

## PUBLIC MEETING

RE: Florida Peach Marketing Order

DATE: November 12, 2015

TIME: 1:42 - 3:27 p.m.

PLACE: Polk County Extension Service  
Valencia Room  
1710 U.S. Highway 17 South  
Bartow, Florida

REPORTER: LINDA A. MCGILL, RPR, FPR  
Registered Professional Reporter

I-N-D-E-X

11-12-2015

MEETING..... 3  
REPORTER'S CERTIFICATE .....83

1 11-12-2015

2 Thereupon, the following proceedings were taken:

3 MR. DENMARK: All right. Well, hopefully  
4 everybody has had a chance to look at this.

5 Phil should be here momentarily, so I wanted  
6 to wait for him.

7 The first thing that I want to say is, when  
8 you speak, if you could, state your name and -- so  
9 that Linda here can record that. We've got --  
10 these hearings are all recorded.

11 And if you really want some exciting reading,  
12 just let me know and I'll share the -- share that  
13 with you.

14 So I just -- I want to thank everybody for  
15 showing up again today. I know this has been a  
16 long drawn-out process. And we've all probably  
17 learned quite a few things. I know I have. And  
18 probably forgotten more than I've learned.

19 But, again, if -- for everybody's purposes,  
20 I'm Chris Denmark with the Florida Department of  
21 Agriculture and Consumer Services in the marketing  
22 division. And my cards are on the table.

23 If you've got anything to -- any questions,  
24 call me anytime. Send me an e-mail. There's  
25 plenty of opportunities to get back with me on

1           that.

2                       So basically, this is our second and final  
3 hearing on this. And the next step will be go to  
4 -- go forth with the referendum.

5                       We started out back in, I believe it was May.  
6 March or May, is when we first started this. I was  
7 not at the first meeting, but at every other  
8 meeting, I've been here at your pleasure for the --  
9 for all the other marketing meetings and marketing  
10 order meetings.

11                      So we had one in Dade City. That was fun.

12                      We had one in -- here in Bartow.

13                      And then we kind of regrouped and thought we  
14 need to do this a little bit differently.

15                      Went back to Dade City.

16                      And then we've had this one.

17                      And we had one most recently was in Balm, at  
18 the experiment station there.

19                      So we didn't necessarily have to have that  
20 many meetings, but there were some things that we  
21 didn't anticipate.

22                      And one of the things that we needed to do was  
23 to put together some language, and something that  
24 we could basically put up here as a target so that  
25 people could look at it and say I like that, I

1 don't like that, got questions about this.

2 The first couple of meetings, we didn't have  
3 that, and it was kind of a free-for-all in Dade  
4 City with a lot -- a lot of growers that are --  
5 that are you-pick growers, backyard growers. And  
6 they had no idea what was -- what was being talked  
7 about in the marketing order, and they were rather  
8 concerned. So it was -- it was a fun meeting.

9 So basically, we're going to have another  
10 overview. If you've heard this before -- well, if  
11 you've been to any our meetings, you've heard this  
12 before.

13 So nothing has really changed on this end.

14 Marketing order activity, what you can do with  
15 the marketing order. Advertising and promotion.

16 (Mr. Rucks entered the room.)

17 MR. DENMARK: There he is.

18 MR. RUCKS: Sorry I'm late. I know you all  
19 were waiting on me.

20 MR. DENMARK: We just got started about five  
21 minutes ago.

22 So -- so advertising and promotion.

23 Research.

24 Establishing quality and grading standards.

25 Regulating trade practices.

1           And resolving other issues and needs on an  
2 as-needed basis.

3           These are some of the things that you can do  
4 with a marketing order. You don't have to do all  
5 of them, but just kind of a guideline.

6           And sequence of events, how we got to this  
7 point. Discussed ideas as an industry. The  
8 petition, the application by 10 percent of the  
9 industry.

10          The -- and we have informal meetings. We had  
11 a lot of those that we thought were hearings at one  
12 point, but they became informal meetings.

13          And then we have public hearings. This is the  
14 last one.

15          The Commissioner will call for a referendum.

16          The referendum occurs. If the order is  
17 passed, it goes into effect, and advisory council  
18 is appointed.

19          Okay. In order for the marketing order to be  
20 approved, you must have 65 percent of the voters  
21 must approve. 51 percent of the acreage must be  
22 represented by those who approve.

23          So the example is, if you have 100 growers  
24 representing 1,000 acres, 65 of them must vote to  
25 approve. And those 65 must own 510 acres out of

1 the 1,000.

2 Now, one of the things --

3 (Mr. Sizemore entered the room.)

4 There we go. We've got Mr. Sizemore.

5 So it's up to the advisory council  
6 representing the industry to decide the scope of  
7 the marketing order.

8 FDACS will administer according to the  
9 guidelines set forth within the marketing order.

10 And the marketing order is 100 percent funded  
11 by industry assessment as determined by the  
12 advisory council.

13 MR. FUTCH: Chris, before you go forward, can  
14 I ask a question?

15 MR. DENMARK: Yes, sir. Can you state your  
16 name, Carson?

17 MR. FUTCH: Oh, I'm sorry. I forgot about the  
18 dictation.

19 Carson Futch.

20 My question is: Who will -- I know the money  
21 -- I guess the money goes to the council itself or  
22 the new committee that's being --

23 MR. DENMARK: It will go --

24 MR. FUTCH: -- the peach advisory council.

25 But who will -- what are the teeth to collect those

1 monies, the funds?

2 MR. DENMARK: The teeth to collect money --

3 MR. FUTCH: Is it just a voluntary basis?

4 MR. DENMARK: It's basically -- are you  
5 familiar with your citrus?

6 MR. FUTCH: Yeah, I've had a citrus handler's  
7 license.

8 MR. DENMARK: Right.

9 MR. FUTCH: I know how all that works.

10 MR. DENMARK: So it will be set up just like  
11 that.

12 MR. FUTCH: So the handlers will be collecting  
13 the fee from the growers, and then paying that to  
14 the committee or the council?

15 MR. DENMARK: Correct. Correct.

16 MR. FUTCH: Not to FDACS, but to the council  
17 to be spent on budget or whatever.

18 MR. DENMARK: Right. And then FDACS will be  
19 handling that, the funds from there.

20 MR. FUTCH: Thank you.

21 MR. DENMARK: All right. So basically, here's  
22 the meat of the project here, is the current  
23 marketing order language. This was submitted from  
24 group. And it was the first language we had had,  
25 so we were excited to get something on paper that

1 -- that spelled some things out.

2 So this is very crucial right here. If we've  
3 got some issues with this language, this is where  
4 we need to discuss it. And then there will be some  
5 time that you can also write.

6 And so you can go along on the second page of  
7 this -- this document here.

8 So the first page is, of course, the title  
9 page, but then you've got a timeline.

10 The timeline on that page is -- basically sets  
11 forth how we have to proceed with the Department of  
12 Agriculture and how long things can take on there.

13 And then on the first of the second page, the  
14 front of the second page, is where this language  
15 is.

16 So definitions.

17 Production area: That part south of --  
18 Florida south and east of the Suwannee River.

19 Florida peach: Florida peach, also called FL  
20 peach, means all varieties of *Prunus persica* as  
21 developed by the University of Florida, and  
22 propogated on Flordaguard MP29 and other rootstocks  
23 released in the future.

24 Handler: Handler is synonymous with shipper,  
25 and means any person who handles Florida peaches or

1 causes Florida peaches to be handled.

2 Handle: Handle or ship means to package,  
3 load, sell, transport, or in any other way to place  
4 Florida peaches or cause Florida peaches to be  
5 placed in the production area or between the  
6 production area and any point outside thereof.

7 Such term shall not include the  
8 transportation, sale, or delivery of field-packed  
9 Florida peaches to a person within the production  
10 area for the purpose of having such peaches  
11 prepared for market.

12 Producer: Producer is synonymous with grower,  
13 and means any person engaged in a proprietary  
14 capacity in the production of Florida peaches for  
15 market.

16 Producer-handler: Producer-handler means a  
17 producer who handles Florida peaches.

18 Council: Council means the Florida Peach  
19 Advisory Council, FPAC.

20 I may a few times confuse that with our FAPC  
21 from the Department of Agriculture, but FPAC is  
22 what I'm talking about if I do that.

23 FDACS is Florida Department of Agriculture and  
24 Consumer Services.

25 The fiscal period we're looking at is

1 January 1st through December 31st.

2 All right. So the purpose: The primary  
3 purpose of the Florida peach marketing order is to  
4 promote the Florida peach to targeted areas outside  
5 the State of Florida in order to increase  
6 recognition of the product and grow demand for the  
7 Florida peach fresh fruit market.

8 A Florida Peach Advisory Council will be  
9 created in accordance with Florida Statute 573.112  
10 to oversee and carry out the provisions of the  
11 market order.

12 The Florida Peach Advisory Council, FPAC: The  
13 FPAC may establish or provide for the establishment  
14 of production research, marketing research and  
15 development, and marketing promotion projects,  
16 including paid advertising, designed to assist,  
17 improve, or promote the marketing, distribution, or  
18 consumption of Florida peaches.

19 The FPAC may establish or provide for the  
20 establishment of production research, marketing  
21 research, and development and marketing promotion  
22 projects, including paid advertising designed to  
23 assist, improve, or promote the marketing,  
24 distribution, or consumption of Florida peaches.

25 A: In recommending projects, the FPAC shall

1 give consideration to the following:

2 1: The expected supply of Florida peaches in  
3 relation to market requirements.

4 2: The supply of competing commodities.

5 3: The anticipated benefits from such  
6 projects in relation to their costs.

7 4: The need for marketing research within  
8 respect to any market development activity.

9 5: Other relevant factors.

10 A: In recommending --

11 Well, let's not go through that one again.  
12 Sorry about that.

13 Okay.

14 C: All promotional activity engaged in by the  
15 FPAC shall be for the benefits of all producers and  
16 shall not refer to any private brand, private  
17 trademark, or private trade name.

18 D: The FPAC may develop a trademark or logo  
19 for use by all producers who have not exempted  
20 themselves from the scope of the marketing order.

21 Duties: The FPAC shall have, among others,  
22 the following duties:

23 Select a chair -- a chairman and other such  
24 officers as may be necessary.

25 Adopt such rules and regulations for the

1           conduct of its business as it deems necessary.

2                   Administer and make rules and regulations to  
3           effectuate the terms and provisions of the market  
4           order.

5                   Act as intermediary between FDACS and any  
6           producer or handler, including investigating and  
7           reporting violations or complaints of provisions of  
8           the marketing order.

9                   Record and protect the handling of council  
10          funds.

11                   Keep minutes, books, and records which  
12          reflects all of the acts and transactions of the  
13          council, and make such records available to FDACS  
14          upon request.

15                   Appoint a trustee or treasurer for the  
16          recording and protection of funds.

17                   Prepare budgets and/or estimates of income and  
18          expenditures for administration of the council and  
19          its sponsored projects.

20                   Initiate projects in keeping with the purpose  
21          of the market order.

22                   And other duties as needed.

23                   Assessments: The funds to cover the council's  
24          expenses shall be acquired by the levying of  
25          assessments upon handlers at rates established by

1 FDACS. The council shall request an initial levy  
2 to be assessed at the rate of 2 cents per pound.

3 Exemptions:

4 The council will recommend procedures to FDACS  
5 under which certificates of exemption may be issued  
6 to producers or handlers, Florida Statute 573.1201.

7 Due to the local nature of you-pick or  
8 harvest-your-own farming operations which cater  
9 exclusively to their market -- their local market  
10 -- the council may exempt such operations from  
11 market order assessment.

12 Entities that participate in you-pick markets  
13 and also engage handlers may be assessed the going  
14 rate for participation in the marketing order.

15 Certificates of exemption are valid for one  
16 year only and must be reapplied for annually, no  
17 later than February 1st.

18 Okay. So actually, this is part of the -- the  
19 timeline here, where we're at at this point.

20 So at this point, that is the language that we  
21 have.

22 Mercy?

23 MS. OLMSTEAD: Mercy Olmstead.

24 I have two questions.

25 One question -- or at least one comment about

1 the Florida peach definition. And that is, if  
2 you're limited to -- well, it limits people to only  
3 University of Florida peaches. And there may be an  
4 opportunity to grow Texas peaches or California  
5 peaches, peach varieties.

6 And so would those be exempt from this  
7 marketing order?

8 MR. FUTCH: Will they be propagated on  
9 Flordaguard?

10 MS. OLMSTEAD: They wouldn't be propagated on  
11 Flordaguard.

12 MR. FUTCH: So that's the next thing --

13 MS. OLMSTEAD: Yeah.

14 So I like the way the wording is for the  
15 rootstocks. I'm a little bit concerned that if we  
16 -- if it's only University of Florida peaches,  
17 there might be other sources of peach varieties  
18 other than the University of Florida.

19 MR. DENMARK: Okay.

20 MS. OLMSTEAD: Certainly, if we have  
21 California marketing agencies in here marketing  
22 Florida fruit, they may want growers to grow  
23 California varieties here. Now, they may not be  
24 successful. But, you know, then those would be  
25 excluded from this marketing order as written.

1 MR. DENMARK: Okay. So basically, we're  
2 looking at changing the definition of Florida peach  
3 in -- in this discussion, to include future,  
4 perhaps California or other, Texas.

5 MR. RUCKS: Can you just take out developed by  
6 the University of Florida?

7 MR. DENMARK: We can do whatever we want to at  
8 this point.

9 MR. RUCKS: That way, it covers everybody,  
10 everything.

11 MS. OLMSTEAD: I think so. I think that's a  
12 good idea.

13 MR. RUCKS: Philip Rucks. Sorry.

14 MR. DENMARK: So basically, looking at taking  
15 out University of Florida.

16 MR. RUCKS: As developed by the University of  
17 Florida.

18 MR. DENMARK: Developed by --

19 MR. RUCKS: Just say *Prunus persica* on -- I  
20 don't know if we even ought to say root -- well,  
21 root -- propagated on Flordaguard or other  
22 rootstocks. Put other rootstocks in there. There  
23 might be other rootstocks come out as well, so.

24 MR. DENMARK: All right. So that's just kind  
25 of protecting the nature of this, moving forward,

1 in -- wherever these rootstocks may -- may come  
2 from.

3 MR. RUCKS: Yeah.

4 MR. DENMARK: Yes, Steve?

5 MR. CALLAHAN: Steve Callahan.

6 It needs to be generic, not specific. To me,  
7 to -- you know, it was developed by what rootstock  
8 it's on.

9 MR. RUCKS: Right.

10 MR. CALLAHAN: If you're calling it a Florida  
11 peach, you're making it genus- or species-specific.  
12 I still think you need to just say grown in that --  
13 you know, in that area that you've defined as the  
14 production area. Because that -- all of those will  
15 get the benefit of the marketing order.

16 MR. RUCKS: Yeah, it's got also called Florida  
17 peach. So if you've got a variety from Texas,  
18 obviously, you're not going to call that a Florida  
19 peach. It's going to be a Florida-grown peach.

20 MR. CALLAHAN: That's --

21 MR. RUCKS: That's maybe what she's saying,  
22 Chris.

23 MR. DENMARK: So as --

24 MR. RUCKS: Say -- where it says definition of  
25 Florida peach, Florida peaches are all peaches

1 grown in Florida. It should also call Florida  
2 peach, say --

3 MR. FUTCH: Region defines the production  
4 area.

5 MR. RUCKS: Yeah, that's also an area, too.

6 MR. DENMARK: Basically as grown within the  
7 Florida production area?

8 (Discussion of the record between meeting  
9 participants.)

10 MR. DENMARK: Okay. All right. And -- all  
11 right. I just want to remind you that Ms. Linda is  
12 up here trying to get all of our comments on these  
13 things so she can protect me later on down the road  
14 here.

15 All right. So is everyone else pretty much in  
16 agreement with that? That -- that the definition  
17 of Florida peach needs to change, not necessarily  
18 developed by the University of Florida, and so  
19 anything within -- grown within the production  
20 area.

21 Yes, Milton?

22 MR. RAINES: Chris, could you read it just as  
23 it would be? The -- as it's proposed.

24 MR. DENMARK: All right. That's what I was  
25 afraid somebody was going to ask.

1           So as proposed: Florida peach. Florida  
2 peach, also called FL peach, means all varieties of  
3 Prunus persica grown within the Florida production  
4 area and propagated on Flordaguard, or are we not  
5 -- we're not going to worry about the propagated.

6           So that basically, everything else would go  
7 away from this point, developed by; correct?

8           Okay. So let me read this again.

9           Florida peach. Florida peach, also called FL  
10 peach, means all varieties of Prunus persica as  
11 grown within the Florida production area. Period.

12          MR. SIZEMORE: That sounds right.

13          MR. RAINES: (Nods head.)

14          MR. DENMARK: You in agreement?

15          MR. RUCKS: Yeah.

16          MR. DENMARK: All right. So the change will  
17 be made on that.

18          MS. OLMSTEAD: Chris, I have something else.

19          MR. DENMARK: Yes, ma'am.

20          MS. OLMSTEAD: Mercy Olmstead.

21           The you-pick designation, what happens if  
22 somebody is a producer-handler, and in order to  
23 make some more money, say, they are outside of the  
24 prime marketing window and they want to be a  
25 you-pick also, how would they deal with the

1 marketing order within the season?

2 So I have a commercial operation, for example.

3 MR. DENMARK: Correct.

4 MS. OLMSTEAD: If I have a commercial  
5 operation and my prices dropped too low per pound  
6 in order to harvest it for commercial distribution,  
7 and I want to do a you-pick to get rid of the  
8 fruit, and do I still then owe that 2 cents per  
9 pound --

10 MR. DENMARK: No.

11 MS. OLMSTEAD: -- since I haven't applied for  
12 that exemption previously?

13 MR. DENMARK: That's a good question.

14 I don't know exactly on that. I think --

15 MS. OLMSTEAD: I'm just wondering if there  
16 might be some more language to define it for that  
17 specific situation.

18 MR. DENMARK: Okay.

19 MS. OLMSTEAD: Because I know there have been  
20 some growers in the past that have opened it up to  
21 you-pick in order to sell their fruit and still  
22 make money.

23 MR. DENMARK: Okay. Sonia, do you have a  
24 comment on that?

25 MS. TIGHE: Sonia Tighe.

1 But you-pick does not go through a handler.

2 MR. DENMARK: Right.

3 MS. TIGHE: And since the assessment is at the  
4 handler level, isn't that how the operation would  
5 avoid paying it?

6 MR. DENMARK: That's most likely how it would  
7 occur, is since it does not go through a handler at  
8 that point, it would kind of fly under the radar.

9 The problem that is -- that this presents is  
10 that, you know, by the letter of the law or the  
11 marketing order, if you are not exempt, you --  
12 you're --

13 MR. FUTCH: Yeah.

14 MR. SIZEMORE: Just -- excuse me. John  
15 Sizemore.

16 How they act -- I mean, if -- if it's not  
17 going to a marketer, I -- I don't see how you could  
18 collect it.

19 MR. RUCKS: It's limited exposure, anyway.

20 MR. DENMARK: Milton?

21 MR. RAINES: Milton Raines.

22 What if you -- under B on this, where it says  
23 certificates of exemption are valid for one year  
24 only and must be reapplied for annually no later  
25 than February 1st, what if you took the date out of

1 there, so that somebody could apply anytime during  
2 the year?

3 MR. DENMARK: Okay.

4 MR. RAINES: And that way, if somebody did  
5 reach a point where they say it's --

6 MR. DENMARK: So it could retroactively --

7 MR. RAINES: -- not feasible for me to run it  
8 through a packinghouse, so I want to re-pick it.

9 MR. DENMARK: Okay.

10 MS. OLMSTEAD: I think that would be a good  
11 solution.

12 MR. FUTCH: I don't agree with that.

13 MR. DENMARK: All right. So then under  
14 exemptions, B, certificate of exemptions are valid  
15 for one year only and must be reapplied for  
16 annually.

17 MR. RUCKS: Carson's got a question.

18 MR. FUTCH: Carson Futch.

19 That's just way too much government, and  
20 that's way too much -- having to, in the heat of  
21 the battle, remember to do some other regulation,  
22 you know. And then if you didn't do it, and  
23 somebody finds out, then you're going to be in  
24 penalty? No, that's not what we're here for.

25 I don't like the -- I don't like the exemption

1 thing, period. I mean, I think it ought to all be  
2 thrown out.

3 MR. RUCKS: Do you want to include you-picks,  
4 though?

5 MR. FUTCH: I'm sorry. I said that wrong.

6 MR. RUCKS: Okay.

7 MR. FUTCH: Certificates of exemption should  
8 be thrown out completely.

9 The you-picks should go under an exemption.  
10 They should be able to have that. But for them to  
11 have to report and keep up with all this, that's  
12 just another bureaucratic nightmare.

13 MR. RUCKS: Milton?

14 MR. DENMARK: Silently, you get a thumbs up  
15 from me on the bureaucratic nightmare. I don't  
16 want to create one of those any more than we've  
17 got.

18 So, Milton, did you have something?

19 MR. RAINES: Well, a couple of things now.

20 As far as administration of this, I think that  
21 would be done by the committee, as far as issuing  
22 exemptions.

23 MR. FUTCH: Sure.

24 MR. RAINES: So it's -- that's not really  
25 bringing FDACS or anybody into it. That would be

1 an administrative thing, handled by the committee,  
2 I think.

3 The other -- and I'm thinking about what  
4 you're talking about, having the certificate of  
5 exemption. The thing about having the certificate  
6 of exemption, at least you know who the players are  
7 then. I mean, because I could be growing peaches  
8 out here and saying I'm a you-pick, I'm exempt, and  
9 I don't now have to have any relation with this  
10 marketing order.

11 MR. RUCKS: To have some accountability  
12 between legitimate and non-legitimate.

13 MR. RAINES: I think there should be somebody  
14 saying -- yeah.

15 And I don't think you're talking about  
16 charging a fee. You're talking about filling out a  
17 form saying I'm strictly a you-pick operation. Or  
18 like you say, mid season, if somebody came in and  
19 said, I'm a registered handler, but I'm going to  
20 handle the remainder of my crop this year under  
21 you-pick or I want to handle a portion under  
22 you-pick.

23 Because you're going to have some people, I'm  
24 certain, that are going to be wearing two hats.  
25 They're going to be handlers on the one side, but

1           they may have some they're you-picking, too. Some  
2           that are a little ripe or a little small, they may  
3           sell for you-picks.

4           MR. RUCKS: Right.

5           MR. RAINES: Just looking at some of the  
6           possibilities.

7           MR. DENMARK: Mr. Sizemore?

8           MR. SIZEMORE: It appears that -- the way  
9           that's worded, it's only people that engage  
10          handlers and you-pick.

11          Is -- what do people that are strictly  
12          you-pick do? Are they automatically exempted?

13          Because I don't think many people are going to  
14          be in that area that cross over like that. They're  
15          either going to be commercial producers and maybe  
16          clean up a block at the end of the season or  
17          something -- and the committee is going to be aware  
18          of market conditions, also.

19          But I think most people are either/or. I  
20          don't think there's many that are going to engage  
21          handlers and you-pick.

22          MR. DENMARK: Okay. So basically, we're at a  
23          point of, do we --

24          MR. RUCKS: I've got a question.

25          Philip Rucks.

1           I just want to make sure that -- to say it's  
2           -- somebody that's not assessable to a big handler,  
3           that sells to a handler and -- let's just say you  
4           or Dundee says, you know, we've got way too much  
5           Suns right now and they're on the small side this  
6           year, we just can't afford to come back and pick  
7           the rest of them. So you've got half of them on  
8           the tree.

9           What's that guy going to do? So he might have  
10          a good deal to send them some you-pick or flea  
11          market or something. He can go up to Bushnell and  
12          sell them that weekend.

13          That's where we want to make sure they're not  
14          limited, that they can't do that. That's kind of  
15          like somebody that goes both ways now. I just want  
16          to make sure the language depicts that between the  
17          two, that you can go either way.

18          MR. RAINES: The possibility is there.

19          MR. RUCKS: Right.

20          MR. RAINES: Just like she's talking about the  
21          date. You know, that may never happen. There's  
22          always a possibility you have a freak weather year  
23          and something like that comes up.

24          MR. RUCKS: Right. You just need to be  
25          conscientious of that, if you can.

1           Maybe it's just the way it's worded that's --  
2           that's probably what needs to be changed.

3           MR. RAINES: Chris --

4           MR. DENMARK: Yes.

5           MR. RAINES: It's Milton again.

6           I think we're coming back to the -- does there  
7           need -- does a you-pick need to be registered with  
8           the committee or have an exemption?

9           And if he does, I can see taking the date out,  
10          to see -- what you're talking --

11          MR. RUCKS: Right. Right.

12          MR. RAINES: -- in case it did happen.

13          MR. DENMARK: I mean, I know we've got a  
14          couple of growers up in the Dade City area that --  
15          that do a little bit of both. But I do not have  
16          any idea how many growers we're talking about that  
17          are -- that would fall under this, so --

18          MR. FUTCH: Carson Futch, again.

19          I pose the question, I mean, from the citrus  
20          background: Where are the teeth? You know, you're  
21          saying should everybody in you-pick have to  
22          register. What if they don't? Then what's the  
23          penalty? Who's going to assess that penalty?

24          How are you going to collect that penalty?  
25          Are they going to be drug before the committee?

1 Are they going to have bond and license hearings?  
2 I mean, you know -- what -- where -- is this just  
3 an honor system?

4 MR. DENMARK: Uh-huh. Teethless.

5 MR. FUTCH: You know, what are we creating?

6 MR. DENMARK: So, Milton, you're more --  
7 definitely more knowledgeable about that.

8 And then Tyler, do --

9 Tyler has got a comment as well.

10 MR. BOWEN: Tyler Bowen.

11 Do the -- do the you-picks or the small  
12 growers get a vote, or do they get a seat or  
13 potential seat in this marketing order? Are they  
14 going to be represented from a voting standpoint?

15 If they are, they ought to be obligated to the  
16 same fees. And if they're not --

17 MR. RAINES: They can be represented under the  
18 voting. They're growers. Yeah, they've got  
19 acreage.

20 MR. DENMARK: Certainly.

21 MR. BOWEN: Well, then they should have to pay  
22 the same fee.

23 MR. RAINES: Well, this actually exempts them  
24 for the fee.

25 MR. DENMARK: Right.

1           MR. RAINES: It's just that they -- currently,  
2           you're saying they have to have a certificate of  
3           exemption, but that would exempt them from the fee,  
4           even though they're subject to the marketing order.

5           Does that confuse --

6           MR. RUCKS: How is it subject to the marketing  
7           order?

8           MR. RAINES: Because if they do decide to sell  
9           as a handler, they're going to have to pay the fee.

10          MR. RUCKS: Right.

11          MR. RAINES: Because they're growing peaches  
12          in the production area --

13          MR. RUCKS: Right.

14          MR. RAINES: -- they would be subject to the  
15          marketing order.

16          MR. RUCKS: Right.

17          MR. RAINES: The marketing order is now  
18          saying, okay, you-pick, we're going to exempt you  
19          from the fee.

20          MR. RUCKS: Right.

21          MR. RAINES: Does that -- then if they --  
22          let's say -- now, you're talking about citrus.

23                 Let's say somewhere down the road, one of them  
24                 decides I'm going to put up a little small packing  
25                 line in my carport.

1 MR. RUCKS: Right.

2 MR. RAINES: I'm not big enough. I'm not  
3 going to pay. I'm going to do a carport --

4 MR. FUTCH: I'm a roadside stand.

5 MR. RAINES: I'm a roadside stand. I'm a  
6 handler now. But I'm not going to do them all  
7 there. I'm just going to do what I can sell to the  
8 Tampa market or wherever.

9 MR. FUTCH: Right.

10 MR. RAINES: So I think in the future, you may  
11 see --

12 MR. FUTCH: What if they gift ship them? Ship  
13 them up north, out of state, through UPS or the  
14 mail.

15 MR. RAINES: That's -- well, and there again  
16 -- they're citrus exempt --

17 MR. FUTCH: I know.

18 MR. RAINES: Some of the gift fruit. But  
19 you're not exempting gift fruit here.

20 MR. FUTCH: Right.

21 MR. RAINES: So these are things that you're  
22 going to get into as you grow, I think --

23 MR. FUTCH: Right.

24 MR. RAINES: -- and have to deal with.

25 MR. FUTCH: Gotcha.

1 MR. DENMARK: Okay.

2 MR. RAINES: But back to the thing about  
3 penalties.

4 In 573.124, there are provisions for  
5 penalties, violations, and hearings. Now --

6 And, Carrie, I'm not sure how this would work,  
7 but maybe you have to go through rule making and  
8 set up a fine procedure or something like that.

9 But there is a procedure for taking legal  
10 action. I'm not sure all the -- all the --  
11 everything has been put into place to deal with  
12 this particular marketing order yet. But that's  
13 something, too, that might have to be dealt with as  
14 far as rule making for penalties or how to deal  
15 with violations in accordance and guidance from  
16 this rule.

17 MR. FUTCH: That's government.

18 MR. RAINES: Yeah, that's more government.

19 MR. FUTCH: Yeah.

20 MR. RAINES: But FDACS will help you with that  
21 when you reach that point.

22 MR. FUTCH: Carson Futch again.

23 Do the handlers have to be licensed and bonded  
24 under the FDACS rules?

25 MR. DENMARK: We -- there's nothing in here

1 that says that that's a portion, but it certainly  
2 could be written into it with -- I believe, with  
3 the advisory council.

4 MR. RAINES: Is -- is that covered under  
5 marketing somewhere? I'm not familiar with your  
6 division.

7 MR. DENMARK: Neither am I.

8 MR. RAINES: I'm not sure whether that's  
9 covered under --

10 MR. SIZEMORE: If they're selling other  
11 people's stuff, they've got to have it, anyway.

12 MR. DENMARK: Right.

13 MR. RAINES: I'm thinking -- but I'm not sure  
14 what the law says, or the division rules.

15 MR. RUCKS: It's liability.

16 MR. RAINES: Well, if you're selling  
17 interstate, you -- somebody is bonded with PACA,  
18 anyway.

19 MR. RUCKS: Right.

20 That's regardless of what it is, isn't it?  
21 Whether it's peaches or strawberries or -- if it's  
22 going out of state, it's got to be bonded, doesn't  
23 it?

24 MR. RAINES: That's federal. That's PACA  
25 license.

1 MR. RUCKS: Right. That's federal.

2 MR. RAINES: Yeah.

3 MR. FUTCH: Well, even in-state, you have to  
4 be bonded in citrus.

5 MR. RAINES: Yeah. Yeah, but what he's  
6 talking about, any produce going out of state,  
7 though is -- yeah, the citrus rule catches it for  
8 citrus.

9 MR. FUTCH: But they also have --

10 MR. RAINES: And that's really protection for  
11 the grower. That may be something you want to  
12 look --

13 MR. FUTCH: They should have exemptions for  
14 growers that are shipping out of state if it's  
15 their own fruit.

16 MR. RAINES: Right.

17 MR. FUTCH: But we're not doing that here, it  
18 doesn't look like.

19 MR. RAINES: And, actually, the license and  
20 bond on citrus that you're talking about, that's  
21 really a good protection for the grower.

22 MR. FUTCH: Sure, it is.

23 MR. RAINES: I mean, that's basically what --  
24 that's who it's for.

25 MR. FUTCH: It's not enough. I would argue

1 that. And I had one, you know. But it should be  
2 more of a bond.

3 MR. RAINES: And that might be something you  
4 would want to look into later here.

5 There's already a license and bond section in  
6 place, but I'm not sure if Jimmy -- he's still  
7 there.

8 MR. FUTCH: Yeah, I saw him a while ago. He  
9 was in there buying a bull.

10 MR. RAINES: Did he buy one?

11 MR. FUTCH: He was looking at it.

12 MR. DENMARK: All right. Any other questions?  
13 Yes, Sonia?

14 MS. TIGHE: Sonia Tighe.

15 I wasn't clear on the answer to Tyler's  
16 question, though.

17 If they are not paying the assessment, they  
18 still get to vote and participate, though? How do  
19 you prevent that from happening?

20 MR. RAINES: You don't -- you don't prevent --

21 MR. DENMARK: I don't understand this --

22 MR. RAINES: -- that from happening.

23 Anybody that owns acreage or is a handler has  
24 a right to vote on this marketing order. Now, even  
25 if you're a you-pick and you're going to be --

1 basically not have to pay anything, you're still  
2 part of the marketing order.

3 You know, five years from now, somebody may  
4 come in and say, hey, I think we ought to be  
5 assessing these you-picks like everybody else. I  
6 mean, you know what I'm saying?

7 MR. SIZEMORE: Even if it's on a voluntary  
8 reporting basis.

9 MR. RAINES: Yeah. There may be something --  
10 and there again, you made a good point. At some  
11 point, you may want to know just how many peaches  
12 are there in the state and how many are going out?  
13 And you may want a voluntary reporting --

14 MR. FUTCH: Right.

15 MR. RAINES: -- so you can get maybe some  
16 federal money or something. Who knows?

17 MR. FUTCH: Sure. Well, so you can understand  
18 the marketplace.

19 MR. RAINES: Absolutely.

20 MR. FUTCH: Supply and demand.

21 MR. DENMARK: So basically, the marketing  
22 order is in effect for the entire industry, peach  
23 industry, regardless of you-pick or commercial  
24 status.

25 MR. RAINES: Do we want to take the date out?

1 I think -- this started with your question about  
2 the date. What all do we --

3 MR. DENMARK: Okay. So we can -- we can  
4 certainly take the date out, if that's amenable to  
5 everyone. If it serves no purpose, but just -- as  
6 far as being reapplied for annually, I don't know.  
7 I mean, having an arbitrary date in there, it kind  
8 of, at least --

9 MR. SIZEMORE: It expires 12-31 --  
10 Excuse me. John Sizemore.

11 It expires 12-31, and must be applied for  
12 annually.

13 MR. RAINES: Each calendar year. Whatever.

14 MR. SIZEMORE: Yeah.

15 MR. DENMARK: So in that respect, would  
16 everybody basically apply for an exemption --

17 MR. SIZEMORE: If they want to --

18 MR. DENMARK: -- just to cover themselves on  
19 the outside chance that they open up for you-pick?

20 MR. RAINES: Well, there wouldn't be a  
21 deadline to apply so, you know, it's not like you  
22 would have to do it every year.

23 MR. DENMARK: Okay.

24 MR. FUTCH: I think it will create a lot of  
25 confusion. If you set it up that it says

1 exemption, in a lot of people's minds, they're  
2 just, oh, I don't have to do that, I don't have to  
3 pay that.

4 MR. RAINES: A is a little bit confusing, too,  
5 to me, because it says entities that participate in  
6 you-pick markets and also engage handlers may be  
7 assessed the going rate. They wouldn't be assessed  
8 a rate for their you-pick part. I mean, just  
9 because you're doing both, doesn't mean you'd be  
10 paying as a you-pick.

11 MR. DENMARK: Participation in the market --

12 MR. FUTCH: Should it say both instead of  
13 also, or something like that? Is that what they're  
14 trying to do, is connect the two? Is that what  
15 you're doing, Phil?

16 MR. DENMARK: Basically, you're being assessed  
17 the going rate for that portion of which you've run  
18 through handlers; correct?

19 MR. RAINES: I don't know if that's the best  
20 wording but, yes, that's what you're trying to say.

21 MR. DENMARK: If you're looking at me for  
22 wording, it ain't the best.

23 MR. RAINES: What you're saying, they may be  
24 assessed the going rate for that part that goes  
25 through a handler or something like that.

1 MR. DENMARK: Yes, which has been --

2 So --

3 MR. RUCKS: Philip Rucks.

4 Say the going rate for a handler's  
5 participation in the marketing order, is that  
6 handlers --

7 MR. DENMARK: For entities that participate in  
8 the you-pick markets and also engage handlers may  
9 be assessed the going rate for participation in the  
10 marketing order for that portion -- portion which  
11 has been handled --

12 Steve?

13 MR. CALLAHAN: Chris, Steve Callahan.

14 Could you simplify it that, you know, fruit  
15 sold through you-pick markets are exempt from the  
16 marketing fee or however you want to put it? Just  
17 -- just to simplify it, instead of all the entities  
18 and the confusion. Because that's ultimately what  
19 you're doing. I mean, because you've got to pay a  
20 fee if you do both or you're other, so you're only  
21 exempting your --

22 And, you know, fruit stands. So, you know, a  
23 you-pick operation, you're bringing individuals in  
24 that are picking it, and they're paying and they're  
25 leaving. But if you're picking it yourselves as a

1 family and you've get a little fruit stand out by  
2 the road, is that also a you-pick operation?

3 That's an area that needs to be addressed.

4 MR. DENMARK: Okay. Okay.

5 MR. LANIER: Has your legal --

6 Joe Lanier.

7 Has the legal team been through all this stuff  
8 yet?

9 MR. DENMARK: They have looked at it, and did  
10 not -- they -- they didn't run through it with a  
11 fine-tooth comb, by any means.

12 MR. LANIER: There's no, the first party or  
13 the third party and all that in there.

14 MR. DENMARK: Right. Yeah. And that's --

15 MR. LANIER: Do they still have to run through  
16 it?

17 MR. DENMARK: They do still have to vet this  
18 process. Yes, go through this.

19 MR. LANIER: We're wasting time talking about  
20 it, then, if we get attorneys involved in it.

21 MR. DENMARK: Yeah, this thing would have been  
22 about 63 pages longer if they had gotten involved  
23 to the level they like.

24 Actually, two -- two of our attorneys, Jay  
25 Levinstein and another, you know, have seen this.

1 And this -- again, this is basically -- let's see,  
2 are you familiar with --

3 And so, again, this, more or less, is the  
4 purpose of this being written out like it is, so  
5 that we can go through some of these items. And  
6 this is something that we did not have at -- at  
7 prior meetings until the last one.

8 So it's -- we're moving ahead, even though  
9 we're kind of getting tripped up and stuck on some  
10 things. We are moving ahead at light years' pace  
11 from where we were.

12 So -- so basically, going back to this A,  
13 entities that participate in you-pick, do we need  
14 to -- do you want to look at this, scrap this  
15 language, and come up with a different format that  
16 covers that?

17 Yes, sir, Mr. Sizemore?

18 MR. SIZEMORE: John Sizemore.

19 I'm going to throw another wrench, Chris.

20 MR. DENMARK: Sweet.

21 MR. SIZEMORE: What about handlers that maybe  
22 send Number 2 fruit to a -- not -- to an end user  
23 or maybe to a market somewhere?

24 MR. FUTCH: A local market?

25 MR. SIZEMORE: A local market. Would that be

1 taxed?

2 MR. DENMARK: I don't --

3 MR. RUCKS: Philip Rucks.

4 How about like a school program or something?

5 Is that what we're talking about?

6 MR. SIZEMORE: No, I'm talking about like --

7 MR. DENMARK: Just Number 2s going through --

8 MR. SIZEMORE: Even seconds, early on, have  
9 some value.

10 MR. DENMARK: How is that done, Milton, in  
11 other --

12 MR. RAINES: You're talking about they're  
13 selling the seconds to somebody who's then  
14 reselling them?

15 MR. SIZEMORE: Yeah. Right.

16 MR. RAINES: You're still handling because  
17 you've got an intermediary there.

18 Now -- and we talked about this one time. And  
19 it's not in here. The thing about the roadside  
20 stand came up.

21 And I don't know if you want to consider like  
22 a roadside stand either at a farm facility or at a  
23 flea market, where the person actually owns the  
24 product and is selling it themselves. But if you  
25 wanted to define -- like, on citrus, they define

1           what a roadside stand is and what you can do at a  
2           roadside stand.

3                     But like I say, that would be -- if you own  
4           the packinghouse and you're running the thing at  
5           the flea market, you might qualify. If you're  
6           selling it to me and I'm running it, now you're a  
7           handler.

8                     MR. SIZEMORE: Gotcha. Gotcha.

9                     MR. RAINES: So -- and I don't know if y'all  
10          wanted to get into that about the roadside stands  
11          or -- I think we were kind of putting farm sales  
12          directly to the retail customer and you-picks kind  
13          of in the same -- the same definition.

14                    Because I can see a you-pick operation that  
15          may be out there, you-picking them in baskets, and  
16          having them sitting there for somebody that comes  
17          up.

18                    MR. RUCKS: Right.

19                    MR. RAINES: As long as you're going to the  
20          ultimate consumer and you're not selling to a  
21          wholesale distributor.

22                    MR. DENMARK: And -- and in the end, we're  
23          probably talking about a difference of, like, \$7  
24          over the entire year for something like that.

25                    MR. SIZEMORE: It's not big. It's really not.

1 MR. DENMARK: But, again, this is -- this is  
2 your marketing order, so this is the time to go  
3 ahead and hash these things out and -- so, again,  
4 if there's some language -- if somebody wants to  
5 bring some language to the floor on Number 1 or --  
6 do we need to, you know, further develop that on  
7 the Exemption A?

8 Steven?

9 MR. CALLAHAN: Steven Callahan.

10 Fruit sold by the producer to the end user  
11 will be exempt from the assessment. That would  
12 cover the you-pick and the grower that has their  
13 own little stand and picks in the basket and has  
14 their own fruit stand.

15 MR. RAINES: Or that you can go to the flea  
16 market.

17 MR. DENMARK: Okay. If you can state that  
18 again? Can you, twice?

19 MR. CALLAHAN: Fruit sold by the grower or the  
20 producer to the end user will be exempt from the  
21 assessment.

22 It's probably also going to exempt the gift  
23 fruit question that we were asking about, going  
24 directly to the end user.

25 MR. DENMARK: Okay. The -- so the language

1 that we have to replace A is: Fruit sold by the  
2 producer to the end user will be exempt from  
3 assessment.

4 Is that -- so that clarifies the language  
5 on --

6 MR. SIZEMORE: Consumer would be a better --

7 MR. FUTCH: Yeah. We need to think about  
8 that.

9 MR. DENMARK: Okay. So -- what was that?

10 MR. SIZEMORE: Possibly consumer would be  
11 better than end user.

12 MR. DENMARK: Okay. So --

13 MR. SIZEMORE: A retailer to be the end user.

14 MR. DENMARK: Okay. So, again, fruit sold by  
15 the producer to the consumer will be exempt from  
16 assessment.

17 MR. FUTCH: If that's who they were talking  
18 about.

19 MR. DENMARK: All right.

20 Okay. So that's -- all right. That kind of  
21 takes care of exemptions.

22 MR. RAINES: Chris, let me ask -- and maybe  
23 this should go back to somebody else. But how much  
24 -- is much of the crop actually shipped as gift  
25 fruit? Is there --

1 MR. FUTCH: Not yet, that I know of. It's  
2 just a thought.

3 MR. CALLAHAN: There's -- Steven Callahan.  
4 There's a few programs out there now. I don't  
5 know what the dollar amount or volume would be.  
6 There's a couple pretty successful programs.

7 MR. RAINES: So you would be taking that  
8 assessment out of your -- your funds every year.

9 MR. DENMARK: Yeah, if you're --  
10 Okay. Again, these things can be amended. Is  
11 that something that would probably best -- you  
12 know, as an amendment, left as an amendment later  
13 on, you know, when we figure out there is a sizable  
14 gift fruit?

15 All right.

16 MR. RAINES: So we just want to take date off  
17 and leave B like it is?

18 MR. DENMARK: And we've got -- with B,  
19 certificates of exemption are valid for one year  
20 only, and must be reapplied for annually.

21 It still allows for an exemption certificate.

22 I mean, I don't see anybody is really in love  
23 with that statement, but is there a better way to  
24 put that one that --

25 All right. Okay. Now, is there -- is there

1 anything, you know, further back towards the  
2 beginning of this? We've discussed definitions of  
3 Florida peach, handlers. We've got the --

4 Steven?

5 MR. CALLAHAN: Steven Callahan.

6 Under assessments, we're talking about, you  
7 know, who would qualify for exemptions. We need to  
8 further define what type of fruit the assessments  
9 are on. Is it going to be pounds that's harvested?  
10 Is it going to be pounds that's received by  
11 handlers? Pounds that are shipped by a handler?

12 And to go a step farther, is it only pounds  
13 that are going into the fresh market, if we say  
14 shipped? Or is there also going to be assessments  
15 if, you know, we start working on a processed  
16 market?

17 Is this specifically fresh marketing order  
18 only? And if so, that would help us decide how to  
19 -- what verbiage to collect the assessment on.

20 MR. DENMARK: All right. Anybody have any  
21 feelings on this, or is there --

22 MR. BOWEN: I think it's absurd that we're  
23 going to have to pay an extra 2 cents on a pound  
24 that was nothing but thrown away. We've already  
25 paid to harvest it.

1 Do you expect -- with that being said, I don't  
2 know how easy it would be to account for that.

3 Tyler Bowen, by the way.

4 I mean, that's just --

5 MS. OLMSTEAD: Mercy Olmstead.

6 MR. DENMARK: Mercy.

7 MS. OLMSTEAD: I guess if you have a packer  
8 and you get a pack-out, that's what it should be  
9 assessed upon, is the pack-out. Right? Because  
10 you have an amount coming into the -- into the  
11 shed, and then an amount going out. And the amount  
12 going out would make the most sense to be assessed  
13 that 2 cents per pound.

14 Does that make sense?

15 MR. BOWEN: The amount going out is whole  
16 fruit, whole fresh fruit?

17 MS. OLMSTEAD: As fruit -- so this gets back  
18 to what this is about. This is a fresh marketing  
19 order. We don't have anybody doing juice right  
20 now, Florida's Natural or like going into Yoplait  
21 ice cream or anything like that.

22 But at some point, if there's a market for  
23 this processed product, then I think, you know,  
24 this will have to be revised or amended because  
25 it's still going into the product. Maybe the

1 assessment is less.

2 MR. BOWEN: Right.

3 MS. OLMSTEAD: But then that's something that  
4 the Florida Peach Advisory Council can come up  
5 with.

6 At this point, this industry is pretty solidly  
7 fresh market. So I think --

8 MR. DENMARK: How would you handle that?  
9 Would you sell that product -- that's just me being  
10 me. But would you sell those that weren't being  
11 sold in the fresh market to a processor, or how --

12 MR. CALLAHAN: Steven Callahan.

13 It could go either way. It could be sold --

14 MR. DENMARK: I know I --

15 MR. CALLAHAN: -- to a processor, or that  
16 handler could have a process area. I mean, I agree  
17 with Mercy, it needs to be on fresh. But I'm just  
18 trying to think of the mechanism to do it.

19 If everybody is going to be using the Florida  
20 Department of Ag, you know, manifests, you know, is  
21 it going to be based on the manifested, you know,  
22 pounds, you know, conversion pounds per, you know,  
23 unit that we pay our assessment on? And that may  
24 or may not cover some organizations' Number 2 sales  
25 that are going to a third party.

1 MR. DENMARK: All right. So are there any  
2 suggestions on how to amend the assessments portion  
3 of this to maybe move forward with the fresh --  
4 sale of fresh?

5 MR. RAINES: What about under your definition  
6 of Florida peach, if you put fresh Florida peaches  
7 or Florida peaches shipped in fresh form or -- to  
8 exclude the processing for now?

9 MS. OLMSTEAD: Mercy Olmstead.

10 I think that if you amend the purpose of the  
11 marketing order, it already states there that it's  
12 -- part of it is to grow demand for the Florida  
13 peach fresh fruit market.

14 MR. DENMARK: Okay.

15 MS. OLMSTEAD: And so if you amend the first  
16 -- or the beginning part of that sentence to  
17 include fresh fruit, that might take care of it.

18 MR. DENMARK: Okay. So how would you -- you  
19 say --

20 MS. OLMSTEAD: I'm not -- it's not my --

21 MR. DENMARK: You see what you get when you  
22 leave these things up to me.

23 But as far as -- what area would you amend as  
24 far as put fresh fruit in there?

25 The primary purpose of the Florida peach

1 marketing order is to promote the Florida peach to  
2 targeted areas outside the State of Florida in  
3 order to increase recognition of the product and  
4 grow demand for the Florida peach fresh fruit  
5 market.

6 MS. OLMSTEAD: So maybe it's okay as is, and  
7 that is enough of a definition that this is to  
8 address the fresh market.

9 MR. DENMARK: Just the fresh portion of this.  
10 So then --

11 MS. TIGHE: You could say promote the fresh  
12 market Florida peach to target areas, if you think  
13 you need more of a definition.

14 MR. DENMARK: Okay. So that would be: The  
15 primary purpose of the Florida peach marketing  
16 order is to promote the fresh Florida peach to  
17 targeted areas outside the state?

18 Okay.

19 MR. BOWEN: I'm sorry. Tyler Bowen.

20 MR. DENMARK: Tyler.

21 MR. BOWEN: If by just having the words fresh  
22 in the purpose paragraph will exempt any product  
23 that's not considered fresh later on from the  
24 assessments, then by having the word that it's used  
25 to targeting areas outside of the state in that

1 purpose paragraph, by definition would exempt  
2 anything that's sold within the state.

3 If we're looking for definitions from the  
4 purpose paragraph, I don't know how you could argue  
5 the first part of the sentence against the end of  
6 the sentence.

7 MR. DENMARK: Okay.

8 MS. TIGHE: Does it have to be outside the  
9 state? Is there anything wrong with promoting  
10 Florida peaches to Florida retailers?

11 MR. DENMARK: No, I think we definitely want  
12 to try to do that. Right? I mean, we've got  
13 somebody --

14 MR. CALLAHAN: Outside of the state  
15 verbiage --

16 MR. DENMARK: -- that's located here in Polk  
17 County we would really like to get on board hard  
18 with these things, I believe.

19 So -- now, Milton, does that -- as far as when  
20 you --

21 MR. RAINES: Well, it says the primary purpose  
22 is to promote the Florida peach to targeted areas  
23 outside of the state. I don't think it excludes  
24 you from promoting it in the state. It doesn't say  
25 your only purpose is to promote it outside the

1 state.

2 MS. TIGHE: But do you need it in there? I  
3 mean, shouldn't that be up to the council to decide  
4 what the primary market would be in any given  
5 season? Or is there a reason for that?

6 MR. RUCKS: Well, we talked about the name  
7 recognition and getting the identity outside the  
8 state. You know, everybody that goes to the  
9 grocery stores in Florida knows that it's Florida  
10 peaches. Somebody wouldn't recognize it up in  
11 Virginia or Georgia or north or whatever.

12 MR. DENMARK: That goes for in state as well,  
13 though, doesn't it? I mean, it's not like our --  
14 you know, many of our people in the state know that  
15 we grow Florida -- peaches in Florida as well.

16 MR. RAINES: Yeah, you didn't until you came  
17 here and got involved.

18 MR. DENMARK: That's right. I wish I had  
19 forgotten that, huh? Never known.

20 MR. RUCKS: Look what you've got yourself  
21 into.

22 MR. DENMARK: So -- I don't know. If outside  
23 the state does not, you know, serve a purpose in  
24 that --

25 MR. FUTCH: To targeted areas.

1 MR. DENMARK: Okay. Mercy?

2 MS. OLMSTEAD: Mercy Olmstead.

3 I was just going to say, so if we just, in  
4 that sentence, say promote Florida peach or fresh  
5 market Florida peach to -- within and outside the  
6 State of Florida? I mean, can we just do it like  
7 that and say, you know, that it's clear that this  
8 marketing order is to not only promote peaches  
9 within, but outside, the state as well?

10 MR. RAINES: Well, why don't you just take out  
11 outside of the State of Florida.

12 MR. DENMARK: Yeah, I think --

13 MR. RAINES: And just leave the targeted  
14 areas, in order to increase recognition.

15 MS. OLMSTEAD: And that would be fine, too.

16 MR. RAINES: And that's pretty much --

17 MS. OLMSTEAD: It's sort of getting into this  
18 little box that you don't want to be too confined  
19 by --

20 MR. DENMARK: Right.

21 MS. OLMSTEAD: -- unless there was a specific  
22 reason for that box.

23 MR. DENMARK: Okay. So at this point, the  
24 purpose would read: The primary purpose of the  
25 Florida peach marketing order is to promote the

1 fresh Florida peach to targeted areas in order to  
2 increase recognition of the product and grow demand  
3 for the Florida peach.

4 MR. FUTCH: Carson Futch.

5 Could we add geographic areas or regions or  
6 something a little more professional than just  
7 areas?

8 MR. DENMARK: Targeted markets.

9 MR. FUTCH: Yeah.

10 MR. RAINES: Sounds good. Or regions, either  
11 one.

12 Well, markets is -- you're marketing. I mean,  
13 that's what you're doing. You're using targeted  
14 markets --

15 MR. DENMARK: Yeah.

16 MR. RAINES: -- so that's probably a good  
17 word.

18 MR. DENMARK: All right. So once again: The  
19 primary purpose of the Florida peach marketing  
20 order is to promote the fresh Florida peach to  
21 targeted markets in order to increase recognition  
22 of the product and grow demand for the Florida  
23 peach.

24 MR. RAINES: That's fine.

25 MR. DENMARK: All right. We seem to be moving

1 backward in this document. So --

2 MR. FUTCH: Start at the end and work forward.

3 MR. DENMARK: Is -- anything else in here that  
4 we need to take a look at and start --

5 MR. RAINES: What did you decide on the  
6 assessment? Did you change any language on that,  
7 or did I miss that, about clarifying --

8 MR. DENMARK: Don't have anything set on the  
9 assessment itself. We've changed everything else  
10 that kind of leads up to the assessment as far as  
11 the exemptions.

12 Changed the Exemption A, the wording on that  
13 completely.

14 Took out February 1st on the B for the  
15 exemptions.

16 But we've not taken on the language of the  
17 assessments themselves.

18 Again, the assessment, that reads: The funds  
19 to cover the council's expenses shall be acquired  
20 by the levying of assessments upon handlers at  
21 rates established by FDACS.

22 The council shall request an initial levy to  
23 be assessed at the rate of 2 cents per pound.

24 MR. FUTCH: Question: How much money does  
25 that generate?

1 MR. DENMARK: How many --

2 MR. RUCKS: Have you got a number?

3 MR. DENMARK: We kind of worked that one up  
4 and it seemed like --

5 MR. RUCKS: How many pounds --

6 MR. DENMARK: It seemed like there was \$40,000  
7 was kind of what we had assumed that this would do.  
8 And so I don't know that -- you know, of course,  
9 it's going to change with the maturing of the trees  
10 that are out there and -- but based on the number  
11 of acres --

12 MR. RUCKS: And the poundage per acre,  
13 average.

14 MR. DENMARK: -- and the pounds per acre --  
15 so, I mean, we can kind of do the math on that.  
16 How many acres are we looking at, at -- again?

17 MR. LANIER: Joe Lanier.

18 The last peach magazine that came out, I think  
19 it said there were 1,800 -- 1,800 acres the last  
20 count. I don't know how accurate that is.

21 MR. DENMARK: On board with that?

22 MS. OLMSTEAD: Mercy Olmstead.

23 I would agree. I would, to be conservative,  
24 estimate 1,200 producing acres at full maturity.  
25 And estimate somewhere between 30 to 40 pounds per

1 tree, and estimate 120 trees per acre.

2 MR. FUTCH: I hope you're wrong.

3 MS. OLMSTEAD: Well, I know. I hope I'm  
4 wrong, too. I'm trying to be conservative.

5 MR. DENMARK: Okay. So we're looking at --

6 MR. RUCKS: This is Philip Rucks.

7 I think we based it on 1,500 acres, about  
8 1,200 or 1,300 pounds per acre. I don't know what  
9 that comes out to -- is 2 million pounds too much?

10 MR. CALLAHAN: (Shakes head.)

11 MR. RUCKS: So that's the conservative level I  
12 think we ought to start with.

13 MR. DENMARK: Okay.

14 MR. RUCKS: I mean, the council can change it  
15 in time. But we've got to start somewhere.

16 MS. TIGHE: That's where you came up with it.

17 MR. RUCKS: Okay. That's what I thought.

18 MR. DENMARK: Okay. So we're at about \$40,000  
19 is how much the marketing order would generate.

20 Milton?

21 MR. RAINES: Now, this is an assumption of  
22 what the tree is going to yield; right?

23 MR. RUCKS: Right.

24 MR. RAINES: This doesn't include you-picks.

25 And I think everybody was in general agreement

1 that we shouldn't be paying an assessment on fruit  
2 that gets diverted to something other than a fresh  
3 market.

4 So the 2 cents per pound, is that to apply to  
5 only what's handled and goes into the fresh market?

6 Have you got some recommended wording on that?  
7 I think that's what you're trying to say. I'm not  
8 sure --

9 MR. DENMARK: Yeah. Yeah. I mean, for this  
10 -- for this purpose, we're just trying to figure  
11 out, more or less, how much, you know, would be --  
12 how much revenue would be generated.

13 So I don't know, unless somebody knows  
14 exactly, you know, roughly how much is going to be  
15 not fresh --

16 MR. RAINES: Still, for the purpose of the  
17 assessment in the language here, that assessment is  
18 for what the tree produces, or is it going to be  
19 what the handler puts in the market channel?

20 MR. DENMARK: All right. We've got to go back  
21 again to that --

22 MR. RAINES: Yeah.

23 MR. DENMARK: -- and word it to be the amount  
24 that is handled and the -- how would you put that?

25 MS. PORTERFIELD: Is it pack-out pounds?

1 MR. LANIER: Mercy suggested pack-out a while  
2 ago, which is a fair -- I think a fair way to look  
3 at it, because if it's going in the trash, is it  
4 fair to have to --

5 MR. DENMARK: Right. You've already paid to  
6 pick it, you know, to --

7 MR. LANIER: But then you run into the deal,  
8 like some of that -- let's call it culled fruit --  
9 can go to a secondary market.

10 MR. RAINES: That doesn't go in the trash;  
11 it's just going to another market.

12 MR. DENMARK: Right. So it goes to the flea  
13 markets and --

14 MR. CLEMENTS: Marlon Clements.

15 MR. DENMARK: Okay, Marlon.

16 MR. CLEMENTS: I would agree on what's shipped  
17 and not what's packed, because it's the same way we  
18 assess citrus. So I would agree with that.

19 MR. DENMARK: Okay.

20 MR. CLEMENTS: With what's shipped, and not  
21 what's packed.

22 MR. DENMARK: Okay. So the funds --

23 MR. LANIER: You said what's shipped, not --

24 MR. CLEMENTS: Shipped --

25 MR. LANIER: Okay.

1 MR. CLEMENTS: -- and packed.

2 MR. RAINES: In case you had to dump some up.

3 MR. LANIER: That's --

4 MR. RAINES: You wouldn't pay a fee on that.

5 MR. LANIER: That's what -- I didn't

6 understand his statement, but I see -- yeah.

7 MR. RAINES: If some rotted, you dumped it up,  
8 you wouldn't pay.

9 MR. DENMARK: Okay. So the council shall  
10 request an initial levy to be assessed at the rate  
11 of 2 cents per pound of shipped --

12 MR. RAINES: Shipped, is that the word you  
13 want to use?

14 MR. CALLAHAN: Peaches shipped for the fresh  
15 market.

16 MR. RAINES: Very good. Sounds good.

17 MR. DENMARK: All right. So the wording on  
18 that is: The funds to cover the council's expenses  
19 shall be acquired by the levying of assessments  
20 upon handlers at rates established by FDACS.

21 The council shall request an initial levy to  
22 be assessed at the rate of 2 cents per pound of  
23 fresh market peaches shipped.

24 MR. LANIER: Yes.

25 MR. FUTCH: Or fresh market.

1 MR. DENMARK: Okay. All right. So --

2 MR. FUTCH: Just a question of clarification.  
3 Carson Futch.

4 Did I miss something or -- rates established  
5 by FDACS. I thought the rates were going to be  
6 established by the council.

7 MR. DENMARK: That's -- actually, that is set  
8 by the Commissioner, by FDACS, to my knowledge.  
9 And that's -- is that what you're --

10 MR. FUTCH: Based on the recommendation of the  
11 council?

12 MR. DENMARK: Based on the recommendation  
13 of --

14 MR. RAINES: I think that's true.

15 MR. FUTCH: Thank you.

16 MS. TIGHE: Just as a point, based on some  
17 earlier meetings we sat through, where there was a  
18 lot of apprehension about the government being  
19 involved. Should you say established by FDACS at  
20 the recommendation of council, because that was a  
21 sticking point.

22 MR. DENMARK: Okay. Here's the way the rules  
23 read on assessments and collections: The following  
24 applies to the citrus research, peanut, and tobacco  
25 marketing orders issued by the department in

1           accordance with Chapter 573, Florida Statutes.  
2           Assessments. After receiving the recommendation of  
3           the designated advisory council, the department  
4           shall fix the rate of assessment on the volume of  
5           the commodity sold or some other equitable basis.

6           Such assessment shall be collected by the  
7           handler at the first point of sale upon the  
8           recommendation of council.

9           The rate of assessment shall be adjusted if  
10          the department determines that additional funds are  
11          required, or suspended if the department determines  
12          that additional funds are not required.

13          Upon being fixed by the department, the  
14          assessment rate shall be published in the Florida  
15          Administrative Weekly, a newspaper of general  
16          circulation in Florida, and in any other  
17          industry-related publications.

18          And for your earlier question about  
19          collections. Collections: Any money collected by  
20          the first handler shall be remitted to the  
21          department under the provisions of the marketing  
22          order, and shall be used for the sole purposes of  
23          implementing the marketing order for which the  
24          assessment was collected.

25                 MR. LANIER: Joe Lanier.

1 MR. DENMARK: Yes, sir.

2 MR. LANIER: In kind of conjunction with that,  
3 Item Number 5 on that other sheet over there talks  
4 about the advisory council representing all  
5 producers. The money -- it recommends how the  
6 money shall be used.

7 That word "recommends" could be a sticker,  
8 too. Because the way that's written, the  
9 department could spend it like they wanted to. I  
10 realize that that's not the intent and all that,  
11 but we're talking about government here.

12 MR. DENMARK: Yeah. That's --

13 MR. FUTCH: Adam may not always be the  
14 Commissioner.

15 MR. LANIER: That's right.

16 MR. DENMARK: He will not always be the  
17 commissioner. That's one of the few things I can  
18 positively say.

19 MR. FUTCH: He's going to be our next  
20 Governor.

21 MR. DENMARK: So --

22 MR. LANIER: And that may go back to some  
23 statute. No matter what, the department has  
24 jurisdiction over the --

25 MR. DENMARK: Yeah. That's -- I think that's

1 where it is. I was trying to run through here and  
2 see if I could find where that was written in the  
3 statute. But --

4 I'm not seeing --

5 Are you seeing anything in that?

6 MR. RAINES: I'm looking.

7 MR. DENMARK: Yeah. What we're looking at is  
8 573.118, assessment funds, review of accounts,  
9 loans.

10 MR. LANIER: What was that? 573-what?

11 MR. DENMARK: 573.118.

12 That's what it looks like when your lawyers  
13 get involved in there.

14 So I don't see anything in here that  
15 necessarily addresses that. It goes through the  
16 assessments and how the department may -- you know,  
17 the collection and the -- the expenditure of the  
18 assessments, but -- I'm not sure.

19 MR. LANIER: It was just a question. Okay.

20 MR. DENMARK: Unfortunately, not just an  
21 answer on that one.

22 MR. LANIER: I picked up on that.

23 MR. DENMARK: That's --

24 All right. So as far as -- we've hammered out  
25 more or less the assessment portion of this.

1 MS. TIGHE: Did you decide to add that  
2 statement based on the recommendations of the FPAC  
3 or not?

4 MR. DENMARK: Well, that's on the floor. And  
5 if you want to add that, I don't know that it's --  
6 I don't see that it's written in here.

7 MR. LANIER: The statute doesn't cover any.

8 MR. DENMARK: It is? What are you --

9 MS. TIGHE: It says: The department, after  
10 receiving the recommendations of the advisory  
11 council, shall fix the rate.

12 MR. DENMARK: Okay. So -- I'm sorry, what --  
13 which one are you looking at? Which -- you're at  
14 573.118?

15 MS. TIGHE: Uh-huh. It's the tenth line.

16 MR. DENMARK: Okay. All right. So that line  
17 reads: The department, after receiving the  
18 recommendations of the advisory council, shall fix  
19 the rate of assessment on the volume of  
20 agricultural commodities sold or some other  
21 equitable basis.

22 So that is -- that is part of the -- that's  
23 part of the statutes, 573.118. So it's really --  
24 it's -- it's implied through here that the  
25 recommendation, it will be based -- the department,

1 after receiving recommendations, shall fix the rate  
2 of assessment.

3 It doesn't say that we're going to go with it,  
4 necessarily, in there. And I'm sure that there's a  
5 reason for that.

6 But that's -- being that that's a Florida --  
7 that is a statute, there's not really much that we  
8 can change about that, the way that that's written.

9 Agreed?

10 MR. RAINES: I think you're right. We can't  
11 be doing anything against statute.

12 At the same time, in yours, you're putting the  
13 council shall request an initial levy, so you are  
14 indicating what that initial is going to be.

15 MR. DENMARK: Right.

16 MR. RAINES: Which doesn't conflict with the  
17 statute.

18 MR. DENMARK: Right.

19 MR. RAINES: And if you want to -- as it says  
20 in the statute, that can be based on what's sold or  
21 some other equitable method. And you're asking  
22 that it be based basically on what's sold. You had  
23 some other wording, but basically, that's what  
24 you're basing it on, is what's sold or goes into  
25 the fresh market channel.

1 MR. DENMARK: Okay. So based on that, I don't  
2 think we've got any need to amend the assessment.  
3 I'll go ahead and read that again.

4 Assessments: The funds -- the funds to cover  
5 the council's expenses shall be required by the  
6 levying of assessments upon handlers at rates  
7 established by FDACS.

8 The council shall request an initial levy to  
9 be assessed at the rate of 2 cents per pound of  
10 fresh market peaches shipped.

11 Feeling the love on that one.

12 All right. All right. So we've gone through  
13 definitions, through purpose, assessments,  
14 exemptions.

15 We haven't touched on duties or Florida Peach  
16 Advisory Council.

17 There's probably not a whole lot that we can  
18 do in the Florida Peach Advisory Council as far as  
19 the way it's set up in the marketing order statute.  
20 So that's pretty well set.

21 MR. DENMARK: Tyler?

22 MR. BOWEN: Tyler Bowen.

23 During the first few meetings, a lot of the  
24 conversation was at size requirements and standards  
25 and quality, that sort of thing.

1           There's nothing in here about that. So being  
2 unfamiliar with how this is all going to end up,  
3 what is the process if this thing -- if -- if the  
4 new version of this gets handed to the  
5 Commissioner, I'm assuming there's not going to be  
6 another meeting, even though we're making edits.

7           So how do we know there's not going to be more  
8 edits before it's handed to the Commissioner? And  
9 then we're going to be voted on -- we're going to  
10 be voting on something that's been edited by  
11 somebody, and then has been vetted by lawyers.

12           MR. DENMARK: Right.

13           MR. BOWEN: And we're going to be -- have,  
14 essentially, a 30-day window to try to figure out  
15 if we like it or not, with no opportunity to amend  
16 it or change it at that point.

17           So what is the process for amendments later,  
18 amendments between today and then, amendments  
19 after, let's say, somehow it does get voted in?  
20 What is the -- what's the statute say for making  
21 amendments to a marketing order? Do we get to at  
22 least vote on something sometime that we get to  
23 see?

24           MR. DENMARK: Pretty much going forward, it's  
25 -- it's up to the council, the advisory council.

1 But Milton says otherwise, so.

2 MR. RAINES: I'm not really saying otherwise,  
3 because I'm not a lawyer, either.

4 It's my understanding that what you're voting  
5 on here would be an assessment for advertising and  
6 promotion.

7 Now, the marketing order can cover many other  
8 things. Like, you're talking about size, quality,  
9 even the type of container you put it in. But you  
10 didn't choose to accept that at this time.

11 And, Chris, I think -- didn't you run this by  
12 legal up there?

13 I think it would take another referendum if  
14 you added another scope to the marketing order.

15 MR. DENMARK: Yes.

16 MR. RAINES: In other words, if this order  
17 were going to cover size and quality, I think there  
18 would have to be another referendum to add that to  
19 the marketing order.

20 MR. FUTCH: The committee --

21 MR. RAINES: I don't think the committee can  
22 just say --

23 MR. DENMARK: It's -- right. It's not an  
24 arbitrary --

25 MR. RAINES: -- it needs to be a Number 1 and

1 be a certain size --

2 MR. FUTCH: Oh, good.

3 MR. RAINES: That was my understanding.

4 MR. BOWEN: Unless it's added by  
5 December 15th.

6 MR. RAINES: Unless it's on this -- unless  
7 it's part of this referendum.

8 MR. BOWEN: Right. Not on what we're looking  
9 at today. That's already changed.

10 So whatever gets handed to the Commissioner on  
11 December 15th -- if it's not on there. Because  
12 it's not on this. We've already changed it. And  
13 we're not going to see it again until we get to  
14 vote on it.

15 MR. RAINES: I don't know when you'll get to  
16 see it again. But it's my understanding you can't  
17 -- you mentioned size and quality. I don't think  
18 you can just jump over here and grab something  
19 different and say stick it on.

20 MR. BOWEN: But whatever gets delivered to the  
21 Commissioner and he sends out on December 15th,  
22 publishes, and then it's 15 days' referendum. On  
23 January 5th, we get to start voting on it.

24 But between now and then, there's nothing --  
25 it can go anywhere from anybody, whoever hands it

1 to the Commissioner.

2 MR. RAINES: You're still going to get to see  
3 a copy.

4 MR. DENMARK: It still -- it should --

5 MR. BOWEN: So it could change between now and  
6 the time it gets to the Commissioner.

7 MR. DENMARK: Right. The point you're talking  
8 about is between when our director of marketing  
9 takes it and runs it through the legal chains, and  
10 then it comes onto the referendum ballot. So --

11 MR. BOWEN: Right.

12 So he could add that, without any discussion,  
13 because there's no more meetings between now and  
14 then. So that could get added.

15 MR. DENMARK: It could get added. I mean --

16 MR. BOWEN: Just like all this got added.

17 MR. DENMARK: And basically what that leads  
18 into is how many meetings are you going to have,  
19 because are you going to change two words in here  
20 and then have another set of meetings?

21 MR. BOWEN: Right. But my point is, what  
22 we're discussing today is just kind of on a good  
23 faith that this is what's going to get handed to  
24 the Commissioner.

25 MR. DENMARK: Yes.

1 MR. RAINES: Chris, what we're looking at  
2 today is clarification on most of this stuff.  
3 We're not making major changes. You're clarifying  
4 so we all understand, we're all on the same page.

5 I would think if you started dealing with  
6 quality issues or size issues, now you've gone  
7 through another door.

8 MR. DENMARK: Uh-huh.

9 MR. BOWEN: I don't disagree with that, and I  
10 -- but at the end of the day, what we're voting on  
11 starting January 5th will be what is published on  
12 December 15th --

13 MR. DENMARK: Yes.

14 MR. BOWEN: -- but there's going to be no more  
15 discussion between now and December 15th, what is  
16 actually going to be published.

17 MR. RAINES: Can't they have written comments  
18 after the --

19 MR. DENMARK: Marlon, there's -- you can add  
20 comments, yes.

21 MR. CLEMENTS: What he's saying is, there's  
22 not going to be any major changes made to this  
23 without this group's discussions. And that's what  
24 he's saying. He's saying there may possibly be a  
25 major change between now and then.

1 MR. BOWEN: What prevents that?

2 MR. CLEMENTS: What prevents that? Will there  
3 be a major change without anybody's discussion here  
4 -- without this group's discussion?

5 MR. DENMARK: I wouldn't --

6 MR. CLEMENTS: I wouldn't think so.

7 MR. DENMARK: No, I would not recommend that.  
8 I don't want to be at the next meeting if it is.

9 MR. RAINES: The question is, could there, not  
10 necessarily --

11 MR. DENMARK: Right.

12 MR. CLEMENTS: Well, but I don't see there  
13 being any -- any major changes, and they will go  
14 with what we present to them.

15 MR. DENMARK: No.

16 MR. CLEMENTS: And they're going to lawyer it  
17 up, yes.

18 MR. DENMARK: Right.

19 MR. CLEMENTS: They're going to change a few  
20 words here and there, of course, but --

21 MR. DENMARK: And there probably aren't too  
22 many people in this room that don't have  
23 Commissioner Putnam's phone number and can contact  
24 him directly. And he would hear about it pretty  
25 quickly if it were to go that way.

1 I don't think -- yeah, you've got to kind of  
2 go on a little bit of good faith that this is --  
3 you know, what we're doing here is what we're going  
4 to submit to the director of marketing.

5 And from that point, there's not going to be  
6 any major changes and major overhauls. This is  
7 what the industry, as per this -- this group in  
8 here, wants to see on this ballot, on this  
9 referendum.

10 MR. CLEMENTS: Again, Marlon Clements.

11 Yeah. Again, that's what we're here for  
12 today. They want to see what the industry wants,  
13 and you guys being the industry. And that's what  
14 we're here for. I mean, that's why this is here,  
15 and that's what they want to see. They're not -- I  
16 wouldn't say there's going to be any major changes  
17 to this at all. They're going to take it and use  
18 this, what we've presented to them.

19 MR. DENMARK: Right.

20 MR. CLEMENTS: Don't hold it against me if  
21 there is, now.

22 MR. BOWEN: I will.

23 MR. DENMARK: Like I said, I don't want to  
24 come to that next meeting if there is.

25 MR. RAINES: That's the whole purpose of these

1           hearings, is to get the input from the industry  
2           what they want.

3           MR. DENMARK:    Right.

4           MR. RAINES:    He pretty much just rubber  
5           stamped it, but he has to have his legal team to  
6           make sure it's got the legal language.

7           MR. DENMARK:    Yeah.

8           MR. RAINES:    It's got to be documented and --  
9           so --

10          MR. DENMARK:    Again, this --

11          MR. RAINES:    We kicked out the standards thing  
12          after the first meeting because it addresses a  
13          whole other set of other issues that we're  
14          struggling with.

15                 Right now, it's just getting promoted outside  
16          the state -- in the state, too.  It's getting some  
17          name -- we've talked about name recognition, that  
18          Florida has peaches.  That's the whole point of it  
19          right now.

20                 Five years from now, if we're up to 10 or  
21          15 million pounds a year and there's guys sending  
22          out golf ball-size peaches, there could be a  
23          problem, you know.  That's where the council comes  
24          in and makes some recommendations to the  
25          Commissioner.

1 MR. DENMARK: I think --

2 MR. FUTCH: Well, the market needs to take  
3 care of that.

4 MR. RUCKS: Well, most of the time, it does.

5 MR. DENMARK: But now, with a marketing order,  
6 you've got a structure that you can address those  
7 issues. Whereas right now, you don't really have  
8 that. You know, it's just, you know, market  
9 demand. That's what's going to set that for you.

10 Yes?

11 MR. RAINES: Chris, Milton Raines.

12 When -- when will there be a final version?  
13 And can they comment in writing -- or comment at  
14 the time of the final version?

15 MR. RUCKS: There's a comment period.

16 MR. DENMARK: There is a comment period.  
17 Written comments, seven days after this meeting.  
18 That's a minimum. I would -- I would say that if I  
19 received something 14 days from now, I'm okay with  
20 it. We're not going to shut down after seven days  
21 on this. We can extend it a little bit.

22 But part of the thing that we need to be able  
23 to do is, with this timeline, is to be able to move  
24 forward and get something done by next season. And  
25 we've got certain things that are just -- you know,

1 with the holidays coming up, we certainly don't  
2 want to interfere with that and send out ballots  
3 during the holidays, and have any problems with  
4 that.

5 So that's more or less why the January 5th  
6 date is there, kind of driving what we would like  
7 to be able to do as far as sending out the ballots.  
8 And for the referendums, we want to be able to get  
9 them out to the county extension offices and to  
10 everybody that's -- that's been to one of these  
11 meetings.

12 So the -- basically, minimum cutoff would be  
13 November 19th. Again, I'm not going to -- if  
14 something came in two weeks from now, that's --  
15 that would still be -- I would be all right with  
16 that. Our attorneys are okay with that.

17 But we need to kind of set November 23rd is  
18 the last day for submission of final draft of the  
19 language. So I want to have something done by the  
20 23rd of November so that I can handle -- hand it to  
21 our division director.

22 And then at that point, it's in -- between her  
23 and the legal team.

24 Yes?

25 MS. OLMSTEAD: Mercy Olmstead.

1           Is this going to be available somewhere  
2           online, that the growers can look at this, as well  
3           as all of the comments that have been recorded, the  
4           questions answered?

5           MR. DENMARK: I have --

6           MS. OLMSTEAD: And transcripts.

7           MR. DENMARK: I can -- if you -- if -- at this  
8           point, the easiest way to handle that, because I  
9           don't have anything online at this point, that  
10          would -- I might be able to work with you on that  
11          if you could put it -- make it available.

12          But all the hearings -- of course, that's open  
13          under the Sunshine laws. So we could make those  
14          available.

15          We can also make it available, you know -- the  
16          final -- the draft as it looks at that point, to  
17          you.

18          Is that probably the best source? Everyone  
19          agree? Okay.

20          MS. OLMSTEAD: Thanks. I just want there to  
21          be a place where growers can go and find the  
22          information of what's been done, so that there's  
23          complete transparency --

24          MR. DENMARK: I agree.

25          MS. OLMSTEAD: -- as they try to make the

1 decision on whether they want to support this or  
2 not.

3 MR. RAINES: Good idea.

4 MR. DENMARK: Yes.

5 Okay. So again, just restating that, we'll  
6 make the hearings and the language, marketing order  
7 language, available to Mercy for -- for her to  
8 upload on her website.

9 And so then that's, again -- the date I have  
10 right here, November 23rd, the last day of  
11 submission for the final draft.

12 Essentially, November 24th through  
13 December 14th, subject to approval by the director  
14 of marketing development, FDACS will create a  
15 marketing order and a referendum based on a final  
16 draft submission and findings at hearing and  
17 submitted written remarks.

18 So if you have remarks, my card is on the  
19 table here. You can send them, e-mail them to me.  
20 You can send them hard copy to me through the mail.  
21 That's certainly available.

22 Then we'll need some time for our graphics  
23 people to set up. We're going to assume about 500  
24 ballots and copies of marketing order language.  
25 This is something that is paid for by the -- from

1 the initial monies that were collected from the  
2 industry.

3 And so looking at about December 15th -- and  
4 these dates could fluctuate a little bit. But on  
5 or around December 15th, public notice of  
6 referendum. It's going to be 15 days. It has to  
7 be 15 days before the referendum ballots are mailed  
8 out.

9 January 5th, the ballots and referendum will  
10 be sent out, including to county extension offices,  
11 in the area in question.

12 And January 22nd, that's the last day we will  
13 collect at the post office and county extension  
14 offices. That's the last date that -- that anybody  
15 can -- that there's -- submitted ballots will be  
16 available for pickup at the post office.

17 January 25th, that will be a Monday, I believe  
18 -- so again, these dates could -- could fluctuate  
19 just a little bit. Collect all the county  
20 extension office ballots.

21 And then January 29th, ballots counted by  
22 FDACS staff.

23 Within 10 days of closing date for ballot  
24 submission, FDACS will certify the results in  
25 writing and publish the results of the referendum

1 on the front page of the FDACS website, sending  
2 notice via e-mail to all publications of general  
3 circulation, news departments within the state.  
4 Public notice of marketing order posted on bulletin  
5 board at Mayo Building on FDACS website.

6 I doubt anybody is going to come up and see  
7 that, but it's there. It has to stay there for  
8 five days. So we have this one bulletin board that  
9 does nothing most of the year except wait for one  
10 of these things to come up on it.

11 So on or about February 8th, marketing order  
12 would go into effect. That's five days -- minimum  
13 five days after posting.

14 And then February 15th, advisory council and  
15 alternates will be appointed by the Commissioner.  
16 Four members appointed to serve four-year terms,  
17 three members appointed to serve two-year terms.

18 February 18th, the advisory council will meet  
19 to elect a chair and a vice-chair. And at that  
20 point, it would be -- it would be on and running.  
21 So --

22 MR. LANIER: Except we don't have any money.

23 MR. DENMARK: I don't think that's my problem.  
24 Okay? Won't have any money to do anything the  
25 first year, but you will have the ability to

1 collect on the -- on the fresh market peaches that  
2 are shipped.

3 So, again, that's the -- that's how this thing  
4 kind of rolls out. The language, as we've  
5 discussed -- do I need to go ahead and kind of  
6 re-read through this thing as we've got it? You're  
7 pretty well set and --

8 MR. LANIER: Spare us.

9 MR. DENMARK: -- loving what you've got.

10 So -- all right. Well, I kind think that's  
11 about -- about all we have at this point.

12 So I want to say, first of all, I appreciate  
13 everybody for showing up again. I know it's been a  
14 long haul. And I hope this is what everybody looks  
15 -- is looking for. And I hope we've got something  
16 in here for everybody.

17 All we can do is -- is -- is go out and try to  
18 -- try to do our best to get the word out to all  
19 the growers that will be impacted by this.

20 So I think at this point, if there's not any  
21 more discussion, we'll go ahead and adjourn for the  
22 day.

23 Thank you again.

24 (Meeting concluded at 3:27 p.m.)

25

## 1 REPORTER'S CERTIFICATE

2 STATE OF FLORIDA

3 COUNTY OF POLK

4 I, LINDA A. MCGILL, Registered Professional  
5 Reporter, certify that I was authorized to and did  
6 stenographically report the hearing in the above-styled  
7 cause, Pages 1 through 82, inclusive, and that the  
8 transcript is a true and complete record of my  
9 stenographic notes.

10 I further certify that I am not a relative,  
11 employee, attorney, or counsel of any of the parties,  
12 nor am I a relative or employee of any of the parties'  
13 attorney or counsel connected with this action, nor am I  
14 financially interested in the action.

15 Dated this 19th day of November, 2015.

16  
17  
18 

19  
20 \_\_\_\_\_  
21 LINDA A. MCGILL, RPR

22 The original of this transcript was ordered by and  
23 furnished to Christopher Denmark.  
24  
25

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