

Standard No. 576-080-0005

LOG EXPORT

Definitions

(1) "Export" means that unprocessed timber is loaded on a vessel or other conveyance with a foreign destination or is present at a facility such as a port or dock with intent to load it on a vessel or other conveyance with a foreign destination.

(2) "Performance Bond" means the security required by a log or timber purchase contract which ensures satisfactory performance of contract requirements by the purchaser. A performance bond may be in the form of a surety bond, cash, negotiable securities, irrevocable letter of credit, or an assignment of surety.

(3) "Person" means an individual, a partnership, a public or private corporation, an unincorporated association, or any other legal entity. The term includes any subsidiary subcontractor, parent company or other affiliate. Business entities are considered affiliates when one controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

(4) "Private Lands" means lands within the State of Oregon owned by a person. The term does not include federal lands or non-federal public lands, or any lands the title to which is:

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

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

(c) Held by any Native Corporation as defined in **Section 3** of the **Alaska Native Claims Settlement Act (43 U.S.C. 1602)**.

(5) "Purchaser" means a person who has entered into a log or timber purchase contract with the University.

(6) "University Lands" means lands owned by the State of Oregon, acting by and through the State Board of Higher Education on behalf of Oregon State University, or any lands leased to or managed by the University.

(7) "University Logs or Timber" means any timber owned by the State of Oregon, acting by and through the State Board of Higher Education on behalf of Oregon State University, or any timber leased to or managed by the University.

(8) "University Log or Timber Purchase Contract" means any logs or timber under contract with the University which are owned by the State of Oregon, acting by and through the State Board of

Higher Education on behalf of Oregon State University, or any logs or timber under contract with the University.

(9) "Unprocessed Logs or Timber" means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use. The term does not include timber processed into any one of the following:

(a) Lumber or construction timbers, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list grades, sawn on four sides, not intended for remanufacture;

(b) Lumber, construction timbers, or cants for remanufacture, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list clear grades, sawn on four sides, not to exceed 12 inches (nominal) in thickness;

(c) Lumber, construction timbers, or cants for remanufacture, that do not meet the grades referred to in subsection (b) of this section and are sawn on four sides, with wane less than 1/4 of any face, not exceeding 8-3/4 inches in thickness;

(d) Chips, pulp, or pulp products;

(e) Veneer or plywood;

(f) Poles, posts, or piling cut or treated with preservatives for use as such;

(g) Shakes or shingles;

(h) Pulpwood bolts, not exceeding 100 inches in length, exported for processing into pulp;

(i) 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;

(j) Firewood cut in pieces 48 inches or less in length.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Hist.: OSU 8-1991, f. & cert. ef. 6-4-91

576-080-0010

Criteria for Eligibility to Bid on University Log or Timber Purchase Contracts

(1) In addition to all other requirements of law, any person submitting a bid for the purchase of University logs or timber must certify, in a form and manner specified by the University that:

(a) The person will not export directly or indirectly unprocessed University logs or timber; and

(b) The person:

(A) Has not exported directly or indirectly unprocessed logs or timber originating from private lands in Oregon since September 10, 1990, except to meet contractual obligations made prior to September 10, 1990 and that those contractual obligations will be completed on or before September 1, 1991; or

(B) Has not unless exempted by section (2) of this rule, exported unprocessed timber from private lands in Oregon for a period not less than 24 months prior to the date of submission of the bid.

(c) The person will not sell, transfer, exchange or otherwise convey unprocessed University logs or timber to any other person without obtaining a certification from the person that meets the requirements of 576-080-0030.

(2) The University may waive the 24 month requirement contained in paragraph (1)(b)(B) of this rule if:

(a) Prior to September 1, 1991 the person certifies to the University they will cease exporting unprocessed timber originating from private lands in Oregon no later than one-year from the date of said certification; and

(b) They cease all exporting of unprocessed timber originating from private lands in Oregon within the one-year period stated in the certification; and

(c) If the person ceases exporting activities as stated in their certification, the person will then become eligible to submit a bid for the purchase of University logs or timber provided they complete the certification required by section (2) of this rule.

Hist.: OSU 8-1991, f. & cert. ef. 6-4-91

576-080-0015

Prohibition Against Indirect Substitution

In addition to all other requirements of law, no person who is prohibited from purchasing timber directly from the University may purchase University logs or timber from any other person. Acquisitions of Western Red Cedar which are domestically processed into finished products to be sold into domestic or international markets are exempt from the prohibition contained in this rule.

Hist.: OSU 8-1991, f. & cert. ef. 6-4-91

576-080-0020

Applicable State Timber

All unprocessed logs or timber, as defined in 576-080-0005, which originate from University lands are prohibited from export.

Hist.: OSU 8-1991, f. & cert. ef. 6-4-91

576-080-0025

Surplus Timber

The prohibitions against export contained in 576-080-0005 to 576-080-0045 shall not apply to specific quantities of grades and species of unprocessed logs or timber originating from University lands which the United States Secretary of Agriculture or Interior has determined by rule to be surplus to the needs of timber manufacturing facilities in the United States.

Hist.: OSU 8-1991, f. & cert. ef. 6-4-91

576-080-0030

Reporting Requirements

(1) Before the University will issue final acceptance of logs or timber purchase contract requirements, a purchaser of University logs or timber must:

(a) Notify the University of the initial delivery destination of all logs or timber purchased under that contract. Notification will be made in a form and manner prescribed by the University;

(b) Prior to selling, trading, exchanging, or otherwise conveying University logs or timber to any other person, the purchaser of University logs or timber shall obtain a certification of the person's eligibility to purchase University logs or timber, and their intent to comply with the terms and conditions contained in this section. Certification will be made in a form and manner as prescribed by the University and shall be forwarded to the University upon completion of the transaction. Obtaining certification shall not relieve the purchaser's responsibility to provide the University with an accounting of the delivery destination of that timber.

(2) Any performance bond required by a University log or timber purchase contract may be retained by the University until satisfactory notification of University log or timber delivery destination has been received by the University.

(3) Failure to provide the Dean with a final accounting of the delivery destination of OSU logs will be considered a violation of these export regulations. Violators will be subject to the penalties contained in 576-080-0035.

Hist.: OSU 8-1991, f. & cert. ef. 6-4-91

576-080-0035

Purchaser Disqualification and Termination of Contracts

(1) The University shall keep a record of any person who violates the requirements of 576-080-0005 to 576-080-0040.

(2) A person whose name appears on the record for violations as stated in section (1) of this rule, and who again violates the requirements of 576-080-0005 to 576-080-0040 shall be disqualified from bidding on or purchasing University logs or timber for a period of five years following the date of the violation. Any appeals of disqualification shall be handled as provided in ORS 279 .045.

(3) The University may cease operations on and/or terminate any University log or timber purchase contract entered into with a person who has violated the requirements of 576-080-0005 to 576-080-0040, and assess damages according to the following formula:

$$D = (OSV+AC) - (PR+RSV)$$

where:

(a) D = Damages and Expenses;

(b) OSV = Original Sale Value of logs or timber contained in the purchase. The original sale value shall be adjusted to reflect estimated overruns or underruns on recovery sales;

(c) AC = Administrative Costs. These costs include both the field and office costs required for the preparation of the defaulted logs or timber for resale. These costs also include rehabilitation or regeneration delay costs, legal service costs, interest, and other costs allowed by law;

(d) PR = Payments Received;

(e) RSV = Remaining Sale Value. The value of the remaining logs or timber shall be determined using the University's estimate of remaining volume, multiplied by the dollar values stated in the contract.

Hist.: OSU 8-1991, f. & cert. ef. 6-4-91

576-080-0040

Log Branding and Marking Requirements

(1) All University logs or timber originating from University log or timber sales shall be branded with an assigned and registered brand before removal from the sale area. Unless prevented by the

size or condition of the wood, one end of all logs originating from University log or timber sales shall be hammer branded and painted with a paint type and color determined by the University.

(2) If properly marked University logs or timber are subdivided into smaller pieces for any other purpose than immediate processing, each piece must be branded with a brand specifically used for this purpose and signifying the unprocessed logs or timber are University logs or timber ineligible for export. The University's export restriction branding hammers can be obtained from the University, at cost, upon request.

Hist.: OSU 8-1991, f. & cert. ef. 6-4-91

576-080-0045

Enforcement

Any investigation of suspected violations of these rules and/or surveillance of unprocessed timber in transit and at port facilities may be conducted by the University, or contracted by the University to other state or federal agencies. Any alleged violations of the export prohibition provisions of this section will be referred by the University to the appropriate federal or state agency for prosecution or other legal action.

Hist.: OSU 8-1991, f. & cert. ef. 6-4-91