review committee may modify its findings of fact or its determination by reason of the additional evidence so taken, and it shall file with the court such modified findings or determination, which findings of fact shall be conclusive. The court shall hear and determine the case upon the original record of the hearings before the review committee and upon such record as supplemented if supplemented, by further hearing before the review committee pursuant to direction of the court. The court shall affirm the review committee's determination, or modified determination, if the court determines that the same is in accordance with law. If the court determines that such determination or modified determination is not in accordance with law, the court shall remand the proceeding to the review committee with direction either to make such determination as the court shall determine to be in accordance with law or to take such further proceedings as, in the court's opinion, the law requires.

## STAY OF PROCEEDINGS AND EXCLUSIVE JURISDICTION

SEC. 367. [7 U.S.C. 1367] The commencement of judicial proceedings under this part shall not, unless specifically ordered by the court, operate as a stay of the review committee's determination. Notwithstanding any other provision of law, the jurisdiction conferred by this part to review the legal validity of a determination made by a review committee pursuant to this part shall be exclusive. No court of the United States or of any State shall have jurisdiction to pass upon the legal validity of any such determination except in a proceeding under this part.

## NO EFFECT ON OTHER QUOTAS

SEC. 368. [7 U.S.C. 1368] Notwithstanding any increase of any farm marketing quota for any farm as a result of review of the determination thereof under this part, the marketing quotas for other farms shall not be affected.

## PART II—ADJUSTMENT OF QUOTAS AND ENFORCEMENT

## GENERAL ADJUSTMENTS OF QUOTAS

SEC. 371. [7 U.S.C. 1371] (a) If at any time the Secretary has reason to believe that in the case of cotton, or rice the operation of farm marketing quotas in effect will cause the amount of such commodity which is free of marketing restrictions to be less than the normal supply for the marketing year for the commodity then current, he shall cause an immediate investigation to be made with respect thereto. In the course of such investigation due notice and opportunity for hearing shall be given to interested persons. If upon the basis of such investigation the Secretary finds the existence of such fact, he shall proclaim the same forthwith. He shall also in such proclamation specify such increase in, or termination of, existing quotas as he finds, on the basis of such investigation, is necessary to make the amount of such commodity which is free of marketing restrictions equal to the normal supply.

(b) If the Secretary has reason to believe that, because of a national emergency or because of a material increase in export demand, any national marketing quota or acreage allotment for cotton, or rice should be increased or terminated, he shall cause an immediate investigation to be made to determine whether the increase or termination is necessary to meet such emergency or increase in export demand. If, on the basis of such investigation, the Secretary finds that such increase or termination is necessary, he shall immediately proclaim such finding (and if he finds an increase is necessary, the amount of the increase found by him to be necessary) and thereupon such quota or allotment shall be increased, or shall terminate, as the case may be.

(c) In case any national marketing quota or acreage allotment for any commodity is increased under this section, each farm marketing quota or acreage allotment for the commodity shall be increased in the same ratio.

[(d)<sup>371-1</sup> \* \* \* ]

## PAYMENT AND COLLECTION OF PENALTIES

SEC. 372. [7 U.S.C. 1372] (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 subtitle B 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 320B, 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 Act, the Secretary finds that such penalty was erroneously, illegally, or wrongfully collected and that 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 Sec-

<sup>371-1</sup> Repealed by the Agricultural Act of 1954, P.L. 83-690, 68 Stat. 905, Aug. 28, 1954.

retary of the Treasury, such amounts as the Secretary finds the claimant is entitled to receive as a refund of such penalty.

Notwithstanding any other provision of the 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) hereof 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 Act 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 Act with respect to the marketing of any agricultural commodity grown on State prison farms for consumption within such State prison system.

#### REPORTS AND RECORDS

SEC. 373. [7 U.S.C. 1373] (a) This subsection shall apply to warehousemen, processors, and common carriers of corn, wheat, cotton, or rice, and all ginnerers of cotton, all persons engaged in the business of purchasing corn, wheat, cotton, or rice from producers, and.<sup>373-1</sup> 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 carry out the provisions of this title. 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 hereby 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) 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 title.

(c) 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 title. Not-

<sup>373-1</sup> Effective beginning with the 2005 crop of each kind of tobacco, sec. 611(j)(2)(A) of P.L. 108-357, 108 Stat. 1523, Oct. 22, 2004, amended the first sentence of subsec. (a) by striking "all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,". Although the law does not contain the comma at the end of the phrase purported to be struck, the phrase was struck to effectuate the probable intent of Congress. The ending of the sentence with ", and" is so in original.



ing 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.

#### MEASUREMENT OF FARMS AND REPORT OF PLANTINGS

SEC. 374. [7 U.S.C. 1374] (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 com-

modity on the farm in determining whether the applicable farm allotment has been exceeded.

#### REGULATIONS

SEC. 375.<sup>375-1</sup> [7 U.S.C. 1375] (a) The Secretary shall provide by regulations for the identification, wherever necessary, of corn, wheat, cotton, rice, or peanuts so as to afford aid in discovering and identifying such amounts of the commodities as are subject to and such amounts thereof as are not subject to marketing restrictions in effect under this title.

(b) The Secretary shall prescribe such regulations as are necessary for the enforcement of this title.

#### COURT JURISDICTION

SEC. 376. [7 U.S.C. 1376] The several district courts of the United States are hereby vested with jurisdiction specifically to enforce the provisions of this title. If and when the Secretary shall so request, it shall be the duty of the several United States attorneys in their respective districts, under the direction of the Attorney General, to institute proceedings to collect the penalties provided in this title. The remedies and penalties provided for herein shall be in addition to, and not exclusive of, any of the remedies or penalties under existing law. This section also shall be applicable to liquidated damages provided for pursuant to section 349 of this title.

[Sec. 377 is inapplicable to the 1984 and subsequent crops of extra long staple cotton and to the 2008 through 2012 crops of upland cotton.]

#### PRESERVATION OF UNUSED ACREAGE ALLOTMENTS

SEC. 377.<sup>377-1</sup> [7 U.S.C. 1377] *In any case in which, during any year beginning with 1956, the acreage planted to a commodity on any farm is less than the acreage allotment for such farm, the entire acreage allotment for such farm (excluding any allotment released from the farm or reapportioned to the farm and any allotment provided for the farm pursuant to subsection (f)(7)(A) of section 344) shall, except as provided herein, be considered for the purpose of establishing future State, county and farm acreage allotments to have been planted to such commodity in such year on such farm, but the 1956 acreage allotment of any commodity shall be regarded as planted under this section only if the owner or operator on such farm notified the county committee prior to the sixtieth day preceding the beginning of the marketing year for such commodity of his desire to preserve such allotment: Provided, That beginning with the 1960 crop, except for federally owned land, the current farm acreage allotment established for a commodity shall not be preserved as history acreage pursuant to the provisions of this section unless for the current year or either of the two preceding years an acreage equal to 75 per centum or more of the farm acreage allotment for*

<sup>375-1</sup> Effective beginning with the 2005 crop of each kind of tobacco, sec. 611(k)(2) of P.L. 108-357, 108 Stat. 1523, Oct. 22, 2004, struck "subsection (c)" of this sec. This sec. did not contain a subsec. (c).

<sup>377-1</sup> Sec. 377 was made inapplicable to the 2008 through 2012 crops of upland cotton by sec. 1602(a)(2) of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, 122 Stat. 1729.

*such year [ \* \* \* <sup>377-2</sup>] or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 103(b) of the Agricultural Act of 1949, as amended, 75 per centum of the farm domestic allotment established under section 350 for any such year, whichever is smaller was actually planted or devoted to the commodity on the farm (or was regarded as planted under provisions of the Soil Bank Act or the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985): Provided further, That this section shall not be applicable in any case, within the period 1956 to 1959, in which the amount of the commodity required to be stored to postpone or avoid payment of penalty has been reduced because the allotment was not fully planted. Acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this title pertaining to the release and reapportionment of acreage allotments.*

[TRANSFER OF ACREAGE ALLOTMENTS AND FEED GRAIN BASES ON STATE FARMS]

[SEC. 706 OF FOOD AND AGRICULTURE ACT OF 1965.<sup>377-3</sup> [7 U.S.C. 1305] Notwithstanding any other provision of law, the Secretary, upon the request of any agency of any State charged with the administration of the public lands of the State, may permit the transfer of acreage allotments or feed grain bases together with relevant production histories which have been determined pursuant to the Agricultural Adjustment Act of 1938, as amended, or section 16 of the Soil Conservation and Domestic Allotment Act, as amended, from any farm composed of public lands to any other farm or farms in the same county composed of public lands: *Provided*, That as a condition for the transfer of any allotment or base an acreage equal to or greater than the allotment or base transferred prior to adjustment, if any, shall be devoted to and maintained in permanent vegetative cover on the farm from which the transfer is made. The Secretary shall prescribe regulations which he deems necessary for the administration of this section which may provide for adjusting downward the size of the allotment or base transferred if the farm to which the allotment or base is transferred normally has a higher yield per acre for the commodity for which the allotment or base is determined, for reasonable limitations on the size of the resulting allotments and bases on farms to which transfers are made, taking into account the size of the allotments and bases on farms of similar size in the community, and for retransferring allotments or bases and relevant histories if the conditions of the transfer are not fulfilled.]

EMINENT DOMAIN

SEC. 378. [7 U.S.C. 1378] (a) Notwithstanding any other provision of this Act, the allotment determined for any commodity for any land from which the owner is displaced because of acquisition of the land for any purpose, other than for the continued production of allotted crops, by any Federal, State, or other agency having the right of eminent domain shall be placed in an allotment pool and

<sup>377-2</sup> A provision as to peanuts added by sec. 806 of the Food and Agriculture Act of 1977, P.L. 95-113, 91 Stat. 947, Sept. 29, 1977, effective for the 1978-81 crops of peanuts, has been omitted.

<sup>377-3</sup> P.L. 89-321, 79 Stat. 1210, Nov. 3, 1965.

shall be available only for use in providing allotments for other farms owned by the owners so displaced. Upon application to the county committee, within three years after the date of such displacement, any owner so displaced shall be entitled to have allotments established for other farms owned by him, taking into consideration the land, labor, and equipment available on such other farms for the production of the commodity, crop-rotation practices, and the soil and other physical factors affecting the production of the commodity: *Provided*, That the acreage used to establish or increase the allotments for such farms shall be transferred from the pool and shall not exceed the allotment most recently established for the farm acquired from the applicant and placed in the pool. During the period of eligibility for the making of allotments under this section for a displaced owner, acreage allotments for the farm from which the owner was so displaced shall be established in accordance with the procedure applicable to other farms, and such allotment shall be considered to have been fully planted. After such allotment is made under this section, the proportionate part, or all, as the case may be, of the past acreage used in establishing the allotment most recently placed in the pool for the farm from which the owner was so displaced shall be transferred to and considered for the purposes of future State, county, and farm acreage allotments to have been planted on the farm to which allotment is made under this section. Except where paragraph (c) requires the transfer of allotment to another portion of the same farm, for the purpose of this section (1) that part of any farm from which the owner is so displaced and that part from which he is not so displaced shall be considered as separate farms; and (2) an owner who voluntarily relinquishes possession of the land subsequent to its acquisition by an agency having the right of eminent domain shall be considered as having been displaced because of such acquisition. The former owner of land acquired as described in this subsection shall not be considered for the purposes hereof to have been displaced from such land during any period for which such land is leased to such former owner: *Provided*, That the occupancy of the former owner under the lease follows immediately after his occupancy as owner: *And provided further*, That if a former owner has been displaced prior to the effective date of this amendment and no allotment from the land owned by such former owner has been transferred from the allotment pool and such former owner leases the land formerly owned by him prior to two years from the effective date of this amendment such allotment shall be retransferred from the pool to such land and the occupancy of such former owner under the lease for the purposes of this subsection shall be deemed to have begun immediately after his displacement as owner. During any year of the 3-year period the allotment from a farm may remain in the allotment pool, the displaced owner may, in accordance with regulations of the Secretary, release for one year at a time any part or all of such farm allotment to the county committee for reapportionment to other farms in the county having allotments for such commodity on the basis of the past acreage of the commodity, land, labor, equipment available for the production of the commodity, crop rotation practices, and soil and other physical facilities affecting the production of the commodity; and the allotment reapportioned shall, for purposes of establishing future farm allotments, not be regarded as planted on the farm to which the allotment was transferred.

(b) The provisions of this section shall not be applicable if (1) there is any marketing quota penalty due with respect to the marketing of the commodity from the farm acquired by the Federal, State, or other agency or by the owner of the farm; (2) any of the commodity produced on such farm has not been accounted for as required by the Secretary; or (3) the allotment next established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper identification of the commodity produced on or marketed from such farm or due to a false acreage report.

(c) This section shall not be applicable, in the case of and cotton<sup>378-3</sup>, to any farm from which the owner was displaced prior to 1950, in the case of wheat and corn, to any farm from which the owner was displaced prior to 1954, and in the case of rice, to any farm from which the owner was displaced prior to 1955. In any case where the cropland acquired for nonfarming purposes from an owner by an agency having the right of eminent domain represents less than 15 per centum of the total cropland on the farm, the allotment attributable to that portion of the farm so acquired shall be transferred to that portion of the farm not so acquired.

#### RECONSTITUTION OF FARMS

SEC. 379. [7 U.S.C. 1379] In any case in which the ownership of a tract of land is transferred from a parent farm, the acreage allotments, history acreages, and base acreages for the farm shall be divided between such tract and the parent farm in the same proportion that the cropland acreage in such tract bears to the cropland acreage in the parent farm, except that the Secretary shall provide by regulation the method to be used in determining the division, if any, of the acreage allotments, histories, and bases in any case in which—

(1) the tract of land transferred from the parent farm has been or is being transferred to any agency having the right to acquire it by eminent domain;

(2) the tract of land transferred from the parent farm is to be used for nonagricultural purposes;

(3) the parent farm resulted from a combination of two or more tracts of land and records are available showing the contribution of each tract to the allotments, histories, and bases of the parent farm;

(4) the appropriate county committee determines that a division based on cropland proportions would result in allotments and bases not representative of the operations normally carried out on any transferred tract during the base period;

(5) the parent farm is divided among heirs in settling an estate; or

(6) neither the tract transferred from the parent farm nor the remaining portion of the parent farm receives allotments in excess of allotments for similar farms in the community having allotments of the commodity or commodities involved and such allotments are consistent with good land uses.

<sup>378-3</sup> Effective beginning with the 2005 crop of each kind of tobacco, sec. 611(l)(1) of P.L. 108-357, 108 Stat. 1523, Oct. 22, 2004, amended the first sentence of subsec. (c) by striking “cotton, and tobacco” and inserting “and cotton”. Although there was no comma after “cotton,” in the original, the amendment was executed to effectuate the probable intent of Congress. The word “and” before “cotton” is so in original.

## [VOLUNTARY RELINQUISHMENT OF ALLOTMENTS]

【SEC. 803 OF AGRICULTURAL ACT OF 1970<sup>803-1</sup> 【16 U.S.C. 590q-2】 Notwithstanding any other provision of law, the Secretary may provide for the reduction or cancellation of any allotment or base when the owner of the farm states in writing that he has no further use of such allotment or base.】

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<sup>803-1</sup> P.L. 91-524, 84 Stat. 1381, Nov. 30, 1970.

***[Subtitle D was made inapplicable to the 2008 through 2012 crops of wheat.]***

**SUBTITLE D—WHEAT MARKETING ALLOCATION** <sup>379a-1</sup>

**LEGISLATIVE FINDINGS**

**SEC. 379a.** <sup>379a-2</sup> **[7 U.S.C. 1379a]** *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-agricultural 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 subtitle.*

**WHEAT MARKETING ALLOCATION**

**SEC. 379b.** <sup>379b-1</sup> **[7 U.S.C. 1379b]** *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 subtitle. 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 subtitle, 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 non-commercial wheat-production 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.*

<sup>379a-1</sup> Subtitle D was made inapplicable to the 2008 through 2012 crops of wheat by sec. 1602(a)(1) of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, 122 Stat. 1729.

<sup>379a-2</sup> See footnote 379a-1.

<sup>379b-1</sup> See footnote 379a-1.

## MARKETING CERTIFICATES

*SEC. 379c.<sup>379c-1</sup> [7 U.S.C. 1379c] (a) 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 section 379c(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.*

<sup>379c-1</sup> See footnote 379a-1.



(b) <sup>379c-2</sup> 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 339 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 market quota for such crop under section 335. [ \* \* \* ] 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 Act, 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) 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) 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) In any case in which the failure of a producer to comply fully with the term and conditions of the programs formulated under this Act 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.

#### MARKETING RESTRICTIONS

SEC. 379d.<sup>379d-1</sup> [7 U.S.C. 1379d] (a) 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.

<sup>379c-2</sup> The omitted language was effective only with respect to the crops planted for harvest in the calendar years 1965 through 1970.

<sup>379d-1</sup> See footnote 379a-1.

(b) *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 market 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 noncommercial 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 non-commercial. 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. Notwithstanding the foregoing, the Secretary is authorized, to temporarily*

suspend the requirement for export marketing certificates for the period beginning July 1, 1971, and ending June 30, 1974.

(c) 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) As used in this subtitle, 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 379f of the Agricultural Adjustment Act of 1938, even though certificates had been surrendered on the basis of the weight of the wheat.

#### ASSISTANCE IN PURCHASE AND SALE OF MARKETING CERTIFICATES

**SEC. 379e.**<sup>379e-1</sup> **[7 U.S.C. 1379e]** 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. Notwithstanding any other provision of this Act, Commodity Credit Corporation shall sell marketing certificates for the marketing years for the 1966 through the 1970 wheat crops to persons engaged in the processing of food products at the face value thereof less any amount which price support for wheat accompanied by domestic certificates exceeds \$2 per bushel. Notwithstanding any other provision of this Act, Commodity Credit Corporation shall 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 in determining the cost to processors the face value shall be 75 cents per bushel.

#### CONVERSION FACTORS

**SEC. 379f.**<sup>379f-1</sup> **[7 U.S.C. 1379f]** 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

<sup>379e-1</sup> See footnote 379d-1.

<sup>379f-1</sup> See footnote 379d-1.

*such food product shall be determined upon the basis of the weight of wheat used in the manufacture of such product.*

AUTHORITY TO FACILITATE TRANSITION

*SEC. 379g.<sup>379g-1</sup> [7 U.S.C. 1379g] (a) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the program currently in effect to the program provided for in this subtitle. Notwithstanding any other provision of this subtitle, such authority shall include, but shall not be limited, to the authority to exempt all or a portion of the wheat or food products made therefrom in the channels of trade on the effective date of the program under this subtitle from the marketing restrictions in subsection (b) of section 379d, or to sell certificates to persons owning such wheat or food products at such prices as the Secretary may determine. Any such certificate shall be issued by Commodity Credit Corporation.*

*(b) Whenever the face value per bushel of domestic marketing certificates for a marketing year is substantially different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary is authorized to take such action as he determines necessary to facilitate the transition between marketing years. Notwithstanding any other provision of this subtitle, such authority shall include, but shall not be limited to, the authority to sell certificates to persons engaged in the processing of wheat into food products covering such quantities of wheat, at such prices, and under such terms and conditions as the Secretary may by regulation provide. Any such certificate shall be issued by Commodity Credit Corporation.*

*(c) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the certificate program provided for under section 379d to a program under which no certificates are required. Notwithstanding any other provision of law, such authority shall include, but shall not be limited to the authority to exempt all or a portion of wheat or food products made therefrom in the channels of trade on July 1, 1973, from the marketing restrictions in subsection (b) of section 379d, or to sell certificates to persons owning such wheat or food products made therefrom at such price and under such terms and conditions as the Secretary may determine. Any such certificate shall be issued by the Commodity Credit Corporation. Nothing herein shall authorize the Secretary to require certificates on wheat processed after June 30, 1973.*

REPORTS AND RECORDS

*SEC. 379h.<sup>379h-1</sup> [7 U.S.C. 1379h] This section shall apply to processors of wheat, warehousemen and exporters of wheat and food products, and all persons purchasing, selling, or otherwise dealing in wheat marketing certificates. 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 carry out the provisions of this subtitle. Such information shall be reported and such records shall be kept in such manner as the Secretary shall prescribe. For the purpose of*

<sup>379g-1</sup> See footnote 379d-1.

<sup>379h-1</sup> See footnote 379d-1.

*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 hereby authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memorandums as he has reason to believe are relevant and are within the control of such person.*

#### PENALTIES

*SEC. 379i.<sup>379i-1</sup> [7 U.S.C. 1379i] (a) Any person who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provisions of subsection (b) of section 379d of this Act shall forfeit to the United States a sum equal to two times the face value of the marketing certificates involved in such violation. Such forfeiture shall be recoverable in a civil action brought in the name of the United States.*

*(b) Any person, except a producer in his capacity as a producer, who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provision of this subtitle, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or who knowingly fails to make any report or keep any record as required by section 379h shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$5,000 for each violation.*

*(c) Any person who, in his capacity as a producer, knowingly violates or attempts to violate or participates or aids in the violation of any provision of this subtitle, or of any regulation governing the acquisition, disposition, or handling of marketing certificates or fails to make any report or keep any record as required by section 379h shall, (i) forfeit any right to receive marketing certificates, in whole or in part as the Secretary may determine, with respect to the farm or farms and for the marketing year with respect to which any such act or default is committed, or (ii), if such marketing certificates have already been issued, pay to the Secretary, upon demand, the amount of the face value of such certificates, or such part thereof as the Secretary may determine. Such determination by the Secretary with respect to the amount of such marketing certificates to be forfeited or the amount to be paid by such producer shall take into consideration the circumstances relating to the act or default committed and the seriousness of such act or default.*

*(d) Any persons who falsely makes, issues, alters, forges, or counterfeits any marketing certificate, or with fraudulent intent possesses, transfers, or uses any such falsely made, issued, altered, forged, or counterfeited marketing certificate, shall be deemed guilty of a felony and upon conviction thereof shall be subject to a fine of not more than \$10,000 or imprisonment of not more than ten years, or both.*

#### REGULATIONS

*SEC. 379j.<sup>379j-1</sup> [7 U.S.C. 1379j] The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subtitle including but not limited to regulations governing the acquisition, disposition, or handling of marketing certificates.*

<sup>379i-1</sup> See footnote 379d-1.

<sup>379j-1</sup> See footnote 379d-1.

*SUBTITLE E—RICE CERTIFICATES*

*[RICE CERTIFICATES]*

*[SEC. 380a-380p. Effective only as to the 1957-58 rice crops.]*

## SUBTITLE F—MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

## PART I—MISCELLANEOUS

## COTTON PRICE ADJUSTMENT PAYMENTS

SEC. 381. [7 U.S.C. 1381] (a) [Applicable only to the 1937 crop of cotton.]

(b) [Applicable only to the 1937 crop of cotton.]

(c)<sup>381-1</sup> [ \* \* \* ]

## EXTENSION OF 1937 COTTON LOAN

SEC. 382. [7 U.S.C. 1382] [Applicable only to the 1937 crop of cotton.]

## INSURANCE OF COTTON AND RECONCENTRATION OF COTTON

SEC. 383. [7 U.S.C. 1383] (a) The Commodity Credit Corporation shall place all insurance of every nature taken out by it on cotton, and all renewals, extensions, or continuations of existing insurance, with insurance agents who are bona fide residents of and doing business in the State where the cotton is warehoused: *Provided*, That such insurance may be secured at a cost not greater than similar insurance offered on said cotton elsewhere.

(b) Cotton held as security for any loan heretofore or hereafter made or arranged for by the Commodity Credit Corporation shall not hereafter be reconcentrated without the written consent of the producer or borrower.

## [RECONCENTRATION OF COTTON]

[ACT OF JUNE 16, 1938.<sup>383-1</sup> [7 U.S.C. 1383a] In the administration of section 383(b) of the Agricultural Adjustment Act of 1938 the written consent of the producer or borrower to the reconcentration of any cotton held as security for any loan heretofore or hereafter made or arranged for by the Commodity Credit Corporation shall not be deemed to have been given unless such consent shall have been given in an instrument made solely for that purpose. Notwithstanding any provision of any loan agreement heretofore made, no cotton held under any such agreement as security for any such loan shall be moved from one warehouse to another unless the written consent of the producer or borrower shall have been obtained in a separate instrument given solely for that purpose, as required by this Act. The giving of written consent for the reconcentration of cotton shall not be made a condition upon the making of any loan hereafter made or arranged for by the Commodity Credit Corporation: *Provided, however*, That in cases where there is congestion and lack of storage facilities, and the local warehouse certifies such fact and requests the Commodity Credit Corporation to move the cotton for reconcentration to some other point, or when the Commodity Credit Corporation determines such loan cotton is improperly warehoused and subject to damage, or if uninsured, or if any of the terms of the loan agreement are violated, or if carrying charges are substantially in excess of the average of carrying charges available elsewhere, and the local warehouse, after notice, declines to reduce such charges, such written consent as provided in this amendment need not be obtained; and consent to movement

<sup>381-1</sup> Repealed by the Agricultural Act of 1948, P.L. 80-897, 62 Stat. 1255, July 3, 1948.

<sup>383-1</sup> P.L. 660, 75th Cong., 52 Stat. 762.

under any of the conditions of this proviso may be required in future loan agreements.]

[REPORT OF BENEFITS]

[SEC. 384.<sup>384-1</sup> [7 U.S.C. 1384] \* \* \* ]

FINALITY OF FARMERS PAYMENTS AND LOANS

SEC. 385. [7 U.S.C. 1385] The facts constituting the basis for any Soil Conservation Act payment, any payment under the wheat, feed grain, upland cotton, extra long staple cotton, and rice programs authorized by the Agricultural Act of 1949 and this Act, any loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary of Agriculture may determine to be fair and reasonable in all the circumstances and provide by regulations. This section also shall be applicable to payments provided for under section 348 of this title.

[EXEMPTION FROM LAWS PROHIBITING INTEREST OF MEMBERS OF CONGRESS IN CONTRACTS]

SEC. 386. [7 U.S.C. 1386] The provisions of section 3741 of the Revised Statutes (U.S.C., 1934 edition, title 41, Sec. 22) and sections 114 and 115 of the Criminal Code of the United States (U.S.C., 1934 edition, title 18, secs. 204 and 205) [now 18 U.S.C. 431 and 432] shall not be applicable to loans or payments made under this Act (except under section 383(a)).

PHOTOGRAPHIC REPRODUCTIONS AND MAPS

SEC. 387. [7 U.S.C. 1387] The Secretary may furnish reproductions of information such as geo-referenced data from all sources, aerial or other photographs, mosaics, and maps as have been obtained in connection with the authorized work of the Department to farmers and governmental agencies at the estimated cost of furnishing such reproductions, and to persons other than farmers at such prices as the Secretary may determine (but not less than the estimated costs of data processing, updating, revising, reformatting, repackaging and furnishing the reproductions and information), the money received from such sales to be deposited in the Treasury to the credit of the appropriation charged with the cost of making such reproductions. This section shall not affect the power of the Secretary to make other disposition of such or similar materials under any other provisions of existing law.

UTILIZATION OF LOCAL AGENCIES

SEC. 388. [7 U.S.C. 1388] (a) The provisions of section 8(b) and section 11 of the Soil Conservation and Domestic Allotment Act, as amended, relating to the utilization of State, county, local committees, the extension service, and other approved agencies, and to rec-

<sup>384-1</sup> Repealed by P.L. 615, 79th Cong., 60 Stat. 866, Aug. 7, 1946.



ognition and encouragement of cooperative associations, shall apply in the administration of this Act; and the Secretary shall, for such purposes, utilize the same local, county, and State committees as are utilized under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended. The local administrative areas designated under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for the administration of programs under that Act, and the local administrative areas designated for the administration of this Act shall be the same.

(b)(1) The Secretary is authorized and directed, from any funds made available for the purposes of the Acts in connection with which county committees are utilized, to make payments to county committees of farmers to cover the estimated administrative expenses incurred or to be incurred by them in cooperating in carrying out the provisions of such Acts. All or part of such estimated administrative expenses of any such committee may be deducted pro rata from the Soil Conservation Act payments, parity payments, or loans, or other payments under such Acts, made unless payment of such expenses is otherwise provided by law. The Secretary may make such payments to such committees in advance of determination of performance by farmers.

(2)(A) The Secretary shall provide compensation to members of such county committees (at not less than the level in effect on December 31, 1985 for county committees) for work actually performed by such persons in cooperating in carrying out the Acts in connection with which such committees are used.

(B) The rate of compensation received by such persons for such work on the date of enactment of the Food Security Act of 1985 shall be increased at the discretion of the Secretary.

(c)(1) The Secretary shall make payments to members of local, county, and State committees to cover expenses for travel incurred by such persons (including, in the case of a member of a local or county committee, travel between the home of such member and the local county office of the Agricultural Stabilization and Conservation Service) in cooperation in carrying out the Acts in connection with which such Committees are used.

(2) Such travel expenses shall be paid in the manner authorized under section 5703 of title 5, United States Code, for the payment of expenses and allowances for individuals employed intermittently in the Federal Government service.

#### PERSONNEL

SEC. 389. [7 U.S.C. 1389] The Secretary is authorized and directed to provide for the execution by the Agricultural Adjustment Administration of such of the powers conferred upon him by this Act as he deems may be appropriately exercised by such administration; and for such purposes the provisions of law applicable to appointment and compensation of persons employed by the Agricultural Adjustment Administration shall apply.

#### SEPARABILITY

SEC. 390. [7 U.S.C. 1390] If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons or circumstances, and the provisions of the Soil Conservation and Domestic Allotment Act, as amended,

shall not be affected thereby. Without limiting the generality of the foregoing, if any provision of this Act should be held not to be within the power of the Congress to regulate interstate and foreign commerce, such provision shall not be held invalid if it is within the power of the Congress to provide for the general welfare or any other power of the Congress. If any provision of this Act for the marketing quotas with respect to any commodity should be held invalid, no provision of this Act for marketing quotas with respect to any other commodity shall be affected thereby. If the application of any provision for a referendum should be held invalid, the application of other provisions shall not be affected thereby. If by reason of any provision for a referendum the application of any such other provision to any person or circumstance is held invalid, the application of such other provision to other persons or circumstances shall not be affected thereby.

PART II—APPROPRIATIONS AND ADMINISTRATIVE EXPENSES

APPROPRIATIONS

SEC. 391. [7 U.S.C. 1391] (a) Beginning with the fiscal year ending June 30, 1938, there is hereby authorized to be appropriated, for each fiscal year for the administration of this Act and for the making of soil conservation and other payments such sums as Congress may determine, in addition to any amount made available pursuant to section 15 of the Soil Conservation and Domestic Allotment Act, as amended.

(b) [Applicable only to fiscal year 1938.]

(c) During each fiscal year, beginning with the fiscal year ending June 30, 1941, the Commodity Credit Corporation is authorized and directed to loan to the Secretary such sums, not to exceed \$50,000,000, as he estimates will be required during such fiscal year, to make crop insurance premium advances and to make advances pursuant to the applicable provisions of sections 8 and 12 of the Soil Conservation and Domestic Allotment Act, as amended, in connection with programs applicable to crops harvested in the calendar year in which such fiscal year ends, and to pay the administrative expenses of county agricultural conservation associations for the calendar year in which such fiscal year ends. The sums so loaned during any fiscal year shall be transferred to the current appropriation available for carrying out sections 7 to 17 of such Act and shall be repaid, with interest at a rate to be determined by the Secretary but not less than the cost of money to the Commodity Credit Corporation for a comparable period, during the succeeding fiscal year from the appropriation available for that year or from any unobligated balance of the appropriation for any other year.

ADMINISTRATIVE EXPENSES

SEC. 392. [7 U.S.C. 1392] (a) The Secretary is authorized and directed to make such expenditures as he deems necessary to carry out the provisions of this Act and sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, including personal services and rents in the District of Columbia and elsewhere; traveling expenses; supplies and equipment; lawbooks, books of reference, directories, periodicals, and newspapers; and the preparation and display of exhibits, including such displays at community, county, State, interstate, and international fairs within the United States. The Secretary of the Treasury is authorized and di-

rected upon the request of the Secretary to establish one or more separate appropriation accounts into which there shall be transferred from the respective funds available for the purposes of the several Acts, in connection with which personnel or other facilities of the Agricultural Adjustment Administration are utilized, proportionate amounts estimated by the Secretary to be required by the Agricultural Adjustment Administration for administrative expenses in carrying out or cooperating in carrying out any of the provisions of the respective Acts.

(b) In the administration of this title and sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the aggregate amount expended in any fiscal year, beginning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 3 per centum of the total amount available for such fiscal year for carrying out the purposes of this title and such Act, unless otherwise provided by appropriation or other law. In the administration of section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes," approved August 24, 1935 (49 Stat. 774), as amended, and the Agricultural Marketing Agreement Act of 1937, as amended, and those sections of the Agricultural Adjustment Act (of 1933), as amended, which were reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, the aggregate amount expended in any fiscal year, beginning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 4 per centum of the total amount available for such fiscal year for carrying out the purposes of said Acts, unless otherwise provided by appropriation or other law. In the event any administrative expenses of any county or local committee are deducted in any fiscal year, beginning with the fiscal year ending June 30, 1939, from Soil Conservation Act payments, parity payments, or loans, each farmer receiving benefits under such provisions shall be apprised of the amount or percentage deducted from such benefit payment or loan on account of such administrative expenses. The names and addresses of the members and employees of any county or local committee, and the amount of such compensation received by each of them, shall be posted annually in a conspicuous place in the area within which they are employed.

#### ALLOTMENT OF APPROPRIATIONS

SEC. 393. [7 U.S.C. 1393] All funds for carrying out the provisions of this Act shall be available for allotment to bureaus and offices of the Department, and for transfer to such other agencies of the Federal Government, and to such State agencies, as the Secretary may request to cooperate or assist in carrying out the provisions of this Act.

## APPENDIX

### [COTTON ACREAGE ALLOTMENTS]

**[SEC. 1 OF ACT OF MARCH 29, 1949<sup>1</sup> \* \* \* ]** That, notwithstanding the provisions of title III of the Agricultural Adjustment Act of 1938, as amended, or of any other law, State, county, and farm acreage allotments and yields for cotton for any year after 1949 shall be computed without regard to yields or to the acreage planted to cotton in 1949.

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<sup>1</sup> Sec. 1 of Act of March 29, 1949 (63 Stat. 17, chapter 38; 7 U.S.C. 1344a).