



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 956

[Doc. No. AMS-SC-16-0116; SC17-956-1 FIR]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture is adopting, as a final rule, without change, an interim rule that implemented a recommendation from the Walla Walla Sweet Onion Marketing Committee (Committee) to decrease the assessment rate established for the 2017 and subsequent fiscal periods from \$0.22 to \$0.10 per 50-pound bag or equivalent of sweet onions handled. The Committee locally administers the marketing order and is comprised of producers and handlers of sweet onions operating within the area of production along with one public member. The interim rule was necessary to allow the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

DATES: Effective [INSERT DATE 1 DAY AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson or Gary Olson, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326-2724, Fax: (503) 326-7440, or E-mail: Teresa.Hutchinson@ams.usda.gov or GaryD.Olson@ams.usda.gov.

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following website:

<http://www.ams.usda.gov/rules-regulations/moa/small-businesses>; or by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Richard.Lower@ams.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 (USDA) is issuing this rule in conformance with Executive Orders 12866, 13771, 13563, and 13175.

This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled "Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs'" (February 2, 2017).

Under the order, Walla Walla sweet onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. Assessment rates issued under the order are intended to be applicable to all assessable Walla Walla sweet onions for the entire fiscal period and continue indefinitely until amended, suspended,

or terminated. The Committee's fiscal period begins on January 1 and ends on December 31.

In an interim rule published in the **Federal Register** on February 27, 2017, and effective on February 28, 2017 (82 FR 11789), § 956.202 was amended by decreasing the assessment rate established for Walla Walla sweet onions for the 2017 and subsequent fiscal periods from \$0.22 to \$0.10 per 50-pound bag or equivalent. The decrease in the assessment rate allows the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses 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.

There are 9 handlers of Walla Walla sweet onions subject to regulation under the order and approximately 30 producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration as those having annual receipts of less than \$7,500,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000 (13 CFR 121.201).

During the 2016 marketing year, the Committee reported that approximately 304,500 50-pound bags or equivalents of Walla Walla sweet onions were shipped into the fresh market. Based on information reported by USDA's Market News Service, the average 2016 marketing year f.o.b. shipping point price for the Walla Walla sweet onions was \$19.55 per 50-pound equivalent. Multiplying the \$19.55 average price by the shipment quantity of 304,500 50-pound equivalents yields an annual crop revenue estimate of \$5,952,975. The average annual revenue for each of the 9 handlers is therefore calculated to be \$661,442 (\$5,952,975 divided by 9), which is considerably less than the Small

Business Administration threshold of \$7,500,000.

Consequently, all of the Walla Walla sweet onion handlers could be classified as small entities.

In addition, based on information provided by the National Agricultural Statistics Service (NASS), the average producer price for Walla Walla sweet onions for the 2011 through 2015 marketing years is \$16.24 per 50-pound equivalent. NASS has not released data regarding the 2016 marketing year at this time. Multiplying the 2011-2015 marketing year average price of \$16.24 by the estimated 2017 marketing year shipments of 325,000 50-pound equivalents yields an annual crop revenue estimate of \$5,278,000. The estimated average annual revenue for each of the 30 producers is therefore calculated to be approximately \$175,933 (\$5,278,000 divided by 30), which is less than the Small Business Administration threshold of \$750,000. In view of the foregoing, the majority of Walla Walla sweet onion producers, and all of the Walla Walla sweet onion handlers, may be classified as small entities.

This rule continues in effect the action that decreased the assessment rate established for the Committee and collected from handlers for the 2017 and subsequent

fiscal periods from \$0.22 to \$0.10 per 50-pound bag or equivalent of Walla Walla sweet onions handled. The Committee also unanimously recommended 2017 expenditures of \$93,250. The assessment rate of \$0.10 is \$0.12 lower than the previously established assessment rate. Applying the \$0.10 per 50-pound bag or equivalent assessment rate to the Committee's 325,000 50-pound bag or equivalent crop estimate should provide \$32,500 in assessment income. Thus, income derived from handler assessments, along with interest, other income, and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. This action will allow the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

This rule continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers and may reduce the burden on producers.

In addition, 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 December 6, 2016, meeting was a public meeting, and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the OMB and assigned OMB No. 0581-0178, Vegetable and Specialty Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This action imposes no additional reporting or recordkeeping requirements on either small or large Walla Walla sweet onion 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.

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

Comments on the interim rule were required to be received on or before April 28, 2017. One comment was

received during the comment period from an individual who was outside of the regulated production area. The comment was generally opposed to all government regulation. In the comment, the commenter failed to specifically address any of the merits of the rule. Accordingly, no changes have been made to the rule, based on the comment received.

Therefore, for reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to:

<https://www.regulations.gov/document?D=AMS-SC-16-0116-0001>

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is hereby found that finalizing the interim rule, without change, as published in the **Federal Register** (82 FR 11789, February 27, 2017) 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 IN SOUTHEAST WASHINGTON AND NORTHEAST OREGON

Accordingly, the interim rule amending 7 CFR part 956, which was published at 82 FR 11789 on February 27, 2017, is adopted as final without change.

Dated: June 29, 2017

Bruce Summers
Acting Administrator
Agricultural Marketing Service

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