

No. R. 750

3 October 2014

AGRICULTURAL PRODUCT STANDARDS ACT, 1990
(ACT No. 119 OF 1990)

REGULATIONS RELATING TO THE QUALITY, GRADING, PACKING AND MARKING OF
TOMATOES INTENDED FOR SALE IN THE REPUBLIC OF SOUTH AFRICA

The Minister of Agriculture has, under section 15 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990) –

- (a) made the regulations in the Schedule;
- (b) determined that the said regulations shall come into operation on date of publication;
and
- (c) read together with section 3(2) of the said Act, repealed the regulations published by Proclamation Nos. R. 1977 of 7 September 1984, R. 2854 of 29 December 1989, Government Notices Nos. R. 1978 of 7 September 1984, R. 602 of 30 March 1984 and R. 1072 of 1st August 2003 with effect from the date of commencement.

SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall have that meaning and, unless the context otherwise indicates, –

"**Arthropoda**" means any stage in the life of an invertebrate member of the Animal Kingdom that is bilaterally symmetrical with a segmented body, with jointed limbs that are paired and a chitinous external skeleton;

"**blemishes**" means any mark or skin defects on the surface or outer layer of the tomato which adversely affects the appearance thereof;

"**bruises**" means any pressure which shows an indentation or results in discoloration directly under the skin, adversely affect the quality of the tomatoes and is visually noticeable.

"**carrier container**" means a container in which more than one consumer package of tomatoes are packed;

"**cat faces**" means a condition involving malformation and scarring of tomato, particularly at the blossom end;

"**chemical residues**" means residues of agricultural remedies which in terms of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947), are permissible for the treatment of pests and diseases and which do not exceed the prescribed maximum residue limit;

"**class**" means a class referred to in regulation 4(2);

"**classified tomatoes**" means tomatoes which have been classified according to the classes specified in these regulations and of which the container is marked with a class designation or other designation indicating that the tomato is of a particular class or possesses particular quality properties;

"consignment" means --

- (a) a quantity of tomatoes of the same class belonging to the same owner which is delivered at any one time under cover of the same consignment note, delivery note or receipt note, or is delivered by the same vehicle, or
- (b) if such quantity is subdivided into different classes, size groups, cultivars, trademark or, types of packaging, each quantity of each of the different classes, size groups, cultivars, trademarks or, types of packaging;

"container" means the immediate container in which tomatoes are packed directly, the outer container in which prepacked units are packed and bulk containers excluding prepacked units and shipping containers in which pallet loads are shipped;

"cracks" means the splitting of the epidermis around the calyx or stem scar; there are two types of tomato cracks:

- Concentric cracking is the splitting of tomato skin in a circular pattern;
- Radial cracking is the splitting of the tomato skin from the stem scar towards the blossom end.

"decay" means a state of decomposition, fungal development, or internal insect infestation or excrement or insect damage with signs of tissue collapse which partly or completely affect the quality of the tomato detrimentally, is visually noticeable;

"diameter" means the greatest transverse measurement of a tomato, measured at right angles to a line running from the stem-end to the apex of the tomato;

"firm" means a stage of development at which the flesh of the tomato is hard enough to withstand normal commercial handling;

"Food Business Operator" (FBO) means the person or persons responsible for ensuring that the prescribed requirements of these regulations are met within the food business as well as the person with overall authority on site or in the specific establishment;

"foreign matter" means any material or substance that is visually noticeable, which does not naturally form part of the tomatoes

"injury" means any wound which exposes the flesh of the tomato, excluding a wound which has healed completely or has calloused;

"inspector" means the Executive Officer or an inspector under his control or an Assignee or a qualified employee of an Assignee;

"malformed" means that the shape of a tomato is not typical of the cultivar concerned;

"size group" means a size group referred to in Table 2 of the Annexures;

"the Act" means the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990);

"tomato" means the unprocessed fruit of the plant *Lycopersicon lycopersicum* (L.) Karsten ex. Farwell intended for human consumption and includes all cultivars, varieties and commercial types;

"unclassified tomatoes" means tomatoes which have not been classified according to the classes specified in these regulations and the quality specifications in Table 1, and of which the container is marked with a designation to indicate that no definite class or grade has been applied to the container; and

"unprocessed" means that the tomatoes have not been cooked, peeled, dried or processed in any other way, excluding normal sorting, grading, packing or cleaning practices;

"unspecified defects" means any defects caused by physiological or non-physiological factors affecting the quality of the tomato detrimentally.

Restrictions on the sale of tomatoes

2. (1) No person shall sell in the Republic of South Africa tomatoes, other than imported tomatoes referred to in subregulation (2), --

- (i) unless the tomatoes are unclassified or sold according to the classes in regulation 4;
- (ii) unless the tomatoes comply with the different standards for classified or unclassified tomatoes in regulation 5;
- (iii) unless the tomatoes are packed in a container and in the manner prescribed in regulations 7,8 and 9;
- (iv) unless the tomatoes are marked with the particulars and in the manner prescribed in regulation 10;
- (v) if the tomatoes contain a substance prescribed as a substance which it may not contain;
- (vi) if the tomatoes are packed in a container or in a manner so prescribed as a container in which or a manner in which it may not be packed;
- (vii) if the tomatoes are marked with particulars or in a manner prescribed as particulars with which or a manner in which it may not be marked.

(2) Imported tomatoes shall be exempted from the provisions of subregulation (1), provided that the tomatoes --

- (a) comply with either the Codex Alimentarius, **UNECE** (United Nations Economic Commission for Europe) or **OECD** (Organisation for Economic Co-operation and Development) standards; and
- (b) are according to bilateral agreement accompanied by certificate issued by a relevant government authority responsible for quality control of fresh fruit and vegetables and in which it is certified that the quality of the tomatoes as verified through inspection conforms to the relevant standard.

(3) In applying Section 3(1) (c) of the Act, the Minister authorises the Executive Officer to prohibit the sale of fresh vegetables if the compliance with the regulations is not met.

(4) The Executive Officer may grant written exemption, entirely or partially, to any person on such conditions as he or she deems necessary, from the provisions of subregulation (1): Provided that such exemption is done in terms of section 3 (1) (c) of the Act.

(5) The Executive Officer may grant written permission to a quantity of imported consignment from complying with the provisions of Section 4A (1) of the Act if such quantity of tomato is imported for purposes other than for the purpose of sale in the Republic of South Africa.

QUALITY STANDARDS

Types of tomatoes

- 3 (1) Round tomatoes
- (2) Ribbed tomatoes
- (3) Oblong tomatoes
- (4) Speciality types of tomatoes

Classes for tomatoes

4. (1) Tomatoes shall be sold as either classified tomatoes or unclassified tomatoes.
- (2) There are four classes of classified tomatoes namely Class 1, Class 2, Class 3 and Lowest Class.

Standards for classes

5. (1) Classified and unclassified tomatoes shall, contain no chemical residues that exceed the prescribed maximum residue limit permissible in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972,
- (2) Tomatoes which are classified as Class 1, Class 2, Class 3 and Lowest Class shall comply with the specifications set out in Table 1 of the Annexure.
- (3) The extent to which Class 1, Class 2, Class 3 and Lowest Class tomatoes may deviate from the specifications prescribed in subregulation (2), is determined in accordance to regulations 13, 14, 15 and 16 and as set out in Table 3 of the Annexure.
- (4) No consignment of tomato classified as "Class 1", "Class 2", "Class 3" and "Lowest Class" shall contain;
 - (a) plant injurious organisms of phytosanitary importance as specified by the Department of Agriculture, Forestry and Fisheries;
 - (b) Arthropoda infestation including the organisms which according to paragraph (a) do not form part of plant injurious organisms, excluding organisms which may be a source of danger to the human being, on more than 3% of the tomatoes or three free running Arthropoda per pallet load or part thereof in the consignment: Provided that it does not exceed a maximum of one Arthropoda per container.

Sizing

6. Size is determined by the maximum diameter of the equatorial section, by weight or count. The following provision shall not apply to the Speciality types of tomatoes. The minimum size for oblong tomatoes type is 30 mm. Tomatoes which are classified as Class 1, Class 2, Class 3 and Lowest Class shall comply with the size groupings set out in Table 2 of the Annexure.

CONTAINERS, PACKING AND MARKING REQUIREMENTS***Requirements for containers***

7. (1) Containers in which tomatoes are packed shall--
- (a) be intact, clean, suitable and strong enough for the packing and normal handling of tomatoes;
 - (b) not impart a taste or odour to the tomatoes;
 - (c) be free from any foreign matter other than the tomatoes packed therein and the packing material in which tomatoes are customarily packed;
 - (d) in the case of containers that are re-used, the container should --
 - (i) be of such material that the container can be cleaned and disinfected prior to re-use;
 - (ii) be thoroughly clean before tomatoes are packed therein; and
 - (iii) be free from all marks and labels removed or be covered by new labels.
- (2) A carrier container shall be strong enough not to bulge out or dent in during normal handling and transporting practices.

Packing requirements

8. Each container of tomatoes shall --
- (a) be packed with tomatoes to the full capacity thereof; and
 - (b) in the case of classified tomatoes, contain tomatoes of the same class and size group and as far as practical possible of the same colour.

Stacking of containers on pallets

9. If containers containing tomatoes are palletised --
- (a) the pallet shall be clean, undamaged and suitable and not transmit to tomatoes any harmful substance or any substance that may be injurious to human health;
 - (b) the pallet for imported consignments of tomatoes shall comply with the requirements of the **International Standards for Phytosanitary Measures (ISPM 15)**;
 - (c) the pallet shall be free from Arthropoda infestation and any visible signs of fungal growth;
 - (d) the containers shall be stacked firmly and square with each other and the pallet;
 - (e) only containers of the same dimensions shall be stacked in the same layer on the pallet; and
 - (f) the containers shall not be stacked upside-down on the pallet.

Marking requirements

10. (1) Containers containing tomatoes destined for sale shall be marked in clear and legible block letters and numerals in a manner described in subregulation (5) with the following particulars:

- (a) The name of the FBO or trademark and physical or postal address of either the producer or owner or importer or packer of the tomatoes packed in that container.
- (b) The expression "Product of" followed by the name of the country of origin of the tomatoes.
- (c) The class, in the case of Class 1, Class 2, Class 3 and Lowest Class: Provided that additional to the class names the following names may be used:
Class 1 - First,
Class 2 - Select,
Class 3 - Standard,
Lowest Class - Budget.
- (d) The size group of the tomatoes in the container, indicated as either minimum diameter and maximum diameter or as --
"Extra Large" or "XL",
"Large" or "L",
"Medium Plus" or "M+",
"Medium" or "M",
"Medium small" or MS
"Small" or "S" and Baby or Mini tomatoes: Provided that the size group indication may be omitted in the case of speciality types of tomatoes and tomatoes packed in the transparent plastic bags and punnets.
- (e) The net mass of the contents as prescribed by the Trade Metrology Act, 1973 (Act No. 77 of 1973).
- (f) The word "tomatoes", in the case of containers the contents of which are not visible from outside.

(2) If containers containing tomatoes are packed in a carrier container, each carrier container shall be marked with the particulars in subregulation (1), as well as with the number of containers it contains, on at least one end of every carrier container by means of stamping or stenciling or by pasting a printed label thereon.

(3) The particulars prescribed in subregulation (1) shall be indicated on the container by stamping, printing or by affixing a label thereon.

(4) Particulars shall be printed in English or both in English and any other official language: Provided that internationally acknowledged symbols may be used.

(5) If at any stage the class or size designation should change the labels shall be replaced unless the new class or size designation is stamped across the old class or size designation, in clear legible block letters of at least 2 mm larger than the previous marks, with a suitable stamp.

(6) Each container containing tomatoes shall be provided with only one or more labels that shall be –

- (a) intact, clean and neat;
- (b) manufactured from paper or other suitable material; and

- (c) affixed firmly to the container and in such a manner that re-stamping is possible without opening or damaging the container.
- (7) If classified tomatoes are displayed for sale in loose quantities –
 - (a) any quantity of a particular class, size group or cultivar shall not be displayed mixed with tomatoes of any other class, size group or cultivar;
 - (b) the class, size group and country of origin of the tomatoes shall be indicated in clear, legible block letters of at least 10mm on a notice board prominently placed at the quantity of tomatoes.
- (8) Containers containing unclassified tomatoes shall be marked in clear and legible block letters and also comply with subregulations 10(1)(a), (b), (e), and (f) and subregulations 10(2), (3), (4) and (6).

Prohibited particulars

11. No wording, illustration or other device of expression which constitutes a misrepresentation or which directly or by implication can create a misleading impression of the contents shall appear on a container containing tomatoes or on a label affixed thereto or which is displayed therewith.

SAMPLING PROCEDURES

Obtaining a sample

12. (1) At least two percent of the containers in a consignment shall be drawn at random for inspection purposes and an inspector shall be satisfied that the containers so drawn are representative of the consignment concerned. An inspector shall obtain a sample from a consignment by –
- (a) in the case of tomatoes packed in containers –
 - (i) draw at least two percent of containers and satisfy him or herself that the containers abstracted are representative of the consignment concerned; and
 - (ii) taking as inspection sample 25 tomatoes from each container obtained in subparagraph (i), or the the entire contents of the containers if the containers contains less than 25 tomatoes; and
 - (b) in the case of tomatoes kept or displayed for sale in loose quantities –
 - (i) taking separate samples from the various classes and size groups which have been identified; and
 - (ii) taking as inspection sample at least 25 tomatoes at random from each quantity mentioned in subparagraph (i), or all the tomatoes if the number is less than 25 tomatoes.

(2) Each sample that is taken in accordance to the provisions of subregulation (1) shall be deemed to be representative of the quantity of tomatoes from which the samples have been taken.

Deviating sample

13. If an inspector should notice during the process of drawing the random sample or during the inspection, that some of the containers derived from any part of the pallet load, truck load or consignment, contain tomatoes which are noticeably inferior to or differ from the contents of containers which represent the remainder of the pallet load, truck load or consignment, the inspection result shall be based only on

the containers derived from the deviating portion of the pallet load, truck load or consignment, and further samples required for inspection shall be drawn from this deviating portion.

METHODS OF INSPECTION

Determination of percentage in too green tomatoes

14. The percentage of too green tomatoes shall be determined as follows:
- (a) Take from the inspection sample those tomatoes which are most likely to be too green.
 - (b) Cut not more than four tomatoes open through the diameter thereof.
 - (c) Determine visually how many of the tomatoes thus cut open, have pips which are undeveloped and not covered with jelly.
 - (d) Express the number thus determined as a percentage of the total number of tomatoes in that sample, which percentage represents the extent to which too green tomatoes occur in such sample.

Determination of size variations

15. The size variation shall where applicable be determined as follows:
- (a) Measure the diameter of each tomato in the inspection sample concerned.
 - (b) Calculate the average diameter of the tomatoes in that inspection sample.
 - (c) Determine the number of tomatoes in that inspection sample of which the diameter differs with more than 10 mm from the average thus calculated.
 - (d) Express the number thus determined as a percentage of the total number of tomatoes in that inspection sample, which percentage represents the extent to which tomatoes with unacceptable size variations occur in the sample.

Determination of percentage of quality factors other than too green tomatoes and size variations

16. Percentage quality factors other than too green tomatoes and size variations shall be determined as follows:
- (a) Examine each tomato in the inspection sample concerned visually or if necessary, by handling it or cutting it.
 - (b) Determine in respect of each of the various quality factors the number of tomatoes in that inspection sample in which deviations occur.
 - (c) Express the number in respect of each quality factor thus determined as a percentage of the total number of tomatoes in that inspection sample, which percentage represents the extent to which tomatoes with the deviation concerned occur in the sample.

OFFENCES AND PENALTIES

17. Any person who contravenes or fails to comply with a provision of these regulations shall be guilty of an offense and upon conviction be liable to a fine or imprisonment in consultation with article 11 of the Act.

ANNEXURE

TABLE 1: QUALITY STANDARDS FOR TOMATOES

| Quality Factors | Standards to be complied with | | | |
|--|---|---|--|--------------|
| | Class 1 | Class 2 | Class 3 | Lowest Class |
| 1 | 2 | 3 | 4 | 5 |
| 1. Decay | Not permissible | Not permissible | Not permissible | <u>20%</u> |
| 2. Foreign matter | Not permissible | Not permissible | Not permissible | * |
| 3. Firmness | Fairly firm and not overripe | Reasonably firm and not overripe | May not have a blistered appearance (including speciality types tomatoes) and must still be firm enough to be sliced in 5 mm slices (excluding Speciality types tomatoes) | * |
| 4. Blemishes (excluding Speciality types of tomatoes) | Blemishes not deeper than 1,5 mm and not exceeding a total area of ± 225 mm ² (circle with a diameter of 15 mm) is permissible | Blemishes not deeper than 1,5 mm and not exceeding a total area of ± 340 mm ² (circle with diameter of 20 mm) is permissible | Blemishes not deeper than 3 mm and not exceeding a total area of ± 615 mm ² is permissible provided that not more than 20% of the tomato is cut away in one or more flat slices to remove damaged parts | * |
| 5. Cat faces (Disfigurement and blemishes at the flowering end of the tomato) (excluding Speciality types of tomatoes) | A few scabby marks not deeper than 1,5 mm or exceeding a total area of ± 225 mm ² (circle with a diameter of 15 mm) is permissible | Wrinkled and suberic marks not deeper than 1,5 mm and not exceeding a total area of ± 340 mm ² is permissible | Severe wrinkled and suberic parts with a total area of ± 615 mm ² is permissible provided that no more than 20% of the tomato may be cut away in one flat slice to remove the malformed part | * |
| 6. Craks (a) Circular cracks (excluding Speciality types of tomatoes) | Circular crack(s) not deeper than 1,5 mm and which individually or collectively form a quarter circle is permissible | Circular crack(s) not deeper than 1,5 mm and which individually or collectively form a half circle is permissible | Circular crack(s) not deeper than 1,5 mm and which individually or collectively form a full circle is permissible | * |

| Quality Factors | Standards to be complied with | | | |
|---|---|---|---|--------------|
| | Class 1 | Class 2 | Class 3 | Lowest Class |
| 1 | 2 | 3 | 4 | 5 |
| (b) Stalk-end cracks or Radial cracks (excluding Speciality types of tomatoes) | One or more cracks which individually or collectively are not longer than 10 mm and deeper than 1,5 mm is permissible | One individual crack not longer than 20 mm and not deeper than 1,5 mm or two or more cracks which collectively are not longer than 20 mm or deeper than 1,5 mm is permissible | Tomatoes in a poorer condition than Class 2: Provided that no more than 20% of the tomato must be cut away in one of more flat slices to remove the damaged parts and that none of the cracks show any sign of decay | * |
| 7. Bruises | Not permissible | Not permissible | Not permissible | * |
| 8. Too green, (greenback / yellowback) | Not permissible | Not permissible | Not permissible | * |
| 9. Appearance | Sound and attractive | Sound and attractive | Sound and attractive | * |
| 10. Shape | Well shaped for the relevant cultivar | Reasonably well shaped for the relevant cultivar | Tomatoes with points are permissible | * |
| 11. Injury | Not permissible | Not permissible | Not permissible | 35% |
| 12. Leaking tomatoes (not regarded as decay) | Not permissible | Not permissible | Not permissible | 20%* |
| 13. Mosaic | Not permissible | Mosaic stain with an area of not more than 12,5% (1/8) of the total surface of the tomatoes is permissible, provided that no blistered appearance is present | Mosaic stain with an area not more than 50% of the total surface of the tomato is permissible | * |
| 14. Sunburn | Not permissible | A light yellow colour without any sign of leatheriness and sunkenness is permissible | A yellow colour, sunkenness and leatheriness is permissible provided that not more than 20% of the tomato must be cut away in one or two flat slices to remove damaged parts and no sign of decay is present | * |
| 15. Dust | Not permissible | Not permissible | Not permissible | * |

| Quality Factors | Standards to be complied with | | | |
|--|--|---|--|--------------|
| | Class 1 | Class 2 | Class 3 | Lowest Class |
| 1 | 2 | 3 | 4 | 5 |
| 16. Soil covered | Not permissible | Mud-smearred during handling and light soil splatters is permissible | Soil covered tomato due to contact with soil during growth period is permissible, provided that the tomato has not decayed | * |
| 17. Unspecified defects other than those mentioned in items 1 - 16 | Not permissible | Not permissible | Not permissible | * |
| 18. Colour variations | Tomatoes in the same container should be uniform in colour and ripeness | Tomatoes in the same container should be uniform in colour and ripeness | Different colour may be packaged together | * |
| 19. Size variation (excluding Speciality types of tomatoes) | Fairly uniform in size: Provided that, in the case of Speciality types of tomatoes, only 4 mm difference is permissible between the largest and smallest tomato in the same container is allowed | Reasonably uniform in size: Provided that, in the case of Speciality types of tomatoes, only 4 mm difference is permissible between the largest and the smallest tomato | Different sizes may be packed together: Provided that in the case of Speciality types of tomatoes, only 4 mm difference is permissible between the largest and the smallest tomato | * |
| | | | | |

* Not applicable

TABLE 2: SIZE GROUPS FOR TOMATOES

| SIZE GROUPS | SYMBOLS | MASS RANGES | | | |
|-----------------------|---------|--------------------|--------------------|--------------------|--------------|
| | | Class 1 Min-max | Class 2 Min-max | Class 3 Min-max | Lowest Class |
| Baby or Mini Tomatoes | * | 45 -50 mm | 45 -50 mm | 45 -50 mm | * |
| Small | S | 50- 55 mm | 50 – 55 mm | 50-55 mm | * |
| Medium small | MS | 55- 62 mm | 55- 62 mm | 55- 62 mm | * |
| Medium | M | 62- 68 mm | 62- 68 mm | 62- 68 mm | * |
| Medium Plus | M+ | 68-76 mm | 68-76 mm | 68-76 mm | * |
| Large | L | 76-85 mm | 76-85 mm | 76-85 mm | * |
| Extra Large | XL | 85-95 mm | 85-95 mm | 85-95 mm | * |

TABLE 3: PERMISSIBLE DEVIATIONS IN RESPECT OF QUALITY FACTORS BY NUMBER

| Quality Factors | Maximum extent to which deviations may occur in tomatoes that are classified as- | | | |
|--|--|---------|---------|--------------|
| | Class 1 | Class 2 | Class 3 | Lowest Class |
| 1 | 2 | 3 | 4 | 5 |
| 1. Decay | 1% | 2% | 5% | 20% |
| 2. Foreign matter | 2% | 8% | 12% | * |
| 3. Firmness, scars, blemishes, cracks, bruises, too green, appearance, form, injuries, leaking tomatoes, mosaic, sunburn, dust, soil and other quality factors referred to in item 17 Table 1 individually | 5% | 15% | 25% | * |
| 4. Deviations referred to in items 1, 2 and 3 collectively: provided that the deviations individually are within the specified requirements | 5% | 15% | 25% | * |
| 5. Size groups (excluding Speciality type of tomatoes) | 10% | 15% | 25% | * |
| 6. Size variations | 10% | 15% | 25% | * |
| 7. Colour variations | 20% | 25% | * | * |

* Not applicable