

Agricultural Marketing Service, USDA

§ 1208.101

§ 1207.534 OMB control number assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control number 0581-0093.

[49 FR 23826, June 8, 1984]

CONFIDENTIAL INFORMATION

§ 1207.540 Confidential books, records, and reports.

All information obtained from the books, records, and reports of handler and importers and all information with respect to refunds of assessments made to individual producers and importers shall be kept confidential in the manner and to the extent provided for in § 1207.352 of the Plan.

[56 FR 40232, Aug. 14, 1991]

§ 1207.545 Right of the Secretary.

All fiscal matters, programs or projects, rules or regulations, reports, or other substantive action proposed and prepared by the Board shall be submitted to the Secretary for his approval.

§ 1207.546 Personal liability.

No member of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

PART 1208—PROCESSED RASPBERRY PROMOTION, RESEARCH, AND INFORMATION ORDER

Subpart A [Reserved]

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AUTHORITY: 7 U.S.C. 7411-7425; 7 U.S.C. 7401.

SOURCE: 75 FR 6091, Feb. 8, 2010, unless otherwise noted.

Subpart A [Reserved]

Subpart B—Referendum Procedures

§ 1208.100 General.

Referenda to determine whether eligible producers of raspberries for processing and importers of processed raspberries favor the issuance, amendment, suspension, or termination of the Processed Raspberry Promotion, Research, and Information Order shall be conducted in accordance with this subpart.

§ 1208.101 Definitions.

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to delegate, or any officer or employee of the U.S. Department of Agriculture to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(b) *Department* means the U.S. Department of Agriculture or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

(c) *Eligible producer* means any person who grows 20,000 pounds or more of raspberries for processing in the United States for sale in commerce, or a person who is engaged in the business of producing, or causing to be produced for any market, raspberries for processing beyond the person's own family use and having value at first point of sale.

(d) *Eligible importer* means any person importing 20,000 or more pounds of processed raspberries into the United States in a calendar year as a principal or as an agent, broker, or consignee of any person who produces or handles processed raspberries outside of the United States for sale in the United

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States, and who is listed as the importer of record for such processed raspberries that are identified in the Harmonized Tariff Schedule of the United States by the numbers 0811.20.20.20, during the representative period. Importation occurs when processed raspberries originating outside of the United States are released from custody by Customs and introduced into the stream of commerce in the United States. Included are persons who hold title to foreign-produced processed raspberries immediately upon release by Customs, as well as any persons who act on behalf of others, as agents or brokers, to secure the release of processed raspberries from Customs when such processed raspberries are entered or withdrawn for consumption in the United States.

(e) *Raspberries* mean and include all kinds, varieties, and hybrids of cultivated raspberries of the genus "Rubus" grown in or imported into the United States.

(f) *Processed Raspberries* means raspberries which have been frozen, dried, pureed, made into juice, or delivered in any other form altered by mechanical processes other than fresh.

(g) *Order* means the Processed Raspberry Promotion, Research, and Information Order.

(h) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity. For the purpose of this definition, the term "partnership" includes, but is not limited to:

(1) A husband and a wife who have title to, or leasehold interest in, a raspberry farm as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property; and

(2) So-called "joint ventures" wherein one or more parties to an agreement, informal or otherwise, contributed labor and others contributed capital, management, or other services, or any variation of such contributions by two or more parties.

(i) *Referendum agent* or *agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(j) *Representative period* means the period designated by the Department.

(k) *United States* or *U.S.* means collectively the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

§ 1208.102 Voting.

(a) Each eligible producer of raspberries for processing and eligible importer of processed raspberries shall be entitled to cast only one ballot in the referendum. However, each producer in a landlord/tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to process raspberries, in which more than one of the parties is a producer or importer, shall be entitled to cast one ballot in the referendum covering only such producer or importer's share of the ownership.

(b) Proxy voting is not authorized, but an officer or employee of an eligible corporate producer or importer, or an administrator, executor, or trustee or an eligible entity may cast a ballot on behalf of such entity. Any individual so voting in a referendum shall certify that such individual is an officer or employee of the eligible entity, or an administrator, executive, or trustee of an eligible entity and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) All ballots are to be cast by mail as instructed by the Department.

§ 1208.103 Instructions.

The referendum agent shall conduct the referendum, in the manner provided in this subpart, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions of this subpart, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the period during which ballots may be cast.

(b) Provide ballots and related material to be used in the referendum. The ballot shall provide for recording essential information, including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter.

(c) Give reasonable public notice of the referendum:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as the agent may deem advisable.

(d) Mail to eligible producers and importers whose names and addresses are known to the referendum agent, the instructions on voting, a ballot, and a summary of the terms and conditions of the proposed Order. No person who claims to be eligible to vote shall be refused a ballot.

(e) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of a third party authorized to monitor the referendum process.

(f) Prepare a report on the referendum.

(g) Announce the results to the public.

§ 1208.104 Subagents.

The referendum agent may appoint any individual or individuals necessary or desirable to assist the agent in performing such agent's functions of this subpart. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

§ 1208.105 Ballots.

The referendum agent and subagents shall accept all ballots cast. However, if an agent or subagent deems that a ballot should be challenged for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was challenged, by whom challenged, the reasons therefore, the results of any investigations made with respect thereto, and the disposition thereof. Ballots invalid under this subpart shall not be counted.

§ 1208.106 Referendum report.

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to the analysis of the referendum and its results.

§ 1208.107 Confidential information.

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person covered under the Order and the voter list shall be strictly confidential and shall not be disclosed.

§ 1208.108 OMB control number.

The control number assigned to the information collection requirement in this subpart by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35 is OMB control number 0581-NEW.

PART 1209—MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION ORDER

Subpart A—Mushroom Promotion, Research, and Consumer Information Order

DEFINITIONS

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1209.3	Consumer information.
1209.4	Council.
1209.5	Department.
1209.6	First handler.
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1209.8	Importer.
1209.9	Industry information.
1209.10	Marketing.
1209.11	Mushrooms.
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1209.13	Part and subpart.
1209.14	Person.
1209.15	Producer.
1209.16	Programs, plans, and projects.
1209.17	Promotion.
1209.18	Region.
1209.19	Research.
1209.20	Secretary.
1209.21	State and United States.