

**§ 966.86**

claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, 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 person as the Secretary may direct; and shall, upon 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 to this subpart.

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

**§ 966.86 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 amendments 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 regulations 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 violations.

**§ 966.87 Duration of immunities.**

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

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**§ 966.88 Agents.**

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

**§ 966.89 Derogation.**

Nothing contained in this subpart 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, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

**§ 966.90 Personal liability.**

No member or alternate of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee except for acts of dishonesty, willful misconduct, or gross negligence.

**§ 966.91 Separability.**

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

**§ 966.92 Amendments.**

Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

**Subpart—Rules and Regulations**

SOURCE: 21 FR 353, Jan. 19, 1956, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.

## Agricultural Marketing Service, USDA

## § 966.113

### GENERAL

#### § 966.100 Communications.

Unless otherwise provided in the marketing agreement and order, or by specific direction of the committee, all reports, applications, submittals, requests, and communications in connection with the marketing agreement and order shall be addressed to the Florida Tomato Committee at its principal office.

### DEFINITIONS

#### § 966.110 Order.

*Order* means Order No. 966 (§§ 966.1 to 966.92) regulating the handling of tomatoes grown in Florida.

#### § 966.111 Marketing Agreement.

*Marketing Agreement* means Marketing Agreement No. 125.

#### § 966.112 Terms.

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

#### § 966.113 Registered handler certification.

Each handler who handles tomatoes grown in the production area must be certified as a registered handler by the committee in order to ship such tomatoes outside of the regulated area. A handler who is certified as a registered handler is a handler who has adequate facilities to meet the requirements for preparing tomatoes for market, obtains inspection on tomatoes handled, agrees to handle tomatoes in compliance with the order's grade, size and container requirements, pays applicable assessments on a timely basis, submits reports required by the committee, and agrees to comply with other regulatory requirements on the handling of tomatoes grown in the production area.

(a) Based on the criteria specified in this section, the committee shall determine eligibility for certification as a registered handler. The committee or its authorized agent shall inspect a handler's facilities to determine if the facilities are adequate for preparing tomatoes for market. In order to be adequate for such purposes, the facilities must be permanent, nonportable build-

ings located in the production area with equipment that is nonportable for the proper washing, grading, sizing and packing of tomatoes grown in the production area.

(b) Application for certification shall be executed by the handler and filed with the committee on a form, prescribed by and available at the principal office of the committee, containing the following information:

(1) Business name,

(2) Address of handling facilities (including telephone and facsimile number),

(3) Mailing address (if different from handling facility),

(4) Number of years in tomato business in Florida,

(5) Type of business, and

(6) Names of senior officers, partners, or principal owners with financial interest in the business.

(c) If the committee determines from available information that an applicant meets the criteria specified in this section, such applicant shall be certified as a registered handler and shall be so informed by written notice from the committee. If certification is denied, such denial shall be made by the committee in writing, stating the reasons for denial.

(d) A registered handler's certification shall be cancelled by the committee, with the approval of the Secretary, if the handler fails to pay assessments within 45 days of the end of the assessment billing period, fails to provide reports, or no longer has adequate facilities as described in this section. Cancellation of a handler's registration shall be made in writing to the handler and shall specify the reason(s) for and effective date of such cancellation. The committee shall recertify the handler's registration at such time as the handler corrects the deficiencies which resulted in the cancellation. Certification is permanent until the committee determines, based on criteria herein, that cancellation is warranted. Persons who make deliveries of ungraded tomatoes to such certified registered handlers are hereby determined to be exempt from otherwise applicable regulations pursuant to this part.