

AFBF FEDERAL MILK MARKETING ORDER WORKING GROUP
BACKGROUND ON COOPERATIVE BLOC VOTING
JUNE 2019

Issue:

To modify a Federal Milk Marketing Order, at least two-thirds majority of the eligible producers voting in the referendum, or the eligible producers who supply more than two-thirds of the milk represented in the referendum, must vote in favor of the order as amended.

There are two methods in a producer referendum process for ballots to be cast: individual ballots and bloc voting by cooperatives. Independent eligible producers receive an individual ballot. Qualified cooperatives can choose to bloc vote on behalf of their producer-members, in which case those producers do not receive an individual ballot. Eligible producers whose cooperative does not elect to bloc vote receive individual ballots. Only completed and returned ballots are counted.

The Federal Milk Marketing Order reform process does not authorize modified bloc voting similar to referendums in the dairy promotion checkoff program. As a result, producers may not cast an individual ballot without the cooperative forfeiting the opportunity to bloc vote.

Background:

Under current provisions, the Agricultural Marketing Agreement Act allows for cooperatives to bloc vote with respect to the approval or disapproval of any amendments to the Federal Milk Marketing Order program. If a cooperative elects to vote and cast one ballot for members it shall submit with its ballot a certified copy of the resolution authorizing the casting of the ballot. Cooperatives are not required to provide each producer a description of the question presented in the referendum together with a statement on how the cooperative plans to vote on behalf of the membership. Cooperatives may request that their members receive an individual ballot, but in this case the cooperative may not bloc vote for members not casting a ballot. Cooperative association representation in the AMA is highlighted below.

7 U.S.C. §608(c)(12) of the Agricultural Marketing Agreement Act, Cooperative association representation

Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval

of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

Promotion programs, i.e., the Dairy Checkoff, provide an alternative voting process for producers and cooperatives. During a producer referendum for promotion programs, if a cooperative plans to bloc vote it must first notify the membership how the cooperative intends to cast the ballot. If a producer elects to vote individually, the cooperative must inform the producer of procedures to follow to cast an individual ballot. The cooperative may vote on behalf of all members not casting an individual ballot. Cooperative association representation in the dairy promotion program is highlighted below.

7 U.S.C. §4508 Dairy Promotion Program, Cooperative association representation

Whenever, under the provisions of this subchapter, the Secretary is required to determine the approval or disapproval of producers, the Secretary shall consider the approval or disapproval by any cooperative association of producers, engaged in a bona fide manner in marketing milk or the products thereof, as the approval or disapproval of the producers who are members of or under contract with such cooperative association of producers.

If a cooperative association of producers elects to vote on behalf of its members, such cooperative association shall provide each producer, on whose behalf the cooperative association is expressing approval or disapproval, a description of the question presented in the referendum together with a statement of the manner in which the cooperative association intends to cast its vote on behalf of the membership. Such information shall inform the producer of procedures to follow to cast an individual ballot should the producer so choose within the period of time established by the Secretary for casting ballots. Such notification shall be made at least thirty days prior to the referendum and shall include an official ballot. The ballots shall be tabulated by the Secretary and the vote of the cooperative association shall be adjusted to reflect such individual votes.

Current Farm Bureau Policy:

- In federal marketing order referendums, the members of a nonprofit agricultural cooperative marketing association should be informed of the intended position of the cooperative before the bloc vote is exercised. Boards of directors of agricultural cooperatives should be allowed to vote for their members on marketing order questions, provided each member is given the right to cast his own ballot in any referendum.