

Florida Citrus Mutual
Summary of the Proposed State Citrus Research Order
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Background

The Florida Citrus Production Research Advisory Council (FCPRAC) has operated since 1991 under the Florida Citrus Production Research Order. The order, subject to referendum every six years, allows growers to tax themselves up to 1 cent per box of citrus and direct the money to research in the form of competitive grants. The program is administered by the Florida Department of Agriculture and Consumer Services (FDACS). As the industry ramped up HLB research over the past two years, FCPRAC – in conjunction with the Florida Department of Citrus (FDOC) - did an excellent job coordinating, prioritizing and funding more than \$20 million in research projects.

To defeat HLB, the Florida citrus industry must take management of research efforts to new and higher levels of effectiveness. To accomplish this, the industry formed the Citrus Research and Development Foundation (CRDF), a non-profit corporation affiliated with the University of Florida and governed by a Board of 13 Directors, including 10 growers.

The goals of the Foundation are to:

- Serve as “Ground Zero” for the industry’s research efforts;
- Protect intellectual property rights;
- Negotiate commercialization issues;
- Efficiently manage long-term contracts;
- Coordinate submissions for state and federal research grants; and
- Avoid unnecessary research duplication.

Research Order Proposal

The industry is discussing a proposal that would increase the Research Order assessment cap from one cent to three cents (*three cents would generate roughly \$5.5 million annually*) and channel the funds to the newly formed Foundation. The Foundation would annually evaluate and approve research projects.

The current State Research Order is set to expire in 2010, so industry leaders believe now is a perfect time to transition to this new structure. As required by law, growers would vote on the proposal through an FDACS administered referendum. To pass, 65 percent of voting growers representing 51 percent of the voting production would have to vote in favor of the proposal. If approved, the industry would then request the Legislature to make the necessary changes to Chapter 573 *Florida Statutes* to codify the process.

At the request of the Foundation, FDACS has drafted preliminary language to change the Research Order and facilitate Statute revisions:

Draft Text for the Research Order (subject to change)

FLORIDA CITRUS RESEARCH ORDER PURSUANT TO CHAPTER 573 F.S.

I. AUTHORITY:

This order is issued by the Florida Department of Agriculture and Consumer Services (“Department”) pursuant to the Florida Agricultural Commodities Marketing Law, sections 573.101 - 573.124 Florida Statutes.

II. PURPOSES:

This order is designed to provide adequate funding of Florida citrus research and related activities not currently being funded at levels that insure maximum grower profits. This would include, but not be limited to, research, commercialization of research findings, and negotiations of intellectual properties. In construing this order, “citrus fruit” shall be defined as in s. 601.03(7) F.S.

III. ADMINISTRATION:

The Department shall administer and enforce the provisions of this order in a manner so as to effectuate the declared purposes. Such administration shall be upon the recommendation of the Citrus Research and Development Foundation, Inc. (“Foundation”).

IV. ASSESSMENT

A. In order to provide funds to defray the necessary expenses incurred by the Department in the formulation, issuance, administration and enforcement of this order, there is hereby levied an assessment upon each standard packed box of citrus fruit as defined in s. 601.03(33) F.S. or equivalent, grown and placed into the primary channel of trade in the state of Florida. This assessment shall be fixed by the Department upon the recommendation of the Foundation by August 1 of each year, and that rate shall apply for the entire marketing period commencing August 1 and ending July 31 of the following year. In no case shall the assessment rate exceed 3 cents per box. The assessment can be suspended from season to season when the Department, upon recommendation of the Foundation, determines that additional monies are not necessary. The Department shall also reduce the assessment if a Federal citrus research order is implemented, and distributed in Florida through the Foundation. Such reduction will equal the per box Federal research order assessment, up to the total amount levied by the State under this order.

B. The assessment shall be collected at the same time and in the same manner as citrus inspection fees imposed by s. 601.28 F.S. All revenues from such assessment collected by the Department shall be deposited in the Citrus Inspection Trust Fund and accounted for separately.

V. ADMINISTRATIVE RULES:

Upon recommendation of the Foundation, the Department may adopt rules to facilitate the administration and enforcement of this order.

VI. REFERENDUM; AMENDMENTS AND TERMINATION:

The continuance of this order shall be subject to approval by referendum every six years. Also, this order, its termination, suspension and any amendments thereto shall be subject to the producer referendum and notice requirements of Chapter 573. The “marketing period” shall be deemed to run from year to year, commencing August 1 of each year and ending July 31 of the following year. Upon

termination of the order, any funds remaining shall revert to the Department for general use in the area of citrus.

VII. CERTIFICATES OF EXEMPTION:

No certificates of exemption as provided in s. 573.1201 will be issued to producers or handlers under this order.

VIII. EFFECTIVE DATE:

If the Department finds this order to have been approved by producer referendum as provided by law, this order shall become effective August 1, 2010.

Question and Answer on proposed State Research Order

What entities are supporting the proposed State Research Order?

The Citrus Research and Development Foundation (CRDF), the Florida Citrus Production Research Advisory Committee (FCPRAC) and Florida Citrus Mutual (FCM).

What are the main differences growers can expect to see in the proposed State Research Order?

The proposed State Research Order is still the “research voice” of Florida’s citrus growers just as before. However, the 16 year success of the FCPRAC, together with the urgency of HLB and increased research funding, required an evolution to a stronger, more independent Foundation.

The industry will determine the policy of the Foundation and research order; FDACS will facilitate research by transferring funds to the Foundation. In drafting the statutory changes, FDACS listened to recommendations from the Foundation: Here are some high points:

- The Foundation becomes the guiding voice for citrus research in Florida;
- Funding flows to the Foundation via FDACS;
- The definition of research is broadened from “production only”; and
- The research assessment goes from a 1 cent cap to a 3 cents cap.

Isn't this just another incremental tax on the grower?

FCM encouraged the Florida Citrus Commission to reduce advertising assessments by an amount equal to any research increases; so the new Order is ‘tax neutral’ to growers. The last thing the industry wants is to increase grower taxes. The Commission responded to Mutual’s request by passing a resolution on September 16, 2009 that expressed “the Commission’s understanding of the need for tax neutrality as it relates to the research box tax, as all members of the FCC are growers and taxpayers.” Therefore, FCM expects the Commission to reduce the advertising tax by an amount equal to any increase in the research assessment.

Will I automatically be assessed three cents for research if the referendum passes?

No. The three cents figure represents a cap. The actual assessment (between 0 and three cents) will be determined annually by the Foundation, based on the industry's research needs.

What about the Federal Research Order I've heard about?

The new State Research Order is designed to "bridge the gap" until a Federal Research Order on all domestic and imported citrus products can be put in place. The state research assessment ultimately becomes "tax neutral" if a Federal Research Order is created; meaning growers won't be taxed twice. The current draft actually mandates a proportional reduction in the State assessment if a Federal Research Order is implemented.

What about research "free riders"?

The proposed State Research Order does not resolve issues with "free riders". However, Florida Citrus Mutual is exploring a full "equalization research tax" with the State Legislature that would assess a research tax on imported foreign juice and help reduce "free riders". The equalization tax would remain until a Federal Research Order that levies a research assessment on all imported citrus products is put in place.

Are there any other big changes?

The new State Research Order has been streamlined from over four pages to less than two. It eliminates duplication that growers have criticized in the past.

Will the new Research Order require changes in Florida Law?

Yes. The current one cent cap is actually mandated in Chapter 573 *Florida Statutes*. If growers want to increase or decrease the current assessment, some existing Laws must be revised. The Law also needs to establish the Foundation as the official Research Order Advisory Council for FDACS.

So changing the Law has an effect on when the Research Order can be adopted?

Yes. Whatever growers decide to do, it should be seamless and without funding interruptions on critical research projects. If growers can agree on the specific language they want, FDACS will assist in the law-making process. However, growers must agree on specific language before the 2010 Legislature convenes.

Do you see any potential problems?

Yes. The worst things that could occur are inaction, or for the referendum to fail. If growers can't collectively agree, their existing research order will expire and there will be no assessment and research will cease; nobody wants that with serious diseases threatening our industry. It is essential that our various industry organizations educate growers and move expeditiously.

What is Mutual advising growers to do?

Vote “yes” on the referendum.

What’s the next step?

Growers should study the proposed changes and speak out. The various grower associations are great vehicles for communication. Mutual plans to spend the next few months educating growers via *The Triangle*, electronic communications and face-to-face meetings. FDACS will be using CHRP compliance agreements and association lists for its mailing list, so all growers should get on an association’s membership list. If you need a ballot contact Marshall Wiseheart of FDACS at (850) 488-4366.

Proposed Timeline

- Sept 23 Announce Hearing
- Oct 13th Hearing
- Oct 13-19 Comment Period
- Oct 21 Legal Notice (FAW) for Oct 30 printing w/ final wording
- Oct 30 Announce Referendum including dates ballot to be mailed and returned.
- Nov 16 Mail Ballots
- Dec 4 Ballots must be postmarked and mailed to FDACS
- Dec 15 Announce Results
- Dec 15-July Legislative Work
- July 24 or sooner Post and announce effective date of August 1
- August 1 Effective Date