

*Unmanufactured tobacco.* Any tobacco that is not processed and packaged as a consumer tobacco product, including, but not limited to, any tobacco classifiable under the Harmonized Tariff Schedule of the United States (HTS) in existence as of January 1, 1994, under Chapter 2401 of the HTS or under classifications 2403912000, 2403914050, 2403914070, 2403990050, 2403990065, and 2403990070 of Chapter 2403 of the HTS.

[59 FR 10944, Mar. 9, 1994, as amended at 64 FR 2803, Jan. 19, 1999]

**§ 1464.102 Budget deficit marketing assessment.**

(a) *General.* Subject to the limits set out below, a budget deficit marketing assessment (BDMA) shall be remitted by all importers of tobacco for tobacco entered into the commerce of the United States.

(b) *Period of coverage.* Except as provided for in (h), this section shall only apply to tobacco imported after September 13, 1995, and through the 1998 calendar year.

(c) *Tobacco covered.* Except as provided in (g) and (h), this section shall only apply to unmanufactured tobacco entered for consumption into the commerce of the United States that is, as determined by the Director, the same kind or a like kind of tobacco for which a domestic price support program is in effect; provided further that, except as provided in (g) and (h), this section shall not apply to cigar kinds of tobacco.

(d) *Rate.* Except as provided in (h) and subject to provisions in this section dealing with mixed lots, the BDMA rate shall be the rate for the corresponding domestic tobacco for the marketing year for the domestic tobacco which is in progress when the imported tobacco becomes subject to the assessment. The BDMA rate shall be applied on a per kilogram basis to all quantities of such tobacco imported for consumption, except for *de minimis* special entries approved by the Director.

(e) *Mixed entries.* For entries of mixed kinds of tobacco, the importer shall certify the composition of the mixed lot and remit the amount of assessment due for the respective quantity of each applicable kind of tobacco in the

mixture. If the importer is unable or unwilling to determine and certify the composition of the mixed lot, the entire lot shall be subject to the BDMA rate for the kind of tobacco with the highest rate.

(f) *Remittance of BDMA.* The BDMA amount due shall be remitted in accordance with §1464.104 of this part. Failure to remit or timely remit BDMA's shall subject the importer to a marketing penalty on the quantity for which such failure occurred. The penalty will be assessed in accordance with §1464.106 of this part.

(g) *Records and disputes.* It shall be the responsibility of all importers of tobacco to establish that their tobacco is not subject to any BDMA or is not subject to a higher BDMA than that claimed to be due by such importer. All importers of tobacco must, accordingly, maintain sufficient records to demonstrate that they are not liable for a higher BDMA amount. Disputes involving the application of the BDMA shall be resolved by the Director.

(h) *Tobacco entered prior to September 13, 1995.* Notwithstanding other provisions of this section, all imported tobacco which was entered for consumption into the United States from January 1, 1994, through September 13, 1995, shall be subject to a BDMA to the extent provided for under those rules which were in effect under this part during that period. BDMA's payable for that period shall be paid by the importer and shall be at the rate specified in those rules and subject to the terms of those rules.

[62 FR 3198, Jan. 22, 1997]

**§ 1464.103 Importer no-net-cost assessments.**

(a) *General.* The importer of any unmanufactured imported burley or flue-cured tobacco shall pay a no-net-cost assessment on each kilogram of such tobacco that is imported after December 31, 1993, regardless of the form in which it is imported and regardless of whether it is mixed or blended with other tobacco, except for *de minimis* special entries.

(b) *Amount of assessment.* The amount of the no-net-cost assessment which shall apply under this section shall be