

to ensure that double accounting does not take place.

This is not to be confused with grower sales which are used in establishing each grower's sales history. Grower deliveries (or sales) to handlers are easily tracked for the purposes of computing sales histories.

Record evidence does not support basing the member-at-large position on handler sales. The hearing record indicated there could be confusion and possible controversy in coming to consensus on determining what constitutes a sale. As stated in the record, handlers have been reporting volumes handled since the order was implemented. There have been very few problems associated with defining what is "handled". The Committee manager testified that there are safeguards in place that allow the Committee to crosscheck and assure that proper numbers are being reported.

Therefore, the member-at-large position should be determined by calculating the volume of cranberries handled.

Major Cooperative's Nomination of Members

Two proposed amendments submitted by industry representatives recommended altering the way the nominations of the major cooperative are currently authorized under the order by requiring cooperative nominees to be selected through an election process administered by the Committee.

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

Proponents of changing the nomination procedures for the cooperative testified that the major cooperative's growers should be provided the right to vote for a member on the Committee. It was testified that both groups should nominate members the same way.

A proponent testified that allowing the cooperative to nominate its members without direct input from its growers while independent members are nominated through a voting process has caused controversy in the industry and a lack of confidence in Committee activities. He testified that the cooperative nominees should be nominated in the same manner as independents, through an election process administered by the Committee.

The witness further testified that to allow the cooperative growers to elect their nominees would bolster industry confidence in the Committee, ensure

better representation of the interests of growers, and more clearly demonstrate desires of industry to USDA and the public. He testified that there may be a slight increase in Committee expenses if the cooperative is required to nominate its members through an election process due to additional nomination

procedures. The number of Committee meetings would remain the same so costs would not increase in that regard. He believed that any increase would be outweighed by benefits of ensuring that the Committee better represents the needs of producers while bolstering public confidence in the Committee.

Another proponent, representing a small cooperative, testified that the Committee's proposal for nomination procedures where the small cooperatives are combined with the large cooperative would provide no opportunity for his organization to be represented on the Committee. He believed his proposal would address this by allowing all cooperative growers to nominate and vote for the cooperative representatives on the Committee.

A witness in support of the proposals testified that under the process that independent members are selected, if a grower is unhappy with the way an independent member voted during a meeting, the grower's recourse is to try to ensure that that member does not get elected during the next election. He testified that the major cooperative's growers do not have that opportunity because their members are nominated by management.

A representative of the major cooperative testified in opposition to the proposals. He stated that the current nomination procedures for cooperative members on the Committee are consistent with the principles of cooperative governance. He testified that the board of the major cooperative is charged with the responsibility and authority to oversee the operation of the cooperative's business. Committee nominations being made by their cooperative helps assure that they carefully consider the collective voice growers provide through their cooperative.

The order currently authorizes the cooperative marketing organization, or the growers affiliated therewith, to nominate its members. The cooperative has two options under this provision and currently chooses to allow the board to make the nominations. It also has the option of conducting an election of its growers to nominate the seats to the Committee.

Congress recognized the importance of cooperatives as representative of the collective voice of many growers when

the Act was enacted. It is not USDA's intent to regulate the internal operations of cooperative management through an amendment to the marketing order. The order authorizes the cooperative or its growers to nominate seats to the Committee. That discretion should remain with the cooperative.

Record evidence supports that the nomination by the cooperative for cooperative representatives to the Committee should remain unchanged in that the cooperative or the growers affiliated therewith, shall nominate its members. Therefore, the proposals to change the way the cooperative nominates its members are denied.

Tenure

The term of office for members and alternates on the Committee is currently 2 years. Committee members are limited to 3 consecutive terms. The Committee is proposing that the term limitations for the current members be reset. In its proposal, the Committee recommended that current Committee members who have not met the 3 consecutive term limitation and who are re-nominated and selected would be able to serve an additional 3 consecutive 2-year terms before becoming ineligible to serve on the Committee.

Testimony revealed that with the increase in Committee membership, a loss of a member solely due to term limitations could have an adverse impact on the Committee's decision-making abilities, particularly when there are new and inexperienced members selected for membership. Restarting term limitations when the expanded Committee is seated would ensure that experienced and knowledgeable members could remain on the Committee. There was no opposition testimony regarding resetting term limits at the hearing.

A grower/handler who is opposed to term limits in general testified that with the small turnout for nominations and limited growers to be nominated in some districts, there should not be term limits. He believed that term limits take away growers' rights to choose who they want to represent them. A suggestion was made to allow an exemption from term limits in the event another grower was not available to fill the position.

Since it is recommended that the Committee be re-structured by increasing membership, it is determined that term limitations should be reset to allow for a smooth transition of the new Committee. With the increase in membership, it is possible that there would be members that have never served on the Committee before. It is critical to maintain the experience and