EFFECTIVE DATE

Section 523 of Pub. L. 97–470 repealed section 15 of Pub. L. 88–582, Sept. 7, 1964, 78 Stat. 924, which had prescribed Jan. 1, 1965, as the effective date for this chapter.

SHORT TITLE OF 1974 AMENDMENT

Section 1(a) of Pub. L. 93–518, Dec. 7, 1974, 88 Stat. 1652, which had enacted sections 2050a to 2050c, 2054, and 2055 and amended sections 2041 to 2046, 2048, and 2053 of this title, had provided for citation of such amendments as the ''Farm Labor Contractor Registration Act Amendments of 1974''.

SHORT TITLE

Section 523 of Pub. L. 97–470 repealed section 1 of Pub. L. 88–582, Sept. 7, 1964, 78 Stat. 920, which had provided for citation of this chapter as the ''Farm Labor Contractor Registration Act of 1963''.

CHAPTER 53—COTTON RESEARCH AND PROMOTION

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§ 2101. Congressional declaration of policy

Cotton is the basic natural fiber of the Nation. It is produced by many individual cottongrowers throughout the various cotton-producing States of the Nation and also outside the United States. Cotton moves in the channels of interstate and foreign commerce and such cotton which does not move in such channels directly burdens or affects interstate commerce in cotton and cotton products. The efficient production of cotton and the maintenance and expansion of existing markets and the development of new or improved markets and uses is vital to the welfare of cottongrowers and those concerned with marketing, using, and processing cotton as well as the general economy of the Nation. The great inroads on the market and uses for cotton which have been made by manmade fibers have been largely the result of extensive research and promotion which have not been effectively matched by cotton research and promotion. The production and marketing of cotton by numerous individual farmers have prevented the development and carrying out of adequate and coordinated programs of research and promotion necessary to the maintenance and improvement of the competitive position of, and markets for, cotton. Without an effective and coordinated method for assuring cooperative and collective action in providing for, and financing such programs, individual cotton farmers are unable adequately to provide or obtain the research and promotion necessary to maintain and improve markets for cotton.

It has long been found to be in the public interest to have, or endeavor to have, a reasonable balance between the supply of and demand for cotton grown in this country. To serve this public interest the Congress has provided for the comprehensive exercise of regulatory authority in regulating the handling of such cotton supplemented by price-support programs with the objective of adjusting supply to demand in the interest of benefiting producers and all others concerned with the production and handling of cotton as well as the general economy of the country. In order for the objective of such programs to be effectuated to the fullest degree, it is necessary that the existing regulation of marketing be supplemented by providing as part of the overall governmental program for effectuating this objective, means of increasing the demand for cotton with the view of eventually reducing or eliminating the need for limiting marketings and supporting the price of cotton.

It is therefore declared to be the policy of the Congress and the purpose of this chapter that it is essential in the public interest through the exercise of the powers provided herein, to authorize and enable the establishment of an orderly procedure for the development, financing through adequate assessments on all cotton marketed in the United States and on imports of cotton, and carrying out an effective and continuous coordinated program of research and promotion designed to strengthen cotton's competitive position and to maintain and expand domestic and foreign markets and uses for United States cotton.

(Pub. L. 89–502, § 2, July 13, 1966, 80 Stat. 279; Pub. L. 101–624, title XIX, § 1991, Nov. 28, 1990, 104 Stat. 3909.)

AMENDMENTS

1990—Pub. L. 101–624, in first undesignated par., inserted ''and also outside the United States'', struck out ''in large part'' before ''in the channels of interstate'', ''All cotton produced in the United States is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in cotton and cotton products.'' before ''The efficient production'', and ''In the years since World War II, United States cotton and the products thereof have been confronted with intensive competition, both at home and abroad, from foreign-grown cotton and from other fibers, primarily manmade fibers.'' after ''economy of the Nation.'', and substituted ''The great inroads on the market and uses for'' for ''The great inroads on the market and uses for United States'' and, in third undesignated par., substituted ''marketed'' for ''harvested'' and inserted ''and on imports of cotton''.

EFFECTIVE DATE

Section 20 of Pub. L. 89–502 provided that: ''This Act [enacting this chapter] shall take effect upon enactment [July 13, 1966]''.

SHORT TITLE OF 1990 AMENDMENT

Section 1990 of Pub. L. 101–624 provided that: ''This subtitle [subtitle G (§§ 1990–1998) of title XIX of Pub. L.

101–624, amending this section and sections 2106 to 2110 and 2116 of this title, and enacting provisions set out below] may be cited as the 'Cotton Research and Promotion Act Amendments of 1990'.''

SHORT TITLE

Section 1 of Pub. L. 89–502 provided: ''That this Act [enacting this chapter] shall be known as the 'Cotton Research and Promotion Act'.''

REPORTS ON IMPLEMENTATION AND ENFORCEMENT OF COTTON RESEARCH AND PROMOTION PROGRAM

Section 1998 of title XIX of Pub. L. 101–624, as amended by Pub. L. 102–237, title VIII, § 808(b), Dec. 13, 1991, 105 Stat. 1883, provided that:

''(a) IN GENERAL.—Not later than 1 year after the date on which imports are subject to assessments under this subtitle [see Short Title of 1990 Amendment note above]—

''(1) the Secretary of Agriculture shall prepare a report concerning the implementation and enforcement of the cotton research and promotion program, and any problems that may have arisen in the implementation and enforcement of such program; and

''(2) the Customs Service shall, if on such date it has any role in the implementation or enforcement of such assessments, prepare a report concerning such implementation and enforcement as it relates to imports.

''(b) COMPTROLLER GENERAL REPORT.—Not prior to the date that occurs 3 years after the date on which imports are subject to assessments under this subtitle, the Comptroller General shall prepare a report concerning the administration of the cotton research and promotion program as it relates to such imports. Such report shall be submitted not later than 6 months after such date, and include an analysis of—

''(1) the growth in the United States market for cotton and cotton products, with particular attention provided to the period of time subsequent to the imposition of assessments on such imports;

''(2) the extent to which import restrictions, such as quotas, on imports of cotton and cotton-containing products have permitted or prevented importers from benefiting from any such growth in the United States market; and

''(3) the relevant United States international obligations applicable under trade agreements that relate to the assessments on imports of cotton and cotton products under this subtitle.

''(c) SUBMISSION.—The reports required under subsections (a) and (b) shall be submitted to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate not later than the applicable dates referred to in such subsections.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds as may be necessary to carry out this section.''

§ 2102. Orders of Secretary to cotton handlers

To effectuate the declared policy of this chapter, the Secretary shall, subject to the provisions of this chapter, issue and from time to time amend, orders applicable to persons engaged in the harvesting, marketing, ginning, or other handling of cotton, hereinafter referred to as handlers. Such orders shall be applicable to all production or marketing areas, or both, in the United States.

(Pub. L. 89–502, § 3, July 13, 1966, 80 Stat. 280.)

§ 2103. Notice and hearing upon proposed orders

Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter, he shall give due notice and opportunity for a hearing upon a proposed order. Such hearing may be requested and a proposal for an order submitted by any cotton producer organization certified pursuant to section 2113 of this title or by any other interested person or persons, including the Secretary.

(Pub. L. 89–502, § 4, July 13, 1966, 80 Stat. 280.)

§ 2104. Finding and issuance of orders

After notice and opportunity for hearing as provided in section 2103 of this title, the Secretary shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 89–502, § 5, July 13, 1966, 80 Stat. 280.)

§ 2105. Permissive terms and conditions in orders

Orders issued pursuant to this chapter shall contain one or more of the following terms and conditions, and except as provided in section 2106 of this title, no others.

(a) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for the advertising and sales promotion of cotton and its products and for the disbursement of necessary funds for such purposes: *Provided, however*, That any such plan or project shall be directed toward increasing the general demand for cotton or its products but no reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against the cotton products of other persons: *And provided further*, That no such advertising or sales promotion programs shall make use of false or unwarranted claims in behalf of cotton or its products or false or unwarranted statements with respect to the quality, value, or use of any competing product.

(b) Providing for establishing and carrying on research and development projects and studies with respect to the production, ginning, processing, distribution, or utilization of cotton and its products, to the end that the marketing and utilization of cotton may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(c) Providing that handlers or any class of handlers maintain and make available for inspection such books and records as may be required by the order and for the filing of reports by such handlers at the times, in the manner, and having the content prescribed by the order, to the end that information and data shall be made available to the Cotton Board and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of this chapter or of any order or regulation issued pursuant to this chapter: *Provided, however*, That all information so obtained shall be kept confidential by all officers and employees of the Department of Agriculture and of the Cotton Board, and only such information so furnished

or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of a number of handlers subject to an order, which statements do not identify the information furnished by any person, or (2) the publication by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee violating the provisions of this subsection shall upon conviction be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

(d) Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such order.

(Pub. L. 89–502, § 6, July 13, 1966, 80 Stat. 280.)

§ 2106. Required terms and conditions in orders

Orders issued pursuant to this chapter shall contain the following terms and conditions:

(a) Providing for the establishment and selection by the Secretary, of a Cotton Board, and defining its powers and duties, which shall include only the powers:

(1) To administer such order in accordance with its terms and provisions;

(2) To make rules and regulations to effectuate the terms and provisions of such order, including the designation of the person responsible for collecting the assessment;

(3) To receive, investigate, and report to the Secretary complaints of violations of such order; and

(4) To recommend to the Secretary amendments to such order.

(b) Providing that the Cotton Board shall be composed of (1) representatives of cotton producers selected by the Secretary, from nominations submitted by eligible producer organizations within a cotton-producing State, as certified pursuant to section 2113 of this title, or, if the Secretary determines that a substantial number of producers are not members of or their interests are not represented by any such eligible producer organizations, from nominations made by producers in the manner authorized by the Secretary, so that the representation of cotton producers on the Board for each cotton-producing State shall reflect, to the extent practicable, the proportion which that State's marketings of cotton bears to the total marketings of cotton in the United States, and (2) when imports of cotton are subject to an order, an appropriate number of representatives, as determined by the Secretary, of importers of cotton on which assessments are paid under this chapter. Such importer representatives shall be appointed by the Secretary after consultation with organizations representing importers, as determined by the Secretary. Each cotton-producing State shall be entitled to at least one representative on the Cotton Board.

(c) Providing that the Cotton Board shall, subject to the provisions of subsection (g) of this section, develop and submit to the Secretary for his approval any advertising or sales promotion or research and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

(d) Providing that the Cotton Board shall, subject to the provisions of subsection (g) of this section, submit to the Secretary for his approval, budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising and promotion and research and development projects.

(e)(1) Providing that—

(A) the producer or other person for whom the cotton is being handled shall pay to the handler of such cotton designated by the Cotton Board pursuant to regulations issued under the order;

(B) such handler shall collect from the producer or other person for whom the cotton, including cotton owned by the handler, is being handled, and shall pay to the Cotton Board; and

(C) each importer shall pay to the Cotton Board on imports of cotton,

an assessment prescribed by the order, on the basis of bales of cotton handled or imported. The assessment shall cover such expenses and expenditures, including provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Cotton Board under the order, during any period specified by the Secretary.

(2) The order shall provide for reimbursing the Secretary—

(A) for expenses not to exceed $300,000 incurred by the Secretary in connection with any referendum conducted under section 2107 of this title; and

(B) for administrative costs incurred by the Secretary for supervisory work up to 5 employee years after an order or amendment to an order has been issued and made effective.

There shall also be included in the order a provision for reimbursing any agency of the Federal Government that assists in administering the import provisions of the order for a reasonable amount of the expenses incurred by that agency in connection therewith.

(3) To facilitate the collection and payment of such assessments, the Cotton Board may designate different handlers or importers or classes of handlers or importers to recognize differences in marketing practices or procedures utilized in any State or area, except that no more than one such assessment shall be made on any bale of cotton, unless specifically authorized by provisions of this subsection.

(4) The rate of assessment prescribed by the order shall be $1 per bale of cotton handled, supplemented by an additional per bale amount not to exceed 1 percent of the value of cotton as determined by the Cotton Board and the Sec-

retary. The rate of assessment on imports of cotton shall be determined in the same manner as the rate of assessment per bale of cotton handled, and the value to be placed on cotton imports for the purpose of determining the assessment on such imports shall be established by the Secretary in a fair and equitable manner. The Secretary shall establish procedures to ensure that the upland cotton content of imported products is not subject to more than one assessment under this chapter.

(5) No authority under this chapter may be used as a basis to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under this chapter.

(6) The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy. The remedies provided in this section shall be in addition to, and not exclusive of, the remedies provided for elsewhere in this chapter or now or hereafter existing at law or in equity.

(7) The provisions of this subsection and subsection (b) of this section shall not apply to cottonseed and the products derived from cottonseed whether domestically produced or imported.

(8) The provisions of this subsection relating to importers and assessments on imports of cotton shall be effective only if approved in a referendum as provided in section 2107(b) or 2107(c) of this title.

(f) Providing that the Cotton Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as he may prescribe, and for appropriate accounting by the Cotton Board with respect to the receipt and disbursement of all funds entrusted to it.

(g) Providing that the Cotton Board, with the approval of the Secretary, shall enter into contracts or agreements for the development and carrying out of the activities authorized under the order pursuant to sections 2105(a) and (b) of this title and for the payment of the costs thereof with funds collected pursuant to the order, with an organization or association whose governing body consists of cotton producers selected by the cotton producer organizations certified by the Secretary under section 2113 of this title, in such manner that the producers of each cotton-producing State will, to the extent practicable, have representation on the governing body of such organization in the proportion that the cotton marketed by the producers of such State bears to the total cotton marketed by the producers of all cotton-producing States, subject to adjustments to reflect lack of participation in the program by reason of refunds under section 2110 of this title. Any such contract or agreement shall provide that such contracting organization or association shall develop and submit annually to the Cotton Board, for the purpose of review and making recommendations to the Secretary, a program of research, advertising, and sales promotion projects, together with a budget, or budgets, which shall show the estimated cost to be incurred for such projects, and that any such projects shall become effective upon approval by the Secretary. Any such contract or agreement shall also provide that the contracting organization shall keep accurate records of all its transactions and make an annual report to the Cotton Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

(h) Providing that no funds collected by the Cotton Board under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a)(4) of this section.

(Pub. L. 89–502, § 7, July 13, 1966, 80 Stat. 281; Pub. L. 94–366, §§ 2, 3, July 14, 1976, 90 Stat. 991, 992; Pub. L. 101–624, title XIX, § 1992, Nov. 28, 1990, 104 Stat. 3909; Pub. L. 102–237, title VIII, § 808(a)(1), Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (e)(4). Pub. L. 102–237 made technical amendment to reference to this chapter to correct error in corresponding reference in original act.

1990—Subsec. (a)(2). Pub. L. 101–624, § 1992(1), substituted ''person'' for ''handler'' and struck out ''producer'' before ''assessment''.

Subsec. (b). Pub. L. 101–624, § 1992(2), inserted ''(1)'', and substituted '', and (2) when imports of cotton are subject to an order, an appropriate number of representatives, as determined by the Secretary, of importers of cotton on which assessments are paid under this chapter. Such importer representatives shall be appointed by the Secretary after consultation with organizations representing importers, as determined by the Secretary. Each cotton-producing State shall be entitled to at least one representative on the Cotton Board.'' for '': *Provided, however*, That each cotton-producing State shall be entitled to at least one representative on the Cotton Board. The Secretary may appoint a number of consumer advisors to the Cotton Board not to exceed 15 per centum of the membership of the Cotton Board. The Cotton Board shall reimburse the consumer advisors for expenses incurred in attending meetings of the Board in the same manner as the Cotton Board members.''

Subsec. (e). Pub. L. 101–624, § 1992(3), amended subsec. (e) generally, substituting present provisions for provisions relating to a producer-paid assessment at a rate of $1 per bale, with a possible per-bale supplement not to exceed 1 per centum of the value of the cotton, along with other provisions relating to use of assessment funds, referendums and procedures concerning any supplemental assessments, and judicial action to collect assessments.

1976—Subsec. (b). Pub. L. 94–366, § 3, inserted provisions which authorized Secretary to appoint consumer advisors up to 15 per centum of the membership of the Cotton Board, and authorized reimbursing such advisors for expenses incurred in attending the Board meetings.

Subsec. (e). Pub. L. 94–366, § 2, inserted provisions authorizing reimbursement of the Secretary up to $200,000 for expenses incurred in conducting a referendum pursuant to section 2107 of this title and for administrative costs incurred by him for supervisory work up to five employee years after an order or an amendment to an order has been issued and made effective, inserted provisions authorizing assessment of a bale of cotton more than once if called for by a provision in this subsection, and inserted provisions authorizing Secretary to amend the rate order to supplement the rate in each marketing year by an additional per bale amount not to exceed 1 per centum of the value of the cotton as determined by the Cotton Board and the Secretary.

§ 2107. Referenda

(a) Referendum and cotton producer approval of orders

The Secretary shall conduct a referendum among persons who, during a representative period determined by the Secretary, have been engaged in the production of cotton for the purpose of ascertaining whether the issuance of an order is approved or favored by producers. No order issued pursuant to this chapter shall be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum, or by the producers of not less than two-thirds of the cotton produced during the representative period by producers voting in such referendum and by not less than a majority of the producers voting in such referendum.

(b) Referendum on proposed amendment to order implementing provisions of 1990 amendments to this chapter

(1) Notwithstanding the provisions of sections 2103 and 2104 of this title, not later than 150 days after the date of enactment of the Cotton Research and Promotion Act Amendments of 1990 [November 28, 1990], and after notice and opportunity for public comment, the Secretary shall issue a proposed amendment to the order implementing the provisions of such Act, which shall become effective as provided in paragraph (2).

(2) Notwithstanding the provisions of subsection (a) of this section, the Secretary shall, within a period not to exceed 8 months after November 28, 1990, conduct a referendum among persons who have been cotton producers during a representative period, as determined by the Secretary, and persons who are importers of cotton and who, during a 12-month period ending not later than 90 days prior to the conduct of the referendum under this section imported a quantity of cotton in excess of the de minimis quantity (if any) established by the Secretary under section 2116(c)(2) of this title, for the purpose of ascertaining if a majority of those voting approve the proposed amendment to the order issued by the Secretary under paragraph (1). The Secretary shall announce the results of the referendum within 30 days after the date of such referendum. If the amendment is approved in the referendum, within a period not to exceed 90 days from the date of announcement of the results of such referendum, the Secretary shall publish the amendment to the order and regulations implementing the amendment provided for in this subsection.

(c) Future referendums every five years or by request of cotton producers and importers

(1) Notwithstanding the provisions of sections 2103 and 2104 of this title, once every five years after the date of the referendum provided for under subsection (b) of this section, the Secretary shall conduct a review to ascertain whether a referendum is needed to determine whether producers and importers favor continuation of the amendment to the order provided for in the Cotton Research and Promotion Act Amendments of 1990 if such amendment is then in effect or, if such an amendment is not in effect, whether they favor approval of such amendment. The Secretary shall make a public announcement of the results of the review within 60 days after each fifth anniversary date of the referendum provided for under subsection (b) of this section. If the Secretary determines to provide for such a referendum, the Secretary shall conduct the referendum within 12 months after a public announcement of the determination to conduct the referendum.

(2) If the Secretary does not provide for such a referendum on the Secretary's own initiative, the Secretary shall conduct such a referendum upon the request of 10 percent or more of the number of cotton producers and importers voting in the most recent referendum, except that, in counting such requests for a referendum, not more than 20 percent of such requests may be from producers from any one State or importers of cotton. Producers and importers may sign up to request such a referendum at the county office of the Agricultural Stabilization and Conservation Service, or county extension agent, or by mailing such a request to the Secretary, as prescribed in regulations. The sign-up period shall be for a period not to exceed 90 days, shall commence 60 days after the Secretary makes a public announcement of a determination not to provide for a referendum on the Secretary's own initiative, and shall be publicized by the Secretary and the Cotton Board immediately after such public announcement. The referendum shall be held within 12 months after the end of the sign-up period, if requested by the requisite number of persons.

(3) The amendment to the order provided for in this subsection shall not be effective if it is disapproved by a majority of cotton producers and importers of cotton voting in the referendum.

(Pub. L. 89–502, § 8, July 13, 1966, 80 Stat. 283; Pub. L. 101–624, title XIX, § 1993, Nov. 28, 1990, 104 Stat. 3911; Pub. L. 102–237, title VIII, § 808(a)(2), Dec. 13, 1991, 105 Stat. 1883.)

REFERENCES IN TEXT

The Cotton Research and Promotion Act Amendments of 1990, referred to in subsecs. (b)(1) and (c)(1), is subtitle G [§§ 1990–1998] of title XIX of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3909, which amended sections 2101, 2106 to 2110, and 2116 of this title and enacted provisions set out as notes under section 2101 of this title. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 2101 of this title and Tables.

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102–237 made technical amendment to reference to section 2116(c)(2) of this title to correct error in corresponding reference in original act.

1990—Pub. L. 101–624 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

§ 2108. Suspension and termination of orders

(a) Discretionary suspension or termination by Secretary

The Secretary shall, whenever he finds that any order issued under this chapter, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provision thereof.

(b) Suspension or termination resulting from referendum with cotton producers and importers

The Secretary may conduct a referendum at any time, and shall hold a referendum on request of a number of producers and importers (if subject to the order) equivalent to at least 10 percent of those persons voting in the most recent referendum, to determine whether cotton producers and importers subject to the order favor the termination or suspension of the order, except that in counting such requests for a referendum, not more than 20 percent of such requests may be from producers from any one State or importers of cotton (if subject to the order). The Secretary shall suspend or terminate the order at the end of the marketing year, as defined in the order, whenever the Secretary determines suspension or termination of the order is approved by a majority of producers and importers (subject to the order) voting in the referendum who, during a representative period determined by the Secretary, have been engaged in the production and importation of cotton and who produced and imported more than 50 percent of the volume of cotton produced and imported by those voting in the referendum.

(c) Suspension or termination of any order not deemed order within meaning of this chapter

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(Pub. L. 89–502, § 9, July 13, 1966, 80 Stat. 283; Pub. L. 101–624, title XIX, § 1994, Nov. 28, 1990, 104 Stat. 3912.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–624 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of cotton producers voting in the referendum approving the order, to determine whether cotton producers favor the termination or suspension of the order, and he shall suspend or terminate such order at the end of the marketing year, as defined in the order, whenever he determines that suspension or termination of the order is approved or favored by a majority of the producers of cotton voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of cotton, and who produced more than 50 per centum of the volume of the cotton produced by the cotton producers voting in the referendum.''

§ 2109. Provisions applicable to amendments

(a) Provisions applicable to amendments to orders

Except as provided in subsection (b) of this section, the provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(b) Approval of amendments by cotton producers and importers

No amendment to an order issued under this chapter shall be effective unless the Secretary determines that—

(1) with respect to an amendment referred to in subsection (b) or (c) of section 2107 of this title, the amendment is approved by producers and importers of cotton as provided in such section; or

(2) with respect to any other amendment, that the amendment is approved by a majority of cotton producers and importers subject to the order voting in the referendum.

(c) Disapproval of any amendment to order not deemed to invalidate such order

The disapproval of any amendment to an order issued under this chapter shall not be deemed to invalidate such order.

(Pub. L. 89–502, § 10, July 13, 1966, 80 Stat. 283; Pub. L. 101–624, title XIX, § 1995, Nov. 28, 1990, 104 Stat. 3912; Pub. L. 102–237, title VIII, § 808(a)(3), Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (b)(1). Pub. L. 102–237 substituted ''subsection (b) or (c) of section 2107'' for ''section 2107(b) or 2107(c)''.

1990—Pub. L. 101–624 amended section generally. Prior to amendment, section read as follows: ''The provisions of this chapter applicable to orders shall be applicable to amendments to orders.''

§ 2110. Refund of producer assessments

(a) Notwithstanding any other section of this chapter and except as provided in subsection (b) of this section, any cotton producer against whose cotton any assessment is made and collected from him under the authority of this chapter and who is not in favor of supporting the research and promotion program as provided for herein shall have the right to demand and receive from the Cotton Board a refund of such assessment: *Provided*, That such demand shall be made personally by such producer in accordance with regulations and on a form and within a time period prescribed by the Board and approved by the Secretary, but in no event less than ninety days, and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand therefor.

(b) The right of a producer to demand a refund under subsection (a) of this section shall terminate if the proposed amendment of the order implementing the Cotton Research and Promotion Amendments Act of 1990 is approved in the referendum provided for under section 2107 of this title. Such right shall terminate 30 days after the date the Secretary announces the results of such referendum if such proposed amendment is approved. Such right shall be reinstated if the amendment should be disapproved in any subsequent referendum.

(Pub. L. 89–502, § 11, July 13, 1966, 80 Stat. 283; Pub. L. 101–624, title XIX, § 1996, Nov. 28, 1990, 104 Stat. 3912; Pub. L. 102–237, title VIII, § 808(a)(4), Dec. 13, 1991, 105 Stat. 1883.)

REFERENCES IN TEXT

The Cotton Research and Promotion Amendments Act of 1990, referred to in subsec. (b), probably means the Cotton Research and Promotion Act Amendments of 1990, subtitle G [§§ 1990–1998] of title XIX of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3909, which amended sections 2101, 2106 to 2110, and 2116 of this title and enacted provisions set out as notes under section 2101 of this title. For complete classification of this Act to the

Code, see Short Title of 1990 Amendment note set out under section 2101 of this title and Tables.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 inserted ''of this chapter'' after ''any other section'' and struck out ''of this chapter,'' before ''any cotton producer''.

1990—Pub. L. 101–624 designated existing provisions as subsec. (a), substituted ''Notwithstanding any other section and except as provided in subsection (b) of this section,'' for ''Notwithstanding any other provision'', and added subsec. (b).

§ 2111. Administrative review of orders; petition; hearing; judicial review

(a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 2112(a) of this title.

(Pub. L. 89–502, § 12, July 13, 1966, 80 Stat. 284.)

§ 2112. Enforcement of orders; penalty for willful violation

(a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this chapter.

(b) Any handler who willfully violates any provision of any order issued by the Secretary under this chapter, or who willfully fails or refuses to collect or remit any assessment or fee duly required of him thereunder, shall be liable to a penalty of not more than $1,000 for each such offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(Pub. L. 89–502, § 13, July 13, 1966, 80 Stat. 284.)

§ 2113. Certification of cotton producer organizations

The eligibility of each cotton producer organization to represent cotton producers of a cotton producing State to request the issuance of an order under section 2103 of this title, and to participate in the making of nominations under section 2106(b) of this title shall be certified by the Secretary and shall be based in addition to other available information upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(a) Geographic territory within the State covered by the organization's active membership;

(b) Nature and size of the organization's active membership in the State, proportion of total of such active membership accounted for by farmers, a map showing the cotton-producing counties in such State in which the organization has members, the volume of cotton produced in each such county, the number of cotton producers in each such county, and the size of the organization's active cotton producer membership in each such county;

(c) The extent to which the cotton producer membership of such organization is represented in setting the organization's policies;

(d) Evidence of stability and permanency of the organization;

(e) Sources from which the organization's operating funds are derived;

(f) Functions of the organization; and

(g) The organization's ability and willingness to further the aims and objectives of this chapter:

Provided, however, That the primary consideration in determining the eligibility of an organization shall be whether its cotton farmer membership consists of a sufficiently large number of the cotton producers who produce a relatively significant volume of cotton to reasonably warrant its participation in the nomination of members for the Cotton Board. The Secretary shall certify any cotton producer organization which he finds to be eligible under this section, and his determination as to eligibility shall be final.

(Pub. L. 89–502, § 14, July 13, 1966, 80 Stat. 284.)

§ 2114. Rules and regulations

The Secretary is authorized to make such regulations with the force and effect of law, as may be necessary to carry out the provisions of this chapter and the powers vested in him by this chapter.

(Pub. L. 89–502, § 15, July 13, 1966, 80 Stat. 285.)

§ 2115. Investigations by Secretary; subpenas; oaths and affirmations; judicial aid

The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this chapter or to determine whether a handler or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter or of any order, or rule or regulation issued under this chapter. For the purpose of any such investigation, the Secretary is empowered to administer oaths and affirmations, subpena wit-

nesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena issued to, any person, including a handler, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(Pub. L. 89–502, § 16, July 13, 1966, 80 Stat. 285; Pub. L. 91–452, title II, § 206(a), Oct. 15, 1970, 84 Stat. 929.)

AMENDMENTS

1970—Pub. L. 91–452 struck out designation ''(a)'' preceding first sentence and struck out subsec. (b) which related to immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

§ 2116. Definitions

As used in this chapter:

(a) The term ''Secretary'' means the Secretary of Agriculture.

(b) The term ''person'' means any individual, partnership, corporation, association, or any other entity.

(c) The term ''cotton'' means (1) all upland cotton harvested in the United States, and, except as used in section 2106(e) of this title, includes cottonseed of such cotton and the products derived from such cotton and its seed and (2) imports of upland cotton including the upland cotton content of the products derived from upland cotton (other than industrial products as defined by the Secretary). The term ''cotton'' shall not, however, include any entry of imported cotton by an importer that has a value or weight less than any de minimis figure as established in accordance with regulations issued by the Secretary. Any de minimis figure as established under this paragraph shall be such as to minimize the burden in administering the assessment provision but still provide for the maximum participation of imports of cotton in the assessment provisions of this chapter.

(d) The term ''handler'' means any person who handles cotton or cottonseed or, for the purposes of sections 2102, 2105(c), and 2112 of this title, any person who imports cotton, including de minimis amounts of cotton described in subsection (c) of this section, in the manner specified in the order or in the rules and regulations issued thereunder.

(e) The term ''United States'' means the 50 States of the United States of America.

(f) COTTON-PRODUCING STATE.—

(1) IN GENERAL.—The term ''cotton-producing State'' means any State in which the average annual production of cotton during the five years 1960–1964 was twenty thousand bales or more, except that any State producing cotton whose production during such period was less than such amount shall under regulations prescribed by the Secretary be combined with another State or States producing cotton in such manner that such average annual production of such combination of States totaled twenty thousand bales or more.

(2) INCLUSIONS.—The term ''cotton-producing State'' includes—

(A) any combination of States described in paragraph (1); and

(B) effective beginning with the 2008 crop of cotton, the States of Kansas, Virginia, and Florida.

(g) The term ''marketing'' includes the sale of cotton or the pledging of cotton to the Commodity Credit Corporation as collateral for a price support loan.

(h)(1) The term ''importer'' means any person who enters, or withdraws from warehouse, cotton for consumption in the customs territory of the United States.

(2) The term ''import'' means any such entry.

(Pub. L. 89–502, § 17, July 13, 1966, 80 Stat. 286; Pub. L. 101–624, title XIX, § 1997, Nov. 28, 1990, 104 Stat. 3913; Pub. L. 110–234, title XIV, § 14202, May 22, 2008, 122 Stat. 1458; Pub. L. 110–246, § 4(a), title XIV, § 14202, June 18, 2008, 122 Stat. 1664, 2220.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (f). Pub. L. 110–246, § 14202, inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, substituted period at end for '', and the term 'cotton-producing State' shall include any such combination of States.'', and added par. (2).

1990—Subsec. (c). Pub. L. 101–624, § 1997(1), designated existing provisions as cl. (1) and added cl. (2).

Subsec. (d). Pub. L. 101–624, § 1997(2), inserted ''or, for the purposes of sections 2102, 2105(c), and 2112 of this title, any person who imports cotton, including de minimis amounts of cotton described in subsection (c) of this section,'' after ''cottonseed''.

Subsec. (h). Pub. L. 101–624, § 1997(3), added subsec. (h).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

§ 2117. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 89–502, § 18, July 13, 1966, 80 Stat. 286.)

§ 2118. Authorization of appropriations

There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this chapter. The funds so appropriated shall not be available for the payment of the expenses or expenditures of the Cotton Board in administering any provisions of any order issued pursuant to the terms of this chapter.

(Pub. L. 89–502, § 19, July 13, 1966, 80 Stat. 287.)

§ 2119. Repealed. Pub. L. 94–366, § 1, July 14, 1976, 90 Stat. 991

Section, Pub. L. 91–524, title VI, § 610, Nov. 30, 1970, 84 Stat. 1378; Pub. L. 93–86, § 1(23), Aug. 10, 1973, 87 Stat. 235, related to cotton development programs of the Commodity Credit Corporation, and funding for such programs.

EFFECTIVE DATE OF REPEAL

Section 1 of Pub. L. 94–366 provided that this section is repealed effective Oct. 1, 1977.

CHAPTER 54—TRANSPORTATION, SALE, AND HANDLING OF CERTAIN ANIMALS

Sec.
2131. Congressional statement of policy.
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2134. Valid license for dealers and exhibitors required.
2135. Time period for disposal of dogs or cats by dealers or exhibitors.
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2154. Effective dates.
2155. Omitted.
2156. Animal fighting venture prohibition.
2157. Release of trade secrets.
2158. Protection of pets.
2159. Authority to apply for injunctions.

§ 2131. Congressional statement of policy

The Congress finds that animals and activities which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this chapter is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—

(1) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment;

(2) to assure the humane treatment of animals during transportation in commerce; and

(3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.

The Congress further finds that it is essential to regulate, as provided in this chapter, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use.

(Pub. L. 89–544, § 1(b), formerly § 1, Aug. 24, 1966, 80 Stat. 350; Pub. L. 91–579, § 2, Dec. 24, 1970, 84 Stat. 1560; renumbered and amended Pub. L. 94–279, § 2, Apr. 22, 1976, 90 Stat. 417.)

AMENDMENTS

1976—Pub. L. 94–279 restated and expanded objectives of this chapter to include regulation of animals and activities in, or substantially affecting, interstate or foreign commerce in order to prevent and eliminate burdens on such commerce and to assure the humane treatment of animals during transportation.

1970—Pub. L. 91–579 restated objectives to include all animals as defined instead of only cats and dogs and expanded coverage to regulate animals intended for use for exhibition purposes or for use as pets.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–198, title XVII, § 1759, Dec. 23, 1985, 99 Stat. 1650, provided that: ''This subtitle [subtitle F (§§ 1751–1759), enacting section 2157 of this title, amending sections 2132, 2143 to 2146, and 2149 of this title, and enacting provisions set out as notes under this section] shall take effect 1 year after the date of the enactment of this Act [Dec. 23, 1985].''

EFFECTIVE DATE OF 1970 AMENDMENT

Section 23 of Pub. L. 91–579 provided that: ''The amendments made by this Act [enacting section 2155 of this title, amending this section and sections 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2149, and 2150 of this title, repealing section 2148 of this title, and enacting provisions set out as notes under this section] shall take effect one year