

## Agricultural Marketing Service, USDA

## § 1208.40

(b) Should the positions of both a member and such member's alternate become vacant, Candidates to serve the unexpired terms of office for such member and alternate shall be nominated in the manner specified in §§1208.31 and 1208.32. *Provided*, That a vacancy will not be required to be filled if the unexpired term is less than six months.

(c) If a member of the Council consistently refuses to perform the duties of a member of the Council, if a member of the Council fails to submit reports and remit assessments required under this part, or if a member of the Council is known to be engaged in acts of dishonesty or willful misconduct, the Council may recommend to the Secretary that the member be removed from office. If the Secretary finds that the recommendation of the Council shows adequate cause, the Secretary shall remove such member from office. Further, without recommendation of the Council, a member may be removed by the Secretary upon a showing of adequate cause, if the Secretary determines that the person's continued service would be detrimental to the achievement of the purposes of the Act.

### § 1208.36 Procedure.

(a) Thirteen (13) Council members, including alternates acting in place of members of the Council, shall constitute a quorum: *Provided*, That such alternates shall serve only when the member is absent from a meeting or is disqualified. Any action of the Council shall require the concurring votes of a majority of those present and voting. At assembled meetings, all votes shall be cast in person.

(b) In lieu of voting at an assembled meeting, and, when in the opinion of the chairperson of the Council such action is considered necessary, or for matters of an emergency nature when there is not enough time to call an assembled meeting, the Council may act upon a majority of concurring votes of its members cast by mail, telegraph, telephone, facsimile, or by other means of communication: *Provided*, That each member or alternate acting for a member receives an accurate, full, and substantially identical explanation of each proposition. Telephone votes shall be

promptly confirmed in writing. All votes shall be recorded in the Council minutes.

### § 1208.37 Executive committee.

(a) The Council is authorized to appoint an executive committee of not more than nine persons from among its members. Initially, the executive committee shall be composed of the following:

- (1) Four members representing qualified wholesale handlers;
- (2) Two members representing producers that are qualified handlers;
- (3) Two members representing importers that are qualified handlers; and
- (4) One member representing traditional retailers.

(b) After the initial appointments, each appointment to the executive committee shall be made so as to ensure that the committee reflects, to the maximum extent practicable, the membership composition of the Council as a whole.

(c) Each initial appointment to the executive committee shall be for a term of two years. After the initial appointments, each appointment to the executive committee shall be for a term of one year.

(d) The Council may delegate to the executive committee the authority of the Council under this subpart to hire and manage staff and conduct the routine business of the Council consistent with such policies as are determined by the Council.

## ACTIVITIES OF THE COUNCIL

### § 1208.40 Duties of the Council.

The Council shall have the following duties, in addition to the duties specified in other sections of this subpart:

- (a) Administer this subpart in accordance with the terms and provisions of this subpart;
- (b) Make rules and regulations to effectuate the terms and provisions of this subpart;
- (c) Appoint members of the Council to serve on the executive committee, as provided in §1208.37;
- (d) Employ such persons as the Council determines are necessary, and set the compensation and define the duties of the persons;