

programs that are valuable to the efforts of promoting the consumption of canola, rapeseed, and canola and rapeseed products;

(6) the cooperative development, financing, and implementation of a coordinated national program of canola and rapeseed research, promotion, consumer information, and industry information is necessary to maintain and expand existing markets and develop new markets for canola, rapeseed, and canola and rapeseed products; and

(7) canola, rapeseed, and canola and rapeseed products move in interstate and foreign commerce, and canola, rapeseed, and canola and rapeseed products that do not move in interstate or foreign commerce directly burden or affect interstate commerce in canola, rapeseed, and canola and rapeseed products.

#### **(b) Policy**

It is the policy of this subchapter to establish an orderly procedure for developing, financing through assessments on domestically produced canola and rapeseed, and implementing a program of research, promotion, consumer information, and industry information designed to strengthen the position in the marketplace of the canola and rapeseed industry, to maintain and expand existing domestic and foreign markets and uses for canola, rapeseed, and canola and rapeseed products, and to develop new markets and uses for canola, rapeseed, and canola and rapeseed products.

#### **(c) Construction**

Nothing in this subchapter provides for the control of production or otherwise limits the right of individual producers to produce canola, rapeseed, or canola or rapeseed products.

(Pub. L. 104-127, title V, §532, Apr. 4, 1996, 110 Stat. 1048.)

### **§ 7442. Definitions**

In this subchapter (unless the context otherwise requires):

#### **(1) Board**

The term “Board” means the National Canola and Rapeseed Board established under section 7444(b) of this title.

#### **(2) Canola; rapeseed**

The terms “canola” and “rapeseed” mean any brassica plant grown in the United States for the production of an oilseed, the oil of which is used for a food or nonfood use.

#### **(3) Canola or rapeseed product**

The term “canola or rapeseed product” means a product produced, in whole or in part, from canola or rapeseed.

#### **(4) Commerce**

The term “commerce” includes interstate, foreign, and intrastate commerce.

#### **(5) Conflict of interest**

The term “conflict of interest” means a situation in which a member of the Board has a direct or indirect financial interest in a corporation, partnership, sole proprietorship, joint venture, or other business entity dealing directly or indirectly with the Board.

#### **(6) Consumer information**

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

#### **(7) Department**

The term “Department” means the Department of Agriculture.

#### **(8) First purchaser**

The term “first purchaser” means—

(A) except as provided in subparagraph (B), a person who buys or otherwise acquires canola, rapeseed, or canola or rapeseed products produced by a producer; or

(B) the Commodity Credit Corporation, in a case in which canola or rapeseed is forfeited to the Commodity Credit Corporation as collateral for a loan issued under a price support loan program administered by the Commodity Credit Corporation.

#### **(9) Industry information**

The term “industry information” means information or a program that will lead to the development of new markets, new marketing strategies, or increased efficiency for the canola and rapeseed industry, or an activity to enhance the image of the canola or rapeseed industry.

#### **(10) Industry member**

The term “industry member” means a member of the canola and rapeseed industry who represents—

(A) manufacturers of canola or rapeseed products; or

(B) persons who commercially buy or sell canola or rapeseed.

#### **(11) Marketing**

The term “marketing” means the sale or other disposition of canola, rapeseed, or canola or rapeseed products in a channel of commerce.

#### **(12) Order**

The term “order” means an order issued under section 7443 of this title.

#### **(13) Person**

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

#### **(14) Producer**

The term “producer” means a person engaged in the growing of canola or rapeseed in the United States who owns, or who shares the ownership and risk of loss of, the canola or rapeseed.

#### **(15) Promotion**

The term “promotion” means an action, including paid advertising, technical assistance, or a trade servicing activity, to enhance the image or desirability of canola, rapeseed, or canola or rapeseed products in domestic and foreign markets, or an activity designed to communicate to consumers, processors, wholesalers, retailers, government officials, or other

persons information relating to the positive attributes of canola, rapeseed, or canola or rapeseed products or the benefits of use or distribution of canola, rapeseed, or canola or rapeseed products.

**(16) Research**

The term “research” means any type of test, study, or analysis to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of canola, rapeseed, or canola or rapeseed products, including research activity designed to identify and analyze barriers to export sales of canola or rapeseed produced in the United States.

**(17) Secretary**

The term “Secretary” means the Secretary of Agriculture.

**(18) State**

The term “State” means any of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico.

**(19) United States**

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

(Pub. L. 104–127, title V, §533, Apr. 4, 1996, 110 Stat. 1049.)

**§ 7443. Issuance and amendment of orders**

**(a) In general**

Subject to subsection (b), the Secretary shall issue 1 or more orders under this subchapter applicable to producers and first purchasers of canola, rapeseed, or canola or rapeseed products. The order shall be national in scope. 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 under this subchapter, or an association of canola and rapeseed producers or any other person that would be affected by an order issued pursuant to this subchapter 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 pursuant to paragraph (1), or whenever 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 are given as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this subchapter. The order shall be issued and become effective not later

than 180 days following publication of the proposed order.

**(c) Amendments**

The Secretary may amend an order issued under this section.

(Pub. L. 104–127, title V, §534, Apr. 4, 1996, 110 Stat. 1050.)

**§ 7444. Required terms in orders**

**(a) In general**

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

**(b) Establishment and membership of National Canola and Rapeseed Board**

**(1) In general**

The order shall provide for the establishment of, and appointment of members to, a National Canola and Rapeseed Board to administer the order.

**(2) Service to entire industry**

The Board shall carry out programs and projects that will provide maximum benefit to the canola and rapeseed industry in all parts of the United States and only promote canola, rapeseed, or canola or rapeseed products.

**(3) Board membership**

The Board shall consist of 15 members, including—

(A) 11 members who are producers, including—

(i) 1 member from each of the 6 geographic regions comprised of States where canola or rapeseed is produced, as determined by the Secretary; and

(ii) 5 members from the geographic regions referred to in clause (i), allocated according to the production in each region; and

(B) 4 members who are industry members, including at least—

(i) 1 member who represents manufacturers of canola or rapeseed end products; and

(ii) 1 member who represents persons who commercially buy or sell canola or rapeseed.

**(4) Limitation on State residence**

There shall be no more than 4 producer members of the Board from any 1 State.

**(5) Modifying Board membership**

In accordance with regulations approved by the Secretary, at least once each 3 years and not more than once each 2 years, the Board shall review the geographic distribution of canola and rapeseed production throughout the United States and, if warranted, recommend to the Secretary that the Secretary—

(A) reapportion regions in order to reflect the geographic distribution of canola and rapeseed production; and

(B) reapportion the seats on the Board to reflect the production in each region.

**(6) Certification of organizations**

**(A) In general**

For the purposes of section 7445 of this title, the eligibility of any State organiza-