

§ 1207.323

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the meetings such as State and national organizations of potato producers. Such nomination meetings shall be held not later than 60 days after the issuance of this subpart. Any organization designated to hold such nomination meetings shall give adequate notice of such meetings to the potato producers affected; also to the Secretary so that a representative of the Secretary, if available, may conduct such meetings or act as secretary of such nomination meetings.

(b) After the establishment of the initial Board, the nominations for subsequent Board producer members shall be made by producers at meetings in the producing sections or States. The Board shall hold such meetings, or cause them to be held, in accordance with rules established pursuant to recommendation of the Board.

(c) Only producers may participate in designating producer nominees. Each producer is entitled to one vote only on behalf of himself, his partners, agents, subsidiaries, affiliates, and representatives for each position for which nominations are being held. If a producer is engaged in producing potatoes in more than one State, he shall elect the State in which he shall vote. In no event shall he vote in nominations in more than one meeting.

(d) The importer members shall be nominated by importers of potatoes, potato products and/or seed potatoes. The number of importer members on the Board shall be announced by the Secretary and shall not exceed five members. The Board may call upon organizations of potato, potato products and/or seed potato importers to assist in nominating importers for membership on the Board. If such organizations fail to submit nominees or are determined by the Board to not adequately represent importers, then the Board may conduct meetings of importers to nominate eligible importers for Board member positions. In determining if importer organizations adequately represent importers, the Board shall consider:

- (1) How many importers belong to the association;
- (2) What percentage of the total number of importers is represented by the association;

(3) Is the association representative of the potato, potato product, and seed potato import industry;

(4) Does the association speak for potato, potato product, and seed potato importers; and

(5) Other relevant information as may be warranted.

(e) The public member shall be nominated by the producer and importer members of the Board. The public member shall have no direct financial interest in the commercial production or marketing of potatoes except as a consumer and shall not be a director, stockholder, officer or employee of any firm so engaged. The Board shall prescribe such additional qualifications, administrative rules and procedures for selection and voting for each candidate as it deems necessary and the Secretary approves.

[37 FR 5008, Mar. 9, 1972, as amended at 49 FR 20806, May 17, 1984; 56 FR 40229, Aug. 14, 1991]

EFFECTIVE DATE NOTE: At 62 FR 46179, Sept. 2, 1997, in §1207.322, paragraphs (a) and (d)(1) through (d)(5); in paragraph (b), the words "at meetings" in the first sentence and the entire last sentence; in paragraph (c), the last sentence; and in paragraph (d), the last two sentences of the introductory text were suspended, effective Sept. 3, 1997.

§ 1207.323 Acceptance.

Each person selected by the Secretary as a member of the Board shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ 1207.324 Vacancies.

To fill any vacancy caused by the failure of any person selected as a member of the Board to qualify, or in the event of the death, removal, resignation, or disqualification of any member, a successor shall be nominated and selected in the manner specified in §1207.322. In the event of failure to provide nominees for such vacancies, the Secretary may select other eligible persons.

§ 1207.325 Procedure.

(a) Each State (or district or group of States established pursuant to §1207.320) which has a member on the Board shall be entitled to not less than one vote for any production up to 1

million hundredweight, plus one additional vote for each additional 1 million hundredweight of production, or major fraction thereof, as determined by the latest crop production annual summary report issued by the Crop Reporting Board, U.S. Department of Agriculture. The casting of the votes for each State shall be determined by the members of the Board from that State.

(b) A majority of the Board members shall constitute a quorum and any action of the Board shall require a majority of concurring votes of those present and voting. At assembled meetings all votes shall be cast in person or by duly authorized proxy.

(c) For routine and noncontroversial matters which do not require deliberation and the exchange of views, and for matters of an emergency nature when there is not enough time to call an assembled meeting, the Board may act upon a majority of concurring votes of its members cast by mail, telegraph, or telephone. Any vote cast by telephone shall be confirmed promptly in writing.

[37 FR 5008, Mar. 9, 1972, as amended at 57 FR 40083, Sept. 2, 1992]

§ 1207.326 Compensation and reimbursement.

Members of the Board shall serve without compensation but shall be reimbursed for reasonable expenses incurred by them in the performance of their duties as members of the Board.

§ 1207.327 Powers.

The Board shall have the following powers subject to § 1207.361:

(a) To administer the provisions of this plan in accordance with its terms and conditions;

(b) To make rules and regulations to effectuate the terms and conditions of this plan;

(c) To receive, investigate, and report to the Secretary complaints of violations of this plan; and

(d) To recommend to the Secretary amendments to this plan.

§ 1207.328 Duties.

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

(a) To meet and organize and to select from among its members a president and such other officers as may be

necessary; to select committees and subcommittees of Board members to nominate the public member; to adopt such rules for the conduct of its business as it may deem advisable; and it may establish advisory committees of persons other than Board members;

(b) To employ such persons as it may deem necessary and to determine the compensation and define the duties of each; and to protect the handling of Board funds through fidelity bonds;

(c) At the beginning of each fiscal period, to prepare and submit to the Secretary for his approval a budget on a fiscal period basis of the anticipated expenses in the administration of this plan including the probable costs of all programs or projects and to recommend a rate of assessment with respect thereto;

(d) To develop programs and projects and to enter into contracts or agreements for the development and carrying out of programs or projects of research, development, advertising or promotion, and the payment of the costs thereof with funds collected pursuant to this plan;

(e) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the Board. Minutes of each Board meeting shall be promptly reported to the Secretary;

(f) To cause the books of the Board to be audited by a certified public accountant at least once each fiscal period, and at such other time as the Board may deem necessary. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part. Two copies of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the Board for inspection by producers, handlers, and importers;

(g) To give the Secretary the same notice of meetings of the Board and its subcommittees as is given to its members;

(h) To act as intermediary between the Secretary and any producer, handler, or importer;

(i) To furnish the Secretary such information as he may request.

(j) To prepare and submit to the Secretary such reports from time to time