

## Agricultural Marketing Service, USDA

## § 981.36

the group to which he belongs. Each handler vote shall be weighted by the quantity of almonds (kernel weight basis computed to the nearest whole ton) handled for his own account through December 31 of the crop year in which nominations are made. The nominee for each position shall be the person receiving the highest weighted vote for the position.

(3) Growers who market their almonds through cooperative handlers shall vote through their respective organizations. Each cooperative shall cast a vote for nominees for each position representing the cooperative grower group and such ballots shall be weighted by the number of growers who are members of, or under contract with, such cooperative. The nominee for each position shall be the person receiving the highest weighted vote for that position.

(4) Growers who market their almonds through other than cooperative handlers shall each have one equal vote. The nominees for each position representing such grower group shall be the person receiving the highest number of votes for that position.

[35 FR 11372, July 16, 1970, as amended at 61 FR 32920, June 26, 1996]

### § 981.33 Selection and term of office.

(a) Members and their respective alternates for positions open on the Board shall be selected by the Secretary from persons nominated pursuant to § 981.32, or, at the discretion of the Secretary, from other qualified persons, for a term of office beginning March 1. Members and alternates shall continue to serve until their respective successors are selected and qualified.

(b) The term of office of members of the Board shall be for a period of three years beginning on March 1 of the years selected except where otherwise provided. However, for the initial eight members of the Board selected pursuant to this section and to paragraphs (a) and (b) of § 981.31, two members shall serve for a term of one year; three members shall serve for a term of two years; and three members shall serve for a term of three years. For the initial terms of office, at the time of nomination under § 981.32, the Board shall make this designation by lot. The term

of office for the two members selected under paragraph (c) of § 981.31 shall always be for a period of one year.

(c) Board members may serve for a total of six consecutive years. Members who have served for six consecutive years must leave the Board for at least one year before becoming eligible to serve again. A person who has served less than six consecutive years on the Board may not be nominated to a new three year term if his or her total consecutive years on the Board at the end of that new term would exceed six years. This limitation on tenure shall not include service on the Board prior to implementation of this amendment and shall not apply to alternate members.

[61 FR 32920, June 26, 1996]

### § 981.34 Qualification and acceptance.

(a) Any person to be selected as a member or alternate of the Board shall, prior to such selection, qualify by providing such background information as necessary and by advising the Secretary that he/she agrees to serve in the position for which nominated. Grower members and alternates shall be growers or employees of growers, and handler members and alternates shall be handlers or employees of handlers. In the event any member or alternate ceases to be qualified for the position for which selected, that position shall be deemed vacant.

(b) The Board, with approval of the Secretary, may establish additional eligibility requirements for grower members on the Board.

[61 FR 32921, June 26, 1996]

### § 981.35 Alternates.

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

### § 981.36 Vacancy.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member or alternate of the Board, a successor for his unexpired term shall be selected by the

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Secretary after consideration of recommendations which may be submitted by members of the group for which such vacancy exists, unless such selection is deemed unnecessary by the Secretary.

**§981.37 Expenses.**

The members of the Board shall serve without compensation, but shall be allowed their necessary expenses.

**§981.38 Powers.**

The Board shall have the following powers:

- (a) To administer the provisions of this part in accordance with its terms;
- (b) To make rules and regulations to effectuate the terms and provisions of this part;
- (c) To receive, investigate and report to the Secretary complaints of violations of this part; and
- (d) To recommend to the Secretary amendments to this part.

**§981.39 Duties.**

The Board shall have, among other things, the following duties:

- (a) To act as intermediary between the Secretary and any handler or grower;
- (b) To keep minute books and records which will clearly reflect all of its acts and transactions, and such minute books and records shall be subject to examination by the Secretary at any time;
- (c) To investigate the growing, shipping, and marketing conditions with respect to almonds and to assemble data in connection therewith;
- (d) To furnish to the Secretary such available information as may be deemed pertinent or as he may request;
- (e) To appoint such employees as it may deem necessary and to determine the salaries, define the duties and fix the bonds of such employees; and
- (f) To cause the books of the Board to be audited by one or more competent certified public accountants at least once for each crop year, and at such other times as the Board may deem necessary or as the Secretary may request; and the report of each such audit shall show, among other things, the receipt and expenditure of funds pursuant hereto; and to file with the

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Secretary three copies of all audit reports made.

**§981.40 Procedure.**

(a) *Organization and rules.* The members of the Board shall select a chairman from their membership. The Board shall select such other officers and adopt such rules for the conduct of its business as it may deem advisable. The Board shall give to the Secretary or his designated agent and representatives the same notice of meetings of the Board as is given to members of the Board.

(b) *Quorum.* All decisions of the Board, except where otherwise specifically provided, shall be by a majority vote of the members present. The presence of six members shall be required to constitute a quorum.

(c) *Voting by mail, telegram, fax or other electronic means.* The Board may vote by mail, telegram, fax or other electronic means upon written notice to all members, or alternates acting in their place, including in the notice a statement of a reasonable time, not to exceed 10 days, in which a vote by mail, telegram, fax or other electronic means must be received by the Board for counting. Voting by mail, telegram, fax or other electronic means shall not be permitted at any assembled meeting of the Board. When a proposition is submitted for vote by mail, telegram, fax or other electronic means, at least eight members of the Board must vote in favor of its passage or the proposition shall be defeated.

(d) *Right of the Secretary.* The members of the Board (including successors or alternates), and any agent or employee appointed or employed by the Board, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination, or other act of the Board shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith.

(e) *Additional voting requirements.* Adoption of recommendations by the