

§ 1207.351

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§ 1207.351 Books and records.

Each handler or importer subject to this part shall maintain and make available for inspection by authorized employees of the Board and the Secretary such books and records as are appropriate and necessary to carry out the provisions of this Plan and the regulations issued thereunder, including such records as are necessary to verify any reports required. Such records shall be maintained for at least 2 years beyond the marketing year of their applicability.

[37 FR 5008, Mar. 9, 1972, as amended at 56 FR 40230, Aug. 14, 1991]

§ 1207.352 Confidential treatment.

All information obtained from books, records, or reports required pursuant to this part shall be kept confidential by all employees of the Department of Agriculture and of the Board, and by all contractors and agents retained by the Board, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this Plan. Nothing in this section shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of a number of handlers or importers subject to this Plan, which statements do not identify the information furnished by any person; or

(b) The publication by direction of the Secretary of the name of any person violating this Plan, together with a statement of the particular provisions of this Plan violated by such person.

[56 FR 40230, Aug. 14, 1991]

MISCELLANEOUS

§ 1207.360 Influencing governmental action.

No funds collected by the Board under this plan shall in any matter be used for the purpose of influencing governmental policy or action except in recommending to the Secretary amendments to this subpart.

§ 1207.361 Right of the Secretary.

All fiscal matters, programs or projects, rules or regulations, reports, or other substantive action proposed and prepared by the Board shall be submitted to the Secretary for his approval.

§ 1207.362 Suspension or termination.

(a) The Secretary shall, whenever he finds that this plan or any provision thereof obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this plan or such provision thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of the Board or of 10 percent or more of the potato producers and importers to determine whether potato producers and importers favor termination or suspension of this plan. The Secretary shall suspend or terminate such plan at the end of the marketing year whenever the Secretary determines that its suspension or termination is favored by a majority of the potato producers and importers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production or importation of potatoes or potato products, and who produced or imported more than 50 percent of the volume of the potatoes or potato products produced or imported by the producers and importers voting in the referendum.

[37 FR 5008, Mar. 9, 1972, as amended at 56 FR 40230, Aug. 14, 1991]

§ 1207.363 Proceedings after termination.

(a) Upon the termination of this plan, the Board shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all funds and property then in the possession or under control of the Board including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

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(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) carry out the obligations of the Board under any contracts or agreements entered into by it pursuant to this plan; (3) account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person or persons as the Secretary may direct; and (4) upon the request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person or persons full title and right to all of the funds, property, and claims vested in the Board of the trustees pursuant to this section.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this section shall be subject to the same obligation imposed upon the Board and upon the trustee.

(d) A reasonable effort shall be made by the Board or its trustees to return to producers and importers any residual funds not required to defray the necessary expenses of liquidation. If it is found impractical to return such remaining funds to producers and importers, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate.

[37 FR 5008, Mar. 9, 1972, as amended at 56 FR 40231, Aug. 14, 1991]

§ 1207.364 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this plan or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this plan or any regulation issued thereunder, or (b) release or extinguish any violation of this plan or any regulation issued thereunder, or (c) affect or impair any rights or remedies of the United States, or of the Secretary, or

of any other person, with respect to any such violation.

§ 1207.365 Personal liability.

No member of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgments, mistakes, or other acts, either of commission or omission, as such member except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1207.366 Separability.

If any provision of this plan is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this plan or applicability thereof to other persons or circumstances shall not be affected thereby.

Subpart—Rules and Regulations

SOURCE: 37 FR 17379, Aug. 26, 1972, unless otherwise noted.

DEFINITIONS

§ 1207.500 Definitions.

(a) Unless otherwise defined in this subpart, definitions of terms used in this subpart shall have the same meaning as the definitions of such terms which appear in Subpart—Potato Research and Promotion Plan.

(b) *Processor*. *Processor* means any person who commercially processes potatoes into potato products, including, but not restricted to, frozen, dehydrated, or canned potato products, potato chips and shoestrings, and flour.

(c) *Imported frozen or processed potatoes for ultimate consumption by humans*. *Imported frozen or processed potatoes for ultimate consumption by humans* means products which are imported into the United States which the Secretary determines contain a substantial amount of potato.

[37 FR 17379, Aug. 26, 1972, as amended at 56 FR 40231, Aug. 14, 1991; 57 FR 40083, Sept. 2, 1992]