

## § 923.22

## 7 CFR Ch. IX (1–1–10 Edition)

their respective successors are selected and have qualified. Committee members shall not serve more than three consecutive terms. Members who have served for three consecutive terms must leave the committee for at least one year before becoming eligible to serve again.

[70 FR 44252, Aug. 2, 2005]

### § 923.22 Nomination.

(a) *Initial members.* Nominations for each of the ten initial grower members and five initial handler members of the committee, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by individual growers and handlers. Such nominations may be made by means of group meetings of the growers and handlers concerned in each district. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for initial members and alternate members of the committee are not filed pursuant to, and within the time specified, in this section, the Secretary may select such initial members and alternate members without regard to nominations, but selections shall be on the basis of the representation provided for in § 923.20.

(b) *Successor members.* (1) The committee shall hold or cause to be held, not later than March 1 of each year, a meeting or meetings of growers and handlers in each district for the purpose of designating nominees for successor members and alternate members of the committee. At each such meeting a chairman and a secretary shall be selected by the growers and handlers eligible to participate therein. The chairman shall announce at the meeting the number of votes cast for each person nominated for member or alternate member and shall submit promptly to the committee a complete report concerning such meeting. The committee shall, in turn, promptly submit a copy of each such report to the Secretary.

(2) Only growers, including duly authorized officers or employees of corporate growers, who are present at such nomination meetings may participate in the nomination and election of

nominees for grower members and their alternates. Each grower shall be entitled to cast only one vote for each nominee to be elected in the district in which he produces cherries. No grower shall participate in the election of nominees in more than one district in any one fiscal year. If a person is both a grower and a handler of cherries, such person may vote either as a grower or as a handler but not as both.

(3) Only handlers, including duly authorized officers or employees of handlers, who are present at such nomination meetings, may participate in the nomination and election of nominees for handler members and their alternates. Each handler shall be entitled to cast only one vote for each nominee to be elected in the district in which he handles cherries. No handler shall participate in the election of nominees in more than one district in any one fiscal year. If a person is both a grower and a handler of cherries, such person may vote either as a grower or as a handler but not as both.

### § 923.23 Selection.

From the nominations made pursuant to § 923.22, or from other qualified persons, the Secretary shall select the ten grower members of the committee, the five handler members of the committee, and an alternate for each member.

### § 923.24 Failure to nominate.

If nominations are not made within the time and in the manner prescribed in § 923.22, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § 923.20.

### § 923.25 Acceptance.

Any person prior to selection as a member or an alternate member of the committee shall qualify by filing with USDA a written acceptance of willingness to serve on the committee.

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### § 923.26 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of

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the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in §§ 923.22 and 923.23. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § 923.20.

### § 923.27 Alternate members.

An alternate member of the committee, during the absence or at the request of the member for whom he is an alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified. In the event both a member of the committee and his alternate are unable to attend a committee meeting, the member of the committee may designate any other alternate member from the same district and group (handler or grower) to serve in such member's place and stead.

### § 923.30 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.

### § 923.31 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 accountant at least once each fiscal year and at such time 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 cherries;

- (i) To submit to the Secretary such available information as he may request;

- (j) To notify producers and handlers of all meetings of the committee to consider recommendations for regulations;

- (k) To give the Secretary the same notice of meetings of the committee as is given to its members;

- (l) To investigate compliance with the provisions of this part;

- (m) With the approval of the Secretary, to redefine the districts into which the production area is divided, and to reapportion the representation of any district on the committee: *Provided*, That any such changes shall reflect, insofar as practicable, shifts in cherry production within the districts and the production area.

### § 923.32 Procedure.

- (a) Twelve members of the committee, including alternates acting for