

03 season. It allowed growers to ship a maximum of 150 1<sup>3</sup>/<sub>5</sub> bushel boxes per variety per shipment up to a seasonal total of 1,500 boxes per variety of their tree run fruit free from order requirements.

This rule amends § 905.149 and extends its provisions for another season. This rule extends the exemption to ship tree run citrus free from grade, size, and assessment requirements as specified in § 905.149 for the 2003–04 season. This rule also amends § 905.149 by increasing the limit on the amount of citrus a grower can ship during the season from 1,500 boxes to 3,000 boxes per variety and by requiring that each container in each shipment be labeled with or contain the name and address of the grower. Growers must receive approval from the committee before they can utilize this exemption.

According to Florida Department of Citrus (FDOC) regulation 20–35.006, “Tree run grade is that grade of naturally occurring sound and wholesome citrus fruit which has not been separated either as to grade or size after severance from the tree.” Also, FDOC regulation 20–62.002 defines wholesomeness as fruit free from rot, decay, sponginess, unsoundness, leakage, staleness, or other conditions showing physical defects of the fruit. By definition, this fruit is handled by the grower and bypasses normal handler operations. Prior to implementation of the exemption, all tree run citrus had to meet all requirements of the marketing order, as well as State of Florida Statutes and Florida Department of Citrus regulations. Even with this rule, tree run citrus must continue to meet applicable State of Florida Statutes and Florida Department of Citrus regulations, including inspection and any container marking requirements. However, growers will be able to pick, box, and ship directly to buyers, and avoid the costs incurred when citrus is handled by packinghouses.

During the past few seasons, small producers of Florida citrus have expressed concerns about problems incurred when trying to sell their citrus. These concerns include increasing production costs, limited returns, and the availability of markets. For some growers, there is limited demand for the variety of citrus they produce or they do not produce much volume. Consequently, they have difficulty getting packinghouses to pack their fruit. These problems, along with market conditions, have driven a fair number of citrus growers out of the citrus industry.

According to Florida Agricultural Statistics Service, over the past five

years, fresh grapefruit sales have dropped 22 percent and fresh orange shipments are down 16 percent. This means fewer cartons are being packed. This can cause problems for varieties that may be out of favor with handlers and consumers, or for a particular variety of fruit where there may be a glut on the market. As a result, packinghouses do not wish to become over stocked with fruit which is difficult to market and, therefore, will not pack less popular minor varieties of fruit or fruit that is in oversupply. Packinghouses do not want to pack what they cannot sell. These factors have caused wholesome fruit to be shipped to processing plants or left on the tree.

When citrus cannot be sold into the fresh market, it can be sold to the processing plants. However, the prices received are considerably lower. During the last five years, only the 1999–2000 season produced on-tree returns for processed grapefruit that exceeded one dollar per box. Over the period from 1977 through 2000, the differential between fresh prices and processed prices has averaged \$3.55 per box. The average on-tree price for processed Florida oranges during the 2001–02 season was \$3.08 compared to \$4.50 for fresh oranges.

In addition, the costs associated with growing for the fresh market are greater than the costs for growing for the processed market. While the costs of growing for the fresh market have been increasing, in many cases the returns to the grower have been decreasing. The cost of picking, packing, hauling, and associated handling costs for fresh fruit is sometimes greater than the grower's return on the fruit. In some cases, where the cost of harvesting exceeds the returns to the grower or the grower cannot find a buyer for the fruit, economic abandonment can occur. According to information from the National Agricultural Statistics Service, the seasons of 1995–96, 1996–97, 1997–98, and 2000–01 had an average economic abandonment of two million boxes or more of red seedless grapefruit alone.

Consequently, growers are looking for other outlets for their fruit in an effort to increase returns. Some growers believe secondary markets exist which are not currently being supplied that would provide additional outlets for their citrus. They think niche markets exist that could be profitable and want the opportunity to service them. They believe they can ship quality fruit directly to out-of-state markets and that it would be well received. These growers contend tree run citrus does not

need a minimum grade and size to be marketable, and that they can supply quality fruit to secondary markets not served by packed fruit. However, they believe they need to bypass normal handler operations and the associated costs for it to be profitable.

To address these concerns, the committee recommended that for the 2002–03 season producers be allowed to ship small quantities of their own production directly to market exempt from order requirements. The exemption was for the 2002–03 season and expired July 31, 2003. A final rule on this action was published in the **Federal Register** on January 29, 2003 [68 FR 4361]. The committee agreed that following the 2002–03 season they would review the information provided by growers who applied for and used the tree run exemption to determine if the exemption should be continued.

During the 2002–03 season, 75 growers were approved to ship under the exemption. Approximately 25 growers actually used the exemption, shipping a total of 5,000 1–3<sup>5</sup>/<sub>5</sub> bushel boxes of oranges, grapefruit, tangerines, and tangelos. Those producers who took advantage of the exemption believe the program was successful. They were able to sell their fruit and supply markets not already supplied by packed fruit.

The growers who used the exemption believe that one year was not long enough and that it should be extended. They think more time is needed to determine the benefits of the exemption and whether it should be extended on a continuous basis. Growers believe to successfully develop new markets they must demonstrate they can consistently supply new markets with quality fruit and this cannot be done in a single season or without the exemption.

Growers also believe more markets exist. They think more time is needed to identify and research potential markets. In some cases, potential markets were not identified until late in the 2002–03 season when there was not enough fruit available to supply them. Growers want the opportunity to try to supply these markets in the coming season.

In addition, some interested growers did not take advantage of the exemption during the past season. Some stated if the exemption were to be extended for another season, they would use it to try shipping tree run citrus. By extending the exemption for another season, growers will have more time to utilize this opportunity and it will provide the committee with a better indicator of the level of interest and success.

There was also some discussion that the previously established 1,500 box