

marketing. If a producer markets the agricultural commodity directly to consumers, the producer shall be considered to be the first handler with respect to the agricultural commodity produced by the producer.

(6) Importer

The term “importer” means any person who imports an agricultural commodity from outside the United States for sale in the United States as a principal or as an agent, broker, or consignee of any person.

(7) Information

The term “information” means information and programs that are designed to increase—

- (A) efficiency in processing; and
- (B) the development of new markets, marketing strategies, increased marketing efficiency, and activities to enhance the image of agricultural commodities on a national or international basis.

(8) Market

The term “market” means to sell or to otherwise dispose of an agricultural commodity in interstate, foreign, or intrastate commerce.

(9) Order

The term “order” means an order issued by the Secretary under section 7413 of this title that provides for a program of generic promotion, research, and information regarding agricultural commodities designed to—

- (A) strengthen the position of agricultural commodity industries in the marketplace;
- (B) maintain and expand existing domestic and foreign markets and uses for agricultural commodities;
- (C) develop new markets and uses for agricultural commodities; or
- (D) assist producers in meeting their conservation objectives.

(10) Person

The term “person” means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(11) Producer

The term “producer” means any person who is engaged in the production and sale of an agricultural commodity in the United States and who owns, or shares the ownership and risk of loss of, the agricultural commodity.

(12) Promotion

The term “promotion” means any action taken by a board under an order, including paid advertising, to present a favorable image of an agricultural commodity to the public to improve the competitive position of the agricultural commodity in the marketplace and to stimulate sales of the agricultural commodity.

(13) Research

The term “research” means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of an agricultural commodity.

(14) Secretary

The term “Secretary” means the Secretary of Agriculture.

(15) State

The term “State” means any of the States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(16) Suspend

The term “suspend” means to issue a rule under section 553 of title 5 to temporarily prevent the operation of an order during a particular period of time specified in the rule.

(17) Terminate

The term “terminate” means to issue a rule under section 553 of title 5 to cancel permanently the operation of an order beginning on a date certain specified in the rule.

(18) United States

The term “United States” means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States.

(Pub. L. 104-127, title V, §513, Apr. 4, 1996, 110 Stat. 1033.)

§ 7413. Issuance of orders

(a) Issuance authorized

(1) In general

To effectuate the purpose of this subchapter, the Secretary may issue, and amend from time to time, orders applicable to—

- (A) the producers of an agricultural commodity;
- (B) the first handlers of the agricultural commodity and other persons in the marketing chain as appropriate; and
- (C) the importers of the agricultural commodity, if imports of the agricultural commodity are subject to assessment under section 7415(f) of this title.

(2) National scope

Each order issued under this section shall be national in scope.

(b) Procedure for issuance

(1) Development or receipt of proposed order

A proposed order with respect to an agricultural commodity may be—

- (A) prepared by the Secretary at any time; or
- (B) submitted to the Secretary by—
 - (i) an association of producers of the agricultural commodity; or
 - (ii) any other person that may be affected by the issuance of an order with respect to the agricultural commodity.

(2) Consideration of proposed order

If the Secretary determines that a proposed order is consistent with and will effectuate the purpose of this subchapter, the Secretary shall publish the proposed order in the Federal Register and give due notice and opportunity for public comment on the proposed order.

(3) Existence of other orders

In deciding whether a proposal for an order is consistent with and will effectuate the pur-

pose of this subchapter, the Secretary may consider the existence of other Federal promotion, research, and information programs or orders issued or developed pursuant to any other law.

(4) Preparation of final order

After notice and opportunity for public comment under paragraph (2) regarding a proposed order, the Secretary shall take into consideration the comments received in preparing a final order. The Secretary shall ensure that the final order is in conformity with the terms, conditions, and requirements of this subchapter.

(c) Issuance and effective date

If the Secretary determines that the final order developed with respect to an agricultural commodity is consistent with and will effectuate the purpose of this subchapter, the Secretary shall issue the final order. Except in the case of an order for which an initial referendum is conducted under section 7417(a) of this title, the final order shall be issued and become effective not later than 270 days after the date of publication of the proposed order that was the basis for the final order.

(d) Amendments

From time to time the Secretary may amend any order, consistent with the requirements of section 7422 of this title.

(Pub. L. 104-127, title V, § 514, Apr. 4, 1996, 110 Stat. 1035.)

§ 7414. Required terms in orders

(a) In general

Each order shall contain the terms and conditions specified in this section.

(b) Board

(1) Establishment

Each order shall establish a board to carry out a program of generic promotion, research, and information regarding the agricultural commodity covered by the order and intended to effectuate the purpose of this subchapter.

(2) Board membership

(A) Number of members

Each board shall consist of the number of members considered by the Secretary, in consultation with the agricultural commodity industry involved, to be appropriate to administer the order. In addition to members, the Secretary may also provide for alternates on the board.

(B) Appointment

The Secretary shall appoint the members and any alternates of a board from among producers of the agricultural commodity and first handlers and others in the marketing chain as appropriate. If imports of the agricultural commodity covered by an order are subject to assessment under section 7415(f) of this title, the Secretary shall also appoint importers as members of the board and as alternates if alternates are included on the board. The Secretary may appoint 1 or more members of the general public to each board.

(C) Nominations

The Secretary may make appointments from nominations made pursuant to the method set forth in the order.

(D) Geographical representation

To ensure fair and equitable representation of the agricultural commodity industry covered by an order, the composition of each board shall reflect the geographical distribution of the production of the agricultural commodity involved in the United States and the quantity or value of the agricultural commodity imported into the United States.

(3) Reapportionment of board membership

In accordance with rules issued by the Secretary, at least once in each 5-year period, but not more frequently than once in each 3-year period, each board shall—

(A) review the geographical distribution in the United States of the production of the agricultural commodity covered by the order involved and the quantity or value of the agricultural commodity imported into the United States; and

(B) if warranted, recommend to the Secretary the reapportionment of the board membership to reflect changes in the geographical distribution of the production of the agricultural commodity and the quantity or value of the imported agricultural commodity.

(4) Notice

(A) Vacancies

Each order shall provide for notice of board vacancies to the agricultural commodity industry involved.

(B) Meetings

Each board shall provide the Secretary with prior notice of meetings of the board to permit the Secretary, or a designated representative of the Secretary, to attend the meetings.

(5) Term of office

(A) In general

The members and any alternates of a board shall each serve for a term of 3 years, except that the members and any alternates initially appointed to a board shall serve for terms of not more than 2, 3, and 4 years, as specified by the order.

(B) Limitation on consecutive terms

A member or alternate may serve not more than 2 consecutive terms.

(C) Continuation of term

Notwithstanding subparagraph (B), each member or alternate shall continue to serve until a successor is appointed by the Secretary.

(D) Vacancies

A vacancy arising before the expiration of a term of office of an incumbent member or alternate of a board shall be filled in a manner provided for in the order.

(6) Compensation

(A) In general

Members and any alternates of a board shall serve without compensation.