

and Portola Parkway; then southeast on Portola Parkway to State Highway 261; then southwest on State Highway 261 to Irvine Boulevard; then southeast on Irvine Boulevard to Culver Drive; then southwest on Culver Drive to U.S. Interstate 5; then southeast on U.S. Interstate 5 to Jeffery Road; then southwest on Jeffery Road to University Drive; then southwest, west, and southwest on University Drive to State Highway 73; then northwest on State Highway 73 to Irvine Avenue; then southwest, west, and southwest on Irvine Avenue to 22nd Street; then northwest on 22nd Street to Victoria Street; then west on Victoria Street to Harbor Boulevard; then north on Harbor Boulevard to Adams Avenue; then west on Adams Avenue to Brookhurst Avenue; then north on Brookhurst Avenue to the point of beginning.

Done in Washington, DC, this 16th day of January 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7-801 Filed 1-19-07; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. AMS-FV-06-0175; FV07-982-1 IFR]

Hazelnuts Grown in Oregon and Washington; Establishment of Final Free and Restricted Percentages for the 2006-2007 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule establishes final free and restricted percentages for domestic inshell hazelnuts for the 2006-2007 marketing year under the Federal marketing order for hazelnuts grown in Oregon and Washington. The final free and restricted percentages are 8.2840 percent and 91.7160 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

producers with reasonable returns. This rule was recommended unanimously by the Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the marketing order.

DATES: Effective January 23, 2007. This interim final rule applies to all 2006-2007 marketing year restricted hazelnuts until they are properly disposed of in accordance with marketing order requirements. Comments received by March 23, 2007 will be considered prior to issuance of a final rule.

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, *E-mail:* moab.docketclerk@usda.gov, or *Internet:* <http://www.regulations.gov>. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**.

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 or 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.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 115 and Marketing Order No. 982, both as amended (7 CFR part 982), regulating the handling of hazelnuts grown in Oregon and Washington, 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. It is intended that this action

apply to all merchantable hazelnuts handled during the 2006-2007 marketing year beginning July 1, 2006. This action applies to all 2006-2007 marketing year restricted hazelnuts until they are properly disposed of in accordance with marketing order requirements. 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 rule establishes free and restricted percentages which allocate the quantity of domestically produced hazelnuts which may be marketed in domestic inshell markets (free) and hazelnuts which must be exported, shelled, or otherwise disposed of by handlers (restricted). The Board met and, after determining that volume regulation would tend to effectuate the declared policy of the Act, developed a marketing policy to be employed for the duration of the 2006-2007 marketing year. 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 producers with reasonable returns. Based on an estimate of the domestic inshell trade demand and total supply of domestically produced hazelnuts available for the 2006-2007 marketing year, the Board voted unanimously at their November 15, 2006, meeting to recommend to USDA that the final free and restricted percentages for the 2006-2007 marketing year be established at 8.2840 percent and 91.7160 percent, respectively.

The Board's authority to recommend volume regulation and use computations to determine the allocation of hazelnuts to individual markets is specified in § 982.40 of the

order. Under the order's provisions, free and restricted market allocations of hazelnuts are expressed as percentages of the total hazelnut supply subject to regulation. The percentages are derived by dividing the estimated domestic inshell trade demand (computed by formula) by the Board's estimate of the total domestically produced supply of hazelnuts that are expected to be available over the course of the marketing year.

Inshell trade demand, the key component of the marketing policy, is the estimated quantity of inshell hazelnuts necessary to adequately supply the domestic inshell hazelnut market for the duration of the marketing year. The Board determines the domestic inshell trade demand for each year and uses that estimate as the basis for setting the percentage of the available supply of domestically produced hazelnuts that handlers may ship to the domestic inshell market throughout the marketing season. The order specifies that inshell trade demand be computed by averaging the preceding three years' trade acquisitions of inshell hazelnuts, allowing adjustments for abnormal crop or marketing conditions. In addition, the Board may increase the computed inshell trade demand by up to 25 percent, if market conditions warrant an increase.

As required by the order, prior to September 20 of each marketing year, the Board meets to establish its marketing policy for that year. If the Board determines that volume control would tend to effectuate the declared policy of the Act, the Board then follows a procedure, specified by the order, to compute and announce preliminary free and restricted percentages. The preliminary free percentage releases 80 percent of the adjusted inshell trade demand that handlers may ship to the domestic market. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary stage of regulation is to guard against any potential underestimate of crop size. The preliminary free percentage is expressed as a percentage of the total hazelnut supply subject to regulation, where total supply is the sum of the estimated crop production less the three-year average disappearance plus the undeclared carry-in from the previous marketing year.

On August 22, 2006, the National Agricultural Statistics Service (NASS) released an estimate of 2006 hazelnut production for the Oregon and Washington area at 41,000 dry orchard-run tons. NASS uses an objective yield survey method to estimate hazelnut

production which has historically been very accurate.

On August 24, 2006, the Board met for the purpose of (1) determining if volume control regulation would tend to effectuate the declared policy of the Act; (2) estimating the total available supply and the domestic inshell trade demand for hazelnuts; (3) establishing preliminary free and restricted marketing percentages for the 2006–2007 marketing year; and (4) authorizing market outlets for restricted hazelnuts.

After discussion, the Board unanimously determined that volume regulation would be necessary to effectively market the industry's 2006 crop and would tend to effectuate the declared policy of the Act. The determination was based on (1) the large size of the 2006 hazelnut crop; (2) the inability of the domestic inshell market to absorb such a large crop; (3) the projected record-setting world hazelnut crop and the probability of an oversupplied world market; and (4) the average price paid to Oregon-Washington growers has not exceeded the parity price in any one of the past 18 years.

The Board then estimated the total available supply for the 2006 crop year to be 39,234 tons. The Board arrived at that quantity by using the crop estimate compiled by NASS (41,000 tons) and then adjusting that estimate to account for disappearance and carry-in. The order requires the Board to reduce the crop estimate by the average disappearance over the preceding three years (1,792 tons) and to increase it by the amount of undeclared carry-in from previous years' production (26 tons.)

In the calculation, disappearance is defined as the difference between the estimated orchard-run production and the actual supply of merchantable product available for sale by handlers. Disappearance can consist of (1) unharvested hazelnuts; (2) culled product (nuts that are delivered to handlers but later discarded); (3) product used on the farm, sold locally, or otherwise disposed of by producers; and (4) statistical error in the orchard-run production estimate.

Undeclared carry-in is defined as hazelnuts that were produced in a previous marketing year but were not subject to regulation because they were not shipped during that marketing year. Undeclared carry-in is subject to regulation during the current marketing year and is accounted for as such by the Board.

Additionally, the Board estimated domestic inshell trade demand for the 2006–2007 marketing year to be 3,067 tons. The Board arrived at this estimate

by taking the average of the domestic inshell trade acquisitions for the 2002–2005 marketing years (2,775 tons) and then reducing that quantity by the declared carry-in from last year's crop (124 tons). The trade acquisition data for the 2005–2006 marketing year was omitted from the Board's calculations, as allowed by the order, after it was determined to be abnormal due to crop and marketing conditions.

The declared carry-in represents product regulated under the order during a preceding marketing year but not shipped during that year. This inventory must be accounted for when estimating the quantity of product to make available to adequately supply the market.

After establishing estimates for total available hazelnut supply and domestic inshell trade demand, the Board used those estimates to compute and announce preliminary free and restricted percentages of 5.4055 percent and 94.5945 percent, respectively. The Board computed the preliminary free percentage by multiplying the adjusted inshell trade demand by 80 percent and dividing the result by the estimate of the total available supply subject to regulation (2,651 tons $\times$ 80 percent / 39,234 tons = 5.4055 percent). The preliminary free percentage initially released 2,121 tons of hazelnuts from the 2006–2007 supply for domestic inshell use. The Board authorized the preliminary restricted percentage (37,113 tons) to be exported or shelled for the domestic kernel markets.

Under the order, the Board must meet again on or before November 15 to review and revise the preliminary estimate of the total available supply of hazelnuts and to recommend interim final and final free and restricted percentages. Initially, when establishing preliminary free and restricted percentages, the Board utilizes a pre-harvest objective yield survey, compiled by NASS on behalf of the Board, to estimate the upcoming crop size. After the hazelnut harvest has concluded, usually sometime in October, information is available directly from handlers to more accurately estimate crop size. The Board may use this information to amend their preliminary estimate of total available supply before calculating the interim final and final percentages.

Interim final percentages are calculated in the same way as the preliminary percentages but release 100 percent of the inshell trade demand, effectively releasing the additional 20 percent held back at the preliminary stage. Final free and restricted percentages may release up to an

additional 15 percent of the average trade acquisitions of inshell hazelnuts for desirable carryout, to provide an adequate carryover of product into the following season. The order requires that final free and restricted percentages be effective 30 days prior to the end of the marketing year, or earlier, if recommended by the Board and approved by USDA. The Board is allowed to combine the interim final and the final stages of the marketing policy, if marketing conditions so warrant, by recommending final percentages which immediately release 100 percent of the inshell trade demand (the preliminary percentage plus the additional 20 held back) plus any percentage increase the Board determines for desirable carryout.

Revisions in the marketing policy can be made until February 15 of each marketing year, but the inshell trade demand can only be revised upward, consistent with § 982.40(e).

The Board met on November 15, 2006, and reviewed and approved an amended marketing policy and recommended the establishment of final free and restricted percentages. During the meeting, the Board revised the crop estimate in the marketing policy to 38,688 tons (from 41,000 tons), which reflects the results of post-harvest handler survey information compiled by the Board. In addition, the Board decided that market conditions were such that the immediate release of an additional 15 percent of the three year average trade acquisitions to allow for

desirable carryout would not adversely affect the 2006–2007 domestic inshell market. Final percentages were recommended at 8.2840 percent free and 91.1760 percent restricted. The final free percentage releases 3,067 tons of inshell hazelnuts from the 2006–2007 supply for domestic use, which includes 416 tons for desirable carryout. Accordingly, since the final percentages were recommended for immediate release, no recommendations for interim final free and restricted percentages were necessary.

The final marketing percentages are based on the Board's final production estimate and the following supply and demand information for the 2006–2007 marketing year:

Total available supply		Tons
(1) Production forecast (11/15/06 crop estimate)	38,688	
(2) Minus: Disappearance (three year average – 4.37 percent of Item 1)	– 1,691	
(3) Merchantable production (Item 1 minus Item 2)	36,997	
(4) Plus: Undeclared carry-in as of July 1, 2006 (subject to 2006–2007 regulation)	+26	
(5) Available supply subject to regulation (Item 3 plus Item 4)	37,023	
Inshell trade demand		
(6) Average trade acquisitions of inshell hazelnuts (three prior years domestic sales)	2,775	
(7) Plus: Increase to encourage increased sales (15% of average trade acquisitions)	+416	
(8) Minus: Declared carry-in as of July 1, 2006 (not subject to 2006–2007 regulation)	– 124	
(9) Adjusted inshell trade demand (Item 6 plus Item 7 minus Item 8)	3,067	
Percentages		Free Restricted
(10) Final percentages (Item 9 divided by Item 5) × 100	8.2840	91.7160
(11) Final free tonnage (Item 9)	3,067	
(12) Final restricted tonnage (Item 5 minus Item 11)		33,956

In addition to complying with the provisions of the order, the Board also considered USDA's 1982 "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market has available a quantity equal to 110 percent of prior years' shipments before allocating supplies for the export inshell, export kernel, and domestic kernel markets. This provides for a plentiful supply of inshell hazelnuts for consumers and for market expansion, while retaining the mechanism for dealing with oversupply situations. The established final percentages make available approximately 416 additional tons to encourage increased sales. The total free supply for the 2006–2007 marketing year is estimated to be 3,067 tons of hazelnuts, which is 127 percent

of the average of the last three prior years' sales and exceeds the goal of the Guidelines.

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.

Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as

those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those having annual receipts of less than \$6,500,000. There are approximately 700 producers of hazelnuts in the production area and approximately 18 handlers subject to regulation under the order. Using statistics compiled by NASS, the average value of production received by producers in 2004 and 2005 was \$57,912,000. Using those estimates, the average annual hazelnut revenue per producer would be approximately \$82,700. The level of sales of other crops by hazelnut producers is not known. In addition, based on Board records, about 83 percent of the handlers ship under \$6,500,000 worth of hazelnuts on an annual basis. In view of the foregoing, it can be concluded that the majority of hazelnut producers and handlers may be classified as small entities.

Board 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, Board recommendations can be considered to represent the interests of small business entities in the industry.

Currently, U.S. hazelnut production is allocated among three main market outlets: Domestic inshell, export inshell, and kernel markets. Handlers and growers receive the highest return for sales in the domestic inshell market. They receive less for product going to export inshell, and the least for kernels. Based on Board records of average shipments for 1996–2005, the percentage going to each of these markets was 10 percent (domestic inshell), 51 percent (export inshell), and 37 percent (kernels). Other minor market outlets make up the remaining 2 percent.

The inshell hazelnut market can be characterized as having limited and inelastic demand with a very short primary marketing period. On average, 79 percent of domestic inshell hazelnut shipments occur between October 1 and November 30, primarily to supply holiday nut demand. The inshell market is, therefore, prone to oversupply and correspondingly low grower prices in the absence of supply restrictions. This volume control regulation provides a method for the U.S. hazelnut industry to limit the supply of domestic inshell hazelnuts available for sale in the continental U.S. and thereby mitigate market oversupply conditions.

Many years of marketing experience led to the development of the current volume control procedures. These procedures have helped the industry solve its marketing problems by keeping inshell supplies in balance with domestic needs. Volume controls ensure that the domestic inshell market is fully supplied while protecting the market from the negative effects of oversupply.

Although the domestic inshell market is a relatively small portion of total hazelnut sales (averaging 10 percent of total shipments for 1996–2005), it remains a profitable market segment. The volume control provisions of the marketing order are designed to avoid oversupplying this particular market segment, because that would likely lead to substantially lower grower prices. The other market segments, export inshell and kernels, are expected to continue to provide good outlets for U.S. hazelnut production into the future. Adverse climatic conditions that negatively impacted hazelnut production in the other hazelnut

producing regions of the world in 2004 and 2005 have corrected and the total world supply in 2006–2007 is predicted to increase dramatically. Product prices in the world market have trended downward in the expectation of the greater supply. While the U.S. hazelnut industry continues to experience high demand for their large sized and high quality product, the prices that producers receive are tied to the global market. In light of the anticipated world oversupply situation, regulation of the domestic inshell market is important to the U.S. hazelnut industry to insulate that specialty market from the supply related challenges of the world hazelnut market.

In Oregon and Washington, high hazelnut production years typically follow low production years (a historically consistent pattern), and such was the case in 2006. The 2005 crop of 27,600 tons was 13 percent below the 10-year average (31,650 tons for 1996–2005) for hazelnut production. The 2006 crop is estimated to be 22 percent above the average. It is predicted that the 2007 crop will follow the recent production pattern and will be smaller than the current crop year. This cyclical trait also leads to inversely corresponding cyclical price pattern for hazelnuts. The intrinsic cyclical nature of the hazelnut industry lends credibility to the volume control measures enacted by the Board under the marketing order.

Recent production and price data reflect the stabilizing effect of volume control regulations. Industry statistics show that total hazelnut production has varied widely over the 10-year period between 1995 and 2004, from a low of 16,500 tons in 1998 to a high of 49,500 tons in 2001. Production in the smallest crop year and the largest crop year were 54 percent and 161 percent, respectively, of the 10-year average of 30,826 tons. Grower price, however, has not fluctuated to the extent of production. Prices in the lowest price year and the highest price year were 73 percent and 149 percent, respectively, of the 10-year average price of \$963 per ton. The lower level of variability of price versus the variability of production provides an illustration of the order's price-stabilizing impact. The coefficient of variation (a standard statistical measure of variability; "CV") for hazelnut production over the 10-year period is 0.36. In contrast, the coefficient of variation for hazelnut grower prices is 0.19, about half of the CV for production. The lower level of variability of price versus the variability of production provides an illustration of the order's price-stabilizing impact.

Comparing grower revenue to cost is useful in highlighting the impact on growers of recent product and price levels. A recent hazelnut production cost study from Oregon State University estimated cost-of-production per acre to be approximately \$1,340 for a typical 100-acre hazelnut enterprise. Average grower revenue per bearing acre (based on NASS acreage and value of production data) equaled or exceeded that typical cost level only three times from 1996 to 2005. Average grower revenue was below typical costs in the other years. Without the stabilizing influence of the order, growers may have lost more money. While crop size has fluctuated, volume regulations contribute to orderly marketing and market stability by moderating the variation in returns for all producers and handlers, both large and small.

While the level of benefits of this rulemaking is difficult to quantify, the stabilizing effects of volume regulation impact both small and large handlers positively by helping them maintain and expand markets even though hazelnut supplies fluctuate widely from season to season. This regulation provides equitable allotment of the most profitable market, the domestic inshell market. That market is available to all handlers, regardless of size.

As an alternative to this regulation, the Board discussed not regulating the marketing of the 2006 hazelnut crop. However, without any regulation in effect, the Board believes that the industry would tend to oversupply the inshell domestic market. The 2006 hazelnut crop is larger than last year's crop and 22 percent above the ten-year average. The unregulated release of 38,688 tons on the domestic inshell market could easily oversupply the small, but lucrative domestic inshell market. The Board believes that any oversupply would completely disrupt the market, causing producer returns to decrease dramatically.

Section 982.40 of the order establishes a procedure and computations for the Board to follow in recommending to USDA establishment of preliminary, interim final, and final percentages of hazelnuts to be released to the free and restricted markets each marketing year. The program results in a plentiful supply of hazelnuts for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations.

Hazelnuts produced under the order comprise virtually all of the hazelnuts produced in the U.S. This production represents, on average, less than 2 percent of total U.S. production of all

tree nuts, and less than 7 percent of the world's hazelnut production.

Last season, 85 percent of the domestically produced hazelnut kernels were marketed in the domestic market and 15 percent were exported. Domestically produced kernels generally command a higher price in the domestic market than imported kernels. The industry is continuing its efforts to develop and expand other markets with emphasis on the domestic kernel market. Small business entities, both producers and handlers, benefit from the expansion efforts resulting from this program.

Inshell hazelnuts produced under the order compete well in export markets because of their high quality. Based on Board statistics, Europe has historically been the primary export market for U.S. produced inshell hazelnuts. Shipments have also been relatively consistent, not varying much from the 10 year average of 4,958 tons. Recent years, though, have seen a significant increase in export destinations. Last season, inshell shipments to Europe totaled 4,622 tons, representing just 38 percent of exports, with the largest share going to Germany. Inshell shipments to Southwest Pacific countries, and Hong Kong in particular, have increased dramatically in the past few years, rising to 50 percent of total exports of 12,042 tons for the 2005–2006 marketing year. The industry continues to pursue export opportunities.

There are some reporting, recordkeeping, and other compliance requirements under the order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The information collection requirements have been previously approved by the Office of Management and Budget under OMB No. 0581–0178. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. 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. This rule does not change those requirements.

The 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.

In addition, USDA has not identified any relevant Federal rules that

duplicate, overlap, or conflict with this rule.

Further, the Board's meetings were widely publicized throughout the hazelnut industry and all interested persons were invited to attend the meetings and participate in Board deliberations. Like all Board meetings, those held on August 24 and November 15, 2006, were public meetings and all entities, both large and small, were able to express their 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 invites comments on the establishment of final free and restricted percentages for the 2006–2007 marketing year under the hazelnut marketing order. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Board'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 that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The 2006–2007 marketing year began July 1, 2006, and the percentages established herein apply to all merchantable hazelnuts handled from the beginning of the crop year; (2) the percentages make the full trade demand available so handlers can take advantage of inshell marketing opportunities; (3) handlers are aware of this rule, which was recommended at an open Board meeting, and need no additional time to comply with this rule; and (4) interested persons are provided a 60-day comment period in which to respond, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

■ 1. The authority citation for 7 CFR part 982 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. A new subpart and § 982.254 are added to read as follows:

Subpart—Free and Restricted Percentages

§ 982.254 Free and restricted percentages—2006–2007 marketing year.

The final free and restricted percentages for merchantable hazelnuts for the 2006–2007 marketing year shall be 8.2840 percent and 91.7160 percent, respectively.

Dated: January 16, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–763 Filed 1–19–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–19559; Directorate Identifier 2004–NE–03–AD; Amendment 39–14892; AD 2007–02–05]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211 Trent 700 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for Rolls-Royce plc (RR) RB211 Trent 700 series turbofan engines. That AD currently requires initial and repetitive borescope inspections of the high pressure-and-intermediate pressure (HP-IP) turbine internal and external oil vent tubes for coking and carbon buildup, and cleaning or replacing the vent tubes if necessary. This AD requires the same actions but uses more stringent tube