

■ 3. Section 650.8 paragraph (b) is revised, and paragraphs (c) and (d) are added as follows:

**§ 650.8 When to prepare an environmental assessment (EA).**

\* \* \* \* \*

(b) Other actions that the EE reveals may be a major Federal action significantly affecting the quality of the human environment.

(c) Criteria for determining the need for a program EA:

(1) A program EA is to be prepared when NRCS has determined, based on the environmental evaluation, that a program EIS is not required and the program and actions to implement the program are not categorically excluded; and

(2) A program EA may also be prepared to aid in NRCS decision-making and to aid in compliance with NEPA.

(d) The RFO, through the process of tiering, is to determine if a site-specific EA or EIS is required for an action that is included in a program EA or EIS.

■ 4. Section 650.12 paragraph (c) heading text is revised; the (c)(1) designation is removed; paragraphs (c)(2) and (c)(3) are removed; paragraph (d) is revised; and new paragraph (e) is added to read as follows:

**§ 650.12 NRCS Decisionmaking.**

\* \* \* \* \*

(c) *Environmental Impact Statement (EIS) and Record of decision* \* \* \*

(d) *Environmental Assessments and Finding of No Significant Impact (FNSI)*

(1) EA's. If the EA indicates that the proposed action is not a major Federal action significantly affecting the quality of the human environment, the RFO is to prepare a finding of no significant impact (FNSI).

(2) *Availability of the FNSI (40 CFR 1501.4(e)(2))*. In accordance with CEQ regulations at 40 CFR 1501.4(e)(2), NRCS shall make the EA/FNSI available for public review for thirty days in the following instances: The proposed action is, or closely similar to, one which normally requires the preparation of an EIS as defined by NRCS NEPA implementing regulations at § 650.7, or the nature of the action is one without precedent. When availability for public review for thirty days is not required, NRCS will involve the public in the preparation of the EA/FNSI and make the EA/FNSI available for public review in accordance with CEQ regulations at 40 CFR 1501.4(b) and 1506.6.

(e) *Changes in actions*. When it appears that a project or other action needs to be changed, the RFO will

perform an environmental evaluation of the authorized action to determine whether a supplemental NEPA analysis is necessary before making a change.

Dated: June 11, 2008.

**Arlen Lancaster,**

*Chief, Natural Resources Conservation Service.*

[FR Doc. E8-14122 Filed 6-24-08; 8:45 am]

**BILLING CODE 3410-16-P**

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 956**

[Docket No. AMS-FV-07-0157; FV08-956-1 FR]

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

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

**ACTION:** Final rule.

**SUMMARY:** This rule increases the assessment rate established for the Walla Walla Sweet Onion Marketing Committee (Committee) for the 2008 and subsequent fiscal periods from \$0.21 to \$0.22 per 50-pound bag or equivalent of Walla Walla sweet onions handled. The Committee locally administers the marketing order which regulates the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. Assessments upon Walla Walla sweet onion handlers are used by the Committee to fund the reasonable and necessary expenses of the program. The fiscal period begins January 1 and ends December 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** *Effective Date:* June 26, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Barry Broadbent or Gary Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Suite 385, Portland, OR 97204; *Telephone:* (503) 326-2724, *Fax:* (503) 326-7440, or *E-mail:* [Barry.Broadbent@usda.gov](mailto:Barry.Broadbent@usda.gov) or [GaryD.Olson@usda.gov](mailto:GaryD.Olson@usda.gov).

Small businesses 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](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This 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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing 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, as proposed herein, will be applicable to all assessable Walla Walla sweet onions beginning on January 1, 2008, and continue until amended, suspended, or terminated. 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. 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 rule increases the assessment rate established for the Committee for the 2008 and subsequent fiscal periods from \$0.21 to \$0.22 per 50-pound bag or equivalent of Walla Walla sweet onions handled.

The Walla Walla sweet onion marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from

handlers to administer the program. The members of the Committee are producers and handlers of Walla Walla sweet onions. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1998–1999 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate of \$0.21 per 50-pound bag or equivalent that would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon the basis of the Committee's recommendation or other information available to USDA.

On December 11, 2007, the Committee met and unanimously recommended 2008 expenditures of \$116,255 and a \$0.01 increase in the assessment rate from \$0.21 to \$0.22 per 50-pound bag or equivalent. In comparison, the budgeted expenditures for the 2007 fiscal period were \$139,210.

The increase in the assessment rate is necessary to offset the recent decline in assessments paid by handlers. Assessment receipts have decreased as the production levels of Walla Walla sweet onions have dropped below historical averages—a result of lower total acreage planted and isolated weather-related crop failures. In response to the lower assessment income level, the Committee reduced the total budgeted expenditures from \$139,210 in 2007 to \$116,255 for 2008, but still found it necessary to increase the assessment rate to adequately fund Committee operations.

The major expenditures recommended by the Committee for the 2008 fiscal year include \$62,732 for administration, \$5,000 for travel, \$44,000 for promotion, and \$2,000 for compliance. Budgeted expenses for these items in 2007 were \$62,477, \$5,000, \$63,300, and \$1,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Walla Walla sweet onions from the production area. Walla Walla sweet onion shipments are estimated to be 510,250 50-pound bags or equivalents for the 2008 fiscal period, which should provide \$112,255 in assessment income. The remaining difference between the anticipated Committee expenses and the anticipated revenue from assessments is expected to

come from interest income on reserve funds (\$4,000). Funds held in reserve by the Committee (currently \$144,953) are not expected to exceed the equivalent of two fiscal periods budgeted expenditures, the maximum permitted by the order.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will 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 USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2008 budget, and those for subsequent fiscal periods, will be reviewed and, as appropriate, approved by USDA.

#### **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 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 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.

There are approximately 42 producers of Walla Walla sweet onions in the production area and approximately 20 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201)(SBA) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$6,500,000.

The Committee estimates that in 2007, 494,918 50-pound units of Walla Walla sweet onions were marketed at an average FOB price of approximately \$19.00 per 50-pound unit. Using that price as a basis, the total industry value at shipping point was approximately \$9,400,000. Average receipts per handler were \$470,000, which is much less than the threshold the SBA uses to define a small service firm. Average receipts for the 42 producers of Walla Walla sweet onions for last year were approximately \$225,000, well within the SBA definition of small agricultural producer. Thus, it can be concluded that most, if not all, handlers and producers of Walla Walla sweet onions may be classified as small entities based on the definition of the SBA.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2008 and subsequent fiscal periods from \$0.21 to \$0.22 per 50-pound bag or equivalent. The Committee unanimously recommended 2008 expenditures of \$116,255 and an assessment rate of \$0.22 per 50-pound bag or equivalent. The assessment rate of \$0.22 is \$0.01 higher than the rate previously established in the order. The quantity of assessable Walla Walla sweet onions for the 2008 year is estimated at 510,250 50-pound bags or equivalents. Thus, the \$0.22 rate should provide \$112,255 in assessment income and, along with \$4,000 in interest income, will be adequate to meet this year's budgeted expenses of \$116,255.

The major expenditures recommended by the Committee for the 2008 year include \$62,732 for administration, \$5,000 for travel, \$44,000 for promotion, and \$2,000 for compliance. Budgeted expenses for these items in 2007 were \$62,477, \$5,000, \$63,300, and \$1,000, respectively.

The recent decline in assessments collected from handlers has necessitated this assessment rate increase. Assessment income has decreased as the production levels of Walla Walla sweet onions have dropped below historical average levels as a result of lower total acreage planted and isolated weather related crop failures. In response to the lower assessment income level, the Committee reduced its total budgeted expenditures from \$139,210 in 2007 to \$116,255 for 2008, but still found it necessary to increase the assessment rate to adequately fund Committee operations without depleting the Committee's reserve funds.

The Committee reviewed and unanimously recommended 2008 expenditures of \$116,255. Prior to

arriving at this budget, the Committee considered information from various sources, including the Finance and the Promotion sub-committees. Alternative expenditure levels were discussed at length by all parties. The assessment rate of \$0.22 per 50-pound bag or equivalent of assessable Walla Walla sweet onions was then determined by dividing the total recommended budget by the quantity of assessable Walla Walla sweet onions, estimated at 510,250 50-pound units for the 2008 fiscal period. Anticipated assessment revenue is expected to be approximately \$4,000 below the budgeted expenses, which the Committee determined to be acceptable. The Committee expects that interest income for the year will compensate for the \$4,000 deficit, but is prepared to use reserve funds if necessary.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the producer price for Walla Walla sweet onions for the 2008 season could range between \$10.00 and \$12.00 per 50-pound bag or equivalent. Therefore, the estimated assessment revenue for the 2008 crop year as a percentage of total producer revenue could range between 1.83 and 2.20 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. 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 11, 2007, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule 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.

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.

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

A proposed rule concerning this action was published in the **Federal Register** on March 14, 2008 (73 FR 13798). Copies of the proposed rule were also mailed or sent via facsimile to all Walla Walla sweet onion handlers. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 60-day comment period ending May 13, 2008, was provided for interested persons to respond to the proposal. 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/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>. 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 also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because handlers are already receiving 2008 crop Walla Walla sweet onions from producers. The crop year began on January 1, 2008, and the assessment rate applies to all Walla Walla sweet onions received during the 2008 and subsequent seasons. Also, the Committee needs funds to pay its expenses, which are incurred on a continuing basis. Further, handlers are aware of this rule which was recommended at a public meeting. Finally, a 60-day comment period was provided for in the proposed rule.

#### 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. Section 956.202 is revised to read as follows:

##### § 956.202 Assessment rate.

On and after January 1, 2008, an assessment rate of \$0.22 per 50-pound bag or equivalent is established for Walla Walla sweet onions.

Dated: June 19, 2008.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E8–14339 Filed 6–24–08; 8:45 am]

**BILLING CODE 3410–02–P**

#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

##### 7 CFR Part 982

[Docket No. AMS–FV–07–0150; FV08–982–1 FIR]

#### Hazelnuts Grown in Oregon and Washington; Establishment of Interim Final and Final Free and Restricted Percentages for the 2007–2008 Marketing Year

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule establishing interim final and final free and restricted percentages for domestic inshell hazelnuts for the 2007–2008 marketing year under the Federal marketing order for hazelnuts grown in Oregon and Washington. This rule continues in effect the interim final free and restricted percentages of 8.1863 and 91.8137 percent, respectively, and the final free and restricted percentages of 9.2671 and 90.7329 percent, respectively. The percentages allocate the quantity of domestically produced hazelnuts which may be marketed in the domestic inshell market (free) and the quantity of domestically produced hazelnuts that must be disposed of in outlets approved by the Board (restricted). Volume regulation is intended to stabilize the supply of domestic inshell hazelnuts to meet the limited domestic demand for such hazelnuts with the goal of providing