

§ 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; subpoenas; 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, subpoena witnesses, 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 subpoena 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.)