

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 982

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

#### 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:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, an interim final rule establishing 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. This rule continues in effect the final free and restricted percentages of 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:* May 31, 2007 the regulation published January 22, 2007 (72 FR 2599, Jan. 22, 2007) is confirmed as final. This rule applies to all 2006-2007 marketing year restricted hazelnuts

until they are properly disposed of in accordance with marketing order requirements.

**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." 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 continues in effect 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 is 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 will 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:

	Tons	
Total available supply:		
(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	
	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.

**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.

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). The 2005 crop of 27,600 tons was 16 percent below the 32,685 ton average for the 1995–2004 period, while the preliminary NASS estimate for 2006 is 25 percent higher. The lowest production (15,000 tons in 1998) and highest production (49,500 tons in 2001) were 47 and 151 percent, respectively, of the 10 year average.

This cyclical trait also leads to an inversely corresponding cyclical price pattern for hazelnuts. Grower price, however, does not fluctuate to the extent of production. 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 most recent 10-year period is 0.36. In contrast, the coefficient of variation for hazelnut grower prices over the same period 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 less than half the time from 1995 to 2004. Average grower revenue was below typical costs in the other years. 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 are currently approved by the Office of Management and Budget under OMB No. 0581–0178, Vegetable and Specialty Crops. 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.

An interim final rule concerning this action was published in the **Federal Register** on January 22, 2007. Copies of this rule were mailed by the Board's staff to all Board members. In addition, the rule was made available through the Internet by the Office of the Federal Register. A 60-day comment period ending March 23, 2007, was provided to allow interested parties to respond to the rule. 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/fv/foab.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.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that finalizing the interim final rule, without change, as published in the **Federal Register** (72 FR 2599, January 22, 2007) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 982

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

#### PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

■ Accordingly, the interim final rule amending 7 CFR part 982 which was published at 72 FR 2599 on January 22, 2007, is adopted as a final rule without change.

Dated: April 25, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–8235 Filed 4–30–07; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2007–27014; Directorate Identifier 2006–NM–253–AD; Amendment 39–15041; AD 2007–09–09]

RIN 2120–AA64

#### Airworthiness Directives; Airbus Model A330 Airplanes and Model A340–200 and –300 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an airworthiness authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as un-damped extension of the main landing gear (MLG), potentially leading to loss of side stay integrity and then MLG collapse. We are issuing this AD to require actions to correct the unsafe condition on these products.

**DATES:** This AD becomes effective June 5, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 5, 2007.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Tim Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to allow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on January 26, 2007 (72 FR 3759). That NPRM proposed to require replacement of the retraction link assembly. The MCAI states that during full-scale fatigue tests, the retraction link failed on the latest growth production standard MLG (main landing gear) prior to its expected life limit. Investigations confirm that the root cause of this premature fracture is due to high lug stress. The retraction link is included in the ALS (Airworthiness Limitation section) Part 1—Safe Life Airworthiness Limitation Item—and is currently limited to 35,200 flight cycles (FC). Its fracture causes un-damped extension of the MLG, potentially leading to loss of side stay integrity and