

(B) if such organization does not exist on January 1, 1986, an organization that represents not fewer than 50 pork producers who market annually, in the aggregate, not less than 10 percent of the volume (measured in pounds) of porcine animals marketed in such State.

(17) The term “to market” means to sell or to otherwise dispose of a porcine animal, pork, or pork product in commerce.

(Pub. L. 99-198, title XVI, §1613, Dec. 23, 1985, 99 Stat. 1607.)

#### EFFECTIVE DATE

Section effective Jan. 1, 1986, see section 1631 of Pub. L. 99-198, set out as a note under section 4801 of this title.

### § 4803. Pork and pork product orders

(a) To carry out this chapter, the Secretary shall, in accordance with this chapter, issue and, from time to time, amend orders applicable to persons engaged in—

(1) the production and sale of porcine animals, pork, and pork products in the United States; and

(2) the importation of porcine animals, pork, or pork products into the United States.

(b) The Secretary may issue such regulations as are necessary to carry out this chapter.

(Pub. L. 99-198, title XVI, §1614, Dec. 23, 1985, 99 Stat. 1609.)

#### EFFECTIVE DATE

Section effective Jan. 1, 1986, see section 1631 of Pub. L. 99-198, set out as a note under section 4801 of this title.

### § 4804. Notice and hearing

During the period beginning on January 1, 1986, and ending 30 days after receipt of a proposal for an initial order submitted by any person affected by this chapter, the Secretary shall—

(1) publish such proposed order; and

(2) give due notice of and opportunity for public comment on such proposed order.

(Pub. L. 99-198, title XVI, §1615, Dec. 23, 1985, 99 Stat. 1609.)

#### EFFECTIVE DATE

Section effective Jan. 1, 1986, see section 1631 of Pub. L. 99-198, set out as a note under section 4801 of this title.

### § 4805. Findings and issuance of orders

#### (a) Necessary findings

After notice and opportunity for public comment have been provided in accordance with section 4804 of this title, the Secretary shall issue and publish an order if the Secretary finds, and sets forth in such order, that the issuance of such order and all terms and conditions thereof will assist in carrying out this chapter.

#### (b) Number of orders in effect at a time

Not more than one order may be in effect at a time.

#### (c) Effective date

An order shall become effective on a date that is not more than 90 days following the publication of such order.

#### (d) Terms and conditions

An order shall contain such terms and conditions as are required in sections 4806 through 4809 of this title and, except as provided in section 4810 of this title, no others.

(Pub. L. 99-198, title XVI, §1616, Dec. 23, 1985, 99 Stat. 1609.)

#### EFFECTIVE DATE

Section effective Jan. 1, 1986, see section 1631 of Pub. L. 99-198, set out as a note under section 4801 of this title.

### § 4806. National Pork Producers Delegate Body

#### (a) Establishment and appointment

The order shall provide for the establishment and appointment by the Secretary, not later than 60 days after the effective date of such order, of a National Pork Producers Delegate Body.

#### (b) Membership; number of producer members; number of importer members

(1) The Delegate Body shall consist of—

(A) producers, as appointed by the Secretary in accordance with paragraph (2), from nominees submitted as follows:

(i) in the case of the initial Delegate Body appointed by each State in accordance with section 4807 of this title.

(ii) in the case of each succeeding Delegate Body, each State association shall submit nominations selected by such association pursuant to a selection process that—

(I) is approved by the Secretary;

(II) requires public notice of the process to be given at least one week in advance by publication in a newspaper or newspaper of general circulation in such State and in pork production and agriculture trade publications; and

(III) that provides complete and equal access to the nominating process to every producer who has paid all assessments due under section 4809 of this title and not demanded a refund under section 4813 of this title,

or pursuant to an election of nominees conducted in accordance with section 4807 of this title.

(iii) In the case of a State that has a State association that does not submit nominations or that does not have a State association, such State shall submit nominations in a manner prescribed by the Secretary; and

(B) importers, as appointed by the Secretary in accordance with paragraph (3).

(2) The number of producer members appointed to the Delegate Body from each State shall equal at least two members, and additional members, allocated as follows:

(A) Shares shall be assigned to each State—

(i) for the 1986 calendar year, on the basis of one share for each \$400,000 of farm market

value of porcine animals marketed from such State (as determined by the Secretary based on the annual average of farm market value in the most recent 3 calendar years preceding such year), rounded to the nearest \$400,000; and

(ii) for each calendar year thereafter, on the basis of one share for each \$1,000 of the aggregate amount of assessments collected (minus refunds under section 4813 of this title) in such State from persons described in section 4809(a)(1)(A) and (B) of this title, rounded to the nearest \$1,000.

(B) If during a calendar year the number of such shares of a State is—

(i) less than 301, the State shall receive a total of two producer members;

(ii) more than 300 but less than 601, the State shall receive a total of three producer members;

(iii) more than 600 but less than 1,001, the State shall receive a total of four producer members; and

(iv) more than 1,000, the State shall receive four producer members, plus one additional member for each 300 additional shares in excess of 1,000 shares, rounded to the nearest 300.

(3) The number of importer members appointed to the Delegate Body shall be determined as follows:

(A) Shares shall be assigned to importers—

(i) for the 1986 calendar year, on the basis of one share for each \$575,000 of market value of marketed porcine animals, pork, or pork products (as determined by the Secretary based on the annual average of imports in the most recent 3 calendar years preceding such year), rounded to the nearest \$575,000; and

(ii) for each calendar year thereafter, on the basis of one share for each \$1,000 of the aggregate amount of assessments collected (minus refunds under section 4813 of this title) from importers, rounded to the nearest \$1,000.

(B) The number of importer members appointed to the Delegate Body shall equal a total of—

(i) three members for the first 1,000 such shares; and

(ii) one additional member for each 300 additional shares in excess of 1,000 shares, rounded to the nearest 300.

**(c) Voting; quorum; votes necessary for decision**

(1) A producer member of the Delegate Body may, in a vote conducted by the Delegate Body for which the member is present, cast a number of votes equal to—

(A) the number of shares attributable to the State of the member; divided by

(B) the number of producer members from such State.

(2) An importer member of the Delegate Body may, in a vote conducted by the Delegate Body for which the member is present, cast a number of votes equal to—

(A) the number of shares allocated to importers; divided by

(B) the number of importer members.

(3) Members entitled to cast a majority of the votes (including fractions thereof) on the Delegate Body shall constitute a quorum.

(4) A majority of the votes (including fractions thereof) cast at a meeting at which a quorum is present shall be decisive of a motion or election presented to the Delegate Body for a vote.

**(d) Term of office**

A member of the Delegate Body shall serve for a term of 1 year, except that the term of a member of the Delegate Body shall continue until the successor of such member, if any, is appointed in accordance with subsection (b)(1).

**(e) Chairman**

(1) At the first annual meeting, the Delegate Body shall select a Chairman by a majority vote.

(2) At each annual meeting thereafter, the President of the Board shall serve as the Chairman of the Delegate Body.

**(f) Compensation**

A member of the Delegate Body shall serve without compensation, but may be reimbursed by the Board from assessments collected under section 4809 of this title for transportation expenses incurred in performing duties as a member of the Delegate Body.

**(g) Nomination of members to National Pork Board; annual meeting; majority vote in person to nominate**

(1) The Delegate Body shall—

(A) nominate—

(i) not less than 23 persons for appointment to the Board, for the first year for which nominations are made; and

(ii) not less than 1½ persons (rounded up to the nearest person) for each vacancy in the Board that requires nominations thereafter; and

(B) submit such nominations to the Secretary.

(2) The Delegate Body shall meet annually to make such nominations.

(3) A majority of the Delegate Body shall vote in person in order to nominate members to the Board.

**(h) Duties and functions**

The Delegate Body shall—

(1) recommend the rate of assessment prescribed by the initial order and any increase in such rate pursuant to section 4809(5)<sup>1</sup> of this title; and

(2) determine the percentage of the aggregate amount of assessments collected in a State that each State association shall receive under section 4809(c)(1) of this title.

(Pub. L. 99-198, title XVI, § 1617, Dec. 23, 1985, 99 Stat. 1609.)

EFFECTIVE DATE

Section effective Jan. 1, 1986, see section 1631 of Pub. L. 99-198, set out as a note under section 4801 of this title.

<sup>1</sup> So in original. Probably should be section "4809(b)".

**§ 4807. Selection of Delegate Body****(a) Nominations**

(1) Not later than 30 days after the effective date of the order, the Secretary shall call for the nomination within each State of candidates for appointment as producer members of the initial Delegate Body.

(2) Each State association may nominate producers who are residents of such State to serve as such candidates.

(3)(A)<sup>1</sup> Additional producers who are residents of a State may be nominated as candidates of such State by written petition signed by 100 producers or 5 percent of the pork producers in such State, whichever is less. The Secretary shall establish and publicize the procedures governing the time and place for filing petitions.

**(b) Election; eligibility to vote; notice of election; number of members nominated**

(1) After the Secretary has received the nominations required under subsection (a) and not later than 45 days after the effective date of the order, the Secretary shall call for an election within each State of persons for appointment as producer members of the initial Delegate Body.

(2) To be eligible to vote in an election held in a State, a person must be a producer who is a resident of such State.

(3)(A) Notice of each such election shall be given by the Secretary—

(i) by publication in a newspaper or newspapers of general circulation in each State, and in pork production and agriculture trade publications, at least 1 week prior to the election; and

(ii) in any other reasonable manner determined by the Secretary.

(B) The notice shall set forth the period of time and places for voting and such other information as the Secretary considers necessary.

(4) Each State shall nominate to the Delegate Body the number of producer members required under section 4806(b)(2)(B) of this title.

(5) The producers who receive the highest number of votes in each State shall be nominated for appointment as members of the Delegate Body from such State.

**(c) Subsequent nominations and elections to be administered by Board; time of election; voting eligibility**

(1) Except as provided in paragraph (3), after the election of the producer members of the initial Delegate Body, the Board shall administer all subsequent nominations and elections of the producer members to be nominated for appointment as members of the Delegate Body, with the assistance of the Secretary and in accordance with subsections (a)(3) and (b).

(2) The Board shall determine the timing of an election referred to in paragraph (1).

(3) To be eligible to vote in such an election in a State, a person must—

(A) be a producer who is a resident of such State;

(B) have paid all assessments due under section 4809 of this title; and

(C) not demanded a refund of an assessment under section 4813 of this title.

**(d) Nominating committee; appointment; nomination to fill position for pending election**

(1) Prior to the expiration of the term of any producer member of the Delegate Body, the Board shall appoint a nominating committee of producers who are residents of the State represented by such member.

(2) Such committee shall nominate producers of such State as candidates to fill the position for which an election is to be held.

(3) Additional producers who are residents of a State may be nominated to fill such positions in accordance with subsection (a)(3).

(Pub. L. 99-198, title XVI, § 1618, Dec. 23, 1985, 99 Stat. 1611.)

**EFFECTIVE DATE**

Section effective Jan. 1, 1986, see section 1631 of Pub. L. 99-198, set out as a note under section 4801 of this title.

**§ 4808. National Pork Board**

(a)(1) The order shall provide for the establishment and appointment by the Secretary of a 15-member National Pork Board.

(2)<sup>1</sup> The Board shall consist of producers representing at least 12 States and importers appointed by the Secretary from nominations submitted under section 4806(g) of this title.

(2)<sup>1</sup> The Board shall consist of producers or importers appointed by the Secretary from nominations submitted under section 4806(g) of this title.

(3) A member of the Board shall serve for a 3-year term, with no such member serving more than two consecutive 3-year terms, except that initial appointments to the Board shall be staggered with an equal number of members appointed, to the maximum extent possible, to 1-year, 2-year, and 3-year terms, except that the term of a member of the Board shall continue until the successor of such member, if any, is appointed in accordance with paragraph (2).

(4) The Board shall select its President by a majority vote.

(5)(A) A majority of the members of the Board shall constitute a quorum at a meeting of the Board.

(B) A majority of votes cast at a meeting at which a quorum is present shall determine a motion or election.

(6) A member of the Board shall serve without compensation, but shall be reimbursed by the Board from assessments collected under section 4809 of this title for reasonable expenses incurred in performing duties as a member of the Board.

(b)(1) The Board shall—

(A) develop, at the initiative of the Board or other person, proposals for promotion, research, and consumer information plans and projects;

(B) submit such plans and projects to the Secretary for approval;

(C) administer the order, in accordance with the order and this chapter;

<sup>1</sup> So in original. No subpar. (B) has been enacted.

<sup>1</sup> So in original. Two pars. (2) have been enacted.