consecutive terms from then serving three consecutive terms as a member.

The Board recommended a minor wording change in § 982.32(a) which would remove the reference to "initial" Board members as those members serving prior to the amendment of the order. This change would simplify the wording of the paragraph and make it consistent with the changing nature of Board membership. The proposed amended paragraph would provide that members and alternate members of the Board serving immediately prior to the effective date of this amended subpart shall continue to serve until their respective successors have been selected.

Thus, § 982.33 should be amended to provide two year terms of office for Board members and alternate members. Sections 982.30 and 982.32 covering nominating qualifications, weighting handler votes, voting procedures, and consecutive terms should also be changed for consistency and conformity with two-year office terms.

(4) In paragraph (b) of § 982.37, Procedure, the requirement that Board votes by telephone, telegraph or other means of long distance communication be confirmed in writing should be amended to provide that such votes remain unconfirmed until the next public Board meeting.

The Board generally meets twice a year. At least once each year over the last five years, the Board has found it necessary to vote on an issue by telephone. The issue has been the final budget which must be submitted to the Department at a time when there are no scheduled Board meetings.

Record evidence indicates that it is difficult to obtain written confirmation of all telephone votes cast by Board members. All telephone votes must be confirmed, and written confirmation must be unanimous. Even though a ballot is mailed to each member, and follow-up calls are made to those who have not submitted their written ballot, some members fail to respond.

Because of such confirmation delays, some telephone votes have been confirmed at the next public Board meeting. At these meetings, the members confirm their original vote and reaffirm their position. This procedure should be on the record and so recorded in the committee minutes. Reaffirmation must be unanimous. The record indicates that, under the proposed amendment, if any member were to change his or her original vote, the issue would be debated again and a new vote by all committee members would be taken. The second vote would require passage by a simple majority.

The record indicates that telephone votes should be taken only on issues that are known to be non-controversial. If an issue is known to have any one member or industry group against it, a telephone vote on the issue would not be taken and a public meeting would have to be called for consideration of the issue.

The record also indicates that a vote cast by facsimile transmission is considered a vote by "other means of communication." While a facsimile transmission produces a piece of paper which is received and held by the Board staff, the vote would still have to be confirmed at the next public Board meeting.

Thus, § 982.37(b) should be amended to provide that Board votes cast by telephone, telegraph or other means of communication shall be confirmed at the next regularly scheduled Board meeting and that such confirmation shall require ten concurring votes.

(5) In paragraph (i) of § 982.39, Duties, the requirement that the Board furnish verbatim reports of its marketing policy meetings to the Secretary should be amended to require that summary reports of such meetings be furnished to the Secretary.

The promulgation documentation provided that a "complete report of the proceedings" of the Board meeting establishing a marketing policy recommendation be reported to the Secretary (14 FR 5669, September 15, 1949). Because the Board in 1959 was providing verbatim reports of marketing policy deliberations, the verbatim requirement was added to the reporting requirement (24 FR 4173, May 23, 1959) and the requirement was moved to paragraph (5) of § 982.39 Duties (24 FR 5307, June 30, 1959). The amendment stated that only that portion of a meeting dealing directly with marketing policy discussions be reported verbatim.

However, the record indicates that verbatim reports are impractical because either a court reporter has to be contracted or a recording would have to be exactly transcribed by a Board employee. Either of these alternatives requires an extra expense for the Board and results in a delay in completing the report

This amendment would establish that the Board tape record all meetings and then summarize the proceedings using the tape recording to ensure a complete and thorough report. The record testimony reports that this process should take considerably less time and be less costly than making a direct transcript of the recording. This revised procedure is expected to maintain the accuracy of the meeting report.

Thus, § 982.39(i) should be amended to provide that the Board furnish the Secretary a report of the proceedings of each meeting of the Board held for the purpose of marketing policy recommendations.

(6) In paragraph (c)(2) of § 982.40, Marketing policy and volume regulation, the Board should be provided some flexibility in recommending final free and restricted percentages. In the 1985–86 amendment of the order, development of the Board's annual marketing policy and volume regulation action were established to follow specific procedures and formula computations. This amendment would enable the Board to better respond to market conditions when recommending the final free and restricted percentages.

On or before November 15, the Board meets to recommend to the Secretary, the establishment of interim final and final free and restricted percentages. The interim final percentage results in the release of 100 percent of the inshell trade demand previously computed by the Board. Paragraph (c)(2) of § 982.40 now requires that the final percentages release an additional 15 percent of the average of the preceding three years' trade acquisitions of inshell hazelnuts for desirable carryout.

This amendment focuses on the mandatory release of the final 15 percent. Record evidence indicates that the mandatory release of the entire tonnage resulting from the additional 15 percent can sometimes be harmful to the market and may not always be in the best interest of the industry. For instance, the mandatory release of the final 15 percent could place an excess supply of hazelnuts on the market and result in a weak market. Market conditions may be such that release of a smaller final percentage would be a wiser marketing policy. This amendment provides the Board with that flexibility when recommending the final free and restricted percentages.

In addition to complying with the provisions of the marketing order, the Board must also consider the Department's 1982 "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (Guidelines) when recommending marketing policy computations. Volume control regulation provides the industry a means of collectively limiting the supply of inshell hazelnuts available for sale in the trade demand area. The Guidelines provide that the trade demand area have available a quantity equal to at least 110 percent of recent years' sales in the trade demand area before volume regulations can be implemented. This provides for