

Subtitle E—Miscellaneous Provisions

SEC. 8401. QUALIFYING TIMBER CONTRACT OPTIONS.

(a) *DEFINITIONS.—In this section:*

(1) *AUTHORIZED PRODUCER PRICE INDEX.—The term “authorized Producer Price Index” includes—*

- (A) the softwood commodity index (code number WPU 0811);*
- (B) the hardwood commodity index (code number WPU 0812);*
- (C) the wood chip index (code number PCU 3211133211135); and*
- (D) any other subsequent comparable index, as established by the Bureau of Labor Statistics of the Department of Labor and utilized by the Secretary of Agriculture.*

(2) *QUALIFYING CONTRACT.—The term “qualifying contract” means a contract for the sale of timber on National Forest System land—*

- (A) that was awarded during the period beginning on July 1, 2004, and ending on December 31, 2006;*
- (B) for which there is unharvested volume remaining;*
- (C) for which, not later than 90 days after the date of enactment of this Act, the timber purchaser makes a written request to the Secretary for one or more of the options described in subsection (b);*
- (D) that is not a salvage sale;*
- (E) for which the Secretary determines there is not an urgent need to harvest due to deteriorating timber conditions that developed after the award of the contract; and*
- (F) that is not in breach or in default.*

(3) *SECRETARY.—The term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.*

(b) *OPTIONS FOR QUALIFYING CONTRACTS.—*

(1) *CANCELLATION OR RATE REDETERMINATION.—Notwithstanding any other provision of law, if the rate at which a qualifying contract would be advertised as of the date of enactment of this Act is at least 50 percent less than the sum of the original bid rates for all of the species of timber that are the subject of the qualifying contract, the Secretary may, at the sole discretion of the Secretary—*

- (A) cancel the qualifying contract if the timber purchaser—*
 - (i) pays 30 percent of the total value of the timber remaining in the qualifying contract based on bid rates;*
 - (ii) completes each contractual obligation (including the removal of downed timber, the completion of road work, and the completion of erosion control work) of the timber purchaser with respect to each unit on which harvest has begun to a logical stopping point, as determined by the Secretary after consultation with the timber purchaser; and*
 - (iii) terminates its rights under the qualifying contract; or*
- (B) modify the qualifying contract to redetermine the current contract rate of the qualifying contract to equal the sum obtained by adding—*
 - (i) 25 percent of the bid premium on the qualifying contract; and*

(ii) the rate at which the qualifying contract would be advertised as of the date of enactment of this Act.

(2) SUBSTITUTION OF INDEX.—

(A) SUBSTITUTION.—Notwithstanding any other provision of law, the Secretary may, at the sole discretion of the Secretary, substitute the Producer Price Index specified in the qualifying contract of a timber purchaser if the timber purchaser identifies—

(i) the products the timber purchaser intends to produce from the timber harvested under the qualifying contract; and

(ii) a substitute index from an authorized Producer Price Index that more accurately represents the predominant product identified in clause (i) for which there is an index.

(B) RATE REDETERMINATION FOLLOWING SUBSTITUTION OF INDEX.—If the Secretary substitutes the Producer Price Index of a qualifying contract under subparagraph (A), the Secretary may, at the sole discretion of the Secretary, modify the qualifying contract to provide for—

(i) an emergency rate redetermination under the terms of the contract; or

(ii) a rate redetermination under paragraph (1)(B).

(C) LIMITATION ON MARKET-RELATED CONTRACT TERM ADDITION; PERIODIC PAYMENTS.—Notwithstanding any other provision of law, if the Secretary substitutes the Producer Price Index of a qualifying contract under subparagraph (A), the Secretary may, at the sole discretion of the Secretary, modify the qualifying contract—

(i) to adjust the term in accordance with the market-related contract term addition provision in the qualifying contract and section 223.52 of title 36, Code of Federal Regulations, as in effect on the date of the adjustment, but only if the drastic reduction criteria in such section are met for 2 or more consecutive calendar year quarters beginning with the calendar quarter in which the Secretary substitutes the Producer Price Index under subparagraph (A); and

(ii) to adjust the periodic payments required under the contract in accordance with applicable law and policies.

(3) CONTRACTS USING HARDWOOD LUMBER INDEX.—With respect to a qualifying contract using the hardwood commodity index referred to in subsection (a)(1)(B) for which the Secretary does not substitute the Producer Price Index under paragraph (2), the Secretary may, at the sole discretion of the Secretary—

(A) extend the contract term for a 1-year period beginning on the current contract termination date; and

(B) adjust the periodic payments required under the contract in accordance with applicable law and policies.

(c) EXTENSION OF MARKET-RELATED CONTRACT TERM ADDITION TIME LIMIT FOR CERTAIN CONTRACTS.—Notwithstanding any other provision of law, upon the written request of a timber purchaser, the

Secretary may, at the sole discretion of the Secretary, modify a timber sale contract (including a qualifying contract) awarded to the purchaser before January 1, 2007, to adjust the term of the contract in accordance with the market-related contract term addition provision in the contract and section 223.52 of title 36, Code of Federal Regulations, as in effect on the date of the modification, except that the Secretary may add no more than 4 years to the original contract length.

(d) EFFECT OF OPTIONS.—

(1) NO SURRENDER OF CLAIMS.—Operation of this section shall not have the effect of surrendering any claim by the United States against any timber purchaser that arose—

(A) under a qualifying contract before the date on which the Secretary cancels the contract or redetermines the rate under subsection (b)(1), substitutes a Producer Price Index under subsection (b)(2), or modifies the contract under subsection (b)(3); or

(B) under a timber sale contract, including a qualifying contract, before the date on which the Secretary adjusts the contract term under subsection (c).

(2) RELEASE OF LIABILITY.—In the written request for any option provided under subsections (b) and (c), a timber purchaser shall release the United States from all liability, including further consideration or compensation, resulting from—

(A) the cancellation of a qualifying contract of the purchaser or rate redetermination under subsection (b)(1), the substitution of a Producer Price Index under subsection (b)(2), the modification of the contract under subsection (b)(3) or a determination by the Secretary not to provide the cancellation, redetermination, substitution, or modification; or

(B) the modification of the term of a timber sale contract (including a qualifying contract) of the purchaser under subsection (c) or a determination by the Secretary not to provide the modification.

(3) LIMITATION.—Subject to subsection (b)(1)(A), the cancellation of a qualifying contract by the Secretary under subsection (b)(1) shall release the timber purchaser from further obligation under the canceled contract.