

# Notices

Federal Register

Vol. 68, No. 5

Wednesday, January 8, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Notice of Resource Advisory Committee Meeting

**AGENCY:** Lassen Resource Advisory Committee, Susanville, California, USDA Forest Service.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393) the Lassen National Forest's Lassen County Resource Advisory Committee will meet Thursday, January 9, 2003, Susanville, California for a business meeting. The meetings are open to the public.

**SUPPLEMENTARY INFORMATION:** The business meeting January 9, 2003 begins at 9 a.m., at the Lassen National Forest Headquarters Office, Caribou Conference Room, 2550 Riverside Drive, Susanville, CA 96130. Agenda topics will include: Review previous meeting minutes and approve, RAC member/subcommittee reports, Proxy votes and absent voting members/Quorum, Overhead Discussion and Decision, Review Sierra RAC Rating Method, and Funding Multiple Year Projects. Time will also be set aside for public comments at the end of the meeting.

**FOR FURTHER INFORMATION CONTACT:** Robert Andrews, Eagle Lake District Ranger and Designated Federal Officer, at (530) 257-4188; or RAC Coordinator, Heidi Perry, at (530) 252-6604.

**Heidi L. Perry,**

*Acting Forest Supervisor.*

[FR Doc. 03-329 Filed 1-7-03; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

**RIN 0596-AB88**

#### National Environmental Policy Act Documentation Needed for Limited Timber Harvest

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of proposed interim directive; request for comment.

**SUMMARY:** The Forest Service gives notice of and requests comment on proposed revisions to its directives for implementing the National Environmental Policy Act and Council on Environmental Quality regulations contained in Forest Service Handbook 1909.15, Chapter 30, which addresses categorical exclusions from requirements to prepare environmental disclosure documents. The proposal would add three categorical exclusions to Section 31.2 that are applicable to small timber harvesting projects. These categorical exclusions will not apply where there are extraordinary circumstances, such as adverse effects on threatened and endangered species or their designated critical habitat, wilderness areas, inventoried roadless areas, wetlands, and archeological or historic sites. The intended effect is to facilitate the implementation of limited timber harvest projects that do not have significant effects on the human environment. Public comment is invited and will be considered in development of the final directive.

**DATES:** Comments must be received in writing by March 10, 2003.

**ADDRESSES:** Send written comments via the U.S. Postal Service to: Limited Timber Harvest, Forest Service—CAT, USDA, P.O. Box 221090, Salt Lake City, Utah 84122.

Comments also may be submitted via facsimile to (801) 517-1014 or by e-mail to [limitedtimber@fs.fed.us](mailto:limitedtimber@fs.fed.us). If comments are sent via facsimile or e-mail, the public is requested not to send duplicate written comments via regular mail.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying.

**FOR FURTHER INFORMATION CONTACT:** Dave Sire, Ecosystem Management Coordination Staff, (202) 205-0895, or

Darci Birmingham, Forest and Rangeland Management Staff, (202) 205-1759. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 4 p.m., Eastern Standard Time, Monday through Friday.

#### SUPPLEMENTARY INFORMATION:

##### Need for the Proposed Direction

The Council on Environmental Quality (CEQ) regulations at 40 CFR 1507.3 provide that agencies may, after notice and comment, adopt categories of actions that do not have significant impacts on the human environment and, consequently, do not require preparation of an environmental impact statement. The agency's first timber harvest related categorical exclusion, published in 1981, broadly identified actions of limited size or magnitude. Since 1981, the agency's categorical exclusion concerning small timber harvest activities has been revised several times to better define the category and to add size or volume limits. The agency's most recent revision to the timber harvest-related category occurred in 1992, when the category's limits of 100,000 board feet or 10 acres, were expanded to allow harvest of green timber up to 250,000 board feet and salvage harvest of up to 1 million board feet (57 FR 43180; September 18, 1992). This 1992 revision also allowed up to one mile of low-standard road construction.

Current Forest Service procedures for complying with and implementing the National Environmental Policy Act (NEPA) are set out in Forest Service Handbook (FSH) 1909.15. Chapter 30 of FSH 1909.15 establishes two types of categorical exclusions. The first, set out at section 31.1, consists of categories of actions that are so routine and limited that a record is not required. The second type, set out at section 31.2, consists of categories of routine actions that require documentation in a Decision Memo of the rationale for not preparing an environmental assessment or an environmental impact statement. The agency is proposing three new categorical exclusions that would fall within this second type of categorical exclusion that requires a Decision Memo.

On September 18, 1998, a lawsuit was filed against the Forest Service arguing that the 1992 categorical exclusions were improperly promulgated. On September 28, 1999, the United States District Court for the Southern District of Illinois found that the categorical exclusions were properly promulgated. However, the court found insufficient evidence in the record to support the agency's decision to set the volume limits in Categorical Exclusion 4 at 250,000 board feet of merchantable wood products for timber harvest and 1 million board feet of merchantable wood products for salvage. Accordingly, the court declared Categorical Exclusion 4 in section 31.2 of Chapter 30 FSH 1909.15 null and void and enjoined the agency from its further use.

In an October 1, 1999, letter, the Associate Chief for Natural Resources notified the Regional Foresters of the court's injunction and instructed them to refrain from further use of Categorical Exclusion 4. The agency has recently issued Interim Directive No. 1909.15-2002-1 to formally notify employees to discontinue use of Categorical Exclusion 4 in Forest Service Handbook 1909.15, Environmental Policy and Procedures.

Most timber harvest projects that were originally excluded under Categorical Exclusion 4 were subsequently reconsidered, analyzed, and documented in environmental assessments. However, field offices reported that the level of documentation and analysis required for these environmental assessments forced agency personnel to extend timeframes and expend undue energy and funding in order to complete minor harvesting projects.

In response to field concerns during the fall of 2001, the Associate Deputy Chief for the National Forest System requested field units to monitor selected timber harvests that would have qualified under former Categorical Exclusion 4. In response, field units collected data on 154 randomly selected timber harvests. The review's objective was to determine if these harvests did or did not have significant effects on the human environment. The review concluded that none of the 154 projects had a significant effect on the human environment.

Based on this review and the agency's extensive experience with small timber harvest projects, the Forest Service proposes to add three new categorical exclusions to its Environmental Policy and Procedures Handbook (FSH 1909.15). These categories would appear in section 31.2, Categories of Actions for Which a Project or Case File and Decision Memo Are Required, and

would provide specific, narrow categorical exclusions for limited timber harvest. For each of the proposed categories, examples of potential actions that fit the category are provided. These examples are intended to be illustrative only and are not intended to be either constraining or all-inclusive.

It is important to note that the proposed categorical exclusions are not intended to replace the former Categorical Exclusion 4. They are limited by size and are more specific about the types of harvest methods, when compared to the agency's former Categorical Exclusion 4. The proposed categorical exclusions are, therefore, much more limited in scope than the former Categorical Exclusion 4.

#### **Description of Proposed New Categorical Exclusions**

The first new proposed categorical exclusion (Categorical Exclusion 10) would allow harvest of live trees not to exceed 50 acres with no more than 1/2 mile of temporary road construction. This category could not be used for even-aged regeneration harvest or vegetation type conversion. Even-aged regeneration harvests generally remove most of an existing stand of trees. An example would be the seed tree method of cutting where all trees in a stand are removed except for a few dominant seed-producing trees. Vegetation type conversion is designed to change existing vegetative cover to another, such as converting a timber stand to an open field. Proposed Categorical Exclusion 10 would not include these types of treatments. This category would allow incidental removal of trees for temporary roads, landings, and skid trails. It would allow low-impact silvicultural treatments by timber purchasers.

Examples of projects that could be implemented under proposed Categorical Exclusion 10 are removal of individual trees to reduce fuels adjacent to a residential area and removal of scattered trees to improve the health and vigor of a remaining stand.

The next category that the agency proposes (Categorical Exclusion 11) would allow salvage of dead and/or dying trees not to exceed 250 acres with no more than 1/2 mile of temporary road construction. This categorical exclusion would permit salvage harvest in areas where trees have been severely damaged by forces such as fire, wind, ice, insects, or disease and still have some economic value as a forest product.

Categorical Exclusion 11 would be limited to salvage of dead and dying trees by timber purchasers and may also allow incidental removal of green trees

for temporary roads, landings, and skid trails.

The final new category (Categorical Exclusion 12) proposed by the Forest Service would allow removal of any trees necessary to control the spread of insects and disease on no more than 250 acres with no more than 1/2 mile of temporary road construction. This category allows the agency to apply harvest methods to control insects and disease before they spread to adjacent healthy trees. This category may allow incidental removal of green trees for temporary roads, landings, and skid trails.

In all three proposed categories, trees could be sold as sawlogs, fuelwood, or specialty products.

#### **Rationale for the Proposal**

The scope of the proposed new categories is consistent with the scope of the 154 projects examined in the 2001 review, each of which had no significant environmental effects. Consequently, the level of effects associated with these proposed new categories would also be below the level of significant environmental effects. Green tree harvests monitored in the 2001 review averaged 70 acres in size while sanitation and salvage harvests averaged 253 acres in size. Having reconsidered the basis for establishing categorical exclusions for small timber harvests, the Forest Service now believes that acreage is a more useful measure of project magnitude than timber volume. Acreage is easily delineated and quantified when developing a proposal, while estimating timber volume within a given acreage may vary considerably based on statistical samples, merchantability standards, and condition of the timber.

With regard to road construction that would fall within these new categorical exclusions, it is important to note that only temporary road construction would be permitted. As defined in Forest Service Manual 7705, temporary roads are not intended to be a part of the forest transportation system and are not necessary for long-term resource management. The Forest Service anticipates that only a small percentage of projects would require any temporary road construction. The 2001 review data indicates that for each project that would have qualified under Categorical Exclusion 4 an average of 1/2 mile of temporary road was built. Therefore, the agency has selected 1/2 mile as the upper limit of temporary road construction.

These categorical exclusions will not apply where there are extraordinary circumstances, such as adverse effects on threatened and endangered species or their designated critical habitat,

wilderness areas, inventoried roadless areas, wetlands, and archeological or historic sites.

It is important to note that categorical exclusions do not absolve Responsible Officials from scoping. The CEQ regulations at 40 CFR 1501.7 define scoping as a process for determining the scope of issues to be addressed and for identifying significant issues to be documented in an environmental impact statement. The Forest Service conducts scoping on all proposed actions, including those covered by categorical exclusions. Guidance to Forest Service employees on scoping is set out in Chapter 10 of FSH 1909.15. As provided in Chapter 10, part of scoping may involve inviting participation from interested and affected agencies and citizens. Furthermore, FSH 1909.15, section 11 states that in determining whether a proposed action can be categorically excluded, the Responsible Official must consider the following: (1) The nature of the proposal; (2) preliminary issues; (3) interested and affected agencies, organizations, and individuals, and; (4) the extent of existing documentation.

Categorical exclusions also do not absolve the Responsible Official from conducting appropriate consultations with Federal and State regulatory agencies such as those required by the Endangered Species Act and the National Historic Preservation Act.

One important consideration in the development of any category for limited timber harvest is cumulative effects. The CEQ regulations state that categorically excluded actions must not individually or cumulatively have a significant effect on the human environment (40 CFR 1508.4). The agency's 2001 review of 154 small timber harvests did not show any instance where projects similar in scope and limits to the three categories proposed in this notice resulted in significant cumulative effects on the human environment.

The quantity and geographic extent of actions that might be implemented under these three proposed categorical exclusions are not anticipated to change much from historic levels. Slightly over 300 projects were implemented using Categorical Exclusion 4 in 1998, the last year it was in effect. These projects involved approximately 8,200 acres of green tree harvest and approximately 41,100 acres of salvage, representing less than .03% of the 192 million acres of National Forest System lands on the continental United States and Alaska.

It is also important to note that any timber harvest performed using the proposed categorical exclusions must meet all applicable Federal, State, and

local laws, as well as land and resource management plan standards and guidelines. It is the combination of these standards and guidelines, the limited scope of the proposed categorical exclusions, the results of the 2001 review, and the agency's long experience dealing with low-impact silvicultural treatments that leads the agency to conclude that implementation of the proposed categories would not result in cumulatively significant effects on the human environment.

While some small fuel reduction projects may fit the proposed categorical exclusions, most fuel reduction projects applying the principles of the National Fire Plan will be larger in scope, both in size and types of activities than would be allowed under the proposed categories. Similarly, most projects implementing the National Fire Plan involve a combination of activities such as thinning, pruning, and prescribed burning, which would take them beyond the scope of these proposed categorical exclusions.

The agency's categorical exclusions for small timber harvest projects have evolved since 1981 when the Forest Service NEPA procedures in FSH 1909.15, chapter 30, first provided for categorical exclusion of actions of limited size or magnitude, which included some timber sales. A categorical exclusion was added to chapter 30 in the 1985 review of NEPA procedures to provide for "[l]ow-impact silvicultural activities that are limited in size and duration and that primarily use existing roads and facilities, such as firewood sales, salvage, thinning, and small harvest cuts \* \* \* ." From 1987 through 1992, the agency conducted small timber harvest projects through a categorical exclusion which allowed salvage, thinning, and harvest cuts to less than 100,000 board feet or less than 10 acres. As previously noted, in 1992, a revised category (Categorical Exclusion 4) was established, allowing up to 1 million board feet of salvage and 250,000 board feet of merchantable wood products.

In 1993, the Forest Service issued regulations at 36 CFR part 215 (58 FR 58910) which stated that, with the exception of Categorical Exclusion 4, all other categorically excluded actions are not subject to notice, comment, and administrative appeal. The agency believed that public interest in timber harvest activities of the magnitude allowed under Categorical Exclusion 4 warranted providing opportunities for administrative appeal. Because of their limited scope, activities subject to the remaining categorical exclusions were

not made appealable under 36 CFR part 215.

The categorical exclusions being proposed in this notice are limited by size and the type of activity allowed. Additionally, a review of timber harvests categorically excluded in 1998 shows that 15% of these projects were appealed. Six percent of the projects that were appealed (one percent of the total number of projects) were sent back to the Responsible Official for additional analysis and documentation. Consequently, the agency concludes that timber sales within the limits of Categorical Exclusion 4 are not as controversial as originally contemplated during promulgation of the agency's appeal regulations at 36 CFR part 215. Therefore, the proposed new categorical exclusions would fall under 36 CFR 215.8, Decisions Not Subject to Appeal, paragraph (a)(4).

### Conclusion

Based upon an analysis of field data, the agency proposes three new categorical exclusions for limited timber harvest. Actions identified in the proposed categories are limited in scope, would not have significant impacts on the human environment, and would not require preparation of an environmental assessment or an environmental impact statement.

These categorical exclusions would permit timely response to small timber harvest requests and to forest health problems involving small areas of National Forest System land. Additionally, they would conserve limited agency funds.

These proposed categorical exclusions would be implemented through the issuance of an interim directive to FSH 1909.15, Environmental Policy and Procedures Handbook, Chapter 30. Although an interim directive (ID) expires in 18 months from its issue date, the establishment of these three new categorical exclusions is intended to be a permanent revision. The agency is issuing an interim directive solely for administrative efficiency. The text of the final interim directive along with other interim directives will be incorporated into a revision of the entire Chapter 30 sometime in the next year or so.

Public comment is invited on this proposal and will be considered in adopting a final policy.

The text of the proposed categorical exclusions is set out at the end of this notice.

### Environmental Impact

These proposed revisions to Forest Service Handbook 1909.15 would add direction to field employees regarding

requirements for NEPA documentation. FSH 1909.15, section 31.1b (57 FR 43180) excludes from documentation in an environmental assessment or environmental impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." The agency's preliminary assessment is that this proposed interim directive falls within this category of actions and that no extraordinary circumstances exist that would require preparation of an environmental impact statement or environmental assessment. A final determination will be made upon adoption of the final interim directive. In addition, pursuant to 40 CFR 1505.1 and 1507.3, the agency is consulting with the Council on Environmental Quality to ensure full compliance with the purposes and provisions of NEPA and the CEQ implementing regulations.

### Regulatory Impact

This proposed interim directive has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. The Office of Management and Budget (OMB) has determined that this is a significant regulatory action as defined by Executive Order 12866. Accordingly, OMB has reviewed this proposed interim directive.

The primary economic effects of the proposed categorical exclusions for limited timber harvest are changes in costs of conducting environmental analysis and preparing NEPA documents. The proposed categorical exclusions would reduce agency administrative costs by reducing the analysis and documentation requirements for small timber harvest projects. An analysis of costs and benefits compared the cost of documenting categorical exclusions to that of preparing environmental assessments. Using the number of small timber harvest activities categorically excluded in 1998, the last year such actions could be categorically excluded, savings were averaged over a ten-year period. Based on this approach, the average annual cost savings of the proposed categorical exclusions are estimated to be \$6 million compared with continued use of environmental assessments for small timber harvest projects. The application of these Categorical Exclusions would have no quantifiable effect on the government's timber sale receipts.

The analysis of costs and benefits was performed in accordance with the direction in OMB Guidelines to Standardize Measures of Costs and Benefits and the Format of Accounting

Statements (Office of Management and Budget Memorandum 00-08).

This proposed interim directive has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that it would not have a significant economic impact on a substantial number of small entities as defined by the act because it would not impose recordkeeping requirements on them; it would not affect their competitive position in relation to large entities; and it would not affect their cash flow, liquidity, or ability to remain in the market.

The agency believes small businesses in general may benefit from a potential increase in small timber sale opportunities as a result of the proposed interim directive. Although the Forest Service finds this increase difficult to quantify, it believes that more small sales may be prepared when using a categorical exclusion rather than an environmental assessment, resulting in an increase in the number of sales available for small businesses and local mills. The Forest Service assumes that all qualified potential purchasers would, consistent with the rules at 36 CFR part 223 for advertising, awarding, and administering sales, have equal opportunity to accrue benefits from any increase in sale opportunities. Additionally, some of these sales are likely to be set aside for small businesses under the agency's small business timber sale set-aside program.

A civil rights impact analysis was prepared for the proposed interim directive. No adverse effects are identified for groups of people who fall within the scope of Civil Rights legislation or the Executive Order on Environmental Justice (E.O. 12898), although some potential beneficial impacts have been noted.

### Federalism

The agency has considered this proposed interim directive under the requirements of Executive Order 13132 on Federalism and has made an assessment that the proposed interim directive conforms with the federalism principles set out in this Executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States or the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary at this time.

### Consultation and Coordination With Indian Tribal Governments

This proposed interim directive does not have tribal implications as defined by Executive Order 13175 on Consultation and Coordination with Indian Tribal Governments and, therefore, advance consultation with tribes is not required.

### No Takings Implications

This proposed interim directive has been analyzed in accordance with the principles and criteria contained in Executive Order 12630 on Governmental Actions and Interference with Constitutionally Protected Property Rights, and it has been determined that the proposed interim directive does not pose the risk of a taking of Constitutionally protected private property.

### Energy Effects

This proposed interim directive has been reviewed under Executive Order 13211 on Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this proposed interim directive does not constitute a significant energy action as defined in the Executive order.

### Controlling Paperwork Burdens on the Public

This proposed interim directive does not contain any additional recordkeeping or reporting requirements associated with the timber harvest program or other information collection requirements as defined in 5 CFR part 1320. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Dated: December 30, 2002.

**Dale N. Bosworth,**

*Chief.*

### Text of Proposed Interim Directive

**Note:** The Forest Service organizes its directive system by alpha-numeric codes and subject headings. Only those sections of the Forest Service Handbook (FSH) 1909.15, Environmental Policy and Procedures Handbook, affected by this policy are included in this notice. The intended audience for this direction is Forest Service employees charged with planning and administering small timber harvest projects. Selected headings and existing text are included to assist the reader in placing the proposed interim directive in context. Reviewers who wish to view the entire chapter 30 of FSH 1909.15 may obtain a copy from the address shown earlier in this notice and from the Forest Service home page on

the Internet at <http://www.fs.fed.us/im/directives/fsh/1909.15/1909.15,30.txt>.

**FSH 1909.15—Environmental Policy and Procedures Handbook Chapter 30—Categorical Exclusion From Documentation**

(To provide context for understanding the proposed new categorical exclusions that would be established as paragraphs 10, 11, and 12 in section 31.2, the introductory text of section 31.2 (identified by italics) follows:

*31.2—Categories of Action for Which a Project or Case File and Decision Memo Are Required.*

*Routine, proposed actions within any of the following categories may be excluded from documentation in an EIS or an EA; however, a project or case file is required and the decision to proceed must be documented in a decision memo (sec. 32). As a minimum, the project or case file should include any records prepared, such as (1) the names of interested and affected people, groups, and agencies contacted; (2) the determination that no extraordinary circumstances exist; (3) a copy of the decision memo (sec 30.5 (2)); (4) a list of the people notified of the decision; (5) a copy of the notice required by 36 CFR Part 217, or any other notice used to inform interested and affected persons of the decision to proceed with or to implement an action that has been categorically excluded. Maintain a project or case file and prepare a decision memo for routine, proposed actions within any of the following categories.*

\* \* \* \* \*

*10. Harvest of live trees not to exceed 50 acres, requiring no more than 1/2 mile of temporary road construction. Do not use this category for even-aged regeneration harvest or vegetation type conversion. The proposed action may include incidental removal of trees for landings, skid trails, and road clearing. Examples include but are not limited to:*

*a. Removal of individual trees for sawlogs, specialty products, or fuelwood.*

*b. Harvest of trees to reduce the fuel loading in an overstocked stand adjacent to a residential area and construction of a short temporary road to access the stand.*

*c. Commercial thinning of overstocked stands to achieve the desired stocking level to increase health and vigor.*

*11. Salvage of dead and/or dying trees not to exceed 250 acres, requiring no more than 1/2 mile of temporary road construction. The proposed action may include incidental removal of green trees for landings, skid trails, and road clearing. Examples include but are not limited to:*

*a. Harvest of a portion of a stand damaged by a wind or ice event and construction of a short temporary road to access the damaged trees.*

*b. Harvest of fire damaged trees.*

*12. Sanitation harvest of trees to control insects or disease not to exceed 250 acres, requiring no more than 1/2 mile of temporary road construction, including removal of infested/infected trees and adjacent green trees up to two tree lengths away if determined necessary to control the spread of insects or disease. The proposed action may include incidental removal of green trees for*

landings, skid trails, and road clearing. Examples include but are not limited to:

*a. Felling and harvest of trees infested with southern pine beetles and immediately adjacent green trees to control expanding infestations.*

*b. Harvest of green trees infested with mountain pine beetle and trees already killed by beetles.*

[FR Doc. 03-311 Filed 1-7-03; 8:45 am]

BILLING CODE 3410-11-P

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-122-838, C-122-839]

**Certain Softwood Lumber From Canada: Notice of Initiation of Antidumping Duty New Shipper Review for the Period May 22, 2002, Through October 31, 2002; Notice of Initiation of Countervailing Duty New Shipper Review for the Period January 1, 2002, Through December 31, 2002; and Rescission of Countervailing Duty Expedited Review**

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

**ACTION:** Notice of initiation of antidumping and countervailing duty new shipper reviews and rescission of countervailing duty expedited review in certain softwood lumber from Canada.

**EFFECTIVE DATE:** January 8, 2003.

**SUMMARY:** The Department of Commerce (the Department) has received requests to conduct new shipper reviews of the antidumping (AD) and countervailing duty (CVD) orders on certain softwood lumber from Canada. In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(d) (2002), we are initiating AD and CVD new shipper reviews for Scierie La Pointe & Roy Ltée. **FOR FURTHER INFORMATION CONTACT:** Vicki Schepker or Keith Nickerson (AD review) at (202) 482-1756 and (202) 482-3813, respectively; Gayle Longest or Eric B. Greynolds (CVD review) at (202) 482-3338 and (202) 482-0671, respectively; Group II, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**Background**

On November 26, 2002, the Department received timely requests from Scierie La Pointe & Roy Ltée (La Pointe & Roy), in accordance with 19 CFR 351.214(c) (2002), for new shipper

reviews of the AD and CVD orders on certain softwood lumber from Canada, which have a May anniversary month.<sup>1</sup>

As required by 19 CFR 351.214(b)(2)(i), (ii), and (iii)(A), La Pointe & Roy certified that it did not export certain softwood lumber to the United States during the period of investigation (POI), and that it has never been affiliated with any exporter or producer which exported certain softwood lumber during the POI.<sup>2</sup> Pursuant to 19 CFR 351.214(b)(2)(iv), the company submitted documentation establishing the date on which it first shipped the subject merchandise to the United States, the date of entry of that first shipment, the volume of that and subsequent shipments, the date of the first sale to an unaffiliated customer in the United States, and that it has informed the Governments of Canada and Quebec, through counsel, that they will be required to provide a full response to the Department's questionnaire.<sup>3</sup>

In accordance with section 751(a)(2)(B) of the Act, and 19 CFR 351.214(b), and based on information on the record, we are initiating AD and CVD new shipper reviews for La Pointe & Roy.

**Initiation of Reviews**

On December 12, 2002, the Coalition for Fair Lumber Imports Executive Committee (the petitioners) submitted comments regarding the new shipper review requests of La Pointe & Roy. The petitioners allege that La Pointe & Roy should not be considered a new shipper because it was allocated quota under the 1996 U.S./Canada Softwood Lumber Agreement. According to the petitioners, as a holder of quota, La Pointe & Roy had a strong incentive to sell subject merchandise to the United States either directly or indirectly.<sup>4</sup>

Furthermore, the petitioners assert that even if La Pointe & Roy did not export subject merchandise during the POI, there is no valid reason to initiate a CVD new shipper review, since the company has requested an expedited review. According to the petitioners, La Pointe & Roy is withdrawing its request for expedited review because the company did not export subject merchandise to the United States during the POI. The petitioners argue that a company does not have to export the

<sup>1</sup> (See *Certain Softwood Lumber Products from Canada*, 67 FR 36068, 36070 (May 22, 2002).

<sup>2</sup> See submission from Alston & Bird LLP to the Department, dated November 26, 2002, at Exhibits 1 and 2.

<sup>3</sup> See *Id.*, at Exhibits 3, 4, and 5.

<sup>4</sup> See submission from Dewey Ballantine LLP to the Department, dated December 12, 2002, at 5.