

such other means as the Board may recommend and the Secretary approve, to all eligible growers and handlers. Hearing evidence indicates that, in Districts 1, 2, 3, 4, and 7, growers would be permitted to vote only for grower members and alternate grower members, and handlers would be permitted to vote only for handler members and alternate handler members. In Districts 5, 6, 8, and 9, where the single seat on the Board may be either a handler or a grower, both growers and handlers may vote regardless of whether the nominees are producers or handlers of tart cherries. In this situation, the member could be a grower and the alternate member could be a handler or vice versa or both.

The Board should have the ability to modify these provisions of the proposed order, or to specify more detailed nomination and election procedures. Consequently, the order should contain provision for the Board, with the approval of the Secretary, to establish rules and regulations necessary and incidental to the administration of the nomination and election process. The order should further provide that the Secretary or the Board may administer the nomination and election process as outlined herein.

Once affirmed, the nomination and election results should be presented to the Secretary for appointment pursuant to § 930.24. Following the Board's submission of the nomination and election results to the Secretary, the Secretary would appoint the grower and handler members and alternate members on the basis of representation provided for in § 930.20. The order should also authorize the Secretary to appoint the public member and alternate public member once elected by the newly appointed Board.

In the case of the initial Board, the Secretary would conduct meetings to nominate initial Board members. All producers of record in the production area would receive notice of the meetings in sufficient time to enable them to attend. Nominations should be received and voted upon at these meetings. Handlers nominations would be accomplished in the same way.

The order should provide for appointment by the Secretary of members and alternates of the Board. The tart cherry growers and handlers should have the responsibility for recommending nominees to the Secretary for appointment. The nomination and election procedure outlined in the order would provide a means of making available to the Secretary the names of prospective members and alternates selected by the

industry under the order to serve on the Board. The Secretary should have the authority to appoint the industry and public members and alternate members to the Board, notwithstanding the list of nominees submitted.

In the event the nomination and election process has not been completed within the time and in the manner specified in the order, the Secretary should have the authority to appoint members and alternates without regard to nominations, in accordance with proposed § 930.25. Such appointment should be from qualified persons as provided in the order.

Each person to be appointed by the Secretary as a member or as an alternate member of the Board should, prior to appointment, qualify by advising the Secretary on a form provided by the Board or the Secretary that such person agrees to serve in the position for which nominated. The information requested on the form would be incidental to the qualifications of each position and would thus provide the Secretary with the information required to complete the appointment process.

Proposed § 930.27 states that the order should provide a method for promptly filling any vacancies on the Board for unexpired terms of office. There may be vacancies caused by the death, removal, resignation, or disqualification of a member or alternate. The order should provide that the Secretary shall be authorized to name a successor to fill an unexpired term from the most recent list of nominations for the Board, from a nomination and election process specifically held to fill the vacancy and made in the same manner as provided for in § 930.23, or from other qualified individuals. Qualification and appointment should be made on the basis of § 930.20 or any redistribution or reestablishment made pursuant to § 930.21.

Proposed § 930.28 states that an alternate member of the Board should act in the place and stead of the regular member during the absence of such member. It continues by adding that an alternate member would not be eligible to serve at a meeting of the Board if the member is in attendance. In the event of the death, removal, resignation, or disqualification of a member, an alternate member would act for the regular member until a successor of such member is appointed. This would ensure that all portions of the production area are adequately represented in the conduct of the Board's business and that the continuity of Board operation is not interrupted. In the event both a member and the respective alternate member are unable

to attend a meeting of the Board, no other member or alternate member would be eligible to serve in that position. Witnesses testified that a member and alternate member are nominated and elected to represent a specific constituency, and that an arrangement that allows another member, even if from the same district, to sit in such position would not best serve the industry. The order should also provide that alternate members have the same qualifications as their respective members.

The Board, under proposed § 930.30, should be given those specific powers that are set forth in section 608c(7)(C) of the Act. Such powers are necessary for an administrative agency, such as the Board, to carry out its proper functions. The Board would administer the order in accordance with its terms and provisions and would recommend rules and regulations necessary to effectuate the terms and provisions thereof. The Board should also have the power to investigate complaints of violations to the order and forward such information to the Secretary, and to recommend to the Secretary appropriate amendments to this part.

The Board's duties as set forth in § 930.31 of the proposed order are necessary for the discharge of its responsibilities. These duties are similar to those typically specified for administrative agencies under other programs of this nature. They pertain to specific activities authorized under the order, such as investigating and compiling information regarding tart cherry marketing conditions, and to the general operation of the order including hiring employees, appointing officers, and keeping records of all Board transactions. The order should delineate Board duties as follows:

(1) The Board should select any officers, including a chairperson and vice-chairperson, necessary for its proper function, and should define the duties of such officers. Other officers might include secretary, treasurer, parliamentarian, or such other officers deemed helpful to the efficient operation of the Board.

(2) The Board should employ or contract with such persons or agents as it finds necessary, and should determine the duties and compensation of such persons or agents. This provides the Board with the ability to organize for the purpose of conducting its day-to-day business. A typical staffing arrangement could include a general manager who reports directly to the Board, and field and office support staff deemed necessary for efficient operation. In some cases, additional staff dedicated to