



Agricultural Marketing Service

7 CFR Part 956

[Doc. No. AMS-SC-24-0080]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Walla Walla Sweet Onion Marketing Committee (Committee) to decrease the assessment rate established for the 2025 and subsequent fiscal periods from \$0.20 to \$0.17 per 50-pound bag or equivalent for sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. The proposed assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments can be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237. Comments can also be sent to the Docket Clerk electronically by email: MarketingOrderComment@usda.gov or via the internet at: <https://www.regulations.gov>. Comments should reference the document number and the date and page number of this issue of the *Federal Register*. Comments submitted in response to this proposed rule will be included in the record and will be made available to the public and can be viewed at: <https://www.regulations.gov>. Please be advised that the

identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Virginia Tjemsland, Marketing Specialist, or Barry Broadbent, Chief, Northwest Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; telephone: (503) 326-2724; or email: Virginia.L.Tjemsland@usda.gov or Barry.Broadbent@usda.gov.

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-8085; or email: Antoinette.Carter@usda.gov.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Agreement and Order No. 956, both as amended (7 CFR part 956), regulating the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. Part 956 (referred to as 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 Committee locally administers the Order and is comprised of producers and handlers of Walla Walla sweet onions operating within the area of production, as well as a public member.

The Agricultural Marketing Service (AMS) is issuing this proposed rule in conformance with Executive Order 12866, as amended by Executive Order 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs,

harmonizing rules, and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This proposed rule has been reviewed under Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” which requires Federal agencies to consider whether their rulemaking actions would have Tribal implications. AMS has determined that this rulemaking is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

This proposed rule has been reviewed under Executive Order 12988, “Civil Justice Reform.” Under the Order now in effect, Walla Walla sweet onion handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate would be applicable to all assessable Walla Walla sweet onions for the 2025 fiscal period, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608(c)(15)(A) of the Act, any handler subject to an order may file with U.S. Department of Agriculture (USDA) 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. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA 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 USDA's ruling on the

petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule would decrease the assessment rate for Walla Walla sweet onions handled under the Order from \$0.20 per 50-pound bag or equivalent, the rate that was established for the 2023 and subsequent fiscal periods, to \$0.17 per 50-pound bag or equivalent for the 2025 and subsequent fiscal periods.

Sections 956.41 and 956.42 of the Order authorize the Committee, with the approval of AMS, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are familiar with the Committee's needs and with the costs of goods and services in their local area and are able to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting, and all directly affected persons have an opportunity to participate and provide input.

For the 2023 and subsequent fiscal periods, the Committee recommended, and AMS approved, an assessment rate of \$0.20 per 50-pound bag or equivalent of Walla Walla sweet onions. That rate continues in effect from fiscal period to fiscal period until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other information available to AMS.

The Committee met on December 4, 2024, and unanimously recommended with a vote of six in favor and none opposed, 2025 fiscal period expenditures of \$58,374 and an assessment rate of \$0.17 per 50-pound bag or equivalent of Walla Walla sweet onions handled for the 2025 and subsequent fiscal periods. In comparison, last year's budgeted expenditures were \$56,330. The proposed assessment rate of \$0.17 per 50-pound bag or equivalent is \$0.03 lower than the rate currently in effect. The Committee recommended decreasing the assessment rate to reduce its reserve funds to within a level authorized under the Order. The Committee projects 222,950 50-pound bags or equivalent of

assessable Walla Walla sweet onions for the 2025 fiscal period, which is 20,800 50-pound bags or equivalent less than was projected for the 2024 fiscal period.

The major expenditures recommended by the Committee for the 2025 fiscal period include administrative, promotion, research, and travel expenses as well as a contingency emergency fund. This is consistent with budgeted expenditures for the 2024 fiscal period except there was no budgeted contingency fund.

The Committee derived the recommended assessment rate by considering anticipated crop year expenses, expected volume of assessable Walla Walla sweet onions, and the amount of funds available in the authorized reserve. The expected 222,950 50-pound bags or equivalent of Walla Walla sweet onions from the 2025 crop is expected to generate \$37,902 in assessment revenue at the proposed assessment rate (222,950 50-pound bags or equivalent multiplied by the \$0.17 assessment rate). The income generated from handler assessments, along with \$20,472 in reserve funds, would be sufficient to meet the Committee's estimated program expenditures of \$58,374 for the 2025 fiscal period. Funds available in the financial reserve (projected to be about \$91,694 at the start of the 2025 fiscal period) would be kept within the maximum permitted by the Order (not to exceed two fiscal period's budgeted expenses, as authorized in § 956.44).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other available information. Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or AMS. Committee meetings are open to the public and interested persons may express their views at these meetings.

AMS would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2025 fiscal period budget, and those for subsequent fiscal periods, will be reviewed and, as appropriate, approved by AMS.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS has considered the economic impact of this proposed rule on small entities. Accordingly, AMS has prepared this initial 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 approximately 12 producers of Walla Walla sweet onions in the production area and 8 handlers subject to regulation under the Order. Small agricultural producers of Walla Walla sweet onions are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$3,750,000 (North American Industry Classification System (NAICS) code 111219, Other Vegetable (except Potato) and Melon Farming) and small agricultural service firms are defined as those whose annual receipts are less than \$34,000,000 (NAICS code 115114, Postharvest Crop Activities) (13 CFR 121.201).

According to the USDA National Agricultural Statistics Service (NASS), the average annual producer price received for dry onions sold in Washington between 2020 and 2023 ranged from \$9.13 to \$26.20 per hundredweight. The average over those years was approximately \$17.98 per hundredweight, or \$8.99 per 50-pound bag or equivalent. Total production of Walla Walla sweet onions for the 2024 season was reported by the

Committee to be 283,136 50-pound bags or equivalent. Using the average price from 2020-2023, the most recent years for which there is NASS data, the total 2024 crop value of Walla Walla sweet onions could therefore be estimated to be \$2,545,393 (283,136 50-pound bags or equivalent multiplied by \$8.99 per 50-pound equivalent). Dividing the estimated crop value by the estimated number of producers (12) yields an estimated average receipt per producer of \$212,116 ($\$2,545,393 \div 12$), which is well below the SBA small agricultural producer threshold of \$3,750,000 in annual receipts.

According to USDA Market News data, the terminal market price for Walla Walla sweet onions in the most recent season for which data is available (2021) was \$34.96 per 40-pound carton. Multiplying this figure by 1.25 to adjust for a 50-pound bag or equivalent yields an average 2021 terminal market price of \$43.70 per 50-pound bag or equivalent. Multiplying the 2024 Walla Walla sweet onion production of 283,136 50-pound bags or equivalent by the estimated average price per 50-pound bag or equivalent of \$43.70 equals \$12,373,043 ($\$34.96 \times 1.25 \times 283,136$). Dividing this figure by the 8 regulated handlers yields estimated average annual handler receipts of \$1,546,630 ($\$12,373,043 \div 8$ handlers), which is below the SBA threshold for small agricultural service firms of \$34,000,000 in annual receipts. Therefore, using the above data, all of the producers and handlers of Walla Walla sweet onions would likely be classified as small entities according to the SBA definition.

This proposal would decrease the assessment rate collected from handlers for the 2025 and subsequent fiscal periods from \$0.20 to \$0.17 per 50-pound bag or equivalent of Walla Walla sweet onions. The Committee unanimously recommended 2025 fiscal period expenditures of \$58,374 and an assessment rate of \$0.17 per 50-pound bag or equivalent of Walla Walla sweet onions. The proposed assessment rate of \$0.17 is \$.03 lower than the current rate. The Committee expects the industry to handle 222,950 50-pound bags or equivalent of Walla Walla sweet onions during the 2025 fiscal period.

Thus, the \$0.17 per 50-pound bag or equivalent rate should provide \$37,902 in assessment income (222,950 50-pound bags or equivalent multiplied by \$0.17). The Committee also expects to use \$20,472 from its financial reserve to cover remaining expenses. Income derived from handler assessments, along with reserve funds, should be adequate to meet budgeted expenditures for the 2025 fiscal period.

The major expenditures recommended by the Committee for the 2025 fiscal period include administrative, promotion, research, and travel expenses, as well as a contingency emergency fund. This is consistent with expenditures for the 2024 fiscal period except there was no budgeted contingency fund.

In recent years, the Committee has added to its reserve funds by collecting assessment revenue in excess of budgeted expenditures. The Committee recommended decreasing the assessment rate to refrain from holding excessive funds in its reserve. The Committee will still adequately fund 2025 budgeted expenses from assessment revenue and utilizing funds from its reserve. This action is expected to lower and maintain the Committee's reserve balance at a level that the Committee believes is appropriate and is compliant with the provisions of the Order.

Prior to arriving at this budget and the assessment rate recommendation, the Committee discussed various alternatives, including maintaining the current assessment rate of \$0.20 per 50-pound bag or equivalent as well as decreasing the assessment rate by different amounts. However, the Committee determined that the recommended assessment rate would be able to fund most of its budgeted expenses, with the balance coming from its financial reserve, and avoid increasing reserves to an inappropriate level. The assessment rate of \$0.17 per 50-pound bag or equivalent of Walla Walla sweet onions was derived by considering anticipated expenses, the projected volume of assessable Walla Walla sweet onions, the projected monetary balance held in reserve, and additional pertinent factors.

A review of NASS information indicates that the average producer price for the 2020-2023 crop years was \$8.99 per 50-pound bag or equivalent. Further, the Committee reported the quantity of assessable Walla Walla sweet onions harvested in the 2024 fiscal period was 283,136 50-pound bags or equivalent, which yields estimated total producer revenue for 2024 of approximately \$2,545,392 (\$8.99 per 50-pound bag or equivalent multiplied by 283,136). Therefore, utilizing the assessment rate of \$0.17 per 50-pound bag or equivalent, assessment revenue for the 2024 fiscal period, as a percentage of total producer revenue, would be approximately 1.89 percent ($\$0.17$ multiplied by 283,136 per 50-pound bags or equivalent divided by \$2,545,392 and multiplied by 100).

This proposed action would decrease 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, these costs would be offset by the benefits derived by the operation of the Order.

The Committee's meetings are widely publicized throughout the production area. The Walla Walla sweet onion industry and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the December 4, 2024, 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 comments on this proposed rule, including the regulatory and information collection impacts of this action on small businesses.

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 OMB and assigned OMB No. 0581-0178, Vegetable and Specialty Crops. No changes in those requirements would be necessary as a result of this proposed rule. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any 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.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <https://www.ams.usda.gov/rules-regulations/moa/small-businesses>. Any questions about the compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendations submitted by the Committee and other available information, AMS has determined that this proposed rule is consistent with and would effectuate the purposes of the Act.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. All written comments timely received will be considered before a final determination is made on this rulemaking.

List of Subjects in 7 CFR Part 956

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, AMS proposed to amend 7 CFR part 956 as follows:

**PART 956 - SWEET ONIONS GROWN IN THE WALLA WALLA VALLEY OF
SOUTHEAST WASHINGTON AND NORTHEAST OREGON.**

1. The authority citation for part 956 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. Section 956.202 is revised to read as follows:

§ 956.202 Assessment rate.

On and after January 1, 2025, an assessment rate of \$0.17 per 50-pound bag or equivalent is established for Walla Walla sweet onions.

Erin Morris,
Administrator,
Agricultural Marketing Service.

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