

will have an alternate), which will be discussed later in this decision. Of the remaining 12 grower members, 6 will represent the major cooperative and 6 will represent growers from groups other than the major cooperative. Four districts will be established as follows:

District 1 will represent the States of Massachusetts, Rhode Island and Connecticut. There will be 2 members from the major cooperative and 1 alternate member, and 2 members from other than the major cooperative and 1 alternate member.

District 2 will represent the State of New Jersey and Long Island in the State of New York. There will be 1 member from the major cooperative and 1 alternate member, and 1 member from other than the major cooperative and 1 alternate member.

District 3 will represent the States of Wisconsin, Michigan, and Minnesota. There will be 2 members from the major cooperative and 1 alternate member, 2 members from other than the major cooperative and 1 alternate member.

District 4 will represent the States of Oregon and Washington. There will be 1 member from the major cooperative and 1 alternate member, 1 member from other than the major cooperative and 1 alternate member.

The member-at-large position can be from any of the marketing order districts.

The order language should also provide that the Committee may establish, with USDA's approval, rules and regulations for the implementation and operation of this section. The Committee recommended this provision in the event a clarification or procedural change was needed in the future.

#### *Nomination Procedures*

With the recommended expansion of the Committee and the establishment of a member-at-large position, it is necessary to modify the nomination procedures to correspond to the new Committee structure.

#### *Allocation of Membership*

The Committee's proposed amendment to the nomination procedures allocates membership on the Committee based upon the expanded Committee.

As proposed by the Committee, if the cooperative marketing association handles more than 50 percent of the total volume of cranberries produced, USDA would select 6 cooperative producer members representing growers from each of the 4 districts, 1 member-at-large cooperative producer member from any of the marketing order districts, 6 independent producer

members representing growers from each of the 4 districts, 1 public member, 4 cooperative alternate members representing each of the 4 districts, 4 independent alternate members representing each of the 4 districts, 1 cooperative alternate at large member from any district, and 1 public member alternate.

If the cooperative marketing association handles less than 50 percent of the total volume of cranberries produced, the Committee proposed that USDA would select 6 cooperative producer members representing growers from each of the 4 districts, 6 independent producer members representing growers from each of the 4 districts, 1 member-at-large independent producer member from any of the marketing order districts, 1 public member, 4 cooperative alternate members representing each of the 4 districts, 4 independent alternate members representing each of the 4 districts, 1 independent alternate at large member from any district, and 1 public member alternate.

The Committee proposed that the 2 independent producer nominees receiving the highest number of votes cast in Districts 1 and 3 would be declared the independent member nominees from each of those districts. The nominee receiving the third highest number of votes cast in Districts 1 and 3 would be declared the independent alternate member nominee from each of those districts. The independent producer nominee receiving the highest number of votes cast in Districts 2 and 4 would be declared the independent member nominee from each of those districts. The independent producer nominee receiving the second highest number of votes cast in Districts 2 and 4 would be declared the independent alternate member nominee from each of those districts.

If the independent growers are entitled to the member-at-large position, a separate election would be conducted. The producer receiving the highest number of votes would be declared the independent member-at-large and the producer receiving the second highest number of votes would be declared the independent alternate member-at-large.

Testimony revealed that the amendment subcommittee appointed by the Committee deliberated at length on the nomination procedures and, after consensus was reached, recommended the proposal to the full Committee.

The Committee's proposal does not modify the current order language that authorizes the cooperative or its growers to nominate qualified persons for the allotted member and alternate positions.

Under the Committee's modified proposal, the group, either cooperative or independent, that handles more than 50 percent of the volume of cranberries handled, is awarded the member-at-large seat.

At the hearing, the Committee proposed modifying their amendment regarding the member-at-large position in two regards. First, there is currently more than one cooperative marketing association in the industry. The proposed amendment published in the notice of hearing did not take this into consideration. The Committee proposed amending this section by allowing the cooperative marketing association that handles the greatest volume of cranberries produced during the fiscal period in which nominations are made to nominate the cooperative members and alternates.

The second modification made by the Committee to the amendment published in the notice of hearing was to change the criteria used to determine which group is entitled to the member-at-large position from sales of cranberries to volume of cranberries handled. Testimony revealed that using handler sales could be problematic and administratively burdensome.

Witnesses opposed to combining the smaller cooperatives with the largest cooperative testified that if the volume handled by the two current cooperatives were combined to determine which group is awarded the additional seat, the largest cooperative could handle 49 percent of the crop and the smaller cooperative could handle 2 percent. Under that scenario, the major cooperative would be allocated the additional seat. Witnesses did not believe it would be equitable for the major cooperative to have less than 50 percent of the volume handled and be entitled to an additional seat. A witness for the smaller cooperative testified that if his cooperative cannot be represented in the group with the dominant cooperative, he believes his cooperative should be able to participate in the independent elections to provide more opportunities for his cooperative to be represented.

In addition, a brief filed on this issue on behalf of a handler states that the hearing record does not support establishing the threshold for determining which group is entitled to the member-at-large position as 50 percent. The brief states that the cooperative should be entitled to an additional seat only if it handles more than 66⅔ percent of the crop. In addition, the brief states that the Committee must demonstrate how conditions in the industry have changed