

tion more than 50 percent of the stock of which is owned by a person, shall be treated as owned by the individual or person.

### **(3) Reports**

For the purpose of this subsection, the order may require a person who sells cut flowers or cut greens to retailers to submit reports to the PromoFlor Council on annual sales by the person.

(Pub. L. 103-190, § 6, Dec. 14, 1993, 107 Stat. 2283.)

## **§ 6806. Referenda**

### **(a) Requirement for initial referendum**

#### **(1) In general**

Not later than 3 years after the issuance of an order under section 6803(b)(3) of this title, the Secretary shall conduct a referendum among qualified handlers required to pay assessments under the order, as provided in section 6804(h)(1) of this title, subject to the voting requirements of subsection (b) of this section, to ascertain whether the order then in effect shall be continued.

#### **(2) Approval of order needed**

The order shall be continued only if the Secretary determines that the order has been approved by a simple majority of all votes cast in the referendum. If the order is not approved, the Secretary shall terminate the order as provided in subsection (d) of this section.

### **(b) Votes permitted**

#### **(1) In general**

Each qualified handler eligible to vote in a referendum conducted under this section shall be entitled to cast 1 vote for each separate facility of the person that is an eligible separate facility, as defined in paragraph (2).

#### **(2) Eligible separate facility**

For the purpose of paragraph (1):

##### **(A) Separate facility**

A handling or marketing facility of a qualified handler shall be considered to be a separate facility if the facility is physically located away from other facilities of the qualified handler or the business function of the facility is substantially different from the functions of other facilities owned or operated by the qualified handler.

##### **(B) Eligibility**

A separate facility of a qualified handler shall be considered to be an eligible separate facility if the annual sales of cut flowers and cut greens to retailers and exempt handlers from the facility are \$750,000 or more.

##### **(C) Annual sales determined**

For the purpose of determining the amount of annual sales of cut flowers and cut greens under subparagraph (B), subparagraphs (A) and (C) of section 6802(4) of this title shall apply.

### **(c) Suspension or termination referenda**

If an order is approved in a referendum conducted under subsection (a) of this section, ef-

fective beginning on the date that is 3 years after the date of the approval, the Secretary—

(1) at the discretion of the Secretary, may conduct at any time a referendum of qualified handlers required to pay assessments under the order, as provided in section 6804(h)(1) of this title, subject to the voting requirements of subsection (b) of this section, to ascertain whether qualified handlers favor suspension or termination of the order; and

(2) if requested by the PromoFlor Council or by a representative group comprising 30 percent or more of all qualified handlers required to pay assessments under the order, as provided in section 6804(h)(1) of this title, shall conduct a referendum of all qualified handlers required to pay assessments under the order, as provided in section 6804(h)(1) of this title, subject to the voting requirements of subsection (b) of this section, to ascertain whether qualified handlers favor suspension or termination of the order.

### **(d) Suspension or termination**

If, as a result of the referendum conducted under subsection (a) of this section, the Secretary determines that the order has not been approved by a simple majority of all votes cast in the referendum, or as a result of a referendum conducted under subsection (c) of this section, the Secretary determines that suspension or termination of the order is favored by a simple majority of all votes cast in the referendum, the Secretary shall—

(1) not later than 180 days after the referendum, suspend or terminate, as appropriate, collection of assessments under the order; and

(2) suspend or terminate, as appropriate, activities under the order as soon as practicable and in an orderly manner.

### **(e) Manner of conducting referenda**

Referenda under this section shall be conducted in such manner as is determined appropriate by the Secretary.

(Pub. L. 103-190, § 7, Dec. 14, 1993, 107 Stat. 2284.)

## **§ 6807. Petition and review**

### **(a) Petition and hearing**

#### **(1) Petition**

A person subject to an order may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

#### **(2) Hearing**

The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary. Any such hearing shall be conducted in accordance with section 6809(b)(2) of this title and be held within the United States judicial district in which the residence or principal place of business of the person is located.