

ownership in tomatoes produced in the production area.

(b) *Producer* means any person, as defined in this section: (1) Who or which owns and farms land resulting in his or its ownership of the tomatoes produced thereon; (2) who or which rents or farms land, resulting in his or its ownership of all or a portion of the tomatoes produced thereon; or (3) who or which owns land which he or it does not farm and, as rental for such land, obtains the ownership of a portion of the tomatoes produced thereon.

(c) The term "partnership" shall be deemed to include a husband and wife with respect to land, the title to which, or leasehold interest in which, is vested in them as tenants in common, joint tenants, tenants by entirety, or, under community property laws, as community property. The term "partnership" shall also be deemed to include individuals, partnerships or corporations which join together by agreement, informal or otherwise, for the purpose of growing tomatoes and which, as a unit, have authority to transfer title to such tomatoes at the time they are harvested or subsequent thereto. The term "partnership" shall also include so-called "joint ventures," wherein one or more parties to the arrangement contribute capital and others contribute labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the growing of tomatoes and the authority to transfer title to the tomatoes so produced from that business unit to some other parties in the marketing chain.

(d) Each legal entity, whether an individual, a partnership, a "joint venture," or a corporation, so engaged in the production of tomatoes for market shall have one vote for each position which is to be filled for the district for which he or it is eligible to vote. In the case of a partnership or a "joint venture," such vote shall not be accepted in the absence of unanimous agreement of the respective members. In the case of a corporation, such vote shall be cast pursuant to the authorization of its board of directors. In the case of a person who owns land which he or it does not farm but, as rental for such land, obtains the ownership of a por-

tion of the tomatoes produced thereon, such person shall be regarded as the producer of that portion and entitled to one vote, and the tenant on such land shall be regarded as the producer of the remaining portion produced on such land and also entitled to one vote.

(e) A producer eligible to vote is a person who produced tomatoes for market in a proprietary capacity in the production area during the then current fiscal period, i.e., between August 1, of the previous year and July 31 of the then current year. If a person who would otherwise qualify as a producer in a proprietary capacity in the production area planted tomatoes for market as fresh tomatoes during the current fiscal period, but (1) did not market any tomatoes in the fresh market during the current fiscal period due to adverse weather conditions, or (2) has tomatoes in production for fresh market during the current fiscal period, although still unharvested, he shall, nevertheless, be eligible as a producer to vote for committee nominees, if he produced and marketed tomatoes grown in the production area in the next preceding fiscal period.

[23 FR 2588, Apr. 19, 1958. Redesignated at 26 FR 12751, Dec. 30, 1961]

REESTABLISHMENT OF DISTRICTS

**§966.160 Reestablishment of districts.**

(a) District No. 1: The county of Dade in the State of Florida.

(b) District No. 2: The counties of Brevard, Glades, Indian River, Martin, Osceola, Okeechobee, Palm Beach, St. Lucie, and Broward in the State of Florida.

(c) Terms used in this section have the same meaning as when used in said marketing agreement and this part.

[35 FR 19633, Dec. 25, 1970]

**§966.161 Reapportionment of Committee Membership.**

Pursuant to §966.25, industry membership on the Florida Tomato Committee shall be reapportioned as follows:

(a) District 1—two members and their alternates.

(b) District 2—two members and their alternates.

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(c) District 3—four members and their alternates.

(d) District 4—four members and their alternates.

[50 FR 3738, Jan. 28, 1985, as amended at 60 FR 5560, Jan. 30, 1995]

**Subpart—Assessment Rates**

**§ 966.234 Assessment rate.**

On and after August 1, 1999, an assessment rate of \$0.025 per 25-pound container is established for Florida tomatoes.

[64 FR 57363, Oct. 25, 1999]

**Subpart—Handling Regulations**

**§ 966.323 Handling regulation.**

From October 10 through June 15 of each season, except as provided in paragraphs (b) and (d) of this section, no person shall handle any lot of tomatoes produced in the production area for shipment outside the regulated area unless it meets the requirements of paragraph (a) of this section.

(a) *Grade, size, container, and inspection requirements*—(1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, or U.S. No. 2 of the U.S. Standards for Grades of Fresh Tomatoes. When not more than 15 percent of the tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than 1 percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) All tomatoes packed by a registered handler shall be at least  $2\frac{9}{32}$  inches in diameter and shall be sized with proper equipment in one or more of the following ranges of diameters. Tomatoes shipped outside the regulated area shall also be sized with proper equipment in one or more of the following ranges of diameters. Measurements of diameters shall be in accordance with the methods prescribed in §51.1859 of the U.S. Standards for Grades of Fresh Tomatoes.

Size designation	Inches minimum diameter	Inches maximum diameter
6×7 .....	$2\frac{9}{32}$	$2\frac{19}{32}$
6×6 .....	$2\frac{17}{32}$	$2\frac{29}{32}$
5×6 .....	$2\frac{25}{32}$	

(ii) Tomatoes of designated sizes may not be commingled, and each container or lid shall be marked to indicate the designated size.

(iii) Only 6×7, 6×6, or 5×6, may be used to indicate the above listed size designations or containers of tomatoes.

(iv) To allow for variations incident to proper sizing, not more than a total of ten (10) percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

(3) *Containers.* (i) All tomatoes packed by a registered handler shall be packed in containers of 10, 20, and 25 pounds designated net weights. The net weight of the contents shall not be less than the designated net weight and shall not exceed the designated net weight by more than two pounds. Section 51.1863 of the U.S. Tomato Standards shall apply to all containers.

(ii) Each container or lid shall be marked to indicate the designated net weight and must show the name and address of the registered handler (as defined in §966.7) in letters at least one-fourth ( $\frac{1}{4}$ ) inch high, and such containers must be packed at the registered handler's facilities.

(iii) The container in which the tomatoes are packed must be clean and bright in appearance without marks, stains, or other evidence of previous use.

(4) *Inspection.* Tomatoes shall be inspected and certified pursuant to the provisions of §966.60. Each handler who applies for inspection shall register with the committee pursuant to §966.113. Persons not certified by the committee as a registered handler shall be issued inspection certificates on shipments handled by such persons stating "Fails to meet the requirements of Marketing Order No. 966 because the handler is not a registered handler." Evidence of inspection must accompany truck shipments.