

§ 958.29

vote for the committee member and alternate to represent the production area-at-large. An eligible voter's privilege of casting only one vote, as aforesaid, shall be construed to permit such voter to cast one vote for each member and alternate position to be filled in the respective district or portion of the production area, as the case may be, in which he elects to vote; and

(g) The producer and handler members of the committee shall nominate the public member and alternate. The committee shall prescribe such additional qualifications, administrative rules and procedures for selection and voting for each candidate as it deems necessary and as the Secretary approves.

[22 FR 26, Jan. 3, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 47 FR 8000, Feb. 24, 1982]

§ 958.29 Failure to nominate.

If nominations are not made within the time and in the manner specified by the Secretary pursuant to § 958.28, the Secretary may, without regard to nominations, select the committee members and alternates on the basis of the representation provided for in this subpart.

§ 958.30 Vacancies.

To fill any vacancy occasioned by the failure of any person, selected as a committee member or alternate, to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term may be selected by the Secretary from nominations made in the manner specified in § 958.28, or the Secretary may select such committee member or alternate from previously unselected nominees on the current nominee list from the district or portion of the production area, as the case may be, that is involved, or from other eligible persons. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of the representation provided for in this subpart.

7 CFR Ch. IX (1-1-08 Edition)

EXPENSES AND ASSESSMENTS

§ 958.40 Expenses.

The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred by it during each fiscal period for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Handlers shall share expenses upon the basis of a fiscal period. Each handler's share of such expenses shall be proportionate to the ratio between the total quantity of such handler's onion shipments inspected pursuant to this part that are handled by him as the first handler thereof during a fiscal period, and the total quantity of such onions handled by all handlers as first handlers thereof during the same period.

§ 958.41 Budget.

Prior to each fiscal period, and as may be necessary thereafter the committee shall prepare a budget of estimated income and expenditures necessary for the administration of this part. The committee shall recommend to the Secretary a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget promptly to the Secretary with an accompanying report thereon showing the basis for its calculations and recommended rate.

[22 FR 26, Jan. 3, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 41 FR 36196, Aug. 27, 1976]

§ 958.42 Assessments.

(a) The funds to cover the committee's expenses pursuant to § 958.40 shall be acquired by the levying of assessments upon handlers as provided in this subpart. Each handler who handles onions as the first handler thereof which are inspected pursuant to this part shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of such expenses.

(b) Assessments shall be levied upon handlers at rates established by the

Agricultural Marketing Service, USDA

§ 958.47

Secretary. Such rates may be established upon the basis of the committee's recommendations or other available information.

(c) At any time during or subsequent to a given fiscal period, the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendation, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all onion shipments inspected pursuant to this part during such fiscal period.

§ 958.43 Accounting.

(a) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part.

(b) The Secretary may at any time require the committee, its members and alternates, employees, agents, and all other persons to account for all receipts and disbursements, funds, property, or records for which they are responsible. Whenever any person ceases to be a member or alternate of the committee, he shall account for all receipts, disbursements, funds, and property (including, but not being limited to, books and other records) pertaining to the committee's activities for which he is responsible, and deliver all such property and funds in his hands to such successor, agency, or person as may be designated by the Secretary, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in each such successor, agency, or person as may be designated by the Secretary the right to all of such property and funds and all claims vested in such person.

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, and any other committee property during periods of suspension of this part, or during any periods when regulations are not in effect; and, if the Secretary determines such action appropriate, he may direct that such person or persons shall so act as trustee or trustees.

§ 958.44 Reserve fund.

At the end of each fiscal period, funds in excess of the committee's expenses may be placed in an operating reserve not to exceed approximately 1 fiscal year's operational expenses or such lower limits as the committee, with the approval of the Secretary, may establish. Also, the committee, with the approval of the Secretary, may include in its budget an item for such reserve. Funds in the reserve shall be available for use by the committee for expenses authorized pursuant to § 958.40. Funds in excess of those placed in the operating reserve shall be refunded to handlers. Each handler's share of such excess shall be the amount he paid in excess of his pro rata share of the expenses of the committee.

[32 FR 11261, Aug. 3, 1967]

§ 958.45 Accounting of funds upon termination of the order.

Any funds collected as assessments pursuant to this subpart and remaining unexpended in the possession of the committee after termination of this part shall be distributed in such manner as the Secretary may direct: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

[32 FR 11262, Aug. 3, 1967]

§ 958.46 Contributions.

The committee may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 958.47. Furthermore, such contributions shall be free from any encumbrances by the donor and the committee shall retain complete control of their use.

[41 FR 36196, Aug. 27, 1976]

RESEARCH AND DEVELOPMENT

§ 958.47 Research and development.

(a) The committee with the approval of the Secretary, may establish or provide for the establishment of projects involving production research, marketing research and development projects, and marketing promotion including paid advertising, designed to