

Tomato Plant Burn-Down Rule

CHAPTER 5B-59 PLANT PEST CONTROL

5B-59.001 Plant Pest Control.

5B-59.002 Standards for Determining when to Cease Use of a Pesticide During an Emergency Response to a Plant Pest Infestation Which Involves the Aerial Application of a Pesticide to an Urbanized Area.

5B-59.003 Tomato Plant Destruction.

(1) Definitions. For the purpose of this rule, the definitions in Sections 1.01, 500.03, 570.02, 677.102, and 581.011, Florida Statutes, and the following definitions shall apply:

(a) Commercial Tomato Producer. A person who is engaged in and has an economic risk in the business of producing, or causing to be produced, tomatoes for market.

(b) Final harvest. When an active pest management system is no longer maintained in the field following tomato harvest or if harvest has not occurred or not intended and no pest management system is being maintained.

(2) Tomato Plant Destruction. Within five days following the final harvest of a tomato crop, commercial tomato producers shall destroy remaining tomato plants on the production site using a chemical burn-down with a contact desiccant type herbicide that is EPA labeled and approved for this use such as paraquat or

diquat that also contains a minimum three percent oil and a non-ionic adjuvant to destroy crop vegetation. This must be followed by immediate complete destruction by crop removal unless double cropping is planned.

(3)The commercial tomato producer failing to destroy tomato plants within five days following final harvest as described in (2) shall be issued an immediate final order. An immediate final order issued by the department pursuant to this section shall notify the property owner that the tomato plants that are the subject of the immediate final order must be removed and destroyed unless the commercial tomato producer, no later than 10 days after delivery of the immediate final order requests and obtains a stay of the immediate final order from the district court of appeal with jurisdiction to review such requests. The commercial tomato producer shall not be required to seek a stay of the immediate final order by the department prior to seeking the stay from the district court of appeal. If the commercial tomato producer refuses or neglects to comply with the terms of the notice within 10 days after receiving it, the director or her or his authorized representative may, under authority of the department, proceed to destroy the tomato plants. The expense of the destruction shall be assessed, collected, and enforced against the commercial tomato producer by the department.