

## Agricultural Marketing Service, USDA

## § 1209.16

the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, 7 U.S.C. 6101-6112, and any amendments thereto.

### § 1209.2 Commerce.

*Commerce* means interstate, foreign, or intrastate commerce.

### § 1209.3 Consumer information.

*Consumer information* means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of mushrooms.

### § 1209.4 Council.

*Council* means the administrative body referred to as the Mushroom Council established under § 1209.30 of this subpart.

### § 1209.5 Department.

*Department* means the United States Department of Agriculture.

### § 1209.6 First handler.

*First handler* means any person who receives or otherwise acquires mushrooms from a producer and prepares for marketing or markets such mushrooms, or who prepares for marketing or markets mushrooms of that person's own production.

### § 1209.7 Fiscal year.

*Fiscal year* means the 12-month period from January 1 to December 31 each year, or such other period as recommended by the Council and approved by the Secretary.

### § 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

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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) of this section, importers shall be appointed by the Secretary to the Council under §1209.33 once imports, on average, reach at least 50,000,000 pounds of mushrooms annually.

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

(1) *Region 1*: All other States including the District of Columbia and the Commonwealth of Puerto Rico except for Pennsylvania and California—2 Members.

(2) *Region 2*: The State of Pennsylvania—4 Members.

(3) *Region 3*: The State of California—2 Members.

(c) Importers shall be represented by a single, separate region, referred to as Region 4, consisting of the United States when imports, on average, equal or exceed 50,000,000 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) of this section, or modification of the number of members from such regions, as determined under the rules established in paragraph (e), of this section 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) of this section:

(1) Each region that produces, on average, at least 50,000,000 pounds of mushrooms annually shall be entitled to one representative on the Council.

(2) As provided in paragraph (c) of this section, importers shall be represented by a single, separate region, which shall be entitled to one representative, if such region imports, on average, at least 50,000,000 pounds of mushrooms annually.