

# 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

### Agricultural Marketing Service

#### 7 CFR Part 956

[FV96-956-1PR]

#### Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Proposed Establishment of Handler Reporting Requirements and Interest Charges on Overdue Assessment Payments, and Notice of Request for Revision of a Currently Approved Information Collection

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would establish handler reporting requirements and establish interest charges on overdue assessments. This action also announces the Agricultural Marketing Service's (AMS) intention to request a revision to the currently approved information collection requirements issued under the marketing order. This proposed rule would contribute to the efficient operation of the program by helping to ensure that assessments are available in a timely manner to cover budgeted expenses incurred under the marketing order. The Committee believes that this is the only alternative available to ensure timely payments of assessments. These proposed changes are expected to reduce the need for compliance efforts and thereby reduce the costs to administer the order.

**DATES:** Comments must be received by July 30, 1996. Pursuant to the Paperwork Reduction Act, comments to the information collection burden must be received by September 13, 1996.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2523, South

Building, P.O. Box 96456, Washington, DC 20090-6456, Fax: (202) 720-5698. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204-2807; telephone: (503) 326-2724; or Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456; telephone: (202) 690-0464.

**SUPPLEMENTARY INFORMATION:** This rule is proposed under Marketing Agreement and Order No. 956 (7 CFR part 956; 60 FR 27624, May 24, 1995), 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 authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act." This proposed rule was recommended by the Walla Walla Sweet Onion Committee (Committee), the agency responsible for the local administration of the marketing order for sweet onions grown in the Walla Walla Valley.

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

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. If adopted, the proposed rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the proposal.

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.

In compliance with the Small Business Regulatory Enforcement Act of 1996, the Agricultural Marketing Service (AMS) has published a "Small Business Guide for Complying with Marketing Agreements and Orders for Fruits, Vegetables and Specialty Crops." Interested persons may obtain a copy of the Guide by contacting: Jay Guerber, Marketing Order Administration Branch, P.O. Box 96456, room 2523-S, Washington, DC 29909-6456; telephone (202) 720-2491, FAX (202) 720-5698.

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

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 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 subject to regulation under the marketing order and approximately 50 producers in the regulated production area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. The majority of Walla Walla Sweet Onion handlers and producers may be classified as small entities.

This proposed rule would establish interest charges on overdue assessments

and establish handler reporting requirements.

This proposed rule would contribute to the efficient operation of the program by helping to ensure that assessments are available in a timely manner to cover budgeted expenses incurred under the marketing order. Those persons large and small who pay in a timely manner would not be subject to an interest charge. The proposed changes establishing interest charges are expected to reduce the need for compliance efforts and thereby reduce the costs to administer the order which will benefit all persons who are subject to assessments.

The preparation of one form one time each year should not constitute a significant burden on a business unit, small or large. The estimated reporting burden per response is 0.323 hours. In addition, gift box and roadside stand sales would be exempt from reporting the region to which shipments are made, which should be particularly favorable to small entities.

Therefore, the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities. Interested persons are invited to submit information on the regulatory and informational impacts of the proposal on small businesses.

The Committee meets prior to each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Walla Walla Sweet Onions. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews Committee recommendations and information submitted by the Committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

At its February 15, 1996, meeting the Committee unanimously proposed the addition of administrative rules and regulations that would provide a late payment charge for delinquent assessments and a reporting requirement for handlers.

The Act provides that each handler shall pay to the Committee such handler's pro rata share of Committee expenses that the Secretary finds are reasonable and likely to be incurred for the maintenance and functioning of the Committee. Section 956.42 authorizes the Committee to levy assessments on handlers of Walla Walla Sweet Onions to cover each handler's share of Committee expenses.

Section 956.42(f) provides the authority for the Committee to impose, with the approval of the Secretary, a late payment or an interest charge on handlers who fail to pay any assessment in a timely manner. This proposed rule would establish an interest charge of 1 1/2 percent per month to be applied to any assessment balance remaining unpaid on October 1 of each year.

The Committee depends upon handler assessments for operating funds. Last year, the first season of operation of the order, some handlers were late with their assessment payments, with fewer than half submitting their assessment payments when due. When assessments are not paid in a timely manner, the handlers paying assessments on time are placed in an unfair situation compared to the delinquent handlers.

As part of its collection efforts, the Committee requested delinquent handlers to promptly submit assessment payments. However, such requests did not substantially hasten the payment of such delinquent assessments, a few of which were over 120 days delinquent. To facilitate the collection of assessments needed for the maintenance and functioning of the Committee, the Committee recommended the establishment of an interest charge of 1 1/2 percent per month to be applied to assessment balances unpaid after 30 days. Annual assessments are due from handlers on September 1. The 1-1/2 percent interest charge would be applied monthly, after September 30, to the unpaid balance, including any accumulated interest.

This proposed change is intended to encourage handlers to pay their assessments when due, thereby eliminating potential inequities towards handlers who pay their assessments on time. It would contribute to the efficient operation of the program by ensuring that adequate funds are available to cover expenses incurred under the marketing order.

Section 956.80 provides authority for the Committee, with the approval of the Secretary, to require that each handler furnish to the Committee, in such manner and at such time as it may prescribe, such reports and other information as may be necessary for the Committee to perform its duties under the marketing order.

This proposed rule would also establish a requirement that each handler submit an annual report, on a form provided by the Committee, showing their weekly and total yearly shipments of Walla Walla Sweet Onions by geographical region. The annual handler reporting requirement would

provide the Committee with statistical information regarding total industry shipments which would be useful to the Committee in developing a budget and in making marketing and promotion plans for the upcoming season. The form would include the total number of 50 pound equivalents of Walla Walla Sweet Onions shipped during each week of the shipping season and an end of season total. The form will also require handlers to indicate the geographical regions to which onions are shipped. The geographical region to which shipments are made would be useful in planning marketing and promotional activities. The Committee has drawn up boundaries of 11 geographical regions to help it in developing its marketing and promotional plans. To effectively promote and market Walla Walla Sweet Onions, knowledge of market conditions and access to accurate statistical information is invaluable. The Committee recommended that handlers be exempt from having to indicate the geographical region to where the onions were shipped when making roadside stand and gift box sales. The Committee felt that having to report the geographical region shipped for every bag of onions sold in these outlets would be burdensome to handlers making such shipments.

The form would also require handlers to provide their name and address to properly identify the firm, as a basis for verifying compliance with the assessment provisions of the order.

In addition to marketing and promotion planning, the information on the form would help compliance efforts by keeping the committee informed of handlers' operations. It would enable the Committee manager to become aware of potential problems and discuss them with the handlers involved before violations occurred, thus reducing the need for, and the expense of, compliance action by the Committee and the Department.

To implement these changes, a new Subpart—Rules and Regulations is proposed to be added to part 956. Sections 956.142 *Interest charges.*, and 956.180 *Reports.* would be included in that subpart.

A 15-day comment period is provided to allow interested persons to respond to this proposal. This period is deemed appropriate because the shipping season, which begins soon, is relatively short and the Committee needs to gather information on shipments made during the shipping period. The proposal was recommended by the Committee in a public meeting and all interested persons were invited to provide input.

All written comments received within the comment period will be considered before a final determination is made on this matter.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the AMS announces its intention to request a revision to a currently approved information collection for Walla Walla sweet onions.

*Title:* Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon, Marketing Order No. 956.

*OMB Number:* 0581-0172.

*Expiration Date of Approval:* March 31, 1998.

*Type of Request:* Revision of a currently approved information collection.

*Abstract:* The information collection requirements in this request are essential to carry out the intent of the Agricultural Marketing Agreement Act, to provide the respondents the type of service they request, and to administer the program.

This proposed rule would establish a requirement that each handler submit an annual report, on a form provided by the Committee, showing Walla Walla Sweet Onion shipment information. This information would facilitate the billing and collection of handler assessments needed for the maintenance and functioning of the Committee. The information would also be useful to the Committee in developing a budget and in making marketing plans for the upcoming season.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Division regional and headquarter's staff, and employees of the Committee. Committee employees are the primary users of the information and AMS employees are secondary users.

*Estimate of Burden:* Public reporting burden for this proposed collection of information is estimated to average 0.323 hours per response.

*Respondents:* Walla Walla Sweet Onion producers and for-profit businesses handling fresh Walla Walla Sweet Onions produced in southwestern Washington and northeastern Oregon.

*Estimated Number of Respondents:* 82.

*Estimated Number of Responses per Respondent:* 0.756.

*Estimated Total Burden on Respondents:* 25 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the functioning of the

Walla Walla Sweet Onion Marketing Order and the Department's oversight of the program; (2) the accuracy of the collection burden estimate and the validity of methodology and assumptions used in estimating the burden on respondents; (3) ways to enhance the quality, utility, and clarity of the information requested; and (4) ways to minimize the burden, including use of automated or electronic technologies.

Comments must be received by September 13, 1996. Comments should reference OMB No. 0581-0172 and the Walla Walla Sweet Onion Marketing Order No. 956, and be submitted to Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, OR 97204; fax 503-326-7440. All comments received will be available for public inspection during regular business hours at the same address. All responses to this notice will be summarized and included in the request for OMB approval.

Because there is insufficient time for normal clearance procedures, AMS is seeking temporary approval from OMB for the use of this form for the coming season. The form would be added to the other 5 forms currently approved for use under OMB Number 0581-0172.

#### List of Subjects in 7 CFR Part 956

Marketing agreements, Onions, Reporting and record keeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 956 be amended as follows:

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

1. The authority citation for 7 CFR part 956 continues to read as follows:

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

2. In part 956, a new Subpart—Rules and Regulations consisting of sections 956.142 and 956.180 is added to read as follows:

#### **Subpart—Rules and Regulations**

##### **§ 956.142 Interest charges.**

The Committee shall impose an interest charge on any handler who fails to pay his or her annual assessments within thirty (30) days of the due date of September 1. The interest charge shall, after 30 days, be 1 1/2 percent of the unpaid assessment balance. In the event the handler fails to pay the delinquent assessment amount within

60 days following the due date, the 1 1/2 percent interest charge shall be applied monthly thereafter to the unpaid balance, including any accumulated interest. Any amount paid by a handler as an assessment, including any charges imposed pursuant to this paragraph, shall be credited when the payment is received in the Committee office.

##### **§ 956.180 Reports.**

Each handler shall furnish to the Committee by September 1 of each year an annual report containing the following information, except that gift-box and roadside stand sales shall be exempt from paragraph (b):

(a) The number of 50 lb. equivalents of Walla Walla Sweet Onions shipped by each handler during each week of the shipping season and the total for the season;

(b) The geographical regions as defined by the Committee to which each shipment is made; and

(c) The name, address, and signature of each handler.

Dated: July 8, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

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## **DEPARTMENT OF THE INTERIOR**

### **Bureau of Indian Affairs**

#### **25 CFR Part 256**

#### **RIN 1076-AD52**

#### **Housing Improvement Program**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Bureau of Indian Affairs (BIA) is proposing to amend the regulations governing the Housing Improvement Program (HIP) by clarifying the terms and conditions under which the program is operated.

**DATES:** Comments must be received on or before September 13, 1996.

Comments will be available for inspection at the address below from 9:00 a.m. to 4:00 p.m., Monday through Friday beginning approximately July 29, 1996.

**ADDRESSES:** Mail comments to June Henkel, Division of Housing, Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, 1849 C St. NW, Mail Stop 4603-MIB, Washington, DC 20240; OR, hand deliver them to Room 4603 at the above address.