

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

#### 7 CFR Part 701

RIN 0560-AG26

#### Emergency Conservation Program

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects the final rule document published March 4, 2004 (69 FR 10299), which set out regulations for the Emergency Conservation Program (ECP) and also provided for resolving matters related to other programs that have been administered under the same part. This document removes erroneous language that could be misleading.

**EFFECTIVE DATE:** March 4, 2004.

**FOR FURTHER INFORMATION CONTACT:** Clayton Furukawa, Conservation and Environmental Protection Division, Farm Service Agency (FSA), United States Department of Agriculture (USDA 690-057), Stop 0517, 1400 Independence Avenue SW., Washington, DC 20250-0517. Telephone: (202) 690-0571; e-mail: [clayton.furukawa@usda.gov](mailto:clayton.furukawa@usda.gov).

**SUPPLEMENTARY INFORMATION:** The Farm Service Agency published a final rule in the **Federal Register** of March 4, 2004, (69 FR 10299) revising the regulations for the Emergency Conservation Program. In section 701.10(c) of that final rule, the last sentence incorrectly states "Denial of a request for a waiver is not subject to appeal." This correction removes that sentence.

In rule FR Doc. 04-4861 published March 4, 2004, (69 FR 10299) make the following correction:

#### § 701.10 [Corrected]

■ On page 10304, in § 701.10, paragraph (c), remove the last sentence.

Signed in Washington, DC, on April 19, 2004.

**Michael W. Yost,**

*Acting Administrator, Farm Service Agency.*

[FR Doc. 04-9419 Filed 4-23-04; 8:45 am]

**BILLING CODE 3410-05-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 956

[Docket No. FV04-956-1 IFR]

#### Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Establishment of Special Purpose Shipping Regulations and Modification of Reporting Requirements

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule establishes procedures to allow the grading, packing, or storing of Walla Walla sweet onions outside the production area established under the Walla Walla sweet onion marketing order and also modifies handler reporting requirements. The marketing order regulates the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon and is administered locally by the Walla Walla Sweet Onion Marketing Committee (Committee). Allowing sweet onion market preparation to occur outside the production area will increase marketing options for Walla Walla sweet onions and may reduce marketing costs. Modification of the reporting requirements will contribute to the efficient operation of the program and enhance compliance with the special purpose shipment procedures as established in this rule.

**DATES:** Effective April 27, 2004; comments received by June 25, 2004 will be considered prior to issuance of a final rule. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received by June 25, 2004.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing

Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; fax: (202) 720-8938; or e-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov) or [www.regulations.gov](http://www.regulations.gov). 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, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

#### FOR FURTHER INFORMATION CONTACT:

Barry Broadbent, Marketing Specialist, 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](mailto: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 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. 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 the 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 the 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 the 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.

Minimum grade, size, maturity, container, and pack requirements are authorized under the order, but currently only container markings are regulated. This rule establishes procedures and safeguard requirements that allow grading, packing, or storing of Walla Walla sweet onions outside the production area, but within the States of Oregon and Washington. Persons desiring to ship, as well as those desiring to receive Walla Walla sweet onions for grading, packing, or storing outside the production area will apply and report to the Committee on forms provided by the Committee. This rule also increases the existing reporting requirements for handlers regulated under the order with the addition of a preseason handler registration form and the expansion of the current handler shipment statement.

Section 956.63 of the order provides authority for the USDA to issue special regulations to facilitate the shipping of Walla Walla sweet onions for grading, packing, or storing outside the production area. Further, § 956.66 provides authority for the establishment of such safeguards as may be necessary to ensure that Walla Walla sweet onions are shipped for the purpose so authorized. Reporting requirements are authorized in § 956.80.

The Committee met on December 8, 2003, and unanimously recommended the establishment of procedures and safeguard requirements to allow grading, packing, or storing of Walla Walla sweet onions outside the production area. At that meeting, the Committee also unanimously recommended expanding current

handler reporting requirements to include a preseason registration form. The Committee met again on February 10, 2004, and made a unanimous recommendation to broaden the scope of the handler shipment statement to include the listing of producers whose product was handled and the quantity thereof. Committee members believe that this rule will: (1) Allow shippers to use grading, packing, or storing facilities that will be most beneficial to their individual circumstances; (2) contribute to the efficient operation of the program by improving Committee information; and (3) enhance compliance with the provisions of the order.

The grading, packing, and storing costs associated with preparing Walla Walla sweet onions for market may vary between onion packing facilities inside and outside the production area. There may also be differences in the type and variety of packaging options, the transportation alternatives available, or the level of services offered by individual onion packing facilities inside and outside the production area. This rule allows shippers of Walla Walla sweet onions the flexibility to pack and ship product from the most advantageous facility available, regardless of where in Oregon or Washington that facility is located.

Some examples of situations in which this rule will benefit the industry are:

(1) A packer outside the area of production is experimenting with modified atmosphere packaging that increases the shelf life of sweet onions; (2) a Walla Walla sweet onion producer is part owner of a packing facility located outside the area of production and wishes to pack and store sweet onions in that facility; (3) a packing facility outside the area of production can offer rail service for shipping and a rail siding is not available within the production area; and (4) a fresh produce marketing company that has a packing facility outside the area of production desires to begin packing and shipping Walla Walla sweet onions.

The Committee believes that the regulations established under the order create orderly marketing, are good for consumers, encourage repeat purchases, and ultimately improve returns to producers. Therefore, the Committee also recommended the establishment of safeguards to ensure that all Walla Walla sweet onions graded, packed or stored outside the production area are ultimately subject to the requirements established under the order.

Persons desiring to ship or receive Walla Walla sweet onions for grading, packing, or storing outside the production area will apply to the

Committee on a *Shippers/Receivers Application for Certificate of Privilege*, (SRACP) Form No. 3. Applicants will complete and submit a SRACP form each year prior to shipping or receiving Walla Walla sweet onions for grading, packing, or storing outside the production area. Information collected on the application includes the company name, contact name, address, contact telephone numbers, signature of the shipper or receiver, date, and such other information as the Committee may require. Applicants will agree to furnish reports on shipments of sweet onions made under the Certificate of Privilege and will certify that all shipments of production area onions for grading, packing, or storing outside the production area will be made in accordance with order provisions. Those parties acting as receivers under the Certificate of Privilege must further agree to forward all assessments due on sweet onions handled to the Committee office. If approved, the Committee manager will sign the application, assign a Certificate of Privilege number for tracking purposes, and return a copy of the application to the applicant. If denied, the applicant will be notified in writing of the reasons for denial and have an opportunity to appeal the Committee's decision.

After the Committee approves the applications of both the shipper and the receiver, Walla Walla sweet onions may be shipped out of the production area for grading, packing, or storing. When the parties conclude shipping or receiving, both the shipper and receiver will be required to submit a *Special Purpose Shipment Report*, (SPSR) Form No. 4. Information collected on the SPSR will include the Certificate of Privilege number as assigned by the Committee, company name, contact name, address, contact telephone numbers, names of the individuals or companies shipped to or received from, the total quantities of onions shipped or received in 50-pound equivalents, signature of the shipper or receiver, date, and such other information as the Committee may require.

The SPSR, as well as any assessments due, will be submitted to the Committee no later than 30 days after the date of the last shipment or receipt of Walla Walla sweet onions under the Certificate of Privilege. The SPSR will also reiterate that it is the receiver of sweet onions shipped under the Certificate of Privilege that is responsible for payment of the administrative assessment. Shippers and receivers will only be required to submit one (1) of these reports annually.

This rule also increases handler-reporting requirements by requiring the submission of a *Walla Walla Sweet Onion Handler Registration Form*, (Registration) Form No. 2, and by expanding the scope of the information required on the existing *Handler's Statement of Walla Walla Sweet Onion Shipments*, (Form No. 1; Form FV-141) (Statement). Each year prior to the shipping season, but in no case later than May 31, all persons desiring to handle Walla Walla sweet onions during the forthcoming season will be required to complete a Registration form and submit it to the Committee. Information collected on this form includes: Company name, contact name, signature, date, addresses, and contact telephone numbers; brands or labels to be marketed; estimated acres of production to be packed; and such other information as the Committee may require.

The current Statement, which is submitted to the Committee at the end of each shipping season, requires handlers to report the quantity of Walla Walla sweet onions handled during the season. This action expands the information collected on the Statement to include reporting the quantity of Walla Walla sweet onions handled on behalf of each producer. Information collected on the Registration and modified Statement will greatly enhance order compliance by allowing the Committee to compare the two required reports, the pre-season handler registration form and the post-season shipment report. This will ultimately assist the Committee in monitoring onion shipments and the collection of assessments. For example, acreage and production information provided by producers will be reconciled with similar information collected from handlers to help ensure that all assessable sweet onion shipments have been properly reported and that assessments have been correctly collected.

This information collection is important to the Committee in light of the regulation relaxation that allows grading, packing, or storing outside the production area. The Committee believes that enhancing the scope of the reporting requirements is the best way to maintain oversight of the special purpose shipment procedures as modified herein. In addition to enhancing the Committee's compliance efforts, the collection of handler profile information such as addresses and contact numbers will also be useful to the Committee for maintaining contact throughout the season.

### Initial 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 initial 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 28 handlers of Walla Walla sweet onions subject to regulation under the order and approximately 37 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 2003, 674,038 50-pound containers of Walla Walla sweet onions were marketed at an average FOB price of about \$11.50 per container. The total industry value at shipping point was approximately \$7,751,437, leaving an average annual gross receipt per handler of \$276,837. Thus, a majority of handlers and producers of Walla Walla sweet onions may be classified as small entities.

Committee meetings are widely publicized in advance of the meetings and are held in a location central to the production area. The meetings are open to all industry members and other interested persons who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Committee recommendations can be considered representative of small business interests in the industry.

This rule will allow persons to ship or receive Walla Walla sweet onions outside the area of production for grading, packing, or storing purposes. Persons desiring to do so will first be required to apply to the Committee. The applicants will be required to certify that all Walla Walla sweet onions graded, packed or stored outside the production area would meet any minimum grade, size, maturity, container, pack, or inspection requirements established under the

order. Currently, only container, assessment, and reporting requirements are implemented under the order.

After the Committee completes its review of the application and determines that everything is in order, applicants will be granted a Certificate of Privilege authorizing them to ship or receive Walla Walla sweet onions outside the production area for market preparation. At the end of the shipping season, both the shipper and receiver will submit reports to the Committee regarding the quantity of Walla Walla sweet onions handled under Certificate of Privilege. The authority for this action is provided in §§ 956.63 and 956.66.

In addition, this rule expands handler-reporting requirements by adding a preseason registration form and by expanding the scope of information currently required on the handler's shipment report. These changes will provide the Committee with more comprehensive handler information that the Committee believes will improve handler compliance and enhance safeguards that are currently in place. The additional information gathered from the new mandatory report will complement the modification to the current reporting requirements and will contribute to greater efficiency in the operation of the program. The improved safeguards and oversight afforded the Committee with these reporting requirement changes is essential to maintaining compliance with procedures for market preparation outside the production area. The authority for this action is provided in § 956.80.

Regarding the impact of this action on affected entities, this rule will impose minimal additional costs. The Committee estimates that about 10 persons may desire to ship or receive Walla Walla sweet onions for grading, packing, or storing outside the production area during each marketing year. Such shippers and receivers will complete a *Shippers/Receivers Application for Certificate of Privilege*, (Form No. 3) and submit it to the Committee for approval each year prior to shipping or receiving any Walla Walla sweet onions for grading, packing, or storing outside the production area. Once the Committee has approved the application, the parties will be free to handle sweet onions for market preparation out of the production area. After Walla Walla sweet onions have been handled pursuant to the Certificate of Privilege, both the shipper and receiver will be required to submit a *Special Purpose Shipment Report*, (Form No. 4) to the Committee no later

than 30 days after the date of the last shipment or receipt of onions. The Committee estimates that 10 shippers and receivers will each be obligated to submit one (1) of these reports annually. The annual industry burden associated with the information collection on both forms is estimated to total approximately 3.60 hours.

The addition of a preseason registration form and the expansion of the existing reporting requirements for all Walla Walla sweet onion handlers will also impose minimal additional costs on the industry. Persons desiring to handle Walla Walla sweet onions will be required to complete and submit a *Walla Walla Sweet Onion Handler Registration Form, (Form No. 2)* prior to May 31 of each year. Handlers of sweet onions will be required to submit a *Handler's Statement of Walla Walla Sweet Onion Shipments (Form No. 1; Form FV-141)* that is more detailed than the one currently in use. The Committee estimates that 28 handlers will be affected with a total annual industry burden of approximately 25.76 hours for both forms.

The Committee considered one alternative to the part of this proposal that allows Walla Walla sweet onions to be graded, packed, or stored out of the area. The alternative was to prohibit any grading, packing, or storing of Walla Walla sweet onions outside the production area. The Committee felt that this alternative would have limited the flexibility of shippers in making marketing decisions related to the grading, packing, or storing of Walla Walla sweet onions and was rejected. Allowing the shipment of Walla Walla sweet onions outside the production area for grading, packing, or storing is a relaxation of order requirements and any costs related to additional reporting is outweighed by the benefits of allowing such shipments.

The alternatives that the Committee discussed with regard to increasing handler reporting requirements were: (1) Maintain the status quo and make no changes in the reporting requirements; and (2) make the submission of the registration form and producer information on the shipment statement voluntary instead of mandatory. Both of these options were rejected as not sufficiently addressing the need for better handler information to help improve the Committee's ability to ensure industry compliance with the order, especially in light of the relaxation changes to the order regulations allowing grading, packing, or storing outside the production area.

In addition, the Committee's meetings were widely publicized throughout the

sweet onion industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the December 8, 2003, and the February 10, 2004, meetings were public meetings and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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.

This rule imposes additional reporting and recordkeeping burdens on handlers, as well as on producers and marketers who ship or receive Walla Walla sweet onions for grading, packing, or storing outside the production area. This action requires three new Committee forms and the modification of an existing Committee form. The information collection requirements are discussed later in this document. 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. The USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces that AMS has requested and obtained emergency approval from the Office of Management and Budget (OMB) for a new information collection request and to revise a currently approved information collection for Marketing Order No. 956, regulating the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. This emergency approval was assigned OMB No. 0581-0221. The emergency request was necessary because insufficient time was available to follow normal clearance procedures. Upon publication of the final rule, this collection will be merged with the forms currently approved for use under OMB No. 0581-0178 "Generic OMB Vegetable Crops."

*Title:* Sweet Onions Grown in the Walla Walla Valley of Southeast

Washington and Northeast Oregon; Marketing Order No. 956.

*OMB Number:* 0581-0221.

*Type of Request:* New collection; revision of a currently approved information collection.

*Abstract:* The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the Walla Walla sweet onion marketing order program, which has been operating since 1995.

On December 8, 2003, the Committee unanimously recommended the establishment of procedures and safeguard requirements to allow the grading, packing, or storing of Walla Walla sweet onions outside the production area. At that meeting, the Committee also recommended the addition of a preseason handler registration form to the reporting requirements. The information requirements created by this action will be reported on three new Committee forms. Safeguard requirements require any person who wishes to ship or receive Walla Walla sweet onions for grading, packing, or storing outside the production area to first apply to the Committee on a *Shippers/Receivers Application for Certificate of Privilege, Form No. 3* prior to shipping or receiving product. After the Committee approves the application, the applicant will be required to submit a *Special Purpose Shipment Report, Form No. 4* to the Committee after Walla Walla sweet onions are shipped or received out of the production area pursuant to a Certificate of Privilege. The Committee also recommended expanding current handler reporting requirements to include a *Walla Walla Sweet Onion Handler Registration Form, Form No. 2*. The new reporting requirement will help ensure compliance with the marketing order regulations and assist the Committee and the USDA with oversight and planning.

The Committee met again on February 10, 2004, and unanimously recommended the revision of the current *Handler's Statement of Walla Walla Sweet Onion Shipments, Form FV-141, Form No. 1* to require that sweet onion shipment information be segregated by producer as well as by week and region. This additional information will increase the time it takes each handler to complete the form from 25 minutes to 40 minutes, or an additional 6.16 burden hours for this form. The Committee believes that this information, used in conjunction with other information obtained, will improve their ability to administer the

order. This form has already been approved for 12.60 burden hours by OMB under OMB No. 0581-0178.

The information collected will be used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs' regional and headquarters' staff, and authorized Committee employees. Authorized Committee employees are the primary users of the information and AMS is the secondary user.

The request for approval of the new information collection under the order is as follows:

#### **Shippers/Receivers Application for Certificate of Privilege, Form No. 3**

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 2 minutes per response.

*Respondents:* Persons who wish to ship or receive Walla Walla sweet onions for grading, packing, or storing outside the production area.

*Estimated Number of Respondents:* 10.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.30 hours.

#### **Special Purpose Shipment Report, Form No. 4**

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 20 minutes per response.

*Respondents:* Persons who ship or receive Walla Walla sweet onions for grading, packing, or storing outside the production area.

*Estimated Number of Respondents:* 10.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 3.30 hours.

#### **Walla Walla Sweet Onion Handler Registration Form, Form No. 2**

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 15 minutes per response.

*Respondents:* All persons who wish to handle Walla Walla sweet onions.

*Estimated Number of Respondents:* 28.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 7.00 hours.

#### **Handler's Statement of Walla Walla Sweet Onion Shipments, Form FV-141; Form No. 1**

As previously mentioned, *Form FV-141, Handler's Statement of Walla*

*Walla Sweet Onion Shipments*, is already approved under OMB No. 0581-0178, for 12.60 hours (30 respondents x .42 hours, equals 12.60 burden hours). Because of the additional information being requested, and the decrease in the number of respondents (from 30 to 28), the burden for this form is being increased to 18.76 burden hours (28 respondents x .67 hours), or an additional burden of 6.16 hours.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 40 minutes. This is an increase from the previous estimate of 25 minutes.

*Respondents:* Walla Walla sweet onion handlers.

*Estimated Number of Respondents:* 28.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 18.76 hours.

*Comments:* Comments are invited on: (1) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581-0221 and the Marketing Order for Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon and be sent to the USDA in care of the Docket Clerk at the previously mentioned address. All comments timely 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. All comments will become a matter of public record. As mentioned before, because there was insufficient time for a normal clearance procedure and prompt implementation is needed, AMS has obtained emergency approval from OMB for the use of this collection of forms for the 2004 regulation period, which begins June 2004. Upon publication of the final rule, this collection will be merged with the forms currently approved for use under

OMB No. 0581-0178 "Generic OMB Vegetable Crops."

In summary, this rule establishes procedures to allow the grading, packing, or storing of Walla Walla sweet onions outside the production area established under the Walla Walla sweet onion marketing order and also modifies handler reporting requirements. Allowing the preparation of sweet onions for market to occur outside the production area will increase marketing options for producers and may reduce marketing costs. The additional reporting requirements will contribute to the efficient operation of the program and assist in ensuring handler compliance with marketing order provisions. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Walla Walla sweet onion marketing season normally starts in mid-June and these changes should be in effect by that time to achieve their intended purpose; (2) the Committee unanimously recommended these changes at public meetings and all interested parties had an opportunity to provide input; (3) Walla Walla sweet onion producers and handlers are aware of this rule and need no additional time to comply with the relaxed requirements; (4) this rule provides a 30-day comment period on the regulation changes which is deemed appropriate, and a 60-day comment period on the reporting requirement changes, and any comments received will be considered prior to finalization of this 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 956.163 is amended by adding a new paragraph (b) to read as follows:

## **§ 956.163 Handling for specified purposes.**

\* \* \* \* \*

(b) *Market preparation outside the production area.* (1) Persons desiring to ship or receive Walla Walla sweet onions for grading, packing, or storing outside the production area, but within Oregon and Washington, shall apply to the Committee on a “*Shippers/Receivers Application for Certificate of Privilege*” form. Such application shall contain the following:

(i) Company name, contact name, address, contact telephone numbers, date, and signature of the applicant;

(ii) Whether the applicant is the shipper or receiver;

(iii) Agreement to provide a *Special Purpose Shipment Report* to the Committee as required after shipping or receiving Walla Walla sweet onions for grading, packing, or storing out of the production area under a Certificate of Privilege.

(iv) Certification by the applicant that all provisions of the rules and regulations of this part will be adhered to including, but not limited to, any grade, size, quality, maturity, pack, or container requirements that may be currently in effect;

(v) Certification by the applicant, if a receiver under the Certificate of Privilege, that they will forward to the Committee office all assessments due on Walla Walla sweet onions handled.

(vi) Such other information as the Committee may require.

(2) Each approved applicant shall furnish to the Committee a *Special Purpose Shipment Report* form no later than thirty (30) days after the final shipment of sweet onions are shipped or received pursuant to the Certificate of Privilege. That report shall contain the following information:

(i) Company name, contact name, address, contact telephone numbers, signature, and date;

(ii) Names of shippers or receivers who have either shipped Walla Walla sweet onions out of the production area or received the same;

(iii) The total quantity of Walla Walla sweet onions shipped or received under this section during the period covered;

(iv) Certification by the receiver that all assessments due on Walla Walla sweet onions handled under the respective Certificate of Privilege are being forwarded to the Committee; and

(v) Such other information as the Committee may require.

(3) The Committee may cancel any Certificate of Privilege if proof satisfactory to the Committee is obtained that any Walla Walla sweet onions shipped or received were done so contrary to the provisions of this section. Upon cancellation of such Certificate of Privilege the shipper or receiver may appeal to the Committee for reconsideration.

■ 3. Section 956.180 is revised to read as follows:

## **§ 956.180 Reports.**

(a) Each handler shall furnish to the Committee, no later than May 31 each year, a preseason *Walla Walla Sweet Onion Handler Registration Form*. Such form shall include:

(1) Company name, contact name, mailing and physical addresses, contact telephone numbers, and signature of handler;

(2) Season covered by registration;

(3) Brand names or labels to be used; and

(4) Estimated number of acres of fall planted and spring planted Walla Walla Sweet Onions to be packed during the season.

(b) Each handler shall furnish to the Committee a *Handler's Statement of Walla Walla Sweet Onion Shipments* containing the information paragraphs (a)(1), (a)(2), and (a)(3) of this section, except that gift box and roadside stand sales shall be exempt from paragraph (a)(2) of this section: *Provided*, That for Walla Walla Sweet Onions handled prior to September 1, such report shall be furnished to the Committee by September 1, and that for Walla Walla Sweet Onions handled during the period September 1 through May 31 of each fiscal period, such report shall be furnished to the Committee no later than thirty (30) days after the end of the month in which such onions were handled:

(1) 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;

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

(3) The name, address, and signature of each handler; and

(4) The name of each producer and the number of 50 lb. equivalents of Walla Walla Sweet Onions that were

handled on behalf of or acquired from that producer.

Dated: April 21, 2004.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

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## **DEPARTMENT OF THE TREASURY**

### **Office of the Comptroller of the Currency**

#### **12 CFR Part 3**

[Docket No. 04–10]

RIN 1557–AC76

## **FEDERAL RESERVE SYSTEM**

#### **12 CFR Parts 208 and 225**

[Regulations H and Y; Docket No. R–1156]

### **FEDERAL DEPOSIT INSURANCE CORPORATION**

#### **12 CFR Part 325**

RIN 3064–AC74

## **DEPARTMENT OF THE TREASURY**

### **Office of Thrift Supervision**

#### **12 CFR Part 567**

[No. 2004–15]

RIN 1550–AB79

### **Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Interim Capital Treatment of Consolidated Asset-Backed Commercial Paper Program Assets; Extension**

**AGENCIES:** Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

**ACTION:** Interim final rule; extension of applicability date.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), and Office of Thrift Supervision (OTS) (collectively, the agencies) are extending the applicability date in the interim final rule on the capital treatment of consolidated asset-backed commercial paper (ABCP) programs that was issued on October 1, 2003 (68 FR 56530)