

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 Secretary. 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 man-

ner 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