the marketing year. Final free and restricted percentages release an additional 15 percent of the average of the preceding three years' trade acquisitions to provide an adequate carryover into the following season. The final free and restricted percentages must be effective at least 30 days prior to the end of the marketing year (July 1 through June 30), or earlier, if recommended by the Board and approved by the Secretary. In addition, revisions in the marketing policy can be made until February 15 of each marketing year. However, the inshell trade demand can only be revised upward.

In accordance with order provisions, the Board met on November 8, 1994, reviewed and approved an amended marketing policy and recommended the establishment of interim final and final free and restricted percentages. Interim final percentages were recommended at 19 percent free and 81 percent restricted, and final free and restricted

percentages were recommended at 23 percent and 77 percent, respectively. The interim final percentages make an additional 208 tons of inshell filberts/ hazelnuts available for the domestic inshell market. The interim final marketing percentages are based on the industry's final production estimates and release 3,775 tons to the domestic inshell market from the 1994 supply subject to regulation. The final marketing percentages release an additional 626 tons from the 1994 crop for domestic use. Thus, a total of 4,401 tons of inshell filberts/hazelnuts will be available from the 1994 supply subject to regulation for domestic use when the final percentages are established. The Oregon Agricultural Statistics Service (OASS) provided an early estimate of 19,000 tons total filbert/hazelnut production for the Oregon and Washington area. The Board unanimously voted to accept the OASS estimate of 19,000 tons.

The Board determined that the inshell domestic market conditions would allow more supply without depressing the market and recommended immediate release of the additional 15 percent (the final percentages). The Board believed that the immediate release of filberts/hazelnuts by the final percentages would benefit the industry with increased returns to growers and more inshell filberts/hazelnuts available for consumers.

The marketing order also requires that, procedurally, the Board recommend interim final and final percentages. Therefore, the interim final percentages were recommended even though they will not be utilized this marketing season.

The marketing percentages are based on the Board's production estimates and the following supply and demand information for the 1994–95 marketing year:

		Tons
Inshell Supply		
(1) Total production (OASS estimate)		19,000 1,083 17,917 1,527 19,444
Inshell Trade Demand		
(6) Average trade acquisitions of inshell filberts/hazelnuts for three prior years (7) Increase to encourage increased sales (5 percent of Item 6) (8) Less declared carryin as of July 1, 1994, not subject to regulation (9) Adjusted Inshell Trade Demand (10) 15 percent of the average trade acquisitions of inshell filberts/hazelnuts for three prior years (Item 6) (11) Adjusted Inshell Trade Demand plus 15 percent for carryout (Item 9 plus Item 10)		4,170 208 603 3,775 626 4,401
Percentages	Free	Restricted
(12) Interim final percentages (Item 9 divided by Item 5)×100	19 23	81 77

In addition to complying with the provisions of the marketing order, the Board also considers the Department'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 filberts/hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market have available a quantity equal to 110 percent of prior years' shipments in those outlets before secondary market allocations are approved. This provides for plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply

situations. At its August 25, 1994, meeting, the Board recommended that an increase of 5 percent (208 tons) for market expansion be included in the inshell trade demand. The established final percentages, which release 100 percent of the inshell trade demand, will make available 4,401 tons from the 1994 crop plus 603 tons of declared carryin which is 120 percent of prior years' sales, thus exceeding the goal of the Guidelines.

Based on the above, the Administrator of the AMS has determined that this interim final rule will not have a significant economic impact on a substantial number of small entities. Written comments, timely received in response to this action, will be considered before finalization of this rule.

After consideration of all available information, it is found that the establishment of interim final and final free and restricted percentages, as hereinafter set forth, will tend to effectuate the declared policy of the Act. Pursuant to 5 U.S.C. 553, it is also

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 1994–95 marketing year began July 1, 1994, and the percentages established herein apply to all merchantable filberts/hazelnuts handled from the beginning of the crop year; (2) handlers are aware of this rule,