

## § 930.24

However, if the grower did not participate in the nominations process, he or she may select in which district he or she wishes to vote and shall notify the Secretary or the Board of such selection.

(3)(i) Except as provided in paragraph (c)(4) of this section, only handlers, including duly authorized officers or employees of handlers, who are eligible to serve as handler members of the Board shall participate in the election of handler members and alternate handler members of the Board. No handler shall participate in the election of Board members in more than one district during any fiscal period. If a handler does handle cherries in more than one district, he or she must vote in the same district in which the handler elected to participate in the nominations process under paragraph (b)(4) of this section. However, if a handler did not participate in the nominations process, that handler may select in which district he or she chooses to vote and shall notify the Secretary or the Board of such selection. If a person is a grower and a grower-handler only because some or all of his or her cherries were custom packed, but he or she does not own or lease and operate a processing facility, such person may vote only as a grower.

(ii) To be seated as a handler representative in any district, the successful candidate must receive the support of handler(s) that handled a combined total of no less than five percent (5%), of the average production, as that term is used in § 930.20, handled in the district; *Provided*, that this paragraph shall not apply if its application would result in a sales constituency conflict as provided in § 930.20(g).

(4) In districts entitled to only one Board member, growers and handlers may vote for either the grower or handler nominee(s) for the single seat allocated to those districts.

(d) The members of the Board appointed by the Secretary pursuant to § 930.24 shall, at the first meeting and whenever necessary thereafter, by at least a two-thirds vote of the entire Board, select individuals to serve as the public member and alternate public member of the Board from the list of nominees received from growers and handlers pursuant to paragraph (b) of

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this section or from other persons nominated by the Board. The persons selected shall be subject to appointment by the Secretary under § 930.24.

(e) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

[61 FR 49942, Sept. 24, 1996, as amended at 75 FR 33677, June 15, 2010]

### § 930.24 Appointment.

The selection of nominees made pursuant to elections conducted under § 930.23(c) shall be submitted to the Secretary in a format which indicates the nominees by district, with the nominee receiving the highest number of votes at the top and the number of votes received being clearly indicated. The Secretary shall appoint from those nominees or from other qualified individuals, the grower and handler members of the Board and an alternate for each such member on the basis of the representation provided for in § 930.20 or as provided for in any reapportionment or reestablishment undertaken pursuant to § 930.21. The public member and alternate public member are nominated by the Board pursuant to § 930.23(d) and shall also be subject to appointment by the Secretary. The Secretary shall appoint from nominees by the Board or from other qualified individuals the public member and the alternate public member.

### § 930.25 Failure to nominate.

If nominations are not made within the time and in the manner prescribed in § 930.23, the Secretary may, without regard to nominations, select the members and alternate members of the Board on the basis of the representation provided for in § 930.20 or as provided for in any reapportionment or reestablishment undertaken pursuant to § 930.21.

### § 930.26 Acceptance.

Each person to be appointed by the Secretary as a member or as an alternate member of the Board shall, prior to such appointment, qualify by advising the Secretary that he/she agrees to serve in the position for which nominated for selection.