

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) of this section 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

Section 1 of Pub. L. 98-478 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 100,000,000,000 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 Forest Management Act of 1976, or other expected statutory, administrative, and judicial actions.

(6) There is evidence of a shortfall in the supply of unprocessed timber in the western United States.

(7) There is reason to believe that any shortfall which may already exist may worsen unless action is taken.

(8) In conjunction with the broad conservation actions expected in the next few months and years, conservation action is necessary with respect to exports of unprocessed timber.

#### (b) Purposes

The purposes of sections 620 to 620j of this title are—

(1) to promote the conservation of forest resources in conjunction with State and Federal resources management plans, and other actions or decisions, affecting the use of forest resources;

(2) to take action essential for the acquisition and distribution of forest resources or products in short supply in the western United States;

(3) to take action necessary, to meet the goals of Article XI 2.(a) of the GATT 1994 (as defined in section 3501(1)(B) of title 19), to ensure sufficient supplies of certain forest resources or products which are essential to the United States;

(4) to continue and refine the existing Federal policy of restricting the export of unprocessed timber harvested from Federal lands in the western United States; and

(5) to effect measures aimed at meeting these objectives in conformity with the obligations of the United States under the WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 3501 of title 19).

(Pub. L. 101-382, title IV, §488, Aug. 20, 1990, 104 Stat. 714; Pub. L. 106-36, title I, §1002(a)(1), June 25, 1999, 113 Stat. 132.)

#### REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (a)(5), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The National Forest Management Act of 1976, referred to in subsec. (a)(5), is Pub. L. 94-588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, 581h, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594-2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

Sections 620 to 620j of this title, referred to in subsec. (b), was in the original “this title”, meaning title IV of Pub. L. 101-382, Aug. 20, 1990, 104 Stat. 714, which enacted sections 620 to 620j of this title and provisions set out as notes below. For complete classification of this Act to the Code, see Short Title note below and Tables.

#### AMENDMENTS

1999—Subsec. (b)(3). Pub. L. 106-36, §1002(a)(1)(A), substituted “GATT 1994 (as defined in section 3501(1)(B) of title 19)” for “General Agreement on Tariffs and Trade”.

Subsec. (b)(5). Pub. L. 106-36, §1002(a)(1)(B), substituted “WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 3501 of title 19)” for “General Agreement on Tariffs and Trade”.

#### EFFECTIVE DATE

Section 494 of title IV of Pub. L. 101-382 provided that: “Except as otherwise provided in this title, the provisions of this title [enacting this section and sections 620a to 620j of this title and provisions set out as a note below] take effect on the date of the enactment of this Act [Aug. 20, 1990].”

#### SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105-83, title VI, §601, Nov. 14, 1997, 111 Stat. 1617, provided that: “This title [amending sections 620b to 620f of this title] may be cited as the ‘Forest Resources Conservation and Shortage Relief Act of 1997.’”

#### SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-45, §1, July 1, 1993, 107 Stat. 223, provided that: “This Act [amending sections 620c and 620d of this title and enacting provisions set out as a note under section 620c of this title] may be cited as the ‘Forest Resources Conservation and Shortage Relief Amendments Act of 1993.’”

#### SHORT TITLE

Section 487 of title IV of Pub. L. 101-382 provided that: “This title [enacting this section and sections 620a to 620j of this title and provisions set out as a note above] may be cited as the ‘Forest Resources Conservation and Shortage Relief Act of 1990.’”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 620b, 620c, 620d, 620e, 620f, 620g, 620h, 620j of this title.

#### § 620a. Restrictions on exports of unprocessed timber originating from Federal lands

##### (a) Prohibition on export of unprocessed timber originating from Federal lands

No person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United States, or sell, trade, exchange, or otherwise convey such timber to any other person for the purpose of exporting such timber from the United States, unless such timber has been determined under subsection (b) of this section to be surplus to the needs of timber manufacturing facilities in the United States.

##### (b) Surpluses

###### (1) Determinations by Secretary concerned

The prohibition contained in subsection (a) of this section shall not apply to specific quantities of grades and species of unprocessed timber originating from Federal lands which the Secretary concerned determines to be surplus to domestic manufacturing needs.

###### (2) Procedures

Any determination under paragraph (1) shall be made in regulations issued in accordance with section 553 of title 5. Any such determination shall be reviewed at least once in