

(3) evidence of stability and permanency of the organization;

(4) sources from which the organization's operating funds are derived;

(5) functions of the organization; and

(6) the organization's ability and willingness to further the aims and objectives of this subchapter.

The primary considerations in determining the eligibility of an organization shall be whether its membership consists primarily of milk producers who produce a substantial volume of milk and whether the primary or overriding interest of the organization is in the production or processing of fluid milk and dairy products and promotion of the nutritional attributes of fluid milk and dairy products.

(Pub. L. 98-180, title I, § 114, Nov. 29, 1983, 97 Stat. 1140.)

#### § 4506. Requirement of referendum

(a) Within the sixty-day period immediately preceding September 30, 1985, the Secretary shall conduct a referendum among producers who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use for the purpose of ascertaining whether the order then in effect shall be continued. Such order shall be continued only if the Secretary determines that it has been approved by not less than a majority of the producers voting in the referendum, who during a representative period (as determined by the Secretary) have been engaged in the production of milk for commercial use. If continuation of the order is not approved by a majority of the producers voting in the referendum, the Secretary shall terminate collection of assessments under the order within six months after the Secretary determines that such action is favored by a majority of the producers voting in the referendum and shall terminate the order in an orderly manner as soon as practicable after such determination.

(b) The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Department in connection with the conduct of any referendum under this section and section 4507 of this title, except for the salaries of Government employees.

(Pub. L. 98-180, title I, § 115, Nov. 29, 1983, 97 Stat. 1141.)

#### § 4507. Suspension and termination of orders

##### (a) Determination by Secretary

After September 30, 1985, the Secretary shall, whenever the Secretary finds that any order issued under this subchapter or any provision thereof obstructs or does not tend to effectuate the declared policy of this subchapter, terminate or suspend the operation of such order or such provisions thereof.

##### (b) Referendum

After September 30, 1985, the Secretary may conduct a referendum at any time, and shall hold a referendum on request of a representative group comprising 10 per centum or more of the number of producers and importers subject to

the order, to determine whether the producers and importers favor the termination or suspension of the order. The Secretary shall suspend or terminate collection of assessments under the order within six months after the Secretary determines that suspension or termination of the order is favored by a majority of the producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use and importers voting in the referendum (who have been engaged in the importation of dairy products during the same representative period, as determined by the Secretary) and shall terminate the order in an orderly manner as soon as practicable after such determination.

##### (c) Action not considered an order

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this subchapter.

(Pub. L. 98-180, title I, § 116, Nov. 29, 1983, 97 Stat. 1141; Pub. L. 107-171, title I, § 1505(f), May 13, 2002, 116 Stat. 209.)

#### AMENDMENTS

2002—Subsec. (b). Pub. L. 107-171, which directed amendment of section 116(b) of the Dairy Promotion Stabilization Act of 1983 by inserting “and importers” after “of producers” and after “whether the producers” in first sentence and inserting “and importers voting in the referendum (who have been engaged in the importation of dairy products during the same representative period, as determined by the Secretary)” after “commercial use” in second sentence, was executed by making the insertions in subsec. (b) of this section, section 116 of the Dairy Production Stabilization Act of 1983, to reflect the probable intent of Congress.

#### § 4508. 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.

(Pub. L. 98-180, title I, § 117, Nov. 29, 1983, 97 Stat. 1141.)