

## Agricultural Marketing Service, USDA

## § 925.32

removal, resignation, or disqualification of a member the alternate shall act for the member until a successor for such member is selected and has qualified. In the event that both a member and that member's alternate are unable to attend a committee meeting, the member or committee members present may designate any other alternate to serve in such member's place at the meeting if such action is necessary to secure a quorum: *Provided*, That not more than two members or alternates acting for members who are affiliated with the same handler entity shall serve as members at the same meeting.

### § 925.28 Powers.

The committee shall have the following powers:

- (a) To administer the provisions of this part in accordance with its terms;
- (b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;
- (c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and
- (d) To recommend to the Secretary amendments to this part.

### § 925.29 Duties.

The committees shall have, among others, the following duties:

- (a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers;
- (b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine compensation and to define the duties of each;
- (c) To submit to the Secretary as soon as practicable after the beginning of each fiscal period a budget for such period, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such period;
- (d) To keep minutes, books, and records, which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;
- (e) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to growers and

handlers for examination at the office of the committee;

- (f) To cause its books to be audited by a competent public accountant at least once each fiscal period and at such times as the Secretary may request;
- (g) To act as intermediary between the Secretary and any grower or handler;
- (h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to grapes;
- (i) To submit to the Secretary the same notice of meetings of the committee as is given to its members;
- (j) To submit to the Secretary such available information as may be requested; and
- (k) To investigate compliance with the provisions of this part.

### § 925.30 Procedure.

- (a) Eight members of the committee shall constitute a quorum and any action of the committee shall require at least eight concurring votes;
- (b) The committee may vote by telephone, telegraph, or other means of communications; and any votes so cast shall be confirmed promptly in writing: *Provided*, That if an assembled meeting is held, all votes shall be cast in person.

### § 925.31 Compensation and expenses.

The members of the committee, and alternates when acting as members, shall serve without compensation but may be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part: *Provided*, That the committee at its discretion may request the attendance of one or more alternates at any or all meetings notwithstanding the expected or actual presence of the respective members and may pay expenses as aforesaid.

### § 925.32 Annual report.

The committee should, as soon as practicable, after the close of each fiscal period, prepare and mail an annual report to the Secretary and make a copy available to each grower and handler who requests a copy of the report.

**§ 925.40**

**7 CFR Ch. IX (1-1-01 Edition)**

EXPENSES AND ASSESSMENTS

**§ 925.40 Expenses.**

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part. The funds to cover such expenses shall be acquired in the manner prescribed in § 925.41.

**§ 925.41 Assessments.**

(a) Each person who first handles grapes shall pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during a fiscal period. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person during a fiscal period in an amount designed to secure sufficient funds to cover the expenses which may be incurred during such period and to accumulate and maintain a reserve fund equal to approximately one fiscal period's expenses. At any time during or after a fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later findings by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all grapes handled during the applicable fiscal period. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments in the current period's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purpose.

(c) Any assessment not paid by a handler within a period of time prescribed by the committee may be subject to an interest or late payment charge, or both. The period of time,

rate of interest, and late payment charge shall be recommended by the committee and approved by the Secretary. Subsequent to such approval, all assessments not paid within the prescribed time shall be subject to the interest or late payment charge, or both.

**§ 925.42 Accounting.**

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (d)(2) of this section, it shall be refunded proportionately to the persons from whom it was collected: *Provided*, That any sum paid by a person in excess of that person's pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such person.

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That funds in the reserve shall not exceed approximately one fiscal period's expenses. Such reserve funds may be used: (i) To defray expenses, during any fiscal period, prior to the time the assessment income is sufficient to cover such expenses; (ii) to cover deficits incurred during any fiscal period when assessment income is less than expenses; (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative; or (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practicable such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee under this part shall be used solely for the purpose specified in this part and shall be accounted for in the