

percent of the producers, Washington also had four percent of the nation's acreage but less than one percent of the producers, and Pennsylvania had three percent of both the bearing acreage and the producers.

During the hearing process, considerable testimony was received pertaining to the proposed scope of the production area under the order. Most of the testimony was centered around the question of whether the States of Washington and Oregon should be included in the definition of the production area. The subject of removing any or all of the States of Michigan, New York, Pennsylvania, Utah, and Wisconsin from the proposed order was not broached during the hearing process, other than in testimony made against issuance of any marketing order for tart cherries.

Hearing evidence indicates that the primary issues encompassing the question of whether Oregon and Washington should be included within the proposed marketing order pertain to prices received by producers, the geographic scope of markets as they relate to particular forms of processed tart cherries, and whether competition is international, national, or regional in scope. The issue of regional responsibility for the current surplus of bearing tart cherry acreage was also raised during the hearing.

Lee Schrepel, representing the Oregon Tart Cherry Growers Association, testified that there is no meaningful relationship between the small tart cherry crop in Oregon and nationwide producer prices. He also stated that the market for processed tart cherries in the States of Oregon and Washington is substantially different from the rest of the U.S. market. The different processed forms of tart cherries generally include frozen, canned, brined, dehydrated, pureed, and juice concentrated products. Mr. Schrepel, as well as other producers and processors from Oregon and Washington testified that, whereas the majority of U.S. tart cherries are processed into frozen and canned forms, a significant proportion of Pacific Northwest cherries are processed into what is generally termed as secondary market forms, such as brined, dehydrated, juice concentrate, and pureed cherries. Testimony was received that these secondary, and in some cases, specialized, forms are marketed to a large extent in "niche" markets that have little or no relation to the national market for frozen and canned cherries. Some examples of "niche" markets provided during the hearing included wine, dried specialty fruit, and specialty juices. Moreover,

opponents to inclusion of Oregon and Washington in the proposed order testified that a majority of their frozen and canned product is marketed on the West Coast or into export markets, specifically Japan, rather than to markets east of the Rocky Mountains. Further testimony indicated that Pacific Northwest tart cherries are often higher in color and Brix, or sugar content, than cherries from other producing States. While purportedly not of great importance in the freezing and canning of tart cherries, these characteristics are valued in the concentrate business. As a consequence of these differences, it was argued that competition between the Pacific Northwest and other tart cherry producing regions has not been, nor will be, significant.

While it is true that a notable portion of the Pacific Northwest crop is marketed in secondary forms, a viable argument was not presented that demonstrated that this isolates the majority of such crop from other markets, either nationally or internationally. To the contrary, evidence presented during the hearing by Dr. Olan Forker of Cornell University shows that, nationally, producer prices move in the same direction and in similar amounts. This analysis, based upon statistical information presented throughout the hearing process, shows a definite national correlation or link in the prices received by all tart cherry producers. This correlation further indicates that the markets available to producers for fresh tart cherries grown for processing are national in scope.

In partial response to testimony that the Pacific Northwest States largely produce tart cherries for markets other than the primary frozen packed market, such as the juice concentrate market, proponents of the proposed order testified that increasing supplies of juice concentrate from Michigan and from Eastern Europe would, in time, undermine that market. Proponents testified that the resulting price erosion in the juice concentrate market would force both Oregon and Washington to move increasingly into the primary freezing and canning market. Indeed, record testimony suggests that marketing trends in the State of Washington are already moving in this direction.

Hearing evidence further indicates that the end-use, or consumer market, is also national in scope. For example, consumers in any location are not likely to differentiate between a can of pie cherries grown and processed in the Pacific Northwest and one originating from the Midwest or East.

Pacific Northwest producers and processors advocating exclusion from the proposed order contended that their regions have not contributed to the tart cherry over-supply situation, and therefore should not be held responsible for alleviating the problem. This testimony indicated that the Oregon and Washington industries have managed to consistently market all tart cherries produced. Moreover, it was testified that statistical evidence shows that Oregon has experienced a reduction in tart cherry acreage in recent years, thus reflecting a form of independent supply control without the use of complex federal regulations. Opponents to the inclusion of Oregon and Washington specifically, and the proposed order generally, insisted that the national over-supply problem is largely caused by the Michigan industry and therefore should be borne by it alone. Opponents testified that both Oregon and Washington together annually contribute an amount equal to seven percent of the nation's tart cherry stocks and are thus too small to have a significant impact on national supply.

Nonetheless, evidence supports the position that the over-supply situation in the U.S. is a national problem. Since the tart cherry industry is national in scope, evidence indicates that the entire industry should work together to alleviate the problem, regardless of any current localized over-planting of tart cherry trees. Although it is acknowledged that the Pacific Northwest has not contributed significantly to the over-supply problem, this area has the potential in the future to expand its production, notwithstanding inclusion or exclusion from the proposed order. Regardless of the question of supply, any region capable of significantly increasing bearing acreage, such as Oregon and Washington, would benefit from the provisions of the proposed order and thus should be included in the program. Testimony supports the proponents' opinion that, if excluded, the Oregon and Washington tart cherry industries could be characterized as "free-rider" States and could thus contribute to inequities within the national tart cherry industry rather than to a national solution. The majority of testimony from individuals from States other than Oregon, including producers and processors representing approximately half of the production from the State of Washington, overwhelmingly supported inclusion of all seven states within the defined production area.

It was testified at the hearing that the proposed order ignores the fact that both Montana and Colorado produce tart