but it is as yet unknown if reserves will be fully replenished this season.

Accordingly, no changes will be made to the rule based on the comment 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 matters presented, including the information and recommendation submitted by the Board 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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the 2003–2004 fiscal period began on July 1, 2003, and ends on June 30, 2004, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable tart cherries handled during such fiscal period. Further, handlers are aware of this action which was unanimously recommended by the Board at a public meeting. Also, a 30-day comment period was provided in the proposed rule.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

■ For the reasons set forth in the preamble, 7 CFR part 930 is amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

■ 1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 930.200 is revised to read as follows:

§ 930.200 Handler assessment rate.

On and after July 1, 2003, the assessment rate imposed on handlers shall be $0.0021 per pound of cherries handled for tart cherries grown in the production area and utilized in the production of tart cherry products.

Dated: September 29, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–25110 Filed 10–2–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 956

[Docket No. FV03–956–1 FR]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Fiscal Period Change

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the fiscal period under the Walla Walla sweet onion marketing order from June 1 through May 31 to January 1 through December 31. This rule was recommended by the Walla Walla Sweet Onion Marketing Committee (Committee), the agency responsible for local administration of the marketing order regulating the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. The June 1 through May 31 fiscal period has been in place since the marketing order's inception in 1995. Due to the advance planning needed for market promotion, including paid advertising, it has been the practice of the Committee to develop its budget of expenditures prior to the start of each fiscal period, but delay the actual expenditure of funds until after June 1. This made it more difficult for the Committee to coordinate the timing of marketing promotion activities with the short harvest and marketing season for Walla Walla sweet onions. This fiscal period change is expected to help the Committee better coordinate its marketing promotion activities with the marketing season—mid-June into September.

EFFECTIVE DATE: This final rule becomes effective January 1, 2004.

FOR FURTHER INFORMATION CONTACT: Barry M. Broadbent, 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 E-mail: *Barry.Broadbent@usda.gov.;* or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

Small business may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 956, both as amended (7 CFR part 956), regulating the handling of Walla Walla sweet onions grown in 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 Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. 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 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. A 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 final rule changes the fiscal period from June 1 through May 31 to January 1 through December 31. This rule also makes conforming changes to the order's administrative rules and regulations. This change was unanimously recommended by the Committee at its December 17, 2003, meeting.

Section 956.40 of the order provides authority for the Committee to incur expenses that are reasonable and necessary to operate the program. Section 956.42 provides that these expenses be paid by assessments levied on fresh shipments of Walla Walla sweet onions. Further, § 956.41 provides that an annual budget of expenses be prepared by the Committee based on the defined fiscal period. Section 956.13 of the order defines ''fiscal period'' and provides the authority for making this fiscal period change.

Walla Walla sweet onions are traditionally harvested from about mid-June through about mid-August, although, in recent years, harvest has been extended into September due to an increase in spring planted onions and the use of better storage facilities. Walla Walla sweet onions have a short shelf life and are therefore generally marketed within a relatively short period of time following harvest. During the promulgation of the order in 1995, the proponent industry committee—the organization responsible for drafting the order and presenting it during the promulgation hearing—was of the opinion that the new order's fiscal period should begin shortly before the marketing season began. Testimony during the hearing supported the position that the start of the fiscal period should be close to the beginning of the season. This was so a minimum of expenses would be incurred prior to the time assessment revenue was received by the Committee following the sweet onion harvest.

Experience gained over the last eight years has shown the Committee that the June 1 through May 31 fiscal period is not conducive to coordinating the timing of its marketing promotion, including paid advertising activities, with the short harvest and marketing season for Walla Walla sweet onions. The crop is harvested and marketed during a four-month period—mid-June into September.

Due to the advance planning needed for market promotion, including paid advertising, it has been the practice of the Committee to develop its budget of expenditures prior to the start of each fiscal period, but delay the actual expenditure of funds until after June 1. This made it more difficult for the Committee to coordinate the timing of its promotion activities with the short harvest and marketing season. The Committee believes that better timing of marketing promotion activities with the harvest and marketing of Walla Walla sweet onions will improve the distribution and consumption of sweet onions. To foster better timing, the Committee recommended that the fiscal period begin January 1 and end December 31 each year.

As previously stated, the Committee has been operating with a fiscal period of June 1 through May 31. The Committee formulated a budget for the twelve-month period beginning June 1, 2003, and submitted it to the USDA for approval. The budget was approved on May 23, 2003. The Committee began expending funds June 1 for its 2003–2004 promotion and research plans, as well as for administration costs. With the effective date of this fiscal period change being January 1, 2004, the Committee will be required to meet prior to that date to reformulate and resubmit a new budget for USDA approval for a new fiscal period beginning January 1, 2004, and ending December 31, 2004.

As conforming changes to the fiscal period change, this rule also updates language in § 956.142, Interest charges, and § 956.180, Reports by removing the words ''of each fiscal period'' wherever they appear.

Final Regulatory Flexibility Analysis

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, 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 26 handlers of Walla Walla sweet onions subject to regulation under the order and approximately 35 Walla Walla sweet onion producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (SBA)(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 $750,000.

The Committee estimates that in 2002, 611,955 50-pound units of Walla Walla sweet onions were marketed at an average FOB price of about $9.00 per unit. The total industry value at shipping point was approximately $5,507,595. Thus, a majority of handlers and producers of Walla Walla sweet onions may be classified as small entities.

This final rule changes the current fiscal period from June 1 through May 31 to January 1 through December 31. The prior fiscal period had been in place since the marketing order's inception in 1995. Due to the advance planning needed for market promotion, including paid advertising, the Committee has previously developed its budget of expenditures before June 1, but delayed actual expenditures until that date. This made it more difficult for the Committee to coordinate the timing of marketing promotion activities with the short harvest and marketing season for Walla Walla sweet onions—mid-June into September. The Committee believes the January 1 through December 31 fiscal period will better facilitate marketing promotion programs and will improve the distribution and consumption of Walla Walla sweet onions.

Section 956.13 of the order defines ''fiscal period'' and provides the authority for making this change. This final rule is a change to Committee operations that will not impose any new requirements or costs on Walla Walla sweet onion handlers or producers. It could, on the other hand, simplify the business operations within the Walla Walla sweet onion industry by putting the order's fiscal period on the same basis as that of normal business recordkeeping practices.

The Committee discussed the alternative of taking no action on a fiscal period change, but unanimously concluded that this change will improve program administration.

This rule will 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 sectors. In addition, USDA 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. Like all Committee meetings, the December 17, 2002, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on April 9, 2003 (68 FR 17325). Copies of the rule were mailed or sent via facsimile to all Committee members and Walla Walla sweet onion handlers. Finally, the rule was made available through the Internet by the Office of the Federal Register and USDA. A 60-day comment period ending June 9, 2003, was provided to allow interested persons to respond to the proposal. One comment was received but was not relevant to the fiscal period change.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ama.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 matter 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.

List of Subjects in 7 CFR Part 956

Marketing agreements, Onions, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 956 is 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. A new § 956.113 is added to subpart ''Rules and Regulations'' to read as follows:

§ 956.113 Fiscal period.

■ Pursuant to § 956.13, *fiscal period* shall mean the period beginning January 1 and ending December 31 of each year.

§ 956.142 [Amended]

■ 3. Section 956.142 is amended by removing the words ''of each fiscal period'' in the second sentence.

§ 956.180 [Amended]

■ 4. Section 956.180 is amended by removing the words ''of each fiscal period'' in the introductory text.

Dated: September 29, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–25111 Filed 10–2–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1220

[No. LS–03–03]

Soybean Promotion and Research: Amend the Order To Adjust Representation on the United Soybean Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adjusts the number of members for certain States on the United Soybean Board (Board) to reflect changes in production levels that have occurred since the last time the Board was reapportioned in 2000. These adjustments are required by the Soybean Promotion and Research Order (Order). The results of the adjustments are an additional member for Maryland and Michigan. New York is no longer part of the Eastern Region unit. The State has sufficient soybean production to qualify as a separate State unit with one representative on the Board. New Jersey is merged into the Eastern Region unit. The State no longer has sufficient soybean production to be a separate State unit. As a result of these changes, the total Board membership increases from 62 members to 64 members. These changes to the Board are effective with the Secretary of Agriculture's 2004 appointments.

EFFECTIVE DATE: November 3, 2003.

FOR FURTHER INFORMATION: Kenneth R. Payne, Chief; Marketing Programs Branch; Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA, Room 2638–S; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250–0251; telephone 202/720–1115.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866

The Office of Management and Budget (OMB) has waived the review process required by Executive Order 12866 for this action.

Executive Orders 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Soybean Promotion, Research, and Consumer Information Act (Act) provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1971 of the Act, a person subject to the Order may file a petition with the Secretary 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 requesting a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Department of Agriculture (Department) would rule on the petition. The Act provides that the district courts of the United States in any district in which such person is an inhabitant, or has their principal place of business, has jurisdiction to review USDA's ruling on the petition, if a complaint for this purpose is filed within 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act

The Administrator of AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because it merely adjusts representation on the Board to reflect changes in production levels that have occurred since the Board was reapportioned in 2000. As such, these changes will not have an impact on those persons subject to the program. There are an estimated 600,813 soybean producers who pay assessments and an estimated 10,000 first purchasers who collect assessments, most of whom would be considered small entities under the criteria established by the Small Business Administration (13 CFR 121.201).

Paperwork Reduction Act

In accordance with OMB regulations (5 CFR part 1320), which implements the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements and recordkeeping requirements contained in the Order have been previously approved by OMB under OMB control number 0581–0093.