

**§ 7803. Issuance of orders****(a) In general****(1) Issuance**

To effectuate the policy of this chapter specified in section 7801(b) of this title, the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this chapter applicable to producers, importers, and first handlers of Hass avocados.

**(2) Scope**

Any order shall be national in scope.

**(3) One order**

Not more than one order shall be in effect at any one time.

**(b) Procedures****(1) Proposal for an order**

An existing organization of avocado producers established pursuant to a State statute, or any other person who will be affected by this chapter, may request the issuance of, and submit a proposal for an order.

**(2) Publication of proposal**

The Secretary shall publish a proposed order and give notice and opportunity for public comment on the proposed order not later than 60 days after receipt by the Secretary of a proposal for an order from an existing organization of avocado producers established pursuant to a State statute, as provided in paragraph (1).

**(3) Issuance of order****(A) In general**

After notice and opportunity for public comment are provided in accordance with paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order is in conformity with this chapter.

**(B) Effective date**

The order shall be issued and become effective only after an affirmative vote in a referendum as provided in section 7805 of this title, but not later than 180 days after publication of the proposed order.

**(c) Amendments**

The Secretary, from time to time, may amend an order. The provisions of this chapter applicable to an order shall be applicable to any amendment to an order.

(Pub. L. 106-387, §1(a) [title XII, §1204], Oct. 28, 2000, 114 Stat. 1549, 1549A-81.)

**§ 7804. Required terms in orders****(a) In general**

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

**(b) Hass Avocado Board****(1) Establishment and membership****(A) Establishment**

The order shall provide for the establishment of a Hass Avocado Board, consisting of 12 members, to administer the order.

**(B) Membership****(i) Appointment**

The order shall provide that members of the Board shall be appointed by the Secretary from nominations submitted as provided in this subsection.

**(ii) Composition**

The Board shall consist of participating domestic producers and importers.

**(C) Special definition of importer**

In this subsection, the term “importer” means a person who is involved in, as a substantial activity, the importation, sale, and marketing of Hass avocados in the United States (either directly or as an agent, broker, or consignee of any person or nation that produces or handles Hass avocados outside the United States for sale in the United States), and who is subject to assessments under the order.

**(2) Distribution of appointments****(A) In general**

The order shall provide that the membership of the Board shall consist of the following:

(i) Seven members who are domestic producers of Hass avocados and are subject to assessments under the order.

(ii) Two members who represent importers of Hass avocados and are subject to assessments under the order.

(iii) Three members who are domestic producers of Hass avocados and are subject to assessments under the order, or are importers of Hass avocados and are subject to assessments under the order, to reflect the proportion of domestic production and imports supplying the United States market, which shall be based on the Secretary’s determination of the average volume of domestic production of Hass avocados proportionate to the average volume of imports of Hass avocados in the United States over the previous 3 years.

**(B) Adjustment in Board representation**

Three years after the assessment of Hass avocados commences pursuant to an order, and at the end of each 3-year period thereafter, the Avocado Board shall adjust the proportion of producer representatives to importer representatives on the Board under subparagraph (A)(iii) on the basis of the amount of assessments collected from producers and importers over the immediately preceding 3-year period. Any adjustment under this subparagraph shall be subject to the review and approval of the Secretary.

**(3) Nomination process**

The order shall provide that—

(A) two nominees shall be submitted for each appointment to the Board;

(B) nominations for each appointment of a producer or an importer shall be made by domestic producers or importers, respectively—

(i) in the case of producers, through an election process which utilizes existing or—