

**§ 930.32**

**7 CFR Ch. IX (1-1-10 Edition)**

that may be contained in them, available to growers and handlers for examination at the offices of the Board;

(i) To act as intermediary between the Secretary and any grower or handler with respect to the operations of this part;

(j) To investigate and assemble data on the growing, handling, and marketing conditions with respect to cherries;

(k) To apprise the Secretary of all Board meetings in a timely manner;

(l) To submit to the Secretary such available information as the Secretary may request;

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

(n) To develop and submit an annual marketing policy for approval by the Secretary containing the optimum supply of cherries for the crop year established pursuant to § 930.50 and recommending such action(s) necessary to achieve such optimum supply;

(o) To implement volume regulations established under § 930.50 and issued by the Secretary under § 930.51, including the release of any inventory reserves;

(p) To provide thorough communication to growers and handlers regarding the activities of the Board and to respond to industry inquiries about Board activities;

(q) To oversee the collection of assessments levied under this part;

(r) To enter into contracts or agreements with such persons and organizations as the Board may approve for the development and conduct of activities, including research and promotion activities, authorized under this part or for the provision of services required by this part and for the payment of the cost thereof with funds collected through assessments pursuant to § 930.41 and income from such assessments. Contracts or agreements for any plan or project shall provide that:

(1) The contractors shall develop and submit to the Board a plan or project together with a budget(s) which shall show the estimated cost to be incurred for such plan or project;

(2) Any contract or agreement for a plan or project and any plan or project adopted by the Board shall only become effective upon approval by the Secretary; and

(3) Every such contracting party shall keep accurate records of all of its transactions and make periodic reports to the Board of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary or the Board may require. The Secretary or employees of the Board may audit periodically the records of the contracting party;

(s) Pending disbursement consistent with its budget, to invest, with the approval of the Secretary, and in accordance with applicable Departmental policies, funds collected through assessments authorized under § 930.41 and income from such assessments;

(t) To establish standards or grade requirements for cherries for frozen and canned cherry products, subject to the approval of the Secretary;

(u) To borrow such funds, subject to the approval of the Secretary and not to exceed the expected expenses of one fiscal year, as are necessary for administering its responsibilities and obligations under this part; and

(v) To establish, with the approval of the Secretary, such rules and procedures relative to administration of this subpart as may be consistent with the provisions contained in this subpart and as may be necessary to accomplish the purposes of the Act and the efficient administration of this subpart.

**§ 930.32 Procedure.**

(a) Two-thirds of the members of the Board, including alternates acting for absent members, shall constitute a quorum. For any action of the Board to pass, at least two-thirds of the entire Board must vote in support of such action.

(b) The Board may provide through its own rules and regulations, subject to approval by the Secretary, for simultaneous meetings of groups of its members assembled at different locations and for votes to be conducted by telephone or other means of communication. Votes so cast shall be promptly confirmed in writing.

(c) All meetings of the Board are open to the public, although the Board may hold portions of meetings in executive session for the consideration of

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certain business. The Board will establish, with the approval of the Secretary, a means of advanced notification of growers and handlers of Board meetings.

[61 FR 49942, Sept. 24, 1996, as amended at 67 FR 51714, Aug. 8, 2002]

### § 930.33 Expenses and compensation.

Except for the public member and alternate public member who shall receive such compensation as the Board may establish and the Secretary may approve, the members of the Board, and alternates when acting as members, shall serve without compensation but shall be reimbursed for necessary and reasonable expenses, as approved by the Board, incurred by them in the performance of their duties under this part. The Board 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 member(s), and may pay the expenses of such alternates.

#### EXPENSES AND ASSESSMENTS

### § 930.40 Expenses.

The Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred 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 by the levying of assessments as provided in § 930.41.

### § 930.41 Assessments.

(a) An assessment may be levied upon handlers annually under this part to cover the administrative costs of the Board, costs of inspection, and any research, development and promotion activities initiated by the Board under § 930.48.

(b) Each part of an assessment intended to cover the costs of each activity in paragraph (a) of this section, must be identified and approved by the Board and the Secretary, and any notification or other statement regarding assessments provided to handlers must contain such information.

(c) As a pro rata share of the administrative, inspection, research, development, and promotion expenses which the Secretary finds reasonable and likely to be incurred by the Board during a fiscal period, each handler shall pay to the Board assessments on all cherries handled, as the handler thereof, during such period: *Provided*, a handler shall be exempt from any assessment only on the tonnage of handled cherries that either are diverted by destruction at the handler's facilities according to § 930.59 or are cherries represented by grower diversion certificates issued pursuant to § 930.58(b) and acquired by handlers as described in § 930.59.

(d) The Secretary, after consideration of the recommendation of the Board, shall fix the rate of assessment to be paid by each handler during the fiscal period in an amount designed to secure sufficient funds to cover the expenses which may be approved and incurred during such period or subsequent period as provided in paragraph (c) of this section. At any time during or after the fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all cherries 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, the Board may accept the payment of assessments in advance, and may borrow money for such purposes.

(e) Assessments not paid within a time prescribed by the Board may be made subject to interest or late payment charges, or both. The period of time, rate of interest, and late payment charge will be as recommended by the Board and approved by the Secretary: *Provided*, That when interest or late payment charges are in effect, they shall be applied to all assessments not paid within the prescribed period of time.

(f) Assessments shall be calculated on the basis of pounds of cherries handled. The established assessment rate may