

**Subpart—Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended**

AUTHORITY: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

SOURCE: 30 FR 15414, Dec. 15, 1965, unless otherwise noted.

**§ 900.400 General.**

Referenda for the purpose of ascertaining whether the issuance by the Secretary of Agriculture of a marketing order to regulate the handling of any fruit, vegetable, or nut, or product thereof, or the continuance or termination of such an order, is approved or favored by producers or processors shall, unless supplemented or modified by the Secretary, be conducted in accordance with this subpart.

**§ 900.401 Definitions.**

(a) *Act* means Public Act No. 10, 73d Congress (48 Stat. 31), as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), as amended (7 U.S.C. 601-674).

(b) *Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead; and *Department* means the United States Department of Agriculture.

(c) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in his stead.

(d) *Order* means the marketing order (including an amendatory order) with respect to which the Secretary has directed that a referendum be conducted.

(e) *Referendum agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(f) *Representative period* means the period designated by the Secretary pursu-

ant to section 8c of the act (7 U.S.C. 608c).

(g) *Person* means any individual, partnership, corporation, association, or other business unit. For the purpose of this definition, the term *partnership* includes (1) a husband and wife who have title to, or leasehold interest in, land as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property, and (2) so-called *joint ventures*, wherein one or more parties to the agreement, informal or otherwise, contributed capital and others contribute labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the growing of the commodity for market and the authority to transfer title to the commodity so produced.

(h) *Producer* means any person defined as a producer in the order who: (1) Owns and farms land, resulting in his ownership of the commodity produced thereon; (2) Rents and farms land, resulting in his ownership of all or a portion of the commodity produced thereon; or (3) Owns land which he does not farm and, as rental for such land, obtains the ownership of a portion of the commodity produced thereon. Ownership of, or leasehold interest in, land and the acquisition, in any manner other than as hereinbefore set forth, of legal title to the commodity grown thereon shall not be deemed to result in such owners or lessees becoming producers.

[30 FR 15414, Dec. 15, 1965, as amended at 37 FR 8059, Apr. 25, 1972]

**§ 900.402 Voting.**

(a) Each person who is a producer, as defined in this subpart, at the time of the referendum and who also was a producer during the representative period, shall be entitled to only one vote in the referendum, except that: (1) In a landlord-tenant relationship, where in each of the parties is a producer, each such producer shall be entitled to one vote in the referendum; and (2) a cooperative association of producers, bona fide engaged in marketing the commodity or product thereof proposed to be regulated, or in rendering services for or advancing the interest of the producers