

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.