

**STREAMLINED SALES AND USE TAX AGREEMENT
COMPLIANCE REVIEW AND INTERPRETATIONS COMMITTEE**

Interpretation Recommendation 2007-02

This Interpretation Recommendation is made to the Governing Board by the Compliance Review and Interpretations Committee this 7th day of June, 2007 in accordance with Article IX, Rule 902 of Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.

The party requesting the interpretation is Lafarge North America. The request was made by letter dated May 14, 2007, and was made pursuant to the provisions for expedited consideration contained in Rule 902 at subsection H.

Issue

The issue presented is an interpretation of Agreement section 310 (General Sourcing Rules). The specific question presented was whether the seller's location is considered the destination when the terms of the sale are FOB (Free on Board) Plant (origin) regardless of whether the customer picks up the product in their own or vehicle or sends a third party to pick up the product.

Recommendation

By unanimous consent the Compliance Review and Interpretations Committee submits to the Governing Board a recommendation that a sale is not considered "received" by the purchaser and therefore not sourced to the seller's location when a third party shipping company picks up the product on behalf of the purchaser.

Rationale

A plain reading of Agreement section 310(A) states that the retail sale of a product shall be sourced to the business location when the product is received by the purchaser at the business location. Section 311 of the Agreement states that the term "receive" as used in Section 310(A) does not "include possession by a shipping company on behalf of the purchaser". The terms of the sale as FOB (origin) are irrelevant in determining sourcing under the Agreement. Since the source of the sale in the proposed fact scenario is not determined under subsection (A)(1) of Section 310, the seller must follow the subsequent paragraphs of subsection A to determine the source of the sale.

Committee Members

Myles Vosberg, Andy Sabol, Tony Mastin, Joseph Van Devender, and Dale Vettel.