

(9) Commodity promotion programs have the ability to provide significant conservation benefits to producers and the public.

**(b) Purpose**

The purpose of this subchapter is to authorize the establishment, through the exercise by the Secretary of Agriculture of the authority provided in this subchapter, of an orderly program for developing, financing, and carrying out an effective, continuous, and coordinated program of generic promotion, research, and information regarding agricultural commodities designed to—

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

**(c) Rule of construction**

Nothing in this subchapter provides for the control of production or otherwise limits the right of any person to produce, handle, or import an agricultural commodity.

(Pub. L. 104-127, title V, §512, Apr. 4, 1996, 110 Stat. 1032.)

**§ 7412. Definitions**

In this subchapter (unless the context otherwise requires):

**(1) Agricultural commodity**

The term “agricultural commodity” means—

- (A) agricultural, horticultural, viticultural, and dairy products;
- (B) livestock and the products of livestock;
- (C) the products of poultry and bee raising;
- (D) the products of forestry;
- (E) other commodities raised or produced on farms, as determined appropriate by the Secretary; and
- (F) products processed or manufactured from products specified in the preceding subparagraphs, as determined appropriate by the Secretary.

**(2) Board**

The term “board” means a board established under an order issued under section 7413 of this title.

**(3) Conflict of interest**

The term “conflict of interest” means a situation in which a member or employee of a board has a direct or indirect financial interest in a person that performs a service for, or enters into a contract with, a board for anything of economic value.

**(4) Department**

The term “Department” means the Department of Agriculture.

**(5) First handler**

The term “first handler” means the first person who buys or takes possession of an agricultural commodity from a producer for

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.