

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 percent 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 percent 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), 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), 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) shall terminate if the pro-

posed 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.)