

Agricultural Marketing Service, USDA

§ 982.40

of the Board, and such alternates may be allowed their necessary expenses.

[26 FR 6185, Aug. 1, 1959. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 51 FR 29548, Aug. 19, 1986; 61 FR 17559, Apr. 22, 1996]

§ 982.38 Powers.

The Board shall have the following powers:

(a) To administer the provisions of this subpart in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

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

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

§ 982.39 Duties.

The Board shall have among others the following duties:

(a) To select from among its members such officers and adopt rules or bylaws for the conduct of its meetings as it deems advisable;

(b) To act as intermediary between the Secretary and any handler or grower;

(c) To keep minute books and records which will clearly reflect all of its acts and transactions, and such books and records shall be available for examination by the Secretary at any time;

(d) To furnish to the Secretary such available information as he may request;

(e) To appoint such employees as it deems necessary and determine the salaries, define the duties and fix the bonds of such employees;

(f) To cause the books of the Board to be audited by one or more public accountants approved by the Board 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 reports of all audits made;

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

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

(i) To furnish to the Secretary a report of the proceedings of each meeting of the Board held for the purpose of making marketing policy recommendations.

[24 FR 6185, Aug. 1, 1959, as amended at 46 FR 26039, May 11, 1981; 61 FR 17559, Apr. 22, 1996]

MARKETING POLICY

§ 982.40 Marketing policy and volume regulation.

(a) *General.* As provided in this section, prior to September 20 of each marketing year, the Board may hold meetings for the purpose of computing its marketing policy for that year and shall do so for the purpose of submitting any recommendations on its policy to the Secretary. The Board may designate one of its employees to compute and announce the preliminary computed free and restricted percentages.

(b) *Inshell trade demand.* If the Board determines that volume regulation would tend to effectuate the declared policy of the act, it shall compute and announce an inshell trade demand for that year prior to September 20. The inshell trade demand shall equal the average of the preceding three years' trade acquisitions of inshell hazelnuts: *Provided,* That the Board may increase such average by no more than 25 percent if market conditions justify such an increase. If the trade acquisitions during any or all of these years were abnormal because of crop or marketing conditions, the Board may use a prior year or years in determining the three-year average.

(c) *Inshell allocation—(1) Preliminary computed percentages.* Prior to September 20 of a marketing year, the Board shall compute and announce preliminary computed free and restricted percentages for that year, to release 80 percent of the inshell trade demand for that year. The preliminary computed free percentage shall be computed by multiplying that trade demand, adjusted by the declared carryin, by 80 percent, and by dividing that amount by the Board's estimate of orchard-run production less the average disappearance during the preceding three years, plus the undeclared carryin. The difference between 100 percent and the

§982.41

7 CFR Ch. IX (1-1-08 Edition)

preliminary free percentage shall be the preliminary computed restricted percentage. At the same time, the Board may announce the portion of the restricted supply that may be shelled or exported, and the remainder of that supply to be disposed of in outlets approved by the Board pursuant to §982.52.

(2) *Interim final and final percentages.* On or before November 15, the Board shall meet to recommend to the Secretary the interim final and final free and restricted percentages, including the portion of the restricted supply that may be shelled or exported. The interim final percentages shall release 100 percent of the inshell trade demand previously computed by the Board for the marketing year. The final free and restricted percentages may release an additional 15 percent of the average of the preceding three years' trade acquisitions of inshell hazelnuts for desirable carryout. If the trade acquisitions during any or all of these years were abnormal, the Board may use a prior year or years in determining this three-year average. The final free and restricted percentages shall become effective 30 days prior to the end of the marketing year, or earlier as may be recommended by the Board and approved by the Secretary. The recommendations to the Secretary shall include the following:

- (i) The estimated tonnage of merchantable hazelnuts expected to be produced during the marketing year.
- (ii) The estimated tonnage of inshell hazelnuts held by handlers on the first day of the marketing year which may be available for handling as inshell hazelnuts thereafter.
- (iii) Any other pertinent factors bearing on the marketing of hazelnuts during the marketing year.

Whenever the Secretary finds, on the basis of the recommendation of the Board or other available information that, to establish the interim final and final free and restricted percentages would tend to effectuate the declared policy of the act, the Secretary shall establish such percentages.

(d) *Grade and size regulations.* Prior to September 20, the Board may consider grade and size regulations in effect and

may recommend modifications thereof to the Secretary.

(e) *Revision of marketing policy.* At any time prior to February 15 of the marketing year, the Board may recommend to the Secretary revisions in the marketing policy for that year: *Provided*, That in no event shall any such recommendation provide for free and restricted percentages based on an inshell trade demand which is more than 125 percent of the average of the preceding three years' trade acquisitions computed pursuant to paragraph (b) of this section for that marketing year. At any time during the period December 1 through February 10 at the request of two or more handlers, who during the preceding marketing year handled at least 10 percent of all hazelnuts handled, the Board shall meet to determine whether the marketing policy should be revised.

[51 FR 29548, Aug. 19, 1986, as amended at 61 FR 17560, Apr. 22, 1996]

§982.41 Free and restricted percentages.

The free and restricted percentages computed by the Board or established by the Secretary pursuant to §982.40 shall apply to all merchantable hazelnuts handled during the current marketing year. Until the preliminary computed free and restricted percentages are computed by the Board for the current marketing year, the percentages in effect at the end of the previous marketing year shall be applicable.

[51 FR 29548, Aug. 19, 1986]

GRADE AND SIZE REGULATION

§982.45 Establishment of grade and size regulations.

(a) *Minimum standards.* No handler shall handle any inshell or shelled hazelnuts unless such inshell hazelnuts meet requirements of Oregon No. 1 grade and medium size (as defined in the Oregon Grade Standards Hazelnuts In Shell), and such shelled hazelnuts meet such requirements as are established by the Secretary on the basis of a recommendation of the Board, except as may be otherwise provided in §982.57. These minimum standards may be modified by the Secretary on the basis of a recommendation of the Board