

Agricultural Marketing Service, USDA

§ 1209.21

§ 1209.8 Importer.

Importer means any person who imports, on average, over 500,000 pounds of mushrooms annually from outside the United States.

§ 1209.9 Industry information.

Industry information means information and programs that will lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the mushroom industry.

§ 1209.10 Marketing.

(a) *Marketing* means the sale or other disposition of mushrooms in any channel of commerce.

(b) *To market* means to sell or otherwise dispose of mushrooms in any channel of commerce.

§ 1209.11 Mushrooms.

Mushrooms means all varieties of cultivated mushrooms grown within the United States and marketed for the fresh market, or imported into the United States and marketed for the fresh market, except such term shall not include mushrooms that are commercially marinated, canned, frozen, cooked, blanched, dried, packaged in brine, or otherwise processed in such manner as the Council, with the approval of the Secretary, may determine.

§ 1209.12 On average.

On average means a rolling average of production or imports during the last two fiscal years, or such other period as may be determined by the Secretary.

§ 1209.13 Part and subpart.

Part means this mushroom promotion and research order and all rules and regulations and supplemental orders issued thereunder, and the term *subpart* means the mushroom promotion and research order.

§ 1209.14 Person.

Person means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1209.15 Producer.

Producer means any person engaged in the production of mushrooms who owns or shares the ownership and risk of loss of such mushrooms and who produces, on average, over 500,000 pounds of mushrooms per year.

§ 1209.16 Programs, plans, and projects.

Programs, plans, and projects means promotion, research, consumer information, and industry information plans, studies, projects, or programs conducted pursuant to this part.

§ 1209.17 Promotion.

Promotion means any action determined by the Secretary to enhance the image or desirability of mushrooms, including paid advertising.

§ 1209.18 Region.

Region means one of the described geographic subdivisions of the production areas described in § 1209.30 (b) or as later realigned or reapportioned pursuant thereto, or the import region described in § 1209.30(c).

§ 1209.19 Research.

Research means any type of study to advance the image, desirability, safety, marketability, production, product development, quality, or nutritional value of mushrooms.

§ 1209.20 Secretary.

Secretary means the Secretary of Agriculture of the United States 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.

§ 1209.21 State and United States.

(a) *State* means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) *United States* means collectively the several States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

MUSHROOM COUNCIL

§ 1209.30 Establishment and membership.

(a) There is hereby established a Mushroom Council of not less than four or more than nine members. The Council shall be composed of producers appointed by the Secretary under § 1209.33, except that, as provided in paragraph (c), importers shall be appointed by the Secretary to the Council under § 1209.33 once imports, on average, reach at least 35,000,000 pounds of mushrooms annually.

(b) For purposes of nominating and appointing producers to the Council, the United States shall be divided into four geographic regions and the number of Council members from each region shall be as follows:

(1) *Region 1:* including Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Ohio, Kentucky, Indiana, Michigan, Wisconsin, Illinois, Missouri, Iowa, Nebraska, Kansas, Minnesota, North Dakota, South Dakota, Montana, Colorado, and Wyoming—2 Members.

(2) *Region 2:* including Pennsylvania, Delaware, New Jersey, the District of Columbia, West Virginia, Virginia, and Maryland—3 Members.

(3) *Region 3:* including Washington, Oregon, Idaho, Utah, Arizona, California, Nevada, Alaska, and Hawaii—3 Members.

(4) *Region 4:* including New Mexico, Texas, Oklahoma, Arkansas, Louisiana, Alabama, Mississippi, Georgia, Tennessee, North Carolina, South Carolina, Florida, and the Commonwealth of Puerto Rico—1 Member.

(c) Importers shall be represented by a single, separate region, referred to as Region 5, consisting of the United States as defined in § 1209.21(b) when imports, on average, equal or exceed 35,000,000 pounds of mushrooms annually.

(d) At least every five years, and not more than every three years, the Council shall review changes in the geographic distribution of mushroom production volume throughout the United States and import volume, using the average annual mushroom production and imports over the preceding four

years, and, based on such review, shall recommend to the Secretary reapportionment of the regions established in paragraph (b), or modification of the number of members from such regions, as determined under the rules established in paragraph (e), or both, as necessary to best reflect the geographic distribution of mushroom production volume in the United States and representation of imports, if applicable.

(e) Subject to the nine-member maximum limitation, the following procedure will be used to determine the number of members for each region to serve on the Council under paragraph (d):

(1) Each region that produces, on average, at least 35,000,000 pounds of mushrooms annually shall be entitled to one representative on the Council.

(2) As provided in paragraph (c), importers shall be represented by a single, separate region, which shall be entitled to one representative, if such region imports, on average, at least 35,000,000 pounds of mushrooms annually.

(3) Each region shall be entitled to representation by an additional Council member for each 50,000,000 pounds of annual production or imports, on average, in excess of the initial 35,000,000 pounds required to qualify the region for representation.

(4) Should, in the aggregate, regions be entitled to levels of representation under paragraphs (e) (1), (2) and (3) that would exceed the nine-member limit on the Council under the Act, the regions shall be entitled to representation on the Council as follows:

(i) Each region first shall be assigned one representative on the Council pursuant to paragraphs (e) (1) and (2).

(ii) Then, each region with 50,000,000 pounds of annual production or imports, on average, in excess of the initial 35,000,000 pounds required to qualify the region for representation shall be assigned one additional representative on the Council, except that if under such assignments all five regions, counting importers as a region, if applicable, would be entitled to additional representatives, that region with the smallest on-average volume, in terms of production or imports, will