

## Agricultural Marketing Service, USDA

## § 984.38

### § 984.36 Term of office.

The term of office of Board members, and their alternates shall be for a period of two years ending on June 30 of odd-numbered years, but they shall serve until their respective successors are selected and have qualified.

[39 FR 35329, Oct. 1, 1974, as amended at 41 FR 31542, July 29, 1976]

### § 984.37 Nominations.

(a) Nominations on behalf of growers who market their walnuts through cooperative handlers in California shall be submitted on a ballot cast by each such handler for its growers. The vote of each such handler shall be weighted by the kernelweight of the walnuts certified as merchantable during the preceding marketing year for each such handler. The person receiving the highest number of votes for the cooperative grower position shall be the nominee.

(b) Nominations on behalf of independent growers in Group 4, whenever such group represents independent growers and Groups 5 and 6, shall be submitted after ballot by such growers pursuant to an announcement by press releases of the Board to the news media in the walnut producing areas. Such releases shall provide pertinent voting information, including the names of candidates and the location where ballots may be obtained. Ballots shall be accompanied by full instructions as to their markings and mailing and shall include the names of incumbents who are willing to continue serving on the Board and such other candidates as may be proposed pursuant to methods established by the Board with the approval of the Secretary. Each grower in Group 4, whenever such group represents independent growers, and Groups 5 and 6, regardless of the number and location of his walnut orchard(s) shall be entitled to cast only one ballot in the nomination and each vote shall be given equal weight. If the independent grower has orchard(s) in both grower districts he shall advise the Board of the district in which he desires to vote. The person receiving the highest number of votes for an independent grower position shall be the nominee.

(c) Nominations for all handler members shall be submitted on ballots mailed by the Board to all handlers in their respective groups. All handlers' votes shall be weighted by the kernelweight of walnuts certified as merchantable by each handler during the preceding marketing year. Each independent handler in California may vote for the independent handler member nominees and their alternates. However, no independent 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 an independent and cooperative handler member position shall be the nominee for that position.

(d) 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.

(e) 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 August 1 of any such year, the Secretary may select such member without nomination.

(f) The Board, with the approval of the Secretary, may change these nomination procedures should the Board determine that a revision is necessary.

[39 FR 35329, Oct. 1, 1974, as amended at 41 FR 31542, July 29, 1976]

### § 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), unless he is engaged in the business he is to represent, or represents, either in his own behalf or as an officer or employee of the business unit engaged in such business. Also, each member or alternate

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member representing growers in District 1 or District 2 shall be a grower, or officer or employee of the group he is to represent.

[41 FR 31542, July 29, 1976]

EFFECTIVE DATE NOTE: At 70 FR 50153, Aug. 26, 2005, § 984.38 was suspended indefinitely.

### § 984.39 Qualify by acceptance.

Each person selected by the Secretary as a member or alternate of the Board shall, prior to serving, qualify by filing with the Secretary a written acceptance as soon as practicable after being notified of such selection.

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

### § 984.40 Alternate.

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

(b) In the event any member of the Board and his 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 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. For the purposes of this paragraph, a cooperative handler group and a cooperative grower group shall be considered the same group.

[27 FR 9094, Sept. 13, 1962, as amended at 41 FR 31543, July 29, 1976]

### § 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 nomination to be made by the appro-

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priate 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.

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

### § 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;