



United States
Department of
Agriculture

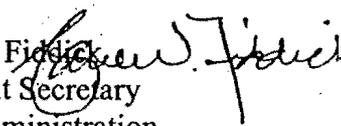
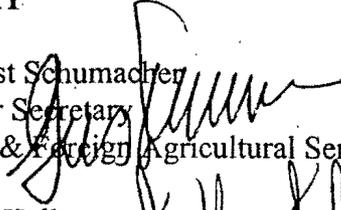
Office of the
Assistant Secretary
for Administration

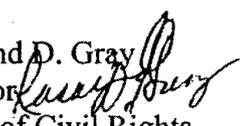
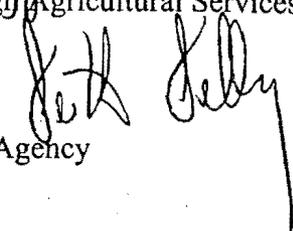
Office of
Civil Rights

1400 Independence
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Washington, DC
20250

DECISION MEMORANDUM FOR THE SECRETARY

THROUGH: Paul W. Fiddick  Assistant Secretary
for Administration August Schumacher 
Under Secretary
Farm & Foreign Agricultural Services

FROM: Rosalind D. Gray  Director
Office of Civil Rights Keith Kelly 
Administrator
Farm Service Agency

SUBJECT: County Committee Election Procedures

ISSUE:

Amend current regulations governing the election of county committees.

DISCUSSION:

Current regulations governing the election and operation of county committees, found at 7 C.F.R. Part 7, predate the 1994 reorganization statute. See 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. § 590h(b)(5)), as amended by Section 227 of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994. These regulations must be amended to reflect the 1994 reorganization act, to increase participation, and to ensure fair elections consistent with principles embodied in the Voting Rights Act and other laws that require fair and impartial elections.

RECOMMENDATIONS:

The following changes are recommended:

1. Eliminate community committees currently authorized in 7 C.F.R. § 7.2.
2. To ensure that only eligible voters participate in the election of county committee members, there must be routine purging of voter lists. For example, a person who fails to vote in two successive county committee elections for their LAA or who has not participated in farm program activity for five years, should be removed from the registration list. For election year 1996, FSA-681 reported that there were 1,760,310 female eligible voters and 3,938,795 male eligible voters, for a total of 5,699,105 eligible voters in the country, exceeding the number of farmers by approximately 3-1. The same form 681 indicated there were 2,050,947 eligible voters in open local administrative areas. A total of 354,800 ballots were cast in open local administrative areas or about 17 percent of eligible voters.

FSA will implement a program to purge its voter lists for county committee elections. An otherwise eligible producer will remain on the eligibility list when the producer participated in one of the last two elections or participated in FSA activity over the last three years. To assist in updating the FSA database for county committee elections, FSA shall contract a management audit firm.

FSA and CR shall select a management consulting firm to audit the eligible voters list, and to make recommendations for new modified procedures for maintenance of the list of eligible voters. The contracted auditing firm will report to the Secretary of Agriculture and recommend modifications as evidenced by the audit to provide fair election procedures. The database and racial and geographical profiles will be analyzed to determine if the local administrative area have a disparate impact on minority and women voters. Local administrative areas will be reviewed by SEDs and STCs before every COC election until the audit has been conducted to ensure fairness for all producers. When the SED and STC determine that a designated local administrative area dilutes the impact of minority votes then the SED and STC shall modify the boundaries of the local administrative area to ensure fairness for producers. Until the audit is complete and new local administrative areas are designated by the Secretary, all eligible producers in a county shall fully participate in the current election process of county committee members.

3. The most effective method to ensure that only eligible producers participate in elections is to require voter registration. A voter registration form for county elections will be developed by the Department for approval by OMB. FSA will continue to purge its eligibility lists but will also contract a management audit firm to review its elections procedures and to make recommendation to the Secretary regarding incorporating a registration system for voting.
4. The voter registration form must be developed in such a way that a farmer who "checks the correct boxes" is determined an eligible voter.
5. Streamline and improve the nomination process by: (1) eliminating the requirement that a person who desires to run for a county committee position acquire names on a petition; (2) allowing eligible voters, including county committee members, who desire to run for a county committee slot to "nominate" himself/herself by filling out a nomination form; (3) eliminating the current requirement of 4 persons running per county committee seat (if only one person runs, that person wins); (4) prohibiting county committees, community committees, and local office personnel from submitting nominations; and (5) requiring that nominations be submitted and signed by eligible voters willing to serve, or signed by an eligible community based organization, as described in the 1994 reorganization act, provided the farmer so nominated signs the form indicating a willingness to serve if elected.
6. An eligible voter should be defined as follows: "Any person, regardless of race, color, religion, sex, age, or national origin, who has an interest in a farm as

owner, operator, tenant, or sharecropper and who is of legal voting age in the State in which the farm is located, and any person not of such legal voting age who is in charge of the supervision and conduct of the farming operations on an entire farm, shall be eligible to vote for direct election of county committee members or community committee members if such person is eligible to participate with respect to the farm in any program administered by the county committee. If two spouses or more than one person operating the same farm operation meets this requirement, then each person is an eligible voter." This definition is similar to 7 C.F.R. § 7.5, but is clearer. The regulation will be updated to provide that no one individual may vote more than one ballot. An entity would remain an eligible voter but no individual would cast more than one ballot.

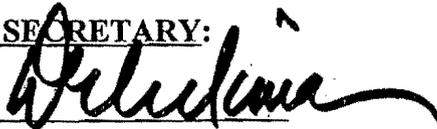
7. Only the county executive director (CED), can decide that a person is not an eligible voter. The county executive director must decide that a person is not an eligible voter within 10 days of receiving the voter registration form, or the person is considered an eligible voter. The county executive must in writing within 15 days of receipt of the registration form advise a person of the decision to declare the person an ineligible voter, and notify that person of his/her appeal rights. All decisions of ineligibility are appealable to the State Executive Director. If further appeal is necessary, it shall be to the Deputy Administrator.
8. Require that only eligible voters are nominated for a county committee seat.
9. The county executive director (CED) must conduct all aspects of the election process. The county committee will not be involved in any aspect of the conduction of the election process.
 - No eligibility decisions can be made during the week prior to the publicized date for elections to begin.
 - Any voter on the eligibility list may vote in their LAA election.
 - Producers not on the eligible list of voters at least one week before the election may not vote.
 - No documents related to the election, including ballots and disqualified ballots, may be destroyed for at least 180 days and if there is an appeal or challenge, no documents can be destroyed until all appeals or challenges are satisfied. After the election, all ballots, including disqualified ballots, must be secured for at least 180 days in the FSA County office. If an election is challenged or results appealed to a State Director or Deputy Administrator, then all documents related to that election will be forwarded to the State Director until all appeals or challenges are satisfied.
 - County ballots that are the subject of challenge shall be delivered immediately to the State Executive Director.

DECISION MEMORANDUM FOR THE SECRETARY

- Any eligible voter or community based group which serves underserved constituencies, as defined in the 1994 reorganization act, may challenge an election result or procedure to the State Executive Director with appeal to the Deputy Administrator.
 - A neutral observer shall monitor the counting of the ballot.
10. In operating the voter registration, nomination, and election processes, clearly established and distinct timetables must be established by the Deputy Administrator. The local county executives must take all steps to ensure that all potential voters receive the information. The local county executives must also work directly with local community based groups who serve underserved constituencies. This information must also be published in the Federal Register.
 11. There must be open elections reporting and monitoring of election results. FSA must report on a committee and state basis all information contained in the Election Information and Media Outreach Report. The election results and demographic data from the Election Information and Media Outreach Report must be published on FSA's website.
 12. Recognizing the problems with participation by underserved constituents, Congress in the 1994 reorganization act authorized nominations of eligible farmers by community based groups who serve underserved constituencies. The new regulations must place an affirmative requirement on the county executive to seek out and solicit nominations from local community based groups who serve underserved constituencies.
 13. The new procedures must be published in the Federal Register, providing comment period as required by the Administrative Procedure Act. Interim regulations are not advisable.
 14. The USDA Office of Civil Rights and FSA will jointly monitor election results and routinely investigate counties where there is low voter participation or low or variable participation of voters of one race compared to another.

DECISION BY THE SECRETARY:

Approve:



Disapprove: _____

Discuss with me: _____

Date:

10/11/2000

Reviewed by: _____