

Agricultural Marketing Service, USDA

§ 917.64

(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 or the applicability of the provisions of this part as to a particular fruit whenever he finds by referendum or otherwise that such termination is favored by a majority of the growers of the fruit: *Provided*, That such majority has during the current fiscal period produced more than 50 percent of the volume of the fruit which was 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 Control Committee shall consider all petitions from growers submitted to it for termination of this part provided such petitions are received by the Control Committee prior to October 1 of the then current fiscal period. Upon recommendation of the Control Committee, received not later than December 1 of the then current fiscal period, the Secretary shall conduct a referendum among the growers of the particular kind of fruit 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 as to any fruit included in this part is favored by the growers. The Secretary shall conduct such a 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.

EFFECTIVE DATE NOTE: At 71 FR 78044, Dec. 28, 2006, §917.61 was amended in paragraph (e) by suspending the sentence "The Secretary shall conduct such a referendum within the same period of every fourth fiscal period thereafter.", effective Dec. 1, 2006 through Feb. 15, 2007.

§ 917.62 Proceedings after termination.

(a) Upon the termination of the provisions of this part pertaining to any fruit or fruits, the Control Committee then functioning shall for the purpose of liquidating the affairs of the Control Committee with respect to such fruit 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 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 funds, property, and claims vested in the Control 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 Control Committee and upon the trustees.

§ 917.63 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, 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 subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 917.64 Compliance.

Each shipper shall comply with all regulations. No shipper shall ship fruit in violation of the provisions of this

§917.65

part or in violation of any regulation issued by the Secretary pursuant to the provisions of this part.

§917.65 Duration of immunities.

The benefits, privileges, and immunities conferred by virtue of the provisions of this subpart shall cease upon its termination except with respect to acts done under and during the time the provisions of this part are in force and effect.

§917.66 Agents.

The Secretary may by a designation in writing name any person, including any officer or employee of the Government or 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.

§917.67 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 to exercise any powers granted by the act or otherwise, and in accordance with such powers to act in the premises whenever such action is deemed advisable.

§917.68 Liability of committee members.

No members of the Control Committee, any commodity committee, or other committee, or any subcommittee, or any employee of the Control Committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any shipper or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty.

§917.69 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, thing, or any particular kind of fruit is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, cir-

7 CFR Ch. IX (1-1-07 Edition)

cumstance, thing, or kind of fruit shall not be affected thereby.

Subpart—Rules and Regulations

SOURCE: 16 FR 12776, Dec. 20, 1951, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.

DEFINITIONS

§917.100 Order.

Order means Marketing Order No. 917, as amended (this part 917), regulating the handling of fresh pears and peaches grown in the State of California.

[31 FR 7476, May 5, 1966, as amended at 56 FR 46369, Sept. 12, 1991]

EFFECTIVE DATE NOTE: At 59 FR 10056, Mar. 3, 1994, in §917.100, the words "pears and" were suspended, effective April 4, 1994.

§917.101 Marketing agreement.

Marketing agreement means Marketing Agreement No. 85 as amended.

§917.103 Terms.

All other terms used in this subpart shall have the same meaning as when used in the marketing agreement and order.

[18 FR 712, Feb. 4, 1953. Redesignated at 26 FR 12751, Dec. 30, 1961]

GENERAL

§917.110 Communications.

Unless otherwise prescribed in this subpart, or in the marketing agreement and order, or required by the Control Committee, or a particular commodity committee, all reports, applications, submittals, requests, and communications in connection with the marketing agreement and order shall be addressed as follows:

California Tree Fruit Agreement, P.O. Box 968, Reedley, CA, 93654-0968.

[63 FR 16041, Apr. 1, 1998, as amended at 71 FR 78041, Dec. 28, 2006]

ADMINISTRATIVE BODIES

§917.115 Nomination of shipper members for the Control Committee.

(a) All shippers who, prior to February 1 of the then current year, have