

**§ 1221.228**

**7 CFR Ch. XI (1-1-11 Edition)**

the requests shall be conducted by at least one member of the county committee from each county served by the county office. The FSA State committee or the State Executive Director, if authorized by the State Committee, may designate the County Executive Director (CED) and a county or State FSA office employee to canvass the ballots and report the results instead of two members of the county committee when it is determined that the number of eligible voters is so limited that having two members of the county committee present for this function is impractical, and designate the CED and/or another county or State FSA office employee to canvass requests 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.

(b) Canvassing of importer ballots will be performed by AMS personnel or any other person as deemed necessary.

(c) Form LS-379 should be canvassed as follows:

(1) *Number of valid ballots.* A person has been declared eligible by FSA or AMS to vote by completing Form LS-379 in its entirety, signing it, and providing supporting documentation that shows the person who cast the ballot during the voting period was engaged in the production or importation of sorghum. Such ballot will be considered a valid ballot.

(2) *Number of ineligible ballots.* If FSA or AMS cannot determine that a person is eligible based on the submitted documentation or if the person fails to submit the required supporting documentation, the person shall be determined to be ineligible. FSA or AMS shall notify ineligible persons in writing as soon as practicable but no later than the 8th business day following the final day of the voting period.

(d) *Appeal.* A person declared to be ineligible by FSA or AMS can appeal such decision and provide additional documentation to the FSA county office or AMS within 5 business days after the postmark date of the letter of notification of ineligibility. FSA or AMS will then make a final decision on the person's eligibility and notify the person of the decision.

(e) *Invalid ballots.* An invalid ballot includes, but is not limited to the following:

(1) Form LS-379 is not signed or all required information has not been provided;

(2) Form LS-379 and supporting documentation returned in-person or by facsimile was not received by close of business on the last business day of the voting period;

(3) Form LS-379 and supporting documentation returned by mail was not postmarked by midnight of the final day of the voting period;

(4) Form LS-379 and supporting documentation returned by mail was not received in the county FSA or AMS office by the 5th business day following the final day of the voting period;

(5) Form LS-379 or supporting documentation is mutilated or marked in such a way that any required information on the Form is illegible; or

(6) Form LS-379 and supporting documentation not returned to the appropriate county FSA or AMS office.

**§ 1221.228 Counting ballots.**

(a) Form LS-379 shall be counted by county FSA offices or the AMS office on the same day as the ballots are canvassed if there are no ineligibility determinations to resolve. For those county FSA offices that do have ineligibility determinations, the requests shall be counted no later than the 14th business day following the final day of the voting period.

(b) Ballots shall be counted as follows:

(1) Number of valid ballots cast;

(2) Number of persons favoring the Order;

(3) Number of persons not favoring the Order;

(4) Number of invalid ballots.

**§ 1221.229 FSA county office report.**

The county FSA office report shall be certified as accurate and complete by the CED or designee, acting on behalf of the Administrator, AMS, as soon as may be reasonably possible, but in no event shall submit no later than the 18th business day following the final

day of the specified period. Each county FSA office shall transmit the results in its county to the FSA State office. The results in each county may be made available to the public upon notification by the Administrator, FSA, that the final results have been released by the Secretary. A copy of the report shall be posted for 30 calendar days following the date of notification by the Administrator, FSA, in the county FSA office in a conspicuous place accessible to the public. One copy shall be kept on file in the county FSA office for a period of at least 12 months after notification by FSA that the final results have been released by the Secretary.

**§ 1221.230 FSA State office report.**

Each FSA State office shall transmit to the Administrator, FSA, as soon as possible, but in no event later than the 20th business day following the final day of the voting period, a report summarizing the data contained in each of the reports from the county FSA offices. One copy of the State summary shall be filed for a period of not less than 12 months after the results have been released and available for public inspection after the results have been released.

**§ 1221.231 Results of the referendum.**

(a) The Administrator, FSA, shall submit to the Administrator, AMS, reports from all State FSA offices. The Administrator, AMS shall tabulate the results of the ballots. USDA will issue an official press release announcing the results of referendum and publish the same results in the FEDERAL REGISTER. In addition, USDA will post the official results on its Web site. State reports and related papers shall be available for public inspection upon request during normal business hours at the Marketing Programs Branch; Livestock and Seed Program, AMS, USDA, Room 2628-S; STOP 0251; 1400 Independence Avenue, SW., Washington, DC.

(b) If the Secretary deems necessary, a State report or county report shall be reexamined and checked by such persons who may be designated by the Secretary.

**§ 1221.232 Disposition of records.**

Each FSA CED will place in sealed containers marked with the identification of the "Sorghum Checkoff Program Referendum," all of the Forms LS-379 along with the accompanying documentation and county summaries. Such records will be placed in a secure location under the custody of FSA CED for a period of not less than 12 months after the date of notification by the Administrator, FSA, that the final results have been announced by the Secretary. If the county FSA office receives no notice to the contrary from the Administrator, FSA, by the end of the 12 month period as described above, the CED or designee shall destroy the records.

**§ 1221.233 Instructions and forms.**

The Administrator, AMS, is authorized to prescribe additional instructions and forms not inconsistent with the provisions of this subpart.

**§ 1221.234 Confidentiality**

The names of persons voting in the referendum and ballots shall be confidential and the contents of the ballots shall not be divulged except as the Secretary may direct. The public may witness the opening of the ballot box and the counting of the votes but may not interfere with the process.

**Subparts C-E [Reserved]**

**PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION**

**Subpart A—Pork Promotion, Research, and Consumer Information Order**

**DEFINITIONS**

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