assessment rate increases the burden on handlers, and may increase the burden on producers. In addition, the Committee's meeting was widely publicized throughout the California olive industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 12, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on California olive handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2001 fiscal period begins on January 1, 2001, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable olives handled during such fiscal period; (2) the action increases the assessment rate for assessable olives beginning with the 2001 fiscal period; (3) this action was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 932 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 932.230 is revised to read as follows:

§ 932.230 Assessment rate.

On and after January 1, 2001, an assessment rate of $27.90 per ton is established for California olives.

Dated: February 28, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–5320 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 956

[Docket No. FV00–956–1 FIR]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Revision of Administrative Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule modifying the handler assessment and reporting requirements under the Walla Walla sweet onion marketing order. The marketing order regulates the handling of sweet onions grown in the Walla Walla Valley and is administered locally by the Walla Walla Sweet Onion Marketing Committee (Committee). For sweet onions handled during the period September 1 through May 31 of each fiscal period, this rule continues in effect dates by which handlers must pay assessments and furnish reports to the Committee that reflect new cultural and storage practices that have extended the traditional mid-summer marketing season.

EFFECTIVE DATE: April 5, 2001.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 956, as amended (7 CFR part 956), regulating the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule provides dates by which handlers must pay assessments and furnish reports to the Committee that reflect new cultural and storage practices for sweet onions handled during the period September 1 through May 31 of each fiscal period. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Section 956.41 of the order provides the Committee with the authority to establish an annual budget of expenditures and § 956.42 provides authority for the Committee to levy assessments upon handlers of Walla Walla sweet onions to provide adequate funds to defray such expenditures. Section 956.202 establishes the current assessment rate of $0.21 per 50-pound bag of Walla Walla sweet onions handled. Section 956.42 also provides the Committee with the authority to impose an interest charge on any handler who fails to pay any assessment in a timely manner, and § 956.142 of the order's administrative rules and regulations establishes the rate of interest and the dates such interest charges begin to accrue. Section 956.80 establishes the authority for the Committee to require handler reports, while § 956.180 provides the rules and regulations necessary for the Committee to implement and administer such reporting requirements.

For sweet onions handled on or after September 1, this rule continues in effect dates by which handlers must pay assessments and furnish reports to the Committee. These changes recognize new cultural and storage practices that have extended the traditional mid-summer marketing season. The changes provide dates by which handlers must pay assessments and submit reports on shipments made in September or later. This rule was unanimously recommended by the Committee on August 15, 2000.

Sections 956.142 (interest charges) and 956.180 (reports) were established in August 1996 to foster prompt assessment payments and to ensure that adequate funds would be available to cover budgeted expenses incurred by the Committee under the order. Section 956.180 establishes reporting requirements for providing the Committee with statistical information regarding total industry shipments and is used as a basis for assessment collection. This information also is useful for the development of a budget and in making marketing and promotion plans for the upcoming season. Section 956.142 establishes assessment due dates and an interest charge of 1.5 percent per month on any handler who fails to pay his or her assessments within thirty days of the due date.

Historically, Walla Walla sweet onions have been planted in the fall, then harvested and marketed from late June to early August. Due to the short shelf life of this, traditionally non-storage, summer onion, the marketing season has closely followed the annual harvest. However, recent changes in cultural and storage practices within the Walla Walla sweet onion industry are lengthening the marketing season for some of the sweet onions produced in the Walla Walla Valley. A few producers have been planting sweet onions in the spring, thereby extending the traditional mid-summer harvest into late summer or early fall. In addition, with the recent introduction of Controlled Atmosphere (CA) storage, the potential now exists for extending the marketing season further into the fall and early winter season.

By extending the due dates for assessments and reports on sweet onions handled on or after September 1, this action provides Walla Walla sweet onion handlers more time to comply with these requirements. This will enable them to take advantage of the expanding marketing season. The Committee will continue to require that assessments be paid and reports submitted by September 1 for onions handled in June, July, and August.

For assessments due on sweet onions handled prior to September 1, the monthly interest charge of 1.5 percent will continue to accrue after September 30. For assessments due on sweet onions handled during the period September 1 through May 31 of each fiscal period, interest charges will begin accruing 30 days after the handler's report of shipments is due.

Handlers marketing their sweet onions prior to September 1 will continue to submit reports (Committee Form No. 1) showing weekly and seasonal totals by September 1, and assessments for their shipments to the Committee no later than September 30 to avoid late payment interest charges. For shipments during the period September 1 through May 31 of each fiscal period, handlers will submit a separate report, along with the appropriate assessment payment, for each monthly period that they continue to make shipments. Such reports will be due at the office of the Committee no later than 30 days following the end of the month in which shipments were made. Assessments will be due within thirty (30) days of the last day of the month in which the shipments are made. For example, a handler shipping Walla Walla sweet onions anytime during the month of September would furnish the shipment report to the Committee no later than October 30. In this example, the report would contain the number of 50-pound equivalents of Walla Walla sweet onions shipped by such handler during each week in September, along with the monthly total of shipments and a check for the appropriate assessment amount. This reporting and payment schedule continues for each monthly period Walla Walla sweet onions are handled after September 1.

With the introduction of spring planting and CA storage for Walla Walla sweet onions and the associated extension of the traditional marketing season, this action is necessary to ensure that adequate Committee operating funds are obtained in a timely manner, that producers and handlers are treated equitably and have the needed flexibility to produce and market their crop as they desire, and that consumers have an extended season in which to purchase Walla Walla sweet onions.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, the AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 30 handlers of Walla Walla sweet onions who are subject to regulation under the order and approximately 60 sweet onion producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000.

The Committee estimates that all of the handlers of Walla Walla sweet onions ship under $5,000,000 worth of sweet onions on an annual basis. In addition, based on acreage, production, and producer prices reported by the National Agricultural Statistics Service, and the total number of onion producers in the regulated production area, the average gross annual producer revenue from sweet onions was about $117,000 in 1999, the most recent year statistics are available. Based on this information, it can be concluded that the majority of Walla Walla sweet onion handlers and producers may be classified as small entities, excluding receipts from other sources.

Based on authority in §§ 956.42 and 956.80, the Committee unanimously recommended this action at a public meeting on August 15, 2000. Specifically, for sweet onions handled on or after September 1, this rule continues in effect dates by which handlers must pay assessments (§ 956.142) and furnish reports (§ 956.180) to the Committee. These changes are being made to recognize new cultural and storage practices that extend the traditional mid-summer marketing season to mid-winter, and provide handlers more time to pay assessments and file reports on these later shipments.

Regarding the impact of this action on affected entities, sweet onion handlers will not be forced into noncompliance with the order because they are now able to pay assessments and submit shipment reports later than was previously provided. When the previous deadlines were established, the Committee did not envision shipments being made in September or later. Walla Walla sweet onions have a relatively high market value, but generally must be harvested and sold within a short time period between late June and early August. With this extension in the marketing season, producers and handlers hope to increase their returns while providing consumers with unique, highly demanded sweet onions during a period of time when such onions were traditionally not available.

The Committee estimated that during the 2000 marketing season only a limited amount of sweet onions would be handled on or after September 1 and into early winter. The Committee has been informed, however, that an additional 1,300 acres of sweet onions may be planted for the 2001 marketing season, with many of the onions possibly going into CA storage. Approximately 800 acres of Walla Walla sweet onions were planted for the 2000 season.

The Committee discussed alternatives to the recommendation, including leaving the regulations unmodified. However, the Committee decided that it did not have the option of leaving the regulations unmodified because some handler assessment obligations are expected to accrue during the period September 1 through May 31 of each fiscal period. Another alternative discussed would have changed the regulations to require the submission of reports and assessments for the entire crop, regardless of when marketed, within 30 to 60 days of the date of shipment. The Committee rejected this option because it felt that the bulk of the Walla Walla sweet onion crop will continue to be marketed during the traditional mid-summer season, and it wants to ensure that an adequate income is received early in the fiscal period to offset expenditures. The fiscal period begins June 1 and ends May 31.

The Committee uses Form No. 1, Handler's Statement of Walla Walla Sweet Onion Shipments, for collecting assessments and statistical data. Prior to this action, this form was mailed to handlers in mid-August with the requirement that it be returned by September 1, and assessments were due within 30 days of September 1 to avoid imposition of the 1.5 percent per month interest charge. The Committee revised Form No. 1 to reflect the changes in handling practices and due dates.

The Committee estimates that only two of the currently regulated handlers in the Walla Walla sweet onion production area may initially ship sweet onions on or after September 1. The Committee also estimates that the revised Form No. 1 will continue to take approximately 25 minutes to complete. With only two handlers submitting reports on October 31 and possibly again on November 30, for example, the total additional burden on the industry for the information reporting requirements for sweet onions shipped on or after September 1 would approximate 100 minutes per year. Thus, while this rule will impose some additional reporting requirements, the burden is currently approved under OMB No. 0581–0078 by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The Agricultural Marketing Service has notified the Office of Management and Budget of this change in burden.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

The Committee's meeting was widely publicized throughout the Walla Walla sweet onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 15, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Further, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

An interim final rule concerning this action was published in the **Federal Register** on October 16, 2000. A copy of the rule was mailed to Committee staff, who handled the distribution of copies to Committee members and sweet onion producers and handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. The rule provided a 60-day comment period that ended December 15, 2000. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (65 FR 61080, October 16, 2000) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 956

Marketing agreements, Onions, Reporting and recordkeeping requirements.

PART 956—SWEET ONIONS GROWN IN THE WALLA WALLA VALLEY OF SOUTHEAST WASHINGTON AND NORTHEAST OREGON

Accordingly, the interim final rule amending 7 CFR part 956 which was published at 65 FR 61080 on October 16, 2000, is adopted as a final rule without change.

Dated: February 28, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–5318 Filed 3–5–01; 8:45 am]

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