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(e) *Tributary area* means the geographic area from which unprocessed timber is delivered to a specific processing facility or complex. A tributary area is expanded when timber outside an established tributary area is hauled to the processing facility or complex.

(f) *Unprocessed timber, except western red cedar in the contiguous 48 States*, means trees or portions of trees having a net scale content not less than 33⅓ percent of the gross volume, or the minimum piece specification set forth in the timber sale contract, in material meeting the peeler and sawmill log grade requirements published in the January 1, 1980—Official Log Scaling and Grading Rules used by Log Scaling and Grading Bureaus on the West Coast; cants to be subsequently remanufactured exceeding 8¾ inches in thickness; cants of any thickness reassembled into logs; and split or round bolts, except for aspen, or other roundwood not processed to standards and specifications suitable for end-product use. Unprocessed timber shall not mean pulp (utility) grade logs and Douglas-fir special cull logs or timber processed into the following:

- (1) Lumber and construction timbers, regardless of size, sawn on four sides;
- (2) Chips, pulp, and pulp products;
- (3) Green veneer and plywood;
- (4) Poles, posts, or piling cut or treated for use as such;
- (5) Cants cut for remanufacture, 8¾ inches in thickness or less;
- (6) Aspen bolts, not exceeding 4 feet in length.

(g) *Unprocessed western red cedar timber in the contiguous 48 States* means trees or portions of trees of that species which have not been processed into—

- (1) Lumber of American Lumber Standards Grades of Number 3 dimension or better, or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 Common or better;
- (2) Chips, pulp, and pulp products;
- (3) Veneer and plywood;
- (4) Poles, posts, or piling cut or treated with preservatives for use as such and not intended to be further processed; or
- (5) Shakes and shingles; provided that lumber from private lands manufactured to the standards established

in the lumber grading rules of the American Lumber Standards Association or the Pacific Lumber Inspection Bureau and manufactured lumber authorized to be exported under license by the Department of Commerce shall be considered processed.

(h) *Person* means an individual, partnership, corporation, association, or other legal entity and includes any subsidiary, subcontractor, parent company, or other affiliate. Business entities are considered affiliates for the entire calendar year when one controls or has the power to control the other or when both are controlled directly or indirectly by a third person during any part of the calendar year.

(i) *Purchase* occurs when a person is awarded a contract to cut National Forest timber or through the approval of a third party agreement by the Forest Service.

(j) *Purchaser* means a person that has purchased a National Forest timber sale.

(Sec. 14, Pub. L. 95-588, 90 Stat. 2958, as amended (16 U.S.C. 472a); sec. 301, Pub. L. 96-126, 93 Stat. 979; sec. 1, 30 Stat. 35, as amended (16 U.S.C. 55.1); sec. 301, 90 Stat. 1063, Pub. L. 94-373; sec. 1, 30 Stat. 35, as amended (16 U.S.C. 551))

[45 FR 80528, Dec. 5, 1980, as amended at 46 FR 2611, Jan. 12, 1981; 46 FR 22581, Apr. 20, 1981; 47 FR 746, Jan. 7, 1982. Redesignated at 49 FR 2761, Jan. 23, 1984]

§ 223.161 [Reserved]

§ 223.162 Limitations on timber harvested from all other states.

Unprocessed timber from National Forest System lands west of the 100th Meridian in the contiguous 48 States may not:

- (a) Be exported from the United States;
- (b) Be used in substitution for unprocessed timber from private lands which is exported by the purchaser; or
- (c) Be sold, traded, exchanged, or otherwise given to any person who does not agree to manufacture it to meet the processing requirements of this section and/or require such a processing agreement in any subsequent resale or other transaction. This limitation on export or substitution does not apply to species of timber previously found to be surplus to domestic needs

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or to any additional species, grades, or quantities of timber which may be found by the Secretary to be surplus to domestic needs.

(Sec. 14, Pub. L. 95-588, 90 Stat. 2958, as amended (16 U.S.C. 472a); sec. 301, Pub. L. 96-126, 93 Stat. 979; sec. 1, 30 Stat. 35, as amended (16 U.S.C. 55.1); sec. 301, 90 Stat. 1063, Pub. L. 94-373; sec. 1, 30 Stat. 35, as amended (16 U.S.C. 551))

[45 FR 80528, Dec. 5, 1980, as amended at 46 FR 2611, Jan. 12, 1981; 47 FR 746, Jan. 7, 1982. Redesignated at 49 FR 2761, Jan. 23, 1984]

§ 223.163 [Reserved]

§ 223.164 Penalty for falsification.

For false certification of documents relating to export or substitution and/or other violations of export and substitution requirements by the purchaser of timber from National Forest System lands, the Forest Service may cancel the subject contract, debar the involved person or persons from bidding on National Forest timber, or initiate other action as may be provided by law or regulation.

(Sec. 14, Pub. L. 94-588, 90 Stat. 2958, as amended (16 U.S.C. 472a); Sec. 301, Pub. L. 96-126, 93 Stat. 979; Sec. 1, 30 Stat. 35, as amended (16 U.S.C. 55.1); Sec. 301, 90 Stat. 1063, Pub. L. 94-373; Sec. 1, 30 Stat. 35, as amended (16 U.S.C. 551); (44 U.S.C. 3506))

[45 FR 80528, Dec. 5, 1980. Redesignated at 49 FR 2761, Jan. 23, 1984, and amended at 51 FR 40316, Nov. 6, 1986]

Subpart E [Reserved]

Subpart F—The Forest Resources Conservation and Shortage Relief Act of 1990 Program

SOURCE: 60 FR 46922, Sept. 8, 1995, unless otherwise noted.

§ 223.185 Scope and applicability.

This subpart implements provisions of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620, *et seq.*) that became effective upon enactment or as otherwise specified in the Act. As of September 8, 1995, this subpart applies to unprocessed timber originating from private lands west of the 100th meridian in the contiguous 48 States that requires domes-

tic processing. Except as provided later in this paragraph, this subpart applies to all unprocessed timber originating from National Forest System lands west of the 100th meridian in the contiguous 48 States acquired from timber sale contracts awarded on or after August 20, 1990. The rules regarding substitution at § 223.162 of subpart D apply to unprocessed timber acquired from timber sale contracts awarded between August 20, 1990, and September 8, 1995, as provided in § 490(a)(2)(A) of the Act. The rules regarding reporting the acquisition and disposition of unprocessed Federal timber at § 223.193 of this subpart apply to all transfers of unprocessed Federal timber originating from National Forest System lands west of the 100th meridian in the contiguous 48 States regardless of timber sale contract award date.

§ 223.186 Definitions.

The following definitions apply to the provisions of this subpart:

Acquire means to come into possession of, whether directly or indirectly, through a sale, trade, exchange, or other transaction. The term “acquisition” means the act of acquiring. The terms “acquire” and “purchase” are synonymous and are used interchangeably.

Act means the Forest Resources Conservation and Shortage Relief Act of 1990 (Pub. L. No. 101-382, 104 Stat. 714-726; 16 U.S.C. 620-620j).

Area of operations refers to the geographic area within which logs from any origin have neither been exported nor transported to an area where export occurs. The area of operations will be determined for individual Forest Service Administrative Units or groups of Administrative Units by the Regional Foresters of Regions 1, 2, 3, and 4 on an as-needed basis, and used as part of the criteria for evaluating requests to waive the identifying and marking requirements for unprocessed Federal logs.

Cants or *Flitches* are synonymous, and mean trees or portions of trees, sawn on one or more sides, intended for remanufacture into other products elsewhere.

Civil penalties: