

7 USC Ch. 99: SHEEP PROMOTION, RESEARCH, AND INFORMATION

From Title 7—AGRICULTURE

CHAPTER 99—SHEEP PROMOTION, RESEARCH, AND INFORMATION

Sec.	
7101.	Findings and declaration of policy.
7102.	Definitions.
7103.	Issuance and amendment of orders.
7104.	Required terms in orders.
7105.	Referenda.
7106.	Petition and review.
7107.	Enforcement.
7108.	Investigations and power to subpoena.
7109.	Administrative provisions.
7110.	Regulations.
7111.	Authorization of appropriations.

§7101. Findings and declaration of policy

(a) Findings

Congress finds that—

- (1) sheep and sheep products are important goods;
- (2) the production of sheep and sheep products play a significant role in the economy of the United States in that sheep and sheep products are produced throughout the United States and used by millions of people throughout the United States and foreign countries;
- (3) sheep and sheep products must be high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply of sheep products;
- (4) the maintenance and expansion of existing markets and development of new markets for sheep and sheep products are vital to the welfare of sheep producers and persons concerned with marketing, using, and producing sheep and sheep products, as well as to the general economy of the United States, and necessary to ensure the ready availability and efficient marketing of sheep and sheep products;
- (5) there exist established State organizations conducting sheep and sheep product promotion, research, and industry and consumer education programs that are invaluable to the efforts of promoting the consumption of sheep and sheep products;
- (6) the cooperative development, financing, and implementation of a coordinated national program of sheep and sheep product promotion, research, consumer information, education, and industry information are necessary to maintain and expand existing markets and develop new markets for sheep and sheep products; and
- (7) sheep and sheep products move in interstate and foreign commerce, and sheep and sheep products that do not move in such channels of commerce directly burden or affect interstate commerce in sheep and sheep products.

(b) Policy

It is the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this chapter, of an orderly procedure for developing, financing (through adequate assessments on sheep and sheep products produced or imported into the United States), and carrying out an effective, continuous, coordinated program of promotion, research, consumer information, education, and industry information designed to—

- (1) strengthen the position of the sheep and sheep product industry in the marketplace;
- (2) maintain and expand existing domestic and foreign markets and uses for sheep and sheep products; and
- (3) develop new markets and uses for sheep and sheep products.

(c) Construction

Nothing in this chapter provides for the control of production, or otherwise limits, the right of any person to produce sheep or sheep products.

(Pub. L. 103–407, §2, Oct. 22, 1994, 108 Stat. 4210.)

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–429, title IV, §4001, Dec. 3, 2004, 118 Stat. 2600, provided that: "This title [amending provisions set out as a note under this section] may be cited as the 'Wool Suit and Textile Trade

Extension Act of 2004'."

SHORT TITLE

Pub. L. 103–407, §1, Oct. 22, 1994, 108 Stat. 4210, provided that: "This Act [enacting this chapter] may be cited as the 'Sheep Promotion, Research, and Information Act of 1994'."

AGRICULTURE WOOL APPAREL MANUFACTURERS TRUST FUND

Pub. L. 113–79, title XII, §12315, Feb. 7, 2014, 128 Stat. 995, as amended by Pub. L. 115–334, title XII, §12603, Dec. 20, 2018, 132 Stat. 5005, provided that:

"(a) **ESTABLISHMENT OF TRUST FUND.**—There is established in the Treasury of the United States a trust fund to be known as the 'Agriculture Wool Apparel Manufacturers Trust Fund' (in this section referred to as the 'Trust Fund'), consisting of such amounts as may be transferred to the Trust Fund pursuant to subsection (f), and to be used for the purpose of reducing the injury to domestic manufacturers resulting from tariffs on wool fabric that are higher than tariffs on certain apparel articles made of wool fabric.

"(b) **DISTRIBUTION OF FUNDS.**—

"(1) **IN GENERAL.**—From amounts in the Trust Fund, the Secretary [of Agriculture] may make payments annually beginning in calendar year 2014 for calendar years 2010 through 2023 as follows:

"(A) To each eligible manufacturer under paragraph (3) of section 4002(c) of the Wool Suit and Textile Trade Extension Act of 2004 (Public Law 108–429; 118 Stat. 2600 [2603]), as amended by section 1633(c) [1633(b)(1)] of the Miscellaneous Trade and Technical Corrections Act of 2006 (Public Law 109–280; 120 Stat. 1166) and section 325(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 (division C of Public Law 110–343; 122 Stat. 3875), and any successor-in-interest to such a manufacturer as provided for under paragraph (4) of such section 4002(c) [118 Stat. 2603], that submits an affidavit in accordance with paragraph (2) for the year of the payment, payments in amounts authorized under that paragraph.

"(B) To each eligible manufacturer under paragraph (6) of such section 4002(c) [118 Stat. 2603], payments in amounts authorized under that paragraph.

"(2) **SUBMISSION OF AFFIDAVITS.**—An affidavit required by paragraph (1)(A) shall be submitted to the Secretary, or as directed by the Secretary, and not later than March 1.

"(c) **PAYMENT OF AMOUNTS.**—The Secretary shall make payments to eligible manufacturers and successors-in-interest described in paragraphs (1) and (2) of subsection (b) not later than April 15 of the year of the payment.

"(d) **MEMORANDA OF UNDERSTANDING.**—The Secretary [of Agriculture] shall, as soon as practicable after the date of the enactment of this Act [Feb. 7, 2014], negotiate memoranda of understanding with the Commissioner responsible for U.S. Customs and Border Protection and the Secretary of Commerce to establish procedures pursuant to which the Commissioner and the Secretary of Commerce will assist in carrying out the provisions of this section.

"(e) **INCREASE IN PAYMENTS IN THE EVENT OF EXPIRATION OF DUTY SUSPENSIONS.**—

"(1) **IN GENERAL.**—In any calendar year in which the suspension of duty on wool fabrics provided for under headings 9902.51.11, 9902.51.13, 9902.51.14, 9902.51.15, and 9902.51.16 of the Harmonized Tariff Schedule of the United States are not in effect, the amount of any payment described in subsection (b)(1) to a manufacturer or successor-in-interest shall be increased by an amount the Secretary [of Agriculture], after consultation with the Secretary of Commerce, determines is equal to the amount the manufacturer or successor-in-interest would have saved during the calendar year of the payment if the suspension of duty on wool fabrics were in effect.

"(2) **NO APPEAL OF DETERMINATIONS.**—A determination of the Secretary under this subsection shall be final and not subject to appeal or protest.

"(f) **FUNDING.**—

"(1) **IN GENERAL.**—Of the funds of the Commodity Credit Corporation, the Secretary shall transfer to the Trust Fund for each of calendar years 2014 through 2023 an amount equal to the lesser of—

"(A) the amount the Secretary determines to be necessary to make payments required by this section in that calendar year; or

"(B) \$30,000,000.

"(2) **AVAILABILITY.**—Amounts transferred to the Trust Fund under paragraph (1) shall remain available until expended."

WOOL RESEARCH AND PROMOTION

Pub. L. 113–79, title XII, §12316, Feb. 7, 2014, 128 Stat. 997, as amended by Pub. L. 115–334, title XII, §12604, Dec. 20, 2018, 132 Stat. 5006, provided that:

"(a) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary [of Agriculture] shall use to provide grants described in section 506(d) of the Trade and Development Act of 2000 (7 U.S.C. 7101 note) [section 506(d) of Pub. L. 106–200] \$2,250,000 for each of calendar years 2019 through 2023, to remain available until expended.

"(b) AUTHORIZATION TO DISTRIBUTE UNEXPENDED BALANCE.—In addition to funds made available under subsection (a) and notwithstanding subsection (f) of section 506 of the Trade and Development Act of 2000 (7 U.S.C. 7101 note), the Secretary may use any unexpended balances remaining in the Wool Research, Development, and Promotion Trust Fund established under that section as of December 31, 2014, to provide grants described in subsection (d) of that section."

WOOL RESEARCH, DEVELOPMENT, AND PROMOTION TRUST FUND

Pub. L. 106–200, title V, §506, May 18, 2000, 114 Stat. 303, as amended by Pub. L. 107–210, div. E, title L, §5102(c)(2), Aug. 6, 2002, 116 Stat. 1047; Pub. L. 108–429, title IV, §4002(c)(5), Dec. 3, 2004, 118 Stat. 2603; Pub. L. 109–280, title XIV, §1633(b)(2), Aug. 17, 2006, 120 Stat. 1166; Pub. L. 110–343, div. C, title III, §325(b)(2), Oct. 3, 2008, 122 Stat. 3875, provided that:

"(a) ESTABLISHMENT.—There is hereby established within the Treasury of the United States a trust fund to be known as the Wool Research, Development, and Promotion Trust Fund (hereafter in this section referred to as the 'Trust Fund'), consisting of such amounts as may be transferred to the Trust Fund under subsection (b)(1) and any amounts as may be credited to the Trust Fund under subsection (c)(2).

"(b) TRANSFER OF AMOUNTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury of the United States amounts determined by the Secretary of the Treasury to be equivalent to the amounts received into such general fund that are attributable to the duty received on articles under chapters 51 and 52 of the Harmonized Tariff Schedule of the United States [see Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties], subject to the limitation in paragraph (2).

"(2) LIMITATION.—The Secretary shall not transfer more than \$2,250,000 to the Trust Fund in any fiscal year.

"(3) TRANSFERS BASED ON ESTIMATES.—The amounts required to be transferred under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury of the United States to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1) that are received into the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

"(c) INVESTMENT OF TRUST FUND.—

"(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the market price. Any obligation acquired by the Trust Fund may be sold by the Secretary of the Treasury at the market price.

"(2) INTEREST AND PROCEEDS FROM SALE OR REDEMPTION OF OBLIGATIONS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(d) AVAILABILITY OF AMOUNTS FROM TRUST FUND.—From amounts available in the Trust Fund (including any amounts not obligated in previous fiscal years), the Secretary of Agriculture is authorized to provide grants to a nationally-recognized council established for the development of the United States wool market for the following purposes:

"(1) Assist United States wool producers to improve the quality of wool produced in the United States, including to improve wool production methods.

"(2) Disseminate information on improvements described in paragraph (1) to United States wool producers generally.

"(3) Assist United States wool producers in the development and promotion of the wool market.

"(e) REPORTS TO CONGRESS.—The Secretary of the Treasury, in consultation with the Secretary of Agriculture, shall prepare and submit to Congress an annual report on the financial condition and the results of the operations of the Trust Fund, including a description of the use of amounts of grants provided under subsection (d), during the preceding fiscal year and on its expected condition and operations during the next fiscal year.

"(f) SUNSET PROVISION.—Effective January 1, 2015, the Trust Fund shall be abolished and all amounts in the Trust Fund on such date shall be transferred to the general fund of the Treasury of the United States."

§7102. Definitions

As used in this chapter (unless the context clearly requires otherwise):

(1) Board

The term "Board" means the National Sheep Promotion, Research, and Information Board established under section 7104(b) of this title.

(2) Carbonized wool

The term "carbonized wool" means wool that has been immersed in a bath, usually of mineral acids or acid salts, that destroys vegetable matter in the wool, but does not affect the wool fibres.¹

(3) Consumer information

The term "consumer information" means nutritional data and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, or use of sheep products.

(4) Customs Service

The term "Customs Service" means United States Customs Service of the Department of the Treasury.

(5) Degreased wool

The term "degreased wool" means wool from which the bulk of impurities has been removed by processing.

(6) Department

The term "Department" means the United States Department of Agriculture.

(7) Education

The term "education" means activities providing information relating to the sheep industry or sheep products to producers, feeders, importers, consumers, and other persons.

(8) Executive Committee

The term "Executive Committee" means the Executive Committee established under section 7104(g) of this title.

(9) Exporter

The term "exporter" means any person who exports domestic live sheep or greasy wool from the United States.

(10) Feeder

The term "feeder" means a person who feeds lambs until the lambs reach slaughter weight.

(11) Greasy wool

The term "greasy wool" means wool that has not been washed or otherwise cleaned.

(12) Handler

The term "handler" means any person who purchases and markets greasy wool.

(13) Importer

The term "importer" means any person who imports sheep or sheep products into the United States.

(14) Industry information

The term "industry information" means information and programs that will lead to increased efficiency in processing and the development of new markets, marketing strategies, increased marketing efficiency, and activities to enhance the image of sheep or sheep products on a national or international basis.

(15) Order

The term "order" means a sheep and wool promotion, research, education, and information order issued under section 7103 of this title.

(16) Person

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

(17) Processor

The term "processor" means any person who slaughters sheep or processes greasy wool into degreased wool.

(18) Producer

The term "producer" means any person, other than a feeder, who owns or acquires ownership of sheep.

(19) Producer information

The term "producer information" means activities designed to provide producers, feeders, and importers with information relating to production or marketing efficiencies or developments, program activities, or other information that would facilitate an increase in the consumption of sheep or sheep products.

(20) Promotion

The term "promotion" means any action (including paid advertising) to advance the image and desirability of sheep or sheep products to improve the competitive position, and stimulate sales, of sheep products in the domestic and international marketplace.

(21) Pulled wool

The term "pulled wool" means wool that is pulled from the skin of a slaughtered sheep.

(22) Qualified State sheep board

The term "qualified State sheep board" means a sheep and wool promotion entity that—

- (A) is authorized by State statute or is otherwise organized and operating within a State;
- (B) receives voluntary contributions or dues and conducts promotion, research, or consumer information programs with respect to sheep or wool, or both; and
- (C) is recognized by the Board as the sheep and wool promotion entity within the State;

except that not more than 1 qualified State sheep board shall exist in any State at any 1 time.

(23) Raw wool

The term "raw wool" means greasy wool, pulled wool, degreased wool, or carbonized wool.

(24) Research

The term "research" means development projects and studies relating to the production (including the feeding of sheep), processing, distribution, or use of sheep or sheep products to encourage, expand, improve, or make more efficient the marketing of sheep or sheep products.

(25) Secretary

The term "Secretary" means the Secretary of Agriculture.

(26) Sheep

The term "sheep" means ovine animals of any age, including lambs.

(27) Sheep products

The term "sheep products" means products produced, in whole or in part, from sheep, including wool and products containing wool fiber.

(28) State

The term "State" means each of the 50 States.

(29) Unit

The term "unit" means each State, group of States, or class designation that is represented on the Board.

(30) United States

The term "United States" means the 50 States and the District of Columbia.

(31) Wool

The term "wool" means the fiber from the fleece of a sheep.

(32) Wool products

The term "wool products" means products produced, in whole or in part, from wool and products containing wool fiber.

(Pub. L. 103–407, §3, Oct. 22, 1994, 108 Stat. 4211.)

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

¹ So in original. Probably should be "fibers."

§7103. Issuance and amendment of orders

(a) In general

Subject to subsection (b), the Secretary shall issue orders under this chapter applicable to producers, feeders, importers, handlers, and purchasers of sheep and sheep products. Any order shall be national in scope. Not more than 1 order shall be in effect under this chapter at any 1 time.

(b) Procedure**(1) Proposal or request for issuance**

The Secretary may propose the issuance of an order under this chapter, or an association of producers may request the issuance of, and submit a proposal for, an order.

(2) Notice and comment concerning proposed order

Not later than 60 days after the receipt of a request and proposal for an order under paragraph (1), the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) Issuance of orders

After notice and opportunity for public comment are given as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received, that includes provisions necessary to ensure that the order is in conformity with this chapter. The order shall be issued not later than 180 days following publication of the proposed order.

(4) Referendum

The order shall go into effect only if the order is approved by producers, feeders, and importers in a referendum conducted under section 7105 of this title.

(c) Amendments

The Secretary, from time to time, may amend any order issued under this chapter.

(Pub. L. 103–407, §4, Oct. 22, 1994, 108 Stat. 4213.)

§7104. Required terms in orders**(a) In general**

An order issued under this chapter shall contain the terms and conditions specified in this section.

(b) Establishment and membership of Board**(1) In general**

The order shall provide for the establishment of, and appointment of members to, a National Sheep Promotion, Research, and Information Board to administer the order. Members of the Board shall be appointed by the Secretary from nominations provided in accordance with this subsection. The cumulative number of seats on the Board shall be 120 and shall be apportioned as follows:

(A) Producers

Producers shall be appointed to the Board to represent States, with each State represented by the following number of members:

Alabama	1
Alaska	1
Arizona	1
Arkansas	1
California	5
Colorado	4
Connecticut	1
Delaware	1
Florida	1
Georgia	1
Hawaii	1
Idaho	2
Illinois	1
Indiana	1
Iowa	2

Kansas	1
Kentucky	1
Louisiana	1
Maine	1
Maryland	1
Massachusetts	1
Michigan	1
Minnesota	2
Mississippi	1
Missouri	1
Montana	5
Nebraska	1
Nevada	1
New Hampshire	1
New Jersey	1
New Mexico	2
New York	1
North Carolina	1
North Dakota	2
Ohio	1
Oklahoma	1
Oregon	2
Pennsylvania	1
Rhode Island	1
South Carolina	1
South Dakota	4
Tennessee	1
Texas	10
Utah	3
Vermont	1
Virginia	1
Washington	1
West Virginia	1
Wisconsin	1
Wyoming	5

(B) Feeders

The feeder sheep industry shall be represented on the Board by 10 members.

(C) Importers

Importers shall be represented on the Board by 25 members.

(D) Alternates

The order shall provide that a unit represented by only 1 member may have an alternate member appointed to ensure representation at meetings of the Board.

(2) Nominations**(A) Producers**

The Secretary shall appoint producers to represent units established under paragraph (1)(A) from nominations submitted by eligible organizations certified under subsection (c)(3). An eligible organization may submit only nominations from the membership of the organization for the unit in which the organization is located. To be represented on the Board, each eligible organization shall submit to the Secretary at least 1.5 nominations for each appointment to the Board for which the unit is entitled to representation, as determined under paragraph (1)(A). If a unit is entitled to 1 appointment on the Board, the unit shall submit at least 2 nominations for the appointment.

(B) Feeders

The Secretary shall appoint representatives of the feeder sheep industry to seats established under paragraph (1)(B) from nominations submitted by qualified national organizations that represent the feeder sheep industry. To be represented on the Board, the industry shall provide at least 1.5 nominations for each appointment to the Board for which the feeder sheep industry is entitled to representation, as determined under paragraph (1)(B).

(C) Importers

The Secretary shall appoint importers to seats established under paragraph (1)(C) from nominations submitted by qualified organizations that represent importers, as determined by the Secretary. To be represented on the Board, importers shall provide at least 1.5 nominations for each appointment to the Board for which importers are entitled to representation, as determined under paragraph (1)(C).

(c) Method for obtaining nominations**(1) Initially established Board****(A) Producer nominations**

The Secretary shall solicit nominations for each seat on the initially established Board to which a unit is entitled to representation from eligible organizations certified under paragraph (3). If no such organization exists in the unit, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(B) Feeder and importer nominations

The Secretary shall solicit nominations for each seat for which feeders or importers are entitled to representation from organizations that represent feeders and importers, respectively. In determining whether an organization is eligible to submit nominations under this subparagraph, the Secretary shall determine whether—

- (i) the active membership of the organization includes a significant number of feeders or importers in relation to the total membership of the organization;
- (ii) there is evidence of stability and permanency of the organization; and
- (iii) the organization has a primary and overriding interest in representing the feeder or importer segment of the sheep industry.

(2) Subsequent appointment**(A) Producer nominations**

The solicitation of nominations for subsequent appointment to the Board from eligible organizations certified under paragraph (3) shall be initiated by the Secretary, with the Board securing the nominations for the Secretary.

(B) Feeder and importer nominations

The solicitation of feeder and importer nominations for seats on the Board shall be made by the Secretary in accordance with paragraph (1)(B).

(3) Certification of organizations**(A) In general**

The eligibility of any organization to represent producers, and to participate in the making of nominations to represent producers under this section, shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established by the Secretary under this paragraph. An eligibility determination of the Secretary under this paragraph shall be final.

(B) Basis for certification

Certification under this paragraph shall be based, in addition to other available information, on a factual report submitted by the organization, that shall contain information considered relevant and specified by the Secretary, including—

- (i) the geographic territory covered by the active membership of the organization;
- (ii) the nature and size of the active membership of the organization, including the proportion of the total number of active producers represented by the organization;
- (iii) evidence of stability and permanency of the organization;
- (iv) sources from which the operating funds of the organization are derived;
- (v) the functions of the organization; and
- (vi) the ability and willingness of the organization to further the aims and objectives of this chapter.

(C) Primary considerations

- A primary consideration in determining the eligibility of an organization under this paragraph shall be whether—
- (i) the membership of the organization consists primarily of producers who own a substantial quantity of sheep; and
 - (ii) an interest of the organization is in the production of sheep.

(d) Administration**(1) Terms**

Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially established Board shall be proportionately for 1-year, 2-year, and 3-year terms. No person may serve more than 2 consecutive 3-year terms, except that an elected officer of the Board shall not be subject to this sentence while the officer holds office.

(2) Compensation

A Board member shall serve without compensation, but shall be reimbursed for the reasonable expenses of the member incurred in performing the duties of the Board.

(3) Meetings

The order shall provide for at least an annual meeting of the Board and such additional meetings of the Board as may be required.

(e) Powers and duties of Board

The order shall define the powers and duties of the Board and shall include the power and duty—

- (1) to elect officers of the Board, including a Chairperson, Vice Chairperson, and Secretary;
- (2) to administer the order in accordance with the terms and provisions of the order;
- (3) to recommend regulations to effectuate the terms and provisions of the order;
- (4) to elect members of the Board to serve on the Executive Committee;
- (5) to approve or reject budgets submitted by the Executive Committee;
- (6) on approval, to submit the budgets to the Secretary for the approval or disapproval of the Secretary;
- (7) to contract with entities, if necessary, to carry out plans or projects in accordance with this chapter;
- (8) to conduct programs of promotion, research, consumer information, education, industry information, and producer information;
- (9) to receive, investigate, and report to the Secretary complaints of violations of the order;
- (10) to recommend to the Secretary amendments to the order;
- (11) to provide the Secretary with prior notice of meetings of the Board to permit the Secretary, or a designated representative, to attend the meetings;
- (12) to provide, not less than annually, a report to producers, feeders, and importers accounting for funds expended by the Board and describing programs carried out under this chapter, and to make the report available to the public on request;
- (13) to establish 7 regions that, to the extent practicable, contain geographically contiguous States and approximately equal numbers of producers and sheep production;
- (14) to employ or retain necessary staff; and
- (15) to invest funds in accordance with subsection (k).

(f) Budgets

(1) In general

The order shall provide that the Board shall review budgets submitted by the Executive Committee, on a fiscal year basis, of anticipated expenses and disbursements by the Board, including probable costs of administration and promotion, research, consumer information, education, industry information, and producer information projects. On approval by the Board, the Board shall submit the budget to the Secretary for the approval of the Secretary.

(2) Limitation

No expenditure of funds may be made by the Board unless the expenditure is authorized under a budget or budget amendment approved by the Secretary.

(g) Executive Committee

(1) Establishment

The order shall establish an Executive Committee to administer the terms and provisions of the order, as provided in this subsection, under the direction of the Board and consistent with the policies determined by the Board.

(2) Membership

The Executive Committee shall be composed of 14 members, of which—

- (A) 11 members shall be elected by the Board on an annual basis, of which—
 - (i) 7 members shall represent producers, with 1 member representing each of the regions established in the order;
 - (ii) 1 member shall represent feeders; and
 - (iii) 3 members shall represent importers; and

(B) 3 members shall be the Chairperson, Vice Chairperson, and Secretary of the Board.

(3) Powers and duties

(A) Plans or projects

The Executive Committee shall develop plans or projects of promotion, research, consumer information, education, industry information, and producer information, which shall be paid for with assessments collected by the Board. The plans or projects shall not become effective until the plans or projects are approved by the Secretary.

(B) Budgets

The Executive Committee shall be responsible for developing and submitting to the Board, for the approval of the Board, budgets, on a fiscal year basis, of the anticipated expenses and disbursements of the Board, including

probable costs of promotion, research, consumer information, education, industry information, and producer information projects. The Board shall approve or disapprove a budget submitted by the Executive Committee, and, if approved, shall submit the budget to the Secretary for the approval of the Secretary.

(4) Terms

A term of appointment to the Executive Committee shall be for 1 year.

(5) Chairperson

The Chairperson of the Board shall serve as Chairperson of the Executive Committee.

(6) Quorum

A quorum of the Executive Committee shall consist of 8 members.

(h) Expenses, contracts, and agreements

(1) Expenses

The order shall provide that the Board shall be responsible for all expenses of the Board and the Executive Committee.

(2) Contracts and agreements

A contract or agreement entered into by the Board under subsection (e)(7) shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project, together with a budget or budgets that provides estimated costs to be incurred for the plan or project;

(B) the plan or project, and the contract or agreement, shall not become effective until the plan or project has been approved by the Secretary; and

(C) the contracting party shall—

(i) keep accurate records of all of the transactions of the party;

(ii) account for funds received and expended, including staff time, salaries, and expenses expended on behalf of Board activities;

(iii) make periodic reports to the Board of activities conducted; and

(iv) make such other reports as the Board or the Secretary may require.

(i) Assessments

(1) Sheep purchases

(A) In general

The order shall provide that each person making payment to a producer or feeder for sheep purchased from the producer or feeder shall, in the manner prescribed by the order, collect an assessment from the producer or feeder on each sheep sold by the producer or feeder.

(B) Processing

Any person purchasing sheep for processing shall collect the assessment from the seller and remit the assessment to the Board in the manner prescribed by the order.

(C) Rate

(i) In general

Except as provided in clause (ii), the rate of assessment under this paragraph shall be 1 cent per pound of live sheep sold.

(ii) Exception

The rate of assessment under this paragraph may be raised or lowered not more than 15/100 of a cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this paragraph shall not exceed 2.5 cents per pound of live sheep sold.

(2) Wool purchases

(A) In general

The order shall provide that each person making payment to a producer, feeder, or handler of wool for wool purchased from the producer, feeder, or handler shall, in the manner prescribed by the order, collect an assessment on each pound of greasy wool sold.

(B) Processing

Any person purchasing greasy wool for processing shall collect the assessment and remit the assessment to the Board in the manner prescribed by the order.

(C) Rate

(i) In general

Except as provided in clause (ii), the rate of assessment under this paragraph shall be 2 cents per pound of greasy wool.

(ii) Exception

The rate of assessment under this paragraph may be raised or lowered not more than 2/10 of a cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this paragraph shall not exceed 4 cents per pound of greasy wool.

(3) Direct processing

The order shall provide that any person processing or causing to be processed sheep or sheep products of that person's own production and marketing shall—

(A) pay an assessment on the sheep or sheep products at the time of sale at a rate equivalent to the rate provided for in paragraph (1) or (2), as appropriate; and

(B) remit the assessment to the Board in the manner prescribed by the order.

(4) Exports

The order shall provide that any person exporting live sheep or greasy wool shall—

(A) pay the assessment on the sheep or greasy wool at the time of export at a rate equivalent to the rate provided for in paragraph (1) or (2), as appropriate; and

(B) remit the assessment to the Board in the manner prescribed by the order.

(5) Imports

(A) In general

The order shall provide that any person importing sheep or sheep product, and any person importing wool or products containing wool, into the United States shall pay an assessment to the Board in the manner prescribed by the order, except that this paragraph shall not apply to raw wool that is imported into the United States.

(B) Collection

The Customs Service shall collect the assessment required under this paragraph and remit the assessment to the Secretary for disbursement to the Board.

(C) Rate for sheep and sheep products

(i) In general

Except as provided in subparagraph (B), the rate of assessment under this paragraph for sheep and sheep products shall be—

(I) in the case of a live sheep, 1 cent per pound; and

(II) in the case of a sheep product, the equivalent of 1 cent per pound of live sheep, as determined by the Secretary in consultation with the domestic sheep industry.

(ii) Exception

The rate of assessment under this subparagraph may be raised or lowered not more than 15/100 cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this subparagraph shall not exceed 2.5 cents per pound.

(D) Rate for wool and wool products

(i) In general

Except as provided in clause (ii), the rate of assessment under this paragraph for wool and products containing wool, shall be 2 cents per pound of degreased wool or the equivalent of degreased wool.

(ii) Exception

The rate of assessment under this subparagraph may be raised or lowered not more than 2/10 cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this subparagraph shall not exceed 4 cents per pound of degreased wool or the equivalent of degreased wool.

(6) Qualified State sheep boards

(A) In general

Except as provided in subparagraph (B), the order shall provide that 20 percent of the total assessments collected by the Board on the marketing of domestic sheep and domestic sheep products in any 1 year from a State shall be returned to the qualified State sheep board of the State.

(B) Exception

No qualified State sheep board shall receive less than \$2,500 under subparagraph (A) in any year.

(7) De minimis imports

The Secretary may issue regulations that—

(A) exclude certain imported materials or products that contain de minimis content levels of sheep or sheep products; and

(B) waive the assessment due on the materials or products.

(8) Use of assessments

(A) In general

The order shall provide that assessments received by the Board shall be used by the Board for the payment of expenses incurred in administering the order, with authorization for a reasonable reserve.

(B) Reimbursement of Secretary

The Secretary shall be reimbursed for costs incurred in implementing and administering the order.

(j) Books and records of Board

(1) In general

The order shall require the Board to—

(A) maintain such books and records as the Secretary may prescribe, which shall be available to the Secretary for inspection and audit;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) Audit

The Board shall cause books and records of the Board related to the order to be audited by an independent auditor at the end of each fiscal year. The Board shall submit a report of the audit to the Secretary.

(k) Investment of funds

(1) In general

The order shall provide that the Board may invest, pending disbursement, funds the Board receives under the order, only in—

(A) obligations of the United States or any agency of the United States;

(B) general obligations of any State or any political subdivision of a State;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(2) Use of income

Income from any investment under paragraph (1) may be used for any purpose for which the invested funds may be used.

(l) Prohibition on use of funds

(1) In general

Except as provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or government action or policy.

(2) Exceptions

Paragraph (1) shall not apply to—

(A) the development and recommendation to the Secretary of amendments to the order; or

(B) the communication to appropriate government officials, in response to a request made by the officials, of information relating to the conduct, implementation, or results of promotion, research, consumer information, education, industry information, or producer information activities under the order.

(3) False or misleading claims

A plan or project conducted under this chapter shall not make false or misleading claims on behalf of sheep or sheep products or against a competing product.

(m) Books and records

(1) In general

The order shall require that each person making payment to a producer, feeder, or handler for sheep or sheep products, each importer and exporter of sheep or sheep products, and each person marketing sheep products of the person's own production to maintain, and make available for inspection, such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) Use of information

(A) In general

Information from the records or reports shall be made available to the Secretary for the administration or enforcement of this chapter, or any order or regulation issued under this chapter.

(B) Other information

The Secretary shall authorize the use under this chapter of information regarding persons paying producers, feeders, importers, handlers, or processors that is accumulated under a law or regulation other than this chapter or a regulation issued under this chapter.

(3) Confidentiality**(A) In general**

Except as otherwise provided in this chapter, all information obtained under paragraph (1) or (2) shall be kept confidential by all officers and employees of the Department and of the Board.

(B) Disclosure

Information referred to in subparagraph (A) may be disclosed only if—

- (i) the Secretary considers the information relevant;
- (ii) the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and
- (iii) the information relates to this chapter.

(C) General statements

Nothing in this paragraph prohibits—

- (i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected from the persons, which statements do not identify the information furnished by any person; or
- (ii) the publication, by direction of the Secretary, of the name of any person violating any order and a statement of the particular provisions of the order violated by the person.

(D) Administration

No information obtained under this chapter may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this chapter or any investigatory or enforcement action necessary for the implementation of this chapter.

(E) Penalty

Any person who willfully violates this paragraph, on conviction, shall be subject to a fine of not more than \$1,000 or to imprisonment for not more than 1 year, or both, and if the person is an officer or employee of the Board or the Department, shall be removed from office.

(n) Other terms and conditions

The order shall provide such terms and conditions, not inconsistent with this section, as are necessary to carry out the order, including provisions for the assessment of a penalty for the late payment of an assessment due under the order.

(Pub. L. 103-407, §5, Oct. 22, 1994, 108 Stat. 4213.)

§7105. Referenda**(a) Initial referendum****(1) In general**

Following the issuance of an order under section 7103 of this title, the Secretary shall conduct a referendum among producers, feeders, and importers who, during a representative period as determined by the Secretary, have been engaged in the production, feeding, or importation of sheep or sheep products for the purpose of ascertaining whether the order shall go into effect.

(2) Approval of order

The order shall become effective only if the Secretary determines that the order has been approved by not less than a majority of the producers, feeders, and importers voting in the referendum or at least 2/3 of the production represented by persons voting in the referendum.

(b) Additional referenda**(1) In general**

After the initial referendum, on the request of a representative group comprising 10 percent or more of the producers, feeders, and importers who, during a representative period as determined by the Secretary, have been engaged in the production, feeding, importation, or processing of sheep or sheep products, the Secretary shall conduct a referendum of producers, feeders, and importers to determine whether the producers, feeders, and importers favor the termination or suspension of the order.

(2) Suspension or termination

If the Secretary determines that suspension or termination of the order is favored by a majority of the producers, feeders, and importers voting in the referendum or at least 2/3 of the production represented by the persons voting in the referendum, the Secretary shall suspend or terminate—

- (A) collection of assessments under the order not later than 180 days after the determination; and
- (B) the order in an orderly manner as soon as practicable after the determination.

(c) Procedures

(1) Reimbursement

(A) In general

Except as provided in subparagraph (B), the Board shall reimburse the Secretary for any expenses incurred by the Secretary in connection with the conduct of any referendum under this section.

(B) Federal employee salaries

The Board shall not be required to reimburse the Secretary for the salaries of Federal employees under subparagraph (A) if the Secretary determines that the reimbursement would be overly burdensome and costly.

(2) Date

Each referendum under this section shall be conducted on a date established by the Secretary, under a procedure by which producers, feeders, and importers intending to vote in the referendum shall certify that the producers, feeders, and importers were engaged in the production, feeding, or importation of sheep or sheep products during the representative period and, on the same day, shall be provided an opportunity to vote in the referendum.

(3) Place

Referenda under this section shall be conducted at locations determined by the Secretary. Absentee mail ballots shall be furnished by the Secretary on request made in person, by mail, or by telephone.

(4) Allocation of production

The Secretary shall determine a method of allocating, by a pro rata percentage of annual projected or actual assessments from importers, the volume of production represented by importers in referenda conducted pursuant to this section.

(Pub. L. 103–407, §6, Oct. 22, 1994, 108 Stat. 4223.)

§7106. Petition and review

(a) Petition

(1) In general

A person subject to an order issued under this chapter may file with the Secretary a petition—

- (A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not established in accordance with law; and
- (B) requesting a modification of the order or an exemption from the order.

(2) Hearings

The petitioner shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) Ruling

After the hearing, the Secretary shall make a ruling on the petition. The ruling shall be final if the ruling is in accordance with law.

(b) Review

(1) Commencement of action

The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review the ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of the ruling by the Secretary under subsection (a)(3).

(2) Process

Service of process in a proceeding may be conducted on the Secretary by delivering a copy of the complaint to the Secretary, under such rules or regulations as are considered necessary by the Secretary to facilitate the service of process.

(3) Remands

If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

- (A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.
 (Pub. L. 103–407, §7, Oct. 22, 1994, 108 Stat. 4224.)

§7107. Enforcement

(a) Jurisdiction

Each district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under this chapter.

(b) Referral to Attorney General

A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by providing a suitable written notice or warning to the person who committed the violation or by an administrative action under section 7106 of this title.

(c) Civil penalties and orders

(1) Civil penalties

A person who willfully violates an order or regulation issued by the Secretary under this chapter may be assessed by the Secretary—

(A) a civil penalty of not more than \$1,000 for each such violation; and

(B) in the case of a willful failure to pay, collect, or remit an assessment as required by the order, an additional penalty equal to the amount of the assessment.

(2) Separate offense

Each violation shall be a separate offense.

(3) Cease-and-desist orders

In addition to, or in lieu of, the civil penalty, the Secretary may issue an order requiring the person to cease and desist from violating the order or regulation.

(4) Notice and hearing

No order assessing a penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary provides notice and an opportunity for a hearing on the record with respect to the violation.

(5) Finality

An order assessing a penalty or a cease-and-desist order issued under this subsection by the Secretary shall be final and conclusive unless the person against whom the order is issued files an appeal from the order with the United States court of appeals, as provided in subsection (d), not later than 30 days after the person receives notice of the order.

(d) Review by court of appeals

(1) In general

A person against whom an order is issued under subsection (c) may obtain review of the order by—

(A) filing, not later than 30 days after the date of the order, a notice of appeal in—

(i) the United States court of appeals for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice of appeal by certified mail to the Secretary.

(2) Record

The Secretary shall file promptly in the court a certified copy of the record on which the Secretary has determined that the person has committed a violation.

(3) Standard of review

A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) Failure to obey orders

A person who fails to obey a valid cease-and-desist order issued by the Secretary under this section, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not more than \$500 for each offense. Each day during which the failure continues shall be considered to be a separate violation of the order.

(f) Failure to pay penalties

If a person fails to pay a valid civil penalty imposed under this section by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any

district in which the person resides or carries on business. In the action, the validity and appropriateness of the order imposing the civil penalty shall not be subject to review.

(g) Additional remedies

The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 103–407, §8, Oct. 22, 1994, 108 Stat. 4224.)

§7108. Investigations and power to subpoena

(a) Investigations

The Secretary may make such investigations as the Secretary considers necessary—

- (1) for the effective administration of this chapter; or
- (2) to determine whether any person subject to this chapter has engaged, or is about to engage, in any action that constitutes or will constitute a violation of this chapter, or of any order or regulation issued under this chapter.

(b) Subpoenas, oaths, and affirmations

For the purpose of any investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of courts

In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to require the attendance and testimony of the person or the production of records. The court may issue an order requiring the person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation.

(d) Contempt

Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) Process

Process in any case under this section may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

(Pub. L. 103–407, §9, Oct. 22, 1994, 108 Stat. 4226.)

§7109. Administrative provisions

(a) Construction

Nothing in this chapter preempts or supersedes any other program relating to sheep promotion, research, or information organized and operated under the laws of the United States or any State.

(b) Amendments to orders

The provisions of this chapter applicable to an order shall be applicable to amendments to the order, except that the Secretary is not required to conduct a referendum on a proposed amendment to an order.

(Pub. L. 103–407, §10, Oct. 22, 1994, 108 Stat. 4226.)

§7110. Regulations

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

(Pub. L. 103–407, §11, Oct. 22, 1994, 108 Stat. 4226.)

§7111. Authorization of appropriations

(a) In general

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this chapter.

(b) Administrative expenses

Funds appropriated under subsection (a) shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under this chapter.

(Pub. L. 103-407, §12, Oct. 22, 1994, 108 Stat. 4226.)