



Notice to Trade

USDA Announces Pilot Program at Nogales, Arizona border crossing to allow for the inspection of “Super-Lots” of Tomatoes under the 2019 Tomato Suspension Agreement and the Section 8e requirements of imported tomatoes from Mexico

The U.S. Department of Agriculture (USDA) is announcing a pilot program to allow for the inspection of “Super-Lots” of Tomatoes under the 2019 Tomato Suspension Agreement and the Section 8e requirements of imported tomatoes from Mexico at the Nogales, Arizona border crossing.

This Tomato Super-Lot Pilot Program would afford the USDA, state partners, and the industry many of the same benefits we have seen in the Table Grape program, especially greater efficiency inspecting larger volumes of produce in a very compressed period of time while still ensuring that the commodity meets all U.S. import requirements. In order to achieve this goal, the United States Department of Agriculture (USDA) and its state cooperator will allow to combine shipments of up to three Customs Entry Numbers with the same brand, pack style, variety, size, and signatory (only for TSA tomatoes), while maintaining SCI’s responsibility to maintain control over product until it has been released into commerce.

Section 8e of the [Agricultural Marketing Agreement Act of 1937](#) (AMAA) applies to specific fruit, vegetable, and specialty crop imports into the United States. The law requires imported products to meet the same or comparable grade, size, quality and maturity standards as domestic products covered by [Federal marketing orders](#). The Marketing Development Division (MDD) under USDA’s Agricultural Marketing Service (AMS) enforces the Federal marketing orders for fruits, vegetables, and specialty crops, as well as compliance with import regulations.

Under Section 8e, all tomatoes imported from October 10 through June 15 (except pear-shaped, cherry, hydroponic, and greenhouse tomatoes; tomatoes used in noncommercial outlets for experimental purposes; and tomatoes imported in quantities not exceeding 60 pounds) must meet minimum grade and size requirements in accordance with [§ 980.212 \(7 CFR 980\)](#).

The [Suspension Agreement on Fresh Tomatoes from Mexico](#), also referred to as the [Tomato Suspension Agreement \(TSA\)](#), between the Department of Commerce (DOC) and signatory producers/exporters of fresh tomatoes grown in Mexico ensures that signatory producers and exporters sell Mexican tomatoes at or above the TSA reference price to eliminate the injurious effects of exports of fresh tomatoes to the United States. The Agreement, which was updated

effective September 19, 2019, applies to all fresh and chilled tomatoes except tomatoes for processing.

The TSA provides for mandatory inspections at the border and voluntary inspections at destination. At the border, USDA will inspect all Round, Roma, and Grape tomatoes in bulk (excess of 2 pounds). At destination, USDA may inspect all tomatoes covered by the TSA upon request.

Guidance for implementing a Tomato “Super-Lot” pilot program at the Nogales, Arizona border crossing under the 2019 Tomato Suspension Agreement and the Section 8e requirements of imported tomatoes from Mexico

1. Requesting the Inspection

It is the importers responsibility to arrange for inspection with the inspection office prior to arrival of the shipment at the port of entry.

When requesting an inspection, the importer must declare the inspection as a “Super-Lot” prior to the beginning of the inspection and provide all custom entry numbers associated with the “Super-Lot.” The United States Department of Agriculture (USDA) and its state cooperator will allow to combine shipments of up to three Customs Entry Numbers with the same brand, pack style, variety, size, and signatory (only for TSA tomatoes), while maintaining SCI’s responsibility to maintain control over product until it has been released into commerce.

2. Taking the official sample

All lots must be made accessible by warehouse personnel for an unrestricted sampling and inspection in accordance with the policies and procedures of USDA.

Participants will need adequate space to allow all samples selected for inspection to be displayed vertically and adjacent to each other so that the inspector can properly select sample containers in accordance with the regulation. Inspection tables must be adequate to hold samples/containers for both small and large numbers of samples. Tables must be 36 inches high and a minimum of 24 inches deep. Each full load will require 18 feet of table length. A full load of tomatoes will require 16 samples. For multiple inspections performed at the same time, each load will require 18 linear feet of table space.

Super-Lots consisting of 2 Customs Entry Numbers. Tables must be 36 inches high, a minimum of 24 inches deep, and should be able to accommodate a minimum of 42 samples.

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3. Reporting Lots that fail to meet U.S. Import Requirements (Section 8e)

All failed lots will be stamped with a Federal-State Positive Lot Identification Stamp so that the product can be traced back to the original certificate. “Super-Lots” that failed cannot be granted entry into the United States and the importer must take one or more of the following steps:

If a “Super-Lot” fails to meet the import requirement it may be reconditioned as a whole or separated by their appropriate custom entry number and presented individually for re-inspection. Those lots that fail individually could then be reconditioned, re-export, send shipment to exempt use, or destroy, dump, or dispose the product.

4. Reporting Lots that fail to meet 2019 TSA requirements

All failed lots will be stamped with a Federal-State Positive Lot Identification Stamp so that the product can be traced back to the original certificate. “Super-Lots” that failed cannot be granted entry into the United States and the importer must take one or more of the following steps:

If a “Super-Lot” fails to meet the import requirement it may be reconditioned as a whole or separated by their appropriate custom entry number and presented individually for re-inspection. Those lots that fail individually could then be reconditioned, re-export or destroy, dump, or dispose the product.