

COTTON STATISTICS AND ESTIMATES ACT OF 1927<sup>1</sup>

(7 U.S.C. 471-476)

AN ACT Authorizing the Secretary of Agriculture to collect and publish statistics of the grade and staple length of cotton

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture be, and he is hereby, authorized and directed to collect and publish annually, on dates to be announced by him, statistics or estimates concerning the grades and staple length of stocks of cotton, known as the carry-over, on hand on the 1st of August of each year in warehouses and other establishments of every character in the continental United States; and following such publication each year, to publish, at intervals in his discretion, his estimate of the grades and staple length of cotton of the then current crop: Provided, That not less than three such estimates shall be published with respect to each crop. In any such statistics or estimates published, the cotton which on the date for which such statistics are published may be recognized as tenderable on contracts of sale of cotton for future delivery under the United States Cotton Futures Act of August 11, 1916, as amended, shall be stated separately from that which may be untenderable under said Act as amended. (7 U.S.C. 471.)*

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<sup>1</sup> Act of March 3, 1927, 44 Stat. 1372. Section 156(d) of Pub. L. 97-35, 95 Stat. 374, Aug. 13, 1981, states: "The Secretary of Agriculture shall hold annual meetings with representatives of the cotton industry to review (1) activities and operations under the Cotton Standards Act, and the Cotton Statistics and Estimates Act, (2) activities and operations relating to cotton under the United States Warehouse Act, and (3) the effect of such activities and operations on prices received by producers and sales to domestic and foreign users, for the purpose of improving procedures for financing and administering such activities and operations for the benefit of the industry and the Government. Notwithstanding any other provision of law, the Secretary shall take such action as may be necessary to insure that the universal cotton standards system and the licensing and inspection procedures for cotton warehouses are preserved and that the Government cotton classification system continues to operate so that the United States cotton crop is provided an official quality description."

Sec. 2. That the information furnished by any individual establishment under the provisions of this Act shall be considered as strictly confidential and shall be used only for the statistical purpose for which it is supplied. Any employee of the Department of Agriculture who, without the written authority of the Secretary of Agriculture, shall publish or communicate any information given into his possession by reason of his employment under the provisions of this Act shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than \$300 or more than \$1,000, or imprisoned for a period of not exceeding one year, or both so fined and imprisoned, at the discretion of the court. (7 U.S.C. 472.)

Sec. 3. That it shall be the duty of every owner, president, treasurer, secretary, director, or other officer or agent of any cotton warehouse, cotton gin, cotton mill, or other place or establishment where cotton is stored, whether conducted as a corporation, firm, limited partnership, or individual, and of any owner or holder of any cotton and of the agents and representatives of any such owner or holder, when requested by the Secretary of Agriculture or by any special agent or other employee of the Department of Agriculture acting under the instructions of said Secretary to furnish completely and correctly, to the best of his knowledge, all of the information concerning the grades and staple length of cotton on hand, and when requested to permit such agent or employee of the Department of Agriculture to examine and classify samples of all such cotton on hand. The request of the Secretary of Agriculture for such information may be made in writing or by a visiting representative, and if made in writing shall be forwarded by registered mail or by certified mail,<sup>2</sup> and the registry receipt or receipt for certified mail of the Post Office Department shall be accepted as evidence of such demand. Any owner, president, treasurer, secretary, director, or other officer or agent of any cotton warehouse, cotton gin, cotton mill, or other place or establishment where cotton is stored, or any owner or holder of any cotton or the agent or representative of any such owner or holder, who, under the conditions hereinbefore stated,

<sup>2</sup> Act of June 11, 1960, 74 Stat. 200, added "or by certified mail," and "or receipt for certified mail".

shall refuse or willfully neglect to furnish any information herein provided for or shall willfully give answers that are false or shall refuse to allow agents or employees of the Department of Agriculture to examine classify any cotton in store in any such establishment, or in the hands of any owner or holder or of the agent or representative of any such owner or holder, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300 or more than \$1,000. (7 U.S.C. 473.)

#### SMITH-DOXEY AMENDMENT<sup>3</sup>

Sec.3a. Effective for each of fiscal years 1992 through 1996, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers. Such fees, together with the proceeds from the sales of samples submitted under this section, shall cover as nearly as practicable the

<sup>3</sup> Sections 3a, 3b, and 3c added by Act of April 13, 1937, 50 Stat. 62. Sections are also known as the "Cotton Classification Act." Section 3a was amended by Pub. L. 97-35, 95 Stat. 373-374, Aug. 13, 1981, to require the Secretary, effective for fiscal years 1982-1984, to collect fees directly from participating cotton producers for cotton classing services, and to invest such funds in an interest bearing account. Pub. L. 98-403, 98 Stat.1479, Aug. 28, 1984, extended the authority to charge for classing services through fiscal year 1988. Pub. L. 100-108, 101 Stat. 728, Aug. 20, 1987, extended the authority through fiscal year 1992 and amended the first proviso. Pub. L. 102-237, 105 Stat. 1842, Dec. 13, 1991, extended the authority through fiscal year 1996, and amended clauses (1), (2), and (7) in the first proviso and the third sentence in Section 3a. Sec. 3 of Pub. L. 100-108 states:

**"Sec. 3. Study on Processing Certain Cotton Grades.**

(a) STUDY.—The Secretary of Agriculture shall conduct a study, and perform such testing as necessary, of the difference between processing efficiency and product quality for Light Spotted and White grade cottons. The Secretary shall also conduct a survey and research to determine why an increasing proportion of the cotton crop is being classified as Light Spotted.

(b) REPORT.—Not later than October 1, 1988, the Secretary shall submit an initial report describing the results of the studies required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. A final report shall be submitted to such committees as soon as practicable after submission of the initial report." (7 U.S.C. 473a note) Section 120(d) of Pub. L. 102-237, 105 Stat. 1843, Dec. 13, 1991, repealed Sec. 3 of Pub. L. 100-108.

cost of the services provided under this section, including administrative and supervisory costs: *Provided*, That (1) the uniform per bale classification fee to be collected from producers, or their agents, for the classification service in any year shall be the fee established in the previous year for the prevailing method of classification service, exclusive of adjustments to the fee made in the previous year under clauses (2), (3), and (4), and as may be adjusted by the percentage change in the implicit price deflator for the gross national product as indexed during the most recent 12-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year below the level of 12,500,000 running bales, or decreased by a quantity not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year above the level of 12,500,000 running bales; (3) adjustments made under clause (2) shall not exceed 15 per centum, except when the Secretary estimates that income generated by fees, surcharges, and other sources of income will not provide an ending accumulated operating reserve for a fiscal year of at least 10 per centum of the estimated cost of operating the program; (4) if the Secretary projects an accumulated operating reserve at the end of fiscal year of less than 25 per centum of the estimated cost of operating the program, the Secretary may add a special surcharge, not to exceed 5 cents per bale, applicable; (5) notwithstanding the previous clauses, the Secretary, to the extent practicable, shall not establish a fee which, when combined with all other sources of revenue and adjusted for expenses, would result in a projected operating reserve of more than 25 per centum; (6) the Secretary should continue to recognize that central billing and collection can reduce administrative costs, and offer appropriate discounts where practicable; and (7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies. Classification services, other than the prevailing method, provided at the request of the producer shall not be subject to the restrictions specified in clauses (1), (2), and (3) of

the preceding sentence. All samples of cotton submitted for classification under this section shall become the property of the United States, and shall be sold: *Provided*, That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) Any fees collected under this section and under section 3d of this Act, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall be credited to the current appropriation account that incurs the cost of services provided under this section and section 3d and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing such services. Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section to the extent that financing is not available from fees and the proceeds from the sales of samples. (7 U.S.C. 473a.)

Sec. 3b. The Secretary of Agriculture is also authorized and directed to collect, authenticate, publish, and distribute, by telegraph, radio, mail, or otherwise, timely information on the market supply, demand, location, condition, and market prices for cotton, and to cause to be prepared regularly and distributed for posting at gins, in post offices, or in other public or conspicuous places in cotton-growing communities, information on prices for the various grades and staple lengths of cotton. (7 U.S.C. 473b.)

Sec. 3c. The Secretary of Agriculture is further authorized to make such rules and regulations as he may deem necessary to effectuate the purposes of this Act. (7 U.S.C. 473c.)

Sec. 3c-1.<sup>4</sup> It shall be unlawful--

(a) for any person sampling cotton for classification under this Act knowingly to sample cotton improperly, or to identify cotton samples improperly, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as a sampler;

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<sup>4</sup> Section 3c-1 added by Act of July 5, 1960, 74 Stat. 328.

(b) for any person to influence improperly or to attempt to influence improperly or to forcibly assault, resist, impede, or interfere with any sampler in the taking of samples for classification under this Act;

(c) for any person knowingly to alter or cause to be altered a sample taken for classification under this Act by any means such as trimming, peeling, or dressing the sample, or by removing any leaf, trash, dust, or other material from the sample for the purpose of misrepresenting the actual quality of the bale from which the sample was taken;

(d) for any person knowingly to cause, or attempt to cause, the issuance of a false or misleading certificate or memorandum of classification under this Act by deceptive baling, handling, or sampling of cotton, or by any other means, or by submitting samples of such cotton for classification knowing that the cotton has been so baled, handled, or sampled;

(e) for any person knowingly to submit more than one sample from the same bale of cotton for classification under this Act, except a second sample submitted for review classification;

(f) for any person knowingly to operate or adjust a mechanical cotton sampler in such a manner that a representative sample is not drawn from each bale; and

(g) for any person knowingly to violate any regulation of the Secretary of Agriculture relating to the sampling of cotton made pursuant to section 3c of this Act. (7 U.S.C. 473c-1.)

Sec. 3c-2.<sup>5</sup> Any person violating any provision of section 3c-1 of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than one year, or both. (7 U.S.C. 473c-2.)

Sec. 3c-3.<sup>6</sup> In construing and enforcing the provisions of this Act, the act, omission, or failure of any agent, officer, or other person acting for or employed by an individual, association, partnership, corporation, or firm, within the scope of his employment or office, shall be deemed to be the act, omission, or failure of the individual, association,

partnership, corporation, or firm, as well as that of the person. (7 U.S.C. 473c-3.)

Sec. 3d.<sup>7</sup> The Secretary of Agriculture is authorized to make analyses of fiber properties, spinning tests, and other tests of the quality of cotton samples submitted to him by cotton breeders and other persons, subject to such terms and conditions and to the payment by such cotton breeders and other persons of such fees as he may prescribe by regulations under this Act. The fees to be assessed hereunder shall be reasonable, and, as nearly as may be, to cover the cost of the service rendered. (7 U.S.C. 473d.)

Sec. 4. The Secretary of Agriculture may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for the purchase of samples of cotton, for rent outside the District of Columbia, printing, telegrams, telephones, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this Act in the District of Columbia and elsewhere, and there are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for such purposes. (7 U.S.C. 474.)

Sec. 5.<sup>8</sup> COTTON CROP REPORTS.--The Secretary of Agriculture shall cause to be issued as of the first of each month during the cotton growing and harvesting season from August to January inclusive, reports describing the condition and progress of the crop and stating the probable number of bales which will be ginned, these reports to be issued simultaneously with the cotton ginning reports of the Bureau of the Census relating to the same dates, the two reports to be issued from the same place at 3 o'clock postmeridian on or before the 12th day of the month to which the respective

<sup>7</sup> Section 3d added by Act of April 7, 1941, 55 Stat. 131. Section is also known as the "Cotton Service Testing Amendment".

<sup>8</sup> Act of May 3, 1924, 43 Stat. 115; as amended by Act of March 3, 1927, 44 Stat. 1373; Act of August 8, 1946, 60 Stat. 940; Act of May 29, 1958, 72 Stat. 149; and Act of June 30, 1972, 86 Stat. 400. Section was not enacted as part of the Cotton Statistics and Estimates Act.

<sup>5</sup> Section 3c-2 added by Act of July 5, 1960, 74 Stat. 328.

<sup>6</sup> Section 3c-3 added by Act of July 5, 1960, 74 Stat. 328.

reports relate. No such report shall be approved and released by the Secretary of Agriculture until it shall have been passed upon by a cotton crop reporting board consisting of five members or more to be designated by him. Not less than three members of the board shall be supervisory field statisticians of the Department of Agriculture who are located in different sections of the cotton-growing States, are experienced in estimating cotton production, and have first-hand knowledge of the condition of the cotton crop based upon recent field observations. A majority of the members of the board shall be familiar with the methods and practices of producing cotton. (7 U.S.C. 475.)

Sec. 6.<sup>9</sup> The Secretary of Agriculture shall cause to be issued a report on or before the 12th day of July of each year showing by States and in toto the estimated acreage of cotton planted, to be followed on or before the 12th day of August with an estimate of the acreage for harvest and on or before the 12th day of December with an estimate of the harvested acreage. (7 U.S.C. 476.)

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<sup>9</sup> Act of May 27, 1912, 37 Stat. 118; as amended by Act of March 3, 1927, 44 Stat. 1374; Act of May 29, 1958, 72 Stat. 149; and Act of June 30, 1972, 86 Stat. 400. Section was not enacted as part of the Cotton Statistics and Estimates Act. Sec. 3 of Pub. L. 92-331, June 30, 1972, amended Sec. 45 of title 13, U.S.C., to read as follows: "The reports of cotton ginned to the dates as of which the Department of Agriculture is also required to issue cotton crop reports shall be issued simultaneously with the cotton crop reports of that department, the two reports to be issued from the same place at 3 o'clock postmeridian on or before the 12th day of the month to which the respective reports relate." Further Sec. 4 of Pub. L. 92-331 amended Sec. 42, paragraph (a) of title 13, U.S.C. to read as follows:

"(a) The statistics of the quantity of cotton ginned shall show the quantity ginned from each crop prior to August 1, September 1, September 15, October 1, October 15, November 1, November 15, December 1, December 15, January 1, January 15, February 1, and March 1; but the Secretary may limit the canvasses of August 1 and September 1 to those sections of the cotton growing States in which cotton has been ginned."