

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Fruits and Vegetables

RULE CHAPTER TITLE:

RULE CHAPTER:

Fresh Tomato Inspection

5G-6

RULE TITLE:

RULE NO.:

Purpose

5G-6.001

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Inspection

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Annual Food Permit Requirement of Tomato Packers and Repackers

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**PURPOSE AND EFFECT:** The purpose of this rule is to establish inspection procedures and best management practices to enhance the safety of fresh tomatoes grown, packed or repacked in Florida and to implement Chapter 2007-67, Laws of Florida, adopted during the 2007 Legislative Session. A set of guidelines have been drafted through a cooperative effort between the FDACS and the Florida Tomato Industry to implement needed practices and procedures for safe production and handling of tomatoes. These guidelines are called the *Tomato Best Practices Manual* and are proposed for adoption by reference into this rule chapter. These rules will have an effect on those establishments permitted by the FDACS in the State of Florida who produce or handle tomatoes from field production through packing.

**SUMMARY:** This rule development will address inspection, permit requirements, and best practices in the tomato industry for growers, packers, re-packers and workers. This rule development will address the adoption by reference of the *Tomato Best Practices Manual*

guidelines for performing tomato food safety inspections on the farm, in tomato greenhouses and in tomato packing houses.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** No statement of estimated regulatory costs has been prepared. Any person who wishes to provide information regarding the statement of estimated regulatory costs or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**SPECIFIC AUTHORITY:** 500.09(1)(b), (3), (4), 500.12(1) (f), 570.07(6), 570.07(23), 570.481(1)(a), F.S.

**LAW IMPLEMENTED:** 500.03(1)(j), (n), 500.09(1)(b), (4), 500.12(1)(a), (f), 500.147(6), 570.48(2)(e), 570.481(1)(a), (b), 603.12, 603.13, F.S.

**A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 2:00 p.m. until 4:00 p.m. on Monday, January 7, 2007.

**PLACE:** Eyster Auditorium, The Conner Building, 3125 Conner Boulevard, Tallahassee, Florida. Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the hearing by contacting Lee M. Cornman at 850.488.0295. If you are hearing or speech impaired, please contact the agency by calling 1 (800) 955-8771 (TDD).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Lee M. Cornman, Assistant Director, Division of Food Safety, 3125 Conner Boulevard, Mail Stop C-18, Tallahassee, FL 32399-1650; Telephone: 850.488.0295.

THE FULL TEXT OF THE PROPOSED RULE IS:

CHAPTER 5G-6 FRESH TOMATO INSPECTION

5G-6.001 Purpose.

(1) This rule establishes inspection procedures and best management practices to enhance the safety of fresh tomatoes grown, packed or repacked in Florida, as provided by Chapters 500 and 570, Florida Statutes.

(2) The purpose of these procedures and practices is to:

(a) Enhance the safety of tomatoes to the consuming public by the implementation of safer handling, production and packing practices.

(b) Prevent or minimize contamination of tomatoes either in the natural environment in which they are grown or in the handling, packing, repacking or selling of tomatoes once harvested since, once contaminated, removing or killing pathogens is difficult.

(c) Provide the necessary education and training on food safety practices to workers at all levels.

(3) Mandatory compliance with the procedures and practices outlined in this rule will take effect July 1, 2008.

Specific Authority 500.09(1)(b), (3), (4), 500.12(1)(f), 570.07 (6), 570.07(23), F.S. Law

Implemented 500.09(1)(b), (4), 500.12(1)(f), F.S. History-New

5G-6.003 Definitions.

(1) "Department" means the Florida Department of Agriculture and Consumer Services.

(2) "HACCP" (Hazard Analysis Critical Control Point) means a preventive food safety program used to protect the food supply against biological, chemical and physical hazards.

(3) "T-GAP" means Tomato Good Agricultural Practices.

(4) "T-BMP" means Tomato Best Management Practices.

(5) "Farmers Market" means a market, usually held out-of-doors, in public spaces, where farmers can sell their produce to the public.

Specific Authority 500.09(1)(b), (4), 570.07 (6), 570.07(23), F.S. Law Implemented

500.03(1)(j), 500.09(1)(b), (4), 500.147(6), F.S. History-New

5G-6.005 Inspection.

(1) Regulatory inspections will be performed as frequently as needed to verify adherence to T-GAP or T-BMP for product grown, packed or repacked and will be performed at least once a year in packing houses by the Department.

(2) As specified in Sections 570.48 (2)(e), and 570.481(1)(a)(b), F.S., the industry shall reimburse the Department for regulatory inspections conducted under this program at the rate of \$75.00 per hour.

Specific Authority 570.07 (6), 570.07(23), 570.481(1)(a), F.S. Law Implemented

570.48(2)(e), 570.481(1)(a), (b), 603.12, 603.13, F.S. History-New.

5G-6.007 Annual Food Permit Requirements of Tomato Packers and Repackers.

(1) An annual food permit is required for all packers and repackers of tomatoes in Florida. A permit number will be assigned by the Department following receipt of the Annual Food Permit Application, DACS-14306, (Rev. 06/03), herein incorporated by reference, a copy of which can be obtained from the Florida Department of Agriculture and Consumer Services, Division of Fruit and Vegetables, P. O. Box 1072, Winter Haven, Florida 32881-3403.

(2) The annual permit fee shall be \$100.00 per applicant and must accompany the Annual Food Permit Application. No establishment shall be issued a food permit until all applicable fees are received by the Department

(3) All fees and fines collected by the Department to cover the cost of providing the inspection service for tomato packinghouses and repackers shall be deposited into the General Inspection Trust Fund.

Specific Authority 500.09(3), 500.12(1)(f), 570.07 (6), 570.07(23), F.S. Law Implemented 500.03(1)(n), 500.12(1)(a), 570.48(2)(e), 570.481(1)(a), (b), F.S. History-New  
5G-6.009 Tomato Best Practices Manual.

(1) The *Tomato Best Practices Manual* (November 2007) is hereby adopted and incorporated by reference in this rule section and contains the specifications of the T-GAP and the T-BMP. Copies of the manual may be obtained by contacting the Division of Fruits and Vegetables, P. O. Box 1072, Winter Haven, Florida 33881-3403, (863) 291-5820.

(2) The following document has been adopted by reference into the *Tomato Best Practices Manual* (November 2007) and is also incorporated by reference into this rule: *The Commodity Specific Food Safety Guidelines for the Fresh Tomato Supply Chain*, Edition 1.0, developed by the North American Tomato Trade Working Group composed of the United States, Canada and Mexico. A copy may be obtained electronically through the following website: <http://research.ifas.ufl.edu/tomato/index.asp>.

Specific Authority 500.09(1)(b), (4), 500.12(1)(f), 570.07 (6), 570.07(23), F.S. Law Implemented 500.09(1)(b), (4), 500.12(1)(f), F.S. History-New  
5G-6.011 Exemptions.

The following categories of tomatoes are exempt from the requirements of the T-GAP and T-BMP:

(1) Tomatoes sold by an individual grower to a consumer on the premises on which they are grown not to exceed two twenty-five pound boxes per customer.

(2) Tomatoes grown on premises and sold by the individual grower at a local farmers market not to exceed two twenty-five pound boxes per customer.

(3) Charitable contributions of tomatoes are exempt provided they are not diverted into commercial trade or the market place.

Specific Authority 500.09(4), 500.12(1)(f), 570.07 (6), F.S. Law Implemented 500.09(4), 500.12(1)(f), F.S. History-New

5G-6.013 Enforcement.

Any person who violates any provision of these rules is subject to the penalties as provided in Chapter 500, F.S.

Specific Authority 500.09(3), 570.07 (6), 570.07(23), F.S. Law Implemented 500.121, F.S.

History-New

NAME OF PERSONS ORIGINATING PROPOSED RULE: Shannon Shepp, Director, Division of Fruits and Vegetables and Dr. Marion F. Aller, Director, Division of Food Safety, Department of Agriculture and Consumer Services.

NAME OF PERSON OR SUPERVISOR WHO APPROVED THE PROPOSED RULE:

Terry L. Rhodes, Chief of Staff, Department of Agriculture and Consumer Services.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD:

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 7, 2007, Volume 33/36.