

### Correction to Final Rule

■ Accordingly, pursuant to the authority delegated to me, the legal description as published in the **Federal Register** on July 30, 2008 (73 FR 44147), Airspace Docket No. 07-ASO-27, FAA Docket No. FAA-2008-0187, and incorporated by reference in 14 CFR 71.1, is corrected as follows:

#### § 71.1 [Amended]

*Paragraph 2004 Jet Routes.*

\* \* \* \* \*

■ On page 44148 correct the legal description for J-73, to read as follows:

#### J-73 [Corrected]

From Dolphin, FL; LaBelle, FL; INT Labelle 313° and Lakeland, FL, 161° radials; Lakeland; Seminole, FL; La Grange, GA; Nashville, TN; Pocket City, IN; to Northbrook, IL.

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Issued in Washington, DC, on August 13, 2008.

**Edith V. Parish,**

*Manager, Airspace and Rules Group.*

[FR Doc. E8-19276 Filed 8-22-08; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

## DEPARTMENT OF THE TREASURY

[Docket No. USCBP-2008-0052; CBP Dec. 08-32]

### 19 CFR Parts 12 and 163

RIN 1505-AB98

### Entry Requirements for Certain Softwood Lumber Products Exported From Any Country Into the United States

**AGENCIES:** Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Interim rule; solicitation of comments.

**SUMMARY:** This document sets forth interim amendments to title 19 of the Code of Federal Regulations (CFR) that prescribe special entry requirements applicable to certain softwood lumber and softwood lumber products exported from any country into the United States. The softwood lumber and softwood lumber products subject to these interim entry requirements are those described in section 804(a) within Title VIII (Softwood Lumber Act of 2008 or “the Act”) of the Tariff Act of 1930, as added

by section 3301 of Title III, Subtitle D, of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, enacted June 18, 2008). Within Title VIII, section 803 requires the President to establish and maintain an importer declaration program with respect to the importation of certain softwood lumber and softwood lumber products and prescribes special entry requirements whereby importers must submit the export price, estimated export charge, if any, and an importer declaration with the entry summary. There are also new recordkeeping requirements applicable to certain imports of softwood lumber home packages and kits which are subject to declaration requirements, but which are not subject to the softwood lumber importer declaration program of section 803 of the Act. These interim amendments set forth the procedural and documentation requirements necessary to implement the entry requirements specified in the statute.

**DATES:** This interim rule is effective on September 18, 2008. Comments must be received on or before October 24, 2008.

**ADDRESSES:** You may submit comments, identified by *docket number*, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via Docket No. USCBP 2008-0052.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance

by calling Joseph Clark at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** Joseph M. Rees, Director, Trade Agreements and Communications Division, Office of International Trade, Tel: (202) 863-6065.

### SUPPLEMENTARY INFORMATION:

#### Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this interim rule. Comments that will provide the most assistance to CBP in developing these procedures will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that supports such recommended change.

#### Background

##### *I. Softwood Lumber Act of 2008: Importer Declaration Program*

Section 3301, within Title III, Subtitle D, of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246) was enacted June 18, 2008, and amends the Tariff Act of 1930 (19 U.S.C. 1202 *et seq.*) by adding a new Title VIII, entitled the “Softwood Lumber Act of 2008” (“the Act”). The Act requires the President to establish and maintain an importer declaration program with respect to the importation of certain softwood lumber and softwood lumber products and prescribes special entry requirements whereby importers must provide the export price, estimated export charge, if any, and an importer declaration with the entry summary documentation. The Act also imposes new recordkeeping requirements applicable to certain imports of softwood lumber home packages and kits.

Title VIII is comprised of sections 801 through 809, which set forth the components of the softwood lumber importer declaration program. These sections, in pertinent part:

- Define certain terms and phrases applicable to the program (section 802).
- Prescribe entry requirements and the establishment of an electronic record thereof (section 803).
- Establish the scope of the program and require the importer to retain and produce documentation pertaining to the entry of certain softwood lumber home packages and kits (section 804).

- Require the Department of Commerce to make monthly determinations as to export charges to be collected by a country of export from exporters of covered softwood lumber products to ensure compliance with any international agreements entered into by that country and the United States (section 805).

- Require the Secretary of the Treasury to conduct reconciliations to ensure the proper implementation and operation of international agreements entered into between a country of export of softwood lumber or softwood lumber products described in section 804(a) and the United States. The Secretary will reconcile: (1) The export price declared by a United States importer pursuant to section 803(b)(1) with the export price reported to the United States by the country of export, if any; and (2) the export price declared by a United States importer pursuant to section 803(b)(1) with the revised export price reported to the United States by the country of export, if any (section 806).

- Require the Secretary of the Treasury to periodically verify the declarations made by a United States importer pursuant to section 803(c), including a determination as to whether the export price declared by a United States importer is the same as the export price provided on the export permit, if any, issued by the country of export and whether the estimated export charge declared by a United States importer pursuant to section 803(b)(2) is consistent with the determination published by the Under Secretary for International Trade of the Department of Commerce pursuant to section 805(b) (section 807).

- Prescribe applicable penalties (section 808).

- Require the submission of congressional reports by various government entities (section 809).

## II. Softwood Lumber Act of 2008: Entry Requirements

Section 803 requires importers of covered softwood lumber and softwood lumber products (*i.e.*, those products described in section 804(a) of the Act) to submit to CBP certain data with the entry summary. The required entry information consists of:

- The export price for each line of softwood lumber or softwood lumber products (as defined in section 802(5));
- The estimated export charge, if any, applicable to each line of softwood lumber or softwood lumber products as calculated by applying the percentage determined and published by the Under Secretary for International Trade of the

Department of Commerce, pursuant to section 805, to the export price; and

- An importer declaration that verifies that “the person has made appropriate inquiry, including seeking appropriate documentation from the exporter and consulting the determinations published by the Under Secretary for International Trade of the Department of Commerce pursuant to section 805(b)” and, to the best of the person’s knowledge and belief, the export price provided is determined in accordance with the definition set forth in section 802(5), the export price provided is consistent with the export price provided on the export permit, if any, granted by the country of export, and the exporter has paid, or committed to pay, all export charges due in accordance with the volume, export price, and export charge rate or rates, if any, as calculated under an international agreement entered into by the country of export and the United States and consistent with the export charge determinations published by the Under Secretary for International Trade of the Department of Commerce.

## III. Description of Softwood Lumber and Softwood Lumber Products Covered by the Softwood Lumber Act of 2008

Section 804 of the Act sets forth the scope of softwood lumber and softwood lumber products covered by the importer declaration program established under section 803. All softwood lumber and softwood lumber products classified under subheading 4407.10.00, 4409.10.10, 4409.10.20, or 4409.10.90 of the Harmonized Tariff Schedule of the United States (HTSUS) are subject to the importer declaration program established under section 803 including the following softwood lumber, flooring, and siding:

(1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded, or finger-jointed, of a thickness exceeding 6 millimeters;

(2) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed;

(3) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded, or finger-jointed;

(4) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed; and

(5) Coniferous drilled and notched lumber and angle cut lumber.

In addition, any product classified under subheading 4409.10.05 of the HTSUS that is continually shaped along its end or side edges, and unless excepted or excluded from the declaration requirement, softwood lumber products that are stringers, radius-cut box-spring frame components, fence pickets, truss components, pallet components, and door and window frame parts classified under subheading 4418.90.46.95, 4421.90.70.40, or 4421.90.97.40 of the HTSUS are covered by the Act.

The following products are not subject to the importer declaration program established under section 803 because they are defined as *excluded* from the program:

(1) Trusses and truss kits, properly classified under subheading 4418.90 of the HTSUS;

(2) I-joist beams;

(3) Assembled box-spring frames;

(4) Pallets and pallet kits, properly classified under subheading 4415.20 of HTSUS;

(5) Garage doors;

(6) Edge-glued wood, properly classified under subheading 4421.90.97.40 of the HTSUS;

(7) Complete door frames;

(8) Complete window frames;

(9) Furniture;

(10) Articles brought into the United States temporarily and for which an exemption from duty is claimed under subchapter XIII of chapter 98 of the HTSUS; and

(11) Household and personal effects.

Also, the following softwood lumber products are not subject to the importer declaration program established under section 803 because they are defined as *excepted* from the program:

(1) Stringers (pallet components used for runners), if the stringers have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades; and are properly classified under subheading 4421.90.97.40 of the HTSUS;

(2) Box-spring frame kits, if the kits contain two wooden side rails; two wooden end (or top) rails; and varying numbers of wooden slats; and the side rails and the end rails are radius-cut at both ends. Box spring frame kits must

be individually packaged, and contain the exact number of wooden components needed to make the box-spring frame described on the entry documents, with no further processing required. None of the components contained in the package may exceed one inch in actual thickness or 83 inches in length.

(3) Radius-cut box-spring frame components, not exceeding one inch in actual thickness or 83 inches in length, ready for assembly without further processing, if radius cuts are present on both ends of the boards and are substantial cuts so as to completely round one corner.

(4) Fence pickets requiring no further processing and properly classified under subheading 4421.90.70 of the HTSUS, one inch or less in actual thickness, up to eight inches wide, and six feet or less in length, and having finials or decorative cuttings that clearly identify them as fence pickets (in the case of dog-eared fence pickets, the corners of the boards shall be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring  $\frac{3}{4}$  of an inch or more).

(5) Lumber originating in the United States that is exported to another country for minor processing and imported into the United States if the processing occurring in another country is limited to kiln drying, planing to create smooth-to-size board, and sanding; and the importer establishes to CBP's satisfaction upon entry that the lumber originated in the United States.

(6) Any softwood lumber or softwood lumber product that originated in the United States, if the importer, exporter, foreign processor, or original United States producer establishes to CBP's satisfaction upon entry that the softwood lumber entered and documented as originating in the United States was first produced in the United States; and

(7) Softwood lumber or softwood lumber products contained in a single family home package or kit, regardless of the classification under the HTSUS, if the importer declares that the following requirements have been met: (i) The package or kit constitutes a full package of the number of wooden pieces specified in the plan, design, or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design, or blueprint; (ii) the package or kit contains all necessary internal and external doors and windows, nails, screws, glue, subfloor, sheathing, beams, posts, and connectors; and if included in the purchase contract, the decking, trim,

drywall, and roof shingles specified in the plan, design, or blueprint; (iii) prior to importation, the package or kit is sold to a United States retailer that sells complete home packages or kits pursuant to a valid purchase contract referencing the particular home design, plan, or blueprint, and the contract is signed by a customer not affiliated with the importer; and (iv) softwood lumber products entered as part of the package or kit, whether in a single entry or multiple entries on multiple days, are to be used solely for the construction of the single family home specified by the home design, plan, or blueprint matching the CBP import entry.

For each entry of softwood lumber products contained in a single family home package for which the importer declares that these four requirements are met, the importer must retain and make available to CBP upon request the following documentation:

(1) A copy of the appropriate home design, plan, or blueprint matching the customs entry in the United States;

(2) A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;

(3) A listing of all parts in the package or kit being entered into the United States that conforms to the home design, plan, or blueprint for which such parts are being imported; and

(4) If a single contract involves multiple entries, an identification of all the items required to be listed under item (3) that are included in each individual shipment.

#### *IV. Interim Amendments at 19 CFR 12.142 To Promulgate Softwood Lumber Importer Declaration Program*

In accordance with the Act's requirements, this document makes interim amendments to part 12 of title 19 of the CFR to provide an appropriate regulatory basis with respect to shipments of softwood lumber and softwood lumber products for the collection of export price, estimated export charge, if any, importer declaration and, if applicable, softwood lumber home packages and kits documentation.

The interim amendments to 19 CFR part 12 set forth in this document add a new § 12.142 (19 CFR 12.142) which requires the importer to electronically transmit the export price, the estimated export charge, if any, and the importer declaration on the entry summary in any case in which softwood lumber or softwood lumber products described in section 804(a) of the Act are imported into the United States (entries of softwood lumber and softwood lumber

products for which a Certificate of Origin has been issued from Canada's Maritime Lumber Bureau must be submitted to CBP in paper. See 19 CFR 12.140(c)). The new interim amendment also requires importers of softwood lumber home packages and kits described in section 804(c)(7)(A)(i) through (iv) of the Act to retain, and provide to CBP upon request, certain documentation pertaining to, *inter alia*, design plans, purchase contracts, and part listings.

It is noted that section 803(b)(1) and (2) of the Act require that information regarding the export price and estimated export charge be submitted for "each shipment." Accordingly, the interim amendment requires that the requisite information associated with each shipment be included on a single line on the entry summary.

#### *V. Recordkeeping Requirements*

Any substantiating documentation that supports an importer's softwood lumber declaration, and copies of the softwood lumber home packages and kits documentation, are subject to the recordkeeping provisions set forth in part 163 of title 19 of the CFR.

The "List of Records Required for the Entry of Merchandise" set forth in the Appendix to part 163 of title 19 of the CFR (19 CFR part 163) is amended by this document to include the softwood lumber home packages and kits documentation requirement mandated by the Act, as well as any substantiating documentation that supports an importer's softwood lumber declaration. This document amends section IV of the Appendix by adding a new § 12.142 that lists softwood lumber home packages and kits documentation and any substantiating documentation that supports an importer's softwood lumber importer declaration as new entry records.

#### *VI. Penalties*

Failure to timely provide the required softwood lumber entry data will constitute a breach of the terms of the importer's bond under § 113.62(b) of title 19 of the CFR (19 CFR 113.62) and could give rise to a claim for liquidated damages under the bond equal to the value of the merchandise involved in the default.

#### *VII. Other Applicable Entry Requirements*

The softwood lumber entry data elements required by these interim regulations are not otherwise collected by CBP at time of entry and are in addition to the entry and entry summary information otherwise required for

importation into the United States as per section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484).

In addition, imports of softwood lumber or softwood lumber products from Canada may also be subject to § 12.140 of title 19 to the Code of Federal Regulations (19 CFR 12.140), which sets forth the entry requirements prescribed by the Softwood Lumber Agreement entered into between the Governments of the United States and Canada on September 12, 2006 (“SLA 2006”). In this regard, it is also noted that even those importers of softwood lumber and softwood lumber products that are exempt from the terms of 19 CFR 12.140 remain subject to the softwood lumber entry requirements contained in 19 CFR 12.142.

#### **Inapplicability of Notice and Delayed Effective Date Requirements**

Pursuant to 5 U.S.C. 553(b)(B) and (d)(3), CBP has determined that it would be impracticable and contrary to the public interest to delay publication of this rule in final form pending an opportunity for public comment and that there is good cause for this interim rule to become effective upon providing less than 30 days notice. These interim amendments conform the regulations to the entry requirements set forth in Title VIII of the Tariff Act of 1930, as amended (19 U.S.C. 1202 *et seq.*), which go into effect August 18, 2008, and inform the public of the procedures necessary to comply with the statutory requirements. For these reasons, pursuant to the provisions of 5 U.S.C. 553(d)(3), CBP finds that there is good cause for dispensing with a 30-day delayed effective date.

#### **Regulatory Flexibility Act and Executive Order 12866**

Because no notice of proposed rulemaking is required for this interim rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Further, these amendments do not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

#### **Paperwork Reduction Act**

The collections of information in this document are contained in § 12.142(c) and (d) (19 CFR 12.142(c) and (d)). This information is used by CBP to fulfill its information collection obligations under Title VIII of the Tariff Act of 1930, as added by section 3301 within Title III, Subtitle D, of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246), whereby importers of certain softwood lumber and softwood lumber products are required to submit the

export price, estimated export charge, if any, and an importer declaration with the entry summary information or, where applicable, to submit additional documentation required for home packages and kits. The likely respondents are business organizations including importers and brokers.

The collection of information associated with the entry summary documentation (CBP Form 7501) was previously approved by the Office of Management and Budget under control number 1651–0052. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), CBP has submitted to OMB for review the following adjustments to the information provided to OMB for the previously approved OMB control number to account for the changes in this interim rule. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

*Estimated annual reporting and/or recordkeeping burden:* 266,000 hours.

*Number of responses per respondent and/or recordkeeper:* 1,905.

*Estimated number of respondents and/or recordkeepers:* 210.

*Estimated annual frequency of responses:* 400,000.

*Estimated time per response:* 40 minutes (.333 hours).

Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229. Comments should be submitted within the time frame that comments are due regarding the substance of the interim rule.

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 will have practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or startup costs and costs of operations,

maintenance, and purchase of services to provide information.

#### **Signing Authority**

This document is being issued in accordance with 19 CFR 0.1(a)(1).

#### **List of Subjects**

##### *19 CFR Part 12*

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

##### *19 CFR Part 163*

Customs duties and inspection, Reporting and recordkeeping requirements.

#### **Amendment to the Regulations**

■ For the reasons stated above, parts 12 and 163 of title 19 of the Code of Federal Regulations (19 CFR parts 12 and 163) are amended as set forth below.

#### **PART 12—SPECIAL CLASSES OF MERCHANDISE**

■ 1. The authority citation for part 12 continues and a new specific authority for § 12.142 is added to read in part as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

\* \* \* \* \*

§ 12.142 also issued under 19 U.S.C. 1484; section 3301 of Pub. L. 110–246.

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##### **§ 12.140 [Undesignated center heading amended]**

■ 2. The undesignated center heading “Softwood Lumber from Canada” preceding § 12.140 is amended by removing the words “from Canada”.

■ 3. A new § 12.142 is added to read as follows:

##### **§ 12.142 Entry of softwood lumber and softwood lumber products from any country into the United States.**

(a) *In general.* This section, pursuant to the “Softwood Lumber Act of 2008” (“the Act”) (Title VIII of the Tariff Act of 1930, as amended (19 U.S.C. 1202 *et seq.*)), prescribes entry requirements applicable to certain imports of softwood lumber and softwood lumber products exported from any country into the United States.

(b) *Softwood lumber products covered.* The softwood lumber and softwood lumber products covered by this section are those products described in section 804(a) of Title VIII

of the Tariff Act of 1930, as amended (19 U.S.C. 1202 *et seq.*).

(c) *Entry requirements for shipments subject to the importer declaration program.* For each shipment of softwood lumber or softwood lumber products described in section 804(a) of Title VIII to the Tariff Act of 1930, as amended, (19 U.S.C. 1202 *et seq.*) that is entered or withdrawn from warehouse for consumption, in the customs territory of the United States, the following information must be electronically submitted to CBP (except that, pursuant to 19 CFR 12.140(c), entries of softwood lumber and softwood lumber products for which a Certificate of Origin has been issued from Canada's Maritime Lumber Bureau must be submitted to CBP in paper):

(1) *Export price.* Each importer must provide the export price, expressed in U.S. dollars, on the entry summary in the designated space provided on the CBP Form 7501.

(i) For purposes of this section, "export price" means one of the following:

(A) In the case of softwood lumber or a softwood lumber product that has undergone only primary processing, the value that would be determined F.O.B. at the facility where the product underwent the last primary processing before export.

(B) In the case of softwood lumber or a softwood lumber product that underwent the last remanufacturing before export by a manufacturer who does not hold tenure rights provided by the country of export, did not acquire standing timber directly from the country of export, and is not related to the person who holds tenure rights or acquired standing timber directly from the country of export, the value that would be determined F.O.B. at the facility where the softwood lumber or softwood lumber product underwent the last primary processing.

(C) In the case of softwood lumber or a softwood lumber product that underwent the last remanufacturing before export by a manufacturer who holds tenure rights provided by the country of export, acquired standing timber directly from the country of export, or is related to the person who holds tenure rights or acquired standing timber directly from the country of export, the value that would be determined F.O.B. at the facility where the softwood lumber or softwood lumber product underwent the last processing before export.

(D) In the case of softwood lumber or a softwood lumber product described in paragraphs (c)(1)(i)(A), (B) or (C) of this section for which an F.O.B. value

cannot be determined, the export price will be the market price for the identical softwood lumber or softwood lumber product sold in an arm's-length transaction in the country of export at approximately the same time as the exported softwood lumber or softwood lumber product. The market price will be determined in the following order of preference:

(1) The market price for the softwood lumber or softwood lumber product sold at substantially the same level of trade (as described in 19 CFR 351.412(c)) as the exported softwood lumber or softwood lumber product but in different quantities.

(2) The market price for the softwood lumber or softwood lumber product sold at a different level of trade (as defined in 19 CFR 351.412(c)) than the exported softwood lumber or softwood lumber product but in similar quantities.

(3) The market price for the softwood lumber or softwood lumber product sold at a different level of trade (as defined in 19 CFR 351.412(c)) than the exported softwood lumber or softwood lumber product and in different quantities.

(ii) For purposes of paragraph (c)(1) of this section, the following definitions apply:

(A) *F.O.B.* The term "F.O.B." means a value consisting of all charges payable by a purchaser, including those charges incurred in the placement of merchandise on board of a conveyance for shipment, but does not include the actual shipping charges or any applicable export charges.

(B) *Related to the person.* The term "related to the person" means:

(1) A person bears a relationship to such other person described in section 152(a) of the Internal Revenue Code of 1986;

(2) A person bears a relationship to such person described in section 267(b) of the Internal Revenue Code of 1986, except that "5 percent" will be substituted for "50 percent" each place it appears;

(3) The person and such other person are part of a controlled group of corporations, as that term is defined in section 1563(a) of the Internal Revenue Code of 1986, except that "5 percent" will be substituted for "80 percent" each place it appears;

(4) The person is an officer or director of such other person; or

(5) The person is the employer of such other person.

(C) *Tenure rights.* The term "tenure rights" means rights to harvest timber from public land granted by the country of export.

(2) *Estimated export charge.* (i) Each importer must provide the estimated

export charge, if any, to be collected by the country (including any political subdivision of the country) from which the softwood lumber or softwood lumber product was exported pursuant to an international agreement entered into by that country and the United States as calculated by applying the percentage determined and published by the Under Secretary for International Trade of the Department of Commerce to the export price. Any applicable estimated export charge must be expressed in U.S. dollars and reported on the entry summary in the designated space.

(ii) For purposes of this paragraph, the terms "estimated export charge" or "export charge" mean any tax, charge, or other fee collected by the country from which softwood lumber or a softwood lumber product, as described in section 804(a) within Title VIII of the Tariff Act of 1930 (19 U.S.C. 1202 *et seq.*), as amended, is exported pursuant to an international agreement entered into by that country and the United States.

(3) *Importer declaration.* (i) Each importer, except as provided in paragraph (c)(3)(ii) of this section, must provide a softwood lumber declaration on the electronic entry summary by entering the letter code "Y" in the first space of the field designated for the estimated export charge data.

(ii) Each importer of softwood lumber and softwood lumber products for which a Certificate of Origin has been issued from Canada's Maritime Lumber Bureau must provide a softwood lumber declaration on the paper entry summary by entering the letter code "Y" in the first space of the field designated for the estimated export charge. *See* 19 CFR 12.140(c).

(iii) The letter code "Y" represents the importer's declaration to CBP that:

(A) The importer has made appropriate inquiry, including seeking appropriate documentation from the exporter and consulting the determinations published by the Under Secretary for International Trade of the Department of Commerce pursuant to section 805(b) of Title VIII of the Tariff Act of 1930, as amended (19 U.S.C. 1202 *et seq.*); and

(B) To the best of the person's knowledge and belief:

(1) The export price provided is determined in accordance with the definition set forth in section 802(5) of Title VIII of the Tariff Act of 1930, as amended (19 U.S.C. 1202 *et seq.*);

(2) The export price provided is consistent with the export price provided on the export permit, if any, granted by the country of export; and

(3) The exporter has paid, or committed to pay, all export charges due in accordance with the volume, export price, and export charge rate or rates, if any, as calculated under an international agreement entered into by the country of export and the United States and consistent with the export charge determinations published by the Under Secretary for International Trade of the Department of Commerce.

(iv) Any substantiating documentation that supports an importer's softwood lumber declaration is subject to the recordkeeping provisions set forth in part 163 of title 19 to the CFR.

(d) *Entry requirements for home packages and kits—(1) Declaration and required documentation.* Home packages and kits as described in section 804(c)(7)(A)(i) through (iv) of the Title VIII of the Tariff Act of 1930, as amended (19 U.S.C. 1202 *et seq.*) are not subject to the entry requirements set forth in paragraph (c) of this section. However, the importer is required to make a declaration pursuant to section 804(c)(7)(B) and is required to retain and produce upon demand by CBP, the following documentation:

(i) A copy of the appropriate home design, plan, or blueprint matching the customs entry in the United States.

(ii) A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer.

(iii) A listing of all parts in the package or kit being entered into the United States that conforms to the home design, plan, or blueprint for which such parts are being imported.

(iv) If a single contract involved multiple entries, an identification of all the items required to be listed under paragraph (d)(1)(iii) of this section that are included in each individual shipment.

(2) *Records and retention.* There is no requirement to present physical copies of the softwood lumber home packages and kits documentation to CBP at the time of filing the entry summary; however copies must be maintained in accordance with the applicable recordkeeping provisions set forth in part 163 of title 19 to the CFR.

(e) *Other softwood lumber entry requirements.* Other entry requirements may be applicable to certain imports of softwood lumber or softwood lumber from Canada. Importers are advised to refer to § 12.140 (19 CFR 12.140) of this chapter for information regarding applicability and entry requirements.

## PART 163—RECORDKEEPING

■ 4. The authority citation for part 163 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

■ 5. The Appendix to part 163 is amended by adding, in numerical order, a listing for § 12.142 under section IV to read as follows:

### Appendix to Part 163—Interim (a)(1)(A) List

\* \* \* \* \*  
IV. \* \* \*

#### § 12.142 Softwood Lumber Importer Declaration Supporting Documentation, Softwood Lumber Home Packages and Kits Documentation.

\* \* \* \* \*

**W. Ralph Basham,**

*Commissioner, U.S. Customs and Border Protection.*

Approved: August 20, 2008.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. E8-19641 Filed 8-22-08; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

## DEPARTMENT OF THE TREASURY

### 19 CFR Part 141

[Docket No. USCBP-2008-0062]

RIN 1505-AB96; CBP Dec. 08-31

#### First Sale Declaration Requirement

**AGENCIES:** Customs and Border Protection, Department of Homeland Security; Department of the Treasury.  
**ACTION:** Interim rule; solicitation of comments.

**SUMMARY:** This document establishes an importer declaration requirement pursuant to section 15422(a) of the Food, Conservation, and Energy Act of 2008 to assist Customs and Border Protection (CBP) in gathering information for all goods entered for consumption or withdrawn from warehouse for consumption on the transaction valuation of goods imported into the United States. Effective for a one-year period beginning August 20, 2008, all importers will be required to provide a declaration to CBP at the time of filing a consumption entry when, in a series of sequential sales, the transaction value of the imported

merchandise is determined on the basis of the “first or earlier sale” of goods—the first sale in which the goods are “sold for exportation to the United States” or any other sale earlier than the last sale prior to the introduction of the merchandise into the United States. CBP will then report the frequency of the use of the “first sale” rule and other associated data to the International Trade Commission (ITC) on a monthly basis.

**DATES:** This interim rule is effective on August 20, 2008. Comments must be received on or before October 24, 2008.

**ADDRESSES:** You may submit comments, identified by *docket number*, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2008-0062.
- *Mail:* Trade and Commercial Regulations Branch, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., (Mint Annex), Washington, DC 20229.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Office of International Trade, Regulations and Rulings, Customs and Border Protection, 799 9th Street, NW. (5th Floor), Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** Monika Brenner, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade, (202) 572-8835.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. Customs and Border Protection