

payment charge shall be imposed on any handler who fails to remit to the Council, the total amount for which any such handler is liable on or before the due date established by the Council. In addition to the late payment charge, an interest charge shall be imposed on the outstanding amount for which the handler is liable. The rate of interest shall be prescribed in regulations issued by the Secretary.

(f) Persons failing to remit total assessments due in a timely manner may also be subject to actions under federal debt collection procedures.

(g) The Council may authorize other organizations to collect assessments on its behalf with the approval of the Secretary.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

§ 1218.53 Exemption procedures.

(a) Any producer who produces less than 2,000 pounds of blueberries annually shall be exempt from the payment of assessments. Such producer may apply to the Council—on a form provided by the Council—for a certificate of exemption. Such producer shall certify that the producer's production of blueberries shall be less than 2,000 pounds for the fiscal year for which the exemption is claimed.

(b) Any importer who imports less than 2,000 pounds of fresh and frozen blueberries annually shall be exempt from the payment of assessments. Such importer may apply to the Council—on a form provided by the Council—for a certificate of exemption. Such importer shall certify that the importer's importation of fresh and frozen blueberries shall not exceed 2,000 pounds for the fiscal year for which the exemption is claimed.

(c) A producer who operates under an approved National Organic Program (NOP) (7 CFR part 205) system plan; produces only products that are eligible to be labeled as 100 percent organic under the NOP, except as provided for in paragraph (g) of this section; and is not a split operation shall be exempt from the payment of assessments.

(d) To apply for this exemption, a producer shall submit a request for exemption to the Council—on a form provided by the Council—at any time ini-

tially and annually thereafter on or before January 1 as long as the producer continues to be eligible for the exemption. The request shall include the following: The producer's name and address, with a copy of the organic farm or organic handling operation certificate provided by a USDA-accredited certifying agent as defined in section 2103 of the Organic Foods Production Act of 1990 (7 CFR part 205), a signed certification that the applicant meets all of the requirements specified for an assessment exemption, and such other information as may be required by the Board and with the approval of the Secretary. If a producer complies with the requirements in paragraph (c) of this section, the Council will grant an assessment exemption and issue a certification of exemption to the producer. For exemption requests received on or before August 15, 2005, the Council will have 60 days to approve the exemption request; after August 15, 2005, the Council will have 30 days to approve the exemption request. If the application is disapproved, the Council will notify the applicant of the reason(s) for disapproval within the same timeframe.

(e) An importer who imports only products that are eligible to be labeled as 100 percent organic under the NOP (7 CFR part 205) and who is not a split operation shall be exempt from the payment of assessments. That importer may submit documentation to the Board and request an exemption from assessment on 100 percent organic fresh and frozen blueberries—on a form provided by the Council—at any time initially and annually thereafter on or before January 1 as long as the importer continues to be eligible for the exemption. This documentation shall include the same information required of producers in paragraph (d) of this section. If the importer complies with the requirements of this section, the Council will grant the exemption and issue a Certificate of Exemption to the importer. The Council will also issue the importer a 9-digit alphanumeric Harmonized Tariff Schedule (HTS) classification valid for 1 year from the date of issue. This HTS classification should be entered by the importer on the Customs entry documentation. Any line

§ 1218.54

7 CFR Ch. XI (1–1–10 Edition)

item entry of 100 percent organic fresh and frozen blueberries bearing this HTS classification assigned by the Council will not be subject to assessments.

(f) The exemption will apply immediately following the issuance of the Certificate of Exemption.

(g) Agricultural commodities produced and marketed under an organic system plan, as described in 7 CFR 205.201, but not sold, labeled, or represented as organic, shall not disqualify a producer from exemption under this section, except that producers who produce both organic and non-organic agricultural commodities as a result of split operations shall not qualify for exemption. Reasons for conventional sales include lack of demand for organic products, isolated use of antibiotics for humane purposes, chemical or pesticide use as the result of State or emergency spray programs, and crops from a buffer area as described in 7 CFR part 205, provided all other criteria are met.

(h) On receipt of an application, the Council shall determine whether an exemption may be granted. The Council then will issue, if deemed appropriate, a certificate of exemption to each person who is eligible to receive one. Each producer who is exempt from assessment must provide an exemption number to the first handler in order to be exempt from the collection of an assessment on blueberries. First handlers and importers, except as otherwise authorized by the Council, shall maintain records showing the exemptee's name and address along with the exemption number assigned by the Council.

(i) Importers who are exempt from assessment shall be eligible for reimbursement of assessments collected by the U.S. Customs Service and shall apply to the Council for reimbursement of such assessments paid. No interest will be paid on assessments collected by the U.S. Customs Service. Requests for reimbursement shall be submitted to the Council within 90 days of the last day of the year the blueberries were actually imported.

(j) Any person who desires an exemption from assessments for a subsequent fiscal year shall reapply to the Council,

on a form provided by the Council, for a certificate of exemption.

(k) The Council may require persons receiving an exemption from assessments to provide to the Council reports on the disposition of exempt blueberries and, in the case of importers, proof of payment of assessments.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001; 70 FR 2758, Jan. 14, 2005]

§ 1218.54 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, and information, including producer and consumer information, with respect to fresh and processed blueberries; and

(2) The establishment and conduct of research with respect to the use, nutritional value, sale, distribution, and marketing of fresh and processed blueberries, and the creation of new products thereof, to the end that the marketing and use of blueberries may be encouraged, expanded, improved, or made more acceptable and to advance the image, desirability, or quality of fresh and processed blueberries.

(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 program, 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, or 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, or information, then the Council shall terminate such program, plan, or project.

(d) No program, plan, or project including advertising shall be false or