

**CHAPTER 103. REFERENDUMS**

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**Authority**

The provisions of this Chapter 103 issued under section 6(d) of the Pennsylvania Agricultural Commodities Marketing Act of 1968 (3 P.S. § 1006(d)), unless otherwise noted.

**Source**

The provisions of this Chapter 103 adopted August 25, 1972, effective August 26, 1972, 2 Pa.B. 1607, unless otherwise noted.

**Cross References**

This chapter cited in 7 Pa. Code § 104.3 (relating to producer charges); 7 Pa. Code § 104.14 (relating to producer charge); 7 Pa. Code § 104.53 (relating to producer charges); 7 Pa. Code § 104.63 (relating to producer charge); 7 Pa. Code § 104.65 (relating to accounting and payment); and 7 Pa. Code § 104.73 (relating to producer charges).

**§ 103.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Pennsylvania Agricultural Commodities Marketing Act of 1968 (3 P. S. §§ 1001—1013).

*Affected producers*—Producers designated as participants by the terms of the program.

*Cooperative*—A cooperative marketing association, as defined by the act and which includes Commonwealth producers as members.

*Person*—An individual, partnership, firm, corporation, association or other business unit.

*Producer*—A person doing business wholly or in part within this Commonwealth and engaged in the business of producing agricultural commodities.

*Program*—A marketing order issued by the Secretary under the act, governing the collection of fees and administration of budgets to benefit producers.

*Referendum order*—An order adopted and promulgated by the Secretary under the act, calling for a referendum of producers of an agricultural commodity and prescribing detailed procedures for the conduct of the referendum.

*Secretary*—The Secretary of Agriculture of the Commonwealth.

**Source**

The provisions of this § 103.1 adopted August 25, 1972, effective August 26, 1972, 2 Pa.B. 1607.

**§ 103.2. Calling of referendum.**

The Secretary shall, by adoption and promulgation of a referendum order, call for a referendum among the affected producers if:

(1) After a public hearing on a proposed marketing program, the Secretary determines that the proposed program tends to effectuate the purposes of the act.

(2) A written request for a referendum on proposed amendments to a marketing program is made by the advisory board or by 10% of the producers in an agricultural commodity group of over 2,000 affected producers or 15% of the producers in a commodity group of less than 2,000 affected producers and the Secretary determines that the proposed amendments will tend to effectuate the purposes of the act.

(3) A written request for a referendum on the question of termination of a marketing program is made by 10% of the producers in an agricultural commodity group of over 2,000 affected producers or 15% of the producers in a commodity group of less than 2,000 affected producers.

(4) A marketing program exists for an agricultural commodity group and more than 4 years have passed since the last referendum was held concerning the adoption or review of the program.

**Source**

The provisions of this § 103.2 adopted August 25, 1972, effective August 26, 1972, 2 Pa.B. 1607; amended April 27, 1973, effective April 28, 1973, 3 Pa.B. 762. Immediately preceding text appears at serial page (6741).

**§ 103.3. Publication of referendum order.**

The referendum order shall be published in the *Pennsylvania Bulletin* and in newspapers of general circulation that the Secretary designates in the referendum order.

**Source**

The provisions of this § 103.3 adopted August 25, 1972, effective August 26, 1972, 2 Pa.B. 1607.

**§ 103.4. Referendum period.**

The referendum period shall be specified in the referendum order and may not be less than 14 days, computed from the time the ballots are deposited in the United States mail, first class postage prepaid. Ballots may be returned by mail or in person to the office of the Secretary. Provision shall be made for an adequate interval between the announcement of the referendum and the voting period to enable cooperatives desiring to cast a representative vote to fulfill the requirements of the act.

**Source**

The provisions of this § 103.4 adopted August 25, 1972, effective August 26, 1972, 2 Pa.B. 1607.

**§ 103.5. Distribution of voting materials.**

Distribution of a copy of the proposed program, the program for review of proposed amendments, official ballot, voting instructions and a preaddressed return envelope shall be made by mail to affected producers. The names of affected producers shall be taken from lists maintained in the office of the Secretary. Additional copies of the same material shall be made available at the office of the Secretary.

**Source**

The provisions of this § 103.5 adopted August 25, 1972, effective August 26, 1972, 2 Pa.B. 1607; amended April 27, 1973, effective April 28, 1973, 3 Pa.B. 762. Immediately preceding text appears at serial page (6741).

**§ 103.6. Voting limitations.**

- (a) A cooperative casting a representative vote may vote only its Pennsylvania eligible producer members as of the record date designated in the referendum order.
- (b) A producer may cast only one vote in a referendum.

**Source**

The provisions of this § 103.6 adopted August 25, 1972, effective August 26, 1972, 2 Pa.B. 1607.

**§ 103.7. Ballots.**

- (a) An individual producer ballot shall contain the following items:
  - (1) The name of the commodity program.
  - (2) Provision for “yes” and “no” votes.
  - (3) Space for the producer to indicate his production volume for the period specified in the referendum order, in the case of a referendum on a proposed program or amendment.
  - (4) In the case of a program providing for representative voting, the voter shall indicate the name of the cooperative of which he was a member as of the record date specified in the referendum order.
  - (5) The voter shall sign the ballot and indicate his post office address and county of residence.
- (b) A representative ballot shall contain provision for the cooperative to indicate its “yes” or “no” vote, the number of its eligible producer members as of the record date specified in the referendum order, and, in the case of a referendum on a proposed program or amendment, the volume of commodity produced or marketed by or for those members for the period specified in the referendum order.

(c) A representative ballot shall be signed by an official in the name of the cooperative, certifying that the representative vote is in accordance with action taken by the cooperative's board of directors and that the cooperative membership has been notified in writing of the board's action at least 30 days prior to casting the representative vote.

(d) The representative ballot submitted by a cooperative shall be accompanied by a notarized, alphabetized list of eligible members as of the record date specified in the referendum order.

**Source**

The provisions of this § 103.7 adopted August 25, 1972, effective August 26, 1972, 2 Pa.B. 1607; amended April 27, 1973, effective April 28, 1973, 3 Pa.B. 762. Immediately preceding text appears at serial page (6742).

**§ 103.8. Counting of ballots.**

(a) The ballots shall be counted by a teller committee appointed by the Secretary. The committee may be assisted by employes of the Department of Agriculture.

(b) Individual votes of producer members of a cooperative casting a representative vote shall be deducted from the representative vote.

**Source**

The provisions of this § 103.8 adopted August 25, 1972, effective August 26, 1972, 2 Pa.B. 1607.

**§ 103.9. Challenged and spoiled ballots.**

(a) Ballots may be challenged by members of the teller committee, and the Secretary shall decide whether a challenged ballot is acceptable.

(b) A ballot shall be considered a spoiled ballot if it is mutilated or marked in such a way it is not possible to determine with certainty its content.

**Source**

The provisions of this § 103.9 adopted August 25, 1972, effective August 26, 1972, 2 Pa.B. 1607.

**§ 103.10. Announcing results of the referendum.**

(a) The Secretary will announce the results of the referendum within 30 days following the completion of the referendum period. The results will be published in the *Pennsylvania Bulletin* and disseminated to the news media.

(b) The results of the referendum will be given in the following format:

(1) Total number of eligible votes cast, and, in the case of a referendum on a proposed program or amendment, the total production volume represented by the eligible votes.

(2) Total number of affirmative votes, and, in the case of a referendum on a proposed program or amendment, the production volume represented.

- (3) Total number of negative votes, and, in the case of a referendum on a proposed program or amendment, the production volume represented.
- (4) The totals of paragraphs (2) and (3) expressed as percentages of the total voting.
- (5) Total number of spoiled or ineligible ballots.

**Source**

The provisions of this § 103.10 adopted August 25, 1972, effective August 26, 1972, 2 Pa.B. 1607; amended April 27, 1973, effective April 28, 1973, 3 Pa.B. 762. Immediately preceding text appears at serial page (6743).

**§ 103.11. Reporting irregularities.**

Disputes concerning the referendum procedures shall be submitted in written form to the Secretary within 7 calendar days after the end of the referendum period.

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