Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

RIN 0584–AC30

Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Bloodwork Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend regulations governing the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) to provide that hematological tests for anemia no longer be a mandatory part of each WIC applicant's certification intake process, so long as at least one nutrition risk factor is present for the applicant. This proposed rule would allow the State agency the discretion to obtain such tests at certification or within 90 days of the date of certification. Such tests would be used for the purposes of assessing nutritional status, providing nutrition education, further tailoring food packages to meet nutritional needs, and referring to appropriate health and social services in the community. The proposed revisions to current WIC Program regulations will accommodate a changing health care environment; facilitate improved coordination with other health programs serving WIC applicants; minimize potentially repetitive, costly, and invasive blood testing procedures; reduce inconvenience to applicants, and expedite services to needy individuals applying for WIC Program benefits.

DATES: To be assured of consideration, comments must be postmarked on or before January 19, 1999.

ADDRESSES: Comments should be sent to Ronald J. Vogel, Acting Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 540, Alexandria, Virginia 22302, (703) 305–2730. All written comments will be available for public inspection during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at the above-noted address.

FOR FURTHER INFORMATION CONTACT: Barbara Hallman at (703) 305–2730 during regular business hours (8:30 a.m. to 5 p.m.) Monday through Friday.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Pursuant to that review, Samuel Chambers, Jr., Acting Administrator of the Food and Nutrition Service, has certified that this rule will not have a significant impact on a substantial number of small entities. State and local agencies and participants would be most affected by this proposed rule. This proposal would provide State and local agencies with increased flexibility in meeting certification requirements for the Program. Participants and applicants would also be affected by changes in the certification process which should result in expedited receipt of program services.

Paperwork Reduction Act

This proposed rule imposes no new reporting or recordkeeping requirements which are subject to review by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995.

Executive Order 12372

The Special Supplemental Nutrition Program for Women, Infants and Children (WIC) is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557. For reasons set forth in the final rule in 7 CFR part 3015, subpart V, and related notice (48 FR 29115), this program is included in the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12998

This proposed rule has been reviewed under Executive Order 12998, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the **EFFECTIVE DATE** paragraph of this preamble. Prior to any judicial challenge to the application of the provisions of this rule, all applicable administrative procedures must be exhausted.

Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, the Food and Nutrition Service generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local or tribal governments, in the aggregate, or the private sector, of $100 million or more in any one year. When such a statement is required under section 202 of the UMRA, section 205 generally requires the Food and Nutrition Service to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objective of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of $100 million or more in any one year. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Background

The Department reassesses WIC Program regulations and operations on an ongoing basis to ensure the continuing efficiency and effectiveness of the program. The subject of blood testing requirements has repeatedly been identified as warranting consideration for change based on frequent expressions of concern from the WIC community, including health

and medical officials at both the State and local levels. Numerous concerns have been brought to the Department's attention on the WIC Program's current blood test requirements, which may have the consequences of delaying enrollment of WIC applicants, duplicating effort, and creating unnecessary administrative expense, and hardship to applicants.

Three specific concerns regarding changes in the delivery and operation of health care also compel the Department's reassessment of the blood testing requirements. First, WIC blood tests coincide with WIC certification periods, thus, the schedule of blood tests required at WIC certification does not generally correspond with State, local, and generally accepted periodicity schedules and guidelines. The Department has been informed that many health programs, as cost containment measures, are commonly limiting blood test screening to a specified minimum seen as medically necessary, consistent with State, local, and generally accepted guidelines and other auxiliary health programs such as lead poisoning prevention programs or Early and Periodic, Screening, Diagnosis and Treatment programs. Health care providers have expressed concerns to the Department that the WIC Program's certification schedule, of which blood testing is a mandatory part, is creating a barrier to public health care coordination by artificially dictating periodicity for hematological testing, rather than conforming to standard clinical practice used by the State and local health care system.

Second, the move towards managed care programs as the primary source of health care has affected the ability of WIC local agencies to obtain blood test referral data in a timeframe that coincides with WIC certification periods. The source of health care for WIC participants and others has been shifting in many States from local health department clinics, many of which collected bloodwork to meet WIC's needs on site at the WIC clinic, to managed care settings in which blood tests are performed off site from the WIC clinic and thus provided to WIC on a referral basis.

Third, bloodwork data obtained from referral sources is becoming more frequently the norm in WIC because of Federal, State and local policies limiting blood handling only to persons or laboratories with specified medical credentials, thereby precluding some WIC local agencies from collecting or analyzing blood samples.

The Proposal

In response to these major concerns, the Department is proposing changes in the timing of anemia tests, extending the age of the data that may be used, clarifying allowable costs for anemia tests, and making corresponding changes to State Plan requirements.

These topics are discussed in greater detail below.

1. Hematological Tests for Anemia (§ 246.7 (e), (e)(1), and (e)(1) (i)–(ii))

Given the logistical difficulties of current bloodwork requirements described above, the Department is proposing that hematological tests for anemia no longer be a mandatory part of each WIC applicant's certification intake process as long as at least one nutrition risk factor is present for the applicant. However, given the importance of anemia testing in the target population and WIC's long and successful track record in reducing national rates of anemia, this rule proposes to require such a test but would permit its completion within 90 days of the date of certification, except as noted for infants as discussed later in this preamble. The test data would be used for the critical purposes of appropriately assessing an applicant's nutritional status, providing nutrition education, tailoring food packages and referring to health care or social services. Although the Department considers the collection of blood test data at certification as optimal to assist with performing the most timely and complete nutrition assessment and providing appropriate nutrition education and referrals, this proposal addresses the practical realities faced by State agencies by providing flexibility to obtain this data up to 90 days after the certification intake process. State agencies would, however, be required to provide for blood tests at certification for income eligible applicants with no other documented risk conditions (with the exception of presumptively eligible pregnant women as discussed below) in order to determine if they are at nutritional risk due to anemia.

2. Timing of Hematological Tests (§ 246.7 (e), (e)(1), and (e)(1) (i)–(ii))

Age of Bloodwork Data

The Department has received comments from State agencies that the allowable age for bloodwork data limits local agency flexibility to coordinate with other health care programs. To address the concerns with the age of bloodwork data, this proposed rulemaking would expand the current regulatory standard from 60 days to 90 days as the maximum age of bloodwork data used to assess nutritional risk. The proposed 90-day limit should allow additional flexibility to coordinate referral data with other health care programs, yet at the same time assure that the data accurately represent the applicant's health status. This rulemaking would assist in assuring this by continuing to require that such data are reflective of the categorical nutritional status/risk of women applicants. Thus, for a pregnant woman the test must be conducted during pregnancy, and for a breastfeeding or a postpartum woman the test must be conducted after the termination of their pregnancy.

The categorical restrictions do not apply to infants and children. As such, State agencies may use bloodwork data obtained from an infant to certify a child applicant, provided such data is not more than 90 days old. For example, bloodwork data obtained when the infant was 10 months old may be used to certify a 13-month old child.

Timing of Bloodwork

This proposed rule is intended to allow sufficient flexibility to States to accommodate generally accepted recommendations of maternal and child health and medical experts. In April 1998, the Centers for Disease Control and Prevention (CDC) issued a document titled, ''Recommendations to Prevent and Control Iron Deficiency in the United States.'' These recommendations are intended to guide primary health care providers in preventing and controlling iron deficiency in infants, preschool children, and women of childbearing age, particularly pregnant women—populations served by the WIC Program which are at high risk for iron-deficiency anemia. As such, the CDC recommendations stipulate that blood test results should be obtained at the earliest opportunity during pregnancy, from 4 to 6 weeks after delivery for postpartum and breastfeeding women, between 9 and 12 months of age for infants, and 6 months later (15–18 months) and annually from ages 2 to 5 years for children. This rule would provide States with the flexibility to conform to these recommendations to better assure that WIC staff have blood test data reflecting current status at appropriate times during the certification period yet provide that WIC participants receive timely nutrition care and referral during their certification periods.

For pregnant, breastfeeding, and postpartum women, a hematological test for anemia must be performed at

certification or within 90 days of the date of certification. The test may be from a referral source or may be conducted by WIC. The referral data may be up to 90 days old, so long as it is reflective of women applicants' categories, meaning the test must have been taken for pregnant women during pregnancy and for postpartum or breastfeeding women following termination of pregnancy.

Regarding pregnant women, current regulations at § 246.7(e)(1)(iii), which reflect WIC legislation, provide State agencies an additional flexibility by allowing them to presume that income-eligible pregnant women are nutritionally at risk and thus eligible to participate in the program. Presumptively eligible women can be certified immediately and can receive program benefits up until 60 days from the date they were certified, by which time a nutrition assessment must be conducted to establish nutritional risk. If the subsequent assessment determines that the woman does not meet nutritional risk criteria, the certification terminates on the date of the determination, or 60 days after the participant was certified, whichever is sooner. This proposed rule would eliminate the bloodwork requirement at certification or within the 60-day presumptive certification period for these women, further easing burden. However, under this proposal, if the nutrition assessment performed during the 60-day period does not include anemia testing and does not identify any other qualifying risk factor, a blood test must be performed or obtained from referral sources before that 60-day period elapses to permit continuity of service for women found to be anemic. This requirement enables such pregnant women to have the temporary presumptive certification extended to a full certification period without disruption to continued receipt of WIC benefits, should they be found anemic.

Consistent with the new CDC recommendations, all infants 9 months of age or older must have a hematological test for anemia between 9 and 12 months of age. Such test may be performed by the WIC agency or obtained from referral data. A blood test taken between 6 and 9 months of age may be used to meet the test requirement, however State agencies are encouraged to obtain blood test data between 9 and 12 months of age as recommended by CDC. In addition, recognizing that the CDC guidelines state that blood tests for anemia for infants under 6 months of age may be appropriate for preterm infants and low birthweight infants who were not fed iron-fortified formula, this proposal would permit, but not require, blood tests for such infants.

The Department also wishes to clarify that in cases where the State agency has opted to certify infants under 6 months of age up to their first birthday, as permitted in § 246.7(g)(1)(iv), such infants must receive a blood test between 9 and 12 months of age. The extension of the certification period up to the first birthday is only permitted provided the quality and accessibility of health care services are not diminished. A blood test for anemia is considered a critical component of health care services and thus, must be performed or obtained from referral services. As stated earlier in this preamble, the CDC recommendations identify the period between 9 and 12 months as the optimal timeframe for anemia testing for infants. Also considered as a critical component of health care services during the one-year period, is securing current length and weight measurements in order to assess the infant's growth.

State agencies that certify infants at 6 month intervals must ensure that infants 9 months of age or older receive a blood test. A blood test taken at 6 months of age may be used to meet the infant blood test requirement, because such data would fall within the 90-day age of bloodwork data timeframe.

For children, current provisions at Section 246.7(e)(1) allow State and local agency discretion to waive the blood test for children who were determined to be within the normal range at their last certification period, provided that such test is performed at least once every 12 months. The new CDC guidelines recommend a blood test between 9 and 12 months of age, 6 months thereafter (around 15 to 18 months of age), and annually thereafter for each year from ages 2 to 5 years of age. Thus, this rule proposes that State agencies perform a blood test between 12 and 24 months of age to permit them full flexibility to accommodate arrangements for bloodwork for these children within the CDC recommended 6-month timeframe following their infant bloodwork. While for most children, this would fall between 15 and 18 months of age, this proposal would expand the allowable timeframe to accommodate practical logistical difficulties and circumstances where, for example, there was no previous bloodwork during infancy, it was taken during infancy at a time other than the recommended 9 to 12 month period, or other logistical complications which made bloodwork during the optimal 15 to 18 month period infeasible. Nevertheless, because pediatric health authorities generally recommend that children have a blood test during the most vulnerable period of 15 to 18 months, when anemia is more likely to become manifest, State agencies are expected to make every effort to coordinate the scheduling of bloodwork for children between 12 and 24 months old within the recommended 15 to 18 month timeframe.

As for women, the referral bloodwork data allowed to be used to certify children and infants can be up to 90 days old. However, although bloodwork data obtained when an infant was between 9 and 12 months old may be used to certify a 12-month old child, such data cannot be used to fulfill the blood test that is required between 12 and 24 months of age nor can it be used to waive a blood test. Children who had an inadequate iron intake during infancy are at greatest risk of developing anemia between 12 and 24 months of age. Thus, it is critical that children receive a blood test for anemia during the period of 12–24 months of age. As such, the current provision at § 245.7(e) has been modified to state that for children ages two and older who were determined to be within the normal range at their last certification, the blood test may be waived, provided that a blood test is performed at least once every 12 months.

Other Nutrition Assessment Data

The Department again emphasizes that this proposal provides for flexibility only in the timing of the collection and age of anemia blood test data: If not completed at certification (using current data, or data up to 90 days old), it must be completed within 90 days of certification except as noted for infants as discussed earlier in this preamble. All other nutrition assessment data, e.g., height and weight, and dietary and medical assessment data, must be collected as currently required; namely: It must be collected at certification for breastfeeding and postpartum women, infants and children, and, for pregnant women unless the State agency has opted to implement presumptive eligibility for pregnant women. State agencies implementing presumptive eligibility must still collect height, weight and dietary and medical assessment data for pregnant women within 60 days of certification to determine eligibility. The Department considers the effort at certification to measure and record height or length and weight and collect dietary and other medical data for all applicants to be minimal but necessary during the intake process, and not subject to the difficulties related to bloodwork

assessment. These timely measurements and data are fundamental to the assessment of nutritional risk of all categories of applicants.

3. Allowable Costs for Anemia Tests (§ 246.14(c)(2) (i)–(iv))

Current WIC Program regulations (§ 246.14(c)(2) (i)–(iv)) stipulate that fees, equipment, salary and other costs associated with the collection of hematological data to test for anemia for certification purposes are allowable Program costs. This proposed rule would specify that collection of hematological data is not only for certification purposes, but also for health assessment and monitoring purposes. This proposal would also allow State agencies to perform one additional hematological test as medically necessary in follow-up to a finding of anemia within a certification period. The Department proposes changes in § 246.14(c)(2) and (c)(2) (i)–(iv) to clarify that this follow-up test for nutrition assessment purposes is an allowable WIC cost when deemed necessary for health monitoring as determined by the WIC competent professional authority (CPA).

While this rule would permit WIC to pay for one follow-up test, State agencies are encouraged to weigh the cost effectiveness of WIC expenditures for such purposes against other competing and critical WIC needs. The Department generally believes that follow up monitoring of blood values of persons with anemia is largely the responsibility of health care providers, and should be treated as a medical, rather than solely a nutritional, concern. As such, the Department encourages State agencies to explore other locally available sources for ongoing health care and assessments for WIC participants with anemia.

4. State Plan (§ 246.4(a)(11)(i))

State agencies must incorporate their blood test data requirements and timeframes in detail in the ''Certification Procedures'' section of their State Plan Procedure Manual.

Appropriate procedures that must be followed when blood test data are obtained include: (1) Make notations in the participant's file with respect to nutrition risk factors listed and priority as appropriate; (2) inform the woman or parent/guardian of the outcome and meaning of the blood test if the results show anemia; (3) provide follow-up nutrition education, if appropriate; (4) make adjustments in the food package, as appropriate; and (5) make referrals to health care or social services, as appropriate.

List of Subjects in 7 CFR Part 246

Administrative practice and procedure, Civil rights, Food assistance programs, Food and Nutrition Service, Food donations, Grant programs-health, Grant programs—social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Penalties, Reporting and recordkeeping requirements, Public assistance programs, WIC, Women.

For the reasons set forth in the preamble, 7 CFR part 246 is proposed to be amended as follows:

PART 246—SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN

1. The authority citation for part 246 continues to read as follows:

Authority: 42 U.S.C. 1786.

2. In § 246.4, paragraph (a)(11)(i) is revised to read as follows:

§ 246.4 State Plan.

(a) * * *

(11) * * *

(i) Certification procedures, including a list of the specific nutritional risk criteria by priority level which cites conditions and indices to be used to determine a person's nutritional risk, hematological data requirements including timeframes for the collection of such data, the State agency's income guidelines for Program eligibility, and any adjustments to the participant priority system made pursuant to § 246.7(e)(4) to accommodate high-risk postpartum women or the addition of Priority VII;

* * * * *

2. In § 246.7:

a. The introductory text of paragraph (e) is revised;

b. The introductory text of paragraph (e)(1) is removed;

c. Paragraphs (e)(1)(i), (e)(1)(ii), (e)(1)(iii), and (e)(1)(iv) are redesignated as paragraphs (e)(1)(iii), (e)(1)(iv), (e)(1)(v), and (e)(1)(vi) respectively;

d. New paragraphs (e)(1)(i) and (e)(1)(ii) are added;

e. Newly redesignated paragraphs (e)(1)(iii), (e)(1)(iv) and (e)(1)(vi) are amended by adding a heading; and

f. Newly redesignated paragraphs (e)(1)(v) is revised.

The revisions and additions read as follows:

§ 246.7 Certification of participants.

* * * * *

(e) *Nutritional risk.* To be certified as eligible for the Program, applicants who meet the Program's eligibility standards specified in paragraph (c) of this section must be determined to be at nutritional risk. A competent professional authority on the staff of the local agency shall determine if a person is at nutritional risk through a medical and/or nutritional assessment. This determination may be based on referral data submitted by a competent professional authority not on the staff of the local agency. Nutritional risk data shall be documented in the participant's file and shall be used to assess an applicant's nutritional status and risk, tailor the food package to address nutritional needs, design appropriate nutrition education, and make referrals to health and social services for follow-up, as necessary and appropriate. Except as stated in paragraph (e)(1)(v) of this section, at least one nutritional risk must be documented at the time of certification in order for an income eligible applicant to receive WIC benefits.

(1) *Determination of nutritional risk.*—(i) *Required nutritional risk data.* At a minimum, height or length and weight shall be measured and documented in the applicant's file at the time of certification. In addition, a hematological test for anemia such as a hemoglobin, hematocrit, or free erythrocyte protoporphyrin test shall be performed at certification or within 90 days of the date of certification. However, such hematological tests are not required, but are permitted, for infants under nine months of age. All infants nine months of age and older (who have not already had a hematological test performed or obtained, between the ages of six and nine months, by a competent professional authority), shall between nine and twelve months of age have a hematological test performed or obtained from referral sources. This hematological test does not have to occur within 90 days of the date of certification. Only one test is required for children between 12 and 24 months of age. At the State or local agency's discretion, the hematological test is not required for children ages two and older who were determined to be within the normal range at their last certification. However, the hematological test shall be performed on such children at least once every 12 months. Hematological test data submitted by a competent professional authority not on the staff of the local agency may be used to establish nutritional risk. Height or length and weight measurements and, with the exceptions specified in this paragraph, hematological tests, shall be obtained for all participants, including those who are determined at nutritional

risk based solely on the established nutritional risk status of another person, as provided in paragraphs (e)(1)(iv) and (e)(1)(v) of this section.

(ii) *Timing of nutritional risk data.*

(A) *Weight and height or length.* Weight and height or length shall be measured for program participation at the time of certification.

(B) *Hematological test for anemia.* For pregnant, breastfeeding, and postpartum women, and child applicants, the hematological test for anemia shall be performed or obtained from referral sources at the time of certification or within 90 days of the date of certification. However, a State agency cannot use hematological data obtained from referral sources that is taken more than 90 days prior to the date of certification for program participation.

Infants nine months of age and older (who have not already had a hematological test performed, between six and nine months of age, by a competent professional authority or obtained from referral sources), shall between nine and twelve months of age have a hematological test performed or obtained from referral sources. Such a test may be performed more than 90 days after the date of certification. For pregnant women, the hematological test for anemia shall be performed during their pregnancy. For persons certified as postpartum or breastfeeding women, the hematological test for anemia shall be performed after the termination of their pregnancy. The participant or parent/guardian shall be informed of the test results when there is a finding of anemia, and notations reflecting the outcome of the tests shall be made in the participant's file. Nutrition education, food package tailoring, and referral services shall be provided to the participant or parent/guardian, as necessary and appropriate.

(iii) *Breastfeeding dyads.* * * *

(iv) *Infants born to WIC mothers or women who were eligible to participate in WIC.* * * *

(v) *Presumptive eligibility for pregnant women.* A pregnant woman who meets the income eligibility standards may be considered presumptively eligible to participate in the program, and may be certified immediately without an evaluation of nutritional risk for a period up to 60 days. A nutritional risk evaluation of such woman shall be completed not later than 60 days after the woman is certified for participation. A hematological test for anemia is not required to be performed within the 60-day period unless the nutrition risk evaluation performed does not identify a risk factor. If no risk factor is identified, a hematological test for anemia must be performed or obtained from referral sources before the 60-day period elapses. Under the subsequent determination process, if the woman does not meet any nutritional risk criteria, including anemia criteria, the woman shall be determined ineligible and may not participate in the program for the reference pregnancy after the date of the determination, unless she subsequently reapplies for program benefits and is found to be both income eligible and at nutritional risk. Notification of the ineligibility determination shall be given in accordance with paragraph (j)(5) of this section. In addition, if the nutritional risk evaluation is not completed within the 60-day timeframe, the woman's participation shall end. As set forth in paragraph (j)(8) of this section, notification must be given prior to expiration of the certification period.

(vi) *Regression.* * * *

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3. In § 246.14, paragraph (c)(2) is revised to read as follows:

§ 246.14 Program costs.

* * * * *

(c) * * *

(2) The cost of Program certification and nutrition assessment procedures, including the following:

(i) Laboratory fees incurred for up to two hematological tests for anemia per individual per certification period conducted to assess nutritional status and determine whether such individual is at nutritional risk. The first test shall be to determine anemia status. The second test may be performed only in follow up to a finding of anemia when deemed necessary for health monitoring as determined by the WIC State agency;

(ii) Expendable medical supplies necessary to assess nutritional status and to determine whether persons are at nutritional risk;

(iii) In connection with nutrition assessment and nutritional risk determinations, medical equipment used for taking anthropometric measurements, such as scales, measuring boards, and skin fold calipers; and for blood analysis to detect anemia, such as spectrophotometers, hematofluorometers and centrifuges; and

(iv) Salary and other costs for time spent on nutrition assessment and certification.

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Dated: October 2, 1998.

Samuel Chambers, Jr.,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 98–30917 Filed 11–18–98; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 956

[Docket Nos. 98AMA–FV–956–1; FV98–956–1]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Secretary's Decision and Referendum Order on Proposed Amendment of Marketing Agreement and Order No. 956

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This decision proposes amendments to the marketing agreement and order (order) for sweet onions and provides Walla Walla Sweet Onion producers with the opportunity to vote in a referendum to determine if they favor the proposed amendments. The proposed amendments were submitted by the Walla Walla Sweet Onion Committee (committee), the agency responsible for local administration of the order. The proposed changes would broaden the scope of the order by adding authority for grade, size, quality, maturity, and pack regulations, mandatory inspection, marketing policy statements, and minimum quantity exemptions. In addition, a proposal is included to make a minor change in the committee's name. These changes are being proposed to improve the operation and functioning of the Walla Walla Sweet Onion marketing order program.

DATES: The referendum shall be conducted from November 25, 1998, through December 10, 1998. The representative period for the purpose of the referendum herein ordered is June 1, 1997, through May 31, 1998.

FOR FURTHER INFORMATION CONTACT: Robert Curry, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Northwest Marketing Field Office, 1220 S.W. Third Avenue, room 369, Portland, Oregon 97204; telephone: (503) 326–2724, or Fax: (503) 326–7440; or Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, Fruit and