

shall submit to the Secretary at least 1.5 nominations for each seat on the Board for which the unit is entitled to representation. If a unit is entitled to only one seat on the Board, the unit shall submit at least two nominations for the appointment.

(b) *Feeders.* The Secretary shall appoint representatives of the feeder sheep industry to seats established under § 1280.201(b) from nominations submitted by qualified national organizations that represent the feeder sheep industry. To be represented on the Board, the industry shall provide at least 1.5 nominations for each appointment to the Board to which the feeder sheep industry is entitled.

(c) *Importers.* The Secretary shall appoint importers to seats established under § 1280.201(c) from nominations submitted by qualified organizations that represent importers. The Secretary shall receive at least 1.5 nominations for each appointment to the Board to which importers are entitled.

(d) As soon as practicable, the Secretary shall obtain nominations from certified organizations. If no organization is certified in a unit the Secretary may use other means to obtain nominations. A certified organization shall only submit nominations for positions on the Board representing units in which such certified organization can establish that it is certified as eligible to submit nominations for representation of that unit of individual producers, feeders, or importers residing in that unit.

(e) After the establishment of the initial Board, the Department shall announce when a vacancy does or will exist. Nominations shall be initiated not less than 6 months before the expiration of the terms of the members whose terms are expiring, in the manner described in § 1280.205(b). In the case of vacancies due to reasons other than the expiration of term of office, successor Board members shall be appointed pursuant to § 1280.206.

(f) Where there is more than one eligible organization representing producers, feeders, or importers in a State or unit, they may caucus and jointly nominate a minimum of 1.5 qualified persons for each position representing that State or unit on the Board for which a member is to be appointed. If joint agreement is not reached with respect to any such nominations, or if no caucus is held, each certified organization may submit nominations for each appointment to be made to represent that State or unit.

(g) Nominations should be submitted in order of preference and, for the initial Board, in order of preference for

staggered terms. If the Secretary rejects any nominations submitted and there are insufficient nominations submitted from which appointments can be made, the Secretary may request additional nominations under paragraph (a), (b), or (c) of this section.

§ 1280.203 Nominee's agreement to serve.

Any producer, feeder, or importer nominated to serve on the Board, or as an alternate, shall file with the Secretary at the time of the nomination a written agreement to:

- (a) Serve on the Board if appointed;
- (b) Disclose any relationship with any organization that operates a qualified State or regional program or has a contractual relationship with the Board; and
- (c) Withdraw from participation in deliberations, decisionmaking, or voting on matters that concern the relationship disclosed under paragraph (b) of this section.

§ 1280.204 Appointment.

From the nominations made pursuant to § 1280.202, the Secretary shall appoint the members of the Board on the basis of representation provided in § 1280.201.

§ 1280.205 Method of obtaining nominations.

(a) *Initially established Board.* (1) *Producer and alternate nominations.* The Secretary shall solicit, from organizations certified under § 1280.207, nominations for each producer's or alternate member's seat on the initially-established Board to which a unit is entitled. If no such organization exist, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(2) *Feeder and importer nominations.* The Secretary shall solicit, from certified organizations that represent feeders and importers, nominations for each seat to which feeders or importers are entitled. If no such organization exists, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate. In determining whether an organization is eligible to submit nominations under this subparagraph, the Secretary shall determine whether:

- (i) The organization's active membership includes a significant number of feeders or importers in relation to the total membership of the organization;
- (ii) There is evidence of stability and permanency of the organization; and
- (iii) The organization has a primary and overriding interest in representing

the feeder or importer segment of the sheep industry.

(b) *Subsequent appointment—(1) Producer nominations.* The solicitation of nominations for subsequent appointment to the Board from eligible organizations certified under § 1280.207 shall be initiated by the Secretary, with the Board securing the nominations for the Secretary.

(2) *Feeder and importer nominations.* The solicitation of feeder and importer nominations for subsequent appointment to the Board shall be made by the Secretary from organizations certified in accordance with paragraph (a)(2) of this section.

§ 1280.206 Vacancies.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall appoint a successor from the most recent list of nominations for the position or from nominations submitted by the Board.

§ 1280.207 Certification of organizations.

(a) *In general.* The eligibility of any State organization to represent producers and to participate in the making of nominations under this subpart shall be certified by the Secretary. The Secretary shall certify any State organization that the Secretary determines meets the eligibility criteria established under paragraph (b) of this section. An eligibility determination by the Secretary shall be final.

(b) *Basis for certification.* Certification shall be based upon, in addition to other available information, a factual report submitted by the organization that shall contain information considered relevant and specified by the Secretary, including:

- (1) The geographic territory covered by the active membership of the organization;
- (2) The nature and size of the active membership of the organization, including the proportion of the total number of active producers represented by the organization;
- (3) Evidence of stability and permanency of the organization;
- (4) Sources from which the operating funds of the organization are derived;
- (5) The functions of the organization; and
- (6) The ability and willingness of the organization to further the aims and objectives of the Act.

(c) *Primary considerations.* A primary consideration in determining the eligibility of an organization under this paragraph shall be whether:

- (1) The membership of the organization consists primarily of