

the issuance of a plan within the meaning of this chapter.

(Pub. L. 91-670, title III, §315, Jan. 11, 1971, 84 Stat. 2047; Pub. L. 101-624, title XIX, §1945, Nov. 28, 1990, 104 Stat. 3868.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this part", and was translated as reading "this title", meaning title III of Pub. L. 91-670, which enacted this chapter, as the probable intent of Congress, because title III does not contain parts.

#### AMENDMENTS

1990—Subsec. (b). Pub. L. 101-624, §1945(1), inserted ", or of the total number of producers and importers when importers are subject to a plan," after first reference to "potato producers", "and importers" after second reference to "potato producers", and "and import" after "produce", and substituted "and imported by those voting in the referendum" for "by the potato producers voting in the referendum".

Subsec. (c). Pub. L. 101-624, §1945(2), added subsec. (c).

### § 2625. Amendment procedure

The provisions of this chapter applicable to plans shall be applicable to amendments to plans.

(Pub. L. 91-670, title III, §316, Jan. 11, 1971, 84 Stat. 2047.)

#### AMENDMENT PROCEDURE

Pub. L. 101-624, title XIX, §1946, Nov. 28, 1990, 104 Stat. 3869, provided that:

"(a) IN GENERAL.—Notwithstanding any provision of the Potato Research and Promotion Act [7 U.S.C. 2611 et seq.] (hereafter in this section referred to as the 'Act'), the procedure specified in this section shall apply if a producer or a producer organization requests the Secretary of Agriculture (hereafter in this section referred to as the 'Secretary') to amend the plan in effect under that Act (hereafter in this section referred to as the 'plan') to—

"(1) subject importers to the terms and conditions of a plan, and

"(2) eliminate provisions for refunds of assessments for those not in favor of supporting the research and promotion program as provided under that Act.

The procedure under this section shall apply only in the case of the first such request received after the date of enactment of this Act [Nov. 28, 1990].

"(b) PUBLICATION OF PROPOSED AMENDMENTS.—The Secretary shall publish for public comment such proposed amendments to the plan within 60 days.

"(c) ISSUANCE OF FINAL AMENDMENTS.—Not later than 150 days after publication of such amendment, and after notice and opportunity for public comment, the Secretary shall issue the amendments to the plan, as described in subsection (a), if the Secretary has reason to believe that such amendments will tend to effectuate the declared policy of this subtitle [see Short Title of 1990 Amendment note set out under section 2611 of this title].

"(d) REFERENDUM.—Not later than 24 months after the date of issuance of such amendments to the plan, the Secretary shall conduct a referendum among producers and importers who, during a representative period determined by the Secretary, have been engaged in the production or importation of potatoes. The amendments shall be continued only if the Secretary determines that the amendments to the plan have been approved by a majority of the total number of producers and importers voting in the referendum.

"(e) REFUNDS.—The board shall—

"(1) establish an escrow account to be used for assessment refunds, and place funds in such account in

accordance with paragraph (2) during the period beginning on the effective date of the amendments to the plan issued under subsection (c) and ending on the date of the referendum on the amendments to the plan;

"(2) place in the account established under paragraph (1), from assessments collected under the plan during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent;

"(3) subject to paragraphs (4), (5), and (6), provide that for the period referred to in paragraph (1) any producer or importer shall have the right to demand and receive from the board a one-time refund of assessments collected from such producer or importer during such period if—

"(A) such producer or importer is responsible for paying such assessments;

"(B) such producer or importer does not support the program established under the plan; and

"(C) the amendments to the plan to eliminate provisions for refunds of assessments are not approved pursuant to a referendum conducted under subsection (d);

"(4) require such demand to be made in accordance with regulations, on a form, and within a time period prescribed by the board;

"(5) require such refund to be made on submission of proof satisfactory to the board that such producer or importer paid the assessment for which refund is demanded; and

"(6) if the amount in the escrow account required to be established by paragraph (1) is not sufficient to refund the total amount of assessments demanded by all eligible producers and importers under this subsection, prorate the amount of such refunds among all eligible producers and importers who demand such refund.

"(f) TERMINATION.—If such amendments to the plan are not approved, the Secretary shall terminate the amendments and the plan shall continue in effect without the amendments.

"(g) AMENDMENT TO INCLUDE THE 50 STATES.—Notwithstanding any provision of the Act, the Secretary shall, upon request of a producer or a producer organization, issue an amendment to the plan to include the 50 States of the United States. Such amendment shall not be subject to a referendum."

### § 2626. 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 this chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 91-670, title III, §317, Jan. 11, 1971, 84 Stat. 2047.)

### § 2627. Authorization

There is hereby made available from the funds provided by section 612c of this title such sums as are necessary to carry out the provisions of this chapter: *Provided*, That no such sum shall be used for the payment of any expenses or expenditures of the board in administering any provision of any plan issued under authority of this chapter.

(Pub. L. 91-670, title III, §318, Jan. 11, 1971, 84 Stat. 2047.)