

- (aa) reduce the penalty;
- (bb) not impose the penalty; or
- (cc) on condition of there being no further violation under this paragraph for a prescribed period, suspend imposition of the penalty.

(ii) **CONTRACTURAL<sup>1</sup> REMEDIES.**—In the case of a minor violation of sections 620 to 620j of this title (including a regulation), the Secretary concerned shall, to the maximum extent practicable, permit a contracting officer to redress the violation in accordance with the applicable timber sale contract rather than assess a penalty under this paragraph.

**(3) Penalties not exclusive; judicial review**

A penalty assessed under this subsection shall not be exclusive of any other penalty provided by law and shall be subject to review in an appropriate United States district court.

**(d) Administrative remedies**

**(1) Debarment**

**(A) In general**

Subject to subparagraph (B), the head of the appropriate Federal department or agency under sections 620 to 620j of this title may debar any person who violates sections 620 to 620j of this title, or any regulation or contract issued under sections 620 to 620j of this title, from entering into any contract for the purchase of unprocessed timber from Federal lands for a period of not more than 5 years. Such person shall also be precluded from taking delivery of Federal timber purchased by another party for the period of debarment.

**(B) Prerequisites for debarment**

**(i) In general**

No person may be debarred from bidding for or entering into a contract for the purchase of unprocessed timber from Federal lands under subparagraph (A) unless the head of the appropriate Federal department or agency first finds, on the record and after an opportunity for a hearing, that debarment is warranted.

**(ii) Withholding of awards during debarment proceedings**

The head of an appropriate Federal department or agency may withhold an award under sections 620 to 620j of this title of a contract for the purchase of unprocessed timber from Federal lands during a debarment proceeding.

**(2) Cancellation of contracts**

The head of the appropriate Federal department or agency under sections 620 to 620j of this title may cancel any contract entered into with a person found to have violated sections 620 to 620j of this title or regulations issued under sections 620 to 620j of this title.

**(e) Exception**

Subsections (c) and (d) do not apply to violations of section 620i of this title.

(Pub. L. 101-382, title IV, § 492, Aug. 20, 1990, 104 Stat. 722; Pub. L. 103-45, § 3, July 1, 1993, 107 Stat. 226; Pub. L. 105-83, title VI, § 603, Nov. 14, 1997, 111 Stat. 1620.)

AMENDMENTS

1997—Subsec. (c)(2)(C). Pub. L. 105-83, § 603(1), added subpar. (C).

Subsec. (d)(1). Pub. L. 105-83, § 603(2), inserted subpar. (A) designation and heading, substituted “Subject to subparagraph (B), the head” for “The head”, and added subpar. (B).

1993—Subsec. (a)(3), (4). Pub. L. 103-45, § 3(a), added pars. (3) and (4).

Subsec. (c)(1). Pub. L. 103-45, § 3(b)(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(2). Pub. L. 103-45, § 3(b)(2), designated existing provisions as subpar. (A), redesignated former subpars. (A) to (C) as cls. (i) to (iii) of subpar. (A), and added subpar. (B).

**§ 620e. Definitions**

For purposes of sections 620 to 620j of this title:

(1) The term “acquire” means to come into possession of, whether directly or indirectly, through a sale, trade, exchange, or other transaction, and the term “acquisition” means the act of acquiring.

(2) The term “Federal lands” means lands that are owned by the United States, but does not include any lands the title to which is—

(A) held in trust by the United States for the benefit of any Indian tribe or individual,

(B) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(C) held by any Native Corporation as defined in section 1602 of title 43.

(3) **MINOR VIOLATION.**—The term “minor violation” means a violation, other than an intentional violation, involving a single contract, purchase order, processing facility, or log yard involving a quantity of logs that is less than 25 logs and has a total value (at the time of the violation) of less than \$10,000.

(4) **NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA.**—The term “northwestern private timber open market area” means the State of Washington.

(5) The term “person” means any individual, partnership, corporation, association, or other legal entity and includes any subsidiary, subcontractor, or parent company, and business affiliates where 1 affiliate controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

(6) The term “private lands” means lands held or owned by a person. Such term does not include Federal lands or public lands, or any lands the title to which is—

(A) held in trust by the United States for the benefit of any Indian tribe or individual,

(B) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(C) held by any Native Corporation as defined in section 1602 of title 43.

(7) The term “public lands” means lands west of the 100th meridian in the contiguous 48

<sup>1</sup> So in original. Probably should be “Contractual”.

States, that are held or owned by a State or political subdivision thereof, or any other public agency. Such term does not include any lands the title to which is—

- (A) held by the United States;
- (B) held in trust by the United States for the benefit of any Indian tribe or individual,
- (C) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or
- (D) held by any Native Corporation as defined in section 1602 of title 43.

(8) The term “Secretary concerned” means—  
 (A) the Secretary of Agriculture, with respect to Federal lands administered by that Secretary; and

(B) the Secretary of the Interior with respect to Federal lands administered by that Secretary.

(9)(A) The term “unprocessed timber” means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use.

(B) The term “unprocessed timber” does not include timber processed into any one of the following:

(i) Lumber or construction timbers, except Western Red Cedar, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list grades, sawn on 4 sides, not intended for remanufacture.

(ii) Lumber, construction timbers, or cants for remanufacture, except Western Red Cedar, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list clear grades, sawn on 4 sides, not to exceed 12 inches in thickness.

(iii) Lumber, construction timbers, or cants for remanufacture, except Western Red Cedar, that do not meet the grades referred to in clause (ii) and are sawn on 4 sides, with wane less than ¼ of any face, not exceeding 8¾ inches in thickness.

(iv) Chips, pulp, or pulp products.

(v) Veneer or plywood.

(vi) Poles, posts, or piling cut or treated with preservatives for use as such.

(vii) Shakes or shingles.

(viii) Aspen or other pulpwood bolts, not exceeding 100 inches in length, exported for processing into pulp.

(ix) Pulp logs, cull logs, and incidental volumes of grade 3 and 4 sawlogs processed at domestic pulp mills, domestic chip plants, or other domestic operations for the primary purpose of conversion of the logs into chips, or to the extent that a small quantity of such logs are processed, into other products at domestic processing facilities.

(10) The acquisition of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States to be used in “substitution” for exported unprocessed timber originating from private lands means acquiring unprocessed timber from such Federal lands and engaging in exporting, or selling for export, unprocessed timber originating from private lands within the same geographic and economic area.

(11) VIOLATION.—The term “violation” means a violation of sections 620 to 620j of this title (including a regulation issued to implement sections 620 to 620j of this title) with regard to a course of action, including—

(A) in the case of a violation by the original purchaser of unprocessed timber, an act or omission with respect to a single timber sale; and

(B) in the case of a violation of a subsequent purchaser of the timber, an act or omission with respect to an operation at a particular processing facility or log yard.

(Pub. L. 101-382, title IV, §493, Aug. 20, 1990, 104 Stat. 723; Pub. L. 105-83, title VI, §604, Nov. 14, 1997, 111 Stat. 1621.)

#### REFERENCES IN TEXT

Sections 620 to 620j of this title, referred to in par. (11), was in the original “this Act” and was translated as reading “this title”, meaning title IV of Pub. L. 101-382, Aug. 20, 1990, 104 Stat. 714, as amended, known as the Forest Resources Conservation and Shortage Relief Act of 1990, which enacted sections 620 to 620j of this title and provisions set out as notes under section 620 of this title, to reflect the probable intent of Congress. For complete classification of this Act to the Code, see Short Title note set out under section 620 of this title and Tables.

#### AMENDMENTS

1997—Pars. (3) to (8). Pub. L. 105-83, §604(1), (2), added pars. (3) and (4) and redesignated former pars. (3) to (6) as (5) to (8), respectively. Former pars. (7) and (8) redesignated (9) and (10), respectively.

Par. (9). Pub. L. 105-83, §604(1), redesignated par. (7) as (9).

Par. (9)(B)(ix). Pub. L. 105-83, §604(3), substituted “Pulp logs, cull logs, and incidental volumes of grade 3 and 4 sawlogs” for “Pulp logs or cull logs” and inserted “primary” before “purpose” and “, or to the extent that a small quantity of such logs are processed, into other products at domestic processing facilities” before period at end.

Par. (10). Pub. L. 105-83, §604(1), redesignated par. (8) as (10).

Par. (11). Pub. L. 105-83, §604(4), added par. (11).

### § 620f. Regulations and review

#### (a) Regulations

##### (1) Agriculture and Interior

The Secretaries of Agriculture and Interior shall, in consultation, each prescribe new coordinated and consistent regulations to implement sections 620 to 620j of this title on lands which they administer.

##### (2) Commerce

The Secretary of Commerce shall promulgate such rules and guidelines as may be necessary to carry out sections 620 to 620j of this title.

##### (3) Deadline

(A) IN GENERAL.—Except as otherwise provided in sections 620 to 620j of this title, regulations and guidelines required under this subsection shall be issued not later than June 1, 1998.

(B) The regulations and guidelines issued under sections 620 to 620j of this title that were in effect prior to September 8, 1995 shall remain in effect until new regulations and guidelines are issued under subparagraph (A).