

(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.)

Editorial Notes

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).

(4) Painting and branding

(A) In general

The Secretary concerned shall issue regulations that impose reasonable painting, branding, or other forms of marking or tracking requirements on unprocessed timber if—

(i) the benefits of the requirements outweigh the cost of complying with the requirements; and

(ii) the Secretary determines that, without the requirements, it is likely that the unprocessed timber—

(I) would be exported in violation of sections 620 to 620j of this title; or

(II) if the unprocessed timber originated from Federal lands, would be substituted for unprocessed timber originating from private lands west of the 100th Meridian in the contiguous 48 States in violation of sections 620 to 620j of this title.

(B) Minimum size

The Secretary concerned shall not impose painting, branding, or other forms of marking or tracking requirements on—

(i) the face of a log that is less than 7 inches in diameter; or

(ii) unprocessed timber that is less than 8 feet in length or less than 1/3 sound wood.

(C) Waivers

(i) In general

The Secretary concerned may waive log painting and branding requirements—

(I) for a geographic area, if the Secretary determines that the risk of the unprocessed timber being exported from the area or used in substitution is low;

(II) with respect to unprocessed timber originating from private lands located within an approved sourcing area for a person who certifies that the timber will

be processed at a specific domestic processing facility to the extent that the processing does occur; or

(III) as part of a log yard agreement that is consistent with the purposes of the export and substitution restrictions imposed under sections 620 to 620j of this title.

(ii) Review and termination of waivers

A waiver granted under clause (i)—

(I) shall, to the maximum extent practicable, be reviewed once a year; and

(II) shall remain effective until terminated by the Secretary.

(D) Factors

In making a determination under this paragraph, the Secretary concerned shall consider—

(i) the risk of unprocessed timber of that species, grade, and size being exported or used in substitution;

(ii) the location of the unprocessed timber and the effect of the location on its being exported or used in substitution;

(iii) the history of the person involved with respect to compliance with log painting and branding requirements; and

(iv) any other factor that is relevant to determining the likelihood of the unprocessed timber being exported or used in substitution.

(5) Reporting

(A) In general

Subject to subparagraph (B), the Secretary concerned shall issue regulations that impose reasonable documentation and reporting requirements if the benefits of the requirements outweigh the cost of complying with the requirements.

(B) Waivers

(i) In general

The Secretary concerned may waive documentation and reporting requirements for a person if—

(I) an audit of the records of the facility of the person reveals substantial compliance with all notice, reporting, painting, and branding requirements during the preceding year; or

(II) the person transferring the unprocessed timber and the person processing the unprocessed timber enter into an advance agreement with the Secretary concerned regarding the disposition of the unprocessed timber by domestic processing.

(ii) Review and termination of waivers

A waiver granted under clause (i)—

(I) shall, to the maximum extent practicable, be reviewed once a year; and

(II) shall remain effective until terminated by the Secretary.

(b) Review

The Secretaries of Agriculture and Interior shall, in consultation, review the definition of unprocessed timber under section 620e(7) of this

title for purposes of sections 620 to 620j of this title and, not later than 18 months after August 20, 1990, submit to the Congress any recommendations they have with respect to such definition. Specifically, the Secretaries shall report on the effects of maintaining 2 size standards under section 620e(B)(ii)¹ and (iii) of this title.

(Pub. L. 101-382, title IV, § 495, Aug. 20, 1990, 104 Stat. 725; Pub. L. 105-83, title VI, § 605, Nov. 14, 1997, 111 Stat. 1622.)

Editorial Notes

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-83 redesignated first two sentences as pars. (1) and (2), respectively, and inserted headings, and substituted pars. (3) to (5) for last sentence which read as follows: “Except as otherwise provided in sections 620 to 620j of this title, regulations and guidelines under this subsection shall be issued not later than 9 months after August 20, 1990.”

§ 620g. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out sections 620 to 620j of this title.

(Pub. L. 101-382, title IV, § 496, Aug. 20, 1990, 104 Stat. 725.)

§ 620h. Savings provision

Nothing in sections 620 to 620j of this title, or regulations issued under sections 620 to 620j of this title, shall be construed to abrogate or affect any timber sale contract entered into before August 20, 1990.

(Pub. L. 101-382, title IV, § 497, Aug. 20, 1990, 104 Stat. 725.)

Editorial Notes

REFERENCES IN TEXT

August 20, 1990, referred to in text, was in the original “the effective date of this title”, which is the date of enactment of title IV of Pub. L. 101-382, approved Aug. 20, 1990, except as otherwise provided in sections 620 to 620j of this title, see section 494 of Pub. L. 101-382, set out as an Effective Date note under section 620 of this title.

§ 620i. Eastern hardwoods study

(a) Study

The Secretary of Commerce, in conjunction with the Secretary of Agriculture and the Secretary of the Interior, shall conduct a study of the export from the United States, during the 2-year period beginning on January 1, 1991, of unprocessed hardwood timber harvested from Federal lands or public lands east of the 100th meridian. In order to carry out the provisions of this section—

(1) the Secretary of Commerce shall require each person exporting such timber from the United States to declare, in addition to the information normally required in the Shipper's Export Declarations, the State in which the timber was grown and harvested; and

(2) the Secretary of Agriculture and the Secretary of the Interior shall ensure that all

¹ So in original. Probably should be section “620e(7)(B)(ii)”.