

nominated by producers in such manner as may be prescribed by the Secretary, that public representatives be nominated by the board in such manner as may be prescribed by the Secretary, and that, if producers 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 for provisions that the board could be composed of representatives of producers selected by the Secretary from nominations made by producers in such manner as might be prescribed by the Secretary and that, in the event producers failed to select nominees for appointment to the board, the Secretary was to appoint producers on the basis of representation provided for in such plan.

Subsec. (e). Pub. L. 97-244, §2(2), substituted provisions that the assessment rate include any referendum and administrative costs estimated to be incurred by the Department of Agriculture under this chapter, but that the assessment rate for fiscal year 1982 and each fiscal year thereafter 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, for provisions that the assessment rate could not exceed 1 cent per hundred pounds of potatoes handled.

Subsec. (f)(1). Pub. L. 97-244, §2(3), substituted "as may be authorized by the Secretary, including any referendum and administrative costs incurred by the Department of Agriculture under this chapter" for "as may be authorized by the Secretary".

§ 2618. Permissive terms and conditions of plans

Any plan issued pursuant to this chapter may contain one or more of the following terms and conditions:

(a) Exemptions

Providing authority to exempt from the provisions of the plan potatoes used for nonfood uses, and authority for the board to require satisfactory safeguards against improper use of such exemptions.

(b) Handler payment and reporting schedules

Providing for authority to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures utilized in different production areas.

(c) Advertisement and sales promotion programs or projects

Providing for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and sales promotion of potatoes and potato products and for the disbursement of necessary funds for such purposes: *Provided, however,* That any such program or project shall be directed toward increasing the general demand for potatoes and potato products: *And provided further,* That such promotional activities shall comply with the provisions of section 2617(f) of this title.

(d) Research and development projects and studies for marketing and utilization of potatoes

Providing for establishing and carrying on research and development projects and studies to the end that the marketing and utilization of potatoes may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(e) Reserve funds; accumulation; limitation

Providing for authority to accumulate reserve funds from assessments collected pursuant to

this chapter, to permit an effective and continuous coordinated program of research, development, advertising, and promotion in years when the production and assessment income may be reduced: *Provided,* That the total reserve fund does not exceed the amount budgeted for two years' operation.

(f) Foreign markets; sales development and expansion

Providing for authority to use funds collected herein, with the approval of the Secretary, for the development and expansion of potato and potato product sales in foreign markets.

(g) Assessment; refund

Providing that any potato producer or importer against whose potatoes any assessment is made and collected under authority of this chapter and who is not in favor of supporting the research and promotion program as provided for under this chapter shall have the right to demand and receive from the board a refund of such assessment. Such demand shall be made personally by such producer or importer in accordance with regulations and on a form and within a time period prescribed by the board and approved by the Secretary, but in no event less than 90 days, and upon submission of proof satisfactory to the board that the producer or importer paid the assessment for which refund is sought, and any such refund shall be made within 60 days after demand therefor.

(h) Assessment authority

Providing for authority to assess imports of tablestock, frozen, or processed potatoes for ultimate consumption by humans and seed potatoes into the United States.

(i) Incidental and necessary terms and conditions

Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such plan.

(Pub. L. 91-670, title III, §309, Jan. 11, 1971, 84 Stat. 2044; Pub. L. 101-624, title XIX, §1941, Nov. 28, 1990, 104 Stat. 3867.)

Editorial Notes

AMENDMENTS

1990—Subsecs. (g) to (i). Pub. L. 101-624 added subsecs. (g) and (h) and redesignated former subsec. (g) as (i).

§ 2619. Assessments

(a) Collection and payment; recordkeeping; limitation

(1) Each handler designated by the board, pursuant to regulations issued under the plan, to make payment of assessments shall be responsible for payment to the board, as it may direct, of any assessment levied on potatoes; and such handler may collect from any producer or deduct from the proceeds paid to any producer, on whose potatoes such assessment is made, any such assessment required to be paid by such handler. Such handler shall maintain a separate record with respect to each producer for whom potatoes were handled, and such records shall