

Background for Rulemaking Consideration

Florida Department of Citrus & Florida Citrus Commission

The Florida citrus industry is governed by the rules and regulations outlined in Chapter 601 of the Florida Statutes (Chapter 601), which only the Florida legislature has the authority to change. The Florida Department of Citrus (DOC) is the state agency that administers Chapter 601 with the Florida Citrus Commission (FCC) as its governing body, which is made up of citrus growers, processors and handlers appointed by the Governor. The FCC has the authority to under Florida Department of Citrus Chapter 20 (Chapter 20) to implement rules and regulations pertaining to fresh citrus as defined in Chapter 601.

Last summer after Governor Scott appointed the new members of the FCC, Chairman Marty McKenna appointed the 601 Committee to review and make recommendations to the FCC on changes to Chapter 601 of the Florida Statutes. The 601 Committee held a number of meetings and after input from all the various Florida citrus industry organizations, the 601 Committee's recommendations were approved by the full FCC. Some of the 601 Committee's recommendations supported moving most of the rules and regulations governing fresh fruit out of Chapter 601 to the Chapter 20, which govern fresh fruit. The purpose of moving these rules and regulations out of 601 to Chapter 20 is to give the rule making decisions to the FCC so legislative approval is not required.

Federal Marketing Order No. 905 - M O 905 – Citrus Administrative Committee

The CAC under M O 905 does not regulate intrastate (production area) shipments as they are regulated under Chapter 601. The Florida Citrus Packers (Packers) sent a letter requesting the CAC to consider formal rule making to amended M O 905 to include the regulation of intrastate shipments. In response to the Packers request CAC Chairman Paul Genke appointed the Rules Subcommittee, Chaired by George Hamner, Jr., to review and consider their request and to identify other rule changes (Informal & Formal Rulemaking) to M O 905 that would benefit the fresh industry and also the committee's administration of the order. After discussions with the MOAB, CAC Chairman Genke and Rules Subcommittee Chairman George Hamner, Jr. a list possible rule changes to M O 905 was developed for the subcommittee's review and consideration.

Rules Subcommittee

Chairman George Hamner, Jr.	Lindsay Raley	Frank M. Hunt, III	Sam Jones
Dennis Broadaway	Lynn Shelfer	Trey Smith	Paul Genke, ex-officio member

The Rules Subcommittee met on October 12, 2011 and reviewed and discussed possible rule changes and approved 9 proposed amendments, which were presented to the committee at their November 9, 2011 meeting. The subcommittee was directed by Chairman Genke to proceed with the development of language for each proposed rule change and bring the proposals back to the committee for their consideration prior to the end of the 2011-12 season.

Rules Subcommittee Chairman Hamner held a number of subcommittee meetings following the November committee meeting to develop language for proposed changes to Section 905.71 and amendments to M O 905. In addition to subcommittee meetings there were meetings with the legal team from MOAB, Corey Elliott and Jen Vargela with the USDA Marketing Field Office in Winter Haven & Peter Chaires, Executive Director of the New Varieties Development & Management Corporation (NVDMC). The Rules Subcommittee met again on June 12, 2012 and after due consideration recommends the following rule changes: 1) Informal rule making to include language in Section 905.71

to require shippers to furnish to the committee a list of the growers with contact information whose fruit they handled during the season 2) Formal rule making to include 9 proposed amendments to M O 905, which will allow the inclusion of new varieties and hybrids to the order and changes that will aid in the administration of the order. These recommendations will be presented to the CAC by Rules Subcommittee Chairman George Hamner, Jr. at the committee's meeting, which will be held at 10:30 a.m. on Tuesday, July 17, 2012 at the Grove House in Lake Wales. Outlined below are the proposals for the committee's consideration.

Informal & Formal Rulemaking Action

- Informal rulemaking begins with a proposed rule change approved, in the form of a committee recommendation, to the Secretary of Agriculture to utilize an authority outlined in a section of M O 905. A requirement of informal rulemaking is to have the proposed rule, committee recommendation, published in the Proposed Rules Section in the Federal Register, which contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rule.
 - Attached is the background information for the above informal rulemaking proposal for changing Section 905.71 (orange sheet).
- Formal rulemaking begins with the committee working closely with the Marketing Order Administration Branch (MOAB) of the United States Department of Agriculture/Agricultural Marketing Service (USDA/AMS) to develop a proposal to add or delete language to M O 905. The proposal is reviewed and considered by the committee and the proposed changes that are approved by the committee are submitted to the USDA.
- For your review and consideration, please find enclosed the following information that was reviewed by the Rules Subcommittee during their deliberations in recommending the proposed amendments that will be considered by the committee at your meeting on the 17th of July.
 - Estimated Timeline for Promulgation Formal Rulemaking (blue sheet).
 - Fresh Florida Citrus Fact Sheet that includes bearing acreage, production, fresh utilization and shipment data for the past 10 seasons. (yellow sheet)
 - List of nine justification points that must be addressed when developing amendments to federal marketing orders.
 - The 9 proposed amendments to M O 905 as recommended by the Rules Subcommittee.