

controls or has the power to control both. In determining whether or not affiliation exists, consideration shall be given to all appropriate factors, including, but not limited to, common ownership, common management, and contractual relationships.

(C) Definition of purchaser: For the purposes of this Act, a purchaser is the holder of a contract to purchase timber from the Secretary of Agriculture or the Secretary of the Interior.

**(b) Extension of time for performance of contracts; covered contracts; damages for default**

(1) Timber contracts bid prior to January 1, 1982, not bought out pursuant to subsection (a) and included in the President's program of July 28, 1983, shall not be subject to any further extension of time for performance except as permitted under the President's program of July 28, 1983, as implemented by the Secretary of Agriculture and the Secretary of the Interior, providing for the extension of certain timber sale contracts and requiring the phased harvesting of such extended contracts, which program is hereby ratified except as modified by paragraph (2).

(2) Notwithstanding any other provision of law, timber contracts extended pursuant to the President's program of July 28, 1983, as implemented by the Secretary of Agriculture shall not be subject to inclusion of additional provisions for calculating damages for default.

**(c) Monitoring of bidding patterns on timber sale contracts; discouragement of bids; reporting requirements**

The Secretary of Agriculture and the Secretary of the Interior shall monitor bidding patterns on timber sale contracts and take action to discourage bidding at such a rate as would indicate that the bidder, if awarded the contract, would be unable to perform the obligations as required, or that the bid is otherwise for the purpose of speculation. Each Secretary shall include in the annual report to Congress information concerning actions taken under this subsection.

**(d) Cash down-payment and periodic payments for contracts; effective date**

Effective January 1, 1985, in any contract for the sale of timber from the National Forests, the Secretary of Agriculture shall require a cash down-payment at the time the contract is executed and periodic payments to be made over the remaining period of the contract.

(Pub. L. 98-478, § 2, Oct. 16, 1984, 98 Stat. 2213.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(4)(B), (7)(C), is Pub. L. 98-478, Oct. 16, 1984, 98 Stat. 2213, which enacted sections 539f, 618, and 619 of this title and provisions set out as a note under this section. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE

Pub. L. 98-478, § 1, Oct. 16, 1984, 98 Stat. 2213, provided: "That this Act [enacting this section and sections 539f and 619 of this title] may be cited as 'Federal Timber Contract Payment Modification Act'."

ADMINISTRATIVE APPEALS OF TIMBER SALES

Pub. L. 99-500, § 101(h) [title III, § 320], Oct. 18, 1986, 100 Stat. 1783-242, 1783-286, and Pub. L. 99-591, § 101(h) [title

III, § 320], Oct. 30, 1986, 100 Stat. 3341-242, 3341-287, provided that: "To assure that National Forest and Bureau of Land Management timber included in sales defaulted by the purchaser, or returned under the Federal Timber Contract Payment Modification Act (Public Law 98-478) [see Short Title note above], is available for resale in a timely manner, such sales shall be subject only to one level of administrative appeal. This limitation shall not abridge the right of judicial review. Actions on such administrative appeals should be completed within 90 days of receipt of the notice of appeal. Sales that are reoffered shall be modified, including minor additions or deletions, as appropriate, to reduce adverse environmental impacts, pursuant to current land management plans and guidelines, and such modifications in themselves should not be construed to require the preparation of new or supplemental environmental assessments. This section shall not apply to any decision on the determination of damages due to the Government for defaulted or canceled contracts."

**§ 619. Emergency stumpage rate redeterminations in Alaska**

**(a) Application; applicable period**

Emergency stumpage rate redetermination shall be made upon the written application of the purchaser of National Forest timber in Alaska, bid after January 1, 1974, and rates established as a result thereof shall be effective for timber scaled during a period between January 1, 1981, and five years from October 16, 1984.

**(b) Competitive effect of modification of contracts**

In making the emergency rate redeterminations the Secretary may modify existing contract terms, including the amount of the bid premium, in order to provide rates which will permit the holders of contracts bid after January 1, 1974, to be competitive with other purchasers of National Forest timber.

**(c) Excepted contracts**

The provisions of this section shall not apply to contracts held by the holders of 50-year timber sale contracts in Alaska.

(Pub. L. 98-478, § 4, Oct. 16, 1984, 98 Stat. 2217.)

**§ 620. Findings and purposes**

**(a) Findings**

The Congress makes the following findings:

(1) Timber is essential to the United States.

(2) Forests, forest resources, and the forest environment are exhaustible natural resources that require efficient and effective conservation efforts.

(3) In the interest of conserving those resources, the United States has set aside millions of acres of otherwise harvestable timberlands in the western United States, representing well over 100,000,000 board feet of otherwise harvestable timber.

(4) In recent years, administrative, statutory, or judicial action has been taken to set aside an increased amount of otherwise harvestable timberlands for conservation purposes.

(5) In the next few months and years, additional amounts of otherwise harvestable timberlands may be set aside for conservation purposes, pursuant to the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.], the National