

## Agricultural Marketing Service, USDA

## § 915.40

(f) To cause its books to be audited by a certified public accountant at least once each fiscal year, and at such other times as the Secretary may request;

(g) To act as intermediary between the Secretary and any grower or handler;

(h) To investigate growing and maturity conditions of avocados, and to assemble data in connection therewith;

(i) To engage in such research relating to the determination of maturity and grade standards for avocados as may be approved by the Secretary;

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

(k) To notify, as provided in this part, producers and handlers of all meetings of the committee to consider recommendations for regulation;

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

(m) To consult with such representatives of growers or groups of growers as may be deemed necessary and to pay the travel expenses incurred by such representatives in attending committee meetings at the request of the committee: *Provided*, That the committee shall not pay the travel expenses of more than three such representatives in connection with any one meeting of the committee; and

(n) To investigate compliance with the provisions of this part.

### § 915.30 Procedure.

(a) Except as provided in paragraph (c) of this section, six members of the committee, including alternates acting for members, shall constitute a quorum and any decision, recommendation or other action of the committee shall require not less than five concurring votes including one by a handler, or an alternate acting as such: *Provided*, That if the committee is increased by one, the quorum requirement shall be increased to seven and any decision, recommendation or other action of the committee shall require not less than six concurring votes including one by a handler, or an alternate acting as such.

(b) The committee may provide for simultaneous meetings of groups of its members assembled at two or more

designated places: *Provided*, That such meetings shall be subject to the establishment of telephone communication between all such groups and the availability of loud speaker receivers for each group so that each member may participate in the discussions and other actions the same as if the committee were assembled in one place.

(c) For any recommendation of the committee for an assessment rate change, a quorum of seven committee members and a two-thirds majority vote of approval of those in attendance is required.

[19 FR 3439, June 11, 1954, as amended at 22 FR 3513, May 21, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 43 FR 39322, Sept. 5, 1978; 73 FR 6837, Feb. 6, 2008]

### § 915.31 Expenses.

The members of the committee and their respective alternates when performing duties at the direction of the committee, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part.

[43 FR 39323, Sept. 5, 1978]

### § 915.32 Annual report.

The committee shall, as soon as practicable after the close of each fiscal year, prepare and mail an annual report to the Secretary, and to each handler and grower who requests a copy of the report. This annual report shall contain at least: (a) A complete review, by districts, of the regulatory operations during the fiscal year; (b) an appraisal of the effect of such regulatory operations upon the avocado industry; and (c) any recommendations for changes in the program.

[19 FR 3439, June 11, 1954, as amended at 22 FR 3513, May 21, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961]

## EXPENSES AND ASSESSMENTS

### § 915.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred to enable the committee to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal year. The

## §915.41

funds to cover such expenses shall be acquired by the levying of assessments as provided for in §915.41.

[19 FR 3439, June 11, 1954. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 35 FR 16627, Oct. 27, 1970]

### §915.41 Assessments.

(a) Each person who first handles avocados shall, with respect to the avocados so handled by him, pay to the committee upon demand such person's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during each fiscal year. Each such person's share of such expenses shall be equal to the ratio between the total quantity of avocados handled by him as the first handler thereof during the applicable fiscal year, and the total quantity of avocados so handled by all persons during the same fiscal year. 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 thereof are suspended or become inoperative. If a handler does not pay his assessment within the time prescribed by the committee, the unpaid assessment may be subject to an interest charge at rates prescribed by the committee with the approval of the Secretary.

(b) The Secretary shall fix the rate of assessment per 55-pounds of fruit or equivalent in any container or in bulk, to be paid by each such handler. At any time during or after a fiscal year, 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 expense which may be incurred. Such increase shall be applied to all fruit handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance, or borrow money on an emergency short-term basis. The authority of the committee to borrow money is subject to approval of the Secretary and may be used only to meet financial obligations as the obligations occur or to allow the

## 7 CFR Ch. IX (1-1-12 Edition)

committee to adjust its reserve funds to meet such obligations.

[19 FR 3439, June 11, 1954. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 35 FR 16627, Oct. 27, 1970; 40 FR 52605, Nov. 11, 1975; 43 FR 39323, Sept. 5, 1978; 73 FR 6837, Feb. 6, 2008]

### §915.42 Accounting.

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

(1) Except as provided in paragraph (a)(2) of this section, each person entitled to a proportionate refund of the excess assessment shall be credited with such refund against the operation of the following fiscal year unless such person demands repayment thereof, in which event it shall be paid to him: *Provided*, That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal year may be applied by the committee at the end of such fiscal year to any outstanding obligations due the committee from such person.

(2) The Secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal year which are in excess of the expenses necessary for committee operations during such year may be carried over into following years as a reserve. Such reserve may be established at an amount not to exceed approximately 3 fiscal years' operational expenses. Funds in the reserve may be used to cover the necessary expenses of liquidation, in the event of termination of this part, and to cover the expenses incurred for the maintenance and functioning of the committee during any fiscal year when there is crop failure, or during any period of suspension of any or all of the provisions of this part. Such reserve may also be used by the committee to finance its operations during any fiscal year prior to the time that assessment income is sufficient to cover such expenses and to cover deficits incurred during any fiscal year when income is less than expenses. Upon termination of this part, any funds not required to