

§ 1209.302

produces, on average, over 500,000 pounds annually of fresh mushrooms during the representative period and who:

(1) Owns or shares in the ownership of mushroom production facilities and equipment resulting in the ownership of the mushrooms produced;

(2) Rents mushroom production facilities and equipment resulting in the ownership of all or a portion of the mushrooms produced;

(3) Owns mushroom production facilities and equipment but does not manage them and, as compensation, obtains the ownership of a portion of the mushrooms produced; or

(4) Is a party in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce mushrooms who share the risk of loss and receive a share of the mushrooms produced. No other acquisition of legal title to mushrooms shall be deemed to result in persons becoming eligible producers.

(g) *Eligible importer* means any person or entity defined as an importer who imports, on average, over 500,000 pounds annually of fresh mushrooms during the representative period. Importation occurs when commodities originating outside the United States are entered or withdrawn from the U.S. Customs Service for consumption in the United States. Included are persons who hold title to foreign-produced mushrooms immediately upon release by the U.S. Customs Service, as well as any persons who act on behalf of others, as agents or brokers, to secure the release of mushrooms from the U.S. Customs Service when such mushrooms are entered or withdrawn for consumption in the United States.

§ 1209.302 Voting.

(a) Each person who is an eligible producer or importer, as defined in this subpart, at the time of the referendum and during the representative period, shall be entitled to cast only one ballot in the referendum. However, each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce mushrooms, in which more than one of the

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parties is a producer, shall be entitled to cast one ballot in the referendum covering only such producer's share of the ownership.

(b) Proxy voting is not authorized, but an officer or employee of an eligible corporate producer or importer, or an administrator, executor, or trustee of an eligible producing or importing entity may cast a ballot on behalf of such producer or importer entity. Any individual so voting in a referendum shall certify that such individual is an officer or employee of the eligible producer or importer, or an administrator, executor, or trustee of an eligible producing or importing entity, and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) Ballots are to be cast by mail or fax.

§ 1209.303 Instructions.

The referendum agent shall conduct the referendum, in the manner herein provided, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the time of commencement and termination of the period during which ballots may be cast.

(b) Provide ballots and related material to be used in the referendum. Ballot material shall provide for recording essential information including that needed for ascertaining:

(1) Whether the person voting, or on whose behalf the vote is cast, is an eligible voter;

(2) The total volume of mushrooms produced by the voting producer during the representative period; and

(3) The total volume of mushrooms imported by the voting importer during the representative period.

(c) Give reasonable advance public notice of the referendum:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other