

on the record. As necessary and appropriate, the Commission may act accordingly to nullify the effect of the prohibited communication.

(d) This section shall not be construed to apply to requests for status reports or requests on other procedural matters.

[63 FR 37756, July 14, 1998, as amended at 64 FR 18324, Apr. 14, 1999]

## PART 1371—PRODUCER REFERENDUM

- Sec.
- 1371.1 Definitions.
  - 1371.2 Purpose.
  - 1371.3 Referendum procedure.
  - 1371.4 Referendum agent.
  - 1371.5 Confidentiality of ballots.
  - 1371.6 Publication of referendum results.
  - 1371.7 Ballots.
  - 1371.8 Qualified cooperative block vote.

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SOURCE: 63 FR 37758, July 14, 1998, unless otherwise noted.

### § 1371.1 Definitions.

As used in this part, and in addition to the terms defined herein, the terms defined in Article II, section 2 of the Compact and in 7 CFR part 1301 shall apply with equal force and effect.

*Approved by producers* means that at least two-thirds of the eligible producers who cast a vote approve the proposed order or amendment.

*Cooperative block vote* means a vote of approval or disapproval of a proposed order or amendment, cast in a producer referendum, by a qualified cooperative on behalf of its members or stockholders who are eligible producers.

*Eligible producer* means a producer who, during the representative period determined by the Commission, has been engaged in the production of milk, the price of which would be regulated under the proposed order or amendment.

*Producer referendum* means the balloting process by which the Commission determines whether a proposed order or amendment is approved by eligible producers.

*Qualified cooperative* means a cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended,

known as the Capper-Volstead Act, bona fide engaged in marketing milk, or in rendering services for or advancing the interests of producers of milk, but shall not include any cooperative which has been formed to act as a common marketing agency for both cooperatives and individual producers.

*Representative period* means that period of time designated by the Commission for the purpose of determining who is a producer eligible to participate in a producer referendum.

### § 1371.2 Purpose.

Prior to issuing, or amending, any regulation establishing a Compact over-order price regulation, including any provision with respect to milk supply, the Compact Commission shall conduct a producer referendum for the purpose of ascertaining whether the issuance or amendment of such regulation is approved by producers.

### § 1371.3 Referendum procedure.

The Commission shall certify the referendum procedure at the time it approves a final regulation. The referendum procedure shall include:

- (a) A designated representative period for determining eligible producers;
- (b) The date by which the ballots will be distributed to eligible producers and qualified cooperatives;
- (c) The date by which all qualified cooperatives must mail notices to eligible producer members as required by § 1371.9(b) and (c);
- (d) The date by which all ballots must be received at the Commission office;
- (e) A designated referendum agent; and
- (f) Any other procedures necessary for the conduct of the particular producer referendum.

### § 1371.4 Referendum agent.

The designated referendum agent shall:

- (a) Verify all ballots, cast individually or by block vote, with respect to timeliness, producer eligibility, cooperative identification, authenticity and other steps taken to avoid duplication of ballots.
- (b) Mark ballots determined to be invalid "disqualified" with a notation of