

1 **PART 120X—ORANGE JUICE PROMOTION, RESEARCH AND INFORMATION**  
2 **ORDER**

3 **Authority:** 7 U.S.C. 7411-7425.

4 **Subpart A—Orange Juice Promotion, Research, and Information Order**

5 **Definitions**

6 **§ 120X.1 Act.**

7 Act means the Commodity Promotion, Research, and Information Act of 1996 (Public  
8 Law 104-127, 7 U.S.C. 7411-7425), and any amendments thereto.

9 **§120X.2 Board.**

10 Board of the Orange Juice Promotion, Research, and Information Board means the  
11 administrative body established pursuant to this Part. It may be referred to by such  
12 other name as the Board recommends and the Department approves.

13 **§120X.3 Citrus.**

- 14 a. Except as provided in (b) and (c), “Citrus” means the fruit from *Citrus* ×  
15 *aurantium* var. *sinensis* (first published in 1753); *Citrus* Sweet Orange  
16 Group<sup>1</sup> also known as *Citrus sinensis* Osbeck (“oranges”) and hybrids thereof  
17 and *Citrus reticulata* Blanco (“tangerines”) and hybrids and *Citrus aurantium* and  
18 hybrids thereof, placed into the primary channel of trade for processing into juice,  
19 and including processed citrus and citrus juices made from “Citrus” imported into  
20 the U.S. as such at time of importation, whether intended for juice or ultimately  
21 used as an ingredient in other foods and beverages containing citrus juice.  
22 Product imported into the United States under HTS Chapter 20, classification  
23 numbers: 2009.11; 2009.12; 2009.21; 2009.29; 2009.31.60; 2009.31.90, and  
24 [others?].
- 25 b. Imported processed citrus products that are denatured or altered in a way that  
26 would make such product unsuitable for use in juice products or products  
27 containing less than 20 percent juice, shall not be considered “Citrus” within the  
28 meaning of this Order;
- 29 c. The term “Citrus” as used herein shall not include grapefruit, lemon or lime  
30 juices, marmalades, jellies or preserves made from Citrus juices.
- 31 d. [Tangerine juice, sold as such to the consumer in packaged form may qualify for  
32 exemption by the Secretary from the Order and allowed a credit against any

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<sup>1</sup> Sweet Orange Group reflects new nomenclature determined by USDA to replace “*Citrus Sinensis*” which is no longer recognized as a species,

1 assessment where qualified under safeguards established by the Board  
2 exemption.]

3 **§ 120X.4 Conflict of interest.**

4 Conflict of interest means when a member or employee has a direct or indirect financial  
5 interest in an entity that performs a service for, or enters into a contract with, the Board  
6 or one of the Councils for anything of economic value.

7 **§120X.5 Councils.**

- 8 a. Councils means councils appointed by the Board of Directors.
- 9 b. Councils may include Board members. Council members shall have skills,  
10 knowledge and experience in substantive matters assigned to the council.
- 11 c. Councils will not be authorized to execute contracts nor expend funds on behalf  
12 of the Board, nor take any actions requiring Board action or approval.

13 **§ 120X.6 Customs.**

14 Customs means U.S. Customs and Border Protection, an agency of the United States  
15 Department of Homeland Security, or any successor agency.

16 **§ 120X.7 Department.**

17 **Department means the United States Department of Agriculture.**

18 **§ 120X.8 Domestic Producer: Qualified Citrus Producer Organization.**

19 (a) Producer means any person who is engaged in the production and sale of raw  
20 Citrus fruit in the United States intended for processing into Citrus juice products, and  
21 who owns, or shares the ownership and risk of loss of, the crop or a person who is  
22 engaged in the business of producing, or causing to be produced, Citrus beyond the  
23 person's own family use and having value at first point of sale.

24 (b) Qualified Citrus Producer Organization means any qualified organization that has  
25 the primary purpose of representing citrus producers, has citrus producers as members,  
26 and that is approved by the Secretary.

27 **§ 120X.9 Fiscal period.**

28 Fiscal period means a specific twelve-month period the Board recommends, and the  
29 Department approves.

30 **§ 120X.10 Importer.**

31 a. Importer means any person importing Citrus into the United States as a principal or  
32 as an agent, broker, or consignee of any person who produces or handles Citrus

1 outside of the United States for sale in the United States, and who is listed as the  
2 importer of record for such Citrus, including but not limited to:

3 1. importers of concentrated or single strength orange juice delivered in bulk  
4 form;

5 2. importers of frozen, chilled, canned, or aseptic products delivered in packaged  
6 form; and

7 3. importers of Citrus products imported into the United States under the  
8 following tariff classifications:

9 HTS Chapter 20, classification 2009.11; 2009.12; 2009.21; 2009.29; 2009.31.60;  
10 2009.31.90, and [others?].

11 b. For purposes of Board membership. "Importers" must meet the definition in (a) above  
12 or manufacture or market Citrus juice that contains imported Citrus juice.

### 13 **§ 120X.11 Information.**

14 Information means information and programs that are designed to develop new  
15 markets, marketing strategies, increase market efficiency, and activities that are  
16 designed to enhance the image of Citrus in the United States. These include:

17 (a) Consumer information, which means any action taken to provide information to the  
18 general public regarding the consumption, use, and care of Citrus;

19 (b) Industry information, which means information and programs that will lead to the  
20 development of new markets, new marketing strategies, or increased efficiency for the  
21 Citrus industry, and activities to enhance the image of the Citrus industry; and

22 (c) Information collected to increase the competitive position of the domestic Citrus  
23 industry;

24 (d) Public relations.

### 25 **§ 120X.12 Market or marketing.**

26 Marketing means the sale or other disposition of Citrus in the U.S. domestic market or  
27 foreign markets. To market means to sell or otherwise dispose of Citrus in interstate or  
28 intrastate channels of commerce or export channels.

### 29 **§ 120X.13 Order.**

30 Order means an order issued by the Department under section 514 of the Act that  
31 provides for a program of generic promotion, research, and information regarding citrus,  
32 authorized under the Commodity Promotion, Research, and Information Act of 1996.

1 **§ 120X.14 Part.**

2 Part means part 120X which includes the Orange Juice Promotion, Research, and  
3 Information Order and all rules, regulations, and supplemental orders issued pursuant to  
4 the Act and the Order.

5 **§ 120X.15 Person.**

6 Person means any individual, group of individuals, partnership, corporation, association,  
7 joint stock company, cooperative, or any other legal entity.

8 **§ 120X.16 Promotion.**

9 Promotion means any action taken to present a favorable image of Citrus to the general  
10 public and those involved with the production, distribution or marketing of Citrus for the  
11 purpose of improving their competitive position and stimulating their sale in the United  
12 States. This includes paid advertising and public relations.

13 **§ 120X.17 Processed Citrus.**

14 Processed Citrus means juice product made from the processing of raw Citrus intended  
15 for processing or use in Orange Juice, Orange Juice products, and beverages  
16 containing orange juice, including orange juice products that are fortified with nutrients  
17 or to which by-products derived from citrus intended for processing are added.

18 1. As used in this order, “citrus intended for processing” or “citrus intended for  
19 processed citrus” means—

- 20 a. Citrus (particularly but not limited to oranges) delivered directly to a  
21 processing facility from the production grove or intermediate handling  
22 facility, or  
23 b. Oranges planted, grown, and maintained primarily for processing into juice

24 **§ 120X.18 Research.**

25 Research means programs designed to advance the knowledge, image, desirability,  
26 use, marketability, health and nutrition, production, product development, competitive  
27 positioning, or quality of Citrus fruit and products, including new product and by-product  
28 development, health research and market and economic research for processed citrus  
29 products. The term research includes the communication of the results of any research  
30 conducted under this Part.

31  
32 **§ 120X.19 Secretary.**

33 Secretary means the Secretary of Agriculture of the United States or any officer or  
34 employee of the Department to whom the Secretary has delegated the authority to act  
35 on behalf of the Secretary.

1 **§ 120X.20 Suspend.**

2 Suspend means to issue a rule under section 553 of title 5, U.S.C., to temporarily  
3 prevent the operation of an order or part thereof during a particular period of time  
4 specified in the rule.

5 **§120X.21 Terminate.**

6 Terminate means to issue a rule under section 553 of title 5, U.S.C., to cancel  
7 permanently the operation of an order or part thereof beginning on a certain date  
8 specified in the rule.

9 **§ 120X.22 United States.**

10 United States or U.S. means the 50 states, the District of Columbia, the Commonwealth  
11 of Puerto Rico, and the territories and possessions of the United States.

12 **§ 120X.23 Establishment and membership of the Orange Juice Promotion,  
13 Research, and Information Board.**

14 (a) There is hereby established an Orange Juice Promotion, Research and Information  
15 Board composed of [11] members appointed by the Secretary. The purpose of the  
16 Board is to oversee and facilitate work in furtherance of the Act and this part.

17 (b) To the maximum extent practicable, the apportionment of the members on the Board  
18 representing producers in the various citrus producing states shall reflect the  
19 geographical distribution of the production of Citrus among the states used in the  
20 manufacture of orange juice products. The representation of importers shall, to the  
21 extent practicable, reflect the share (by volume) of the domestic Citrus juice market  
22 supplied by importers.

23 (c) The initial Board shall consist of [six members] representing Florida producers of  
24 Citrus] and [five members representing importers] which may include national brand  
25 marketers.

26 (d) Subsequent to composition of the initial adjustment, from time to time as the Board  
27 may determine is warranted, the Board shall adjust the representation of the domestic  
28 producer representatives on the Board among the various states and of the importer  
29 representatives, based upon the assessment funds paid to the Board [over a recent  
30 representative period.]<sup>2</sup> Such adjustments of representation shall not be made more  
31 often than every [five] years.

32 **§ 120X.24 Powers and duties of the Board.**

33 The Board shall have the following powers and duties:

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<sup>2</sup> Subsequent to the initial board, the Board can use any representative period for adjustment of representation.

- 1 (a) To administer this Part in accordance with its terms and conditions and to collect  
2 assessments;
- 3 (b) **To conduct research programs**, information and publicity programs and marketing  
4 campaigns to promote Citrus products;
- 5 (c) **To facilitate, measure and evaluate the work** of the Councils in carrying out their  
6 duties under the Order, including serving as a liaison with the Department;
- 7 (d) To develop and recommend to the Secretary for approval such bylaws as may be  
8 necessary for the functioning of the Board, and such rules as may be necessary to  
9 administer this Part, including activities authorized to be carried out under this Part;
- 10 (e) To meet, organize, and select from among the members of the Board a  
11 chairperson, other officers and any committees the Board determines appropriate;
- 12 (f) **To employ or contract with persons as the Board considers necessary** to assist the  
13 Board in carrying out its duties and to determine the compensation and specify the  
14 duties of such persons or to contract such services from an organization and to enter  
15 into contracts or employee sharing agreements in order to carry out authorized  
16 functions;
- 17 (g) **To develop budgets in accordance with this Part** and submit to the Department for  
18 approval;
- 19 (h) To ensure that assessments collected under this part are directed to the budgets in  
20 accordance with the provisions of this Order except for assessments needed to pay the  
21 administrative expenses of the Board;
- 22 (i) To maintain such records and books and prepare reports as the Department may  
23 prescribe; to make appropriate accounting with respect to the receipt and disbursement  
24 of all funds entrusted to it; and to keep records that accurately reflect the actions and  
25 transactions of the Board;
- 26 (j) To cause its books to be audited by a competent auditor at the end of each calendar  
27 year and at such other times as the Secretary may request, and to submit a report of  
28 the audit to the Secretary;
- 29 (k) To receive, investigate, and report to the Secretary complaints of violations of the  
30 Order, including investigating complaints of violation, and reviewing periodically  
31 producers and importers of Citrus to ensure consistent, uniform and appropriate  
32 application of this Part;
- 33 (l) To recommend to the Secretary such amendments to the Order as the Board  
34 considers appropriate; and
- 35 (m) To work with any Councils appointed by the Board to achieve effective, continuous,  
36 and coordinated programs of promotion, research, consumer information, evaluation,

1 and industry information designed to strengthen the citrus industry's position in the  
2 U.S. domestic market and foreign markets if warranted; maintain and expand existing  
3 markets and uses for citrus; and to carry out programs, plans, and projects designed to  
4 provide maximum benefits to the citrus industry.

5 (n) To invest assessment funds collected but not yet disbursed pursuant to this Part.  
6 Investments shall be in any interest-bearing account or certificate of deposit of a bank  
7 that is a member of the Federal Reserve System, obligations fully guaranteed as to  
8 principal and interest by the United States or any agency of the United States, or  
9 general obligations of any State or any political subdivision of a State.

10 (o) To apply for grants or other external funding to pay for programs to develop,  
11 research and promote Citrus products, including new markets and products that use  
12 Citrus juice as ingredients.

13 (p) To establish offices and a headquarters at such location as determined by the  
14 Board. The Board is authorized to enter into leases and share offices and employees  
15 with other agencies or organizations when advantageous to the mission of the Board.  
16 [The headquarters shall be in Bartow, Florida.]

17 **§ 120X.25 Nominations and appointments to the Orange Juice Promotion,  
18 Research, and Information Board.**

19 (a) There shall be at least two nominees for each position on the Board.

20 (b) Nominations for the initial Board will be handled by the Department. Subsequent  
21 nominations will be administered by the Board.<sup>3</sup>

22 (c) From the nominations, the Secretary shall select the members of the Board. In  
23 making the selections, the Secretary shall strive to ensure that the representation of  
24 producers reflects the geographic distribution of the domestic production of Citrus used  
25 in processing, and that the representation of importers reflects geographic distribution of  
26 imported juice [by the ports of entry for imported Citrus, weighted by volume.]<sup>4</sup>

27 **General Provisions on Appointments and Meetings**

28 **§ 120X.26 Term of office.**

29 Board members shall be appointed to serve three-year terms except the initial members  
30 of the board shall be appointed to staggered terms so that the terms of approximately  
31 one-third of the board expire in any given year. Each term of office will end on  
32 December 31, with new terms of office beginning on January 1. A member or alternate  
33 may not serve more than 2 consecutive terms.  
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<sup>3</sup>This text does not require nominations to the Secretary for the initial Board come from any specific groups.

<sup>4</sup>Do we want apportionment of importer Board members by port of entry?



1 **§ 120X.27 Vacancies.**

2 (a) In the event that any member of the Board ceases to be a member of the category  
3 of members from which the member was appointed, such position shall automatically  
4 become vacant.

5 (b) If a member of the Board consistently refuses to perform his or her duties or  
6 engages in acts of dishonesty or willful misconduct or fails to submit reports and remit  
7 assessments required under this Part, the Board may recommend to the Secretary that  
8 the member be removed from office. If the Secretary finds the recommendation of the  
9 Board shows adequate cause, the Secretary shall remove such member from office.

10 (c) Should any position on the Board become vacant, successors for the unexpired  
11 term of the member shall be appointed in the manner specified below, except that  
12 nomination and replacement shall not be required if the unexpired term is less than six  
13 months.

14 Vacancies for unexpired terms shall be filled by nominations by the Board of Directors  
15 to the Secretary.

16 **§ 120X.28 Procedure.**

17 (a) At a meeting, it will be considered a quorum when at least a majority of the  
18 members of the Board or a Council, as applicable, are present.

19 (b) At the start of each fiscal period, the Board and each Council will select a  
20 chairperson and vice chairperson who will conduct meetings throughout that period.

21 (c) All Board members and the Department will be notified at least 30 days in advance  
22 of all Board and committee meetings unless an emergency meeting is declared.

23 (d) Each member will be entitled to one vote on any matter put to the Board, and the  
24 motion will carry if supported by one vote more than 50 percent of the total votes  
25 represented by the members present.

26 (e) In lieu of voting at a properly convened meeting and, when in the opinion of the  
27 chairperson such action is considered necessary, the Board may take action if  
28 supported by one vote more than 50 percent of the members by mail, telephone,  
29 electronic mail, facsimile, or any other means of communication. In that event, all  
30 members must be notified and provided the opportunity to vote. Any action so taken  
31 shall have the same force and effect as though such action had been taken at a  
32 properly convened meeting. All telephone votes shall be confirmed promptly in writing.  
33 All votes shall be recorded in Board minutes.

34 (f) There shall be no voting by proxy.



1 (g) The organization of the Board and the procedures for conducting meetings shall be  
2 in accordance with the organization's bylaws, which shall be developed by the Board,  
3 and the Department shall approve.

4 **§120X.29 Compensation and reimbursement.**

5 The members shall serve without compensation but shall be reimbursed for reasonable  
6 travel expenses incurred by them in the performance of their duties.

7 **§ 120X.30 Prohibited activities.**

8 The Members may not engage in, and shall prohibit the employees and agents of the  
9 Board from engaging in:

10 (a) Any action that is a conflict of interest; and

11 (b) Using funds collected by the Board under the Order to undertake any action for the  
12 purpose of influencing legislation or governmental action or policy, other than  
13 recommending to the Secretary amendments to this Part.

14 **§ 120X.31 Contracts**

15 (a) Any contracts entered pursuant to this Part must be approved by the Department  
16 before becoming effective.

17 (b) Each contract or agreement shall provide that any person who enters into a  
18 contract or agreement with the Board shall: develop and submit to the Board or to the  
19 appropriate Council a proposed activity; keep accurate records of all of its transactions  
20 relating to the contract or agreement; account for funds received and expended in  
21 connection with the contract or agreement; make periodic reports of activities  
22 conducted under the contract or agreement; and, make such other reports available as  
23 the Board, the Councils, or the Department considers relevant.

24 (c) Any contract or agreement shall provide that any subcontractor who enters into a  
25 contract and who receives or otherwise uses funds allocated by the Board shall be  
26 subject to the same provisions as the contractor.

27 **Expenses and Assessments**

28 **§ 120X.32 Budget and expenses.**

29 (a) At least 60 days before the beginning of each fiscal year, and as may be necessary  
30 thereafter, the Board shall prepare and submit to the Department a budget for the fiscal  
31 year covering its anticipated expenses and disbursements in administering this  
32 subpart. Each such budget shall include:

33 (1) A statement of objectives and strategy for each program, plan, or project  
34 developed;

- 1 (2) A summary of anticipated revenue, with comparative data for at least one  
2 preceding year (except for the initial budget);  
3 (3) A summary of proposed expenditures for each program, plan, or project; and  
4 (4) Staff and administrative expense breakdowns, with comparative data for at least  
5 one preceding year (except for the initial budget).
- 6 (b) Each budget shall provide adequate funds to defray its proposed expenditures and  
7 to provide for a reserve.
- 8 (c) Subject to this section, any amendment or addition to an approved budget must be  
9 approved by the Department, including shifting funds from one program, plan, or  
10 project to another. Shifts of funds which do not cause an increase in the approved  
11 budget of the Board, and which are consistent with governing bylaws, need not have  
12 prior approval by the Department.
- 13 (d) The Board is authorized to incur such expenses, including provision for a reserve,  
14 as are reasonable and likely to be incurred by the Board for maintenance and  
15 functioning, and to enable it to exercise its powers and perform its duties in accordance  
16 with the provisions of this Part. Such expenses shall be paid from funds received by  
17 the Board.
- 18 (e) With approval of the Secretary, the Board may borrow money for the payment of  
19 administrative expenses, subject to the same fiscal, budget, and audit controls as other  
20 funds of the Board. Any funds borrowed by the Board shall be expended only for  
21 startup expenses.
- 22 (f) The Board may accept voluntary contributions. Voluntary contributions shall be free  
23 from any encumbrance by the donor, and the Board shall retain complete control of  
24 their use. **The Board may apply for and accept grants and public funding programs<sup>5</sup>**  
25 where the Board approves conditions and terms associated with using the public funds  
26 and use of the funds is consistent with the mission of the Board.
- 27 (g) The Board shall reimburse the Department for all expenses the Department incurs  
28 in the implementation, administration, and supervision of this Part, including all costs  
29 relating to the conducting of a referendum in connection with this Part.
- 30 (h) **For fiscal years beginning three years after the establishment of the Board, the**  
31 **Board may not expend for administration, maintenance, and functioning of the Board in**  
32 **any calendar year an amount that exceeds 15 percent<sup>6</sup>** of the assessments and other  
33 income received by the Board for that calendar year. Reimbursements to the  
34 Department required under paragraph (g) of this section are excluded from this  
35 limitation on spending.

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<sup>5</sup>This language authorizes the Board to seek USDA/FAS money for promotion of OJ in foreign markets.

<sup>6</sup>AMS administrative rules prescribe how this percentage is calculated. Typical rates paid as a fee to USDA for similar size Orders are in the range of 1- 2%. (i.e. \$160,000 paid for a \$10M order) The statute caps administrative costs at 15%.

1 The Board may establish an operating monetary reserve and may carry over to  
2 subsequent fiscal periods excess funds in any reserve so established. Such reserve  
3 funds may be used to defray any expenses authorized under this part.

#### 4 **§ 120X.33 Financial statements.**

5 (a) Upon the Secretary's request, the Board shall prepare and submit financial  
6 statements to the Department on a periodic basis. Each such financial statement shall  
7 include, but not be limited to, a balance sheet, income statement, and expense budget.  
8 The expense budget shall show expenditures during the time period covered by the  
9 report, year-to-date expenditures, and the unexpended budget.

10 (b) Each financial statement shall be submitted to the Department within 30 days after  
11 the end of the time period to which it applies.

12 (c) The Board shall submit to the Department an annual financial statement within 90  
13 days after the end of the fiscal year to which it applies.

#### 14 **Assessments**

##### 15 **§ 120X.34 Assessments.**

16 (a) The funds to carry out the programs authorized by this Part and to cover the  
17 Board's and any Councils' expenses shall be paid from assessments on domestic  
18 producers placing fruit into processed channels of trade and on importers of Citrus  
19 juice and other funds available to the Orange Juice Promotion, Research, and  
20 Information Board.

21 (b) The assessments on imported citrus juice shall be at a rate comparable to the rate  
22 applicable to equivalent domestic Citrus fruit. In setting the assessment rate, the Board  
23 will consider other taxes, assessments and production costs paid by producers of  
24 Citrus fruit in order to ascertain assessment rates with overall positive returns for  
25 producers and importers.

26 (c) The assessment on Citrus fruit that enter the primary channel of trade for use in  
27 processing shall be as follows:

28 (d) For the initial assessment for a period of three fiscal years, producers of Citrus fruit  
29 intended for and delivered for processing and importers of Citrus products shall pay the  
30 assessment at the rate established by the Board, not to exceed [\$.07] per 1-3/5  
31 bushels or equivalent (90-pound box). Such funds shall only be used for promotion,  
32 research or information programs, or the administration of the promotion, research and  
33 information programs, authorized by this part. For subsequent years, the Board shall  
34 establish an assessment rate not to exceed [\$.12] per 1-3/5 bushels, or equivalent (90-  
35 pound box of raw Citrus fruit for processing) and importers of citrus products shall pay  
36 the assessment at the equivalent rate established by the Board. For the initial three  
37 years, the conversion rates applied to imported juice to establish equivalency with the  
38 assessment applied to domestic Citrus producers on fruit shall be as follows:

1

Product	Oranges/Citrus	Number of Equivalent 1-3/5 Bushel Boxes
Concentrate	6.19 solids	1
Single Strength	5.91 gallons	1

2 (Table to be updated every five years at Board's direction, when warranted by changes  
 3 in yield for significant production areas based on five year weighted average of  
 4 yields.)<sup>7</sup>

5  
 6 (e) The first handler/processor responsible for reporting assessments levied on  
 7 domestic producers shall remit the amounts due to the Board's office on a weekly  
 8 basis, in such manner as prescribed by the Board. Reports shall state the number of  
 9 standard packed boxes of 1-3/5 bushels, or equivalent thereof in other containers or in  
 10 bulk, received during the preceding month.

11 (f) The assessments due on domestically produced citrus shall be paid to and collected  
 12 by the first handler/processor of the domestically produced citrus intended for  
 13 processing and delivered into the primary channel of trade at a U.S. citrus processing  
 14 facility.

15  
 16 (g) The assessments due on imported Citrus juice shall be paid when the Citrus product  
 17 enters the U.S. or withdrawn for consumption in the United States and shall be collected  
 18 by Customs.

19  
 20 (h) A late payment charge shall be imposed on any person failing to remit to the Board  
 21 the total amount for which the person is liable by the payment due date established  
 22 under this section. The Department shall prescribe the amount of the late payment  
 23 charge.

24  
 25 (i) An additional charge shall be imposed on any person subject to a late payment  
 26 charge in the form of interest on the outstanding portion of any amount for which the  
 27 person is liable. The rate of interest shall be prescribed by the Department. Persons  
 28 failing to remit total assessments due in a timely manner may also be subject to action  
 29 under federal debt collection procedures.

30 (j) The Board may authorize other organizations to collect assessments on its behalf  
 31 with the approval of the Department.

32 (k) [The Board, on authority of the Secretary is authorized to exempt from the Order an  
 33 de minimis quantity of citrus juice otherwise covered under the Order. The Board is  
 34 authorized to establish and require safeguards against improper use of the exemption.]  
 35 [In addition, this Order provides that the Secretary may permit a farmer cooperative that  
 36 engages in branded activities and related to the marketing of the products of members  
 37 of the cooperative to receive an annual credit for the activities and related expenditures  
 38 in the form of a deduction of the total cost of the activities and related expenditures from  
 39 the amount of any assessment that would otherwise be required to be paid by the

<sup>7</sup> Use conversion factors are updated in FDOC Rules from time to time.

1 producer members of the cooperative under this order. Deductions would not apply to  
2 branded or related activities on product that contains imported juice and all imported  
3 juice would be subject to the assessment A farmer cooperative may elect to voluntarily  
4 waive the application of this paragraph and any annual credit. The Board is authorized  
5 to establish and require safeguards, including accounting requirements, against  
6 improper use of the exemptions.]

7 **§ 120X.35 Programs, plans, and projects.**

8 (a) The Board shall develop and submit to the Department for approval any program,  
9 plan, or project authorized under this Part. Such programs, plans, or projects shall  
10 provide for the establishment, issuance, implementation, and administration of  
11 appropriate programs for promotion, research, and information with respect to Citrus.

12 (b) No program, plan, or project shall be implemented prior to its approval by the  
13 Department. Once the Department approves a program, plan, or project, the  
14 appropriate Council shall take appropriate steps to implement it.

15 (c) The Board shall periodically review or evaluate each program, plan, or project  
16 implemented under this Part to ensure that it contributes to an effective program of  
17 promotion, research, or information. If the Board finds that any such program, plan, or  
18 project does not contribute to an effective program of promotion, research, or  
19 information, then the Board shall terminate such program, plan, or project.

20 (d) No program, plan, or project including advertising shall be false or misleading or  
21 disparaging to another agricultural commodity.

22 **§ 120X.36 Independent evaluation.**

23 At least once every five years, the Board shall authorize an independent evaluation of  
24 the effectiveness of this Part and other program conducted by the Board and the  
25 Councils pursuant to the Act. The Board shall submit to the Department and make  
26 available to the public the results of each periodic independent evaluation conducted  
27 under this section.

28 **§ 120X.37 Patents, copyrights, trademarks, information, publications, and product**  
29 **formulations.**

30 Patents, copyrights, trademarks, information, publications, and product formulations  
31 developed through the use of funds received by the Board under this Part shall be the  
32 property of the U.S. Government, as represented by the Board, and shall, along with  
33 any rents, royalties, residual payments, or other income from the rental, sales, leasing,  
34 franchising, or other uses of such patents, copyrights, trademarks, information,  
35 publications, or product formulations, inure to the benefit of the Board; shall be  
36 considered income subject to the same fiscal, budget, and audit controls as other funds  
37 of the Board; and may be licensed subject to approval by the Department. Upon  
38 termination of this Part, § 120X.48 shall apply to determine disposition of all such  
39 property.

1 **§ 120X.38 Books and records.**

2 Each domestic producer and importer shall maintain and make available for inspection  
3 by the Department such books and records as are necessary to carry out the provisions  
4 of this part, any regulations issued under this part, including such records as are  
5 necessary to verify any reports required. Such records shall be retained for at least two  
6 years beyond the fiscal period of their applicability.

7 **§ 120X.39 Confidentiality of information.**

8 All information obtained from books, records, or reports under the Act and this part shall  
9 be kept confidential by all persons, including all employees and former employees of the  
10 Board, all officers and employees and former officers and employees of contracting and  
11 subcontracting agencies or agreeing parties having access to such information. Such  
12 information shall not be available to Board Members, domestic producers, or importers.  
13 Only those persons having a specific need for such information to administer the  
14 provisions of this Part shall have access to such information. Only such information as  
15 the Secretary deems relevant shall be disclosed, and only in a judicial proceeding or  
16 administrative hearing involving this subpart brought at the direction of, or on the  
17 request of, the Secretary, or to which the Secretary or any officer of the United States is  
18 a party. Nothing in this section shall be deemed to prohibit:

19 (a) The issuance of general statements based upon the reports of the number of  
20 persons subject to this Part or statistical data collected therefrom, which statements do  
21 not identify the information furnished by any person; and

22 (b) The publication, by direction of the Secretary, of the name of any person who has  
23 been adjudged to have violated this part, together with a statement of the particular  
24 provisions of this part violated by such person.

25 **§ 120X.40 Right of the Secretary.**

26 All fiscal matters, programs, plans, or projects, rules or regulations, reports, or other  
27 substantive actions proposed and prepared by the Board shall be submitted to the  
28 Secretary for approval.

29 **§ 120X.41 Referenda.**

30 (a) Initial Referendum. The Order shall not become effective with regard to the  
31 collection of assessments unless—

32 (1) the Order is approved by a majority of the aggregate number of domestic  
33 producers and importers voting, who represent a majority of volume of Citrus  
34 represented in the referendum who, [during a representative period determined by the  
35 Secretary], and which voters are engaged in the production of Citrus intended for  
36 processing or the importation of Citrus.



1 (2) the initial assessment at a rate authorized under section 120X.39 is also  
2 approved by a majority of the aggregate number of domestic producers of citrus  
3 intended for processing and importers of citrus products voting on such authorized  
4 assessment rate for promotion or information. The aggregate majority shall also  
5 represent a majority of volume of Citrus represented in the referendum who, during a  
6 representative period determined by the Secretary, are engaged in the production of  
7 Citrus intended for processing or the importation of Citrus products.

8 Subsequent referenda. Five years after the initial meeting of the Board, the Department  
9 shall hold a referendum to determine whether domestic producers of Citrus and  
10 importers of Citrus favor the continuation of the Order. Thereafter, the Department shall  
11 conduct a referendum at least every [five] years. The Order shall continue if it is  
12 favored by persons voting for approval that represent a majority of volume of Citrus  
13 represented in the referendum who, during a representative period determined by the  
14 Secretary, are engaged in the production or importation of Citrus. The Department will  
15 also conduct a referendum if requested by the Board or if 10 percent or more of all non-  
16 exempt, domestic producers and importers of Citrus request the Department to hold a  
17 referendum. In addition, the Department may hold a referendum at any time.

#### 18 **§ 120X.42 Suspension and termination.**

19 (b) The Secretary may suspend or terminate this Part or a provision thereof if the  
20 Department finds that the provision does not effectuate the purposes of the Act.

21 (c) The Secretary may suspend or terminate this Part at the end of the marketing year  
22 whenever the Secretary determines that the suspension or termination is approved or  
23 favored by domestic producers and importers who represent a majority of the volume  
24 of Citrus represented in the referendum voting who, during a representative period  
25 determined by the Department, have been engaged in the domestic production or  
26 importation of Citrus.

27 (d) If, as a result of a referendum the Secretary determines that this subpart is not  
28 approved, the Department shall:

29 (1) Not later than 180 days after making the determination, suspend or terminate, as  
30 the case may be, collection of assessments under this Part; and

31 (2) As soon as practical, suspend or terminate, as the case may be, activities under  
32 this Part in an orderly manner.

#### 33 **§ 120X.43 Proceedings after termination.**

34 (a) Upon the termination of this subpart, the Board shall recommend to the Department  
35 not more than five of its members to serve as trustees for the purpose of liquidating the  
36 affairs of the Board. Such persons, upon designation by the Department, shall become  
37 trustees of all of the funds and property then in the possession or under control of the  
38 Board, including claims for any funds unpaid or property not delivered, or any other  
39 claim existing at the time of such termination.

40 (b) The said trustees shall:



- 1 (1) Continue in such capacity until discharged by the Department;  
2 (2) Carry out the obligations of the Board under any contracts or agreements  
3 entered into pursuant to the Order;  
4 (3) From time to time, account for all receipts and disbursements and deliver all  
5 property on hand, together with all books and records of the Board and the trustees, to  
6 such person or persons as the Department may direct; and  
7 (4) Upon request of the Department, execute such assignments or other instruments  
8 necessary and appropriate to vest in such person's title and right to all funds, property  
9 and claims vested in the Board or the trustees pursuant to the Order.

10 (c) Any person to whom funds, property or claims have been transferred or delivered  
11 pursuant to the Order shall be subject to the same obligations imposed upon the Board  
12 and upon the trustees.

13 (d) Any residual funds not required to defray the necessary expenses of liquidation  
14 shall be turned over to the Department to be disposed of, to the extent practical, to one  
15 or more Citrus industry organizations in the interest of continuing Citrus promotion,  
16 research, and information programs.

17 **§ 120X.44 Effect of termination or amendment.**

18 Unless otherwise expressly provided by the Department, the termination or amendment  
19 of this part or any subpart thereof, shall not:

20 (a) Affect or waive any right, duty, obligation or liability which shall have arisen or which  
21 may thereafter arise in connection with any provision of this part; or

22 (b) Release or extinguish any violation of this part; or

23 (c) Affect or impair any rights or remedies of the United States, or of the Department, or  
24 of any other persons with respect to any such violation.

25 **§ 120X.45 Personal liability.**

26 No member or employee of the Board shall be held personally responsible, either  
27 individually or jointly with others, in any way whatsoever, to any person for errors in  
28 judgment, mistakes, or other acts, either of commission or omission, as such member or  
29 employee, except for acts of dishonesty or willful misconduct.

30 **§ 120X.46 Separability.**

31 If any provision of this subpart is declared invalid or the applicability thereof to any  
32 person or circumstances is held invalid, the validity of the remainder of this subpart or  
33 the applicability thereof to other persons or circumstances shall not be affected thereby.

1 **§ 120X.47 Amendments.**

2 Amendments to this subpart may be proposed from time to time by the Board or by any  
3 interested person affected by the provisions of the Act, including the Department.

4 **§ 120X.48 OMB control number.**

5 The control numbers assigned to the information collection requirements of this part by  
6 the Office of Management and Budget pursuant to the Paperwork Reduction Act of  
7 1995, 44 U.S.C. chapter 35, are OMB control number \_\_\_\_\_ and OMB  
8 control number \_\_\_\_\_.

DRAFT

**Imported Orange Juice  
(January – December 2019)  
Schedule 1**

Country	Total OJ Consumptive Use (SSE gallons)	Percent of Total
Argentina	42,905	0.01%
Australia	6,879	0.00%
Belize	2,327,934	0.51%
Brazil	242,385,139	52.75%
Canada	133,564	0.03%
Chile	1,195	0.00%
Costa Rica	27,353,038	5.95%
Cyprus	38,604	0.01%
Dominican Republic	663,638	0.14%
Egypt	2,138	0.00%
France	686	0.00%
Greece	1,509	0.00%
Italy	735,236	0.16%
Latvia	9,983	0.00%
Mexico	184,666,362	40.19%
Phillippines	725	0.00%
Poland	5,578	0.00%
Rep. of Korea	488	0.00%
Rep. of South Africa	752,724	0.16%
Spain	115,413	0.03%
Switzerland	165,942	0.04%
Taiwan	2,489	0.00%
Thailand	2,691	0.00%
Trinidad/Tobago	9,038	0.00%
Turkey	7,105	0.00%
U Arab Emirates	5,340	0.00%
Ukraine	3,163	0.00%
Uruguay	47,428	0.01%
<b>TOTAL</b>	<b>459,486,935</b>	

Source: FDOC Economic & Market Research Report No. IM-OJ-19-12

## Membership of the Orange Juice Promotion, Research and Information Board

### Schedule 2

Orange Juice Availability US in millions SSE gallons						
Florida Season	Florida Production	Other US Production	Brazil	Mexico	Costa Rica	Total Available
2018-19	396	56	242	185	27	906
2017-18	NA	NA	NA	NA	NA	NA
2016-17	388	34	236	174	22	854
2015-16	447	51	234	141	33	906
2014-15	547	43	244	125	19	978
2013-14	623	42	296	120	28	1109
Average	480	45	250	149	26	951
Percent of Total	51%	5%	26%	16%	3%	

Group	Number of Members
Florida Producers	6
Importers and/or National Brand Marketers	5
<b>Total</b>	<b>11</b>