

producers who are on record with the committee within the respective districts; the person(s) receiving the highest number of votes shall be the member nominee(s) for that district, and the person(s) receiving the second highest number of votes shall be the alternate member nominee(s). In case of a tie vote, the nominee shall be selected by a drawing.

(2) Any qualified individuals who seek nomination as a handler member shall submit to the committee an intent to seek office with such information as the committee shall designate; ballots, accompanied by the names of all such candidates, with spaces to indicate voters' choices and spaces for write-in candidates, together with voting instructions, shall be mailed to all handlers who are on record with the committee. For the first handler member seat, the person receiving the highest number of votes shall be the handler member nominee for that seat, and the person receiving the second highest number of votes shall be the alternate member nominee. For the second handler member seat, the person receiving the highest number of votes representing handler volume shall be the handler member nominee for that seat, and the person receiving the second highest number of votes representing handler volume shall be the alternate member nominee. In case of a tie vote, the nominee shall be selected by a drawing.

(c) **Handlers.** Only handlers, including duly authorized officers or employees of handlers, may participate in the nomination of the two handler member nominees and their alternates. Nomination of the two handler members and their alternates shall be as follows:

(1) For one handler member nomination, each handler entity shall be entitled to one vote;

(2) For the second handler member nomination, each handler entity shall be entitled to cast one vote respectively for each ton of assessed weight of pistachios processed by that handler during the two production years preceding the production year in which the nominations are made. For the purposes of nominating handler members and alternates by volume, the assessed weight of pistachios shall be credited to the handler responsible under the order for the payment of assessments of those pistachios. The committee with the approval of the Secretary, may revise the handler representation on the committee if the committee ceases to be representative of the industry.

(d) **Producers.** Only producers, including duly authorized officers or

employees of producers, may participate in the nomination of nominees for producer members and their alternates. Each producer shall be entitled to cast only one vote, whether directly or through an authorized officer or employee, for each position to be filled in the district in which the producer produces pistachios. If a producer is engaged in producing pistachios in more than one district, such producer shall select the district in which to participate in the nomination. If a person is both a producer and a handler of pistachios, such person may participate in both producer and handler nominations, provided, however, that a single member may not hold concurrent seats as both a producer and handler.

(e) **Member's affiliation.** Not more than two members and not more than two alternate members shall be persons employed by or affiliated with producers or handlers that are affiliated with the same handler and/or producer. Additionally, only one member and one alternate in any one district representing producers and only one member and one alternate representing handlers shall be employed by, or affiliated with the same handler and/or producer. No handler, and all of its affiliated handlers, can be represented by more than one handler member.

(f) **Cooperative affiliation.** In the case of a producer cooperative, a producer shall not be deemed to be connected in a proprietary capacity with the cooperative notwithstanding any outstanding retains, contributions or financial indebtedness owed by the cooperative to a producer if the producer has not marketed pistachios through the cooperative during the current and one preceding production year. A cooperative that has as its members one or more other cooperatives that are handlers shall not be considered as a handler for the purpose of nominating or voting under this part.

(g) **Alternate members.** Each member of the committee shall have an alternate member to be nominated in the same manner as the member. Any alternate serving in the same district as a member where both are employed by, or connected in a proprietary capacity with the same corporation, firm, partnership, association, or business organization, shall serve as the alternate to that member. An alternate member, in the absence of the member for whom that alternate is selected shall serve in place of that member on the committee, and shall have and be able to exercise all the rights, privileges, and powers of the member when serving on the committee. In the event of death,

removal, resignation, or the disqualification of a member, the alternate shall act as a member on the committee until a successor member is selected and has been qualified.

(h) **Selection by Secretary.** Nominations under paragraph (g) of this section received by the committee for all handler and producer members and alternate member positions shall be certified and sent to the Secretary at least 60 days prior to the beginning of each two-year term of office, together with all necessary data and other information deemed by the committee to be pertinent or requested by the Secretary. From those nominations, the Secretary shall select the ten producer and handler members of the committee and an alternate for each member.

(i) **Acceptance.** Each person to be selected by the Secretary as a member or as an alternate member of the committee shall, prior to such selection, qualify by advising the Secretary that if selected, such person agrees to serve in the position for which that nomination has been made.

(j) **Failure to nominate.** If nominations are not made within the time and manner specified in this part, the Secretary may, without regard to nominations, select the committee members and alternates qualified to serve on the basis of the representation provided for in § 983.32.

(k) **Term of office.** Selected members and alternate members of the committee shall serve for terms of two years: *Provided*, That four of the initially selected producer members and one handler member and their alternates shall, by a drawing, be seated for terms of one year so that approximately half of the memberships' terms expire each year. Each member and alternate member shall continue to serve until a successor is selected and has qualified. The term of office shall begin on July 1st of each year. Committee members and alternates may serve up to four consecutive, two-year terms of office. In no event shall any member or alternate serve more than eight consecutive years on the committee. For purposes of determining when a member or alternate has served four consecutive terms, the accrual of terms shall begin following any period of at least twelve consecutive months out of office.

(l) **Qualifications.** (1) Each producer member and alternate shall be, at the time of selection and during the term of office, a producer or an officer, or employee, of a producer in the district for which nominated.

(2) Each handler member and alternate shall be, at the time of selection and during the term of office,