

Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6201–6212); the Soybean Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6301–6311); the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401–6417); the Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Act (7 U.S.C. 6801–6814); the Sheep Promotion, Research, and Information Act of 1994 (7 U.S.C. 7101–7111); The Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425); the Canola and Rapeseed Research, Promotion, and Consumer Information Act (7 U.S.C. 7441–7452); the National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7461–7473); and, the Popcorn Promotion, Research, and Consumer Information Act (7 U.S.C. 7481–7491). This authority includes determining the programs and activities to be undertaken and assuring that they are coordinated with the overall departmental programs to develop foreign markets for U.S. agricultural products.

\* \* \* \* \*

#### Subpart N—Delegations of Authority by the Assistant Secretary for Marketing and Regulatory Programs

5. Section 2.79 is amended by adding new paragraphs (a)(8)(lviii) through (lxii) to read as follows:

##### § 2.79 Administrator, Agricultural Marketing Service.

(a) \* \* \*

(8) \* \* \*

(lviii) Commodity Promotion and Evaluation (7 U.S.C. 7401);

(lix) Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425), except as specified in § 2.43(a)(24);

(lx) The Canola and Rapeseed Research, Promotion, and Consumer Information Act (7 U.S.C. 7441–7452), except as specified in § 2.43(a)(24);

(lxi) The National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7461–7473), except as specified in § 2.43(a)(24); and

(lxii) The Popcorn Promotion, Research, and Consumer Information Act (7 U.S.C. 7481–7491), except as specified in § 2.43(a)(24).

\* \* \* \* \*

Dated: July 21, 1997.

**Dan Glickman,**  
*Secretary of Agriculture.*

Dated: July 11, 1997.

**Dallas R. Smith,**  
*Under Secretary for Farm and Foreign Agricultural Services.*

Dated: July 9, 1997.

**Michael V. Dunn,**  
*Assistant Secretary for Marketing and Regulatory Programs.*  
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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1208

[FV–97–703]

#### Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document removes the requirement of the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order (Order) that each qualified handler pays to the National PromoFlor Council (Council) an assessment in the amount of 0.5 percent on wholesale sales of fresh cut flowers and greens as specified in the Order. The remaining provisions of the Order and regulations issued thereunder will be terminated at a later date. This action is necessary because termination of the Order was favored by a majority of the qualified handlers voting in a referendum conducted from June 2 through 20, 1997.

**EFFECTIVE DATE:** July 29, 1997.

**FOR FURTHER INFORMATION:** Sonia N. Jimenez, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2535–S, Washington, DC 20090–6456, telephone (202) 720–9915 or (888) 720–9917.

**SUPPLEMENTARY INFORMATION:** This action is issued under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 [7 U.S.C. 6801–6814] (Act).

Prior documents in this proceeding: Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order, December 29, 1994 [59 FR 67139]; Referendum Procedures, April 14, 1997 [62 FR 18033]; and Referendum Order, April 21, 1997 [62 FR 19301].

This action has been determined to be non-significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

This action has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This action will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this termination order.

#### Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*] (RFA), the Agricultural Marketing Service has considered the economic impact of this action on small entities.

The Act, which authorizes the creation of a generic program of promotion and information for fresh cut flowers and greens, became effective on December 14, 1993.

Section 7(a) of the Act provides that the Secretary of Agriculture (Secretary) shall conduct a referendum not later than 3 years after the issuance of an order to ascertain whether the order then in effect shall be continued. The Order was issued on December 29, 1994. Paragraph (a)(2) of § 7 of the Act requires that the Order be approved by a simple majority of all votes cast in the referendum. In addition, paragraph (b) of § 7 of the Act specifies that each qualified handler eligible to vote in the referendum shall be entitled to cast one vote for each separate facility of the person that is an eligible separate facility. The voting period for the referendum was June 2 through 20, 1997.

Only those wholesale handlers (including, but not limited to, wholesale jobbers, bouquet and floral article manufacturers, auction houses that clear the sale of cut flowers and greens, and retail distribution centers), producers, and importers who have annual sales of \$750,000 or more of fresh cut flowers and greens and who sell those products to exempt handlers, retailers, or consumers are considered qualified handlers and assessed under the Order.

There are approximately 643 qualified handlers who are covered by the program. Small agricultural service firms, which include the qualified handlers covered under the Order, have been defined by the Small Business Administration [13 CFR 121.601] as those whose annual receipts are less than \$5 million. Only 127 qualified handlers have been identified to have \$5 million in annual sales.

It is concluded that the majority of qualified handlers may be classified as small entities.

This action terminates the requirements of the Order for qualified handlers to remit assessments.

Currently, an estimated 643 qualified handlers pay about \$10 million annually. When the Order was published in the **Federal Register** on December 29, 1994, the U.S. Department of Agriculture (USDA) stated that, with regard to the RFA, although the maximum assessment collection was expected to total about \$10 million annually, the economic impact of a 1.0 percent or less assessment on each qualified handler would not be significant. This holds true today with the current 0.5 percent assessment rate. Under this termination order, qualified handlers would no longer be required to pay assessments.

Statistics reported by the National Agricultural Statistics Service show that in 1995 sales of domestic cut flowers and cut greens totaled approximately \$521.3 million at the wholesale level. The leading producing states by wholesale value are California, with about 49 percent of the total of flower and cut green production, followed by Florida, Colorado and Hawaii. Sales information for 1996 will not be available until after publication of this rule.

The value of imports of cut flowers in 1996 was \$557.7 million. Major countries exporting cut flowers to the United States, by value, are Colombia which accounts for about 66 percent of the value, followed by the Netherlands (10 percent), Ecuador (12 percent), Costa Rica (3 percent), and Mexico (3 percent).

The Act and Order also provide for refunds of assessments, under certain conditions, for those handlers who requested the refund before the initial referendum was held, and if the Order is rejected by voters in the referendum.

Therefore, the exact impact of this action will vary according to the amount of assessments handlers have been remitting and would remit under the Order and whether such handlers requested a refund.

This action will not impose any additional reporting or recordkeeping requirements on either large or small qualified handlers of cut flowers and greens.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

### **Background**

This action terminates Order requirements to pay assessments and is governed by § 7(d) of the Act. The Act authorizes a national fresh cut flowers and greens promotion, research, and

information program, also known as PromoFlor. In accordance with the Act, USDA developed and implemented the Order [7 CFR 1208.1–1208.85], which became effective on December 29, 1994.

Section 7(a) of the Act requires that the Secretary conduct a referendum not later than 3 years after issuance of an order to determine whether qualified handlers favor continuation of the order. The order directing that a referendum be conducted was published in the **Federal Register** on April 21, 1997 [62 FR 19301]. The representative period for establishing voter eligibility for the referendum was the period from January 1, 1996, through December 31, 1996. A referendum was conducted by mail ballot from July 2 through 20, 1997. Termination of the Order was favored by 58 percent of the qualified handlers casting valid ballots in the referendum.

Therefore, pursuant to § 7(d) of the Act and § 1208.60 of the Order, it is hereby found and determined that termination of the Order is favored by a majority of the qualified handlers voting in the referendum and that the Order should therefore be terminated.

Section 7(d) of the Act provides that, if the Secretary determines that termination of the Order is favored by a majority of all votes cast in the referendum, the Secretary shall terminate, as appropriate the collection of assessments under the Order not later than 180 days after the referendum results are announced. Further, the Secretary is required to terminate, as appropriate, activities under the Order as soon as practicable and in an orderly manner. A separate order will be published in the **Federal Register** terminating the remaining Order requirements and provisions.

In accordance with § 1208.61, the Council will recommend not more than five of its members to the Secretary to serve as trustees for purposes of liquidating the assets of the Council.

Termination of the Order and any of its provisions, including the requirements to remit assessments, shall not:

- (a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of the Order; or
- (b) Release or extinguish any violation of this Order; or
- (c) Affect or impair any rights or remedies of the United States, or of the Secretary, or of any other person with respect to any such violation.

Section 5(h)(4) of the Act [7 U.S.C. 6804(h)(4)] provides that refunds of assessments shall be made out of the escrow account to those qualified

handlers who applied for such refunds prior to the conduct of the referendum and submitted satisfactory proof that they paid the assessment for which refund is requested. If the amount in the escrow account is not sufficient to refund the total amount of assessments demanded, the amount of all such refunds shall be prorated among all eligible qualified handlers that demand the refunds. Section 1208.61 of the Order provides that refunds are to be made within 30 days of the date the results of the referendum are released by the Secretary.

### **Order**

*It is therefore ordered,* That the terms and provisions of Subpart A of the Order requiring fresh cut flowers and greens qualified handlers to pay an assessment used to finance the national program for fresh cut flowers and fresh cut greens promotion and information [7 CFR Part 1208] are hereby terminated.

It is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice or to engage in further public procedure prior to putting this action into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action terminates the requirements of the Order that each qualified handler remit assessments; (2) termination of the Order was favored by a majority of qualified handlers voting in the referendum; and (3) the Act requires that, upon such a determination by referendum, collection of assessments should terminate no later than 180 days after the referendum.

### **List of Subjects in 7 CFR Part 1208**

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Plants, Promotion, Reporting and recordkeeping requirements.

### **PART 1208—FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION ORDER**

#### **Subpart A—Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order**

1. The authority citation for 7 CFR Part 1208 continues to read as follows:

**Authority:** 7 U.S.C. 6801 *et seq.*

2. A note is added to § 1208.50 to read as follows:

**§ 1208.50 Assessments.**

\* \* \* \* \*

**Note to § 1208.50:** The requirement to pay assessments is terminated as of July 29, 1997.

Dated: July 22, 1997.

**Lon Hatamiya,**

*Administrator Agricultural Marketing Service.*

[FR Doc. 97-19705 Filed 7-25-97; 8:45 am]

BILLING CODE 3410-02-P

**FEDERAL RESERVE SYSTEM****12 CFR Parts 207, 220, 221 and 224**

[Regulations G, T, U and X]

**Securities Credit Transactions; List of Marginable OTC Stocks; List of Foreign Margin Stocks**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule; determination of applicability of regulations.

**SUMMARY:** The List of Marginable OTC Stocks (OTC List) is composed of stocks traded over-the-counter (OTC) in the United States that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List of Foreign Margin Stocks (Foreign List) is composed of foreign equity securities that have met the Board's eligibility criteria under Regulation T. The OTC List and the Foreign List are published four times a year by the Board. This document sets forth additions to and deletions from the previous OTC List and the previous Foreign List.

**EFFECTIVE DATE:** August 11, 1997.

**FOR FURTHER INFORMATION CONTACT:**

Peggy Wolffrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452-2781, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) at (202) 452-3544.

**SUPPLEMENTARY INFORMATION:** Listed below are the deletions from and additions to the Board's OTC List, which was last published on April 28, 1997 (62 FR 22881), and became effective May 12, 1997. A copy of the complete OTC List is available from the Federal Reserve Banks.

The OTC List includes those stocks traded over-the-counter in the United States that meet the criteria in Regulations G, T, and U (12 CFR Parts 207, 220 and 221, respectively). This determination also affects the

applicability of Regulation X (12 CFR Part 224). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The OTC List also includes any OTC stock designated for trading in the national market system (NMS security) under rules approved by the Securities and Exchange Commission (SEC). Additional OTC stocks may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable upon the effective date of their NMS designation. The names of these stocks are available at the SEC and at the National Association of Securities Dealers, Inc. and will be incorporated into the Board's next quarterly publication of the OTC List.

Also listed below are the deletions from and additions to the Foreign List, which was last published on April 28, 1997 (62 FR 22881), and became effective May 12, 1997. A copy of the complete Foreign List is available from the Federal Reserve banks.

**Public Comment and Deferred Effective Date**

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the Lists specified in 12 CFR 207.6 (a) and (b), 220.17 (a), (b), (c) and (d), and 221.7 (a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of these Lists as soon as possible. The Board has responded to a request by the public and allowed approximately a two-week delay before the Lists are effective.

**List of Subjects****12 CFR Part 207**

Banks, Banking, Credit, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

**12 CFR Part 220**

Banks, Banking, Brokers, Credit, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

**12 CFR Part 221**

Banks, Banking, Credit, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

**12 CFR Part 224**

Banks, Banking, Borrowers, Credit, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 207.2(k) and 207.6 (Regulation G), 12 CFR 220.2 and 220.17 (Regulation T), and 12 CFR 221.2(j) and 221.7 (Regulation U), there is set forth below a listing of deletions from and additions to the OTC List and the Foreign List.

**Deletions From the List of Marginable OTC Stocks****Stocks Removed for Failing Continued Listing Requirements**

ALLERGAN LIGAN RETINOID THERAPEUTICS, INC.

Units (expire 06-05-97)

AVERT, INC.

Warrants (expire 04-30-97)

BELL CABLEMEDIA PLC

American Depositary Receipts

BIOTECHNICA INTERNATIONAL, INC.

\$.01 par common

BLACK HAWK GAMING & DEVELOPMENT COMPANY

Class B, warrants (expire 06-30-97)

BRE-X MINERALS, LIMITED

No par common

CELEBRITY ENTERTAINMENT, INC.

\$.01 par common

CODE-ALARM, INC.

No par common

COUNTRY STAR RESTAURANTS, INC.

Series A, 6% par cumulative preferred

DELGRATIA MINING CORPORATION

No par common

ERD WASTE CORPORATION

\$.001 par common

ESSEX CORPORATION

\$.10 par common

FIRST MORTGAGE CORPORATION

No par common

FLAGSTAR COMPANIES, INC.

\$.50 par common, Series A, \$.10 par

cumulative convertible preferred

GRAPHIX ZONE, INC.

No par common

GROOTVLEI PROPRIETARY MINES

American Depositary Receipts

INAMED CORPORATION

\$.01 par common

INTEGRATED WASTE SERVICES, INC.