

### § 946.33

on the basis of the representation provided for in this subpart.

[37 FR 10916, June 1, 1972, as amended at 70 FR 41134, July 18, 2005]

#### § 946.33 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a committee member or as an 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 § 946.32, or the Secretary may select such committee member or alternate from previously unselected nominees on the current nominee list from the district involved. 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.

[17 FR 2912, Apr. 4, 1952. Redesignated at 26 FR 12751, Dec. 30, 1961, and further redesignated at 37 FR 10917, June 1, 1972]

#### EXPENSES AND ASSESSMENTS

#### § 946.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each fiscal period for its maintenance and functioning, and for such other purposes as the Secretary, pursuant to this subpart, determines to be appropriate. The committee shall submit to the Secretary a budget for each fiscal period, including an explanation of the items appearing therein, and a recommendation as to the rate of assessment for such fiscal period.

[37 FR 10917, June 1, 1972]

#### § 946.41 Assessments.

Each handler shall pay to the committee upon demand, his pro rata share of the expenses authorized by the Secretary for each fiscal period. Each handler's pro rata share shall be the rate of assessment per hundredweight fixed

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by the Secretary times the quantity of potatoes which he handles as the first handler thereof. At any time during or after a fiscal period, the Secretary may increase the rate of assessment as necessary to cover authorized expenses. Such increase shall be applicable to all potatoes handled during the given fiscal period. The payment of expenses for the maintenance and functioning of the committee may be required during periods when no regulations are in effect. If a handler does not pay his assessment within the time prescribed by the committee, the assessment may be increased by a late payment charge or an interest charge, or both, at rates prescribed by the committee with the approval of the Secretary.

[37 FR 10917, June 1, 1972]

#### § 946.42 Accounting.

(a) *Excess funds.* At the end of a fiscal period, funds in excess of the year's expenses shall be placed in an operating reserve not to exceed approximately two fiscal periods' operational expenses or such lower limits as the committee, with the approval of the Secretary, may establish. Funds in such reserve shall be available for use by the committee for expenses authorized pursuant to § 946.40. 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 of assessments he paid in excess of his pro rata share of the actual expenses of the committee and the addition, if any, to the operating reserve.

(b) *Accounting of funds upon termination of order.* Any money 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.

[37 FR 10917, June 1, 1972]

#### § 946.43 Funds.

All funds received by the committee pursuant to any provisions of this subpart shall be used solely for the purposes specified in this subpart and shall

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be accounted for in the following manner:

(a) The Secretary may at any time require the committee and its members to account for all receipts and disbursements; and

(b) Whenever any person ceases to be a committee member or alternate, he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all the property, funds, or claims vested in such member or alternate.

### REGULATION

#### § 946.50 Marketing policy.

(a) Prior to each marketing season, the committee shall consider and prepare a policy statement for the marketing of potatoes. In developing its marketing policy, the committee shall investigate relevant supply and demand conditions for potatoes. In such investigations, the committee shall give appropriate considerations to the following:

(1) Market prices of potatoes, including prices by grade, size, quality, and maturity in different packs of fresh potatoes and of the various forms of processed potatoes;

(2) Supplies of potatoes by grade, size, quality, and maturity in the production area and in other production areas, of fresh potatoes, and the supplies of various forms of processed potatoes;

(3) The trend and level of consumer income;

(4) Establishing and maintaining orderly marketing conditions for potatoes;

(5) Orderly marketing of potatoes as will be in the public interest; and

(6) Other relevant factors.

(b) In the event it becomes advisable to deviate from such marketing policy because of changed supply and demand conditions, the committee shall formulate a revised marketing policy statement in accordance with the appro-

priate considerations in paragraph (a) of this section.

(c) The committee shall submit a report to the Secretary setting forth such marketing policy. Notice of each such marketing policy and any revision thereof shall be given to producers, handlers, and other interested parties by bulletins, newspapers, or other appropriate media, and copies thereof shall be available for examination at the committee office to all interested parties.

[37 FR 10917, June 1, 1972]

#### § 946.51 Recommendation for regulations.

The committee shall recommend to the Secretary regulations, or amendments, modifications, suspension, or termination thereof, whenever it finds that such regulations as provided in § 946.52 are in accordance with the marketing policy established pursuant to § 946.50 and that such regulations will tend to effectuate the declared policy of the act.

[37 FR 10917, June 1, 1972]

#### § 946.52 Issuance of regulations.

(a) The Secretary shall limit the shipment of potatoes as set forth in this subpart whenever he finds from the recommendation and information submitted by the committee, or from other available information, that it would tend to effectuate the declared policy of the act:

(1) To regulate, in any or all portions of the production area the handling of particular grades, sizes, qualities or maturity of any or all varieties of potatoes during any period;

(2) To regulate the handling of particular grades, sizes, qualities or maturities of any or all varieties of potatoes, or for any combination of the foregoing during any period in the States of Oregon and Idaho which have been shipped from the production area to specified locations therein for grading or storage pursuant to § 946.54;

(3) To regulate the handling of particular grades, sizes, qualities or maturities of any or all varieties differently