

## Agricultural Marketing Service, USDA

## § 929.33

selected from those nominated pursuant to § 929.22(b)(1) shall serve as members at the same meeting: *And provided, further,* That grower alternates shall not serve in place of an absent non-industry member.

[27 FR 8101, Aug. 15, 1962, as amended at 43 FR 29765, July 11, 1978]

### § 929.30 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.

### § 929.31 Duties.

The committee 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 the 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 fiscal 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 year 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 cranberries;

(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 he may request; and

(k) To investigate compliance with the provisions of this part.

### § 929.32 Procedure.

(a) Five members of the committee, or alternates acting for members, shall constitute a quorum and any action of the committee shall require at least five concurring votes: *Provided,* That if the committee is increased by the addition of a public member and such public member or alternate is present at a meeting, 6 members shall constitute a quorum and any action of the committee on which the public member votes shall require 6 concurring votes. If the public member abstains from voting on any particular matter, 5 concurring votes shall be required for an action of the committee.

(b) The committee may vote by telephone, telegraph, or other means of communication, 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.

(c) All assembled meetings of the committee shall be open to growers and handlers. The committee shall publish notice of such meetings in such newspapers as it deems appropriate and shall mail notice of such meetings to each grower and handler who has filed his name and address with the committee for such purpose.

[27 FR 8101, Aug. 15, 1962, as amended at 43 FR 29765, July 11, 1978]

### § 929.33 Expenses and compensation.

The members of the committee, and alternates when acting as members, shall serve without compensation but shall be reimbursed for necessary expenses, as approved by the committee, incurred by them in the performance of their duties under this part. The committee at its discretion may request

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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.

### EXPENSES AND ASSESSMENTS

#### § 929.40 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 hereof. The funds to cover such expenses shall be paid to the committee by handlers in the manner prescribed in § 929.41.

#### § 929.41 Assessments.

(a) As a handler's pro rate share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during a fiscal period, a handler shall pay to the committee assessments on all cranberries acquired as the first handler thereof during such period, except as provided in § 929.55: *Provided*, That no handler shall pay assessments on excess cranberries as provided in § 929.57. 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 handler during a fiscal period in an amount designated to secure funds sufficient 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 the fiscal period, the Secretary may increase the assessment rate in order to secure funds sufficient to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all cranberries acquired during the applicable fiscal period. In

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order to provide funds for the administration of the provisions of this part during the first part of a fiscal year, before sufficient operating income is available from assessments, the committee may accept the payment of assessments in advance and may also borrow money for such purposes.

(c) If a handler does not pay such assessment within the period of time prescribed by the committee, the assessment may be increased by either a late payment charge, or an interest charge, or both, at rates prescribed by the committee, with the approval of the Secretary.

[57 FR 38748, Aug. 27, 1992]

#### § 929.42 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, the committee, with the approval of the Secretary, may carryover such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve do not exceed approximately one fiscal period's expenses. Such reserve funds may be used (1) to cover any expenses authorized by this part and (2) to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, it shall be refunded proportionately to the handlers from whom the excess was collected. Upon termination of this part, 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 practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.