

SHORT TITLE

Section 511 of title V of Pub. L. 104-127 provided that: “This subtitle [subtitle B (§§ 511-526) of title V of Pub. L. 104-127, enacting subchapter II of this chapter] may be cited as the ‘Commodity Promotion, Research, and Information Act of 1996.’”

Section 531 of title V of Pub. L. 104-127 provided that: “This subtitle [subtitle C (§§ 531-543) of title V of Pub. L. 104-127, enacting subchapter III of this chapter] may be cited as the ‘Canola and Rapeseed Research, Promotion, and Consumer Information Act.’”

Section 551 of title V of Pub. L. 104-127 provided that: “This subtitle [subtitle D (§§ 551-564) of title V of Pub. L. 104-127, enacting subchapter IV of this chapter] may be cited as the ‘National Kiwifruit Research, Promotion, and Consumer Information Act.’”

Section 571 of title V of Pub. L. 104-127 provided that: “This subtitle [subtitle E (§§ 571-582) of title V of Pub. L. 104-127, enacting subchapter V of this chapter] may be cited as the ‘Popcorn Promotion, Research, and Consumer Information Act.’”

SUBCHAPTER II—ISSUANCE OF ORDERS FOR PROMOTION, RESEARCH, AND INFORMATION ACTIVITIES REGARDING AGRICULTURAL COMMODITIES

§ 7411. Findings and purpose

(a) Findings

Congress finds the following:

(1) The production of agricultural commodities plays a significant role in the economy of the United States. Thousands of producers in the United States are involved in the production of agricultural commodities, and such commodities are consumed by millions of people throughout the United States and foreign countries.

(2) Agricultural commodities must be of high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply.

(3) The maintenance and expansion of existing markets and the development of new markets for agricultural commodities through generic commodity promotion, research, and information programs are vital to the welfare of persons engaged in the production, marketing, and consumption of such commodities, as well as to the general economy of the United States.

(4) Generic promotion, research, and information activities for agricultural commodities play a unique role in advancing the demand for such commodities, since such activities increase the total market for a product to the benefit of consumers and all producers. These generic activities complement branded advertising initiatives, which are aimed at increasing the market share of individual competitors, and are of particular benefit to small producers who lack the resources or market power to advertise on their own. These generic activities do not impede the branded advertising efforts of individual firms, but instead increase general market demand for an agricultural commodity using methods that individual companies do not have the incentive to employ.

(5) Generic promotion, research, and information activities for agricultural commodities, paid by the producers and others in the

industry who reap the benefits of such activities, provide a unique opportunity for producers to inform consumers about a particular agricultural commodity.

(6) It is important to ensure that generic promotion, research, and information activities for agricultural commodities be carried out in an effective and coordinated manner designed to strengthen the position of the commodities in the marketplace and to maintain and expand their markets and uses. Independent evaluation of the effectiveness of the generic promotion activities of these programs will assist the Secretary of Agriculture and Congress in ensuring that these objectives are met.

(7) The cooperative development, financing, and implementation of a coordinated national program of research, promotion, and information regarding agricultural commodities are necessary to maintain and expand existing markets and to develop new markets for these commodities.

(8) Agricultural commodities move in interstate and foreign commerce, and agricultural commodities and their products that do not move in such channels of commerce directly burden or affect interstate commerce in agricultural commodities and their products.

(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) products, as a class, that are—

(i) produced on a certified organic farm (as defined in section 6502 of this title); and

(ii) certified to be sold or labeled as “organic” or “100 percent organic” (as defined in part 205 of title 7, Code of Federal Regulations (or a successor regulation));

(F) other commodities raised or produced on farms, as determined appropriate by the Secretary; and

(G) 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; Pub. L. 113-79, title X, §10004(f), Feb. 7, 2014, 128 Stat. 944.)

AMENDMENTS

2014—Par. (1)(E) to (G). Pub. L. 113-79 added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively.

§ 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 purpose 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