

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

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not be assigned an additional representative.

(iii) After members are assigned to regions under paragraphs (e)(4) (i) and (ii), if less than the entire nine seats on the Council have been assigned to regions, the remaining seats on the Council shall be assigned to each region for each 50,000,000 pound increment of annual production or import volume, on average, in excess of 85,000,000 pounds until all the seats are filled. It for any such 50,000,000 pound increment, more regions are eligible for seats than there are seats available, the seat or seats assigned for such increment shall be assigned to that region or those regions with greater on-average production or import volume than the other regions otherwise eligible at that increment level.

(f) In determining the volume of mushrooms produced in the United States or imported into the United States for purposes of this section, the Council and the Secretary shall:

(1) Only consider mushrooms produced or imported by producers and importers, respectively, as those terms are defined in §§ 1209.8 and 1209.15; and

(2) Use the information received by the Council under § 1209.60, and data published by the Department.

(g) For purposes of the provisions of this section relating to the appointment of producers and importers to serve on the Council, the term *producer* or *importer* refers to any individual who is a producer or importer, respectively, or if the producer or importer is an entity other than an individual, an individual who is an officer or employee of such producer or importer.

§ 1209.31 Nominations.

All nominations for appointments to the Council under § 1209.33 shall be made as follows:

(a) As soon as practicable after this subpart becomes effective, nominations for appointment to the initial Council shall be obtained from producers by the Secretary. In any subsequent year in which an appointment to the Council is to be made, nominations for positions whose terms will expire at the end of that year shall be obtained from producers, and as appropriate, importers, and certified by the Council and sub-

mitted to the Secretary by August 1 of such year, or such other date as approved by the Secretary.

(b) Nominations shall be made at regional caucuses of producers or importers, or by mail ballot as provided in paragraph (e), in accordance with procedures prescribed in this section.

(c) Except for initial Council members, whose nomination process will be initiated by the Secretary, the Council shall issue a call for nominations by February 1 of each year in which nominations for an appointment to the Council is to be made. The call shall include, at a minimum, the following information:

(1) A list by region of the vacancies for which nominees may be submitted and qualifications as to producers and importers.

(2) The date by which the names of nominees shall be submitted to the Secretary for consideration to be in compliance with paragraph (a) of this section.

(3) A list of those States, by region, entitled to participate in the nomination process.

(4) The date, time, and location of any next scheduled meeting of the Council, and national and State producer or importer associations, if known, and of the regional caucuses, if any.

(d)(1) Except as provided in paragraph (e), nominations for each position shall be made by regional caucus in the region entitled to nominate for such position. Notice of such caucus shall be publicized to all producers or importers within the region, and to the Secretary, at least 30 days prior to the caucus. The notice shall have attached to it the call for nominations from the Council and the Department's equal opportunity policy. Except with respect to nominations for the initial appointments to the Council, the responsibility for convening and publicizing the regional caucus shall be that of the Council.

(2) All producers or importers within the region may participate in the caucus. However, if a producer is engaged in the production of mushrooms in more than one region or is also an importer, such person's participation within a region shall be limited to one