

(Pub. L. 104-127, title V, §572, Apr. 4, 1996, 110 Stat. 1074.)

§ 7482. Definitions

In this subchapter (unless the context otherwise requires):

(1) Board

The term “Board” means the Popcorn Board established under section 7484(b) of this title.

(2) Commerce

The term “commerce” means interstate, foreign, or intrastate commerce.

(3) Consumer information

The term “consumer information” means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of popcorn.

(4) Department

The term “Department” means the Department of Agriculture.

(5) Industry information

The term “industry information” means information or a program that will lead to the development of—

(A) new markets, new marketing strategies, or increased efficiency for the popcorn industry; or

(B) activities to enhance the image of the popcorn industry.

(6) Marketing

The term “marketing” means the sale or other disposition of unpopped popcorn for human consumption in a channel of commerce, but does not include a sale or disposition to or between processors.

(7) Order

The term “order” means an order issued under section 7483 of this title.

(8) Person

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

(9) Popcorn

The term “popcorn” means unpopped popcorn (Zea Mays L) that is—

(A) commercially grown;

(B) processed in the United States by shelling, cleaning, or drying; and

(C) introduced into a channel of commerce.

(10) Process

The term “process” means to shell, clean, dry, and prepare popcorn for the market, but does not include packaging popcorn for the market without also engaging in another activity described in this paragraph.

(11) Processor

The term “processor” means a person engaged in the preparation of unpopped popcorn for the market who owns or shares the ownership and risk of loss of the popcorn and who processes and distributes over 4,000,000 pounds of popcorn in the market per year.

(12) Promotion

The term “promotion” means an action, including paid advertising, to enhance the image or desirability of popcorn.

(13) Research

The term “research” means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of popcorn.

(14) Secretary

The term “Secretary” means the Secretary of Agriculture.

(15) State

The term “State” means each of the 50 States and the District of Columbia.

(16) United States

The term “United States” means all of the States.

(Pub. L. 104-127, title V, §573, Apr. 4, 1996, 110 Stat. 1075.)

§ 7483. Issuance of orders

(a) In general

To effectuate the policy described in section 7481(b) of this title, the Secretary, subject to subsection (b), shall issue 1 or more orders applicable to processors. An order shall be applicable to all popcorn production and marketing areas in the United States. Not more than 1 order shall be in effect under this subchapter at any 1 time.

(b) Procedure

(1) Proposal or request for issuance

The Secretary may propose the issuance of an order, or an association of processors or any other person that would be affected by an order may request the issuance of, and submit a proposal for, an order.

(2) Notice and comment concerning proposed order

Not later than 60 days after the receipt of a request and proposal for an order under paragraph (1), or at such time as the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) Issuance of order

After notice and opportunity for public comment under paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order conforms to this subchapter. The order shall be issued and become effective not later than 150 days after the date of publication of the proposed order.

(c) Amendments

The Secretary, as appropriate, may amend an order. The provisions of this subchapter applicable to an order shall be applicable to any amendment to an order, except that an amendment to an order may not require a referendum to become effective.

(Pub. L. 104-127, title V, §574, Apr. 4, 1996, 110 Stat. 1076.)

§ 7484. Required terms in orders

(a) In general

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

(b) Establishment and membership of Popcorn Board

(1) In general

The order shall provide for the establishment of, and appointment of members to, a Popcorn Board that shall consist of not fewer than 4 members and not more than 9 members.

(2) Nominations

The members of the Board shall be processors appointed by the Secretary from nominations submitted by processors in a manner authorized by the Secretary, subject to paragraph (3). Not more than 1 member may be appointed to the Board from nominations submitted by any 1 processor.

(3) Geographical diversity

In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of popcorn production throughout the United States.

(4) Terms

The term of appointment of each member of the Board shall be 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 2, 3, and 4 years, as determined by the Secretary.

(5) Compensation and expenses

A member of the Board shall serve without compensation, but shall be reimbursed for the expenses of the member incurred in the performance of duties for the Board.

(c) Powers and duties of Board

The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to issue regulations to effectuate the terms and provisions of the order;

(3) to appoint members of the Board to serve on an executive committee;

(4) to propose, receive, evaluate, and approve budgets, plans, and projects of promotion, research, consumer information, and industry information, and to contract with appropriate persons to implement the plans or projects;

(5) to accept and receive voluntary contributions, gifts, and market promotion or similar funds;

(6) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under subsection (f), only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(8) to recommend to the Secretary amendments to the order.

(d) Plans and budgets

(1) In general

The order shall provide that the Board shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) Budgets

The order shall require the Board to submit to the Secretary for approval budgets on a fiscal year basis of the anticipated expenses and disbursements of the Board in the implementation of the order, including projected costs of plans and projects of promotion, research, consumer information, and industry information.

(e) Contracts and agreements

(1) In general

The order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects of promotion, research, consumer information, or industry information, including contracts with a processor organization, and for the payment of the cost of the plans or projects with funds collected by the Board under the order.

(2) Requirements

A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project, together with a budget that shows the estimated costs to be incurred for the plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of each transaction of the party, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) Processor organizations

The order shall provide that the Board may contract with processor organizations for any services required in addition to the services described in paragraph (1). The contract shall include provisions comparable to the provisions required by paragraph (2).

(f) Assessments

(1) Processors

The order shall provide that each processor marketing popcorn in the United States or for export shall, in the manner prescribed in the order, pay assessments and remit the assessments to the Board.

(2) Direct marketers

A processor that markets popcorn produced by the processor directly to consumers shall