



A-201-820
2019 Suspension Agreement
Public Document
ITA/E&C/P&N/OP/BAU: JJM

TO ALL INTERESTED PARTIES

March 17, 2020

Re: Frequently Asked Questions Regarding Inspections

The Department of Commerce (Commerce) is placing on the record of the proceeding the attached document, which provides answers to frequently asked questions about inspections of fresh tomatoes from Mexico near the border pursuant to section VII.C of the 2019 Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico.¹ This document is available to the general public on Commerce's website at the following web address: www.trade.gov/inspectionfaqs.

If you have any questions regarding this matter, please contact David Cordell at (202) 482-0408.

Sincerely,

Sally C. Gannon
Director for Bilateral Agreements
Office of Policy
Enforcement and Compliance

Attachment

¹ See *Fresh Tomatoes From Mexico: Suspension of Antidumping Duty Investigation*, 84 FR 49987, 49991 (September 24, 2020).



ATTACHMENT

Fresh Tomatoes from Mexico: 2019 Suspension Agreement Inspection FAQs

Note: This document will be updated periodically. In the event of a conflict between this document and the 2019 Suspension Agreement, the 2019 Suspension Agreement governs.

1. What are the 2019 Suspension Agreement inspections, and how will they work?

Starting April 4, 2020, certain tomatoes from Mexico (*see* Question 3) that are subject to the 2019 Suspension Agreement must have a U.S. Department of Agriculture (USDA) inspection for quality and condition defects near the border after entering the United States (“Suspension Agreement inspections”). The inspected tomatoes must grade U.S. No. 2 or better. The importer is responsible for requesting the USDA inspection and paying the associated USDA fees. Importers also must retain all documentation related to the inspection. Failure to call for an inspection, and failure to keep the appropriate documentation, may be deemed to be a violation of the 2019 Suspension Agreement.

2. What is the purpose of Suspension Agreement inspections?

The purpose of the Suspension Agreement inspections is to prevent low-quality and poor-condition tomatoes from entering the U.S. market and injuring the U.S. domestic tomato industry through price suppression or undercutting. The antidumping law requires that the 2019 Suspension Agreement completely eliminate injury to the domestic industry.

3. Which tomatoes are subject to Suspension Agreement inspections?

All Round and Roma tomatoes (including Stem On) and grape tomatoes in bulk from Mexico are subject to Suspension Agreement inspections.

The Suspension Agreement inspections requirement excludes tomatoes on the vine, specialty tomatoes, and grape tomatoes in retail packages of 2 pounds or less.

4. If tomatoes are already being inspected by CBP because of the Federal Order issued by USDA’s Animal and Plant Health Inspection Service (APHIS), do I need separate Suspension Agreement inspections?

Yes. The U.S. Customs and Border Protection’s (CBP) inspections for the Tomato Brown Rugose Fruit Virus do not affect the need for Suspension Agreement inspections.

5. If tomatoes are already being inspected because of a USDA marketing order, do I need a separate Suspension Agreement inspection?

No. Tomatoes from Mexico that are inspected pursuant to the Section 8e requirements of the Agricultural Marketing Agreement Act, 7 CFR Part 980 and Federal Marketing Order

966, are not required to undergo a separate inspection under the Suspension Agreement inspections requirement.

6. How do I request a Suspension Agreement inspection?

Once tomatoes enter the United States and are available for inspection, you can call, email, or fax your nearest inspection office to request an inspection. Inspections must be requested using the Form SC-237. If you choose to request by phone, you must provide the office with the required information on the Form SC-237.

To request inspection services, please contact your local office:

Nogales, Arizona

Contact: Shau Booker

Phone: 520-281-0783, extension 3

Fax: 520-337-9106

San Diego, California (Otay Mesa)

Contact: Teresa Rhea

Phone: 916-661-6355

Fax: 916-661-6963

Alamo and Laredo, Texas

Contact: Noe Carreon

Phone: 956-787-4091

Fax: 956-783-0479

El Paso, Texas

Contact: Andres Sandoval

Phone: 915-309-1054

If your local office is not listed above, please go to www.ams.usda.gov/services/sci-contacts to find yours, or contact the Specialty Crops Inspection Division at 800-811-2373 or SCIinspectionoperations@usda.gov.

7. Can I call for an inspection before a truckload of tomatoes arrives at the warehouse?

For prompt service, inspection requests should be made when the shipment of tomatoes has arrived at the warehouse and is available for inspection.

8. How long will it take to perform a Suspension Agreement inspection?

At locations that normally have USDA inspectors in the area (see Question 6 above) a USDA inspector will normally arrive and complete the inspection within 24 hours of the importer's official request for inspection. At other locations, a USDA inspector will

normally arrive and complete the inspection within 48 hours of receiving the official request for inspection from the importer.

9. Will there be enough trained inspectors?

USDA has hired additional staff at the border to handle the anticipated increase in the number of inspections. The additional staff will be on board and trained before April 4, 2020.

10. What will happen if I request an inspection after hours or over the weekend?

Contact your local office (see Question 6 above) about its procedures for requests for after-hours and weekend inspections. In general, inspectors will be available to perform inspections on Saturdays. For inspection requests received on a Sunday or after hours any day of the week, inspectors will respond to the request early the following business day.

11. What if it takes longer to perform a Suspension Agreement inspection than it is supposed to?

USDA is prepared to perform inspections in a timely manner. If you have any concerns about the scheduling of your inspection, please contact your local office (see Question 6 above).

12. Who is responsible for paying the fees associated with a Suspension Agreement inspection?

The importer. As noted above, the importer is also the party responsible for requesting the inspection.

13. Where can Suspension Agreement inspections take place? How close to the border do they have to be?

Suspension Agreement inspections can take place anywhere in the United States. As USDA inspectors are stationed near or at the border, it is most efficient for an importer to schedule an inspection there. Inspections taking place outside of those areas may result in a later arrival and completion time for the USDA inspector.

14. What are the documentation and recordkeeping requirements associated with Suspension Agreement inspections?

The U.S. Department of Commerce can request documentation related to inspections for monitoring and enforcement purposes. Parties are required to maintain documents associated with USDA inspections, as applicable. For example, importers must retain the following documents:

- USDA inspection reports;

- Proof of reconditioning and re-inspection, if applicable; and
- Records to support any return or destruction of tomato lots.

15. Can I reduce the number of required Suspension Agreement inspections by using “Superlots”?

USDA is not implementing the Super Lot Program for fresh tomatoes from Mexico this season.

16. If tomatoes are going from Mexico to Canada directly in-bond, do I need to obtain a Suspension Agreement inspection?

No. However, a border inspection is required if Mexican tomatoes subject to the inspection requirement (see Question 3) enter the United States from Canada.

17. What if my tomatoes fail the inspection?

If your tomatoes fail inspection at the border, you have three options:

- **Dump the entire lot**
 - You must request that a USDA inspector witness the destruction of the lot. The inspector will issue a dump certificate, which you should retain in accordance with U.S. Department of Commerce requirements.
- **Send the entire lot back to Mexico**
 - Retain documentation proving return to Mexico.
- **Recondition the lot and request another USDA inspection**
 - Any culls must be destroyed under USDA supervision.
 - Retain all records of this process.

18. Can I donate bad or defective tomatoes to a food bank in the United States after a failed inspection?

No. If a lot fails an inspection pursuant to the 2019 Suspension Agreement, the tomatoes can only be returned to Mexico, destroyed under USDA supervision, or reconditioned and re-inspected (with culls destroyed under USDA supervision). Under certain circumstances, tomatoes inspected pursuant to Section 8e of the Agricultural Marketing Agreement Act may be donated.

If you choose to donate tomatoes under Section 8e, ensure that the donated tomatoes in the United States are for consumption, rather than for sale by the charitable organization. Maintain complete and detailed records of all donations. These records may be requested by Commerce at any time.

19. Can I donate tomatoes that pass inspection to a food bank in the United States?

Yes. If you choose to make such a donation, ensure that the donated tomatoes in the United States are for consumption, rather than for sale by the charitable organization. Maintain complete and detailed records of such donations. Commerce may request donation records at any time.

20. If I have further questions about Suspension Agreement inspections, who should I contact?

Please contact SCIinspectionoperations@usda.gov, or call 1-800-560-7956.

21. If I have further questions about other aspects of the 2019 Suspension Agreement, who should I contact?

Please email Tomatoes@trade.gov.