

Agricultural Marketing Service, USDA

§ 1208.60

the handler is required to pay the assessment when due.

(b) The procedures for obtaining a postponement of payment to be developed by the Council for submission to the Secretary shall also include provisions with respect to the period of postponement, the conditions of payment that may be imposed and the basis, if any, on which further extensions of the time for payment will be granted so as to appropriately reflect the demonstrated needs of the qualified handler.

§ 1208.56 Determinations.

(a) The Council is authorized to make the determinations required by this subpart as to the status of persons as qualified handlers and exempt handlers including determinations of the status of persons as qualified wholesale handlers, distribution centers that are qualified handlers, producers that are qualified handlers, importers that are qualified handlers, as well as such other determinations of status and facts as may be required for the effective administration of this subpart. Based on such determinations, the Council from time to time shall publish lists of exempt handlers who are not required to pay assessments, and lists of qualified handlers who are required to pay assessments under this subpart.

(b) For the purpose of applying the \$750,000 annual sales limitation to a specific person in order to determine the status of the person as a qualified handler or an exempt handler or to a specific facility in order to determine the status of the facility as an eligible separate facility for the purpose of referenda, the Council is authorized to determine the annual sales volume of a person or facility.

(c) Any such determination shall be based on the sales of cut flowers and greens by the person or facility during the most recently-completed calendar year, except that in the case of a new business or other operation for which complete data on sales during all or part of the most recently-completed calendar year are not available to the Council, the determination may be made using an alternative time period or other alternative procedures as the

Council may find appropriate. In making such determinations, the Council is authorized to make attributions in accordance with paragraphs (c) (1) through (4) of this section and for the purpose of determining the annual sales volume of a person or a separate facility of a person, sales attributable to a person shall include:

(1) In the case of an individual, sales attributable to the spouse, children, grandchildren, parents, and grandparents of the person;

(2) In the case of a partnership or member of a partnership, sales attributable to the partnership and other partners of the partnership;

(3) In the case of an individual or a partnership, sales attributable to any corporation or other entity in which the individual or partnership owns more than 50 percent of the stock or (if the entity is not a corporation) that the individual or partnership controls; and

(4) In the case of a corporation, sales attributable to any corporate subsidiary or other corporation or entity in which the corporation owns more than 50 percent of the stock or (if the entity is not a corporation) that the corporation controls.

(d) The Council is also authorized to attribute any stock ownership interest as may be required to carry out this subpart. In doing so a stock ownership interest in the entity that is owned by the spouse, children, grandchildren, parents, grandparents, or partners of an individual, or by a partnership in which a person is a partner, or by a corporation more than 50 percent of the stock of which is owned by a person, shall be treated as owned by the individual or person.

(e) For the purpose of this subpart, the Council, with the approval of the Secretary, may require a person who sells cut flowers and greens to retailers to submit reports to the Council on annual sales by the person and on stock ownership.

SUSPENSION OR TERMINATION

§ 1208.60 Suspension and termination.

If the Secretary finds that this subpart, or any provision of this subpart, obstructs or does not tend to effectuate