

toes (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.)

#### Editorial Notes

##### 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 hundred pounds of potatoes handled; except that if approved by producers, and importers when importers are subject to a plan, pursuant to section 2623 of this title, the rate of assessment shall not exceed one-half of 1 per centum of the immediate past ten-calendar-year United States average price received for potatoes by growers as reported by the Department of Agriculture.

##### (f) Restrictions

Providing that—

- (1) funds collected by the board shall be used for research, development, advertising, or promotion of potatoes and potato products and such other expenses for the administration, maintenance, and functioning of the board, as may be authorized by the Secretary, including any referendum and administrative costs incurred by the Department of Agriculture under this chapter: *Provided*, That the provision for payment to the Department of Agriculture for any referendum and administrative costs so incurred shall not be subject to producer approval, or importer approval when importers are subject to a plan, in a referendum;
- (2) no advertising or sales promotion program shall make any reference to private