

Publix drops Ag-Mart tomatoes

By [Christine Stapleton](#), [Christine Evans](#), [John Lantigua](#)

Palm Beach Post Staff Writers

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Publix Super Markets, the sixth-largest grocery store chain in the U.S., confirmed Friday that none of its 866 stores in five states will sell the popular Santa Sweets grape tomato grown by Ag-Mart Produce, the Florida-based company facing hundreds of pesticide violations in two states.

"In light of the seriousness of this situation, we wanted to be able to take a step back and do a more thorough investigation," said Anne Hendricks, media and community relations manager for Publix.

Farmworkers and pesticides

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Santa Sweets always have passed Publix's strict quality inspections and audits, but Publix "wanted to make sure the company is following the health and safety practices that Publix and its customers expect," she said.

Publix has not received complaints from shoppers but decided to stop selling Santa Sweets "as more of a proactive measure." Publix may decide to sell Santa Sweets again after its own investigation, Hendricks said.

No other grocery stores have stopped selling Santa Sweets, said Ag-Mart spokesman David Sheon. "Not only has there never been a doubt about the safety of the food, but the overwhelming evidence is that the company has been extremely responsible," he said.

Also Friday, agriculture officials in North Carolina cited Ag-Mart for 369 pesticide violations that its investigators found on two farms operated by Ag-Mart in that state. The violations and potential fine, as much as \$184,500, are believed to be the largest ever in North Carolina.

Results of separate investigations by health officials in North Carolina and environmental investigators in New Jersey, where the company also grows tomatoes, are expected soon. Those investigations will examine the possible link between the pesticides used in Ag-Mart fields and three deformed babies born to fieldworkers last winter. Florida health investigators could not establish a link.

Ag-Mart officials responded to news of the North Carolina violations with a two-page statement, saying the company would ask for a hearing to contest the violations, as it is doing in Florida. The bulk of the violations mirror those in Florida, in which Ag-Mart is accused of repeatedly violating strict harvesting and field reentry rules designed to keep workers safe.

Investigations multiply

"These investigators have made the same mistake that we believe the Florida investigators have made," said David Stefany, attorney for Ag-Mart. "They took the nonspecific, general information provided by Ag-Mart and pieced it together to form conclusions... regarding the planting, tying, picking and spraying sequences that are not accurate."

The North Carolina case also cited Ag-Mart for not providing workers with water and decontamination materials. Workers were trained about the hazards of pesticides by an employee who was not qualified to do so. And gasoline was stored with pesticides, according to the report.

Another alleged violation involved illegal disposal of pesticide containers. The North Carolina farm manager, Jeff Oxley, told investigators that company President Don Long instructed him to burn plastic containers and bags in a field. Oxley said that "they knew that they should not burn pesticide containers" but that Long "told them to stop sending containers to the landfill and to burn them on site." North Carolina bans the "open burning of pesticides or pesticide containers."

Investigators tested the soil where containers were burned and found manganese and copper "exceeding naturally occurring levels," the report said.

Company spokesman Sheon declined to comment on whether Long advised the manager to burn the containers in North Carolina. However, Florida law allows the burning of used pesticide containers, and Ag-Mart burns its used pesticide bags and containers here, he said.

"All I'm able to say at this point is that the law varies from state to state," Sheon said. "The company is going through an internal investigation to look at its policies, which oftentimes are consistent, to look for discrepancies with state law."

Gregg Schell, a lawyer with the Migrant Farmworker Justice Project who has battled before with Ag-Mart in Florida over worker housing and wages, called the North Carolina violation report "amazing."

"You put the two investigations together and it belies what (Don) Long has said about worker safety," Schell said. "They're interested in the bottom line, and worker safety is secondary."

The investigations of Ag-Mart began last spring after *The Palm Beach Post* published a story on three babies born with birth defects to Ag-Mart fieldworkers. One baby has no arms or legs; another with no clear gender died after three days; a third has a jaw condition that causes his tongue to fall back into his throat.

Two agencies launched tandem investigations. The Collier County Health Department, the site of one farm where the women worked, began investigating possible links between the birth defects and the pesticides. The Florida Department of Agriculture and Consumer Services began looking at the company's pesticide practices and worker safety compliance.

'An erroneous conclusion'

On Sept. 30, the company announced that it would voluntarily discontinue the use of pesticides that have been linked to birth defects. Twelve days later both agencies announced the results of their investigations. Health department officials could find no link between pesticides used on Ag-Mart's Florida farms and the birth defects. Agriculture officials found 88 violations and fined the company \$111,200 — believed to be the largest of its kind.

On Thursday, company President Long responded to the Florida allegations by opening his Central Florida farm to reporters and answering questions in the middle of a field, where he explained an intricate field numbering system that he said is at the heart of Florida agriculture investigators' "erroneous" case.

With a poster-board presentation and a prepared script, Long illustrated what he said was the critical flaw at the center of the investigation. The company, he said, turned over the "spray tickets" that detail the time, date, location and type of pesticides used. When investigators asked, Ag-Mart also gave them "guesstimates" listing multiple fields where workers may have been on certain days.

The problem, Long said, is that the additional information is imprecise. The company cannot say with any confidence exactly what fields — or field sections — in which workers might have been. That is a critical point, he said, because the workers' locations are at the core of most of the Florida charges and many of the North Carolina ones. Farmers are not required to keep records on the exact locations of every worker's whereabouts, he said.

"We tried to help them," Long said of the Florida investigators, "and they made assumptions based on the estimates we gave them voluntarily."

The state, he contends, "came to an erroneous conclusion in 81 of the 88 violations." Ag-Mart never allowed workers in fields when it was unsafe to do so, he said.

In addition to the prepared remarks, Long answered numerous questions from *The Post*.

He emphasized several points: Ag-Mart tomatoes, he said, are entirely safe, and, in fact, state inspectors have found pesticide residue levels well within safe tolerance levels; no worker has ever complained to the company about pesticide illness or misuse, he said, even though Ag-Mart now has a 24-hour, bilingual hot line for anonymous calls; in addition, he said, no "valid" complaints of pesticide illness have been made to authorities against the company.

"Wouldn't you think," said Sheon, "that if there was something wrong, you would get at least one call?"

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