

**TITLE 6**  
**PUBLIC PROPERTY —**  
**ACQUISITION, DISPOSITION, AND MAINTENANCE**

**CHAPTER 620**

**PUBLIC TIMBER EXPORT CODE**

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**I. SUBCHAPTER TITLE**

**620.010 Definitions**

Definitions as used in LCC 620.010 to LCC 620.900:

(A) **“Acquire”** means to come into possession of, whether directly or indirectly, through a sale, trade, exchange, or other transaction, and the term “acquisition” means the act of acquiring.

(B) **“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.

(C) **“Performance bond”** means the security required by a public timber sale contract which ensures satisfactory performance of contract requirements by the timber sale 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.

(D) **“Person”** means an individual, a partnership, a public or private corporation, an unincorporated association or any other legal entity. “Person” 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.

(E) **“Private lands”** means lands within Linn County owned by a person. “Private lands” does not include federal lands, non-federal public lands, or any lands the title to which is:

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

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

(3) Held by any Native Corporation as defined in Section 3 of the Alaska Native Claims Settlement Act 43 USC 1602).

(F) **“Public body”** means Linn County or one of its departments.

(G) **“Public lands”** means lands owned by Linn County.

(H) **“Public timber”** means any timber owned by Linn County and includes such timber after title has passed to a purchaser.

(I) **“Purchaser”** means person who has entered into a public timber sale contract with Linn County.

(J) **“Timber sale contract”** means any timber under contract with Linn County, which is owned by Linn County.

(K) **“Unprocessed timber”** means trees or portions of trees or other round wood not processed to standards and specifications suitable for end product use. “Unprocessed timber” does not include timber processed into any one of the following:

(1) 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 re-manufacture.

(2) Lumber, construction timbers, or cants for re-manufacture, 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.

(3) Lumber, construction timbers or cants for re-manufacture, that do not meet the grades referred to in paragraph (2) of this definition and are sawn on four sides, with wane less than one-fourth of any face, not exceeding eight and three-fourths inches in thickness.

(4) Chips, pulp or pulp products.

(5) Veneer or plywood.

(6) Poles, posts or piling cut or treated with preservatives for use as such.

(7) Shakes or shingles.

(8) Aspen or other pulpwood bolts, not exceeding 100 inches in length, exported for processing into pulp.

(9) 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.

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

[Adopted 93-025 §2 eff 2/10/93]

## **620.100 Export Prohibitions**

Prohibition against export of unprocessed timber; prohibition against certain public timber purchases.

(A) It is unlawful to export unprocessed timber originating from public lands.

(B) All unprocessed timber that originates from public lands is prohibited from export.

(C) In addition to all other requirements of law, no person may purchase directly from Linn County unprocessed public timber originating from lands owned by Linn County, if--

(1) Such unprocessed timber is to be used in substitution for exported unprocessed timber originating from private lands; or

(2) Such person has, during the preceding 24 month period exported unprocessed timber originating from private lands.

(D) In addition to all other requirements of law, no person who is prohibited from purchasing timber directly from a public agency may purchase public timber from any other person. Acquisitions of Western Red Cedar that are domestically processed into finished products to be sold into domestic or international markets are exempt from the prohibitions contained in this subsection.

[Adopted 93-025 §3 eff 2/10/93]

## **620.200 Exemption from export prohibition**

The prohibitions against export contained in this Chapter shall not apply to specific quantities of grades and species of unprocessed timber originating from public lands which the United States Secretary of Agriculture or Secretary of the Interior has determined by rule to be surplus to the needs of timber manufacturing facilities in the United States.

[Adopted 93-025 §4 eff 2/10/93]

## **620.300 Certification by bidders for public timber**

In addition to all other requirements of law, any person submitting a bid for the purchase of public timber must certify to the following:

(A) The person will not export directly or indirectly unprocessed public timber;

(B) The person will not sell, transfer, exchange or otherwise convey unprocessed public timber to any other person without first seeking and obtaining a certification from the person of the person's intent to comply with ORS 526.801 to 526.831 and 526.992 and any other rules adopted pursuant thereto and with LCC 620.010 to 620.800 or any other rules adopted pursuant thereto.

(C) Unless exempted by rule enacted pursuant to LCC 620.800, the person has not directly or indirectly exported unprocessed timber from private lands in Oregon for a period of not less than 24 months prior to the date of submission of the bid.

[Adopted 93-025 §5 eff 2/10/93]

#### **620.400 Barring timber export violators from unprocessed public timber purchases**

Linn County may debar any person who violates any provision of ORS 526.801 to 526.831 and 526.992, or any rule adopted pursuant thereto, or of this Chapter, or any rule adopted pursuant thereto, from entering into any contract for the purchase of unprocessed timber from public lands for a period of not more than five years. Such person shall also be precluded from taking delivery of public timber purchased by another party for the period of debarment.

[Adopted 93-025 §6 eff 2/10/93]

#### **620.500 Contract cancellation for timber export violation**

Linn County may cancel any contract entered into with a person found to have violated any provision of ORS 526.801 to 526.831 and 526.992, or any rule adopted pursuant thereto, or of this Chapter or any rule adopted pursuant thereto, and assess damages according to the following formula:

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

where:

**D** = *Damages and Expenses*;

**OSV** = *Original Sale Value (timber only — does not include project value)*.

The original sale value shall be adjusted to reflect estimated overruns or under-runs on recovery sales;

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

**PR** = *Payments Received*;

**RSV** = *Remaining Sale Value*. The value of the remaining timber shall be determined using the estimate of remaining volume made by the State Forester, or other person designated by Linn County, multiplied by the dollar values stated in the contract.

[Adopted 93-025 §7 eff 2/10/93]

#### **620.600 Reporting requirements**

(A) Before Linn County will issue final acceptance of timber sale contract requirements, a purchaser of public timber must:

(1) Notify Linn County of the deliver destination of all timber purchased under that contract. Notification will be made in a form and manner prescribed by Linn County.

(2) Prior to selling, trading, exchanging, or otherwise conveying public timber to any other person, the purchaser of public timber shall obtain a certification of the person's eligibility to purchase public timber, and their intent to comply with ORS 526.801 to 526.992 and any rule pursuant thereto and this Chapter and any rule pursuant thereto. Certification will be made in a form and manner as prescribed by Linn County, and shall be forwarded to Linn County upon completion of the transaction. Obtaining certification shall not relieve the purchaser's responsibility to provide Linn County with an accounting of the delivery destination of that timber.

(B) Any performance bond required by a public timber sale contract may be retained by

Linn County until satisfactory notification of public timber delivery destination has been received by Linn County.

(C) Failure to provide Linn County with a final accounting of the delivery destination of public timber will be considered a violation of these export regulations. Violators will be subject to the penalties contained in this Chapter and any other penalties provided at law.

[Adopted 93-025 §8 eff 2/10/93]

### **620.700 Log branding and marking requirements**

(A) All public timber originating from public 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, both ends of all logs originating from public timber sales shall be hammer branded and both ends shall be painted with a paint type and color determined by Linn County.

(B) If properly marked public timber is subdivided into smaller pieces for any other purpose than immediate processing, each piece must be branded with a county brand specifically used for this purpose and signifying the unprocessed timber is public timber ineligible for export.

[Adopted 93-025 §9 eff 2/10/93]

### **620.800 Rules to implement this Chapter**

The county governing body may adopt rules for implementation of this Chapter, by order acted upon at any regular or special meeting.

[Adopted 93-025 §10 eff 2/10/93]

### **620.900 Timber export violation, civil penalties**

(A) A person who, with willful disregard for the prohibitions contained in this Chapter against exporting public timber, exported or caused to be exported unprocessed timber originating from public lands in violation of this chapter may be assessed a civil penalty not to exceed \$500,000 for each violation or three times the gross value of the

unprocessed timber involved in the violation, whichever amount is greater.

(B) If the county governing body concerned finds, on the record and after an opportunity for a hearing that a person has violated any provision of this Chapter or any rule issued pursuant thereto relating to lands which Linn County administers (notwithstanding that such violation may not have caused the export of unprocessed public timber in violation of this Chapter), Linn County may:

(1) Assess against such person a civil penalty not more than \$75,000 for each violation if it is determined that the violation was casual or involuntary.

(2) Assess against such person a civil penalty not more than \$500,000 or three times the gross value of the unprocessed timber involved in the violation, whichever amount is greater, if it is determined that the person committed such violation willfully.

(3) Any civil penalty imposed under this section shall become due and payable when the person incurring the penalty receives a notice in writing of the imposition of the penalty. The notice may be personally served on the person incurring the penalty or may be sent by registered or certified mail.

(4) The person incurring the penalty shall have 20 days from the date of receiving the notice to make written application for a hearing.

(5) Any person who makes application as provided in paragraph (4) of this subsection shall be entitled to a hearing. The hearing shall be conducted as a contested case hearing pursuant to the applicable provisions of the Linn County Code.

(6) Judicial review of an order made after a hearing under paragraph (5) of this subsection shall be as provided in ORS 34.010 to 34.100.

(7) When an order assessing a civil penalty under this section becomes final by operation of law or on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded with the County Clerk in any county of this state. The clerk

shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record.

(8) All moneys recovered pursuant to this section shall be first paid into the County General Fund and may be used only to pay the expenses of administration, investigation and enforcement of this Chapter; all such monies not so needed may thereafter be used for any county purpose.

[Adopted 93-025 §11 eff 2/10/93]

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**Statutory References and Authorities:**

ORS 34.010 to 34.100; 203; 526.801 to 526.992;  
Alaska Native Claims Settlement Act 43 USC  
§1602(3)

**Legislative History of Chapter 620:**

Adopted 93-025 eff 2/10/93

Amendments to 93-025 and former LCC  
4.20:

#1 95-177 eff 5/10/95 (renumbering)

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