



## **2019 MEXICAN TOMATO SUSPENSION AGREEMENT INSPECTION**

The signing of Mexican Tomato Suspension Agreement (TSA) suspends further litigation for alleged dumping in the United States of fresh tomatoes from Mexico. The TSA between the Department of Commerce and Mexican tomato growers became effective September 19, 2019. The Agreement covers all fresh or chilled tomatoes which have Mexico as their origin, except for those tomatoes which are for processing.

Each Signatory will label its boxes of subject merchandise that are exported to the United States with its name, Signatory identification number, and a statement that "These Tomatoes Were Grown/Exported By a Signatory of the 2019 Suspension Agreement." Alternatively, if the Signatory that exports the subject merchandise is different from the entity that produced the subject merchandise, the exporting Signatory will label the boxes with its name and its Signatory identification number. Each Signatory also will label its boxes with the type of tomato being shipped in the box, i.e., Round, Roma, Specialty, Stem On, or Tomatoes on the Vine.

For questions related to the Mexican Tomato Suspension Agreement, email the Department of Commerce at: [tomatoes@trade.gov](mailto:tomatoes@trade.gov).

### **Shipping Point Border Inspection**

Beginning on April 4, 2020, USDA will inspect all Round and Roma tomatoes (including stem on) and grape tomatoes in bulk (those in retail packages more than two pounds) for quality and condition defects near the border after the product has entered the United States from Mexico. When the load is available for inspection, the importer must request the USDA inspection and pay the associated USDA fees. Tomatoes on the vine, specialty tomatoes (i.e. grape, cherry, heirloom, cocktail), or any other tomato varietal (other than Round or Roma tomatoes, with or without stems), and grape tomatoes in retail packages of two pounds or less are excluded from this inspection requirement.

### **Inspection and Grade Requirement**

USDA will perform unrestricted inspections to determine quality, condition, and grade pursuant to the appropriate U.S. standard covering fresh tomatoes and greenhouse tomatoes based on shipping point tolerances. All tomatoes must grade to at least U.S. No. 2. The current, applicable U.S. standards are as follows:

- U.S. No. 2 of the U.S. Standards for Grades of Fresh Tomatoes (for shipping point tolerances see 51.1861 of the U.S. Standards).

- U.S. No. 2 of the U.S. Standards for Grades of Greenhouse Tomatoes (for tolerances see 51.3348 of the U.S. Standards).

### Disposition of Failed Product

Lots inspected for quality, condition, and grade that fail the U.S. No. 2 applied grade will be Positive Lot Identified (PLI'd) to preserve lot identity. Refer to the Positive Lot Identification (PLI) Manual for stamping procedures. Proper application of PLI is critical when failed lots are moved to another location for re-conditioning or dumping (i.e., destruction). The PLI applied will be recorded under Remarks on the issuing certificate(s).

### Section 8e

Loads of fresh tomatoes from Mexico that are inspected pursuant to USDA Section 8e import requirements are **not** required to also be inspected pursuant to the requirement of the TSA.

### Application for Inspection

Application for inspection, reinspection, and for witness "dump" certifications of Mexican tomatoes will be documented on the SC-237 inspection request form. The SC-237 must notate that the request is pursuant to the TSA and include the Custom Entry Number (CEN). For reinspections, all certificate numbers related to lot(s) previously inspected must be included. If the above information is not included in a request regarding tomatoes originating from Mexico, it is recommended that the USDA inspection activity request further clarification.

### Failing Grade and Witness Dump Certification

If the product fails to meet the TSA requirement, the importer may opt either to recondition and have the lot reinspected or return the lot to Mexico. In the event of reconditioning and reinspection, any culls must be destroyed under USDA oversight. Alternatively, if a lot is to be returned to Mexico, the entire lot must be returned to Mexico or destroyed under USDA oversight. In all instances where part or all the lot is destroyed under USDA oversight, the certification must be a "witness dump."

As part of the witness dump, inspectors must witness the entire dumping process. Certify the number of containers that are dumped (i.e., Inspector's Count-Yes), cross-reference any certificates the applicant states have been issued for the lot, and list a Remarks statement such as:

- "Inspector witnessed the dumping of the above lot into a trash compactor."

### Certification

An SC-300, FV-300 or FV-300E certificate will be issued for lots inspected or reinspected, including witness dumps in accordance with TSA. A FV-301 or FV-301E may be issued when

only a witness dump inspection is requested. In addition to the quality, condition and grade information required on the certificate, inspectors will also report in the Remarks section the applicant-provided Customs Entry Number (CEN), the Signatory number as marked on the containers, PLI markings, and when reinspected, cross reference to the original inspection certificate number. Federal Market rates will apply.

### **Market Destination Inspection**

Effective September 19, 2019, receivers may request a USDA quality, condition and grade market inspection at destination for purposes of adjustments to the sales price of tomatoes covered under the Agreement due to certain changes in defects after shipment following USDA inspections at Shipping Point Border Inspection locations. For lots failing to meet these market destination inspections, the receiver may choose to destroy the entire lot or recondition and have the lot reinspected with culls destroyed under USDA oversight. This will require a USDA certificate as proof of destruction, i.e., a witness dump.

### Inspection and Grade Requirement

USDA will perform unrestricted inspections to determine quality, condition, and grade pursuant to the appropriate USDA standard covering fresh tomatoes and greenhouse tomatoes as based on destination tolerances. Grade applied will be as specified by Applicant's request or contractual agreement of the applicable U.S. standard as follows:

- U.S. No. 1, U.S. Combination, or U.S. No. 2 of the U.S. Standards for Grades of Fresh Tomatoes
- U.S. No. 1 or U.S. No. 2 of the U.S. Standards for Grades of Greenhouse Tomatoes

### Disposition of Failed Product

Lots inspected for quality, condition, and grade that fail the applied U.S. grade will be Positive Lot Identified (PLI'd) to preserve lot identity. Refer to the Positive Lot Identification (PLI) Manual for stamping procedures. Proper application of PLI is critical when failed lots are moved to another location for re-conditioning or dumping (i.e., destruction). The PLI applied will be recorded under Remarks on the issuing certificate(s).

### Application for Inspection

Applications for inspection, reinspection and for witness "dump" certifications of Mexican tomatoes will be documented via the SC-237 inspection request form. The SC-237 must notate that the request is pursuant to the TSA and include all certificate numbers related to lots previously inspected. If the above information is not included, the inspection office will request further clarification from the applicant.

Failing Grade, Reinspection and Witness Dump Certification

The receiver may reject a lot or may accept a portion of the lot after reconditioning and reject the quantity of tomatoes lost during the salvage process. After reconditioning, the lot must be reinspected. The receiver may not keep or resell defective tomatoes. Such tomatoes must be destroyed under USDA oversight, with a USDA certificate provided. In cases where a full lot is rejected, the Signatory or selling agent, may choose to have the entire lot destroyed or returned to Mexico. In all instances where part or all the lot is destroyed under USDA oversight, the applicant must request a “witness dump” certification.

As part of the witness dump, inspectors must witness the entire dumping process. Certify the number of containers that are dumped (i.e., Inspector’s Count-Yes), cross-reference any certificates the applicant states have been issued for the lot, and list a Remarks statement such as:

- “Inspector witnessed the dumping of the above lot into a trash compactor.”

Certification

An SC-300, FV-300 or FV-300E certificate will be issued for lots inspected or reinspected, including witness dumps when requested in accordance with TSA. An FV-301 or FV-301E may be issued when only a witness dump inspection is requested.

If the amount of “Puffiness” scored is 1% or more, the exact percentage will be reported in the Remarks section as “Quality Defects Include \_\_% Damage, \_\_% Serious Damage, \_\_% Very Serious Damage Puffiness.” See example below:

INJURY	DAM	SER DAM	V. S. DAM	OFFSIZE/DEFECTS
NA	30	15	4	QUALITY DEFECTS - EXTERNAL (25 to 34%)(PUFFINESS, CATFACES)
NA	17	6	0	BRUISES (17 to 17%)
NA	2	2	2	DECAY (0 to 4%)
NA	49	23	6	CHECKSUM
<b>GRADE:</b>	FAILS TO GRADE U.S. NO. 1 ACCOUNT QUALITY . FAILS MARKING REQUIRMENTS AS TO SIZE			
<b>LOT DESC:</b>	STAGES OF DECAY: EARLY QUALITY DEFECTS INCLUDE 25% DAMAGE, 13% SERIOUS DAMAGE, 4% VERY SERIOUS DAMAGE PUFFINESS.			

In addition to the quality, condition and grade information required on the certificate, inspectors will also report in the Remarks section the applicant-provided Customs Entry Number (CEN), the Signatory number as marked on the containers, PLI markings, and when the lot is reinspected, cross reference to the original inspection certificate number.

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