

Agricultural Marketing Service, USDA

§ 984.41

kernelweight of walnuts certified as merchantable by each handler during the preceding marketing year. Each handler in the production area may vote for handler member nominees and their alternates of this subsection. However, no handler shall have more than one person on the Board either as member or alternate member. The person receiving the highest number of votes for a handler member position of this subsection shall be the nominee for that position.

(d) Each grower is entitled to participate in only one nomination process, regardless of the number of handler entities to whom he or she delivers walnuts. If a grower delivers walnuts to more than one handler entity, the grower must choose which nomination process he or she participates in.

(e) The nine members shall nominate one person as member and one person as alternate for the tenth member position. The tenth member and alternate shall be nominated by not less than 6 votes cast by the nine members of the Board.

(f) Nominations in the foregoing manner received by the Board shall be reported to the Secretary on or before June 15 of each odd-numbered year, together with a certified summary of the results of the nominations. If the Board fails to report nominations to the Secretary in the manner herein specified by June 15 of each odd-numbered year, the Secretary may select the members without nomination. If nominations for the tenth member are not submitted by September 1 of any such year, the Secretary may select such member without nomination.

(g) The Board may recommend, subject to the approval of the Secretary, a change to these nomination procedures should the Board determine that a revision is necessary.

[73 FR 11337, Mar. 3, 2008]

§ 984.38 Eligibility.

No person shall be selected or continue to serve as a member or alternate to represent one of the groups specified in § 984.35(a)(1) through (6) or § 984.38(b)(1) through (6), unless he or she is engaged in the business he or she is to represent, or represents, either in his or her own behalf or as an officer or

employee if the business unit engaged in such business. Also, each member or alternate member representing growers in District 1 or District 2 shall be a grower, or officer or employee of the group he or she is to represent.

[73 FR 11338, Mar. 3, 2008]

§ 984.39 Qualify by acceptance.

Any person nominated to serve as a member or alternate member of the Board shall, prior to selection by USDA, qualify by filing a written qualification and acceptance statement indicating such person's willingness to serve in the position for which nominated.

[73 FR 11338, Mar. 3, 2008]

§ 984.40 Alternate.

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

(b) In the event any member of the Board and his or her alternate are both unable to attend a meeting of the Board, any alternate for any other member representing the same group as the absent member may serve in the place of the absent member, or in the event such other alternate cannot attend, or there is no such other alternate, such member, or in the event of his disability or a vacancy, his or her alternate may designate, subject to the disapproval of the Secretary, a temporary substitute to attend such meeting. At such meeting such temporary substitute may act in the place of such member.

[73 FR 11338, Mar. 3, 2008]

§ 984.41 Vacancy.

Any vacancy occasioned by the removal, resignation, disqualification, or death of any member or alternate, or any need to select a successor through failure of any person selected as a member or alternate to qualify, shall be recognized by the Board causing a

§ 984.42

nomination to be made by the appropriate group and certifying to the Secretary a new nominee within 60 calendar days.

[39 FR 35330, Oct. 1, 1974, as amended at 41 FR 31543, July 29, 1976]

§ 984.42 Expenses.

The members and their alternates of the Board shall serve without compensation, but shall be allowed their necessary expenses incurred by them in the performance of their duties under this part.

[73 FR 11338, Mar. 3, 2008]

§ 984.43 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.

§ 984.44 Duties.

The duties of the Board shall be as follows:

(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 at any time be subject to the examination of the Secretary;

(c) To furnish to the Secretary a complete report of all meetings and such other available information as he may request;

(d) To appoint such employees as it may deem necessary and to determine the salaries, define the duties, and fix the bonds of such employees;

(e) To cause the books of the Board to be audited by one or more competent public accountants at least once for each marketing year and at such other times as the Board deems necessary or as the Secretary may request, and to file with the Secretary three copies of all audit reports made;

7 CFR Ch. IX (1-1-10 Edition)

(f) To investigate the growing, shipping and marketing conditions with respect to walnuts and to assemble data in connection therewith;

(g) To investigate compliance with the provisions of this part; and

(h) To recommend rules and regulations for the purpose of administering this subpart.

§ 984.45 Procedure.

(a) The members of the Board shall select a chairman from their membership, and shall select such other officers and adopt such rules for the conduct of Board business as they deem advisable. The Board shall give the Secretary the same notice of its meetings as is given to members of the Board.

(b) All decisions of the Board, except where otherwise specifically provided (see § 984.35(d)), shall be by a sixty-percent (60%) super-majority vote of the members present. A quorum of six members, or the equivalent of sixty percent (60%) of the Board, shall be required for the conduct of Board business.

(c) The Board may vote by mail or telegram, or by any other means of communication, upon due notice to all members. The Board, with the approval of the Secretary, shall prescribe the minimum number of votes that must be cast when voting is by any of these methods, and any other procedures necessary to carry out the objectives of this paragraph.

(d) The Board may provide for meetings by telephone, or other means of communication and any vote cast at such a meeting shall be confirmed promptly in writing: Provided, That if any assembled meeting is held, all votes shall be cast in person.

[27 FR 9094, Sept. 13, 1962, as amended at 39 FR 35330, Oct. 1, 1974; 73 FR 11338, Mar. 3, 2008]

§ 984.46 Research and development.

The Board, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects, and marketing promotion, including paid advertising, designed to assist, improve, or promote