

**INITIAL REGULATIONS 2023-24
FLORIDA TOMATO COMMITTEE
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Maitland, FL 32751**

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HANDLING REGULATIONS

During the period, October 10 through June 15 of each year, unless rescinded or amended, no person shall handle any lot of tomatoes produced in the production area for shipment outside of the regulated area unless they meet the requirements of Paragraph (a) or are exempted by Paragraphs (b) or (d). **Note: The Florida state rule requirements on food safety [Chapter 5G-6], are applicable to all fresh tomatoes packed in Florida and must be followed in addition to the regulations stated herein. ***

(a) **GRADE, SIZE, CONTAINER AND INSPECTION REQUIREMENTS**

(1) **GRADE** Tomatoes shall be graded and meet the requirements 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 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 one percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85% U.S. No. 1 grade.

(2) **SIZE**

(i) All tomatoes packed by a Registered Handler shall be at least 2-9/32 inches in diameter and 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.

<u>Size Classification</u>	<u>Inches</u>	
	<u>Min.Diameter</u>	<u>Max.Diameter</u>
6x7	2- 9/32	2-19/32
6x6	2-17/32	2-29/32
5x6	2-25/32	

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

(iii) Only 6x7, 6x6 and 5x6 may be used to indicate the above listed size designations on containers of tomatoes.

(iv) To allow for variations incident to proper sizing, not more than a total of 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 in containers of 10, 20- or 25-pounds designated net weights and the designated net weight of the contents shall not be less than the designated net weight and shall not exceed the designated weight by more than two pounds.

(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 (1/4) inch high and such containers must be packed at the Registered Handler's facilities. The use of inverted, previously printed container lids is limited to the registered handler identified by the labels or marks that originally appeared on the lid.

(iii) The containers in which 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.

(b) **SPECIAL PURPOSE SHIPMENTS**

The requirements of Paragraph (a) of this section shall not be applicable to shipments of tomatoes for pickling, processing, experimental purposes, relief, charity, export or other outlets recommended by the Committee and approved by the Secretary if the Handler thereof complies with the safeguard requirements of Paragraph (c) of this section. Shipments for processing are also exempt from the assessment requirements of this part.

(c) **SAFEGUARDS**

Each Handler making special purpose shipments of tomatoes in accordance with Paragraph (b) of this section shall:

(1) Apply to the Committee and obtain a Certificate of Privilege to make such shipments.

(2) Prepare on forms furnished by the Committee a report in quadruplicate on such shipments authorized in Paragraph (b) of this section.

(3) Bill or consign each shipment directly to the designated applicable receiver.

(4) One copy of such report will be forwarded to the Committee office and two copies to the receiver for signing and returning one copy to the Committee office. Failure of the Handler or receiver to report such shipments by signing and returning the applicable report to the Committee office within ten days after shipment may be cause for cancellation of such Handler's certificate and/or receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the Handler may appeal to the Committee for reconsideration.

(5) Make shipments only to those who have qualified with the Committee as approved receivers. (Note: this regulation is authorized and defined through section 966.124, cited below) §966.124 Approved receiver.

(a) Any person who desires to acquire, as an approved receiver, tomatoes for special purpose shipment shall file an application with the Committee on this form, which shall contain, but not be limited to the following information:

- (1) Name, address, contact person, telephone number, and e-mail address of applicant;
- (2) Purpose of shipment;
- (3) Physical address of where manufacturing or other specified purpose is to occur;
- (4) Whether or not the receiver packs, repacks or sells fresh tomatoes;
- (5) A statement that the tomatoes obtained exempt from the fresh tomato regulations will not be resold or transferred for resale, directly or indirectly, but will be used only for the purpose specified in the corresponding certificate of privilege;
- (6) A statement agreeing to undergo random inspection by the Committee;
- (7) A statement agreeing to submit such reports as is required by the Committee.

(b) The Committee, or its duly authorized agents, shall give prompt consideration to each application for an approved receiver and shall determine whether the application is approved or disapproved and notify the applicant accordingly.

(c) The Committee, or its duly authorized agents, may rescind a person's approved receiver status upon proof satisfactory that such a receiver has handled tomatoes contrary to the provisions established under the Certificate of Privilege. Such action rescinding approved receiver status shall apply to and not exceed a reasonable period of time as determined by the Committee or its duly authorized agents. Any person who has been denied as an approved receiver or who has had their approved receiver status rescinded, may appeal to the Committee for reconsideration. Such an appeal shall be made in writing.

(d) **EXEMPTIONS**

(1) **For Types.** The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear-shaped or paste tomatoes and including but not limited to San Marzano, Red Top and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes. Specialty packed red ripe tomatoes, yellow-meated tomatoes, and single and two-layer place-packed tomatoes are exempt from the container net weight requirements specified in Paragraph (a)(3)(i) of this section, and the requirement that each container or lid shall be marked to indicate the designated net weight as specified in Paragraph (a)(3)(ii) of this section but must meet all other requirements. Producer field-packed tomatoes must meet all of the requirements of this section except: The requirement that all containers must be packed at Registered Handler facilities as specified in Paragraph (a)(3)(ii); the requirement that such tomatoes designated as size 6x6 must meet the maximum diameter requirement specified in Paragraph (a)(2)(i) and the labeling requirement specified in Paragraph (a)(2)(iii): Provided, that "6x6 and larger" is used to indicate the listed size designation on containers.

(2) **For Minimum Quantity.** For purposes of these regulations each person subject thereto may handle up to but not to exceed 50 pounds of tomatoes per day without regard to the requirements of these regulations, but this exemption shall not apply to any shipment or any portion thereof of over 50 pounds of tomatoes.

(3) **For Special Packed Tomatoes.** Tomatoes resorted, regraded and repacked by a Handler who has been designated as a "Certified Tomato Repacker" by the Committee are exempt from the tomato grade classifications of Paragraph (a)(1), except that the tomatoes must grade U.S. No. 2 or better; the size classifications of Paragraph (a)(2), except that the tomatoes shall be at least 2-9/32 inches in diameter; and the container weight requirements of Paragraph (a)(3), if such tomatoes comply with the inspection requirements of Paragraph (a)(4).

(4) **For Varieties.** Upon recommendation of the Committee, the Secretary from the provisions of Paragraph (a)(2), Size, may exempt varieties of tomatoes that are elongated or otherwise misshapen due to adverse growing conditions.

(5) **For UglyRipe™ and Vintage Ripes™ and other Trademarked varieties under the Identity Preservation Program, AMS, USDA.** UglyRipe™, Vintage Ripes™ and other tomatoes varieties must meet all the requirements of this section: Provided, that UglyRipe™, Vintage Ripes™ and other tomato varieties shall be graded and at least meet the requirements specified for U.S. No. 2 under the U.S. Standards for Grades of Fresh Tomatoes, except they are exempt from the requirements that they be reasonably well formed and not more than slightly rough, and Provided, Further that the UglyRipe™ and Vintage Ripes™ and other Trademarked tomatoes meet the requirements of the Identity Preservation Program, Fresh Products Branch, Fruit and Vegetable Programs, AMS, USDA.

(e) **REPORT OF PACKOUTS**

Each Registered Handler shall, at the end of each day during which handling activities have been conducted, or the following morning as the Committee may prescribe, provide to the Committee or its designated agent a complete and accurate accounting of the number of containers of tomatoes packed that day. The report shall include an accounting of the grade, size, maturity, and net weight of the containers packed in each such category. The total packout report shall be provided to the Committee or its authorized agent in a timely fashion that allows the Committee to compile a daily, industry-wide packout report. Failure of a Registered Handler to provide such packout data to the Committee or its authorized agent may result in cancellation of the Registered Handler's certificate.

(f) **ASSESSMENTS**

Handlers shall pay assessments as provided in §966.42. Assessment will be based on inspection certificates supplied to the Committee by the Federal-State Inspection Service. Failure of a Registered Handler to pay assessments in a timely manner, as defined by the Committee, may result in cancellation of the Registered Handler's certificate pursuant to §966.113, thus making that Handler ineligible to ship tomatoes outside of the regulated area. **The assessment rate for the 2023-24 season will be \$0.035 per 25 lb. equivalent container unit upon publication of the final rule implementing this increase. The additional \$0.01 per 25 lb. equivalent container, above the current \$0.025 assessment, is voluntary until the final rule is published. If the proposed assessment rate is paid in full at the \$0.035 per 25 lb. equivalent container in advance of the published rule, then the registered handler will not receive an additional bill for the increased portion. If the registered handler paid at the \$0.025 assessment rate per 25 lb. equivalent container, then after the rule is published, the additional portion for the 2023-24 season will be billed and due upon receipt to the Committee.**

(g) **DEFINITIONS**

Hydroponic tomatoes means tomatoes grown in solution without soil; *greenhouse tomatoes* means tomatoes grown indoors; *specialty packed red ripe tomatoes* means tomatoes

which at the time of inspection are #5 or #6 color (according to color classification requirements in the U.S. tomato standards) with their calyx ends and stems attached and cell packed in a single layer container; and *producer field-packed tomatoes* means tomatoes which at the time of inspection are #3 color or higher (according to color classification requirements in the U.S. tomato standards), that are picked and place packed in new containers in the field by a producer as defined in §966.150 and transferred to a registered handler's facilities for final preparation for market (**Note: *The Florida state rule requirements on food safety [Chapter 5G-6], are applicable to all fresh tomatoes packed in Florida and must be followed in addition to the regulations stated herein***). A *Certified Tomato Repacker* is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting, and repacking tomatoes into consumer sized packages and has been certified as such by the Committee. *Processing* as used in §§966.120 and 966.323 means the manufacture of any tomato product which has been converted into juice, or preserved by any commercial process, including canning, dehydrating, drying, and the addition of chemical substances. Further, all processing procedures must result in a product that does not require refrigeration until opened. *Pickling* as used in §§966.120 and 966.323 means to preserve tomatoes in a brine or vinegar solution. *U.S. tomato standards* means the revised United States Standards for Fresh Tomatoes (7 CFR 51.1855 through 51.1877), effective October 1, 1991, as amended, or variations thereof specified in this section. Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

* For further information on Florida state food safety regulations on packing fresh tomatoes contact the Florida Department of Agriculture and Consumer Services at (863) 291-5820.

FLORIDA TOMATO COMMITTEE



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