

expertise needed so that the Committee can continue its operations with a minimum of disruptions. Resetting the tenure limitations simultaneously with the seating of the expanded Committee would provide the experienced members opportunities to remain on the Committee and assist in transitioning the newer members as they become familiar with the regulatory process.

Regarding the testimony on the need for term limits, it is USDA's view that a limit on tenure for Committee members would improve representation on the Committee by allowing for different and more contemporary ideas, and that such a limit would be beneficial to the Committee's operations. However, the issue of the smaller districts not having enough growers who want to be on the Committee is a concern. If a district with 15 growers only had one or two growers interested in serving on the Committee, it would be detrimental to have a qualified member step down because of term limits and have no one willing to step in. It does not appear that this would be an issue in districts with many growers, like Districts 1 and 3.

In its brief, the Committee suggested a change to alleviate this situation. It proposed modifying the language in that provision to provide that members who have served 3 consecutive terms must leave the Committee for at least one full term before becoming eligible to serve again "unless specifically exempted by the Secretary." The Committee's reason for including this language is to allow the Committee to petition USDA to retain an incumbent member beyond term limits if it is unable to find a new member to serve. The Committee believes this would ensure that growers from specified districts would continue to have representation.

Because of the small number of growers in some districts, this situation could prove problematic in the future. For this reason, the phrase "unless specifically exempted by the Secretary" is being added to paragraph (c) of § 929.21. This addition should not discourage the continued search by the Committee for new and diverse membership.

The nomination provisions (§ 929.22) provided that nominations for the re-established Committee shall be held as soon as practicable after adoption of this amendment. Depending upon the timing of adoption of this amendment, new members could be nominated and selected to serve on the Committee close to the time of the next selection period.

Therefore, USDA has added a proviso under this provision that initial members of the re-established

Committee shall be seated for a minimum of one full term. For example, if a change in Committee structure becomes effective in March of 2004, the nomination process would commence immediately. Members selected through this process would serve up to August 2004 and at least two years from August 2004. This would help provide continuity on the Committee. In addition, the tenure limits would not start until August 1 of the first even numbered year after seating of the new Committee so that term limits and tenure can be computed concurrently.

Therefore, § 929.21 is proposed to be amended to restart tenure limitations on August 1 of the first even numbered year the new members serve. If this proposal were adopted, any past time served would not be counted toward any member's tenure. The term of office for each member and alternate member of the Committee would be for 2 years, beginning on August 1 of each even-numbered year and ending on the second succeeding July 31. Tenure limits would start on August 1 of the first even numbered year served.

Exceptions are possible if deemed necessary by USDA. Term limits do not apply to alternates.

Quorum and Voting Requirements

An increase in membership necessitates a proportionate increase to the number of members necessary to constitute a quorum and the number of concurring votes necessary to approve actions of the Committee. The Committee's proposal included such modifications.

Specifically, the Committee recommended that 10 members must be present to constitute a quorum which expands to 11 if the public member is present. The Committee also proposed that the concurring votes necessary to pass any action be 10 if the public member is absent or abstains from voting and 11 if the public member votes.

Adoption of this proposal would retain the super majority requirement for passing Committee actions that is in the current order. Concerns were raised at the hearing that these requirements were too stringent but testimony revealed that having stringent voting requirements ensures that consensus is reached among Committee members prior to any action being passed. Also, this proposal maintains the same requirements that are in the current order.

Therefore, based on the above discussion, § 929.32 is to be modified as proposed by the Committee. Implementation of this amendment, if

adopted, would correspond to the establishment of the new Committee.

Mail Nominations

Currently, the Committee is required to hold meetings in Districts 1, 2, and 3 to elect independent nominees for member and alternate member positions on the Committee. District 4 growers who participate with District 3 in nominations are authorized to participate by mail.

The Committee proposes eliminating the requirement for holding meetings of independent growers within each of the districts to nominate nominees for independent member and alternate members and authorizing all nominations to be conducted by mail. The record revealed that this proposal will allow growers greater opportunities to participate in Committee activities. The Committee would recommend procedures to USDA, wherein nominations could be made through a call for nominations mailed to each eligible independent producer. Such notification could contain a deadline for eligible, independent producers to submit the name of eligible, independent nominees. The Committee would prepare and mail a ballot to each grower. The ballots would be tallied and the nominations made in accordance with the nomination procedures.

Following the end of the voting period, ballots received by the deadline would be separated by district and tallied in accordance with the nomination procedures for independent members.

If the group other than the major cooperative were entitled to the member-at-large position, it is the Committee's intent that the member-at-large position and independent nominations would take place simultaneously. This could cause confusion among growers interested in either position. To address this issue, testimony indicated that the Committee would need to develop and recommend procedures in the event the group other than the major cooperative is entitled to this seat. Section 929.22(i) provides authority for the Committee, with the approval of the Secretary, to issue rules and regulations to carry out the provisions of this section. The Committee may recommend regulations to clarify and implement this section, especially if there is any confusion in conducting nominations for the member-at-large position in the instance where it is assigned to the group representing growers from other than the major cooperative.

The Committee expects that costs in conducting nominations under this