



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1217

[Doc. No. AMS-SC-25-0023]

Softwood Lumber Board Assessment Rate Clarification and Changes to Membership

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on changes to the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (Order).

These changes include clarifying the assessment rate for softwood lumber imported into the United States and revising the membership of the Softwood Lumber Board (Board or SLB).

DATES: Comments must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. You may send comments to the Federal eRulemaking Portal at <https://www.regulations.gov>. You can access this proposed rule and instructions for submitting public comments by searching for the rule title. Comments may also be mailed to the Docket Clerk, Market Development Division, Specialty Crops Program, Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), 1400 Independence Avenue SW., Room 1406-S, STOP 0244, Washington, DC 20250-0237; or submitted electronically by Email: SM.USDA.MRP.AMS.MDDComment@usda.gov.

Comments should reference the document number and the date and page number of this issue of the *Federal Register*. All comments will be made available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at <https://www.regulations.gov>. Comments submitted in response to this proposed rule will be included in the rulemaking record and will be made available to the public. Please be advised that comments are posted to regulations.gov as submitted, without change.

FOR FURTHER INFORMATION CONTACT: Katie Cook, Marketing Specialist, or Alexandra Caryl, Chief, Mid-Atlantic Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; via telephone: (202) 720-8085 or via email: Katie.Cook@usda.gov or Alexandra.Caryl@usda.gov.

SUPPLEMENTARY INFORMATION: This proposed rule affecting the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (7 CFR part 1217) is authorized by the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411-7425) (Act).

Executive Orders 12866

This action is exempt from the Office of Management and Budget (OMB) review process required by Executive Order 12866. This rule amends an existing research and promotion program and is necessary for the continued operation of the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order. Additionally, this action is exempt from the requirements of Executive Order 14192, “Unleashing Prosperity Through Deregulation,” pursuant to section 5(c).

Executive Order 13175

This proposed action was reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” which requires agencies to consider whether their rulemaking actions will have Tribal implications. AMS determined this proposed rule is unlikely to have substantial direct effects on one or more Indian Tribes, or the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Executive Order 12988

This proposed rule was reviewed under Executive Order 12988, “Civil Justice Reform.” The Act 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 petition with the Secretary of Agriculture (Secretary) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with the law and requesting a modification of the order or an exemption from the order. Any petition filed challenging the order, any provision of the order, or any obligation imposed in connection with the order, shall be filed within 2 years after the effective date of the order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Secretary will issue a ruling on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have 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 the Secretary's final ruling.

Background

The Board administers a nationally coordinated program of research, promotion, and information designed to strengthen the softwood lumber industry. The program is financed by assessments on manufacturers for the U.S. market who manufacture and domestically ship or import softwood lumber. The Board, which is composed of manufacturers for the U.S. market who manufacture and domestically ship or import softwood lumber in the U.S., unanimously recommended these actions at a public meeting on March 12, 2025. This proposal invites comments on changes that would clarify the assessment rate for softwood lumber imported into the U.S. and revise the membership of the Board.

Clarifying Assessment Rate

The assessment rate on softwood lumber is \$0.41 per thousand board feet (MBF) for both domestically manufactured and imported softwood lumber. The Order defines a board foot as the unit of measurement of softwood lumber represented by a board 12-inches long, 12-inches wide, and 1-inch thick, or its cubic equivalent. The definition goes on to say that a board foot calculation for softwood lumber 1-inch or more in thickness is based on its nominal thickness and width and actual length. Nominal size or count is standard for lumber in the U.S., Canada, and Mexico, but lumber from European countries is often measured by its “net” size or count. While nominal size is based on the thickness and width of a board when it is first cut prior to drying and planing, net size is the actual size after processing. According to the Board, the difference between net and

nominal size of a board is significant. For example, a 2-inch by 4-inch nominal board (8-inch volume) has an actual or net size of 1 ½-inch x 3 ½-inch (5 ¼-inch volume), a volume difference of 2.75-inches. Therefore, when softwood lumber is reported and the assessments calculated with net size, less assessments are paid. This discrepancy in volume measurements has resulted in an imbalance in assessment payments between North American, European, and other importing countries.

Assessments from importers are collected by U.S. Customs and Border Protection (Customs or CBP) when the lumber enters the country. The unit of measurement used for most imported softwood lumber is cubic meters (m³) with a small amount imported in square meters (m²). The North American wood products industry converts the nominal size into board feet, the measurement commonly used for lumber in the U.S. and Canada. Historically, this has been done using the following calculation: 1,000 m³ nominal / 2.3597 = 423.8 MBF.

In 2021, the Board identified a reporting discrepancy and engaged with AMS. In January 2023, the Forest Economic Advisors (FEA), an independent lumber and wood industry consulting firm, released a study that quantified the impact of net size versus nominal size on imports and provided a calculation to be used for board feet on the net count. To attempt to resolve the issue without rulemaking, in May 2023 the Board worked with AMS and Customs to issue a U.S. Customs and Border Protection Cargo Systems Messaging Service (CSMS) bulletin to all U.S. importers and brokers. Misreporting persisted and Customs advised the Board to revise the Order language to make assessment collection on the nominal size explicit.

FEA's 2023 analysis shows that net volume can be converted to board feet through application of the appropriate factor: $1,000 \text{ m}^3 \text{ net} / 1.57 = 636.9 \text{ MBF}$. Using this calculation, 1,000 m³ on a net count equates to 636.9 MBF of softwood lumber, 1.503 times more than when a nominal count is used ($636.9 \text{ MBF} / 423.8 \text{ MBF} = 1.503$).

To properly calculate the assessment rate for softwood lumber imported on a net count, the nominal assessment rate of \$0.41/MBF must be multiplied by 1.503, which computes to a rate of \$0.62/MBF on a net count. The table below demonstrates the different conversion rates.

\$/thousand board feet		\$/cubic meter	\$/square meter
Nominal	0.41	0.1737	0.004412
Net	0.62	0.2611	0.006631

Therefore, this proposal would add a definition of net size or count, revise section 1217.52 (b) and (c) to specify that assessment calculations shall be on the nominal count, add nominal and net calculations to the table in section 1217.52 (h), clarify that exemptions from assessment are calculated using the nominal count in section 1217.53 (a) and (b), revise section 1217.70 (a) to clarify that reports should include information on a nominal count, and lastly, amend 1217.101 (d) and (e) to clarify that eligibility to vote in a referendum is calculated using the nominal count.

Changes in Membership

The Board is required to review membership at least every five years to determine if the distribution of members accurately reflects the makeup of the industry. The Board analyzed Customs and industry geographical data from 2022 through 2024 and found the U.S. South's proportion of manufactured lumber increased during the period. The data shows the U.S. South region manufactured almost 22.1 billion board feet, the U.S. West

region manufactured over 13.6 billion board feet, the Northeast and Lake States region manufactured 1.6 billion board feet and importers had an average volume at nearly 15.2 billion board feet.

Therefore, this proposed action would add one seat of any size to the U.S. South Region in section 1217.40 to reflect increased production in the geographic region. Industry seats on the Board would increase from 14 to 15, for a total of 16 Board members.

Initial Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS is required to examine the impact of this action on small entities. Accordingly, AMS has considered the economic impact of this action on such entities and conducted the following analysis using the most recent data.

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 firms which engage in “Support Activities for Forestry” (domestic softwood lumber manufacturers and importers) as those having annual receipts of no more than \$11.5 million.¹

According to data from Fastmarkets Random Lengths, the 2022-2024 three-year average framing lumber composite price was \$523 per thousand-board-feet. Dividing the

¹ SBA does have a small business size standard for “Sawmills” of 550 employees (see https://www.sba.gov/sites/sbagov/files/2023-06/Table%20of%20Size%20Standards_Effective%20March%2017%2C%202023%20%282%29.pdf). Based on USDA’s understanding of the lumber industry, using this criterion would be impractical as sawmills often use contractors rather than employees to operate and, therefore, many mills would be deemed small businesses under this criterion while being, in reality, a large business. Therefore, USDA used the definition of a small firm which engages in “Support Activities for Forestry” as a more appropriate criterion for this analysis.

\$11.5 million threshold that defines a small firm which provides “Support Activities for Forestry” by this price results in a maximum threshold of about 22 million board feet (MMBF) of softwood lumber per year that a domestic manufacturer may ship to be considered a small entity for purposes of the RFA. Table 1, based on shipment data from FEA and import data from CBP, 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.

Table 1. Domestic Manufacturers and Importers by SBA Size Standards Based on 2022-2024 Average Volume			
	SBA Size	Number of Entities	Volume (MMBF)
Domestic Manufacturers	Small <i>shipments $\leq$ 22 MMBF</i>	185	1,521
	Large <i>shipments $>$ 22 MMBF</i>	143	35,744
	Subtotal	328	37,265
Imports	Small <i>import value $\leq$ \$11.5 M</i>	1,434	1,274
	Large <i>import value $>$ \$11.5 M</i>	118	13,969
	Subtotal	1,552	15,242
Grand Total		1,880	52,508
Data sources: FEA; CBP.			

As illustrated in Table 1, 185 domestic manufacturers, or 56 percent of the total number of domestic manufacturers, were considered small per the SBA size standard. These 185 entities represented a three-year average of 1,521 MMBF in shipments, or 4 percent of total shipments by domestic manufacturers. Small importers accounted for 92 percent of the total number of importers at 1,434 entities. These small importers represented a three-year average of 1,274 MMBF in import volume, or 8 percent of total import volume. In all, small businesses accounted for 86 percent of the grand total of entities, and 5 percent of the grand total of volume. The proposed rule would not

disproportionately burden small domestic manufacturers and importers of softwood lumber.

Assessments on Imports Reported in Net Volume

In January 2023, FEA published a report detailing its discovery of and solution for miscalculations of imported lumber volumes from European countries. While the U.S., Canada, and Mexico record lumber volumes in nominal terms, European countries measure lumber volumes in net terms. A piece of lumber that would be recorded by the U.S., Canada, or Mexico as two inches thick by four inches wide would be recorded by European countries as 1.5 inches thick by 3.5 inches wide. This is because North American countries record lumber volume based on unfinished dimensions, while European countries measure lumber volume based on post-milled actual finished size. This discrepancy in volume measurements results in an imbalance in assessment payments between North American and European countries.

Imports of softwood lumber into the U.S. are mostly reported in cubic meters. These are converted to board feet, which is the standard unit of measurement for lumber in the U.S., Canada, and Mexico. The conversion factor in nominal terms is 423.8 MBF to 1,000 cubic meters of lumber. Based on its January 2023 analysis, FEA concludes that the conversion factor for imports from countries who report in net terms should be 636.9 MBF to 1,000 cubic meters of lumber. The FEA conversion rate of net cubic meters to thousand-board-feet shows that volume reported in net terms is about 1.5 times the volume reported in nominal terms (636.943 MBF [from net cubic meters] divided by 423.776 MBF [from nominal cubic meters]), resulting in an imbalance in assessments paid based on these volumes. Therefore, the SLB proposes clarification of the assessment

rate for lumber volume reported in net terms, using the conversion factors recommended in the FEA January 2023 report.

The clarification that the assessment rate is based on nominal volume will impact importers who measure softwood lumber based on net volume, as their imports will need to be converted to nominal terms. Importers of softwood lumber from European countries will primarily be affected. Based on data from Customs and Border Protection, there were 388 importers of softwood lumber from European countries between 2022 and 2024. Of these, 27 had average volume exceeding the de minimis quantity of 15 MMBF in nominal terms. Clarifying that the assessment rate is based on nominal volume will add more than \$367,000 to the SLB budget.

Board Restructuring

According to FEA data, production of softwood lumber in the U.S. South has increased in recent years; warranting an additional board seat to accurately represent the industry. Table 2 shows the three-year average volume of both softwood lumber produced domestically and imported softwood lumber, further segregated by regions and the number of board seats allocated to these regions as proposed by the SLB. This rule would add one board seat to the U.S. South region, bringing the total number of seats across all regions from its current level of 14 to 15 industry seats, with an additional seat for a public member, for a total of 16 members.

Table 2. Board Seat Restructuring Based on Average Volume					
Do me stic	2022-2024 Average Volume (MMBF)			Board Seats	
	Regions	Volume (MMBF)	Portion of Grand Total	Tied to Volume portions	Proposed by Board
	U.S. West	13,579	26%	3.9	4
	U.S. South	22,128	42%	6.3	6

	NE & Lake States	1,558	3%	0.4	1
	Subtotal	37,265	71%	10.6	11
Imports	Canada West	6,928	13%	2.0	2
	Canada East	5,502	10%	1.6	1
	Importer (Offshore + Mexico)	2,813	5%	0.8	1
	Subtotal	15,242	29%	4.4	4
Grand Total		52,508	100%	15.0	15
Data sources: FEA; CBP.					

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements imposed by the Order were approved previously under OMB control number 0581-0093. This proposed rule would not result in a change to the information collection and recordkeeping requirements previously approved and would not impose 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. AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

Regarding alternatives, the Board considered not making changes to the Order in reference to nominal and net sizes, and Board makeup. Leaving it as-is would mean continued imbalance in assessment payments and inaccurate representation of Board members. The Board also considered providing additional education and notice to importers of record on declaring import volumes on a nominal size count. The Board previously worked with AMS and Customs to issue a CSMS bulletin on May 12, 2023.

This bulletin had no noticeable effect, positive or negative, on reporting, therefore releasing another CSMS bulletin is not seen as a viable or worthy effort.

Lastly, through AMS, the Board requested Customs enforce assessment collection on a nominal size count. Customs informed the Board that the current regulatory language in the Order was not explicit or specific enough for them to take such action against importers reporting on the incorrect net size. Ultimately, the actions recommended by the Board were to add one member to the Board for the U.S. South Region and to clarify assessments are to be collected on the nominal size.

Regarding outreach efforts, the Board raised the assessment issue in 2021 and had initial conversations with AMS. FEA released their analysis of nominal shipments versus net shipments in January 2023, notifying the industry of the issue. Throughout the remainder of 2023 and all of 2024, the Board discussed the nominal/net issue at every quarterly meeting as well as in quarterly committee meetings. After attempts to solve the issue without rulemaking through a CSMS bulletin, the Board voted in March 2025 to recommend rulemaking to clarify the assessment rate in the Order.

After consideration of all relevant material presented, including the information and recommendations submitted by the Board and other available information, USDA has determined that this proposed rule is consistent with, and will effectuate the purposes of the Act.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. All written comments received timely will be considered before a final determination is made on this rule.

List of Subjects in 7 CFR Part 1217

Administrative practice and procedure, Advertising, Agricultural research, Confidential business information, Consumer protection, Forests and forest products, Inventions and patents, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 1217 as follows:

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

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

Authority: 7 U.S.C. 7411-7425; 7 U.S.C. 7401.

§§ 1217.16 through 1217.30 [Redesignated as §§ 1217.17 through 1217.31]

2. Redesignate §§ 1217.16 through 1217.30 as §§ 1217.17 through 1217.31, respectively.

3. Add new § 1217.16 to read as follows:

§ 1217.16 Net size or count.

Net size or count means the volume of softwood lumber based on its actual dimensions. It is used in certain jurisdictions as the quantity by which the softwood lumber is sold. Net size or count differs from the nominal size or count as it is based on the thickness and width of a board after it has been dried and planed.

4. Revise newly designated § 1217.17, including the section title, to read as follows:

§ 1217.17 Nominal size or count.

Nominal size or count means the size by which softwood lumber is known and sold in the marketplace that differs from actual or net size and is based on the thickness and width of a board when it is first cut from a log, or rough cut, prior to drying and planing.

5. Revise and republish § 1217.40(a) and (b)(1) to read as follows:

§ 1217.40 Establishment and membership.

(a) *Establishment of the Board.* There is hereby established a Softwood Lumber Board to administer the terms and provisions of the Order and promote the use of softwood lumber. The Board shall be composed of manufacturers for the U.S. market who manufacture and domestically ship or import 15 million board feet or more of softwood lumber in the United States during a fiscal period. Seats on the Board shall be apportioned based on the volume of softwood lumber production that is manufactured and shipped within the United States by domestic manufacturers and the volume of softwood lumber imported into the United States. Seats on the Board shall also be apportioned based on size of operation within each geographic region, as specified in paragraphs (b)(1) and (2) of this section. For purposes of this section, “large” means manufacturers for the U.S. market who account for the top two-thirds of the total annual volume of assessable softwood lumber and “small” means those who account for the remaining one-third of the total annual volume of assessable softwood lumber. If there are no eligible nominees for a large or small seat within a region, that seat may be filled by a nominee representing an eligible manufacturer for the U.S. market of any size. Should the size of a manufacturer for the U.S. market change during a member's or

alternate's term of office, that member or alternate may serve for the remainder of the term.

(b) *Composition of the Board.* The Board shall be composed of 16 members and four alternates, as follows:

(1) *Domestic manufacturers.* Domestic manufacturers must reside in the United States. Eleven members and two alternates shall represent domestic manufacturers who reside in the following three regions:

(i) Six members and one alternate shall represent manufacturers of softwood lumber in the U.S. South Region, which consists of the states of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. Of these six members, two members must represent large, two members must represent small, and two members may represent domestic manufacturers of any size. The region's alternate may represent domestic manufacturers of any size;

(ii) Four members and one alternate shall represent manufacturers of softwood lumber in the U.S. West Region, which consists of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. Of these four members, two members must represent large, one member must represent small, and one member may represent domestic manufacturers of any size. The region's alternate may represent domestic manufacturers of any size; and

(iii) One member shall represent manufacturers of softwood lumber in the Northeast and Lake States Region, which consists of the states of Connecticut, Delaware,

Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Wisconsin and all other parts of the United States not listed in paragraph (b)(1)(i), (ii), or (iii) of this section. This member may represent domestic manufacturers of any size.

* * * * *

6. In § 1217.52:

a. Revise and republish paragraphs (b), (c), (h), and table 1 to paragraph (h);

b. Redesignate paragraphs (i) through (n) as paragraphs (j) through (o), respectively; and

c. Add new paragraph (i).

The revisions and republications and addition 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 on a nominal count, except that no person shall pay an assessment on the first 15 million board feet of softwood lumber on a nominal count 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 on a nominal count nor more than \$0.50 per thousand board feet on a nominal count. A change in the assessment rate is subject to rulemaking by the Secretary.

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(h) The HTSUS categories and assessment rates on imported softwood lumber are listed in the following table. The current assessment rate is \$0.41 per thousand board feet and is based on a nominal count. This equates to \$0.62 per thousand board feet based on a net count. For softwood lumber that is imported on a nominal volume, the assessment rates are computed using the following conversion factors: One cubic meter (m3) equals 0.42377601 thousand board feet, and one square meter (m2) equals 0.010763104 thousand board feet. For softwood lumber that is imported on a net (actual) volume, one cubic meter (m3) equals 0.6369 thousand board feet, and one square meter (m2) equals 0.016175132 thousand board feet. Accordingly, the assessment rates per cubic meter and square meter on a nominal and net volume are as follows.

Table 1 to Paragraph (h)

Softwood Lumber (by HTSUS number)	Assessment-Nominal Volume			Assessment-Net Volume		
	\$/thousand board feet	\$/cubic meter	\$/square meter	\$/thousand board feet	\$/cubic meter	\$/square meter
4407.11.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4407.12.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4407.13.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4407.14.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631

4407.19.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4409.10.05	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4409.10.10	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4409.10.20	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4409.10.90	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4418.99.10	0.41	0.1737	0.004412	0.62	0.2611	0.006631

(i) If Customs collects excess assessments from an importer, the Board shall issue a refund to the importer given the importer provides appropriate documentation to verify the excess assessments collected.

* * * * *

7. Revise and republish § 1217.53(a) and (b) to read as follows:

§ 1217.53 Exemption from assessment.

(a) *Manufacturers for the U.S. market who domestically ship and/or import less than 15 million board feet on a nominal count annually.* (1) Domestic manufacturers who ship less than 15 million board feet of softwood lumber on a nominal count within the United States in a fiscal year are exempt from paying assessments. Such manufacturers must apply to the Board, on a form provided by the Board, for a certificate of exemption prior to the start of the fiscal year. This is an annual exemption and domestic manufacturers must reapply each year. Such manufacturers shall certify that they will ship less than 15 million board feet of softwood lumber on a nominal count during the fiscal year for which the exemption is claimed. Upon receipt of an application for exemption, the Board shall determine whether an exemption may be granted. The Board may request past shipment data to support the exemption request. The Board will then issue, if deemed appropriate, a certificate of exemption to the eligible domestic manufacturer. It is the responsibility of the domestic manufacturer to retain a copy of the certificate of exemption.

(2) Importers who import into the United States less than 15 million board feet of softwood lumber on a nominal count in a fiscal year are exempt from paying assessments. Such importers must apply to the Board, on a form provided by the Board, for a certificate of exemption prior to the start of the fiscal year. This is an annual exemption, and importers must reapply each year. Such importers shall certify that they will import less than 15 million board feet of softwood lumber on a nominal count during the fiscal year for which the exemption is claimed. Upon receipt of an application for exemption, the Board shall determine whether an exemption is granted. The Board may request past import data to support the exemption request. The Board will then issue, if deemed appropriate, a certificate of exemption to the eligible importer. It is the responsibility of the importer to retain a copy of the certificate of exemption. The importer may be requested to submit a copy of the certificate to Customs. If Customs collects the assessment, the Board shall refund such importers their assessments no later than 60 calendar days after receipt of such assessments by the Board. No interest shall be paid on the assessments collected by Customs.

(3) Domestic manufacturers who did not apply to the Board for an exemption and shipped less than 15 million board feet of softwood lumber on a nominal count within the United States during the fiscal year shall receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the fiscal year. Board staff shall determine the assessments paid and refund the amount due to the domestic manufacturer accordingly.

(4) Importers who did not apply to the Board for an exemption and imported less than 15 million board feet of softwood lumber on a nominal count during the fiscal year

shall receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the fiscal year.

(5) If an entity is both a domestic manufacturer and an importer, the sum of such entity's domestic shipments and imports during a fiscal year shall count towards the 15 million board feet exemption on a nominal count.

(6) Domestic manufacturers and importers who received an exemption certificate from the Board but domestically shipped or imported 15 million board feet or more of softwood lumber on a nominal count during the fiscal year shall pay the Board the applicable assessments owed on the domestic shipments or imports over the 15 million board foot-exemption threshold within 30 calendar days after the end of the fiscal year and submit any necessary reports to the Board pursuant to § 1217.70.

(7) The Board may develop additional procedures to administer this exemption as appropriate. Such procedures shall be implemented through rulemaking by the Secretary.

(b) Manufacturers for the U.S. market who domestically ship and/or import 15 million board feet or more on a nominal count annually. (1) Domestic manufacturers who domestically ship 15 million board feet or more per fiscal year on a nominal count shall not pay assessments on their first 15 million board feet of softwood lumber on a nominal count shipped during the applicable fiscal year.

(2) Importers who import 15 million board feet or more per fiscal year on a nominal count shall be exempt from paying assessments on their first 15 million board feet of softwood lumber imported during the applicable fiscal year on a nominal count. Such importers shall receive a refund from the Board for the applicable assessments

collected by Customs. The Board shall refund such importers their assessments no later than 60 calendar days after receipt by the Board.

* * * * *

8. Revise and republish § 1217.70(a) to read as follows:

§ 1217.70 Reports.

(a) Each manufacturer for the U.S. market will be required to provide periodically to the Board such information as the Board, with the approval of the Secretary, may require. Such information may include, but not be limited to:

(1) For domestic manufacturers:

(i) The name, address and telephone number of the domestic manufacturer;

(ii) The board feet of softwood lumber on a nominal count shipped within the United States;

(iii) The board feet of softwood lumber on a nominal count for which assessments were paid; and

(iv) The board feet of softwood lumber on a nominal count that was exported.

(2) For importers:

(i) The name, address and telephone number of the importer;

(ii) The board feet of softwood lumber on a nominal count imported;

(iii) The board feet of softwood lumber on a nominal count for which assessments were paid; and

(iv) The country of export.

* * * * *

9. Revise and republish § 1217.101(d) and (e) to read as follows:

§ 1217.101 Definitions.

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(d) *Eligible domestic manufacturer* means any person who manufactured and shipped 15 million board feet or more of softwood lumber on a nominal count in the United States during the representative period.

(e) *Eligible importer* means any person who imported 15 million board feet or more of softwood lumber on a nominal count into the United States during the representative period as a principal or as an agent, broker, or consignee of any person who manufactured softwood lumber outside of the United States for sale in the United States, and who is listed as the importer of record for such softwood lumber. Importation occurs when softwood lumber manufactured outside of the United States is released from custody by Customs and introduced into the stream of commerce in the United States. Included are persons who hold title to foreign-manufactured softwood lumber immediately upon release by Customs, as well as any persons who act on behalf of others, as agents or brokers, to secure the release of softwood lumber from Customs when such softwood lumber is entered or withdrawn for use in the United States.

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Erin Morris,

Administrator,

Agricultural Marketing Service.