

§ 1209.39

7 CFR Ch. XI (1–1–10 Edition)

such bylaws and other rules for the conduct of its business as it may deem advisable;

(h) To establish committees which may include individuals other than Council members, and pay the necessary and reasonable expenses and fees for the members of such committees;

(i) To recommend to the Secretary amendments to this subpart;

(j) With the approval of the Secretary, to enter into contracts or agreements with national, regional, or State mushroom producer organizations, or other organizations or entities, for the development and conduct of programs, plans, or projects authorized under §1209.40 and with such producer organizations for other services necessary for the implementation of this subpart, and for the payment of the cost thereof with funds collected and received pursuant to this subpart. The Council shall not contract with any producer or importer for the purpose of mushroom promotion or research. The Council may lease physical facilities from a producer or importer for such promotion or research, if such an arrangement is determined to be cost effective by the Council and approved by the Secretary. Any contract or agreement shall provide that:

(1) The contractor or agreeing party shall develop and submit to the Council a program, plan, or project together with a budget or budgets that shall show the estimated cost to be incurred for such program, plan, or project;

(2) Any such program, plan, or project shall become effective upon approval of the Secretary;

(3) The contracting or agreeing party shall keep accurate records of all of its transactions and make periodic reports to the Council of activities conducted, submit accountings for funds received and expended, and make such other reports as the Secretary or the Council may require; and the Secretary may audit the records of the contracting or agreeing party periodically; and

(4) Any subcontractor who enters into a contract with a Council contractor and who receives or otherwise uses funds allocated by the Council shall be subject to the same provisions as the contractor;

(k) With the approval of the Secretary, to invest, pending disbursement pursuant to a program, plan, or project, funds collected through assessments provided for in §1209.51, and any other funds received by the Council in, and only in, obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States;

(l) To develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms.

(m) Such other powers as may be approved by the Secretary; and

(n) To develop and propose to the Secretary voluntary quality and grade standards for mushrooms, if the Council determines that such quality and grade standards would benefit the promotion of mushrooms.

[58 FR 3449, Jan. 8, 1993, as amended at 74 FR 50920, Oct. 2, 2009]

§ 1209.39 Duties.

The Council shall have the following duties:

(a) To meet not less than annually, and to organize and select from among its members a chairperson and such other officers as may be necessary;

(b) To evaluate or develop, and submit to the Secretary for approval, promotion, research, consumer information, and industry information programs, plans, or projects;

(c) To prepare for each fiscal year, and submit to the Secretary for approval at least 60 days prior to the beginning of each fiscal year, a budget of its anticipated expenses and disbursements in the administration of this subpart, as provided in §2109.50.

(d) To maintain such books and records, which shall be available to the Secretary for inspection and audit, and to prepare and submit such reports from time to time to the Secretary, as the Secretary may prescribe, and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

Agricultural Marketing Service, USDA

§ 1209.50

(e) To prepare and make public, at least annually, a report of its activities carried out, and an accounting for funds received and expended;

(f) To cause its financial statements to be prepared in conformity with generally accepted accounting principles and to be audited by an independent certified public accountant in accordance with generally accepted auditing standards at least once each fiscal year and at such other times as the Secretary may request, and submit a copy of each such audit to the Secretary;

(g) To give the Secretary the same notice of meetings of the Council as is given to members in order that the Secretary, or a representative of the Secretary, may attend such meetings;

(h) To submit to the Secretary such information as may be requested pursuant to this subpart;

(i) To keep minutes, books, and records that clearly reflect all the acts and transactions of the Council. Minutes of each Council meeting shall be promptly reported to the Secretary;

(j) To act as intermediary between the Secretary and any producer or importer;

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

(l) To work to achieve an effective, continuous, and coordinated program of promotion, research, consumer information, and industry information designed to strengthen the mushroom industry's position in the marketplace, maintain and expand existing markets and uses for mushrooms, develop new markets and uses for mushrooms, and to carry out programs, plans, and projects designed to provide maximum benefits to the mushroom industry.

PROMOTION, RESEARCH, CONSUMER INFORMATION, AND INDUSTRY INFORMATION

§ 1209.40 Programs, plans, and projects.

(a) The Council shall receive and evaluate, or on its own initiative develop, and submit to the Secretary for approval any program, plan, or project authorized under this subpart. Such programs, plans, or projects shall provide for:

(1) The establishment, issuance, effectuation, and administration of appropriate programs for promotion, research, consumer information, and industry information with respect to mushrooms; and

(2) The establishment and conduct of research with respect to the sale, distribution, marketing, and use of mushrooms and mushroom products, and the creation of new products thereof, to the end that marketing and use of mushrooms may be encouraged, expanded, improved or made more acceptable. However, as prescribed by the Act, nothing in this subpart may be construed to authorize mandatory requirements for quality control, grade standards, supply management programs, or other programs that would control production or otherwise limit the right of individual producers to produce mushrooms.

(b) No program, plan, or project shall be implemented prior to its approval by the Secretary. Once a program, plan, or project is so approved, the Council shall take appropriate steps to implement it.

(c) Each programs, plan, or project implemented under this subpart shall be reviewed or evaluated periodically by the Council to ensure that it contributes to an effective program of promotion, research, consumer information, or industry information. If it is found by the Council that any such program, plan, or project does not contribute to an effective program of promotion, research, consumer information, or industry information, then the Council shall terminate such program, plan, or project.

(d) In carrying out any program, plan, or project, no reference to a brand name, trade name, or State or regional identification of any mushrooms or mushroom product shall be made. In addition, no program, plan, or project shall make use of unfair or deceptive acts or practices with respect to the quality, value, or use of any competing product.

EXPENSES AND ASSESSMENTS

§ 1209.50 Budget and expenses.

(a)(1) At least 60 days prior to the beginning of each fiscal year, and as may