

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
MARKETING
ADMINISTRATIVE CODE

CHAPTER 80-8-9
RULES FOR NUT, BULBS, FRUITS, AND VEGETABLES REFERENDUM

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80-8-9-.01 Purpose.

The purpose of this Chapter is to set up procedures and rules governing referendums conducted under the provisions of Section 2-8-120 through 2-8-137, Code of Ala. 1975, for Nuts, Bulbs, Fruits & Vegetables by a promotional program to include research and education.

Author: Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2-8-131.

History: New Rule: Filed August 12, 2003; effective September 16, 2003.

80-8-9-.02 Referendum To Be Held.

A referendum shall be held by an association, certified by the Board of Agriculture and Industries, on a statewide basis, at which time, affected producers of pecans who have 15 acres or more of pecan trees planted in a grove-like manner, may vote upon the question of whether they favor a three-year assessment in an amount not to exceed one-half cent (1/2¢) per pound on in-shell pecans produced in this state for sale within or without the state to be deducted from all sales.

Author: Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2-8-131.

History: New Rule: Filed August 12, 2003; effective September 16, 2003.

80-8-9-.03 Notice To Be Given.

Notice of said referendum shall be not less than 30 days before the date of any referendum. The notice shall include the date, hours, polling places, and rules for voting in the referendum, the geographic areas covered by the referendum, the amount and basis of the assessment proposed to be collected, the means by which the assessment shall be collected, and the general purposes for which the amount collected shall be expended and applied. The notice shall be published by the certified Association in its trade publication and written notice shall be given to each county agent in the geographic area covered by the referendum.

Author: Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2-8-131.

History: New Rule: Filed August 12, 2003; effective September 16, 2003.

80-8-9-.04 Polling Places And Time Of Operation.

(1) The referendum shall be held by providing voting facilities at the county seat in each of the 67 counties of the State of Alabama. In those counties where it is determined by the State Referendum Committee that another location is more convenient outside of the county seat, then an alternative voting facility may be provided in such counties at public location such as a county cooperative extension system office, city hall, community centers, local offices of the County Farmers Federation, or other locations. The exact location of the voting places in each county shall be given publicity in order that all affected producers will have an opportunity to vote. The certified Association shall furnish all necessary ballots and arrange for the necessary poll holders. All expenses and costs necessary to conduct a referendum shall be borne by the association.

(2) The polls shall be open for voting from 8:00 a.m. to 4:00 p.m. on the date of the referendum.

Author: Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2-8-131.

History: New Rule: Filed August 12, 2003; effective September 16, 2003.

80-8-9-.05 Procedure For Polling And Handling Results Of The Poll.

(1) Each polling place shall have not less than two individuals who shall serve as poll holders to be in charge of and supervise

the voting. Such polling places shall have a voters' register, and those who are eligible to vote shall sign his or her name upon such register and enter thereon his or her address together with the number of acres of pecan trees they have planted in Alabama in a grove-like manner at any time during the year next preceding the date of this referendum.

(2) Eligible voting producers shall be furnished with a printed ballot for voting by secret ballot box or other similar container suitable to serve as a ballot box.

(3) As soon as the last voter has voted and the polls close, the poll holders shall immediately open the ballot boxes, count and tabulate the results of the voting, and certify the results thereof to the Chairman of the County Committee. Any interested individual who cares to be present when the ballots are counted or tabulated may be present and observe such vote counting and tabulation of results.

(4) Upon the conclusion of paragraph no. (3) above, a poll holder shall deliver the ballots in a sealed container to the Chairman of the Referendum Committee with the certification of the results. The County Chairman and at least two other members of the County Referendum Committee shall then tabulate and certify the results received from each polling place in the county to the State Referendum Committee of the certified Association. The County Chairman will also deliver or forward all county ballots in the sealed containers, after tabulation of voting results to the Director of the certified Association. The state certified Association shall upon receipt of certified results from each county, tabulate, publicly declare and announce the results of the state wide referendum within a period of ten (10) days following receipt of the results from each county in Alabama.

(5) A certified copy of the results of the statewide referendum shall be forwarded to the Commissioner of Agriculture and Industries.

Author: Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2-8-131.

History: New Rule: Filed August 12, 2003; effective September 16, 2003.

80-8-9-.06 Persons Entitled To Vote.

(1) All persons subject to the assessment are entitled to vote in the referendum upon the question of whether they favor a three-year assessment in an amount not to exceed one-half cent (1/2¢) per pound on in-shell pecans produced in this state for sale within or without the state to be deducted from all sales. During the third year of such a period, another referendum in which eligible producers of pecans shall vote upon the question of

whether or not such assessments shall be continued for the next ensuing three years.

(2) Each producer shall have one vote where the production operation is conducted by an individual, partnership, corporation, estate or other legal entity. If the pecan production operation is conducted by a partnership, corporation, estate or other legal entity, then one individual shall be designated to vote for such production operation.

(3) Each eligible voter shall vote in person only once at an established polling place. Proxy voting or voting by mail shall not be permitted.

Author: Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2-8-131.

History: New Rule: Filed August 12, 2003; effective September 16, 2003.

80-8-9-.07 Method Of Collection.

The assessment shall be collected from affected producers at first point of sale. To aid in such collection, buyers, handlers, distributors, sales agents, and processors shall deduct the amount of such assessment from each payment made to the affected producer and they all shall remit the same to the Commissioner of Agriculture and Industries on or before the twentieth day of the month following the deduction for the account of the producer. The first handler will collect and remit the one-half cent (1/2¢) per pound assessment on all pecans purchased from affected producers.

Author: Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2-8-131.

History: New Rule: Filed August 12, 2003; effective September 16, 2003.

80-8-9-.08 Bond Required For Certified Association.

The treasurer of the certified Association shall be bonded in an amount of not less than forty thousand dollars (\$40,000). At the end of a complete year of assessment collections, the above bond amount requirement will be adjusted to adequately reflect asrequired under the law, the amount of assessment forwarded to the certified Association.

Author: Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2-8-131.

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