

the FSA Division having the responsibility for the commodity for which the referendum was held. One copy of the State summary shall be filed for a period of 5 years in the office of the State committee available for public inspection.

[33 FR 18345, Dec. 11, 1968, as amended by Amdt. 1, 34 FR 12940, Aug. 9, 1969]

HOLDING REFERENDA BY MAIL BALLOT

§ 717.18 Issuing ballots.

The county committee shall furnish each person who is eligible to vote in a particular referendum a ballot suitable for mailing back to the office of the county committee. If a person who is eligible to vote in a particular referendum is not furnished a ballot, he may obtain one during the referendum period from the office of the county committee for the county in which he is eligible to vote or from any other FSA office where ballots are available, including the Commodity Programs Division, FSA, Department of Agriculture, Washington, D.C. When a ballot is issued from an FSA office other than the FSA office in the county in which the producer is eligible to vote in a particular referendum, the issuing office shall keep a register showing to whom it was issued, the person's address, the county and State in which the ballot is to be voted, and the name and title of the person who issued the ballot.

[33 FR 18345, Dec. 11, 1968, as amended by Amdt. 1, 34 FR 12940, Aug. 9, 1969]

§ 717.19 Manner of voting.

(a) *Voting procedure.* Each person to whom a ballot is issued by mail or in person may vote in the referendum by marking the ballot so as to indicate clearly how the vote is cast, placing the ballot in a plain envelope, sealing the envelope provided by FSA which is marked clearly with the voter's name and return address, signing the certification on such envelope or making his mark thereto (which mark shall be witnessed), sealing such envelope, and delivering or mailing the envelope to the office of the county committee for the county in which the person is eligible to vote.

(b) *Voting by proxy prohibited.* There shall be no voting by proxy or agent except as provided in § 717.3.

(Secs. 312, 317, 336, 343, 344, 354, 358, 375, 52 Stat. 46, as amended, 79 Stat. 66, 52 Stat. 55, as amended, 56, as amended, 79 Stat. 1197, 52 Stat. 61, as amended, 55 Stat. 88, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1312, 1314c, 1336, 1343, 1344b, 1354, 1356, 1375)

[Amdt. 2, 36 FR 12730, July 7, 1971, as amended by Amdt. 4, 49 FR 24371, June 13, 1984]

§ 717.20 Receiving and tabulating voted ballots.

Ballots received at the county FSA office during the referendum period shall be placed immediately in a ballot box provided by the county executive director and so arranged that ballots cannot be read or removed without breaking the seal on the container. Voted ballots received by the county committee of the county in which the voter is eligible to vote during the period established for holding a particular referendum, shall be tabulated by the county committee. A ballot shall be considered to have been received during the referendum period if (a) in the case of a ballot delivered to the county committee, it was received in the office prior to the close of the work day on the final day of the referendum period, or (b) in the case of a mailed ballot, it was postmarked not later than midnight of the final day of the referendum period and was received in the county office prior to the start of canvassing the ballots. However, no such ballot shall be counted unless the voter signs the certification or his mark is witnessed on the returned envelope, and it is determined that he is eligible to vote in the particular referendum.

(Secs. 312, 317, 336, 343, 344, 354, 358, 375, 52 Stat. 46, as amended, 79 Stat. 66, 52 Stat. 55, as amended, 56, as amended, 79 Stat. 1197, 52 Stat. 61, as amended, 55 Stat. 88, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1312, 1314c, 1336, 1343, 1344b, 1354, 1356, 1375)

[33 FR 18345, Dec. 11, 1968, as amended by Amdt. 4, 49 FR 24371, June 13, 1984]

§ 717.21 Canvassing voted ballots.

(a) *Time of canvassing.* The canvassing of voted ballots shall take place at the opening of the county office on the

fifth day after the close of the referendum period. Ballots received after the start of tabulation, even though contained in envelopes that were post-marked prior to midnight of the final day of the referendum period, shall not be counted.

(b) *Canvassing by county committee.* The canvassing shall be in the presence of at least two members of the county committee and open to the public: *Provided*, That if two or more counties have been combined and are served by one county office, the canvassing of ballots shall be conducted by at least one member of the county committee from each county served by the county office: *Provided further*, That the State committee, or the State executive director if authorized by the State committee, may (1) designate the county executive director and a county or State FSA office employee to canvass the ballots and report the results, as provided in paragraph (c) and § 717.22, instead of two members of the county committee, when it is determined that the number of eligible voters for the commodity for which the referendum is being conducted is so limited that having two members of the county committee present for this function is impractical and (2) designate the county Executive Director and/or another county or State FSA office employee to canvass ballots in any emergency situation precluding at least two members of the county committee from being present to carry out the functions required in this section.

(c) *Manner of canvassing.* The canvassing of ballots shall follow the following procedure:

(1) The ballot box shall be opened;

(2) The envelopes from the ballot box shall be separated into three groups consisting of (i) unopened certification envelopes which do not have a proper signed certification, (ii) unopened certification envelopes from ineligible voters, and (iii) unopened certification envelopes from eligible voters;

(3) The unopened certification envelopes from eligible voters shall be opened and plain envelopes removed and then shuffled to preserve the secrecy of the ballots contained in such plain envelopes;

(4) The ballots shall be removed from such plain envelopes and tabulated. A ballot shall be considered as a spoiled ballot if it is mutilated or marked in such a way that it is not possible to determine with certainty how the ballot was intended to be counted on a particular question. The spoiled ballots shall not be considered in favor of or against the question.

(5) The unopened certification envelopes which do not have a proper signed certification shall not be opened and shall not be considered in favor of or against the question.

(6) The unopened certification envelopes from ineligible voters shall be considered as challenged ballots. The county committee shall determine the eligibility of the person to vote in the referendum. If determined to be eligible such envelopes shall be handled as provided under paragraphs (c)(3) and (4) of this section. If determined not to be eligible, such envelopes shall not be opened and shall not be considered in favor of or against the question.

(d) *Dispute or challenge.* A dispute or challenge with respect to any referendum held by mail ballot shall not be considered unless notification of such dispute or challenge is filed in writing with the county executive director of the county in which the alleged irregularity occurred within 3 days after the date of the canvassing of voted ballots. Such written notification of a dispute or challenge must identify each alleged instance in which the county committee erred when canvassing the ballots or tabulating the referendum results. The county committee shall determine the validity of the dispute or challenge and report its findings to the State committee within 3 working days after the final date for filing a dispute or challenge.

[33 FR 18345, Dec. 11, 1968, as amended by Amdt. 2, 36 FR 12730, July 7, 1971; Amdt. 3, 38 FR 12891, May 17, 1973; 51 FR 10609, Mar. 28, 1986; 52 FR 10727, Apr. 3, 1987]

§ 717.22 Reporting and record of result of the referendum.

(a) *County committee.* The county committee shall notify the State committee by telephone, telegraph, or messenger (who may be a member of the