

§916.61

be revealed to any extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

MISCELLANEOUS PROVISIONS

§916.61 Compliance.

Except as provided in this part, no person shall handle nectarines, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle nectarines except in conformity with the provisions of this part and the regulations issued under this part.

§916.62 Right of the Secretary.

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§916.63 Effective time.

The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in §916.64.

§916.64 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner in which he may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part whenever he

7 CFR Ch. IX (1-1-03 Edition)

finds by referendum or otherwise that such termination is favored by a majority of the growers: *Provided*, That such majority has, during the current marketing season, produced more than 50 percent of the volume of the nectarines which were produced within the production area for shipment in fresh form. Such termination shall become effective on the first day of March subsequent to the announcement thereof by the Secretary.

(d) The committee shall consider all petitions from growers submitted to it for termination of this part provided such petitions are received by the committee prior to October 1 of the then current fiscal period. Upon recommendation of the committee received not later than December 1 of the then current fiscal period, the Secretary shall conduct a referendum among the growers prior to February 15 of such fiscal period to ascertain whether continuance of this part is favored by producers.

(e) The Secretary shall conduct a referendum within the period beginning December 1, 1974, and ending February 15, 1975, to ascertain whether continuance of this part is favored by the growers. The Secretary shall conduct such referendum within the same period of every fourth fiscal period thereafter.

(f) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

[23 FR 4616, June 25, 1958. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 31 FR 8177, June 10, 1966; 36 FR 9290, May 22, 1971]

§916.65 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustee of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of

Agricultural Marketing Service, USDA

§ 916.102

the committee and of the trustees, to such persons as the Secretary may direct; and (3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 916.66 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 916.67 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 916.68 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 916.69 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to

exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 916.70 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistaken, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 916.71 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

Subpart—Rules and Regulations

§ 916.102 Procedure for nominating members and alternate members for the Nectarine Administrative Committee and the Shippers' Advisory Committee.

(a) The manager of the Nectarine Administrative Committee shall arrange for, and publicize, meetings of growers and shippers for the purpose of nominating members and alternate members for the Nectarine Administrative Committee and the Shippers' Advisory Committee. One growers' nomination meeting shall be held in each district. The shippers' nomination meeting shall be held in the district which, during the preceding year, produced the most nectarines. So far as possible, these meetings shall be held jointly with nomination meetings scheduled by the Control Committee, established under Order No. 917, as amended (7 CFR part 917), known as the California Tree Fruit Agreement. Each such meeting