

review is currently classifiable under item 0409.00.00, 1702.90.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

#### Initiation of Review

In accordance with section 751(a)(2)(B) of the Tariff Act of 1930 (the Tariff Act), as amended, and 19 CFR 351.214(d)(1), and based on information on the record, we are initiating a new shipper review for Patagonik. See *Memorandum to the File through Richard O. Weible, "New Shipper Review Initiation Checklist"*, dated January 31, 2006. We intend to issue the preliminary results of this review not later than 180 days after the date on which this review is initiated, and the final results of this review within 90 days after the date on which the preliminary results are issued.

Pursuant to 19 CFR 351.214(g)(1)(i)(A), the POR for a new shipper review initiated in the month immediately following the anniversary month will be the 12-month period immediately preceding the anniversary month. Under section 351.214(f)(2)(ii) of the Department's regulations, when the sale of the subject merchandise occurs within the POR, but the entry occurs after the normal POR, the POR may be extended unless it would be likely to prevent the completion of the review within the time limits set by the Department's regulations. Therefore, the POR for this new shipper review is December 1, 2004, through December 31, 2005. This review will cover sales by Patagonik of honey produced by Colmenares Santa Rosa s.r.l.

In accordance with section 751(a)(2)(B)(iii) of the Tariff Act, and 19 CFR 351.214(e), we will instruct CBP to allow, at the option of the importer, the posting, until the completion of the review, of a single entry bond or security in lieu of a cash deposit for certain entries of the merchandise exported by the above-listed companies, *i.e.*, Patagonik as the exporter and Colmenares Santa Rosa S.R.L. as the producer. Thus, we will instruct CBP to limit the bonding option only to entries of subject merchandise exported by Patagonik and produced by Colmenares Santa Rosa S.R.L.

Interested parties seeking access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305 and

351.306. This initiation and notice are in accordance with section 751(a) of the Tariff Act and 19 CFR 351.214(d).

Dated: January 20, 2006.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-838]

#### Initiation of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** January 26, 2006.

**SUMMARY:** In accordance with 19 CFR 351.216(b), Weyerhaeuser Company Limited and Weyerhaeuser Saskatchewan Limited (collectively, Weyerhaeuser), Canadian producers of softwood lumber products, filed a request for a changed circumstances review of the antidumping duty order on certain softwood lumber products from Canada, as described below. In response to this request, the Department of Commerce (the Department) is initiating a changed circumstances review of the antidumping duty order on certain softwood lumber from Canada.

**FOR FURTHER INFORMATION CONTACT:** Salim Bhabhrawala or Constance Handley at (202) 482-1784 or (202) 482-0631, respectively; Office 1, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

As a result of the second administrative review of the antidumping duty order, imports of softwood lumber from Weyerhaeuser became subject to a cash deposit rate of 4.43 percent (*see Notice of Final Results of Antidumping Duty Administrative Review: Certain Softwood Lumber Products from Canada*, 70 FR 73437 (December 12, 2005)). On December 5, 2005, Weyerhaeuser notified the Department that on May 30, 2005, Weyerhaeuser sold its entire former B.C. Coastal (BCC) business unit. As a result, Weyerhaeuser is requesting that the

Department amend its cash deposit rate to reflect this change.

#### Scope of the Order

The products covered by this order are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

- (1) coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six 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; and
- (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.

Although the HTSUS subheadings are provided for convenience and U.S. Customs and Border Patrol (CBP) purposes, the written description of the merchandise under investigation is dispositive. Preliminary scope exclusions and clarifications were published in three separate **Federal Register** notices.

Softwood lumber products excluded from the scope:

- trusses and truss kits, properly classified under HTSUS 4418.90
- I-joint beams
- assembled box spring frames
- pallets and pallet kits, properly classified under HTSUS 4415.20
- garage doors
- edge-glued wood, properly

classified under HTSUS 4421.90.97.40 (formerly HTSUS 4421.90.98.40)

- properly classified complete door frames
- properly classified complete window frames
- properly classified furniture

Softwood lumber products excluded from the scope only if they meet certain requirements:

- *Stringers* (pallet components used for runners): if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under HTSUS 4421.90.97.40 (formerly HTSUS 4421.90.98.40).
- *Box-spring frame kits*: if they contain the following wooden pieces - two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged, they should contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1" in actual thickness or 83" in length.
- *Radius-cut box-spring-frame components*, not exceeding 1" in actual thickness or 83" in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner.
- *Fence pickets* requiring no further processing and properly classified under HTSUS 4421.90.70, 1" or less in actual thickness, up to 8" wide, 6' or less in length, and have finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring 3/4 inch or more.
- *U.S. origin lumber* shipped to Canada for minor processing and imported into the United States, is excluded from the scope of this order if the following conditions are met: (1) the processing occurring in Canada is limited to kiln-drying, planing to create smooth-to-size board, and sanding, and (2) the importer establishes to CBP's satisfaction that the lumber is of U.S. origin.<sup>1</sup>

• *Softwood lumber products contained in single family home packages or kits*,<sup>2</sup> regardless of tariff classification, are excluded from the scope of the orders if the following criteria are met:

1. The imported home 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;
2. The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, subfloor, sheathing, beams, posts, connectors and, if included in purchase contract, decking, trim, drywall and roof shingles specified in the plan, design or blueprint;
3. Prior to importation, the package or kit must be sold to a retailer of complete home packages or kits pursuant to a valid purchase contract referencing the particular home design plan or blueprint, and signed by a customer not affiliated with the importer;
4. The whole package must be imported under a single consolidated entry when permitted by CBP, whether or not on a single or multiple trucks, rail cars or other vehicles, which shall be on the same day except when the home is over 2,000 square feet;
5. The following documentation must be included with the entry documents:
  - a copy of the appropriate home design, plan, or blueprint matching the entry;
  - a purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;
  - a listing of inventory of all parts of the package or kit being entered that conforms to the home design package being entered;
  - in the case of multiple shipments on the same contract, all items listed immediately above which are included in the present shipment shall be identified as well.

We have determined that the excluded products listed above are outside the scope of this order provided the specified conditions are met. Lumber products that CBP may classify as stringers, radius cut box-spring-frame components, and fence pickets, not

<sup>2</sup> To ensure administrability, we clarified the language of this exclusion to require an importer certification and to permit single or multiple entries on multiple days, as well as instructing importers to retain and make available for inspection specific documentation in support of each entry.

conforming to the above requirements, as well as truss components, pallet components, and door and window frame parts, are covered under the scope of this order and may be classified under HTSUS subheadings 4418.90.40.90, 4421.90.70.40, and 4421.90.98.40. Due to changes in the 2002 HTSUS whereby subheading 4418.90.40.90 and 4421.90.98.40 were changed to 4418.90.45.90 and 4421.90.97.40, respectively, we are adding these subheadings as well.

In addition, this scope language has been further clarified to now specify that all softwood lumber products entered from Canada claiming non-subject status based on U.S. country of origin will be treated as non-subject U.S.-origin merchandise under the antidumping and countervailing duty orders, provided that these softwood lumber products meet the following condition: upon entry, the importer, exporter, Canadian processor and/or original U.S. producer establish to CBP's satisfaction that the softwood lumber entered and documented as U.S.-origin softwood lumber was first produced in the United States as a lumber product satisfying the physical parameters of the softwood lumber scope.<sup>3</sup> The presumption of non-subject status can, however, be rebutted by evidence demonstrating that the merchandise was substantially transformed in Canada.

#### Initiation of Changed Circumstances Review:

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. Weyerhaeuser contends that, because it underwent fundamental structural changes as a result of the sale of BCC, the Department should modify Weyerhaeuser's cash deposit rate to reflect the company's new structure. Based on these circumstances and in accordance with 19 CFR 351.216(b), the Department finds good cause to initiate a changed circumstances review. Therefore, we are initiating a changed circumstances review pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(b) to determine whether Weyerhaeuser should be assigned a different cash deposit rate.

<sup>3</sup> See the scope clarification message (3034202), dated February 3, 2003, to CBP, regarding treatment of U.S.-origin lumber on file in the Central Records Unit, Room B-099 of the main Commerce Building.

<sup>1</sup> For further clarification pertaining to this exclusion, see the additional language concluding the scope description below.

The Department will publish in the **Federal Register** a notice of preliminary results of changed circumstances review in accordance with 19 CFR 351.221(b)(4) and 351.221(c)(3)(i), which will set forth the Department's preliminary factual and legal conclusions. The Department will issue its final results of review in accordance with the time limits set forth in 19 CFR 351.216(e).

This notice is in accordance with section 751(b)(1) of the Act and 19 CFR 351.221(b)(1).

Dated: January 19, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 112205E]

#### Taking of Marine Mammals Incidental to Specified Activities; Construction of the East Span of the San Francisco-Oakland Bay Bridge

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of proposed authorization for a small take authorization; request for comments.

**SUMMARY:** NMFS has received a request from the California Department of Transportation (CALTRANS) for renewal of an authorization to take small numbers of California sea lions, Pacific harbor seals, harbor porpoises, and gray whales, by harassment, incidental to construction of a replacement bridge for the East Span of the San Francisco-Oakland Bay Bridge (SF-OBB) in California. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to CALTRANS to incidentally take, by harassment, small numbers of these species of pinnipeds and cetaceans during the next 12 months.

**DATES:** Comments and information must be received no later than February 27, 2006.

**ADDRESSES:** Comments on the application should be addressed to Steve Leathery, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-

West Highway, Silver Spring, MD 20910-3225, or by telephoning the contact listed here. The mailbox address for providing email comments is *PR1.112205E@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: 112205E. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. A copy of the 2001 application, the 2005 renewal request, the June 2004 Annual Report and/or the January 2005 Annual Report may be obtained by writing to this address or by telephoning one of the contacts listed here.

#### FOR FURTHER INFORMATION CONTACT:

Shane Guan, NMFS, (301) 713-2289, ext 137, or Monica DeAngelis, NMFS, (562) 980-3232.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "\* \* \* an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential

to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

#### Summary of Request

On October 17, 2005, CALTRANS submitted a request to NOAA requesting renewal of an IHA for the possible harassment of small numbers of California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina richardsii*), harbor porpoises (*Phocoena phocoena*), and gray whales (*Eschrichtius robustus*) incidental to construction of a replacement bridge for the East Span of the SF-OBB, in San Francisco Bay (SFB or the Bay), California. An IHA was issued to CALTRANS for this activity on January 3, 2005 and it expired on January 3, 2006 (70 FR 2123). A detailed description of the SF-OBB project and background information on the issuance of this IHA were provided in the November 14, 2003 (68 FR 64595) **Federal Register** notice and are not repeated here. Please refer to that **Federal Register** notice.

#### Description of the Marine Mammals Potentially Affected by the Activity

General information on the marine mammal species found in California waters can be found in Caretta *et al.* (2004), which is available at the following URL: [http://www.nmfs.noaa.gov/pr/PR2/Stock\\_Assessment\\_Program/sars.html](http://www.nmfs.noaa.gov/pr/PR2/Stock_Assessment_Program/sars.html). Refer to that document for information on these species.

The marine mammals most likely to be found in the SF-OBB area are the California sea lion, Pacific harbor seal, and harbor porpoise. From December through May gray whales may also be present in the SF-OBB area. Information on California sea lion, harbor seal, and gray whale was provided in the November 14, 2003 (68 FR 64595), **Federal Register** notice and is not repeated here.

##### Harbor Porpoise

In the eastern North Pacific, harbor porpoise are found in coastal and inland waters from Point Conception,