

| | |
|-------|---|
| Sec. | |
| 2614. | Notice and hearings. |
| 2615. | Finding and issuance of plan. |
| 2616. | Regulations. |
| 2617. | Required terms and conditions of plans. |
| 2618. | Permissive terms and conditions of plans. |
| 2619. | Assessments. |
| 2620. | Procedural rights of persons subject to plan. |
| 2621. | Enforcement. |
| 2622. | Investigations. |
| 2623. | Referendum. |
| 2624. | Suspension or termination of plans. |
| 2625. | Amendment procedure. |
| 2626. | Separability. |
| 2627. | Authorization. |

§ 2611. Congressional findings and declaration of policy

Potatoes are a basic food in the United States and foreign countries. They are produced by many individual potato growers in every State in the United States and imported into the United States from foreign countries. In 1966, there were one million four hundred and ninety-seven thousand acres of cropland in the United States devoted to the production of potatoes.

Potatoes and potato products move in the channels of interstate or foreign commerce, and potatoes which do not move in such channels directly burden or affect interstate commerce in potatoes and potato products.

The maintenance and expansion of existing potato markets and the development of new or improved markets are vital to the welfare of potato growers and those concerned with marketing, using, and processing potatoes as well as the general economic welfare of the Nation.

Therefore, it is the declared policy of the Congress and the purpose of this chapter that it is essential in the public interest, through the exercise of the powers provided herein, to authorize the establishment of an orderly procedure for the financing, through adequate assessments on all potatoes harvested in the United States for commercial use and imported into the United States from foreign countries, and the carrying out of an effective and continuous coordinated program of research, development, advertising, and promotion designed to strengthen potatoes' competitive position, and to maintain and expand domestic and foreign markets for potatoes and potato products.

(Pub. L. 91-670, title III, §302, Jan. 11, 1971, 84 Stat. 2041; Pub. L. 101-624, title XIX, §1936, Nov. 28, 1990, 104 Stat. 3865.)

AMENDMENTS

1990—Pub. L. 101-624, in first par., inserted “and foreign countries” and “and imported into the United States from foreign countries” and struck out at end “Approximately two hundred and seventy-five million hundredweight of potatoes have been produced annually during the past five years with an estimated sales value to the potato producers of \$561,000,000.”; in second par., struck out “, in a large part,” after “products move”, inserted “or foreign”, and struck out at end “All potatoes produced in the United States are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in potatoes and potato products.” and, in third par., inserted “and imported into the United States from foreign countries” and substituted “and potato products” for “produced in the United States”.

EFFECTIVE DATE

Pub. L. 91-670, title III, §319, Jan. 11, 1971, 84 Stat. 2047, provided that: “This title [see Short Title note below] shall take effect upon enactment [Jan. 11, 1971]”.

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-624, title XIX, §1935, Nov. 28, 1990, 104 Stat. 3865, provided that: “This subtitle [subtitle C (§§1935-1946) of title XIX of Pub. L. 101-624, amending this section and sections 2612 to 2614, 2617 to 2619, and 2622 to 2624 of this title, and enacting provisions set out as a note under section 2625 of this title] may be cited as the ‘Potato Research and Promotion Act Amendments of 1990’.”

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97-244, §1, Aug. 26, 1982, 96 Stat. 310, provided: “That this Act [amending sections 2617, 2621, and 2623 of this title] may be cited as the ‘Potato Research and Promotion Act Amendments of 1982’.”

SHORT TITLE

Pub. L. 91-670, title III, §301, Jan. 11, 1971, 84 Stat. 2041, provided that: “This title [enacting this chapter and provisions set out as a note under this section] may be cited as the ‘Potato Research and Promotion Act’.”

§ 2612. 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 other entity.

(c) The term “potatoes” means all varieties of Irish potatoes grown by producers in the 50 States of the United States, and grown in foreign countries and imported into the United States.

(d) The term “handler” means any person (except a common or contract carrier of potatoes owned by another person) who handles potatoes in a manner specified in a plan issued pursuant to this chapter or in the rules and regulations issued thereunder.

(e) The term “producer” means any person engaged in the growing of five or more acres of potatoes.

(f) The term “promotion” means any action taken by the National Potato Promotion Board, pursuant to this chapter, to present a favorable image for potatoes to the public with the express intent of improving their competitive positions and stimulating sales of potatoes and shall include, but shall not be limited to, paid advertising.

(g) The term “importer” means any person who imports tablestock, frozen, or processed potatoes for ultimate consumption by humans or seed potatoes into the United States.

(Pub. L. 91-670, title III, §303, Jan. 11, 1971, 84 Stat. 2041; Pub. L. 101-624, title XIX, §1937, Nov. 28, 1990, 104 Stat. 3866.)

AMENDMENTS

1990—Subsec. (c). Pub. L. 101-624, §1937(1), substituted “50” for “forty-eight contiguous” and inserted before the period at the end “, and grown in foreign countries and imported into the United States”.

Subsec. (g). Pub. L. 101-624, §1937(2), added subsec. (g).

§ 2613. Authority for issuance and amendment of plan

To effectuate the declared policy of this chapter, the Secretary shall, subject to the provisions of this chapter, issue and from time to time amend, orders applicable to handlers and importers and shall have authority to issue orders authorizing the collection of assessments on potatoes handled or imported under the provisions of this chapter, and to authorize the use of such funds to provide research, development, advertising, and promotion of potatoes in a manner prescribed in this chapter. Any order issued by the Secretary under this chapter shall hereinafter in this chapter be referred to as a "plan". Any such plan shall be applicable to potatoes produced in the 50 States of the United States and in foreign countries, if importers are subject to a plan and such potatoes are imported into the United States.

(Pub. L. 91-670, title III, §304, Jan. 11, 1971, 84 Stat. 2042; Pub. L. 101-624, title XIX, §1938, Nov. 28, 1990, 104 Stat. 3866.)

AMENDMENTS

1990—Pub. L. 101-624 substituted "handlers and importers" for "persons engaged in the handling of potatoes (hereinafter referred to as handlers)", inserted "or imported", substituted "50" for "forty-eight contiguous", and inserted before period at end "and in foreign countries, if importers are subject to a plan and such potatoes are imported into the United States".

§ 2614. Notice and hearings

When sufficient evidence is presented to the Secretary by interested persons, or whenever the Secretary has reason to believe that a plan will tend to effectuate the declared policy of this chapter, he shall give due notice and opportunity for a hearing upon a proposed plan. Such hearing may be requested by any interested person, including the Secretary, when the request for such hearing is accompanied by a proposal for a plan.

(Pub. L. 91-670, title III, §305, Jan. 11, 1971, 84 Stat. 2042; Pub. L. 101-624, title XIX, §1939, Nov. 28, 1990, 104 Stat. 3866.)

AMENDMENTS

1990—Pub. L. 101-624 substituted "interested persons" for "potato producers" in first sentence and "by any interested person, including the Secretary" for "by potato producers or by any other interested person or persons, including the Secretary" in second sentence.

§ 2615. Finding and issuance of plan

After notice and opportunity for hearing, the Secretary shall issue a plan if he finds, and sets forth in such plan, upon the evidence introduced at such hearing, that the issuance of such plan and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 91-670, title III, §306, Jan. 11, 1971, 84 Stat. 2042.)

§ 2616. 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. 91-670, title III, §307, Jan. 11, 1971, 84 Stat. 2042.)

§ 2617. Required terms and conditions of plans

Any plan issued pursuant to this chapter shall contain the following terms and conditions:

(a) National Potato Promotion Board; establishment; powers and duties

Providing for the establishment by the Secretary of a National Potato Promotion Board (hereinafter referred to as "the board") and for defining its powers and duties, which shall include powers—

- (1) to administer such plan in accordance with its terms and conditions;
- (2) to make rules and regulations to effectuate the terms and conditions of such plan;
- (3) to receive, investigate, and report to the Secretary complaints of violations of such plan; and
- (4) to recommend to the Secretary amendments to such plan.

(b) Membership of board

Providing that the board shall be composed of representatives of producers and the public appointed by the Secretary from nominations submitted in accordance with this subsection. If importers are subject to a plan, the board shall also include up to 5 representatives of importers, appointed by the Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary. Representatives of producers shall be nominated by producers in such manner as may be prescribed by the Secretary. Public representatives shall be nominated by the board in such manner as may be prescribed by the Secretary. If producers or importers fail to select nominees for appointment to the board, or the board fails to nominate public representatives, the Secretary may appoint persons on the basis of representation as provided for in such plan. The requirement for inclusion of public representatives on the board shall not be subject to producer approval, or to importer approval when importers are subject to a plan, in a referendum.

(c) Compensation and expenses of board members

Providing that board members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in performing their duties as members of the board.

(d) Budget; preparation and submission

Providing that the board shall prepare and submit to the Secretary for his approval a budget, on a fiscal period basis, of its anticipated expenses and disbursements in the administration of the plan, including probable costs of research, development, advertising, and promotion.

(e) Assessment rate per poundage handled; limitation

Providing that the board shall recommend to the Secretary and the Secretary shall fix the assessment rate at not more than 2 cents per one