SUPPLEMENTARY INFORMATION:  
FOR FURTHER INFORMATION CONTACT:  
DATES:  
SUMMARY:  
ACTION:  
AGENCY:  
EXECUTIVE ORDER 12866 review.  
This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.  
The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE  
Agricultural Marketing Service  
7 CFR Part 1217  
Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order; Assessment Rate Increase  
AGENCY:  Agricultural Marketing Service, USDA.  
ACTION:  Final rule.  
SUMMARY:  This rule amends the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (Order) to increase the assessment rate from $0.35 to $0.41 per thousand board feet (mbf). The Order is administered by the Softwood Lumber Board (Board) with oversight by the U.S. Department of Agriculture (USDA). This rule will also add the conversion factor for square meters to board feet and makes one conforming change.  
DATES:  Effective Date: April 1, 2021.  
FOR FURTHER INFORMATION CONTACT:  Andrea Ricci, Marketing Specialist, Promotion and Economics Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 572–1442; facsimile: (202) 205–2800; or electronic mail: Andrea.Ricci@usda.gov.  
SUPPLEMENTARY INFORMATION: This final rule affecting 7 CFR part 1217 (herein the “Order”) is authorized under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).  
EXECUTIVE ORDERS 12866 and 13563  
Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.  
EXECUTIVE ORDER 13175  
This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.  
EXECUTIVE ORDER 12988  
This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the 1996 Act (7 U.S.C. 7423) provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.  
Under section 519 of the 1996 Act (7 U.S.C. 7418), a person subject to an order may file a written petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, must be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The 1996 Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA’s final ruling.  
BACKGROUND  
This rule amends the Order by increasing the assessment rate from $0.35 to $0.41 per mbf of softwood lumber shipped within or imported into the United States. The Order is administered by the Board with oversight by the USDA. Under the program, assessments are collected from domestic manufacturers and importers and used for research and promotion projects designed to strengthen the position of softwood lumber in the marketplace. The additional funds will enable the Board to maintain its existing programs, while supporting new programs that will help maintain and expand markets for softwood lumber. This rule will also add the conversion factor for square meters to board feet and make one conforming change.  
The Order specifies that the funds to cover the Board’s expenses shall be paid by assessments on manufacturers for the U.S. market, other income of the Board, and other funds available to the Board. Domestic manufacturers pay assessments based on the volume of softwood lumber shipped within the United States and importers pay assessments based on the volume of softwood lumber imported to the United States. Assessments are collected per mbf of softwood lumber, except that no entity shall pay an assessment on the first 15 million board feet (mmbf) of softwood lumber otherwise subject to assessments in a fiscal year. Domestic manufacturers are required to remit to the Board assessments owed no later than 30 calendar days of the month following the end of the quarter in which the softwood lumber was shipped. Importers are responsible for paying assessments to the Board on softwood lumber imported into the United States through the U.S. Customs and Border Protection (CBP). If CBP does not collect an assessment from the importer, the importer is responsible for paying the assessment to the Board no later than 30 calendar days of the month following the end of the quarter in which the softwood lumber was imported. Domestic manufacturers and importers must also remit to the Board required reports.  
The Order also provides for exemptions from assessments. Section 1217.53 specifies that U.S. manufacturers and importers that domestically ship and/or import less...
The additional funds will support programs targeting contractors and developers to address installer training and skills development; establish an education program that will target architecture and engineering students.
as well as professionals; and restore
the Board’s communications program
budget so that by 2025 it will be
equivalent to 2018 expenditures.
Therefore, the Board recommended
increasing the assessment rate in the
Order from $0.35 to $0.41 per mbf.

Final Regulatory Flexibility Act
Analysis
In accordance with the Regulatory
Flexibility Act (RFA) (5 U.S.C. 601–
612), the Agricultural Marketing Service
(AMS) is required to examine the
impact of the action on small entities.

Accordingly, AMS has considered the
economic impact of this action on such
entities. The purpose of the RFA is to fit
regulatory actions to the scale of
businesses subject to the actions so that
small businesses will not be
disproportionately burdened. The Small
Business Administration (SBA) defines,
in 13 CFR part 121, small agricultural
service firms (domestic manufacturers
and importers) as those having annual
receipts of no more than $8 million. ¹

The Random Lengths Publications,
Inc.’s yearly average framing lumber
composite price was $356 per mbf in
2019. Dividing the $8 million threshold
that defines an agricultural service firm
as small by this price results in a
maximum threshold of 22.5 million
board feet (mmbf) of softwood lumber
per year that a domestic manufacturer or
importer may ship to be considered a
small entity for purposes of the RFA.
Table 2 shows the number of entities
and the amount of volume they
represent that may be categorized as
small or large based on the SBA
definition.

As shown in Table 2, there are a total
of 1,396 domestic manufacturers and
importers of softwood lumber based on
2019 data. Of these, 1,000 entities, or 72
percent, shipped or imported less than
22.5 mmbf and would be considered
small under the SBA definition. These
1,000 entities domestically
manufactured or imported 3.25 billion
board feet (bbf) in 2019, less than 5
percent of total volume.

While this action increases the
assessment obligation on domestic
manufacturers and importers from $0.35
per mbf to $0.41 per mbf, the impact on
these entities will be minimal and
uniform. The current assessment rate of
$0.35 per mbf represents 0.1 percent of
the Random Lengths 2019 average
framing lumber composite price of $356
per mbf. The assessment rate of $0.41
per mbf is 0.12 percent of this price. The
increase in assessment rate represents
an increase in cost to domestic
manufacturers and importers of
thousandth of one percentage point
relative to their average received price.
This cost, though minimal, will also be
offset by the benefits derived from the
program.

The 1996 Farm Bill requires that
Research and Promotion programs be
evaluated every five years with the
specific goal of measuring the economic
impact of commodity promotion on
demand for the commodity. The Board
completed its first five-year evaluation
of program effectiveness in 2016. The
five-year evaluation, conducted by
Prime Consulting, found that softwood
lumber use per square foot increased
nearly 23 percent among architects and
structural engineers from the program’s
inception in 2011 to 2015. The
evaluation also found a cumulative
return on investment (ROI) of more than
$15 in increased sales of softwood
lumber per $1 spent on promotion by
the program between 2012 and 2015.
The cumulative ROI was updated in
2019 to reflect the time period of 2012
to 2018. The result was a return of more
than $23 in increased sales per $1 spent
on promotion.

This rule amends § 1217.52(b) to
increase the assessment rate from $0.35
to $0.41 per mbf. The Order is
administered by the Board with
oversight by the USDA. Under the
program, assessments are collected from
domestic manufacturers and importers
and used for research and promotion
projects designed to strengthen the
position of softwood lumber in the
marketplace. The additional funds
collected at the increased rate will
enable the Board to maintain its existing
programs, while supporting new
programs that will help maintain and
expand markets for softwood lumber.
This rule also amends § 1217.52(h) to
add the conversion factor for square
meters to board feet and make one
conforming change to section 1217.52(c)
regarding voting requirements.

Regarding alternatives, the Board
considered maintaining the current
assessment rate. However, a majority of
Board members determined that an
increase was needed to adequately
support existing programs and fund new
initiatives. The Board discussed
increasing the assessment at its meeting
in November 2018, but after much
consideration it determined it was not
the right time for the industry to make
such a recommendation. In 2019, with
the reduction of assessment revenue and
the program cuts that were made, the
Board again considered the merits of
increasing the assessment rate. This was
discussed at several Board committee
meetings, including meetings of the
Executive Committee on September 17,
2019, and November 19, 2019, and the
Finance Committee on November 19,
2019. The Board also considered rates of
$0.39 and $0.50 per mbf. After much
discussion at committee meetings and
with the full Board, the Board
recommended increasing the rate from
$0.35 to $0.41 per mbf.

In accordance with the Paperwork
Reduction Act of 1995 (44 U.S.C.
Chapter 35), the information collection
and recordkeeping requirements that are
imposed by the Order have been
approved previously under OMB
control number 0581–0093. This rule
will not result in a change to the

¹SBA does have a small business size standard
for “Sawmills” of 500 employees (see https://
www.sba.gov/sites/default/files/2019-08/
SBA%20Table%20of%20Size%20Standards_
Effective%20Aug%202019%2C%202019_Rev.pdf).
information collection and recordkeeping requirements previously approved and will impose no additional reporting and recordkeeping burden on domestic manufacturers and importers of softwood lumber.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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.

A proposed rule concerning this action was published in the Federal Register on August 13, 2020 (85 FR 49281). A 60-day comment period, ending October 13, 2020, was provided to allow interested persons to submit comments.

Analysis of Comments

Twenty-nine comments were received in response to the proposed rule. Of those 29 comments, 22 supported the proposed assessment increase, six opposed the action, and one was outside the scope of the rulemaking.

Overall, commenters in support of the proposal expressed that increasing market share by developing new markets and uses for softwood lumber products while addressing the continued pressures from competitors is paramount to the continued success of the softwood lumber industry. They contend this may only be accomplished by the increased investment in the softwood lumber program. One commenter, who identified as a small sawmill, argued that the proposed increase was not enough, and an assessment rate of $0.50 per mb or more was warranted to continue promoting and developing new markets and uses for softwood lumber products. Commenters expressed the need for continued work on wood standards and the adoption of using wood-based products in non-traditional markets. They emphasized the importance of educational programs and continued technical assistance for builders, designers, developers, architects and engineers. Several commenters discussed the benefit of being able to work collaboratively as an industry to drive demand for softwood lumber, noting that the efforts of the program are critical to the long-term success of the softwood lumber industry. Commenters noted the return on investment and incremental demand results from the most recent program evaluation as evidence of the success of the program thus far. And two commenters mentioned the results of the 2018 continuance referendum (78 percent of manufacturers and importers voting, who represented 94 percent of the volume of softwood lumber, were in favor of continuing the program) to demonstrate the continued support of the industry for the program.

Out of the six comments in opposition, three commenters noted that the industry is currently seeing record demand and historically high prices, and that the need for an increase in the assessment to fund programming geared towards creating additional demand is not necessary. Two commenters noted that the Board should be able to create demand at the current funding levels. One commenter simply opposed the increase, but did not provide further detail. In its discussion of the proposed increase, the Board determined that continuing at the current funding level would limit its ability to maintain the impact it has achieved for the softwood lumber industry in prior years. It reviewed its revenues and expenditures for the past several fiscal periods and agreed that without the increase it would not be able to maintain its current programs nor be able to address gaps that limit the Board’s ability to expand the market for softwood lumber. Additionally, it believed current funding levels restricts its ability to accelerate softwood lumber’s increase in market share and lumber usage in the non-traditional markets. In formulating the proposed increase, the Board reviewed several different rate options, including not increasing the rate, but ultimately decided that additional funds generated by the increase are needed to maintain and expand markets for softwood lumber. None of the commenters provided comments on the addition of the conversion factor and the conforming change. Accordingly, no changes will be made to the rule as proposed, based on the comments received.

After consideration of all relevant material presented, including the information and recommendations submitted by the Board, the comments received, and other available information, it is hereby found that this rule, as hereinafter set forth, is consistent with and will effectuate the purposes of the 1996 Act.

List of Subjects in 7 CFR Part 1217

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Softwood Lumber promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1217 is amended as follows:

PART 1217—SOFTWOOD LUMBER RESEARCH, PROMOTION, CONSUMER EDUCATION AND INDUSTRY INFORMATION ORDER

1. The authority citation for 7 CFR part 1217 continues to read as follows:


2. Amend §1217.52 by revising paragraphs (b), (c), and (h) to read as follows:

§1217.52 Assessments.

(b) Subject to the exemptions specified in §1217.53, each manufacturer for the U.S. market shall pay an assessment to the Board at the rate of $0.41 per thousand board feet of softwood lumber, except that no person shall pay an assessment on the first 15 million board feet of softwood lumber otherwise subject to assessment in a fiscal year. Domestic manufacturers shall pay assessments based on the volume of softwood lumber shipped within the United States and importers shall pay assessments based on the volume of softwood lumber imported to the United States.

(c) At least 24 months after the Order becomes effective and periodically thereafter, the Board shall review and may recommend to the Secretary, upon an affirmative vote by at least a majority of Board members plus two (exclusive of vacant seats), a change in the assessment rate. In no event may the rate be less than $0.35 per thousand board feet nor more than $0.50 per thousand board feet. A change in the assessment rate is subject to rulemaking by the Secretary.

(h) The HTSUS categories and assessment rates on imported softwood lumber are listed in the following table. The assessment rates are computed using the following conversion factors:

- One cubic meter (m³) equals 0.423776001 thousand board feet, and one square meter (m²) equals 0.0000393701 thousand board feet.

- Accordingly, the assessment rate per cubic meter and square meter is as follows.
The Federal Deposit Insurance Corporation (FDIC) is amending the deposit insurance assessment system applicable to all large insured depository institutions (IDIs), including highly complex IDIs, to address the temporary deposit insurance assessment effects resulting from certain optional regulatory capital transition provisions relating to the implementation of the current expected credit losses (CECL) methodology. The final rule removes the double counting of a specified portion of the CECL transitional amount or the modified CECL transitional amount, as applicable (collectively, the CECL transitional amounts), in certain financial measures used to determine deposit insurance assessment rates for large or highly complex banks. In particular, certain financial measures are calculated by summing Tier 1 capital, which includes the CECL transitional amounts, and reserves, which already reflects the implementation of CECL. As a result, a portion of the CECL transitional amounts is being double counted in these measures, which in turn affects assessment rates for large or highly complex banks. The final rule also adjusts the calculation of the loss severity measure to remove the double counting of a portion of the CECL transitional amounts for large or highly complex banks.

This final rule amends the deposit insurance system applicable to large banks and highly complex banks only, and it does not affect regulatory capital or the regulatory capital relief provided in the form of transition provisions that allow banking organizations to phase in the effects of CECL on their regulatory capital ratios.

DATES: The final rule is effective April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Scott Ciardi, Chief, Large Bank Pricing, (202) 898–7079 or sciardi@fdic.gov; Ashley Mihalik, Chief, Banking and Regulatory Policy, (202) 898–3793 or amihalik@fdic.gov; Nefretete Smith, Counsel, (202) 898–6851 or nefsmith@fdic.gov; Sydney Mayer, Senior Attorney, (202) 898–3609 or smayer@fdic.gov.

SUPPLEMENTARY INFORMATION:

I. Policy Objectives and Overview of Final Rule

The Federal Deposit Insurance Act (FDI Act) requires that the FDIC establish a risk-based deposit insurance assessment system for insured depository institutions (IDIs).1 Consistent with this statutory requirement, the FDIC’s objective in finalizing this rule is to ensure that IDIs are assessed in a manner that is fair and accurate. In particular, the primary objective of this final rule is to remove a double counting issue in several financial measures used to determine deposit insurance assessment rates for large or highly complex banks, which could result in a deposit insurance assessment rate for a large or highly complex bank that does not accurately reflect the bank’s risk to the deposit insurance fund (DIF), all else equal.2

The final rule amends the assessment regulations to remove the double counting of a portion of the CECL transitional amounts, in certain financial measures used to determine deposit insurance assessment rates for large or highly complex banks. In particular, certain financial measures are calculated by summing Tier 1 capital, which includes the CECL transitional amounts, and reserves, which already reflects the implementation of CECL. As a result, a portion of the CECL transitional amounts is being double counted in these measures, which in turn affects assessment rates for large or highly complex banks. The final rule also adjusts the calculation of the loss severity measure to remove the double counting of a portion of the CECL transitional amounts for large or highly complex banks.

This final rule amends the deposit insurance system applicable to large banks and highly complex banks only, and it does not affect regulatory capital or the regulatory capital relief provided in the form of transition provisions that allow banking organizations to phase in the effects of CECL on their regulatory capital ratios.3 Specifically, in calculating another measure used to determine assessment rates for all IDIs, the Tier 1 leverage ratio, the FDIC will continue to apply the CECL regulatory capital transition provisions, consistent with the regulatory capital relief provided to address concerns that despite adequate capital planning, unexpected economic conditions at the time of CECL adoption could result in higher-than-anticipated increases in allowances.4 The FDIC did not receive any comment letters in response to the proposal and is adopting the proposed rule as final without change. Under this final rule, amendments to the deposit insurance assessment system and changes to regulatory reporting requirements will be applicable only while the regulatory capital relief described above, or any potential future amendment that may affect the

---

1 12 U.S.C. 1817(b). As used in this final rule, the term “insured depository institution” has the same meaning as it is used in section 3(c)(2) of the FDI Act, 12 U.S.C. 1813(c)(2). Pursuant to this requirement, the FDIC first adopted a risk-based deposit insurance assessment system effective in 1993 that applied to all IDIs. See 57 FR 45263 (Oct. 1, 1992). The FDIC implemented this assessment system with the goals of making the deposit insurance system fairer to well-run institutions and encouraging weaker institutions to improve their condition, and thus, promote the safety and soundness of IDIs.

2 As used in this final rule, the term “small bank” is synonymous with “small institution,” the term “large bank” is synonymous with “large institution,” and the term “highly complex bank” is synonymous with “highly complex institution,” as the terms are defined in 12 CFR 327.8. As defined in 12 CFR 327.8, an institution that has less than $10 billion in total assets, or is a processing bank or trust company, and the term “highly complex institution” is synonymous with “small institution,” and the term “highly complex bank” is synonymous with “highly complex institution,” as the terms are defined in 12 CFR 327.8. As defined in 12 CFR 327.8. For assessment purposes, a large bank is generally defined as an institution with $10 billion or more in total assets, a small bank is generally defined as an institution with less than $10 billion in total assets, and a highly complex bank is generally defined as an institution that has $50 billion or more in total assets and is controlled by a parent holding company that has $500 billion or more in total assets, or is a processing bank or trust company. See 12 CFR 327.8(e), (f), and (g).

3 As used in this final rule, the term “banking organization subject to the capital rule” includes national banks, state member banks, state nonmember banks, savings associations, and top-tier bank holding companies and savings and loan holding companies domiciled in the United States subject to the Federal Reserve Board’s Small Bank Holding Company Policy Statement (12 CFR part 225, appendix C), but exclude certain savings and loan holding companies that are substantially engaged in insurance underwriting or commercial activities or that are estate trusts, and bank holding companies and savings and loan holding companies that are employee stock ownership plans. See 12 CFR part 3 (Office of the Comptroller of the Currency)); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC). See also 84 FR 4222 (Feb. 14, 2019) and 85 FR 81577 (Sept. 30, 2020).

4 See 84 FR 4223 (Feb. 14, 2019).