

Citrus Administrative Committee
Federal Marketing Order No. 905

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Brief for the Citrus Administrative Committee

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Marketing Order No. 905 Oranges, Grapefruit, Tangerines, and Tangelos Grown in
Florida

Docket Nos. AO-13-0163; FV-13-905-1; AMS-FV-12-0069

Jill Clifton, Administrative Law Judge

Before the
United States Department of Agriculture
Agricultural Marketing Service



Docket Nos. AO-13-0163; FV-13-905-1; AMS-FV-12-0069

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida

The Citrus Administrative Committee's brief in support of Amendments to Sections 905.5, 905.9, 905.14, 905.20, 905.22, 905.42, 905.52, 905.28 and 905.7 of Marketing Order No. 905

Introduction

Marketing Order No. 905 – Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida (Order) was promulgated in 1939 and has served the growers and shippers of fresh Florida citrus for seventy-four seasons. The Florida citrus industry has experienced many changes during the past seventy-four seasons; during the 1939-40 Florida citrus season (first season under the Order) total citrus production was 43.6 million boxes of which 30.5 million boxes (70% of the citrus crop) were utilized for fresh shipments while 13.1 million boxes (30% of the citrus crop) were utilized in the production of canned citrus juice. Also during the 1939-40 season, 11.6 million boxes (27% of the citrus crop) were produced by varieties that are no longer in production. There were over 400 packinghouses engaged in shipping fresh Florida citrus.

Moving forward to the 2012-13 season, Florida produced 153.1 million boxes of citrus with 139.1 million boxes (91% of the crop) being utilized in the production of citrus fruit juice. Fresh Florida

citrus shipments for the 2012-13 season utilized 14 million boxes only 9% of the total Florida citrus harvest. There were 42 packinghouses shipping fresh Florida citrus.

As stated above, the Florida citrus industry has shifted from a predominately fresh oriented industry to an industry with less than 9% of the volume being utilized for fresh shipments. In addition, during the last ten seasons, Florida citrus production has declined 138.7 million boxes (47%) and fresh shipments declined 12 million boxes (54%). Fresh Florida citrus shippers have declined from 59 a decade ago to 42 for this season, a reduction of 29%.

The Florida citrus industry decline is due to the extensive damage caused by the hurricanes of 2004 and 2005 coupled with disease pressure from citrus canker and citrus greening (HLB) resulting in tree and crop loss. This downward trend is anticipated to continue until disease resistant trees are developed along with effective methods to control citrus canker and citrus greening. Many of the witnesses testified, at the hearing, to the state of the Florida citrus industry and the need to amend the Order to accommodate the changes within our fresh segment of our citrus industry. It must be noted that, the growers and shippers of fresh Florida citrus believe in their industry and are working hard to solve the disease issues so they can continue to grow and ship fresh Florida citrus.

Citrus Administrative Committee (CAC) Chairman Paul Genke appointed the Rules Subcommittee in the summer of 2011 to review and consider possible amendments to the Order. In the fall of 2011, the Rules Subcommittee began a thorough review of the Order and developed nine proposed amendments for the fresh Florida citrus industry's consideration. It should be noted, the Florida Citrus Packers, Indian River Citrus League, Florida Citrus Mutual, Gulf Citrus Growers Association, Peace River Growers Association, New Varieties Development & Management Corporation, Florida Citrus Commission and the Highlands County Citrus Growers Association all currently have board members serving as members and/or alternates on the CAC. At their July 17, 2012, meeting the CAC

reviewed and considered the nine proposed amendments. By a unanimous vote, the CAC recommended nine proposed amendments to the United States Department of Agriculture (USDA) for formal rulemaking.

On March 28, 2013, the USDA, Agricultural Marketing Service (AMS) published in the Federal Register a notice of hearing on nine proposed amendments to the Order. The hearing was conducted by Jill Clifton, Administrative Law Judge on Wednesday, April 24, 2013 at the Florida Department of Agriculture and Consumer Services, 500 – 3rd Street NW, Winter Haven, Florida. At the hearing, ten individuals presented testimony in support of the nine amendments.

The Proposed Amendments

The fresh segment of the Florida citrus industry fully vetted over a period of 18 months the nine proposed amendments and expressed no opposition. The proposed amendments were unanimously adopted by the CAC and there was no opposition presented during the April 24, 2013 hearing. The proposed amendments are mostly administration changes designed to afford the CAC the flexibility to adequately address the changing fresh segment of the Florida citrus industry. The growers and shippers of fresh Florida citrus will be better served with the adoption of these proposed amendments.

Proposed Amendment # 1: § 905.4– Fruit & 905.5 Variety.

This amendment provides for the inclusion of new varieties and hybrids under the Order. Currently the New Varieties Development & Management Corporation (NVDMC), whose board is composed of citrus growers and handlers and funded by citrus growers, is actively working to identify, acquire and sub-license promising citrus varieties and hybrids for the Florida citrus grower. In order to regulate these new varieties and hybrids, new language must be adopted allowing them to be included under the Order.

The Florida citrus industry believes the inclusion of new varieties and hybrids to be a necessity to their survival. Currently, the Florida citrus industry is not only funding the development of new varieties and hybrids but has developed a plan to get these new varieties and hybrids in the hands of growers for field testing and hopefully moving to production in the next few seasons. There is great anticipation within the fresh segment of the Florida citrus industry for these new varieties and hybrids. With new varieties and hybrids, the fresh Florida citrus industry will be posed to supply easy peeling, seedless and great tasting citrus to the consumer and hopefully reverse the decline of the Florida citrus industry.

Proposed Amendment # 2: § 905.9 – Handle or ship.

This amendment provides the authority to regulate intrastate shipments under the Order. Given the increased segmentation of the Florida citrus industry, the high degree of uncertainty caused by citrus canker, citrus greening, declining production and shipments the CAC has determined it may be beneficial in the future for the Florida fresh citrus grower and shipper to incorporate all fresh citrus regulation under the Order.

Proposed Amendment # 3: § 905.14 Redistricting.

This amendment grants flexibility to the CAC in redefining grower districts within the production area when the criteria and relevant factors within the production area warrant redistricting. Disease and natural disasters, over the past decade, has significantly affected bearing trees (most especially in grapefruit trees), production and fresh shipments within the Florida's production area. The amendment allows the CAC to base their determination of grower district's on; bearing trees, volume of fresh fruit, the total number of acres of citrus, and other relevant factors when conditions warrant.

Proposed Amendment # 4: § 905.2 – Term of office.

This amendment extends the term of office to two years and limits a member to two consecutive two-year terms. The current one-year term of office is administratively inefficient and requires additional committee resources. Two-year terms would allow for biennial nomination meetings, which would aid in administrative efficiencies and stability.

Proposed Amendment # 5: § 905.22 Nominations.

This amendment allows the CAC to conduct the nomination and or election of members and alternates to the CAC by mail or other means according to rules and regulations recommended by the CAC and approved by the Secretary. Currently, the CAC holds grower nomination meetings in each of the four grower districts and one shipper nomination meeting annually. The five nomination meetings require time, travel, have administrative cost, and do not have good participation. Conducting nomination meetings by mail or other means would be cost effective, allow for direct communication and could increase participation and diversity.

As of May 30, 2013, the CAC has the authority (under Section 905.171 Handler supplier.) to require handlers to provide the name and business address of each grower whose fruit was shipped or acquired by the handler during the season. This new authority gives the CAC a complete list of growers of fresh Florida citrus and allows the CAC to fully implement this proposed amendment.

Proposed Amendment # 6: § 905.42 Handler's accounts.

This amendment allows the CAC to increase their reserves up to two fiscal periods' expenses. Currently, the CAC reserves are capped at approximately one half year's fiscal expense, which limits the CAC's flexibility to develop and implement projects requiring advertising, promotion or research without raising the assessment rate during the season. The amendment provides greater flexibility in the administration of marketing order programs and promotes assessment stability.

Proposed Amendment # 7: § 905.52 Issuance of regulations.

This amendment provides for regulating containers and for having different standards, grade and size regulations, within the production area. As with proposed amendment #2 (regulation of intrastate shipments), at this time there is not a plan to utilize this authority under the Order. However, the CAC may determine future circumstances within the industry warrant utilizing this authority to benefit the growers and shippers of fresh Florida citrus.

Proposed Amendment # 8: § 905.28 Acceptance of membership

This amendment eliminates the need for acceptance statements. Nominees currently complete both background and acceptance statements when they are nominated to serve. The elimination of acceptance statement will reduce paperwork and save administrative cost.

Proposed Amendment # 9: § 905.7 Handlers

This amendment provides for the registration of handlers. The CAC determined registering handlers would be beneficial, as it would enhance the compliance provisions of the Order and increase communication with handlers. This proposed amendment requires the CAC to develop, through informal rulemaking, the type of information the handler is required to furnish the CAC. An example of the Handler Registration form was presented as an exhibit during the hearing.

The CAC determined that having handlers register each season is an essential component to effectively administer the Order for the growers and shippers of fresh of Florida citrus.

Conclusion

As stated many times during the hearing, the fresh segment of the Florida citrus industry has declined and is in transition and the Order is an important tool, which may be utilized by the CAC for the benefit of the growers, shippers and consumers of fresh Florida citrus. Proponents of these nine proposed amendments convincingly supported the need for these proposals. Therefore, the proposed amendments changes should be adopted. The evidence and testimony was well documented at the hearing on April 24, 2013.

As previously noted, the fresh segment of the Florida citrus industry has just completed seventy-four seasons under the authority of the Order and over this long period of time there have been many challenges faced by the growers and shippers of fresh Florida citrus but one constant tool for the industry has been the Order. The CAC has and will continue to utilize the Order for the benefit of the growers and shippers of fresh Florida citrus and their consumers. Each of the nine proposed amendments was developed by the CAC to strengthen the Order in order to meet the challenges that lie ahead.

The Citrus Administrative Committee respectfully requests these nine proposed amendments be adopted.

Respectfully Submitted for the Citrus Administrative Committee,



Arthur B. Chadwell, Manager