

Stat. 94; Pub. L. 103-66, title I, § 1106(b)(3), Aug. 10, 1993, 107 Stat. 322, related to marketing assessments to No Net Cost Tobacco Account.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF REPEAL

Repeal applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as an Effective Date note under section 518 of this title.

#### SAVINGS PROVISION

Repeal not to affect the liability of any person under sections 1445 to 1445-2 of this title with respect to the 2004 or an earlier crop of tobacco, see section 614 of Pub. L. 108-357, set out as a note under section 515 of this title.

### § 1445-3. Purchase of inventory stock

Notwithstanding any other provision of law, in order to reduce or eliminate the excessive inventories of Flue-cured and Burley tobacco held by associations from the 1976 through 1984 crops, and in order to provide for the orderly disposition of such excessive inventories of tobacco in a manner that will not disrupt the orderly marketing of new tobacco crops and will minimize any losses to the Federal Government:

#### (a) Sale of inventory stock

(1) The producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco shall offer to sell the stocks of Flue-cured tobacco of the association from the 1976 through 1984 crops as provided in this section.

(2) Each producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Burley tobacco shall offer to sell its stocks of Burley tobacco from the 1982 and 1984 crops as provided in this section.

(3)(A)(i) Not later than 30 days after April 7, 1986, the Commodity Credit Corporation shall acquire title to the Burley tobacco from the 1983 crop that is pledged as security for loans on such tobacco by calling the loans on such tobacco.

(ii) The Corporation shall, then, offer such tobacco for sale at such times, in such quantities, and subject to such conditions as the Corporation considers appropriate.

(B) If the Commodity Credit Corporation has not sold all of the stocks of the 1983 crop of Burley tobacco within 2 years from the date the Corporation calls the loans on such tobacco, the Corporation may offer to sell to domestic manufacturers of cigarettes the remaining stocks of such tobacco as provided in this section.

#### (b) Sale prices

(1)(A) The stocks of Flue-cured tobacco from the 1976 through 1984 crops shall be offered for sale at the base prices, including carrying charges, in effect as of the date of the offer, reduced by—

(i) 90 percent for Flue-cured tobacco from the 1976 through 1981 crops; and

(ii) 10 percent for Flue-cured tobacco from the 1982 through 1984 crops.

(B) The purchasers of the stocks of Flue-cured tobacco from the 1976 through 1984 crops shall

pay the full carrying charges that have accrued to such tobacco from the date of the offer made under this section to the date that such tobacco is removed from the inventory of the association.

(2)(A) The stocks of Burley tobacco from the 1982 crop shall be offered for sale at the listed base price in effect as of July 1, 1985.

(B) The stocks of Burley tobacco from the 1984 crop shall be offered for sale at the costs of the association for such tobacco as of April 7, 1986.

(C) The purchasers of the stocks of Burley tobacco from the 1982 crop shall pay the full carrying charges that have accrued to such tobacco.

(D) The purchasers of the stocks of Burley tobacco from the 1984 crop shall pay the full carrying charges that have accrued to such tobacco from April 7, 1986, to the date such tobacco is removed from the inventories of the associations.

(3)(A) After the 2-year period specified in subsection (a)(3)(B) has expired, if the Commodity Credit Corporation offers to sell the stocks of the Corporation of Burley tobacco from the 1983 crop to domestic manufacturers of cigarettes, such stocks shall be offered for sale at the costs of the association, including carrying charges, as of the date on which the Corporation calls the loans on such tobacco, reduced by 90 percent.

(B) Neither tobacco producers nor tobacco purchasers shall be responsible for carrying charges that accrue to the 1983 crop of Burley tobacco after the date on which the Commodity Credit Corporation calls the loans on such tobacco.

#### (c) Terms of agreements

(1)(A) Each domestic manufacturer of cigarettes may enter into agreements to purchase inventory stocks of Flue-cured and Burley tobacco, in accordance with this section.

(B) To be eligible for the reductions in price specified in this section, such manufacturer shall enter into such agreements as soon as practicable, but not later than 90 days after April 7, 1986, except that, with respect to the 1983 crop of Burley tobacco, if the Corporation offers to sell the stocks of such tobacco pursuant to subsection (b)(3)(A), such agreements shall be entered into as soon as practicable, but not later than 90 days after the end of the 2-year period referred to in subsection (a)(3)(B).

(C)(i) Such agreements shall provide that, over a period of time, each participating domestic manufacturer of cigarettes shall purchase a percentage of the stocks of Flue-cured and Burley tobacco held—

(I) by the producer-owned cooperative marketing associations at the close of the 1984 marketing year; or

(II) in the case of the 1983 crop of Burley tobacco, by the Commodity Credit Corporation at the time the Corporation offers such tobacco for sale to domestic manufacturers of cigarettes under this section.

(ii) The period of time referred to in clause (i) may not exceed—

(I) in the case of Flue-cured tobacco, 8 years from April 7, 1986;

(II) in the case of Burley tobacco from the 1982 and 1984 crops, 5 years from April 7, 1986; and

(III) in the case of the 1983 crop of Burley tobacco, 5 years from the end of the 2-year period referred to in subsection (a)(3)(B).

(2)(A)(i) The percentage to be purchased by each participating manufacturer shall be at least equal to the respective percentage of the participating manufacturer of the total quantity of net cigarettes manufactured for use as determined by the Secretary of Agriculture under this paragraph on the basis of the monthly reports ("Manufacturer of Tobacco Products—Monthly Reports") submitted by manufacturers of tobacco products to the Tax and Trade Bureau of the Department of the Treasury.

(ii) The Secretary of Agriculture shall request from the Secretary of the Treasury copies of such monthly reports necessary to make the determinations required under this section.

(iii) Notwithstanding any other provision of law, the Secretary of the Treasury may release and disclose such information to the Secretary of Agriculture.

(B) "Net cigarettes manufactured for use" shall be computed by subtracting—

(i) the cumulative figures entered for large and small cigarettes in item 16f of ATF Form 3068 ("Reduction to tobacco"); from

(ii) the cumulative figures entered for large and small cigarettes in item 7 of such form ("Manufactured").

(C)(i) The percentage to be purchased by each participating manufacturer shall be determined—

(I) on April 7, 1986; and

(II) annually thereafter over the course of the respective buy-out periods specified in this subsection.

(ii) Such percentage shall be determined by dividing—

(I) the average net cigarettes manufactured by a manufacturer for use for the 12-month period immediately preceding the appropriate determination date (April 7, 1986, and annually thereafter over the course of the respective buy-out periods specified in this subsection); by

(II) the aggregate average net cigarettes manufactured by all domestic cigarette manufacturers for use for such 12-month period.

(D)(i) The quantity of tobacco to be purchased by each participating manufacturer shall be determined annually.

(ii) Such quantity shall be based on—

(I) the percentage of net cigarettes of a manufacturer manufactured for use, as determined under subparagraph (C); multiplied by

(II) the appropriate annual quantity to be withdrawn from the inventories of the associations or the Commodity Credit Corporation.

(iii) The appropriate annual quantity to be withdrawn from inventories shall be—

(I) 12½ percent of the inventories of Flue-cured tobacco from the 1976 through 1984 crops on hand on April 7, 1986;

(II) 20 percent of the inventories of Burley tobacco from the 1982 and 1984 crops on hand on April 7, 1986; and

(III) 20 percent of the inventories of Burley tobacco from the 1983 crop held by the Com-

modity Credit Corporation on the date that is 2 years after the call of the loans on such tobacco by the Corporation.

(E) Any purchases by a manufacturer from the inventories of the associations or from the Commodity Credit Corporation for a crop covered by this section in any year of the buy-out period that exceed the quantity of the purchases of the manufacturer required under the agreement, as determined under this section, shall be applied against future purchases required of such manufacturer.

(3) In carrying out this section, manufacturers may confer with one another and, separately or collectively, with associations, the Secretary of Agriculture, and the Commodity Credit Corporation, as may be necessary or appropriate to carry out this section and the purposes of this subtitle.<sup>1</sup>

#### (d) Approval of agreements

(1)(A) Each agreement entered into under this section shall be submitted to the Secretary of Agriculture for review and approval.

(B) In the case of an agreement to purchase tobacco from the inventory of a producer association, the agreement shall be submitted by the association.

(C) No agreement may become effective until approved by the Secretary.

(2) The Secretary of Agriculture shall not approve any agreement submitted under this section unless the Secretary has determined that—

(A) the agreement—

(i) will not unduly impair or disrupt the orderly marketing of current and future tobacco crops during the term of the agreement; and

(ii) is otherwise consistent with the purposes of this subtitle;<sup>1</sup> and

(B) the price and other terms of sale are uniform and nondiscriminatory among various purchasers.

#### (e) Disclosure

The limitations on disclosure set forth in subsections (c) and (d) of section 1314g<sup>1</sup> of this title shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to net cigarettes manufactured for use, including information provided on ATF Form 3068. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 1314g(c)(4)<sup>1</sup> of this title.

(Pub. L. 99-272, title I, §1109, Apr. 7, 1986, 100 Stat. 95; Pub. L. 107-296, title XI, §1112(b), Nov. 25, 2002, 116 Stat. 2276.)

#### Editorial Notes

##### REFERENCES IN TEXT

This subtitle, referred to in subsecs. (c)(3) and (d)(2)(A)(ii), is subtitle B (§§1101-1112) of title I of Pub. L. 99-272, Apr. 7, 1986, 100 Stat. 83, which enacted sections 1314g, 1314h, and 1445-3 of this title, amended sections 511d, 1301, 1312, 1314c, 1314e, 1372, 1445, 1445-1, and 1445-2 of this title, and enacted provisions set out as

<sup>1</sup> See References in Text note below.

notes under sections 1301, 1314c, 1314e, 1314g, 1314h, 1372, 1445, 1445-1, and 1445-2 of this title. For complete classification of this subtitle to the Code, see Tables.

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

#### CODIFICATION

Section was enacted as part of the Consolidated Omnibus Budget Reconciliation Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

#### AMENDMENTS

2002—Subsec. (c)(2)(A)(i). Pub. L. 107-296 substituted “by manufacturers of tobacco products to the Tax and Trade Bureau” for “(on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

#### RULEMAKING PROCEDURES

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

### § 1445a. Wheat price support levels; “cooperator” defined

Notwithstanding the provisions of section 1441 of this title, beginning with the 1964 crop—

(1) Price support for wheat accompanied by domestic certificates shall be at such level not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines appropriate, taking into consideration the factors specified in section 1421(b) of this title.

(2) Price support for wheat accompanied by export certificates shall be at such level not more than 90 per centum of the parity price therefor as the Secretary determines appropriate, taking into consideration the factors specified in section 1421(b) of this title.

(3) Price support for wheat not accompanied by marketing certificates shall be at such level, not in excess of 90 per centum of the parity price therefor, as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains.

(4) Price support shall be made available only to cooperators: and, if a commercial wheat-producing area is established for such crop, price support shall be made available only in the commercial wheat-producing area.

(5) Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year, the level of price support for any crop of wheat for which a national mar-

keting quota is not proclaimed or for which marketing quotas have been disapproved by producers shall be as provided in section 1441 of this title.

(6) A “cooperator” with respect to any crop of wheat produced on a farm shall be a producer who (i) does not knowingly exceed (A) the farm acreage allotment for wheat on the farm or (B) except as the Secretary may by regulation prescribe, the farm acreage allotment for wheat on any other farm on which the producer shares in the production of wheat, and (ii) complies with the land-use requirements of section 1339 of this title, to the extent prescribed by the Secretary. Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year, if marketing quotas are not in effect for the crop of wheat, a “cooperator” with respect to any crop of wheat produced on a farm shall be a producer who does not knowingly exceed the farm acreage allotment for wheat. 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, but the producer shall not be eligible to receive price support on such marketing excess. No producer shall be deemed to have exceeded the farm acreage allotment for wheat on any other farm, if such farm is exempt from the farm marketing quota for such crop under section 1335 of this title. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the production on the acreage in excess of the farm acreage allotment is stored pursuant to the provisions of section 1379c(b) of this title, but the producer shall not be eligible to receive price support on the wheat so stored.

(Oct. 31, 1949, ch. 792, title I, §107, as added Pub. L. 87-703, title III, §325(1), Sept. 27, 1962, 76 Stat. 630; amended Pub. L. 88-297, title II, §203, Apr. 11, 1964, 78 Stat. 182; Pub. L. 89-321, title V, §506, Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90-559, §1(1), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91-524, title IV, §401, Nov. 30, 1970, 84 Stat. 1362; Pub. L. 93-86, §1(8), Aug. 10, 1973, 87 Stat. 224; Pub. L. 93-125, §1(b), Oct. 18, 1973, 87 Stat. 450; Pub. L. 93-228, §1(a), Dec. 29, 1973, 87 Stat. 944.)

### Editorial Notes

#### AMENDMENTS

1973—Subsec. (a). Pub. L. 93-86, §1(8)(A), temporarily amended subsec. (a) generally, substituting “\$1.37 per bushel” for “\$1.25 per bushel”. See Effective and Termination Dates of 1970 and 1973 Amendment notes below.

Subsec. (b). Pub. L. 93-86, §1(8)(B), temporarily substituted “payments” for “certificates”. See Effective and Termination Dates of 1970 and 1973 Amendment notes below.

Subsec. (c). Pub. L. 93-228 substituted “(or of cotton, corn, grain sorghums, or barley planted in lieu of wheat)” for “(or other nonconserving crop planted instead of wheat)”, in two places.

Pub. L. 93-125 substituted “prevented from planting any portion” for “prevented from planting, any portion”.

Pub. L. 93-86, §1(8)(C), (D), temporarily added subsec. (c). See Effective and Termination Dates of 1970 and 1973 Amendment notes below.