

Subsec. (c)(3). Pub. L. 105-83, § 602(a)(2)(C), inserted “for sourcing areas for processing facilities located outside of the northwestern private timber open market area” in heading, designated existing provisions as subpar. (A), inserted heading, and struck out at end “In making a determination referred to in this paragraph, the Secretary concerned shall consider equally the timber purchasing patterns, on private and Federal lands, of the applicant as well as other persons in the same local vicinity as the applicant, and the relative similarity of such purchasing patterns.”, and added subpars. (B) to (D).

Subsec. (c)(4), (5). Pub. L. 105-83, § 602(a)(2)(D), (E), inserted “for sourcing areas for processing facilities located outside the northwestern private timber open market area” in headings.

Subsec. (c)(6), (7). Pub. L. 105-83, § 602(a)(2)(F), added pars. (6) and (7).

Subsec. (d). Pub. L. 105-83, § 602(a)(3), added subsec. (d).

§ 620c. Restriction on exports of unprocessed timber from State and other public lands

(a) Order to prohibit export of unprocessed timber originating from State or other public lands

Except as provided in subsection (g) of this section, the Secretary of Commerce shall issue orders to prohibit the export from the United States of unprocessed timber originating from public lands, as provided in subsection (b) of this section.

(b) Schedule for determination to prohibit export of unprocessed timber originating from State or other public lands

(1) States with annual sales of 400,000,000 board feet or less

With respect to States with annual sales volumes of 400,000,000 board feet or less, the Secretary of Commerce shall issue an order referred to in subsection (a) of this section to prohibit, notwithstanding any other provision of law, the export of unprocessed timber originating from public lands, effective June 1, 1993.

(2) States with annual sales of greater than 400,000,000 board feet

With respect to any State with an annual sales volume greater than 400,000,000 board feet, the Secretary of Commerce shall issue an order referred to in subsection (a) of this section to prohibit, notwithstanding any other provision of law, the export of unprocessed timber originating from public lands, effective as of November 14, 1997.

(3) Prohibition on substitution

(A) Prohibition

Subject to subparagraph (B), each order of the Secretary of Commerce under paragraph (1) or (2) shall also prohibit, notwithstanding any other provision of law, any person from purchasing, directly or indirectly, unprocessed timber originating from public lands in a State if—

- (i) such unprocessed timber would be used in substitution for exported unprocessed timber originating from private lands in that State; or
- (ii) such person has, during the preceding 24-month period, exported unprocessed

timber originating from private lands in that State.

(B) Exemption

The prohibitions referred to in subparagraph (A) shall not apply in a State on or after the date on which—

- (i) the Governor of that State provides the Secretary of Commerce with notification of a prior program under subparagraph (C) of subsection (d)(2) of this section,
- (ii) the Secretary of Commerce approves a program of that State under subparagraph (A) of subsection (d)(2) of this section, or
- (iii) regulations of the Secretary of Commerce issued under subsection (c) of this section to carry out this section take effect,

whichever occurs first.

(4) Report to Congress

Not later than June 1, 1995, the Secretary of Commerce, in conjunction with the Secretaries of Agriculture and Interior, shall issue a report to the Congress on the effects of the reallocation, as a result of the enactment of sections 620 to 620j of this title, of public lands timber resources to the domestic timber processing sector, the ability of the domestic timber processing sector to meet domestic demand for forest products, the volume of transshipment of timber originating from public lands across State borders, the effectiveness of rules issued and administered by the Secretary of Commerce pursuant to sections 620 to 620j of this title and the effectiveness of State programs authorized under subsection (d) of this section, and trends in growth and productivity in the domestic timber processing sector.

(c) Federal program

(1) Administration by the Secretary of Commerce

(A) In general

Subject to subparagraph (B), the Secretary of Commerce shall, as soon as possible after July 1, 1993—

- (i) determine the species, grades, and geographic origin of unprocessed timber to be prohibited from export in each State that is subject to an order issued under subsection (a) of this section;
- (ii) administer the prohibitions consistent with sections 620 to 620j of this title;
- (iii) ensure that the species, grades, and geographic origin of unprocessed timber prohibited from export within each State is representative of the species, grades, and geographic origin of timber comprising the total timber sales program of the State; and
- (iv) issue such regulations as are necessary to carry out this section.

(B) Exemption

The actions and regulations of the Secretary under subparagraph (A) shall not apply with respect to a State that is admin-

istering and enforcing a program under subsection (d) of this section.

(2) Cooperation with other agencies

The Secretary of Commerce is authorized to enter into agreements with Federal and State agencies with appropriate jurisdiction to assist the Secretary in carrying out sections 620 to 620j of this title.

(d) Authorized State programs

(1) Authorization of new State programs

Notwithstanding subsection (c) of this section, the Governor of any State may submit a program to the Secretary of Commerce for approval that—

(A) implements, with respect to unprocessed timber originating from public lands in that State, the prohibition on exports set forth in the Secretary's order under subsection (a) of this section; and

(B) ensures that the species, grades, and geographic origin of unprocessed timber prohibited from export within the State is representative of the species, grades, and geographic origin of timber comprising the total timber sales program of the State.

(2) Approval of State programs

(A) Program approval

Not later than 30 days after the submission of a program under paragraph (1), the Secretary of Commerce shall approve the program unless the Secretary finds that the program will result in the export of unprocessed timber from public lands in violation of sections 620 to 620j of this title and publishes that finding in the Federal Register.

(B) State program in lieu of Federal program

If the Secretary of Commerce approves a program submitted under paragraph (1), the Governor of the State for which the program was submitted, or such other official of that State as the Governor may designate, may administer and enforce the program, which shall apply in that State in lieu of the regulations issued under subsection (c) of this section.

(C) Prior State programs

Not later than 30 days after July 1, 1993, the Governor of any State that had, before May 4, 1993, issued regulations under this subsection as in effect before May 4, 1993, may provide the Secretary of Commerce with written notification that the State has a program that was in effect on May 3, 1993, and that meets the requirements of paragraph (1). Upon such notification, that State may administer and enforce that program in that State until the end of the 9-month period beginning on the date on which the Secretary of Commerce issues regulations under subsection (c) of this section, and that program shall, during the period in which it is so administered and enforced, apply in that State in lieu of the regulations issued under subsection (c) of this section. Such Governor may submit, with such notification, the program for approval by the Secretary under paragraph (1).

(e) Prior contracts

Nothing in this section shall apply to—

(1) any contract for the purchase of unprocessed timber originating from public lands that was entered into before—

(A) September 10, 1990, with respect to States with annual sales volumes of 400,000,000 board feet or less; or

(B) January 1, 1991, with respect to States with annual sales volumes greater than 400,000,000 board feet; or

(2) any contract under which exports of unprocessed timber were permitted pursuant to an order of the Secretary of Commerce in effect under this section before October 23, 1992.

(f) Western red cedar

Nothing in this section shall be construed to supersede section 2406(i) of title 50, Appendix.

(g) Presidential authority

The President is authorized, after suitable notice and a public comment period of not less than 120 days, to suspend the provisions of this section if a panel of experts has reported to the Dispute Settlement Body of the World Trade Organization (as the term "World Trade Organization" is defined in section 3501(8) of title 19), or a ruling issued under the formal dispute settlement proceeding provided under any other trade agreement finds, that the provisions of this section are in violation of, or inconsistent with, United States obligations under that trade agreement.

(h) Removal or modifications of State restrictions

Based upon a determination that it is in the national economic interest, the President may remove or modify any prohibition on exports from public lands in a State if that State petitions the President to remove or modify such prohibition.

(i) Effect of prior Federal law

No provision of Federal law which imposes requirements with respect to the generation of revenue from State timberlands and was enacted before August 20, 1990, shall be construed to invalidate, supersede, or otherwise affect any action of a State or political subdivision of a State pursuant to sections 620 to 620j of this title.

(j) Surplus timber

The prohibitions on exports contained in orders of the Secretary of Commerce issued under subsection (a) of this section shall not apply to specific quantities of grades and species of unprocessed timber originating from public lands which the Secretary concerned determines by rule to be surplus to the needs of timber manufacturing facilities in the United States. Any such determination may, by rule, be withdrawn by the Secretary concerned if the Secretary determines that the affected timber is no longer surplus to the needs of timber manufacturing facilities in the United States.

(k) Suspension of prohibitions

Notwithstanding any other provision of this section, beginning on January 1, 1998, and annually thereafter, if the President finds, upon re-

view of the purposes and implementation of sections 620 to 620j of this title, that the prohibitions on exports required by subsection (a) of this section no longer promote the purposes of sections 620 to 620j of this title, then the President may suspend such prohibitions, except that such suspension shall not take effect until 90 days after the President notifies the Congress of such finding.

(I) Existing authority not affected

Nothing in sections 620 to 620j of this title shall be construed to limit the authority of the President or the United States Trade Representative to take action authorized by law to respond appropriately to any measures taken by a foreign government in connection with sections 620 to 620j of this title.

(Pub. L. 101-382, title IV, § 491, Aug. 20, 1990, 104 Stat. 719; Pub. L. 103-45, § 2, July 1, 1993, 107 Stat. 223; Pub. L. 105-83, title VI, § 602(b), Nov. 14, 1997, 111 Stat. 1620; Pub. L. 106-36, title I, § 1002(a)(2), June 25, 1999, 113 Stat. 133.)

AMENDMENTS

1999—Subsec. (g). Pub. L. 106-36 substituted “Dispute Settlement Body of the World Trade Organization (as the term ‘World Trade Organization’ is defined in section 3501(8) of title 19)” for “Contracting Parties to the General Agreement on Tariffs and Trade”.

1997—Subsec. (b)(2). Pub. L. 105-83 struck out “the following shall apply:” in introductory provisions, substituted “the Secretary” for “(A) The Secretary” and “as of November 14, 1997” for “during the period beginning on June 1, 1993, and ending on December 31, 1995”, and struck out subpar. (B) which read as follows: “For all periods on or after January 1, 1996, the Secretary of Commerce shall issue an order referred to in subsection (a) of this section not later than September 30, 1995. Such order shall prohibit the export of the lesser of 400,000,000 board feet or the annual sales volume in that State of unprocessed timber originating from public lands.”

1993—Subsec. (a). Pub. L. 103-45, § 2(1), substituted “(g)” for “(e)” and “as provided” for “in the amounts specified”.

Subsec. (b)(1). Pub. L. 103-45, § 2(2)(A), inserted “, notwithstanding any other provision of law,” after “prohibit” and substituted “, effective June 1, 1993” for “not later than 21 days after August 20, 1990”.

Subsec. (b)(2). Pub. L. 103-45, § 2(2)(B), added subpar. (A) and struck out former subpar. (A), redesignated subpar. (D) as (B) and substituted “annual sales volume in that State of unprocessed timber originating from public lands” for “total annual sales volume” at end, and struck out former subpars. (B) and (C). Prior to amendment, former subpars. (A) to (C) read as follows:

“(A) The Secretary of Commerce shall issue an order referred to in subsection (a) of this section not later than 21 days after August 20, 1990. Such order shall cover a period beginning 120 days after the issuance of such an order, or January 1, 1991, whichever is earlier, and shall extend to December 31, 1991. Such order shall prohibit the export of 75 percent of the annual sales volume in such State of unprocessed timber from public lands.

“(B) For the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary of Commerce shall, after notice and an opportunity for a hearing, issue an order referred to in subsection (a) of this section not later than September 30, 1991. Such order shall prohibit the export of at least 75 percent of such State’s annual sales volume for this 2-year period.

“(C) For the period beginning on January 1, 1994, and ending on December 31, 1995, the Secretary of Commerce shall, after notice and an opportunity for a hearing, issue an order referred to in subsection (a) of this

section not later than September 30, 1993. Such order shall prohibit the export of at least 75 percent of such State’s annual sales volume for this 2-year period.”

Subsec. (b)(3), (4). Pub. L. 103-45, § 2(2)(C), (D), added par. (3), redesignated former par. (3) as (4), and substituted “the Secretary of Commerce pursuant to sections 620 to 620j of this title and the effectiveness of State programs authorized under subsection (d) of this section” for “States pursuant to sections 620 to 620j of this title”.

Subsecs. (c) to (l). Pub. L. 103-45, § 2(3), (4), added subsecs. (c) to (f), struck out former subsecs. (c) and (d) which related to basis for increase in volume prohibited from export and administrative provisions, respectively, and redesignated former subsecs. (e) to (j) as (g) to (l), respectively.

SEVERABILITY OF PROVISIONS

Section 4 of Pub. L. 103-45 provided that: “If any provision of this Act [amending this section and section 620d of this title and enacting provisions set out as a note under section 620 of this title], or the amendments made by this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act and such amendments and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.”

EXTENSION AND ISSUANCE OF ORDER UNDER
SUBSECTION (b)(2)

Pub. L. 104-208, div. A, title I, § 101(d) [title III], Sept. 30, 1996, 110 Stat. 3009-181, 3009-223, which in part directed Secretary of Commerce to extend until Sept. 30, 1997, the order issued under subsec. (b)(2)(A) of this section and to issue an order under subsec. (b)(2)(B) of this section effective Oct. 1, 1997, was from the Department of the Interior and Related Agencies Appropriations Act, 1997, and was not repeated in subsequent appropriations acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104-134, title I, § 101(c) [title III, § 333], Apr. 26, 1996, 110 Stat. 1321-156, 1321-210; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 104-99, title I, § 130, Jan. 26, 1996, 110 Stat. 34.

§ 620d. Monitoring and enforcement

(a) Monitoring and reports

In accordance with regulations issued under this section—

(1) each person who acquires, either directly or indirectly, unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States shall report the receipt and disposition of such timber to the Secretary concerned, in such form as such Secretary may by rule prescribe; except that nothing in this paragraph shall be construed to hold any person responsible for the reporting of the disposition of any such timber held by subsequent persons;

(2) each person who transfers to another person unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States shall, before completing such transfer—

(A) provide to such other person a written notice, in such form as the Secretary concerned may prescribe, which shall identify the Federal origin of such timber;

(B) receive from such other person a written acknowledgment of such notice and a written agreement that such other person will comply with the requirements of sections 620 to 620j of this title, in such form as the Secretary concerned may prescribe; and