

§ 608b. Marketing agreements; exemption from anti-trust laws; inspection requirements for handlers not subject to agreements

(a) In order to effectuate the declared policy of this chapter, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: *Provided*, That no such agreement shall remain in force after the termination of this chapter.

(b)(1) If an agreement with the Secretary is in effect with respect to peanuts pursuant to this section—

(A) all peanuts handled by persons who have not entered into such an agreement with the Secretary shall be subject to inspection to the same extent and manner as is required by such agreement;

(B) no such peanuts shall be sold or otherwise disposed of for human consumption if such peanuts fail to meet the quality requirements of such agreement; and

(C) any assessment (except with respect to any assessment for the indemnification of losses on rejected peanuts) imposed under the agreement shall—

(i) apply to peanut handlers (as defined by the Secretary) who have not entered into such an agreement with the Secretary in addition to those handlers who have entered into the agreement; and

(ii) be paid to the Secretary.

(2) Violation of this subsection by a person who has not entered into such an agreement shall result in the assessment by the Secretary of a penalty equal to 140 percent of the support price for quota peanuts multiplied by the quantity of peanuts sold or disposed of in violation of subsection (b)(1)(B), as determined under section 1445c-3¹ of this title, for the marketing year for the crop with respect to which such violation occurs.

(May 12, 1933, ch. 25, title I, §8b, formerly §8(2), 48 Stat. 34; Apr. 7, 1934, ch. 103, §7, 48 Stat. 528; renumbered and amended Aug. 24, 1935, ch. 641, §4, 49 Stat. 753; June 3, 1937, ch. 296, §1, 50 Stat. 246; June 30, 1947, ch. 166, title II, §206(d), 61 Stat. 208; Pub. L. 101-220, §4, Dec. 12, 1989, 103 Stat. 1878; Pub. L. 102-237, title I, §115(1), Dec. 13, 1991, 105 Stat. 1840; Pub. L. 103-66, title I, §1109(b), Aug. 10, 1993, 107 Stat. 326.)

REFERENCES IN TEXT

Section 1445c-3 of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 104-127, title I, §171(b)(2)(E), Apr. 4, 1996, 110 Stat. 938.

¹ See References in Text note below.

CODIFICATION

The provisions appearing in subsec. (a) of this section except the first sentence, were originally enacted as part of section 8(2) of act May 12, 1933, and formerly appeared as section 608(2) of this title.

AMENDMENTS

1993—Subsec. (b)(1)(C). Pub. L. 103-66 added subpar. (C).

1991—Subsec. (b)(2). Pub. L. 102-237 made technical amendment to reference to section 1445c-3 of this title involving corresponding provisions of original Act.

1989—Pub. L. 101-220 designated existing provisions as subsec. (a) and added subsec. (b).

1947—Act June 30, 1947, repealed provisions providing for loans from Reconstruction Finance Corporation.

1935—Act Aug. 24, 1935, designated subsection 2 of section 8 of act May 12, 1933, as section 8b and amended first sentence generally.

1934—Act Apr. 7, 1934, empowered Secretary of Agriculture to enter into marketing agreements with individual producers.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-220, §4(c), Dec. 12, 1989, 103 Stat. 1878, provided that: "The amendment made by this section [amending this section] shall be effective with respect to the 1990 and subsequent crops of peanuts."

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note set out under section 601 of this title.

§ 608c. Orders

(1) Issuance by Secretary

The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this chapter as "handlers". Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof. In carrying out this section, the Secretary shall complete all informal rulemaking actions necessary to respond to recommendations submitted by administrative committees for such orders as expeditiously as possible, but not more than 45 days (to the extent practicable) after submission of the committee recommendations. The Secretary is authorized to implement a producer allotment program and a handler withholding program under the cranberry marketing order in the same crop year through informal rulemaking based on a recommendation and supporting economic analysis submitted by the Cranberry Marketing Committee. Such recommendation and analysis shall be submitted by the Committee no later than March 1 of each year. The Secretary shall establish time frames for each office and agency within the Department of Agriculture to consider the committee recommendations.

(2) Commodities to which applicable

Orders issued pursuant to this section shall be applicable only to (A) the following agricultural