

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 00-ACE-7." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G Airspace Designations and Reporting Points, dated September 10, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

Hampton Municipal Airport, IA
(Lat. 42°43'26" N., long. 93°13'35" W.)
Hampton NDB
(Lat. 42°43'32" N., long. 93°13'30" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Hampton Municipal Airport and within 2.6 miles each side of the 343° bearing from the Hampton NDB extending from the 6.4 mile radius to 7.4 miles northwest of the airport and 2 miles each side of the 177° bearing from the Hampton Municipal Airport extending from the 6.4 mile radius to 7.7 miles south of the airport, excluding that airspace within the Mason City, IA Class E airspace.

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Issued in Kansas City, MO, on May 9, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

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DEPARTMENT OF THE TREASURY**Customs Service****19 CFR Part 12**

[T.D. 00-36]

RIN 1515-AC62

Entry of Softwood Lumber Shipments From Canada

AGENCY: Customs Service, Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document adopts on an interim basis an amendment to the provision within the Customs Regulations that sets forth entry requirements for shipments of softwood lumber from Canada under the agreement between the Governments of the United States and Canada regarding trade in softwood lumber. This interim amendment implements an amendment to the softwood lumber agreement involving the addition of two export fee payment status categories (permit type codes) covering softwood lumber from the Canadian province of British Columbia.

DATES:

Effective Date: Interim rule effective May 23, 2000.

Comments: Comments must be submitted by July 24, 2000.

ADDRESSES: Written comments may be addressed to, and inspected at, the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Dixie Staple, Office of Field Operations (202-927-1131).

SUPPLEMENTARY INFORMATION:**Background**

This document amends the Customs Regulations on an interim basis to reflect an amendment of the agreement between the Governments of the United States and Canada regarding trade in softwood lumber. The amendment involves the addition of two export fee payment status categories (permit type codes) covering softwood lumber from the Canadian province of British Columbia.

Adoption of the Softwood Lumber Agreement

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, among other things, 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 was 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 that 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 that 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 were not previously required under the Customs laws and regulations, the last two of which were 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).

Implementing Regulations

On February 26, 1997, Customs published in the **Federal Register** (62 FR 8620) T.D. 97-6 which set forth interim amendments to the Customs Regulations to provide an appropriate regulatory context for the new requirements resulting from the Agreement as described above. Those amendments included the adoption of a new § 12.140 (19 CFR 12.140) which specifically addresses the entry requirements for softwood lumber under the agreement. Paragraph (b) of § 12.140 prescribes the information to be included on the entry summary and requires, under subparagraph (b)(2)(ii), an indication of the export fee payment status of the product for which the permit was issued according to one of four categories, Category A through Category D.

Amendment of the Agreement

On June 1, 1998, the British Columbia Forest Ministry reduced stumpage (timber harvesting) fees charged on all timber grown on provincially-owned lands, which accounts for the overwhelming majority of timber harvested in the province. The United States considered this reduction to be a violation of the Agreement and therefore invoked the dispute settlement provisions of the Agreement. When consultations failed to resolve the dispute, an Arbitration Panel was formed, Canada and the United States made submissions to the Arbitration Panel, and oral hearings were held. The dispute was ultimately settled, without issuance of a decision by the Arbitration Panel, on August 26, 1999, by an exchange of letters between the Governments of Canada and the United States which amended the Agreement and terminated the dispute.

The August 26, 1999, settlement and amendment of the Agreement applies only to softwood lumber first manufactured in British Columbia and applies only in the fourth and fifth years of the Agreement. The effect of the settlement and amended Agreement is to require Canada: (1) To impose the higher of the two basic export fee levels called for under the Agreement (\$100 per thousand board feet with annual adjustments for inflation after the first year) at lower lumber export levels for the province than previously was the case and (2) to impose a new, higher fee on lumber exports when they exceed recent average annual shipments to the United States from the province. Specifically, under the terms of the settlement and amended Agreement:

1. In the fourth year (April 1, 1999–March 31, 2000):

a. Ninety million board feet of the 362.3 million board feet lower fee base (LFB) allocation to British Columbia companies in that year will be re-priced at the current upper fee base (UFB) fee level (that is, US\$105.86 per thousand board feet which represents the adjusted \$100 fee applicable during the fourth year), and Canada will collect a fee equivalent to that UFB fee level on the issuance of a permit for export of the softwood lumber to the United States ("re-priced LFB"); and

b. Canada will collect a fee on the issuance of a permit for export to the United States of quantities of UFB by British Columbia companies (which includes re-priced LFB described in paragraph 1.a. above) in excess of 110 million board feet (the average of the UFB shipments for the first and second years of the Agreement) at the fee level

of US\$146.25 per thousand board feet (US\$105.86 per thousand board feet plus US\$40.39 per thousand board feet) ("re-priced UFB");

2. In the fifth year (April 1, 2000–March 31, 2001):

a. Either 90 million board feet, or any amount in excess of 272 million board feet, whichever is greater, of LFB allocations to British Columbia companies in that year will be re-priced at the current UFB level, and Canada will collect a fee equivalent to that UFB fee level on the issuance of a permit for export of the softwood lumber to the United States ("re-priced LFB"); and

b. Canada will collect a fee on the issuance of a permit for export to the United States of quantities of UFB by British Columbia companies (which includes re-priced LFB described in paragraph 2.a. above) in excess of 110 million board feet (the average of the UFB shipments for the first and second years of the Agreement) at the fee level of US\$40.39 above the current UFB rate ("re-priced UFB"); and

3. If any portion of LFB lumber allocated to a British Columbia company which has been re-priced pursuant to paragraph 1.a. or paragraph 2.a. above is transferred to a company in another Canadian province or is returned for temporary reallocation, Canada will collect a fee equivalent to the current UFB level on the issuance of a permit for export of the softwood lumber to the United States.

Customs has determined that the portion of § 12.140 that sets forth the various export fee payment statuses to be included on entry summaries must be amended in order to accommodate the new statuses that apply to softwood lumber first manufactured in British Columbia under the settlement and amended Agreement discussed above. In this regard, Customs has been advised by the Government of Canada that the new fee payment status categories (permit type codes) that Canada will assign to the subject British Columbia exports are "R" for re-priced LFB (that is, the products described in paragraphs 1.a. and 2.a. above) and "S" for re-priced UFB (that is, the products described in paragraphs 1.b. and 2.b. above).

Accordingly, this document amends the reporting requirement provisions within § 12.140(b) on an interim basis by adding two new subparagraphs (b)(2)(ii)(E) and (b)(2)(ii)(F) to cover the new "R" and "S" fee payment status categories applicable to British Columbia exports. It should be noted that no reference is made in the new regulatory text to transfers or reallocations (paragraph 3. above)

because exports involving transfers and reallocations would be reported as having the category C export fee payment status (that is, UFB) already specified in subparagraph (b)(2)(ii)(C).

Comments

Before adopting this interim regulation as a final rule, consideration will be given to any written comments timely submitted to Customs, including comments on the clarity of this interim rule and how it may be made easier to understand. 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, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Inapplicability of Notice and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

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 amended 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 must begin as soon as practicable, 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. 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; and 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 Executive Order 12866.

Paperwork Reduction Act

The collections of information in the current regulations have already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB control number 1515–0065 (Entry summary and continuation sheet). This rule does not involve any material

change to the existing approved information collection.

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 assigned by OMB.

List of Subjects in 19 CFR Part 12

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

Amendment to the Regulations

For the reasons set forth in the preamble, Part 12, Customs Regulations (19 CFR Part 12), is amended as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The authority citation for Part 12 continues to read in part 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. In § 12.140:

a. Paragraph (b)(2)(ii)(C) is amended by removing the word "or" at the end;

b. Paragraph (b)(2)(ii)(D) is amended by removing the period at the end and adding, in its place, a semicolon; and

c. New paragraphs (b)(2)(ii)(E) and (b)(2)(ii)(F) are added to read as follows:

§ 12.140 Entry of softwood lumber from Canada.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(E) Category R: Payment of the re-priced lower fee base export fee applicable to certain products first manufactured in British Columbia; or

(F) Category S: Payment of the re-priced upper fee base export fee applicable to certain products first manufactured in British Columbia.

* * * * *

Approved: April 18, 2000.

Raymond W. Kelly,

Commissioner of Customs,

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 00–12921 Filed 5–22–00; 8:45 am]

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