

(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

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