

cranberry growers and handlers in the States currently covered by the order and in Maine. Some witnesses supported the proposed amendments, while others were opposed to the recommended changes or suggested modifications to them.

At the conclusion of the hearing, the Administrative Law Judge fixed August 9, 2002, as the final date for interested persons to file proposed findings and conclusions or written arguments and briefs based on the evidence received at the hearing on proposal numbers 1, 3, 7 and 13. The Administrative Law Judge fixed September 13, 2002, as the final date for interested persons to file proposed findings and conclusions or written arguments and briefs based on evidence received at the hearing on all other proposals. This briefing period was extended until September 20, 2002. A total of 17 briefs were filed, 16 of which addressed proposals in this decision.

Regarding the proposals being discussed in this decision, the Committee filed a brief in support of its proposed amendments. Linda and Paul Rinta and Stephen L. Lacey (attorney for Clement Pappas & Company and Cliffstar Corporation) filed briefs requesting that all proposals relating to Committee structure be considered together. The Cape Cod Cranberry Growers' Association (CCCGA) filed a brief opposing a portion of proposal on the Committee structure. Ranger Cranberry Co., LLC, a Wisconsin grower, filed a brief supporting a modification to the Committee structure. Nine of the 11 briefs recommended that growers from the major cooperative be required to vote independently for Committee representatives rather than the current method of nomination by the cooperative management. All discussions on briefs pertaining to the proposals being recommended in this decision have been considered.

Proposals Being Recommended in this Decision

The Committee's proposal to amend the Committee structure included: Increasing the membership; incorporating a member-at-large position; revising nomination and selection procedures, as well as quorum and voting requirements to reflect the increase in Committee membership; authorizing tenure limitations to be restarted with the seating of the expanded Committee; authorizing mail nominations; allowing the Committee to request tax identification numbers for voting purposes; and changing how alternates may fill positions on any member's absence. This proposal

provided for amendments to §§ 929.20, 929.21, 929.22, 929.23, 929.27 and 929.32.

Two other interested parties submitted proposals relating to restructuring the Committee. Stephen L. Lacey on behalf of Clement Pappas and Company, Inc., and Cliffstar Corporation proposed an amendment to § 929.22 to alter the way nominations of cooperative members on the Committee are conducted by requiring cooperative nominees to be selected through an election process administered by the Committee. The Wisconsin Cranberry Cooperative proposed amendments to §§ 929.22 and 929.23 to allow for equitable representation for all cooperative marketing associations in the industry.

Stephen Lacey also proposed an amendment to § 929.20 to require Committee member disclosure of unregulated production.

Material Issues

The material issues in this decision presented on the record of the hearing are as follows:

1. Whether to increase Committee membership to 13 grower members, 1 public member, 9 grower alternate members and 1 public alternate member; incorporate a "swing" position whereby the entity (either the major cooperative or other than the major cooperative) which handles more than 50 percent of the total volume produced is assigned an additional seat; incorporate nomination and selection procedures to reflect the change in Committee membership; allow the Committee to request tax identification numbers for voting purposes; authorize mail nominations for independent members; modify the quorum and voting requirements to reflect the increased number of Committee members; restart tenure limitations to begin with the seating of the expanded Committee; and revise and clarify which alternates may fill positions in any member's absence.

2. Whether to require Committee member disclosure of non-regulated production.

3. Whether to expedite the decision on any or all of the proposals by omitting the recommended decision and proceeding directly to the Secretary's decision and referendum order.

Findings and Conclusions

The following findings and conclusions on the material issues are based on the record of the hearing.

Material Issue Number 1

Section 929.20 should be amended to increase Committee membership to 13 grower members, 1 public member, 9 grower alternate members and 1 public alternate member and to reestablish districts. This section should also be amended to incorporate a "member-at-large" position whereby the group (either growers representing the major cooperative or growers representing entities other than the major cooperative) that handles more than 50 percent of the total volume produced is assigned an additional seat.

Section 929.21 should be amended to restart tenure limitations with the seating of the expanded Committee and allow the initial members of the newly formed Committee to be seated for at least one term.

Section 929.22 should be amended to revise nomination procedures to reflect the change in Committee membership and to allow the reestablished Committee to be nominated as soon as possible.

Section 929.22 should be amended to allow the Committee to request tax identification numbers for voting purposes.

Section 929.22 should be amended to authorize mail nominations for growers who represent entities other than the major cooperative.

Section 929.27 should be amended to revise and clarify which alternate members can be seated in place of absent members.

Section 929.32 should be amended to incorporate quorum and voting requirements to reflect the increased number of Committee members.

Currently, the Committee is composed of 7 grower members, each with an alternate, and 1 public member and alternate. The public member position is not required. The production area is divided into 4 districts and at least 1 member and alternate represent each district. The term of office for members and alternate members is 2 years beginning on August 1 of each even-numbered year, and members are limited to 3 consecutive terms. Those members who serve 3 consecutive terms are not eligible to serve as either a member or alternate member on the Committee until they have been off the Committee for at least 1 full two-year term. There are no tenure requirements for alternate members.

Representation is divided among 4 districts. District 1 includes the States of Massachusetts, Rhode Island and Connecticut. District 2 includes the State of New Jersey and Long Island in the State of New York. District 3