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 recommendations, or other available information, the Secretary may approve an amended budget and increase the assessment rate. Such increase shall be applicable to all Vidalia onions which were handled during such fiscal period.

(d) 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 of this part are suspended or become inoperative.

(e) To provide funds for the administration of the provisions of this part during the initial fiscal period or the first part of a fiscal period when neither sufficient operating reserve funds nor sufficient revenue from assessments on the current season’s shipments are available, the committee may accept payment of assessments in advance or may borrow money for such purposes.

(f) The committee may impose a late payment charge or an interest charge or both, on any handler who fails to pay any assessment in a timely manner. Such time and the rates shall be recommended by the committee and approved by the Secretary.

§ 955.43 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, such person shall account for all receipts and disbursements and deliver all property and funds in such member’s possession to the committee, pertaining to the committee’s activities for which such person was responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and 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, or any other committee property during periods of suspension of this part, or during any period or periods when regulations are not in effect and, upon determining such action is appropriate, the Secretary may direct that such person or persons shall act as trustee or trustees for the committee.

§ 955.44 Excess funds.

If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for as follows:

(a) The committee, with the approval of the Secretary, may establish an operating reserve and may carry over to subsequent fiscal periods excess funds in a reserve so established, except funds in the reserve shall not exceed the equivalent of approximately three fiscal periods’ budgeted expenses. Such reserve funds may be used:

(1) To defray any expenses authorized under this part;

(2) To defray expenses during any fiscal period prior to the time assessment income is sufficient to cover such expenses;

(3) To cover deficits incurred during any fiscal period when assessment income is less than expenses;

(4) To defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative; and

(5) To cover necessary expenses of liquidation in the event of termination of this part.

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 except that to the extent practicable, such funds shall be returned.
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pro rata to the persons from whom such funds were collected.

(b) If such excess is not retained in a
reserve as provided in paragraph (a) of
this section, each handler entitled to a
proportionate refund of the excess as-
sessments collected shall be credited at
the end of a fiscal period with such re-
fund against the operations of the fol-
lowing fiscal period unless such han-
der demands payment thereof, in
which event such proportionate refund
shall be paid.

§ 955.45 Contributions.

The committee may accept voluntary
contributions but these shall only be
used to pay expenses incurred pursuant
to § 955.50. Such contributions shall be
free from any encumbrances by the
donor, and the committee shall retain
complete control of their use.

RESEARCH AND DEVELOPMENT

§ 955.50 Research and development.

(a) The committee, with the approval
of the Secretary, may establish or pro-
vide for the establishment of produc-
tion research, marketing research and
development and marketing promotion
projects, including paid advertising,
designed to assist, improve, or promote
the marketing, distribution, consump-
tion, or efficient production of Vidalia
onions. Any such project for the pro-
motion and advertising of Vidalia on-
ions may utilize an identifying mark
which shall be made available for use
by all handlers in accordance with such
terms and conditions as the com-
mitee, with the approval of the Sec-
retary, may prescribe. The expense of
such projects shall be paid from funds
collected pursuant to § 955.42 or § 955.45.

(b) In recommending projects pursu-
ant to this section, the committee
shall give consideration to the fol-
lowing:

1. The expected supply of Vidalia on-
ions in relation to market require-
ments;
2. The supply situation among com-
peting areas and commodities;
3. The anticipated benefits from
such projects in relation to their costs;
4. The need for marketing research
with respect to any market develop-
ment activity; and
5. Other relevant factors.

(c) If the committee should conclude
that a program of research and devel-
opment should be undertaken, or con-
tinued, in any fiscal period, it shall
submit the following for the approval
of the Secretary:

1. Its recommendations as to the
funds to be obtained pursuant to § 955.42
or § 955.45;
2. Its recommendation as to any re-
search projects; and
3. Its recommendations as to pro-
motion activity and paid advertising.

(d) Upon conclusion of each activity,
but at least annually, the committee
shall summarize and report the results
of such activity to the Secretary.

(e) All marketing promotion activity
engaged in by the committee, includ-
ing paid advertising, shall be subject to
the following terms and conditions:

1. No marketing promotion, includ-
ing paid advertising, shall refer to any
private brand, private trademark or
private trade name;
2. No promotion or advertising shall
disparage the quality, use, value or
sale of like or any other agricultural
commodity or product, and no false or
unwarranted claims shall be made in
connection with the product; and
3. No promotion or advertising shall
be undertaken without reason to be-
lieve that returns to producers will be
improved by such activity.

REPORTS AND RECORDKEEPING

§ 955.60 Reports and recordkeeping.

Upon request of the committee, made
with the approval of the Secretary,
each handler shall furnish to the com-
mitee, in such manner and at such
time as it may prescribe, such reports
and other information as may be nec-
essary for the committee to perform its
duties under this part.

(a) Such reports may include, but are
not limited to, the following:

1. The quantities of Vidalia onions
received by a handler;
2. The quantities disposed of by the
handler;
3. The date of each such disposition;
and
4. The identification of the carrier
transporting such Vidalia onions.