

§ 6002. Definitions

As used in this chapter—

(1) Board

The term “Board” means the Pecan Marketing Board established in section 6005(b) of this title.

(2) Commerce

The term “commerce” means interstate, foreign, or intrastate commerce.

(3) Conflict of interest

The term “conflict of interest” means a situation in which a member has a direct or indirect financial interest in a corporation, partnership, sole proprietorship, joint venture, or other business entity dealing directly or indirectly with the Board.

(4) Consumer information

The term “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 pecans.

(5) Department

The term “Department” means the Department of Agriculture.

(6) District

The term “district” means a geographical area of the United States, as determined by the Board and approved by the Secretary, in which there is produced approximately one-fourth of the volume of pecans produced in the United States.

(7) First handler

The term “first handler” means the first person who buys or takes possession of pecans from a grower for marketing. If a grower markets pecans directly to consumers, such grower shall be considered the first handler with respect to pecans grown by such grower.

(8) Grower

The term “grower” means any person engaged in the production and sale of pecans in the United States who owns, or who shares the ownership and risk of loss of, such pecans.

(9) Grower-sheller

The term “grower-sheller” means a person who—

(A) shells pecans, or has pecans shelled for such person, in the United States; and

(B) during the immediately previous year, grew 50 percent or more of the pecans such person shelled or had shelled for such person.

(10) Handle

The term “handle” means receipt of in-shell pecans by a sheller or first handler, including pecans produced by such sheller or first handler.

(11) Importer

The term “importer” means any person who imports pecans from outside of the United States for sale in the United States.

(12) Industry information

The term “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 pecan industry.

(13) In-shell pecan

The term “in-shell pecan” means a pecan that has a shell that has not been removed.

(14) To market

The term “to market” means to sell or offer to dispose of pecans in any channel of commerce.

(15) Member

The term “member” means a member of the Board.

(16) Pecan

The term “pecan” means the nut of the pecan tree *carya illinoensis*.

(17) Person

The term “person” means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(18) Plan

The term “plan” means a plan issued under section 6003 of this title.

(19) Promotion

The term “promotion” means any action taken by the Board, pursuant to this chapter, to present a favorable image of pecans to the public with the express intent of improving the competitive position of pecans in the marketplace and stimulating sales of pecans, including paid advertising.

(20) Research

The term “research” means any type of test, study, or analysis designed to advance the image, desirability, usage, marketability, production, product development, or quality of pecans.

(21) Secretary

The term “Secretary” means the Secretary of Agriculture.

(22) Shell

The term “shell” means to remove the shell from an in-shell pecan.

(23) Shelled pecan

The term “shelled pecan” means a pecan kernel, or portion of a kernel, after the pecan shell has been removed.

(24) Sheller

The term “sheller” means any person who—

(A) shells pecans or has pecans shelled for the account of such person; and

(B) during the immediately previous year, purchased more than 50 percent of the pecans such person shelled or had shelled for such account.

(25) State

The term “State” means any of the several States, the District of Columbia and the Commonwealth of Puerto Rico.

(26) United States

The term “United States” means collectively the several States, the District of Co-

lumbia, and the Commonwealth of Puerto Rico.

(Pub. L. 101-624, title XIX, §1907, Nov. 28, 1990, 104 Stat. 3839; Pub. L. 102-237, title VIII, §802(1), Dec. 13, 1991, 105 Stat. 1882.)

AMENDMENTS

1991—Par. (22). Pub. L. 102-237 substituted “in-shell” for “inshell”.

§ 6003. Issuance of plans

(a) In general

To effectuate the declared policy of section 6001(b) of this title, the Secretary shall, subject to this chapter, issue and from time to time amend, plans applicable to growers, grower-shellers, shellers, first handlers, and importers of pecans. Any such plan shall be national in scope. Not more than one plan shall be in effect under this chapter at any one time.

(b) Procedure

(1) Proposal for issuance of plan

The Secretary may propose the issuance of a plan under this chapter, or an association of pecan growers or grower-shellers or any other person that will be affected by this chapter may request the issuance of, and submit a proposal for, such a plan.

(2) Proposed plan

Not later than 60 days after the receipt of a request and proposal by an interested person for a plan, or when the Secretary determines to propose a plan, the Secretary shall publish a proposed plan and give due notice and opportunity for public comment on the proposed plan.

(3) Issuance of plan

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

(4) Effective date of plan

Such plan shall be issued and become effective not later than 150 days following publication of the proposed plan.

(c) Amendments

The Secretary, from time to time, may amend any plan issued under this section. The provisions of this chapter applicable to a plan shall be applicable to amendments to a plan.

(Pub. L. 101-624, title XIX, §1908, Nov. 28, 1990, 104 Stat. 3841.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6002, 6007, 6011 of this title.

§ 6004. Regulations

The Secretary may issue such regulations as are necessary to carry out this chapter.

(Pub. L. 101-624, title XIX, §1909, Nov. 28, 1990, 104 Stat. 3841.)

§ 6005. Required terms in plans

(a) In general

Each plan issued under this chapter shall contain the terms and conditions prescribed in this section.

(b) Pecan Marketing Board

(1) Establishment

The plan shall establish a Pecan Marketing Board to carry out the program referred to in section 6001(b) of this title.

(2) Service to entire industry

The Board shall carry out programs and projects that will provide maximum benefit to the pecan industry in all parts of the United States and only generically promote pecans.

(3) Board membership

The Board shall consist of 15 members, including—

(A) 8 members who are growers;

(B) 4 members who are shellers;

(C) one member who is a first handler and who derives over 50 percent of the member's gross income from buying and selling pecans;

(D) one member who is an importer of pecans into the United States, nominated by the Board;

(E) one member representing the general public, nominated by the Board; and

(F) at the option of the Board, a consultant or advisor representing the views of pecan producers in a country other than the United States who may be chosen to attend Board functions as a nonvoting member.

(4) Representation of members

(A) Grower representatives

Of the growers referred to in paragraph (3)(A), 2 members shall be from each district.

(B) Sheller representatives

Of the shellers referred to in paragraph (3)(B)—

(i) 2 members shall be selected from among shellers whose place of residence is east of the Mississippi River; and

(ii) 2 members shall be selected from among shellers whose place of residence is west of the Mississippi River.

(C) First handler representative

The first handler representative on the Board referred to in paragraph (3)(C) shall be selected from among first handlers whose place of residence is in a district.

(D) Importer representative

The importer representative on the Board referred to in paragraph (3)(D) shall be an individual who imports pecans into the United States.

(E) Public representative

The public representative on the Board referred to in paragraph (3)(E) shall not be a grower, grower-sheller, sheller, first handler, or importer.

(5) Alternate for each member

Each member of the Board shall have an alternate with the same qualifications as the member such alternate would replace.