

5. On page 922, in the second column, in § 1314.6, paragraph (b)(2), line five, the words "security account" are corrected to read "Security Account".

§ 1314.8 [Corrected]

6. On page 922, in the third column, in § 1314.8, line fourteen, the word "number" is corrected to read "Number".

Dated: February 11, 1997.

John L. Dugger,

Assistant General Counsel.

[FR Doc. 97-4744 Filed 2-25-97; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 12 and 113

[T.D. 97-9]

RIN 1515-AB97

Entry of Softwood Lumber Shipments From Canada

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document sets forth interim amendments to the Customs Regulations establishing additional entry requirements applicable to shipments of softwood lumber from Canada. The interim amendments involve the collection of certain additional information for purposes of monitoring and enforcing an agreement between the Governments of the United States and Canada regarding trade in softwood lumber.

DATES: Interim rule effective February 26, 1997; comments must be submitted by April 28, 1997.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, NW., Suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gary Manes, Office of Field Operations (202-927-1133).

SUPPLEMENTARY INFORMATION:

Background

On May 29, 1996, the United States entered into the Softwood Lumber

Agreement (the Agreement) with Canada under the authority of section 301(c)(1)(D) of the Trade Act of 1974, as amended (19 U.S.C. 2411(c)(1)(D)), which authorizes the United States Trade Representative (the USTR) to "enter into binding agreements" with a foreign country that commit the foreign country to, *inter alia*, eliminate any burden or restriction on U.S. commerce resulting from an act, policy or practice of the foreign country. The Agreement, which went into effect on April 1, 1996, was specifically intended to provide a satisfactory resolution to certain acts, policies and practices of the Government of Canada affecting exports to the United States of softwood lumber which had been the subject of an investigation initiated by the USTR under section 302(b)(1)(A) of the Trade Act of 1974, as amended (19 U.S.C. 2412(b)(1)(A)), and which on October 4, 1991, pursuant to section 304(a) of the Trade Act of 1974, as amended (19 U.S.C. 2414(a)), had been found by the USTR to be unreasonable and to burden or restrict U.S. commerce. The Agreement is the product of a consultative process established by the United States and Canada and involving the participation of the U.S. Government, Canadian federal and provincial governments and, where appropriate, industries and other interested parties in both countries.

The Agreement refers specifically to softwood lumber mill products classified in subheadings 4407.10.00, 4409.10.10, 4409.10.20, and 4409.10.90 of the Harmonized Tariff Schedule of the United States (HTSUS) that were "first manufactured" into a product of one of those HTSUS subheadings in the Canadian provinces of Ontario, Quebec, British Columbia or Alberta. The Agreement requires that Canada assess fees on exports of such softwood lumber in each of the five years following April 1, 1996, based on the following schedule: (1) For total shipments up to 14.7 billion board feet, free (no fee); (2) for any amount shipped in excess of 14.7 billion board feet but not in excess of 15.35 billion board feet, US\$50 per thousand board feet in the first year and with annual adjustments for inflation in subsequent years; and (3) for any amount shipped in excess of 15.35 billion board feet, US\$100 per thousand board feet and with annual adjustments for inflation in subsequent years. The Agreement also allows an additional amount of exports of such softwood lumber in excess of 14.7 billion board feet without the payment of a fee if the average price of a benchmark softwood lumber price exceeds a prescribed

"trigger price" during any quarterly period. In order to control and monitor exports of softwood lumber first manufactured in Ontario, Quebec, British Columbia and Alberta, the Agreement provides that Canada will issue an export permit for each shipment of such softwood lumber and that Canada will collect any required fee for amounts of lumber exported in excess of 14.7 billion board feet upon issuance of the export permit.

The Agreement requires the collection of information by Canada in connection with the issuance of export permits for softwood lumber first manufactured in Ontario, Quebec, British Columbia and Alberta and the collection of information by the United States in connection with import transactions involving such lumber.

With regard to the import end, the Agreement obligates the United States to require that the U.S. importer provide specific information in connection with the entry of the lumber under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484). The information required to be collected under the Agreement includes the following three specific data elements which are not already required under the Customs laws and regulations, the last two of which are required by the Agreement to be collected as soon as practicable after the entry into force of the Agreement: (1) The province of first manufacture of the lumber; (2) the export permit number issued in Canada for the shipment; and (3) the fee status of the lumber for which the export permit was issued (whether the lumber in the shipment was attributed to a quantity to which no fee applies or to a quantity that is subject to the US\$50 fee or to a quantity that is subject to the US\$100 fee or to a quantity that is covered by the trigger price mechanism).

In order to facilitate monitoring of the Agreement and in order to ensure that Canadian exporters have obtained the appropriate permits, the Agreement also sets forth various cooperative measures which include the periodic exchange of export and import information collected by the two countries under the Agreement.

On June 5, 1996, the USTR published a notice in the Federal Register (61 FR 28626) setting forth its determination that the Agreement will be subject to the provisions of section 306 of the Trade Act of 1974, as amended (19 U.S.C. 2416), and that the USTR will monitor Canadian compliance with the Agreement pursuant to section 306 and will take action under section 301(a) of the Trade Act of 1974, as amended (19

U.S.C. 2411(a)), if Canada fails to comply with the Agreement. Noting that adherence to the terms of the Agreement is vital to the achievement of its objectives, and consistent with the authority conferred on the USTR by section 141 of the Trade Act of 1974, as amended (19 U.S.C. 2171), to coordinate and draw upon the resources of other Federal agencies in connection with the performance of functions of the USTR regarding the proper administration and execution of trade agreement programs (including those arising out of unfair trade practice cases), the notice stated that the USTR, the Department of Commerce, Customs, and other agencies as appropriate, will carefully monitor and vigorously enforce the Agreement and that, to that end, Customs will provide to the USTR and to the Department of Commerce the data that Customs collects on imports (including province of origin and the type of permit) of softwood lumber from Canada.

The purpose of this document is to provide an appropriate regulatory context for the new requirements resulting from the Agreement as discussed above. Since those requirements relate to a special class of imported products, Customs believes that it would be appropriate to add to Part 12 of the Customs Regulations (19 CFR Part 12) a new § 12.140 to cover the Agreement provisions at issue.

Paragraph (a) of new § 12.140 reflects the basic onus that the Agreement places on exports of Canadian softwood lumber that are subject to the export permit and fee requirements and, by implication, on the U.S. importer (see also the below discussion of the changes to the bond provisions of Part 113 of the regulations). These paragraph (a) provisions are necessary to ensure that the basic purpose of the Agreement (the collection of export fees on appropriate shipments) is achieved.

Paragraph (b) of new § 12.140 specifies the information required to be collected pursuant to the Agreement. With regard to data concerning province of first manufacture, the regulatory text provides for submission of such data for all entries of softwood lumber products from Canada (rather than only those products first manufactured in Ontario, Quebec, British Columbia, or Alberta) because, in order to effectively determine if lumber is being entered with a false claim of province or territory of first manufacture so as to contravene the terms of the Agreement, it is necessary to be able to compare the entered quantity of lumber not only to the productive capacity of the claimed province or territory of first manufacture

but also to the productive capacity of other provinces or territories.

Paragraph (c) of new § 12.140 addresses the untimely issuance of export permit numbers by the Canadian Government. In recognition of the fact that processing or other procedural delays may arise in connection with the issuance of export permit numbers, this paragraph provides for up to 10 additional working days to file the entry summary documentation setting forth the information required under the Agreement if the Canadian Government has not issued the export permit number within the 10-day filing period prescribed in § 142.12(b) or § 142.23 of the regulations. If the export permit number is not issued within the maximum 20-working-day period allowed under this paragraph, the text requires that the entry summary documentation be filed on the next (21st) business day with surrogate information inserted in place of the actual data in the export permit number and export fee payment status fields. The use of surrogate information in such cases is only intended to enable the importer to effect an entry summary filing (in particular electronically) and thus does not absolve an importer from his other responsibilities under the regulatory texts implementing the Agreement. The provision in this paragraph regarding the additional 10-working-day period for filing the entry summary documentation is at this point intended to be a temporary measure, and the need for retaining this provision within the new regulatory texts will be reviewed by the United States no later than April 1, 1997, in the context of a review of the overall operation of the Agreement and the interim regulations set forth in this document.

Finally, as an interim arrangement, paragraph (d) of new § 12.140 provides that an importer is not required to declare the number or type of export permit issued by Canada with respect to softwood lumber products that are imported into Canada, processed in Canada, and then exported to the United States; surrogate information also would be used instead in such cases. This exception to the paragraph (b) requirements has been included because the Government of Canada has to date not agreed to issue export permits for such remanufactured products because it takes the position that they are not covered by the Agreement; it is the position of the U.S. Government that such products are covered by the Agreement. Discussions with the Government of Canada are ongoing to ensure that the export permit and other requirements of the Agreement will be

applied to these remanufactured products, and the need for retaining this exception within the new regulatory texts also will be reviewed by the United States no later than April 1, 1997. The volume of imports of remanufactured lumber historically has been small and, as a practical matter, it is expected that any future imports of such products would only involve certain specialty items. Customs notes that for any import transaction in which this exception is applied, the U.S. importer must maintain, and make available for Customs review when requested, appropriate records to establish that the exception was properly applied to the imported product. The use of this exception will be closely examined by Customs, and any filing of false information regarding the applicability of this exception may give rise to the assessment of penalties under section 592 of the Tariff Act of 1930, as amended (19 U.S.C. 1592).

This document also includes amendments to § 113.62 of the Customs Regulations (19 CFR 113.62) which sets forth the basic importation and entry bond conditions and consequences of default thereof. These amendments involve: (1) The addition of a bond condition as new paragraph (k) to reflect the importer's obligation under paragraph (a) of new § 12.140; and (2) in redesignated paragraph (l) (formerly paragraph (k)), the addition of a new paragraph (5) to set forth the consequences of a default on the new paragraph (k) bond condition, which would be liquidated damages in an amount equal to the highest export fee provided for under the Agreement.

In consideration of the fact that the data required under the regulatory text set forth in this document is required for the entry of the subject merchandise, the interim "(a)(1)(A) list" published in the Federal Register on July 15, 1996 (61 FR 36956) pursuant to 19 U.S.C. 1509(a)(1)(A) will be modified accordingly.

Comments

Before adopting this interim regulation as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, Franklin Court, 1099 14th

Street, N.W., Suite 4000, Washington, DC.

Inapplicability of Notice and Delayed Effective Date Requirements

Pursuant to the provisions of 5 U.S.C. 553(a), public notice is inapplicable to this interim regulation because it is within the foreign affairs function of the United States. The collection of information provided for in this interim regulation is required under the terms of the Softwood Lumber Agreement with Canada and is necessary to ensure effective monitoring of the operation of that Agreement. Furthermore, for the same reasons and because the collection of this information is required to begin as soon as practicable after entry into force of the Softwood Lumber Agreement, it is determined that good cause exists under the provisions of 5 U.S.C. 553(d)(3) for dispensing with a delayed effective date.

Executive Order 12866

Because this document involves a foreign affairs function of the United States and implements an international agreement, it is not subject to the provisions of E.O. 12866.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1515-0065.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collection of information in these regulations is in § 12.140. This information is required in connection with the entry of certain softwood lumber products from Canada and will be used by the U.S. Customs Service to administer, and monitor compliance with, the Softwood Lumber Agreement with Canada. The likely respondents are business organizations including importers, exporters and manufacturers.

Estimated total annual reporting and/or recordkeeping burden: 3,000 hours.

Estimated average annual burden per respondent/recordkeeper: 20 hours.

Estimated number of respondents and/or recordkeepers: 150.

Estimated annual number of responses: 350,000.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

List of Subjects

19 CFR Part 12

Bonds, Canada, Customs duties and inspection, Entry of merchandise, Imports, Prohibited merchandise, Reporting and recordkeeping requirements, Restricted merchandise, Trade agreements.

19 CFR Part 113

Air carriers, Bonds, Customs duties and inspection, Exports, Foreign commerce and trade statistics, Freight, Imports, Reporting and recordkeeping requirements, Vessels.

Amendments to the Regulations

Accordingly, Parts 12 and 113, Customs Regulations (19 CFR Parts 12 and 113), are amended as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for Part 12 continues to read, and a specific authority citation for § 12.140 is added to read, as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Section 12.140 also issued under 19 U.S.C. 1484, 2416(a), 2171.

2. A new center heading and new § 12.140 are added to read as follows:

Softwood Lumber From Canada

§ 12.140 Entry of softwood lumber from Canada.

The requirements set forth in this section are applicable for as long as the Softwood Lumber Agreement, entered into on May 29, 1996, by the Governments of the United States and Canada, remains in effect.

(a) *Encumbrance regarding export permit and export fee.* In the case of softwood lumber first manufactured into a product classifiable in subheading 4407.10.00, 4409.10.10, 4409.10.20, or 4409.10.90, Harmonized Tariff Schedule of the United States (HTSUS), in the Province of Ontario, Quebec, British Columbia, or Alberta, the requirement that the Government of Canada issue an export permit and collect the appropriate export fees under the Softwood Lumber Agreement attaches to and encumbers the product when it is imported into the United States. Such imported merchandise remains subject to the encumbrance until the Government of Canada issues an export permit and collects the appropriate fees. The merchandise shall be released by Customs subject to the following conditions: The importer of record assumes an obligation to ensure within 20 working days of release that such export permit is issued by the Government of Canada and to provide sufficient information to satisfy U.S. Customs that the encumbrance no longer attaches or, if the merchandise remains encumbered at the expiration of 20 working days, to pay any liquidated damages assessed under the Customs bond.

(b) *Reporting requirements.* Except as otherwise provided in paragraph (d) of this section, in the case of a softwood lumber product classifiable in HTSUS subheading 4407.10.00, 4409.10.10, 4409.10.20, or 4409.10.90 that is imported from Canada and that was manufactured (that is, subjected to any processing operation other than mere loading, unloading or processing necessary to maintain the condition of the product) in Canada, whether or not such product was previously subjected to any processing operation outside Canada, the following information shall be included on the entry summary, Customs Form 7501, or on an electronic equivalent:

(1) The Canadian province or territory in which the product was first manufactured; and

(2) In the case of a product first manufactured into a product classifiable in HTSUS subheading 4407.10.00, 4409.10.10, 4409.10.20, or 4409.10.90 in the Province of Ontario, Quebec, British Columbia, or Alberta:

(i) The export permit number issued by the Government of Canada for the product; and

(ii) An indication of the export fee payment status of the product for which the permit was issued according to the following categories:

(A) Category A: No payment of an export fee because the exported product falls within the base amount of 14.7 billion board feet. This category includes products for which the export permit was issued without an indication of the export fee status;

(B) Category B: Payment of the export fee applicable to a product exported in excess of 14.7 billion board feet but not in excess of 15.35 billion board feet;

(C) Category C: Payment of the export fee applicable to a product exported in excess of 15.35 billion board feet; or

(D) Category D: No payment of an export fee where the product was exported in excess of 14.7 billion board feet because the average price of a benchmark softwood lumber price exceeds a prescribed trigger price during any quarterly period as determined by the Governments of Canada and the United States. If the issued permit pertains to this category, the specific quarterly period shall also be indicated on the Customs Form 7501 or electronic equivalent.

(c) *Untimely issuance of export permit.* If an export permit for the product has not been issued by the Government of Canada on or before the required date for filing the entry summary documentation as provided in § 142.12(b) or § 142.23 of this chapter, the importer shall have a maximum of 10 additional working days to file the entry summary documentation setting forth all of the information specified in paragraph (b)(2) of this section. If an export permit for the product has not been issued by the Government of Canada within the maximum time period specified in this paragraph, the entry summary or electronic equivalent shall be filed on the next business day and shall be completed in pertinent part as follows:

(1) The export permit number field shall be completed by inserting as many eights as are necessary to complete the field; and

(2) The export fee payment status field shall be completed by inserting an "A" followed by two zeros.

(d) *Absence of export permit number and fee status data for certain*

remanufactured softwood lumber products. In the case of a softwood lumber mill product classifiable in HTSUS subheading 4407.10.00, 4409.10.10, 4409.10.20, or 4409.10.90 that is imported from Canada and that was first manufactured in Canada in the Province of Ontario, Quebec, British Columbia, or Alberta, if no export permit for the product is issued by the Government of Canada because the product was previously subjected to processing operations outside Canada, the entry summary, Customs Form 7501, or an electronic equivalent, shall include the Canadian province or territory in which the product was first manufactured and also shall be completed in pertinent part as follows:

(1) The export permit number field shall be completed by inserting as many nines as are necessary to complete the field; and

(2) The export fee payment status field shall be completed by inserting an "A" followed by two zeros.

PART 113—CUSTOMS BONDS

1. The authority citation for Part 113 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

* * * * *

2. Section 113.62 is amended:

a. By redesignating paragraph (k) as paragraph (l);

b. In the penultimate sentence of paragraph (l)(4) of redesignated paragraph (l), by removing the reference "paragraph (k)(1)" and adding, in its place, the reference "paragraph (l)(1)"; and

c. By adding a new paragraph (k) and adding a new paragraph (l)(5) at the end of newly designated paragraph (l) to read as follows:

§ 113.62 Basic importation and entry bond conditions.

* * * * *

(k) *Agreement to ensure and establish issuance of softwood lumber export permit and collection of export fees.* In the case of a softwood lumber product imported from Canada that is subject to the requirement that the Government of Canada issue an export permit pursuant to the Softwood Lumber Agreement, the principal agrees, as set forth in § 12.140(a) of this chapter, to assume the obligation to ensure within 20 working days of release of the merchandise, and establish to the satisfaction of Customs, that the applicable export permit has been issued by the Government of Canada.

(l) * * *

(5) If the principal defaults on agreements in the condition set forth in

paragraph (k) of this section only, the obligors agree to pay liquidated damages equal to \$100 per thousand board feet of the imported lumber.

Approved: February 20, 1997.

George J. Weise,
Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.
[FR Doc. 97-4682 Filed 2-25-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 083-4036a, PA 083-4037a, PA 069-4035a; FRL-5690-4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania Source-Specific VOC and NO_x RACT Determinations, and 1990 Base Year Emissions for One Source; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction.

SUMMARY: This action corrects the citation of a direct final rule, which was published on Friday, December 20, 1996 (61 FR 67229). This action pertains to the Pennsylvania source-specific RACT determinations for three sources: Caparo Steel Company, Sharon Steel Company, and Pennsylvania Electric Company—Williamsburg Station.

EFFECTIVE DATE: February 26, 1997.

FOR FURTHER INFORMATION CONTACT: Janice Lewis, (215) 566-2185, or Carolyn Donahue, (215) 566-2095.

SUPPLEMENTARY INFORMATION:

Background

On December 20, 1996 (61 FR 67229) EPA published a direct final rule approving a SIP revision submitted by Pennsylvania pertaining to Pennsylvania source-specific RACT determinations for Caparo Steel, Sharon Steel, and Penelec—Williamsburg, and 1990 Base year emissions for Sharon Steel Company.

Need for Correction

As published, the direct final rule contains an error which may prove to be misleading and is in need of clarification. The error is typographical in nature; the state submittal from the Pennsylvania Department of Environmental Protection (PADEP) correctly cites the emission limit for Penelec—Williamsburg.