

Public Law 103-45
103d Congress

An Act

To amend the Forest Resources Conservation and Shortage Relief Act of 1990 to permit States to adopt timber export programs, and for other purposes.

July 1, 1993
[H.R. 2343]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Forest Resources
Conservation
and Shortage
Relief
Amendments
Act of 1993.
16 USC 620 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Forest Resources Conservation and Shortage Relief Amendments Act of 1993".

SEC. 2. RESTRICTION ON EXPORTS OF UNPROCESSED TIMBER FROM STATE AND OTHER PUBLIC LANDS.

Section 491 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620c) is amended—

- (1) in subsection (a)—
 - (A) by striking "(e)" and inserting "(g)"; and
 - (B) by striking "in the amounts specified" and inserting "as provided";
- (2) in subsection (b)—
 - (A) in paragraph (1)—
 - (i) by inserting ", notwithstanding any other provision of law," after "prohibit"; and
 - (ii) by striking "not later than 21 days after the date of the enactment of this Act" and inserting "effective June 1, 1993";
 - (B) in paragraph (2)—
 - (i) by striking subparagraph (A) and inserting the following new subparagraph:
"(A) The Secretary of Commerce shall issue an order referred to in subsection (a) to prohibit, notwithstanding any other provision of law, the export of unprocessed timber originating from public lands, effective during the period beginning on June 1, 1993, and ending on December 31, 1995.";
 - (ii) by striking subparagraphs (B) and (C); and
 - (iii) in subparagraph (D)—
 - (I) by redesignating such subparagraph as subparagraph (B); and
 - (II) by striking "total annual sales volume" and inserting "annual sales volume in that State of unprocessed timber originating from public lands";
 - (C) in paragraph (3)—
 - (i) by redesignating such paragraph as paragraph (4); and

(ii) by striking "States pursuant to this title" and inserting "the Secretary of Commerce pursuant to this title and the effectiveness of State programs authorized under subsection (d)"; and

(D) by inserting after paragraph (2) the following new paragraph:

"(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),

"(ii) the Secretary of Commerce approves a program of that State under subparagraph (A) of subsection (d)(2), or

"(iii) regulations of the Secretary of Commerce issued under subsection (c) to carry out this section take effect,

whichever occurs first.";

(3) by redesignating subsections (e) through (j) as subsections (g) through (l), respectively; and

(4) by striking subsections (c) and (d) and inserting the following:

"(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 the date of the enactment of the Forest Resources Conservation and Shortage Relief Amendments Act of 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);

"(ii) administer the prohibitions consistent with 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 administering and enforcing a program under subsection (d).

“(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 this title.

“(d) AUTHORIZED STATE PROGRAMS.—

“(1) AUTHORIZATION OF NEW STATE PROGRAMS.—Notwithstanding subsection (c), 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); 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 this title and publishes that finding in the Federal Register.

Federal
Register,
publication.

“(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).

“(C) PRIOR STATE PROGRAMS.—Not later than 30 days after the date of the enactment of the Forest Resources Conservation and Shortage Relief Amendments Act of 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), 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). 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 7(i) of the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)).”

Public lands.

SEC. 3. MONITORING AND ENFORCEMENT.

(a) MONITORING.—Section 492(a) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620d(a)) is amended—

(1) in paragraph (1), by striking “and” at the end of the paragraph;

(2) in paragraph (2), by striking the period at the end of the paragraph and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

Reports.

“(3) each person who acquires, either directly or indirectly, unprocessed timber originating from public lands in a State that is subject to an order issued by the Secretary of Commerce under section 491(a), other than a State that is administering and enforcing a program under section 491(d), shall report the receipt and disposition of the timber to the Secretary of Commerce, in such form as the Secretary may by rule prescribe, except that nothing in this paragraph shall be construed to hold any person responsible for reporting the disposition of any timber held by subsequent persons; and

“(4) each person who transfers to another person unprocessed timber originating from public lands in a State that is subject to an order issued by the Secretary of Commerce under section 491(a), other than a State that is administering and enforcing a program under section 491(d), shall, before completing the transfer—

“(A) provide to such other person a written notice, in such form as the Secretary of Commerce may prescribe, that shall identify the public lands from which the timber originated; and

“(B) receive from such other person—

“(i) a written acknowledgment of the notice, and

“(ii) a written agreement that the recipient of the timber will comply with the requirements of this title, in such form as the Secretary of Commerce may prescribe; and

“(C) provide to the Secretary of Commerce copies of all notices, acknowledgments, and agreements referred to in subparagraphs (A) and (B).”

(b) CIVIL PENALTIES.—Section 492(c) of the Forest Resources Conservation and Shortage Relief Act of 1990 is amended—

16 USC 620d.

(1) in paragraph (1)—

(A) by inserting “(A)” before “If the Secretary”; and
(B) by adding at the end the following:

“(B)(i) Subject to clause (ii), if the Secretary of Commerce finds, on the record and after an opportunity for a hearing, that a person, with willful disregard for the restrictions contained in an order of the Secretary under section 491(a) on exports of unprocessed timber from public lands, exported or caused to be exported unprocessed timber originating from public lands in violation of such order, the Secretary may assess against such person a civil penalty of not more than \$500,000 for each violation, or 3 times the gross value of the unprocessed timber involved in the violation, whichever amount is greater.

“(ii) Clause (i) shall not apply with respect to exports of unprocessed timber originating from public lands in a State that is administering and enforcing a program under section 491(d).”; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(B) by inserting “(A)” before “If the Secretary”; and
(C) by adding at the end the following:

“(B)(i) Subject to clause (ii), if the Secretary of Commerce finds, on the record and after an opportunity for a hearing, that a person has violated, on or after June 1, 1993, any provision of this title or any regulation issued under this title relating to the export of unprocessed timber originating from public lands (whether or not the violation caused the export of unprocessed timber from public lands in violation of this title), the Secretary may assess against such person a civil penalty to the same extent as the Secretary concerned may impose a penalty under clause (i), (ii), or (iii) of subparagraph (A).

“(ii) Clause (i) shall not apply with respect to unprocessed timber originating from public lands in a State that is administering and enforcing a program under section 491(d).”

16 USC 620c
note.

SEC. 4. SEVERABILITY.

If any provision of this Act 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.

Approved July 1, 1993.

LEGISLATIVE HISTORY—H.R. 2343:

CONGRESSIONAL RECORD, Vol. 139 (1993):
June 14, considered and passed House.
June 17, considered and passed Senate.