

#### **§ 900.14 Execution and issuance of marketing agreements and marketing orders.**

(a) *Execution and issuance of marketing agreement.* If the Secretary has approved a marketing agreement, as provided in §900.13a, the Administrator shall cause copies thereof to be distributed for execution by the handlers eligible to become parties thereto. If and when such number of the handlers as the Secretary shall deem sufficient shall have executed the agreement, the Secretary shall execute the agreement. After execution of a marketing agreement, such agreement shall be filed with the hearing clerk, and notice thereof, together with notice of the effective date, shall be given by publication in the Federal Register. The marketing agreement shall not become effective less than 30 days after its publication in the Federal Register, unless the Secretary, upon good cause found and published with the agreement, fixes an earlier effective date therefor: *Provided*, That no marketing agreement shall become effective as to any person signatory thereto before either (1) it has been filed with the Office of the Federal Register, or (2) such person has received actual notice that the Secretary has executed the agreement and the effective date of the marketing agreement.

(b) *Issuance of marketing order with marketing agreement.* Whenever, as provided in paragraph (a) of this section, the Secretary executes a marketing agreement, and handlers also have executed the same as provided in section 8c(8) of the Act, he shall, if he finds that it will tend to effectuate the purposes of the Act, issue and make effective the marketing order, if any, which was filed as a part of his decision pursuant to §900.13a: *Provided*, That the issuance of such order shall have been approved or favored by producers as required by section 8c(8) of the act.

(c) *Issuance of marketing order without marketing agreement.* If, despite the failure or refusal of handlers to sign the marketing agreement, as provided in section 8c(8) of the Act, the Secretary makes the determinations required under section 8c(9) of the Act, the Secretary shall issue and make effective the marketing order, if any, which was filed as a part of his decision pursuant to §900.13a.

(d) *Effective date of marketing order.* No marketing order shall become effective less than 30 days after its publication in the Federal Register, unless the Secretary, upon good cause found and published with the order, fixes an earlier effective date therefor: *Provided*, That no marketing order shall become effective as to any person sought to be charged thereunder before either (1) it has been filed with the Office of the Federal Register, or (2) such person has received actual notice of the issuance and terms of the marketing order.

(e) *Notice of issuance.* After issuance of a marketing order, such order shall be filed with the hearing clerk, and notice thereof, together with notice of the effective date, shall be given by publication in the Federal Register.(7 U.S.C. 610(c).)

#### **§ 900.403 Instructions.**

The referendum agent shall conduct the referendum, in the manner herein provided, under supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the referendum agent. Such agent shall:

- (a) Determine the time of commencement and termination of the period of the referendum, and the time prior to which all ballots must be cast.
- (b) Determine whether ballots may be cast by mail, at polling places, at meetings of producers or processors, or by any combination of the foregoing.
- (c) Provide ballots and related material to be used in the referendum. Ballot material shall provide for recording essential information for ascertaining:
- (1) Whether the person voting, or on whose behalf the vote is cast, is an eligible voter, and
  - (2) The total volume (i) produced for market during the representative period, or (ii) canned or frozen for market during the representative period.
- (d) Give reasonable advance notice of the referendum (1) by utilizing without advertising expense available media of public information (including, but not being limited to, press and radio facilities) serving the production area, announcing the dates, places, or methods of voting, eligibility requirements, and other pertinent information, and (2) by such other means as said agent may deem advisable.
- (e) Make available to producers and the aforesaid cooperative associations which indicate to the agent their intentions to vote, and to processors when required, instructions on voting, appropriate ballot and certification forms, and, except in the case of a referendum on the termination or continuance of an order, the text of the proposed order and a summary of its terms and conditions: *Provided*, That no person who claims to be qualified to vote shall be refused a ballot.
- (f) If ballots are to be cast by mail, cause all the material specified in paragraph (e) of this section to be mailed to each producer (and processor when required) whose name and address is known to the referendum agent.
- (g) If ballots are to be cast at polling places or meetings, determine the necessary number of polling or meeting places, designate them, announce the time of each meeting or the hours during which each polling place will be open, provide the material specified in paragraph (e) of this section, and provide for appropriate custody of ballot forms and delivery to the referendum agent of ballots cast.
- (h) At the conclusion of the referendum, canvass the ballots, tabulate the results, and, except as otherwise directed, report the outcome to the Administrator and promptly thereafter submit the following:
- (1) All ballots received by the agent and appointees, together with a certificate to the effect that the ballots forwarded are all of the ballots cast and received by such persons during the referendum period;
  - (2) A list of all challenged ballots deemed to be invalid; and

(3) A tabulation of the results of the referendum and a report thereon, including a detailed statement explaining the method used in giving publicity to the referendum and showing other information pertinent to the manner in which the referendum was conducted.