

WAC 240-15-010 Authority and definitions. (1) Applicability.

This chapter shall apply to the sale of timber originating from public lands in the state of Washington, when such timber is subject to an order issued by the Secretary of Commerce of the United States under section 491(a) of the Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101-382). Western Red Cedar is exempt from these rules. The prohibition on the export of Western Red Cedar is covered by section 7(i) of the Export Administration Act of 1979 (50 U.S.C. App. 2406 (i)).

(2) Presidential action. This chapter shall not apply to the extent that an order referred to under WAC 240-15-010(1) is suspended, removed, or modified by the President of the United States under the authority of section 491(e) or 491(f) of the Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101-382).

(3) Surplus timber. Timber which has been determined to be surplus to the needs of timber manufacturing facilities in the United States by the Secretary of Agriculture or the Secretary of the Interior of the United States is not subject to regulation under this chapter.

(4) Definitions. As used in this chapter:

(a) "Agency" means any state or local public entity which owns or manages land from which timber is harvested in the state of Washington.

(b) "Export" means either to load on a conveyance or vessel or put in a log raft with the intent to ship to a foreign destination, or to place at a facility such as a port, yard, pond, or dock with the intent to load on a conveyance or vessel or put in a log raft for shipment to a foreign destination.

(c) "Export restricted timber" means unprocessed timber originating from a sale of timber from public lands which has been designated as export restricted under WAC 240-15-015 (1)(a), and includes both logs and stumpage originating from such a sale.

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

(e) "Processing facility" means a facility for converting unprocessed timber into any of the items of processed timber listed in WAC 240-015-010(i). Chip plants, pulp mills and facilities that process only Western Red Cedar Products are not considered processing facilities.

(f) "Public lands" means lands in the state of Washington that are held or owned by the state of Washington, or a political subdivision thereof, or any other public agency. Such term does not include any lands the title to which is:

(i) Held by the United States,

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

(iii) Held by any Indian tribe or individual subject to a restriction by the United States against alienation.

(g) "Purchaser" means a person who has been awarded a timber sale contract to harvest or acquire export restricted timber from public lands in the state of Washington.

(h)(i) "Substitution" means the purchase of export restricted timber or possession of an active sale contract for export restricted timber by (A) a person who owns and operates a processing facility (B)

where the person owning the processing facility also exports or sells for export from the United States unprocessed timber originating from private lands in the state of Washington and (C) where such lands are owned by the person, or the person has exclusive rights to harvest timber from such lands, where such rights may be exercised at any time during a period of more than seven years. Substitution can occur only when all three above noted conditions are met. Exceptions to this seven year restriction may be considered on a case by case basis by the department of revenue in exceptional circumstances.

(ii) The reference in WAC 240-15-010 (4)(h)(i) to the export from the United States of unprocessed timber originating from private lands shall mean exports which occur at any time:

(A) After that date which is twelve months prior to the award date of the sale of the export restricted timber, except that it shall not refer to any exports which occur prior to January 1, 1991; and

(B) Prior to that date which is twenty-four months after the award date of the sale of the export restricted timber, or the end of the term of the timber sale contract for the export restricted timber, whichever is later.

(i) "Unprocessed timber" means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use. As used in this chapter, 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 2 and are sawn on 4 sides, with wane less than 1/4 of any face, not exceeding 8 3/4 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 or cull logs processed at domestic pulp mills, domestic chip plants, or other domestic operations for the purpose of conversion of the logs into chips.

[WSR 92-11-017, § 240-15-010, filed 5/12/92, effective 7/1/92; WSR 91-14-040, § 240-15-010, filed 6/27/91, effective 8/16/91. Statutory Authority: Public Law 101-382. WSR 91-02-111, § 240-15-010, filed 1/2/91, effective 1/2/91; WSR 90-22-105, § 240-15-010, filed 11/7/90, effective 1/1/91.]