

**§ 993.28**

**7 CFR Ch. IX (1-1-08 Edition)**

and if to represent a district also producers in the district for which selected, and, except for producer members representing cooperative producers, shall not be engaged in the handling of prunes either in a proprietary capacity or as a director, officer, or employee. Handler members of the Committee shall be handlers in the group they represent or directors, officers, or employees of such handlers. These eligibility requirements shall not apply to the public member and alternate member.

[46 FR 61636, Dec. 30, 1981]

**§ 993.28 Nominees.**

(a) For the purpose of obtaining nominations for producer members to represent independent producers, the Committee shall, with the approval of the Secretary, divide the area into districts giving, insofar as practicable, equal representation to numbers of independent producers and production of prune tonnage by such producers. The number of districts shall be equal to the number of such producer members or seven, whichever is the lesser. Candidates for nomination by independent producers from the various districts shall be obtained at meetings convened by the committee. Following such meetings, the committee shall prepare a separate ballot for each of the districts, or a joint ballot for two or more districts, containing (1) the names of the candidates for each district involved and (2) provision for write-in candidates. The ballot shall be mailed to each independent producer of record in each district. The voting procedure (including the casting of the ballot by mail addressed to the committee), and tabulation of votes shall be in accordance with rules and regulations prescribed by the committee, with the approval of the Secretary. Each voter shall be entitled to cast only one vote for a member nominee and only one vote for an alternate member nominee in a district in which he is a producer, and no voter shall vote for candidates in more than one district. In case he is a producer in more than one district, he shall elect in which of such districts he will vote and notify the committee as to his choice. Whenever the number of pro-

ducer members to represent independent producers during the ensuing term of office is to exceed seven, one nominee shall be nominated by independent producers in each of the seven districts and an additional nominee for each member in excess of the seven members shall be nominated, without reference to districts, by such seven nominees. The committee shall recommend the establishment of districts, or any changes therein, to the Secretary prior to January 31 of each year in which nominations are made.

(b) Before April 16 of each even-numbered year nominations of producer members to represent cooperative producers and handler members to represent cooperative handlers shall be submitted to the Secretary by cooperative marketing associations engaged in the handling of prunes. The number of cooperative producer members and handler members to be nominated by each cooperative marketing association shall bear, as near as practicable, the same percentage as each cooperative marketing association's tonnage of prunes handled as first handler thereof is to the total tonnage handled by all cooperative marketing associations during the preceding crop year.

(c) In any year in which nominations are made following a crop year during which the tonnage of prunes handled by independent handlers as first handlers exceeded the tonnage of prunes handled by cooperative handlers as first handlers, nominees for member positions to represent independent handlers shall be nominated as follows:

(1) Each of the two independent handlers who handled during such preceding crop year, the two largest percentages of the prune tonnage handled by all independent handlers shall nominate from their respective organizations, one nominee for a handler member and one for an alternate member;

(2) Three independent handlers who handled during such preceding crop year the next three largest percentages of the prune tonnage handled by all independent handlers shall nominate from among their organizations, one nominee for a handler member and one for an alternate member;

(3) All other independent handlers who handled the remaining percentage

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of such prune tonnage shall nominate from their organizations, one nominee for a handler member and one for an alternate member.

In any year in which nominations are made following a crop year during which the tonnage of prunes handled by cooperative handlers as first handlers exceeded the tonnage of prunes handled by independent handlers as first handlers, nominees for two member and alternate positions to represent the independent handlers referred to in paragraph (c)(1) of this section shall be nominated in accordance with said paragraph (c)(1), and one nominee for the member and one for the alternate position to represent all other independent handlers shall be nominated by the handlers referred to in paragraph (c) (2) and (3) of this section and the votes of such handlers shall be weighted by the tonnage of prunes handled during the preceding crop year by the respective handlers.

(d) The committee shall establish with the approval of the Secretary, the procedures by which such nominations, other than by cooperative marketing associations engaged in the handling of prunes, shall be obtained and shall submit such nominations to the Secretary before April 16 of the year in which nominations are made. In the event the committee determines that any nominating procedure specified in this section does not result in equitable representation, it may establish, with the prior approval of the Secretary, such modifications as will tend to assure such representation.

(e) The producer and handler members of the Committee selected for a new term of office shall nominate a public member and alternate member at the first meeting following their selection.

[31 FR 9713, July 19, 1966, as amended at 46 FR 61636, Dec. 18, 1981]

### § 993.29 Alternates.

An alternate for a member of the committee shall act in the place and stead of such member (a) during his absence, and (b) in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has qualified. Except as otherwise

specifically provided in this subpart the provisions of this part applicable to members also apply to alternate members.

### § 993.30 Failure to nominate.

If a nomination for any position on the committee is not received by the Secretary by May 1, the Secretary may select an eligible individual without regard to nominations.

### § 993.31 Acceptance.

Each person selected as a member or alternate member of the committee shall, prior to serving on the committee, qualify by filing with the Secretary a written acceptance within 15 days after receiving notice of his selection.

### § 993.32 Vacancies.

In the event of any committee vacancy occasioned by the removal, resignation, disqualification, or death of any member, or in the event of the failure of any person selected as a member or alternate member to qualify, a successor for the unexpired term shall be nominated within 60 calendar days thereof. Such nominations shall be made in the manner provided for in this subpart, insofar as applicable, except that nominations of nominees for a producer member position to represent independent producers may, at the discretion of the committee, be made to the committee by the incumbent producer members of the committee who represent independent producers.

### § 993.33 Voting procedure.

Decisions of the Committee shall be by majority vote of the members present and voting and a quorum must be present: *Provided*, That decisions on marketing policy, grade or size regulations, pack specifications, salable and reserve percentages, and on any matters pertaining to the control or disposition of reserve prunes or to prune plum diversion pursuant to § 993.62, including any delegation of authority for action on such matters and any recommendation of rules and procedures with respect to such matters, including any such decision arrived at by mail or