beginning of the marketing year for the tart cherry crop.

The length of the terms of those initial industry Board members who represent districts with more than one seat would be staggered so that all of the members' terms would not expire at the same time. The initial term of offices for the nine members and their respective alternates from Districts 1, 2, and 3 should be established so that one-third of such initial members and alternates would serve for a one year term, onethird would serve for a two year term, and one-third would serve for a three year term. It is also provided that onehalf of the initial four members and respective alternates from Districts 4 and 7 would serve for one year, and one-half would serve for two years. Under the terms of the proposed order, the initial four members and four alternates from Districts 5, 6, 8, and 9 would all serve their full three year terms. Determination of which of the initial members and alternate members from Districts 1, 2, 3, 4, and 7 would serve for one year, two years, or three years would be by lot.

It was proposed by the proponents that the term of office of the public member and alternate public member should be for one fiscal year only. The proponents testified that to limit the term of the public member and alternate public member to one fiscal year would provide the industry members of the Board with the ability to quickly and easily replace such public members should Board expectations not be met.

An alternative proposal received during testimony favored a two-year term of office for all Board members and alternate members, inclusive of the public member and alternate public member. The justification provided in support of a two-year term of office was that Board members would gain sufficient experience within a two year time period and that a third year would not add significant benefit to either the members or the Board.

The preponderance of evidence, however, supports a three-year term because it would give members sufficient time to become familiar with Board operations and enable them to make meaningful contributions at Board meetings. Furthermore, a three-year term would enable establishment of a rotation so that approximately one-third of the Board membership would terminate each year. Such staggered terms would lend continuity to the Board by insuring that some experienced members would be on the Board at all times.

Insufficient supporting evidence was provided for the proposition that, while

industry members and alternate members should serve three-year terms. the public member and alternate public member should be limited to a one-year term. To maintain the continuity that is afforded the Board by industry members serving for three years, it logically follows that the public member should also serve for three years. If the public member and alternate would only serve one-year terms that are dependent on the Board's annual review, and nomination to the Board requires a 2/3 majority vote, the public member and alternate could feel pressured to always vote with the majority of the Board members. Record evidence supports public representation on the Board, and just as three-year grower and handler member terms offer many advantages to the Board, the tart cherry industry, and the members themselves, so would three-year public member terms. Therefore, the order should provide that the terms for all members be three years in duration. Approximately one-third of the total Board membership should terminate each year. The public member and alternate public member would both serve their full three-year terms initially and thereafter.

To prevent unnecessary vacancies from occurring on the Board, the order should provide that members and alternates shall serve in such capacity for the term of office, or portion thereof, for which they are selected and have qualified, and until their respective successors are selected and have qualified. However, so that there is continual turnover in membership and infusion of new ideas, the order should provide that the grower and handler members, and their respective alternates, may not serve more than two consecutive three-year terms on the

The proponents proposed that there should be no limit on the number of consecutive terms the public member and alternate public member could serve on the Board. Just as testimony offered by the proponents indicated that a one-year term of office for the public member and alternate public member would provide the Board with the flexibility to quickly replace such members should they prove inadequate, the proponents also argued that unlimited tenure would provide the Board with the flexibility of maintaining the public member and alternate public member indefinitely should such be desired.

However, there was insufficient evidence offered during the hearing process to support a Board membership with differing tenure requirements. A two-term tenure requirement for the public member and alternate public member would offer the Board the same infusion of new ideas from the public perspective that is provided from the industry perspective by continual turnover in grower and handler membership. The order, therefore, should provide that all members of the Board be restricted to serving no more that two consecutive three-year terms. Any initial term lasting less than three years should not be counted towards this six-year tenure limitation.

After serving two consecutive terms, Board members should be eligible to serve as alternates, but should be ineligible to serve as members for a period of at least one year. Conversely, alternate members should be eligible to serve as Board members after serving two consecutive terms as alternate members, but should be ineligible to again serve as alternate members for a period of at least one year. The alternate member's term of office should coincide with that of the position's member.

The effective date of the order, if issued, may not coincide with the specified beginning date of the terms of office of Board members and alternates. Therefore, a provision is necessary to adjust the initial terms of office. To accomplish this, the order should provide that if the initial fiscal period is less than six months in duration, that is beginning after January 1, then the tolling of time for the initial term of office would not begin until the following July 1. Similarly, if the initial fiscal period is for a duration of between 6 and 12 months, then the tolling of time for the initial term of office would begin on the prior July 1.

As an example, if an order were promulgated in May of 1996, and in the event that the initial members are selected prior to July 1, 1996, the initial terms of office could be adjusted as follows: the initial one-year term would not end on June 30, 1996, but would continue until June 30, 1997. The twoyear and three-year terms would end on June 30, 1998, and June 30, 1999, respectively. However, if the initial members should start their terms of office between July 1, 1995, and February 1, 1996, the initial one-year term would end on June 30, 1996. The two-year and three-year terms would end on June 30, 1997 and June 30, 1998, respectively.

For the proposed Board to function, a mechanism is required by which members and alternate members may be nominated, elected, and appointed by the Secretary. Section 930.23 of the proposed order provides for a nomination and election procedure using petition forms and election ballots