U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250

DEC 28 2010

DEPARTMENTAL REGULATION	NUMBER: 1042-53	
SUBJECT:	ORIGINAL DATE:	AMENDMENT DATE:
PLANT VARIETY PROTECTION BOARD	OPI: Agricultural Marketing Service	

1. PURPOSE

Section 7 of the Plant Variety Protection Act of 1970 (the Act) (7 U.S.C. 2327) requires the renewal of a Plant Variety Protection Board (the Board). The Departmental Regulation 1042-53 renews the Board to provide advice to the Secretary of Agriculture concerning the adoption of rules and regulations to facilitate the proper administration of the Act and make advisory decisions on all appeals from the examiner or Commissioner. The Board also advises the Secretary of Agriculture on any matters under the Regulations and Rules of Practice and on all questions under Section 44 of the Act, "Public Interest in Wide Usage" (7 U.S.C. 2404). Renewal of this committee is in the public interest in connection with duties imposed on the U.S. Department of Agriculture (USDA) by law.

2. SPECIAL INSTRUCTIONS/CANCELLATION

a. Pursuant to an opinion of the Office of the General Counsel, dated July 19, 1974, this Board is an integral part of the Act and its program; and therefore, its duration is for the life of the program.

b. Departmental Regulation 1042-53, dated May 9, 2007, is hereby superseded. This regulation will terminate 2 years from the date of filing.

3. OFFICERS AND MEMBERSHIP

a. The Secretary of Agriculture or his designee shall act as Chairperson of the Board without voting rights except in the case of ties.

b. The 14-member Board to be appointed by the Secretary of Agriculture will serve for a period of 2 years. Membership of the Board shall include farmer representation and shall be drawn approximately equally from the private seed industry sector and from the sector of the Government or the public.

c. Equal opportunity practices, in line with USDA policies, will be followed in all appointments to the Board. To ensure that the recommendations of the Board have taken into account the needs of the diverse groups served by the USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

d. Pursuant to Section 10(e) and (f) of the Federal Advisory Committee Act (FACA), the Deputy Administrator or a delegated representative of the Science and Technology program of the Agricultural Marketing Service (AMS), shall represent the USDA at each meeting and shall have the authority to adjourn the meeting whenever he/she considers adjourning to be in the public interest.

e. The Board determines whether to act as a full Board or by panels it selects and whether to review advisory decisions made by a panel. For service on appeals, the Board may select as temporary members experts in the area to which a particular appeal relates.

4. DUTIES

The duties of the Board are solely advisory. The Board advises the Secretary of Agriculture concerning adoption of rules and regulations to facilitate the proper administration of the Act and makes advisory decisions on all appeals from the examiner or Commissioner. The Board also advises the Secretary of Agriculture on all matters under the Regulations and Rules of Practice and on all questions under Section 44 of the Act, "Public Interest in Wide Usage" (7 U.S.C. 2404).

5. ESTIMATED ANNUAL COSTS

Members shall serve without pay, but with reimbursement of travel expenses and per diem for attendance at Board meetings. Annual operating costs are estimated at $20,000, with 0.2 staff years. The costs of the Board are funded through user fees.

6. NUMBER AND FREQUENCY OF MEETINGS

The Board meets as often as the Secretary of Agriculture deems necessary.

7. REPORTS AND SUPPORT

a. AMS' Science and Technology Programs will provide administrative support for the Board.

b. The Board reports to the Secretary of Agriculture through the Under Secretary, Marketing and Regulatory Programs.