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Room 244, House Office Building
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For Release Tuesday,
September 3, 1963

EFFECT OF OVERPLANTING A FARM WHEAT ALLOTMENT IN 1964 UNDER LAW NOW IN EFFECT

The House of Representatives Agriculture Wheat Subcommittee is considering a legislative proposal to suspend the operation of the controversial Anfuso Amendment to the wheat law during periods when marketing quotas are not in effect. Many farmers and members of Congress feel that the Anfuso Amendment should not be operative now that farmers have rejected marketing quotas for next year. The Department of Agriculture has ruled otherwise, however, and when asked for a recommendation on August 27, USDA officials asked for more time. It appears to me the Department has had adequate time since May 21, and for all practical purposes "winter wheat" farmers must plant without hearing what the USDA may recommend or what Congress will do.

As matters now stand, a farmer who exceeds his wheat allotment will not only be denied price support on his crop, but he will lose "history" on his subsequent years allotments due to the operation of the Anfuso Amendment.

Under this 1958 amendment, any farmer who overplants his wheat acreage allotment (and does not plow under the excess) will, when his allotment is calculated for subsequent years, have the overplanted allotment used in the formula for calculating his farm wheat base. Since allotments are a percentage of the farm base, this would have the effect of decreasing the subsequent years' allotments by six percent to eight percent below what it was in the overplanted year.

Thus, although there are no civil penalties for overplanting, a wheat farmer would face the loss of both price support and "history" if he did not remove his excess wheat by "plow-under time".

The practical application of the Anfuso Amendment presents another set of problems. Legally and theoretically, the Anfuso Amendment says that in any year in which a farmer exceeds his allotment the only history credit he will receive for that year will be his actual allotment . . . and not his farm wheat base. Thus, a farmer exceeding his allotment on the 1964 crop should find his 1965 allotment reduced by 6 percent to 8 percent. However, the mechanics of administering the wheat law are very complex and as a result the legal theory doesn't work out to an identical practical result. The Department of Agriculture technicians point out that the notices for the 1965 referendum have to be

sent to farmers before some of the 1964 spring wheat is planted. The Department therefore doesn't know if those farmers have exceeded their allotments or not and whether the Anfuso Amendment applies. The Department thus will be unable to use the 1964 history in calculating the 1965 allotment. The first time the overplanting "penalty" involved in the Anfuso Amendment will apply will be in 1966. I am informed by USDA officials that specific information will be available to every wheat producer soon. In a USDA memo to State and County ASC offices it is stated:

> "Under the present provisions of law and regulations, noncompliance with the 1964 farm wheat allotment will have an adverse effect on the 1966 and future wheat allotments. It will not have any effect on the 1965 allotment since the 1964 wheat acreage will not be available when such allotments are determined.
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> "Complying farms (with allotments of 15 acres or more) will receive their base acreage as history for future allotments. Excess farms (with allotments of 15 acres or more) will receive their 1964 allotted acres as history. Since the 1964 farm allotment is approximately 60 percent of the farm base, this could have the net effect of having the farm allotment on such noncomplying farms reduced 6 to 7 percent beginning with the 1966 allotment."

This interpretation leads to some interesting implications. For example, a farmer who plants in excess of his allotment in 1964 and within his allotment in 1965 will be downright surprised when he finds his 1966 allotment reduced . . . and what will happen if the referendum should carry next year?

It's no wonder that many wheat farmers as well as those of us in Washington who are vitally concerned with this matter think this 1958 amendment to the wheat law should be called the "Confuso Amendment."

In my opinion, when the farmer who "over-harvests" does not receive price support and when his production does not go under government loans and storage, there is little justification for the Department's present ruling. While officials say the law is clear, I might point out that the legal opinion of John Bagwell, USDA General Counsel, consumes 5 pages (copy of opinion enclosed).

There appears to be some indication of "softening" among top USDA officials and Kennedy Administration Congressional leaders, but the "let the farmer stew in his own juice" attitude still prevails. Not a single Agriculture official has appeared before the Wheat Subcommittee with suggestions to improve existing wheat law. USDA officials have appeared before the Agriculture Committee urging legislation to create another "Assistant Secretary of Agriculture," so perhaps adding one more employee and touring 5 communist countries are more important to Secretary Freeman than are wheat, cotton and dairy farmers of America.