

## Agricultural Marketing Service, USDA

## § 1208.82

(c) The Council shall cause the books and records of the Council to be audited by an independent certified public accountant at the end of each fiscal year. All audits must be performed in accordance with either standards issued by the American Institute of Certified Public Accountants or by the General Accounting Office. A report of each audit shall be submitted to the Secretary.

### **§ 1208.71 Reports, books, and records of persons subject to this subpart.**

(a) Each qualified handler shall prepare and file reports containing such information as may be required by the Council with the approval of the Secretary. Such information shall include:

(1) Data showing the volume of sales and non-sale transfers of cut flowers and greens made during the reporting period;

(2) The amount of the assessment on such sales or non-sale transfers; and

(3) Any other data that may be required by the Council with the approval of the Secretary.

(b) Each person subject to this subpart shall maintain and make available for inspection by agents of the Council and the Secretary such books and records as are determined by the Council with the approval of the Secretary, as necessary to carry out the provisions of this subpart and the regulations issued hereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two years beyond the fiscal period of their applicability.

### **§ 1208.72 Confidential treatment.**

(a) Information obtained from books, records, or reports required to be maintained or filed under the Act and this subpart shall be kept confidential by all persons, including agents and former agents of the Council, all officers and employees and all former officers and employees of the Department, and by all officers and employees and all former officers and employees of contracting agencies having access to such information, and shall not be available to Council members. Only those persons having a specific need for such information to effectively administer the provisions of this subpart

shall have access to such information. In addition, only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the discretion, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this paragraph shall be deemed to prohibit:

(1) The issuance of general statements, based upon the reports, of the number of persons subject to this subpart or statistical data collected from such reports, which statements do not identify the information furnished by any such persons, and

(2) The publication, by direction of the Secretary, of the name of any individual, group of individuals, partnership, corporation, association, cooperative, or other entity that has been adjudged to have violated this subpart, together with a statement of the particular provisions of the subpart so violated.

(b) No information on how a person voted in a referendum conducted under the Act shall be made public.

## MISCELLANEOUS

### **§ 1208.80 Right of the Secretary.**

All fiscal matters, programs or projects, by-laws, rules or regulations, reports, or other substantive actions proposed and prepared by the Council shall be submitted to the Secretary for approval.

### **§ 1208.81 Personal liability.**

No member or employee of the Council shall be held personally responsible, either individually or jointly, in any way whatsoever, to any person for errors in judgement, mistakes, or other acts of either commission or omission of such member or employee under this subpart, except for acts of dishonesty or willful misconduct.

### **§ 1208.82 Patents, copyrights, inventions, publications, and product formulations.**

Any patents, copyrights, inventions, publications, or product formulations

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developed through the use of funds received by the Council under this subpart shall be the property of the United States Government as represented by the Council and shall, along with any rents, royalties, residual payments, or other income from the rental, sale, leasing, franchising, or other uses of such patents, copyrights, inventions, publications, or product formulations, inure to the benefit of the Council. Upon termination of this subpart, §1208.61 shall apply to determine disposition of all such property.

**§ 1208.83 Amendments.**

Amendments to this subpart may be proposed, from time to time, by the Council or by any interested person affected by the provisions of the Act, including the Secretary.

**§ 1208.84 Separability.**

If any provision of this subpart is declared invalid, or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

**§ 1208.85 OMB control numbers.**

The control number assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Public Law 96-511, is OMB number 0581-0096, except Council member nominee information sheets are assigned OMB number 0505-0001.

**Subpart B—Rules and Regulations**

SOURCE: 61 FR 30501, June 17, 1996, unless otherwise noted.

**DEFINITIONS**

**§ 1208.100 Terms defined.**

Unless otherwise defined in this subpart, definitions or terms used in this subpart shall have the same meaning as the definitions of such terms which appear in Subpart A—Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order of this part.

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

**ASSESSMENTS**

**§ 1208.150 Procedures for postponement of collections.**

(a) For a request for postponement of the payment of assessments to be granted, the qualified handler requesting such postponement must: Submit a written opinion from a Certified Public Accountant stating that the handler making the request is insolvent or will be unable to continue to operate if the handler is required to pay the assessments when due; and submit copies of the handler's last three (3) years' federal tax returns. The request must be in writing no later than 30 days after the assessment for the first month of the requested postponement period is due. Applications postmarked after the 30-day due date will not be considered by the Council. The qualified handler must file handler reports with the Council for each month during the postponement period. The postponement period may not exceed six (6) months unless an extension is requested and granted by the Council. Only one extension of up to six (6) months may be granted. Within the postponement period, the qualified handler will be exempt from paying assessments beginning with the first month for which the request for postponement is filed with the Council and for no more than six (6) months unless an extension is granted. The same procedures used for the initial request will be used to grant any extension. The written request must specify:

- (1) A reason for the request;
- (2) Detailed information concerning the qualified handler's name, address, and telephone and fax numbers;
- (3) The month(s) for which the request is made;
- (4) Assessments due per month or gross sales per month;
- (5) Total assessments due;
- (6) The percent or amount of the outstanding assessment to be paid each month after the postponement of payment is granted; and
- (7) The starting and ending date for the payment of assessments due.

(b) At the end of the postponement period, the qualified handler must pay the percent or amount outstanding of assessments agreed upon each month