

Agricultural Marketing Service, USDA

§ 1208.40

(b) Should the positions of both a member and such member's alternate become vacant, Candidates to serve the unexpired terms of office for such member and alternate shall be nominated in the manner specified in §§1208.31 and 1208.32. *Provided*, That a vacancy will not be required to be filled if the unexpired term is less than six months.

(c) If a member of the Council consistently refuses to perform the duties of a member of the Council, if a member of the Council fails to submit reports and remit assessments required under this part, or if a member of the Council is known to be engaged in acts of dishonesty or willful misconduct, the Council may recommend to the Secretary that the member be removed from office. If the Secretary finds that the recommendation of the Council shows adequate cause, the Secretary shall remove such member from office. Further, without recommendation of the Council, a member may be removed by the Secretary upon a showing of adequate cause, if the Secretary determines that the person's continued service would be detrimental to the achievement of the purposes of the Act.

§ 1208.36 Procedure.

(a) Thirteen (13) Council members, including alternates acting in place of members of the Council, shall constitute a quorum: *Provided*, That such alternates shall serve only when the member is absent from a meeting or is disqualified. Any action of the Council shall require the concurring votes of a majority of those present and voting. At assembled meetings, all votes shall be cast in person.

(b) In lieu of voting at an assembled meeting, and, when in the opinion of the chairperson of the Council such action is considered necessary, or for matters of an emergency nature when there is not enough time to call an assembled meeting, the Council may act upon a majority of concurring votes of its members cast by mail, telegraph, telephone, facsimile, or by other means of communication: *Provided*, That each member or alternate acting for a member receives an accurate, full, and substantially identical explanation of each proposition. Telephone votes shall be

promptly confirmed in writing. All votes shall be recorded in the Council minutes.

§ 1208.37 Executive committee.

(a) The Council is authorized to appoint an executive committee of not more than nine persons from among its members. Initially, the executive committee shall be composed of the following:

- (1) Four members representing qualified wholesale handlers;
- (2) Two members representing producers that are qualified handlers;
- (3) Two members representing importers that are qualified handlers; and
- (4) One member representing traditional retailers.

(b) After the initial appointments, each appointment to the executive committee shall be made so as to ensure that the committee reflects, to the maximum extent practicable, the membership composition of the Council as a whole.

(c) Each initial appointment to the executive committee shall be for a term of two years. After the initial appointments, each appointment to the executive committee shall be for a term of one year.

(d) The Council may delegate to the executive committee the authority of the Council under this subpart to hire and manage staff and conduct the routine business of the Council consistent with such policies as are determined by the Council.

ACTIVITIES OF THE COUNCIL

§ 1208.40 Duties of the Council.

The Council shall have the following duties, in addition to the duties specified in other sections of this subpart:

- (a) Administer this subpart in accordance with the terms and provisions of this subpart;
- (b) Make rules and regulations to effectuate the terms and provisions of this subpart;
- (c) Appoint members of the Council to serve on the executive committee, as provided in §1208.37;
- (d) Employ such persons as the Council determines are necessary, and set the compensation and define the duties of the persons;

§ 1208.41

7 CFR Ch. XI (1-1-01Edition)

(e) Develop budgets for the implementation of this subpart and submit the budgets to the Secretary for approval, and propose and develop (or receive and evaluate), approve, and submit to the Secretary for approval plans and projects for cut flowers and greens promotion, consumer information, or related research;

(f) Implement plans and projects for cut flowers and greens promotion, consumer information, or related research, or contract or enter into agreements with appropriate persons to implement the plans and projects and pay the costs of the implementation of contracts and agreements with funds received under this subpart;

(g) Keep minutes, books, and records which clearly reflect all of the acts and transactions of the Council. Minutes of all meetings shall be promptly provided to the Secretary;

(h) Evaluate ongoing and completed plans and projects for cut flowers and greens promotion, consumer information, or related research;

(i) Receive, investigate, and report to the Secretary complaints of violations of this subpart and direct that the staff of the Council periodically review the list of importers of cut flowers and greens provided by the Customs Service to determine whether persons on the list are subject to this subpart;

(j) Recommend to the Secretary amendments to this subpart;

(k) Invest, pending disbursement under a plan or project, funds collected through assessments only in: Obligations of the United States or any agency of the United States, general obligations of any State or any political subdivision of a State, any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or obligations fully guaranteed as to principal and interest by the United States. Income from any such invested funds may be used only for a purpose for which the invested funds may be used.

(l) Prepare and submit to the Secretary such reports as may be prescribed for appropriate accounting with respect to the receipt and disbursement of funds entrusted to the Council monthly, or at such times as prescribed by the Secretary. Monthly financial

statements shall be submitted to the Department and shall include at least:

(1) A balance sheet, and

(2) An expense budget comparison showing expenditures during the month, year-to-date expenditures, and an unexpended budget. Upon request, a summary of checks issued by the Council is to be made available. Reports shall be submitted within 30 days after the end of each month.

(m) To cause the books of the Council to be audited by an independent certified public accountant at the end of each fiscal period, and at such other times as the Council or the Secretary may deem necessary. The report of each audit shall show the receipt and expenditure of funds collected pursuant to this part, and shall be submitted to the Secretary.

(n) To give the Secretary the same notification, written or oral, as provided to Council members concerning all conference calls and meetings, including executive, advisory, subcommittee, and other meetings related to Council matters, and to grant the Secretary access to all such calls and meetings;

(o) To follow the Department's equal opportunity/civil rights policies; and

(p) Provide the Secretary such information as the Secretary may require.

§ 1208.41 Budgets and expenses

(a) The Council shall promptly adopt and forward to the Secretary for approval its determination of the beginning and ending dates of an annual fiscal period to be used by the Council for budgeting and accounting purposes.

(b) The Council shall submit annual budgets of its anticipated expenses and disbursement in the administration of this subpart, including the projected costs for the promotion of cut flowers and greens, consumer information, and related research plans and projects to the Secretary for approval. The first budget, which shall be submitted promptly after the effective date of this subpart, shall cover such period as may remain before the beginning of the next fiscal year. If such fiscal period is 90 days or less, the first budget shall cover such period, as well as the next fiscal year. Thereafter, the Council