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August 2018

# FEDERAL TIMBER SALES

## Forest Service and BLM Should Review Their Regulations and Policies Related to Timber Export and Substitution

Accessible Version

# GAO Highlights

Highlights of [GAO-18-593](#), a report to the Honorable Peter DeFazio, House of Representatives

## Why GAO Did This Study

Each year, the federal government sells millions of dollars of timber from federal forests. Federal law generally prohibits the export of unprocessed logs harvested from federal lands in the western United States. It also prohibits substitution of federal logs for privately sourced timber in domestic mills when the privately sourced timber is exported without processing.

GAO was asked to examine the issue of illegal federal timber export and substitution. This report (1) describes the extent to which the Forest Service and BLM identified violations of the timber export and substitution ban that occurred from 2007 through 2017 and the likelihood of violations and (2) examines the agencies' regulations, policies, and practices to help prevent, detect, and respond to illegal timber export and substitution.

GAO reviewed laws, regulations, and policies regarding illegal timber export and substitution; compared agency regulations with laws, and agency policies with federal internal control standards; and interviewed agency officials and stakeholders—such as trade groups and state officials—selected to provide a range of perspectives.

## What GAO Recommends

GAO recommends that the Forest Service and BLM issue new regulations or seek legislative relief from the requirement to do so, and review their policies for relevance and effectiveness and issue new policies as necessary. The agencies generally agreed with GAO's recommendations.

View [GAO-18-593](#). For more information, contact Anne-Marie Fennell at (202) 512-3841 or [fennella@gao.gov](mailto:fennella@gao.gov).

August 2018

## FEDERAL TIMBER SALES

### Forest Service and BLM Should Review Their Regulations and Policies Related to Timber Export and Substitution

## What GAO Found

The Forest Service, within the Department of Agriculture, and the Bureau of Land Management (BLM), within the Department of the Interior, found no violations of the ban on federal timber export and substitution from 2007 through 2017, according to agency documents and officials. All agency officials and stakeholders GAO interviewed said the likelihood of illegal timber export and substitution is low, citing several reasons, including economic factors associated with log markets, which have changed over the years. For example, many officials and stakeholders said the timber harvested from federal lands is smaller and of lower quality compared to what was harvested in the 1990s, making it less likely to be exported.

The Forest Service and BLM did not issue new regulations related to illegal federal timber export and substitution, and some agency policies related to export and substitution are outdated or unclear. The agencies did not issue regulations to implement the Forest Resources Conservation and Shortage Relief Act of 1997, as required by the act. Without issuing new regulations or obtaining legislative relief from this requirement, the agencies will continue to be out of compliance with the act. The agencies have policies to help prevent, detect, and respond to illegal timber export and substitution, such as policies that require the marking of logs to identify them as coming from federal lands. However, the agencies have not reviewed their policies for continued relevance and effectiveness as called for by federal standards for internal control, and some policies are outdated or unclear. For example, Forest Service policy calls for the collection of a certification form to help determine whether timber purchasers are engaged in export or substitution, but the form expired in 1999. Also, it is unclear what BLM considers a violation of the export ban because agency policy does not define what constitutes a violation. Forest Service officials said the agency has not reviewed its policies since 1997, largely due to competing priorities, but agreed it would be beneficial to do so. BLM officials said they reviewed the agency's export regulations in 2010, but this effort did not include a review of timber export policies. By reviewing agency policies and making changes as necessary, the agencies will have better assurance that their policies are relevant and effective for addressing the risk of illegal timber export and substitution.

Logs at an Export Facility; Logs on a Truck



Sources: GAO (left photo); Bureau of Land Management (right photo). | GAO-18-593

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## Abbreviation

BLM           Bureau of Land Management

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August 15, 2018

The Honorable Peter DeFazio  
House of Representatives

Dear Mr. DeFazio:

Each year, the federal government sells millions of dollars of timber from federally managed forests. In fiscal year 2017, about \$253 million of timber was sold from these lands, according to agency documents. Federal law generally prohibits the export of unprocessed logs—that is, logs not processed into end products such as lumber—harvested from federal lands in the western United States.<sup>1</sup> The law also prohibits purchasers from using timber harvested from federal lands in their processing facilities while exporting nonfederal unprocessed timber that could have been used in those facilities—known as substitution.

Restrictions on federal timber export and substitution were put in place decades ago to help sustain the domestic timber-processing industry at a time when large volumes of timber were being exported from the United States. For example, the Foreign Assistance Act of 1968 restricted the volume of timber that could be harvested and exported in unprocessed form from federal lands.<sup>2</sup> The Forest Resources Conservation and Shortage Relief Act of 1997 updated the export restrictions and currently governs federal log exports.<sup>3</sup> The Forest Service, within the Department of Agriculture, and the Bureau of Land Management (BLM), within the Department of the Interior, implement and enforce the restrictions. We last reported on the federal timber export and substitution ban in 1998.<sup>4</sup>

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<sup>1</sup>The law applies to federal lands west of the 100th meridian in the contiguous United States.

<sup>2</sup>Pub. L. No. 90-554, § 401, 82 Stat. 966 (1968).

<sup>3</sup>Pub. L. No. 105-83, Title VI, § 602(a), 111 Stat. 1618 (1997), amending Pub. L. No. 101-382, Title IV, § 490, 104 Stat. 715 (1990).

<sup>4</sup>GAO, *Timber Export Law*, B-280055 (Washington, D.C.: June 9, 1998).

You asked us to examine the issue of illegal federal timber export and substitution.<sup>5</sup> This report (1) describes the extent to which the Forest Service and BLM identified violations of the timber export and substitution ban that occurred from 2007 through 2017 and the likelihood of violations, and (2) examines the agencies' regulations, policies, and practices to help prevent, detect, and respond to illegal timber export and substitution.

To address our first objective, we requested documentation about timber export and substitution violations for calendar years 2007 through 2017 from the Forest Service and BLM. The agencies reported that they had no documentation of violations. The Forest Service provided documentation about potential violations it had investigated but not substantiated, which we reviewed. To obtain background information and corroborate agency information, we searched various databases, such as ProQuest, to identify articles on illegal timber export and substitution.<sup>6</sup> Based on our review of these articles, we did not identify violations of the ban that had occurred during this time period. We performed these searches from June 2017 to August 2017.

In addition, we interviewed Forest Service and BLM officials about the number of timber export and substitution violations or potential violations during calendar years 2007 through 2017, agency actions taken in response, and officials' views about the likelihood of illegal timber export and substitution. Specifically, we interviewed Forest Service and BLM headquarters officials, regional officials in the six Forest Service regions with forests subject to the 1997 act,<sup>7</sup> and officials at one national forest in each region. We selected these forests after discussions with regional officials about the forests they viewed as having the greatest potential risk of export or substitution because of proximity to export facilities, the amount of timber sold, or other factors. We also interviewed officials from the BLM Oregon/Washington State Office and the five western Oregon

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<sup>5</sup>We started this work in response to a request from Representative Peter DeFazio in his capacity as the Ranking Member of the Committee on Natural Resources, House of Representatives.

<sup>6</sup>We reviewed articles with publication dates from 1980 through 2017 to understand the historical context for illegal timber export and substitution.

<sup>7</sup>The Forest Service has nine regions, six of which are located in areas subject to the ban on timber export and substitution.

BLM districts where most of BLM’s timber program is concentrated.<sup>8</sup> Table 1 provides a list of Forest Service and BLM offices included in our review.

**Table 1: Forest Service and Bureau of Land Management (BLM) Offices Included in GAO’s Review**

Agency	Forest Service regions and BLM state office	National forests and BLM district offices
Forest Service	Northern Region (Idaho, Montana, North Dakota, South Dakota)	Nez Perce-Clearwater National Forest
Forest Service	Rocky Mountain Region (Colorado, Kansas, Nebraska, South Dakota, Wyoming)	San Juan National Forest
Forest Service	Southwestern Region (Arizona, New Mexico, Oklahoma, Texas)	Lincoln National Forest
Forest Service	Intermountain Region (Idaho, Nevada, Utah, Wyoming)	Boise National Forest
Forest Service	Pacific Southwest Region (California, Hawaii)	Klamath National Forest
Forest Service	Pacific Northwest Region (Oregon, Washington)	Umatilla National Forest
BLM	Oregon/Washington State Office	Coos Bay District Office
BLM	Oregon/Washington State Office	Lakeview District Office
BLM	Oregon/Washington State Office	Medford District Office
BLM	Oregon/Washington State Office	Northwest Oregon District Office
BLM	Oregon/Washington State Office	Roseburg District Office

Source: GAO. | GAO-18-593

To gain a broader perspective about the likelihood of illegal timber export and substitution, we also interviewed nonfederal stakeholders, including state forestry officials, academic researchers, and representatives of trade associations representing federal timber purchasers, loggers, and mill owners.<sup>9</sup> We selected these stakeholders to provide a range of perspectives on the issue of timber export and substitution. Table 2 lists the stakeholder organizations we interviewed.

<sup>8</sup>The export restrictions discussed in this report generally apply to federal lands in the western United States. We focused on the Forest Service and BLM because they are the only two federal agencies with significant commercial timber harvesting programs.

<sup>9</sup>In this report, we use the following qualifiers when summarizing federal officials’ and stakeholders’ comments: “some,” which we define as two or three; “several,” which we define as four or five; and “many,” which we define as six or more.

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**Table 2: Nonfederal Stakeholder Organizations Included in GAO’s Review**

<b>Organization</b>
American Forest Resource Council
Associated Oregon Loggers
California Department of Forestry and Fire Protection
California Forestry Association
Oregon Department of Forestry
Softwood Export Council
University of Montana Bureau of Business and Economic Research
Washington State Department of Natural Resources

Source: GAO. | GAO-18-593

To address our second objective, we reviewed federal laws to identify relevant legal provisions regarding the prohibition on the export and substitution of unprocessed federal timber. We also reviewed agency regulations and policies related to illegal federal timber export and substitution. We interviewed agency officials described above to identify key policies and practices to help prevent, detect, and respond to illegal timber export and substitution.

In addition, we reviewed each agency’s implementation of those policies that require the agency to collect forms or conduct inspections.<sup>10</sup> To determine the extent to which BLM collected required contract forms certifying that purchasers had not illegally exported or substituted federal timber, we requested contract forms for a random sample of timber sale contracts that closed in fiscal year 2017 from each of the five western Oregon BLM districts included in our review, for a total of 22 contracts. We reviewed contract forms included in each timber sale contract to determine whether each district collected and maintained the required forms. Because the Forest Service does not collect certification forms, we did not perform a similar review of Forest Service contracts.

To determine the extent to which the agencies conducted surveillance at log export facilities, we requested agency inspection reports for surveillance conducted in 2017 for the 14 log export facilities in California, Oregon, and Washington that were identified as operational at the time of our review. Forest Service regional officials identified and provided

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<sup>10</sup>Because our review of BLM focused on the five western Oregon BLM districts, we used the BLM Oregon/Washington State Office timber sale policies.



reports for 6 facilities in California. For Oregon and Washington combined, Forest Service regional officials identified 6 log export facilities and provided reports for 1 facility. BLM officials identified and provided reports for 2 facilities in Oregon. We reviewed the inspection reports for each facility to determine the number of inspections that were conducted, and, where applicable, to determine whether the number of inspections conformed with agency policy.

To gain a broader perspective about agency implementation of timber sale program activities, we reviewed Forest Service “Timber and Log Accountability Audits”—internal evaluations of regional and forest-level timber sale activities.<sup>11</sup> We reviewed the most recent evaluation of each of the six regions with forests subject to the federal timber export and substitution ban and the most recent evaluation of at least one national forest in five of these regions, selected as described above.<sup>12</sup> We also reviewed the agencies’ general timber sale administration policies to gain a better understanding of the extent to which these policies address the issue of export and substitution. We compared agency policies and practices with relevant portions of the *Standards for Internal Control in the Federal Government* to assess the extent to which agency policies and practices aligned with the standards.<sup>13</sup>

In addition, to address both objectives, we conducted a site visit to Coos Bay, Oregon in September 2017. We selected this location due to its proximity to a BLM field office, active logging sites on federal lands, and log export facilities. During this site visit, we met with agency officials at BLM’s Coos Bay district; traveled to an active logging site where we observed a timber harvesting operation and met with logging operators; and visited a log export facility, where we observed logs being prepared for export and met with the export facility manager and a timber company official.

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<sup>11</sup>Timber and Log Accountability Audits are to be conducted at each national forest every 3 years, according to Forest Service policy. This policy also allows, but does not require, headquarters officials to conduct similar audits of Forest Service regional offices. The audits we reviewed were conducted from 2007 through 2017.

<sup>12</sup>We did not review a forest-level evaluation for the Intermountain Region.

<sup>13</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

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We also reviewed reports and studies related to timber export and substitution, including reports from the Forest Service’s Pacific Northwest Research Station,<sup>14</sup> the Department of Agriculture’s Foreign Agricultural Service,<sup>15</sup> and Oregon State University.<sup>16</sup> We reviewed these studies’ methodologies, assumptions, and limitations and determined them to be sufficiently credible for our purposes.

We conducted this performance audit from June 2017 to August 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

This section describes agency responsibilities, the history of the federal timber export and substitution ban, and changes to the timber economy since restrictions on timber export and substitution were first implemented.

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### Federal Land Management Agency Responsibilities

Under the National Forest Management Act and the Federal Land Policy and Management Act of 1976, respectively, the Forest Service and BLM manage federal lands under their jurisdiction for various uses such as protection of fish and wildlife habitat, recreation, mineral production, and

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<sup>14</sup>For example, Department of Agriculture, Forest Service, Pacific Northwest Research Station, *Log Export and Import Restrictions of the U.S. Pacific Northwest and British Columbia: Past and Present*, PNW-GTR-436 (Portland, OR: August 1998).

<sup>15</sup>Department of Agriculture, Foreign Agricultural Service, *International Agricultural Trade Report: Money Does Grow on Trees as U.S. Forest Product Exports Set Record*, (Washington, D.C.: April 2015).

<sup>16</sup>John C. Bliss et al, “Disintegration of the Industrial Forest Estate and the Future of Small-Scale Forestry in the United States,” Oregon State University Rural Studies Program Working Paper Series, June 2008.

timber harvesting.<sup>17</sup> As part of the agencies' management of timber harvesting on public lands, both the Forest Service and BLM conduct timber sales.<sup>18</sup> Timber sale activities include identifying the sale area, conducting the required environmental analyses, soliciting bids, preparing the timber sale contract, marking the sale boundary and the trees to be cut or left, and monitoring the harvest operations and reforestation activities. The agencies monitor harvest operations to help ensure that, for example, the trees are harvested from the agreed-upon area and the logs are hauled on the route agreed upon in the timber sale contract. The agencies have developed policies for general timber sale activities, as well as policies specific to preventing, detecting, and responding to illegal federal timber export and substitution.

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## History of the Federal Timber Export and Substitution Ban

Since the late 1960s, four primary laws have been enacted prohibiting federal timber export and substitution: the Foreign Assistance Act of 1968, the Interior and Related Agencies Appropriations Act of 1974, the Forest Resources Conservation and Shortage Relief Act of 1990, and the Forest Resources Conservation and Shortage Relief Act of 1997.

In 1968, an amendment to the Foreign Assistance Act of 1968—commonly referred to as the “Morse Amendment”—restricted the volume of timber that could be harvested and exported from federal lands in unprocessed form.<sup>19</sup> This legislation was enacted after the Secretaries of Agriculture and the Interior issued joint orders calling for this restriction, deeming it necessary to maintain a viable domestic wood-processing industry. As we previously found, in the early 1960s, export of federal timber was generally not viewed as a concern, but as exports of federal, private, and other timber increased, public and private concerns grew about the effect of unrestricted log exports on the domestic wood-

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<sup>17</sup>The Forest Service manages nearly 193 million acres of national forests and grasslands, most of which are in the western United States. BLM administers about 248 million surface acres, almost all of which are in the western United States.

<sup>18</sup>Most of BLM's timber program is associated with the agency's lands in western Oregon. BLM manages its western Oregon timber program under the Oregon and California Lands Act of 1937. Act of Aug. 28, 1937, 50 Stat. 874, as amended. Under this act, BLM is to manage these lands for permanent forest production, for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries.

<sup>19</sup>Pub. L. No. 90-554, § 401, 82 Stat. 966 (1968).

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processing industry.<sup>20</sup> For example, the percentage of timber harvested in Oregon and Washington that was exported grew from approximately 6 percent in 1965 to about 18 percent in 1972.<sup>21</sup>

In 1973, a provision was included in the Interior and Related Agencies Appropriations Act of 1974 that, in effect, prohibited the export of unprocessed timber harvested from federal lands west of the 100th meridian in the contiguous 48 states.<sup>22</sup> (Figure 1 shows the location of the 100th meridian and Forest Service- and BLM-managed lands.) The 1973 provision also prohibited purchasers from using timber harvested from federal lands in their processing facilities while exporting nonfederal unprocessed timber that could have been used in those facilities, an activity referred to as substitution. The provision also stated that the limitation on export and substitution did not apply to species of timber the agencies have determined to be surplus to domestic lumber and plywood manufacturing needs.<sup>23</sup>

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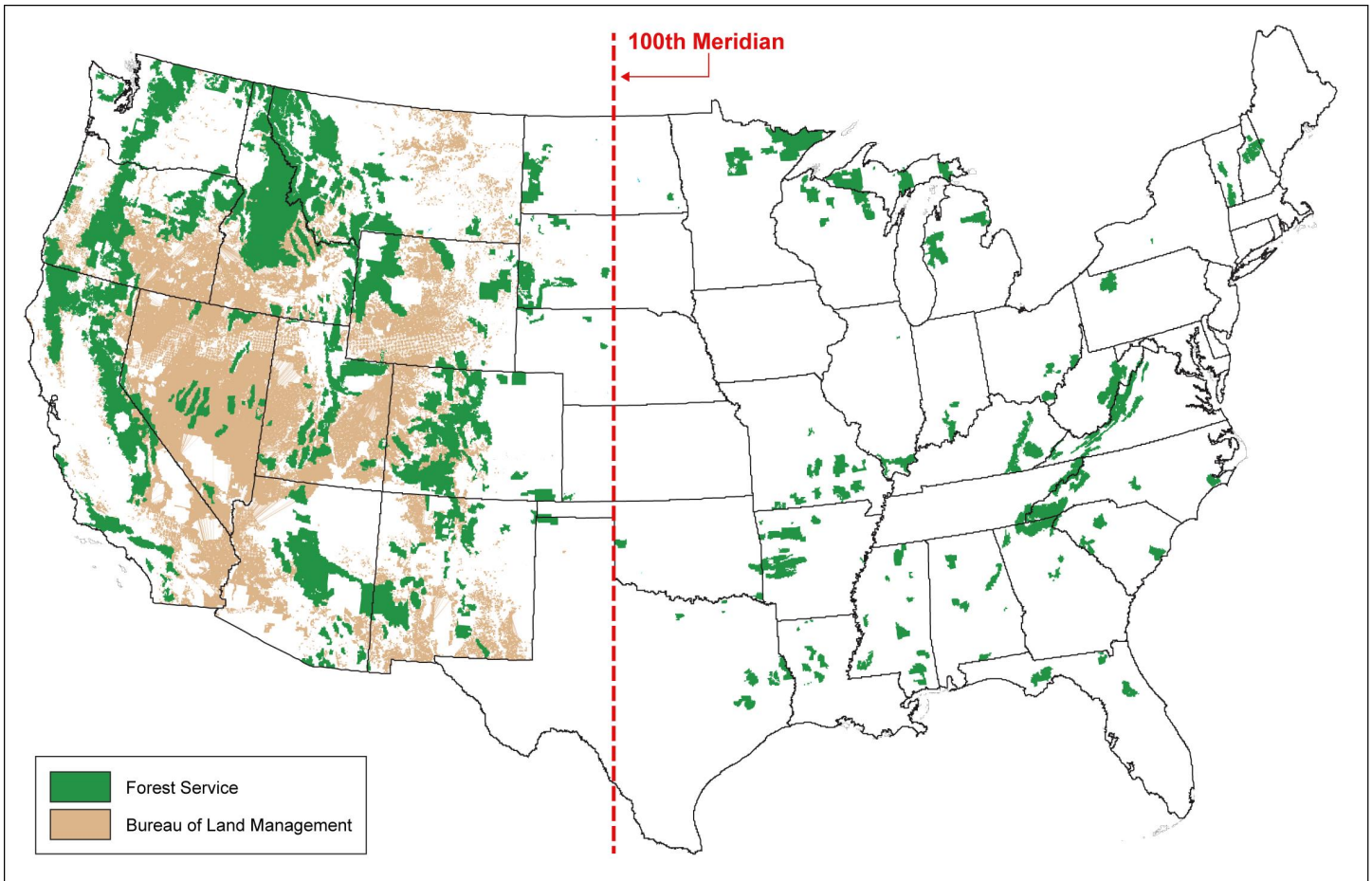
<sup>20</sup>GAO, *Potential Impacts of Tighter Forest Service Log Export Restrictions*, [GAO/RCED-85-17](#) (Washington, D.C.: Jan. 28, 1985).

<sup>21</sup>[GAO/RCED-85-17](#).

<sup>22</sup>Pub. L. No. 93-120, § 301, 87 Stat. 447 (1973). The act stated that “No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from federal lands west of the 100th meridian in the contiguous 48 states which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: Provided, that this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.”

<sup>23</sup>The agencies have determined two species to be surplus to domestic needs: Port Orford cedar and Alaska yellow cedar.

**Figure 1. Forest Service and Bureau of Land Management Lands in the Contiguous United States and the Location of the 100th Meridian**



Sources: GAO analysis of U.S. Geological Survey's National Atlas website data; Map Resources (map). | GAO-18-593

In 1990, the Forest Resources Conservation and Shortage Relief Act of 1990 made permanent the ban on exporting unprocessed logs from western federal lands and provided for greater restrictions on substitution.<sup>24</sup> Under the 1990 act, however, it is not considered substitution if a company purchases federal timber from within a particular “sourcing area” and exports nonfederal timber harvested from areas

<sup>24</sup>Pub. L. No. 101-382, Title IV, § 487, 104 Stat. 714 (1990).

outside the sourcing area.<sup>25</sup> For example, firms with timber operations in both Oregon and Washington could purchase federal timber from a sourcing area in eastern Oregon for manufacture while also purchasing private timber in Washington for export. The 1990 act required the Forest Service and Interior to issue, in consultation with each other, coordinated and consistent regulations implementing the act on the lands under their respective jurisdictions.

The Forest Service issued a series of regulations to implement the 1990 act, the most comprehensive of which was issued September 8, 1995.<sup>26</sup> In a provision contained in the act providing appropriations to the Forest Service for fiscal year 1996, Congress effectively suspended implementation of the 1995 regulation to allow the administration, Congress, and affected parties more time to address policy issues with respect to the 1990 act.<sup>27</sup> The Forest Service's fiscal year 1997 appropriation act contained a similar provision.<sup>28</sup> BLM did not issue regulations implementing the 1990 act.

In 1997, Congress amended the 1990 act.<sup>29</sup> Among other things, the Forest Resources Conservation and Shortage Relief Act of 1997 relaxed

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<sup>25</sup>A sourcing area is defined as an area in which "the timber manufacturing facilities at which a manufacturer desires to process timber originating from federal lands are located, [and which] is geographically and economically separate from any geographic area from which that person harvests for export any unprocessed timber originating from private lands." See 16 U.S.C. § 620b(c)(3)(A).

<sup>26</sup>60 Fed. Reg. 46890 (September 8, 1995). Among other things, the regulation defined certain terms necessary to facilitate uniform compliance with the act, prescribed procedures for reporting the acquisition and disposition of federal and private timber, and established procedures for assessing civil and criminal penalties for violations of the act. In July 1995, a timber company and an Idaho county had sued the Forest Service and Interior, alleging, among other things, that the agencies had failed to issue implementing regulations as required by the 1990 act. *Boise Cascade Corp. v. United States Department of Agriculture*, Civ. No. 95-0290 (D. Idaho), filed July 13, 1995.

<sup>27</sup>Pub. L. No. 104-134, § 333, 110 Stat. 1321-209 (1996). According to the relevant Conference Committee Report, this provision was included in the law so that the administration, Congress, and affected parties could have more time to address policy issues with respect to the 1990 act. H.R. Conf. Rep. No. 104-402 at 73 (1996). The conference committee report did not identify the specific policy issues to be addressed, but the Forest Service noted in the preamble to the 1995 regulation that many commenters strongly opposed the branding and marking requirements in the regulation, considering them to be excessively costly and unnecessarily burdensome. 60 Fed. Reg. 46891 (September 8, 1995).

<sup>28</sup>Pub. L. No. 104-208, § 318, 110 Stat. 3009-222 (1996).

<sup>29</sup>Pub. L. No. 105-83, Title VI, § 602(a), 111 Stat. 1618 (1997).

substitution restrictions in Washington State and allowed the Forest Service and BLM to reduce the penalties imposed for violating the act by taking into account “all relevant mitigating factors, including mistake, inadvertence, and error.” The 1997 act also suspended the Forest Service’s 1995 regulations implementing the 1990 act and directed the agencies to issue new coordinated and consistent regulations implementing the act by June 1998. The law requires the agencies to implement their regulations in effect prior to September 8, 1995, until new regulations are issued.

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## Changes to the Timber Economy since the 1960s

Since restrictions on timber export and substitution were first implemented in the late 1960s, the timber economy has continued to change. Domestically, the volume of timber harvested from Forest Service lands each year has declined from about 12.4 billion board feet in 1973 to 2.6 billion board feet in 2017.<sup>30</sup> The number of domestic mills along the Pacific Coast has also decreased, mostly through mill closures. For example, from 1996 to 2016, the number of mills in Washington State declined from 186 to 88.<sup>31</sup> In addition, since the 1990s, the structure of the corporate timber industry has changed. For example, many of the corporate timber companies that once owned both mills and the private lands to supply those mills have divested some or all of their private timberlands.<sup>32</sup> Additionally, the value of U.S. softwood log exports has grown since 2007, with China, Japan, and Canada the three largest importers of these logs. According to information from the Foreign Agricultural Service, the value of U.S. softwood log exports grew from approximately \$949 million in 2007 to approximately \$1.4 billion in 2017 (in constant 2017 dollars).<sup>33</sup>

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<sup>30</sup>Department of Agriculture, Forest Service, *Fiscal Year 1905-2017 National Summary Cut and Sold Data and Graphs* (April 2018).

<sup>31</sup>Washington State Department of Natural Resources, *Washington Mill Survey 1996, Series Report #14* (Olympia, WA: September 2000) and Washington State Department of Natural Resources, *Washington Mill Survey 2016, Series Report #24* (Olympia, WA: December 2017).

<sup>32</sup>Department of Agriculture, Forest Service, *U.S. Forest Resource Facts and Historical Trends*. (Washington, D.C.: August 2014).

<sup>33</sup>Information obtained from the Department of Agriculture Foreign Agricultural Service’s Global Agricultural Trade System. <https://apps.fas.usda.gov/GATS/Default.aspx>, accessed on May 7, 2018.

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## Forest Service and BLM Found No Violations of the Export and Substitution Ban from 2007 through 2017, and Officials and Stakeholders Said the Likelihood of Violations is Low

According to Forest Service and BLM officials, the agencies found no violations of the ban on federal timber export and substitution from 2007 through 2017. Forest Service officials described instances in which the agency responded to reports of potential violations, but the reports were not substantiated. All agency officials and stakeholders we interviewed said that the likelihood of illegal timber export and substitution is low. However, several officials acknowledged that some risk of violations exists under certain circumstances.

From 2007 through 2017, the Forest Service and BLM found no violations of the federal timber export and substitution ban. Forest Service officials identified four instances in which the agency investigated potential violations.<sup>34</sup> For example, in one instance, the Forest Service's Pacific Southwest region investigated an incident in 2017 at the Port of Richmond near Oakland, California. According to the associated investigation report, an employee at the port's export facility noticed four logs were marked as coming from a federal timber sale and reported it to the Forest Service. Forest Service law enforcement officials conducted an investigation and determined that the logs came from the Sierra National Forest and were placed at the facility in error. The purchaser subsequently delivered the logs to the intended recipient and the agency took no further action. Forest Service officials said that because the logs had not been exported, but had been placed at the facility in error with no intent to export them, the agency determined that there was no violation of the export ban. In another instance, officials from the agency's Southwestern Region said that, in 2010, they identified a case in which a purchaser cut federal logs, removed the bark, and then exported the logs to Mexico for use as telephone poles. The officials investigated to determine whether that type of exporting was legal. The Forest Service concluded that the purchaser's activities constituted processing the logs

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<sup>34</sup>The Forest Service provided documentation about three of the four potential violations it investigated. The documentation did not indicate that violations had occurred in any of these three instances. For two of the instances, the documentation did not indicate the resolution of the investigation, but officials said no violations had occurred.



into end products and therefore the logs were being legally exported. BLM officials we interviewed did not describe any instances in which they identified, or were made aware of, potential violations.

All Forest Service and BLM officials and stakeholders we interviewed said the likelihood of timber export and substitution violations is low due to a combination of several factors, including economic factors associated with log markets and changes in the organizational structure of timber companies. However, several officials acknowledged that some risk of violations exists under certain circumstances.

- **Economic factors within log markets.** Several agency officials and stakeholders said smaller trees of a lower quality are being harvested from federal lands compared to the trees harvested in the 1990s. Several of these officials and stakeholders said there is less demand and lower value in overseas markets for logs with such characteristics. A senior official from the Klamath National Forest in California, for example, said that trees harvested from the forest in the 1980s had log diameters of 35 to 42 inches, but by 2017 the diameter had decreased to 14 to 18 inches. Additionally, according to statistics from the State of California, old-growth trees—generally, trees more than 150 years old—represented nearly 70 percent of timber harvested in California in 1979, but by 1999 the proportion had fallen to less than 10 percent.<sup>35</sup> As we have found, old-growth trees can have more attractive grain characteristics and can be used for higher-value products compared to young-growth trees, which may make the former more attractive for export.<sup>36</sup> Several officials and stakeholders also said that the decrease over time in the amount of federal timber available for sale has made violations less likely. For example, Oregon Department of Forestry information shows that the volume of timber harvested on BLM-managed lands in Oregon declined from about 1.5 billion board feet in 1973 to 182 million board feet in 2016.<sup>37</sup> Some of these officials and stakeholders said that federal timber is an important part of domestic sawmill operators' timber supply, and, given the reduced amount of federal timber available, sawmill

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<sup>35</sup>In 1999, the State of California stopped monitoring old growth timber harvest volumes.

<sup>36</sup>GAO, *Tongass National Forest: Forest Service's Actions Related to Its Planned Timber Program Transition*, GAO-16-456 (Washington, D.C.: Apr. 25, 2016).

<sup>37</sup>Oregon Department of Forestry, *Oregon's Timber Harvests 1849-2005* and Oregon Department of Forestry, *25 Year Harvest History 1992-2016*.

operators would have little incentive to export logs because doing so would further reduce their own timber supply.

- **Changes in timber company organizational structure.** Several officials and stakeholders said that changes in timber company organizational structure have also made substitution less likely. Several officials and stakeholders noted that many Pacific Northwest timber companies once owned both sawmills and timberland from which they harvested timber to supply their mills. According to some officials, under those conditions, the likelihood of substitution was greater because these companies could have benefitted by exporting logs from their own lands for a high price while supplying their sawmill operation with federal timber purchased at a lower price. However, many timber companies have sold or reorganized over the past 2 decades, resulting in few companies now owning both sawmills and timberlands, according to some agency officials. In 2009, Oregon State University reported on this change, noting that “almost all large, publicly traded forest product companies have shed their timber lands in the past 20 years, a reflection of global economic pressures, new tax laws, and other forces.”<sup>38</sup> A 2014 report from the Department of Agriculture likewise noted this change.<sup>39</sup> Some agency officials said that, as a result, sawmills generally must buy all of their timber—whether privately sourced or federal—on the open market, which provides less incentive for substitution than if these sawmills were using timber they already owned.

Several officials also said, however, that some risk of violations remains, particularly under certain circumstances. For example, some Forest Service regional officials said that some national forests could be vulnerable to illegal timber export if log prices or demand for certain tree species increase in the future. Additionally, several Forest Service officials expressed concern about having sufficient staff to monitor timber sales for compliance with relevant requirements, including the ban on export and substitution, especially in light of potential increases in timber sales. In particular, officials from four of the six national forests included in our review said the Forest Service increased the volume of timber their

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<sup>38</sup>Oregon State University Newsroom, *Changing Ownership of Timber Lands Raises Social, Economic Challenges* (Corvallis, OR: June 2009).

<sup>39</sup>Department of Agriculture, *U.S. Forest Resource Facts and Historical Trends* (Washington, D.C.: August 2014).

national forest is expected to offer for sale beginning in fiscal year 2018.<sup>40</sup> For example, a Boise National Forest official said the forest's timber sale target increased from 50 million board feet per year, which has been consistent over the last decade, to 74 million board feet in fiscal year 2018, with a goal of 96 million board feet per year by fiscal year 2021. According to some Forest Service officials, higher timber sale targets could reduce the ability of agency staff to carry out timber sale responsibilities, including monitoring, that help guard against illegal timber export and substitution. Several Forest Service "Timber and Log Accountability Audits"—internal evaluations of regional and forest-level timber sale activities—also noted that reduced staffing levels and experience were areas of concern in carrying out forests' timber sale programs.<sup>41</sup>

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## The Forest Service and BLM Did Not Issue New Regulations Required by Law and Some Policies are Outdated or Unclear

The Forest Service and BLM neither issued new regulations as required by the Forest Resources Conservation and Shortage Relief Act of 1997 nor obtained legislative relief from the requirement. The agencies have policies and practices to help prevent, detect, and respond to illegal timber export and substitution. However, some policies are outdated or unclear, and the agencies have not reviewed their policies for continued relevance and effectiveness.

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<sup>40</sup>The Forest Service establishes a targeted timber volume that national forests should make available for sale. The national target volume for fiscal years 2016 through 2018 was 3.2 billion board feet and for fiscal year 2019 is 3.7 billion board feet.

<sup>41</sup>In a 2015 report, the Forest Service stated that it had undergone a 39 percent reduction in non-fire staff since 1998. Department of Agriculture, Forest Service, *The Rising Cost of Wildfire Operations: Effects on the Forest Service's Non-Fire Work* (Washington, D.C.: Aug. 4, 2015). The report did not specify how many of the positions were associated with timber sales.

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## The Agencies Did Not Issue New Regulations As Required by the 1997 Act

As noted previously, in 1997, Congress amended the Forest Resources Conservation and Shortage Relief Act of 1990 to, among other things, relax substitution restrictions in Washington State. The 1997 act included other provisions such as allowing the agencies to reduce the penalties imposed for violating the ban. The act also states that the agencies “shall, in consultation, each prescribe new coordinated and consistent regulations to implement the act” and required the agencies to issue these regulations by June 1, 1998. The act also states that, until new regulations are issued, regulations that were in effect prior to September 8, 1995, are to remain in effect. However, because neither agency issued regulations as required by the act, their regulations currently in use do not reflect changes made by the 1997 act.

- **Forest Service.** The Forest Service drafted regulations to implement the 1997 act, but as of June 2018, the agency had not finalized them. According to Forest Service headquarters officials, the agency did not finalize the draft regulations because of competing priorities. The officials did not provide an estimate as to when the draft regulations would be made final. Because the draft regulations have not been made final, Forest Service regulations from the early 1990s remain in effect but do not reflect the changes made by the 1997 act.<sup>42</sup>
- **BLM.** According to BLM headquarters officials, BLM began drafting regulations in 2010 to implement the 1997 act, but did not complete that effort because of insufficient resources and competing priorities. Because BLM did not issue new regulations, BLM is required by law to rely on its regulations issued prior to September 8, 1995. BLM regulations reflect timber export and substitution laws from the 1970s because BLM did not issue regulations implementing the 1990 act because of competing priorities at that time, according to officials. Consequently, BLM regulations currently in use do not reflect the changes made by the 1997 act.

Forest Service officials said their agency did not seek legislative relief from the requirement to issue new regulations, and BLM officials said

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<sup>42</sup>The Forest Service issued a series of regulations to implement the 1990 act, the most comprehensive of which was issued on September 8, 1995. The 1997 act in effect invalidated the 1995 regulations, stating that the regulations that were in effect prior to September 8, 1995, shall remain in effect until new regulations are issued.

they have no record that their agency sought legislative relief but could not be certain that the agency had not done so. Without issuing new coordinated and consistent regulations as required by the 1997 act, or obtaining legislative relief, the agencies will continue to be out of compliance with this provision of the act.

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### Some Agency Policies Related to Illegal Export and Substitution are Outdated or Unclear, and the Agencies Have Not Reviewed Their Policies for Relevance and Effectiveness

We identified several areas in which either the Forest Service or BLM or both have policies to help prevent, detect, and respond to illegal federal timber export and substitution. For example:

- **Timber sale contract provisions.** Both agencies have policies that require timber sale contracts to include a statement about the prohibition on federal timber export and substitution, which can help ensure timber purchasers are aware of the prohibition.<sup>43</sup> We reviewed the standard timber sale contract forms used by both agencies at the time of our review and found that the forms include provisions with this statement.
- **Marking of unprocessed logs.** Both agencies generally require purchasers to mark unprocessed logs originating from federal lands subject to the ban with a spot of yellow paint and an identifying mark known as a hammer brand before the logs are removed from the timber sale area. According to the agencies' policies, marking the logs is intended to help identify them as being prohibited from export. Figure 2 shows an example of marked federal logs.

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<sup>43</sup>Bureau of Land Management, "Handbook-5420-1: Preparation for Sale," in *BLM Oregon Forest Product Sale Procedure Handbook* (Portland, OR: December 1, 2016) and Forest Service, "Chapter 2450 - Timber Sale Contract Administration," in *Forest Service Manual 2400 - Timber Management* (Washington, D.C.: June 10, 2004).

**Figure 2. Federal Logs Marked With Yellow Paint and Hammer Brands**

Source: Bureau of Land Management. | GAO-18-593

Forest Service regulations generally require that both ends of each unprocessed log be marked, but agency policy allows agency officials to waive the requirement under certain circumstances if officials determine that the risk of export or substitution is low.<sup>44</sup> For example, for certain timber sales the Pacific Southwest Region does not require that logs smaller than 10 inches in diameter be painted and branded.

BLM policy directs that one end of most unprocessed logs be painted and branded. Specifically, it calls for painting and branding one end of each log with a diameter of more than 10 inches.<sup>45</sup> Likewise, when a log truck carries 10 or fewer logs (regardless of the logs' diameter), all logs on the truck are to be painted and branded. For truckloads of 11 logs or more, a minimum of 10 logs must be painted and branded on one end, regardless of the logs' diameter. BLM policy allows contracting officers to implement more stringent requirements, such as requiring purchasers to paint and brand all logs harvested on an

<sup>44</sup>Forest Service, "Chapter 20 - Measuring and Accounting For Included Timber," in *Forest Service Handbook 2409.15 Timber Sale Administration Handbook* (Washington, D.C.: March 9, 2004).

<sup>45</sup>Bureau of Land Management, "Handbook-5420-1: Preparation for Sale," in *BLM Oregon Forest Product Sale Procedure Handbook* (Portland, OR; December 1, 2016).

individual timber sale regardless of size or number, but it does not allow contracting officers to waive the marking requirement.<sup>46</sup>

- **Penalizing violators.** Both agencies have penalties for violating the export and substitution ban. Forest Service penalties are described in agency policy and in agency contract provisions, and include imposing penalties, cancelling contracts, and debarring purchasers from bidding on future Forest Service timber sales.<sup>47</sup> BLM penalties are described in agency contract provisions only, and include contract cancellation and recovery of damages.

In addition, many Forest Service and BLM officials said that general timber sale administration policies—those aimed at managing timber sales generally, regardless of export issues—help address the risk of illegal federal timber export and substitution. Both agencies’ policies for timber sale administration include mechanisms for monitoring various activities associated with federal timber sales, including periodically inspecting timber harvest operations at active logging sites and observing log trucks carrying cut timber from logging sites to ensure they follow designated haul routes. Many officials we spoke with from both agencies said that such periodic inspections and consistent contact with logging operators help prevent and detect illegal export or substitution of federal timber.

However, Forest Service and BLM policies related to three areas—surveillance, certification requirements, and investigating potential violations—are outdated or unclear, or in some cases have not been fully implemented. The agencies also have not reviewed their policies for continued relevance and effectiveness as called for by federal internal control standards.

- **Surveillance.** Forest Service policy directs each Forest Service region with forests subject to the export ban to conduct surveillance and establish procedures, training, and other controls for the

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<sup>46</sup>This policy was introduced in 2010, when BLM revised its previous policy—which had required one end of all unprocessed logs to be marked and branded regardless of diameter—to, according to agency officials, account for the increasing number of small-diameter trees in federal timber sales and the resulting increase in the number of logs per truckload.

<sup>47</sup>Forest Service, “Chapter 2450 - Timber Sale Contract Administration,” in *Forest Service Manual 2400 – Timber Management* (Washington, D.C.; June 10, 2004).

surveillance program in the region—stating that, at a minimum, regional standards must include monthly surveillance.<sup>48</sup> However, three of the six regions subject to the ban have not established surveillance procedures because, according to regional officials, they have no access to ports and therefore the policy is not relevant to them.<sup>49</sup> However, Forest Service headquarters officials said the requirement is relevant to all regions having forests subject to the ban, because federal logs originating from regions without ports could be transported across regions and exported from another region. These headquarters officials said that more clarity in the agency’s policy about establishing regional surveillance procedures may be helpful to the regions.

The remaining Forest Service regions subject to the ban—the Pacific Southwest, Pacific Northwest, and Northern regions, each of which contains log export facilities—established procedures as called for by national policy but do not conduct surveillance on a monthly basis. The Pacific Southwest Region’s procedures call for monthly surveillance of export facilities in accordance with national policy. However, the Pacific Northwest Region’s procedures call for quarterly surveillance rather than monthly surveillance. The Northern Region delegates responsibility for surveillance to a national forest in the Pacific Northwest Region.<sup>50</sup> We reviewed surveillance inspection reports from calendar year 2017 and found that, during that year, the Pacific Southwest Region conducted from one to nine inspections of each of the six facilities regional officials identified as exporting logs—less than the monthly surveillance called for by regional and national policy. Officials from the Pacific Northwest Region provided us calendar year 2017 surveillance information for one of the region’s six facilities that exported logs that year. For that facility, Forest Service officials conducted surveillance seven times in 2017, including at least one inspection per quarter, which is in accordance with regional policy

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<sup>48</sup>Forest Service, “Chapter 20 - Measuring and Accounting for Included Timber,” in *Forest Service Handbook 2409.15 Timber Sale Administration Handbook* (Washington, D.C.: March 9, 2004).

<sup>49</sup>The Intermountain, Rocky Mountain, and Southwestern regions have not established surveillance procedures.

<sup>50</sup>An official from this forest said there has been no log export activity at the relevant Northern Region facilities since the policy was put in place in 2013, and therefore the forest has not conducted surveillance inspections since then.



but not national policy.<sup>51</sup> Officials from both regions said they view the frequency with which they conduct surveillance to be appropriate. For example, officials from the Pacific Southwest Region said that when a port is actively exporting timber, they conduct surveillance at least once per month, as required by policy. Officials from the Pacific Northwest Region said they view their frequency of surveillance to be appropriate, since they view the likelihood of export violations to be low and they have competing agency priorities.

BLM policy does not call for surveillance of log export facilities. However, officials from BLM's Coos Bay District, which has two log export facilities, have conducted surveillance since the 1970s as a way to help detect illegal timber export, according to BLM documents and officials. Based on our review of 2017 surveillance inspection reports, BLM officials inspected one export facility twice and the other facility seven times during that year.<sup>52</sup> Figure 3 shows an example of unprocessed logs at one of the export facilities in Coos Bay, Oregon.

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<sup>51</sup>None of the Forest Service surveillance inspection reports we reviewed contained indications of export violations.

<sup>52</sup>None of the BLM surveillance inspection reports we reviewed contained indications of export violations.

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**Figure 3: Unprocessed Logs at an Export Facility**



Source: GAO. | GAO-18-593

Some officials from both agencies said they may in some cases be unable to conduct surveillance within export facilities because they do not have clear authority to enter these facilities. BLM headquarters officials said BLM did not develop a policy calling for surveillance because the agency did not know whether it had the authority to enter log export facilities and therefore was not confident that such a policy could be carried out. Some officials from both agencies said they generally have been granted access but noted that this is subject to the willingness of the facility owners. Forest Service and BLM headquarters officials similarly said the agencies generally do not have legal authority to board ships or to inspect closed shipping containers to look for federal logs.<sup>53</sup>

- **Certification Requirements.** Both agencies' policies direct the agencies to collect certification forms to help them determine whether timber purchasers are engaged in export or substitution. However, the agencies' forms are outdated—the Forest Service's certification form expired, and some BLM forms reflect legal requirements that are no longer in effect. Nevertheless, the agencies have not updated their forms or changed their policies requiring collection of these forms.

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<sup>53</sup>Forest Service officials noted that agency law enforcement personnel could request search warrants giving them the authority to board ships or inspect shipping containers.

Forest Service policy states that “Prior to award, during the life of the contract, and for a period of 3 years from the termination date, the purchaser must furnish, upon request, the volume and geographic origin of unprocessed timber from private lands that was exported or sold for export.”<sup>54</sup> The purchaser may submit the information on a specified Forest Service certification form or “other appropriate forms.”<sup>55</sup> Forest Service regional officials from three of the six regions subject to the ban said they do not collect this information because the certification form, approved by the Office of Management and Budget, expired in 1999.<sup>56</sup> Some Forest Service officials said updating and collecting the form could help prevent and detect illegal timber export and substitution by providing agency officials with information about purchasers’ activities. One senior headquarters official, however, noted that the information provided on the form relies on the purchaser’s self-certification, making it difficult for agency officials to verify.

BLM policy requires agency staff to collect a minimum of two certification forms for each timber sale.<sup>57</sup> One is to be collected before the sale is approved, to determine whether the timber sale purchaser has substituted federal timber for exported unprocessed private timber within a specified time frame. The other is to be collected after the harvest is completed and before the contract is terminated, to determine whether purchasers are exporting BLM timber. Two additional certification forms may be collected when applicable—one prior to the sale and the other after the harvest is completed—but are not required for all sales. We reviewed documentation from a sample

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<sup>54</sup>Forest Service, “Chapter 20 - Measuring and Accounting for Included Timber,” in *Forest Service Handbook 2409.15 Timber Sale Administration Handbook* (Washington, D.C.: March 9, 2004).

<sup>55</sup>The specified form is Form FS-2400-59, *Certification of Receipt and Disposition of Timber Originating from National Forest System Lands*.

<sup>56</sup>Under the Paperwork Reduction Act, each federal agency’s “collection of information” (such as the Forest Service’s certification form) must include a valid control number from the Office of Management and Budget. 44 U.S.C. §§ 3504(c), 3506(c). Control numbers are valid for no more than 3 years. 44 U.S.C. § 3507(g).

<sup>57</sup>Bureau of Land Management, “Handbook-5450-1: Award of Contract,” in *BLM Forest Product Sale Procedure Handbook Series* (Washington, D.C.: June 1992); Bureau of Land Management, “Handbook-5450-1: Award of Contract,” in *BLM Oregon Forest Product Sale Procedure Handbook* (Portland, OR: December 1, 2016); and Bureau of Land Management, “Handbook-5420-1: Preparation for Sale,” in *BLM Oregon Forest Product Sale Procedure Handbook* (Portland, OR; December 1, 2016).

of 22 BLM timber sale contracts that closed in 2017 in the five western Oregon BLM districts and found that BLM collected the required certification forms for 21 of the 22 contracts. The remaining contract file was missing a required form. BLM officials said the missing form could not be located.

However, the two certification forms BLM can collect before approving a timber sale reflect legal requirements that are no longer in effect. According to the 1997 act, a purchaser may not purchase unprocessed federal timber if “such person has, during the preceding 24-month period, exported unprocessed timber originating from private lands.” However, the two BLM certification forms instruct the purchaser to provide this information for the preceding 12-month period. Senior BLM officials acknowledged the inconsistency between these forms and the current legal requirement. They said that the 12-month time frame specified in the certification forms reflects the BLM regulations issued to implement the appropriations act export restrictions in the 1970s.

- **Investigating Potential Violations.** Both agencies have policies for investigating potential export violations. The Forest Service’s policy for investigating export violations states that, upon finding a violation, the contracting officer should contact law enforcement and prepare a report about the violation, including any planned follow-up actions.<sup>58</sup> Forest Service headquarters officials said that it is unclear whether this policy applies only in cases where export violations have been substantiated or is to be used in instances where violations are suspected but not confirmed. BLM headquarters officials said that their personnel are to use policies detailed in the agency’s standard contract administration procedures, which cover all timber sale administration violations, to investigate potential and substantiated export violations.<sup>59</sup> These procedures provide officials discretion in the actions they take. For example, the procedures state that “many such violations may simply be corrected with good verbal communications between the BLM and purchaser representatives. Other violations

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<sup>58</sup>Forest Service, “Chapter 20 - Measuring and Accounting for Included Timber,” in *Forest Service Handbook 2409.15 Timber Sale Administration Handbook* (Washington, D.C.: March 9, 2004).

<sup>59</sup>Bureau of Land Management, “Handbook-5480-1: Contract Violation-Suspension-Cancellation; Settlement of Uncompleted Contract,” in *BLM Oregon Forest Product Sale Procedure Handbook* (Portland, OR: June 17, 2016).

require more forceful action and complete documentation of such actions.”

The agencies differ in the extent to which they define what conduct constitutes an export violation.<sup>60</sup> Forest Service policies do not define export; however, its regulations do, stating that export can occur at any of several points—when a person enters into an agreement to convey logs to another country, when logs are placed in an export facility in preparation for shipment outside the United States, or when logs are placed on a ship, train, or other transport destined for a foreign country.<sup>61</sup> BLM policies and regulations do not define the term export or state what constitutes an export violation. Officials from both agencies said that determining whether a violation has occurred requires judgment on the part of agency staff. For example, according to these officials, finding logs in an export facility may constitute a violation, but would require the agency to determine whether the logs were being prepared for shipment outside the United States. Officials from both agencies said they would benefit from a clear definition of export violation.

In addition, the agencies do not have up-to-date information about sourcing areas, which is used to determine substitution violations. Under the 1997 act, manufacturers may not engage in substitution—that is, exporting timber from private lands while purchasing federal timber to supply their mills. However, it is not considered substitution if a company purchases federal timber from within a particular “sourcing area” and exports nonfederal timber harvested from areas outside the sourcing area. Sourcing areas outside Washington State are subject to Forest Service or BLM approval, and the agencies are required by

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<sup>60</sup>The 1997 act does not define what constitutes an export violation, instead providing a general description of prohibited activities. The act states that “No person who acquires unprocessed timber originating from federal lands west of the 100th meridian in the contiguous 48 states may export such timber from the United States, or sell, trade, exchange, or otherwise convey such timber to any other person for the purpose of exporting such timber from the United States.” 16 U.S.C. § 620a(a).

<sup>61</sup>Specifically, Forest Service regulations state that “‘export’ means transporting or causing to be transported, either directly or through another party, unprocessed timber to a foreign country. Export occurs on the date that a person enters into an agreement to sell, trade, or otherwise convey such timber to a person for delivery to a foreign country. If that date cannot be established, export occurs when unprocessed timber is placed in an export facility for preparation, including but not limited to sorting or bundling, and container loading for shipment outside the United States, or when unprocessed timber is placed on board an oceangoing vessel, rail car, or other conveyance destined for a foreign country.” 33 C.F.R. § 223.186 (1990).

law to review them at least every 5 years. Forest Service headquarters officials said they had not reviewed sourcing areas for at least 20 years, and said that over this time, many timber companies with approved sourcing areas have gone out of business or no longer purchase national forest timber. Forest Service headquarters officials said that they did not maintain lists of sourcing areas, and none of the six Forest Service regions subject to the ban had information about sourcing areas. BLM provided us a list of sourcing areas identified by the Forest Service, but the list dates to 1992. Moreover, many Forest Service and BLM officials we interviewed said they were unfamiliar with the concept of substitution and sourcing areas. A few officials said identifying sourcing areas may no longer be relevant given the changes in the organizational structure of timber companies and the resulting lower likelihood of substitution.

According to the *Standards for Internal Control in the Federal Government*, management should implement control activities through policies, including by periodically reviewing policies, procedures, and related control activities for continued relevance and effectiveness in achieving an entity's objectives or addressing related risks.<sup>62</sup> Forest Service officials said the agency has not reviewed its policies specific to export and substitution since the enactment of the 1997 act, largely because of competing priorities and the officials' view that the likelihood of illegal export or substitution is low. Nevertheless, these officials agreed that it would be beneficial for the Forest Service to review and update its policies, especially in light of the significant changes to the timber economy in the past 2 decades. BLM officials said they reviewed the agency's export regulations in 2010, but this effort did not include a review of log export policies. They said they did not believe such a review would be useful until new regulations are issued, since it is important that policies conform with regulations. These officials noted that BLM's Oregon/Washington State Office updated some of its policies in 2016, but the officials did not indicate the extent to which the policies were reviewed for relevance and effectiveness—and, as noted, some BLM policies appear unclear or are inconsistent with the 1997 act. By reviewing agency policies and making changes to them as necessary, in accordance with applicable regulations, the Forest Service and BLM will have better assurance that their policies are relevant and effective for addressing the risk of illegal timber export and substitution.

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<sup>62</sup>[GAO-14-704G](#).

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## Conclusions

For 50 years, Congress has restricted the export and substitution of federal timber from the western United States. Since the restrictions were put in place, substantial changes to the timber economy have occurred, and agency officials and stakeholders view the likelihood of illegal timber export and substitution as low. The Forest Service and BLM have various regulations, policies, and procedures to carry out the ban. However, the agencies did not issue new regulations as required by the Forest Resources Conservation and Shortage Relief Act of 1997 and have not obtained legislative relief from this requirement. As a result, the agencies are relying on regulations issued before 1995. Without issuing new coordinated and consistent regulations or obtaining legislative relief, the Forest Service and BLM will continue to be out of compliance with the regulation provisions of the 1997 act.

Further, some agency policies are outdated or unclear. For example, Forest Service policy calls for collecting a certification form that expired in 1999, and BLM policy does not clearly define what constitutes a violation of the export ban. The Forest Service and BLM have not reviewed their policies for continued relevance and effectiveness, consistent with federal internal control standards. By reviewing agency policies and making changes to them as necessary, the Forest Service and BLM will have better assurance that their policies are relevant and effective for addressing the risk of illegal timber export and substitution.

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## Recommendations for Executive Action

We are making four recommendations, including two to the Forest Service and two to the BLM:

- The Chief of the Forest Service should determine whether new regulations governing timber export and substitution are appropriate. If the agency determines new regulations are appropriate, it should issue them in accordance with the 1997 act, in consultation with BLM. Otherwise, the agency should seek legislative relief from the act's requirement. (Recommendation 1)
- The Director of the BLM should determine whether new regulations governing timber export and substitution are appropriate. If the agency determines new regulations are appropriate, it should issue them in accordance with the 1997 act, in consultation with the Forest

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Service. Otherwise, the agency should seek legislative relief from the act's requirement. (Recommendation 2)

- The Chief of the Forest Service should review agency policies for continued relevance and effectiveness in addressing the risk of illegal timber export and substitution, and based on that review—and in accordance with applicable regulations—should issue new policies as necessary. (Recommendation 3)
- The Director of the BLM should review agency policies for continued relevance and effectiveness in addressing the risk of illegal timber export and substitution, and based on that review—and in accordance with applicable regulations—should issue new policies as necessary. (Recommendation 4)

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## Agency Comments

We provided a draft of this report for review and comment to the Departments of Agriculture and the Interior. The departments provided written comments, which are reproduced in appendixes I and II of this report. The Forest Service, responding on behalf of the Department of Agriculture, stated in its written comments, and in a subsequent e-mail from the Forest Service audit liaison, that it generally concurred with our findings and recommendations. The Forest Service stated that it will coordinate with BLM to determine the next best steps in moving ahead in administering the export law.

In its written comments, the Department of the Interior concurred with the recommendations we directed to BLM. Regarding our recommendation related to regulations, Interior stated that BLM will review its regulations to identify inconsistencies with the 1997 act, and if it determines new regulations are appropriate, will begin consultation with the Forest Service to maximize consistency between the agencies to minimize the impact to federal timber purchasers. Regarding our recommendation related to policies, Interior stated that BLM will review its export and substitution policies as well as its relevant contracts and forms for any immediate updates needed to conform with the 1997 act, and will ensure the policies are updated in conjunction with any new regulations.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Secretaries of Agriculture and the Interior,



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the Chief of the Forest Service, the Director of the BLM, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions regarding this report, please contact me at (202) 512-3841 or [fennella@gao.gov](mailto:fennella@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made contributions to this report are listed in appendix III.

Sincerely yours,

A handwritten signature in black ink that reads "Anne-Marie Fennell". The signature is written in a cursive style with a large initial "A" and a long horizontal line extending from the end of the name.

Anne-Marie Fennell  
Director, Natural Resources and Environment

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# Appendix I: Comments from the Department of Agriculture

Appendix I: Comments from the Department of  
Agriculture



Forest Service  
Washington Office

1400 Independence Avenue, SW  
Washington, D.C. 20250

File Code: 1420; 2400

Date: JUL 23 2018

Ms. Anne-Marie Fennell  
Director, Natural Resources and Environment  
U.S. Government Accountability Office  
441 G. Street, NW  
Washington, DC 20548

Dear Ms. Fennell:

The U.S. Department of Agriculture (USDA) appreciates the opportunity to respond to the U.S. Government Accountability Office (GAO) draft report, "Federal Timber Sales, (GAO-18-593)." The USDA generally agrees with the findings in the GAO draft report.

The Forest Service continually strives to improve the administration of the Timber Sales Program including ensuring the Agency meets the direction in the law relating to timber export and prevention of illegal substitution of logs to domestic mills. We will coordinate with the Bureau of Land Management to determine the next best steps in moving ahead in administering the export law.

Thank you again for the opportunity to review the draft report. If you have any question, please contact Antoine L. Dixon, Chief Financial Officer, at 202-205-0429.

Sincerely,

  
VICTORIA CHRISTIANSEN  
Interim Chief



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# Appendix II: Comments from the Department of the Interior



United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

AUG - 1 2018

Ms. Anne-Marie Fennell  
Director  
Natural Resources and Environment  
U.S. Government Accountability Office  
441 G Street NW  
Washington, DC 20548

Dear Ms. Fennell:

Thank you for giving the Department of the Interior (Department) the opportunity to review and comment on the draft Government Accountability Office (GAO) report entitled, *Federal Timber Sales: Forest Service and BLM Should Review Their Regulations and Policies Related to Timber Export and Substitution* (GAO-18-593).

Given our nation's need for domestic sources of timber, the Department is committed to sustainable timber harvests on Bureau of Land Management (BLM) lands in a manner that adheres to all relevant laws and regulations governing its sale.

The GAO issued four recommendations in response to its overall findings including two to BLM and two to the Department of Agriculture's Forest Service. The Department accepts these recommendations and will coordinate with the Forest Service during the regulatory and policy review process governing timber export and substitution.

BLM's response and actions planned to implement Recommendations 2 and 4 are below.

**Recommendation 2: The Director of BLM should determine whether new regulations governing timber export and substitution are appropriate. If the agency determines new regulations are appropriate, it should issue them in accordance with the 1997 act, in consultation with the Forest Service. Otherwise, the agency should seek legislative relief from the act's requirement.**

Response: Concur. The BLM will review current regulations and identify any inconsistencies with the 1997 act and report to the Department with its findings or recommendation(s). If it is determined that new regulations are needed, BLM will begin consultation with the Forest Service to maximize consistency between the agencies to minimize the impact to Federal timber purchasers.

**Recommendation 4: The Director of BLM should review agency policies for continued relevance and effectiveness in addressing the risk of illegal timber export and substitution,**

**and based on that review - and in accordance with applicable regulations – should issue new policies as necessary.**

Response: Concur. The BLM will review its export and substitution policies as well as the contracts and forms used to implement the export prohibition for any immediate updates to conform with the 1997 act. Additionally, the BLM, pending a determination on recommendation 2, will ensure policies are updated in conjunction with any new regulations.

If you have any questions about this response, please contact Kristin Bail, Assistant Director – Resources and Planning at (202) 208-4896 or Tiya Samuels, Chief – Division for Evaluation and Management Services at (202) 912-7090.

Sincerely,



Joseph R. Balash  
Assistant Secretary  
Land and Minerals Management

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# Appendix III: GAO Contact and Staff Acknowledgments

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## GAO Contact

Anne-Marie Fennell, (202) 512-3841 or [fennella@gao.gov](mailto:fennella@gao.gov)

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## Staff Acknowledgments

In addition to the individual named above, Steve Gaty (Assistant Director), Ulana M. Bihun (Analyst-In-Charge), Mark Braza, Justin Fisher, Richard P. Johnson, and Kyle Stetler made key contributions to this report. Important contributions were also made by Tara Congdon, Barb El Osta, Kimberly Gianopoulos, and Dan Royer.

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## Appendix IV: Accessible Data

### Agency Comment Letters

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#### Accessible Text for Appendix I Comments from the Department of Agriculture

File Code: 1420; 2400

Date: JUL 23 2018

Ms. Anne-Marie Fennell

Director, Natural Resources and Environment

U.S. Government Accountability Office

441 G. Street, NW

Washington, DC 20548

Dear Ms. Fennell:

The U.S. Department of Agriculture (USDA) appreciates the opportunity to respond to the U.S. Government Accountability Office (GAO) draft report, "Federal Timber Sales, (GAO-18-593)." The USDA generally agrees with the findings in the GAO draft report.

The Forest Service continually strives to improve the administration of the Timber Sales Program including ensuring the Agency meets the direction in the law relating to timber export and prevention of illegal substitution of logs to domestic mills. We will coordinate with the Bureau of Land Management to determine the next best steps in moving ahead in administering the export law.

Thank you again for the opportunity to review the draft report. If you have any question, please contact Antoine L. Dixon, Chief Financial Officer, at 202-205-0429.

Sincerely,



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VICTORIA CHRISTIANSEN

Interim Chief

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Accessible Text for Appendix II Comments from the  
Department of the Interior

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AUG - 1 2018

Ms. Anne-Marie Fennell Director

Natural Resources and Environment

U.S. Government Accountability Office

441 G Street NW

Washington, DC 20548

Dear Ms. Fennell:

Thank you for giving the Department of the Interior (Department) the opportunity to review and comment on the draft Government Accountability Office (GAO) report entitled, *Federal Timber Sales: Forest Service and BLM Should Review Their Regulations and Policies Related to Timber Export and Substitution* (GAO-18-593).

Given our nation's need for domestic sources of timber, the Department is committed to sustainable timber harvests on Bureau of Land Management (BLM) lands in a manner that adheres to all relevant laws and regulations governing its sale.

The GAO issued four recommendations in response to its overall findings including two to BLM and two to the Department of Agriculture's Forest Service. The Department accepts these recommendations and will coordinate with the Forest Service during the regulatory and policy review process governing timber export and substitution.

BLM's response and actions planned to implement Recommendations 2 and 4 are below.

Recommendation 2: The Director of BLM should determine whether new regulations governing timber export and substitution are appropriate. If the agency determines new regulations are appropriate, it should issue them in accordance with the 1997 act, in consultation with the Forest Service. Otherwise, the agency should seek legislative relief from the act's requirement.

Response: Concur. The BLM will review current regulations and identify any inconsistencies with the 1997 act and report to the Department with its findings or recommendation(s). If it is determined that new regulations are needed, BLM will begin consultation with the Forest Service to maximize consistency between the agencies to minimize the impact to Federal timber purchasers.

Recommendation 4: The Director of BLM should review agency policies for continued relevance and effectiveness in addressing the risk of illegal timber export and substitution,

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and based on that review - and in accordance with applicable regulations — should issue new policies as necessary.

Response: Concur. The BLM will review its export and substitution policies as well as the contracts and forms used to implement the export prohibition for any immediate updates to conform with the 1997 act. Additionally, the BLM, pending a determination on recommendation 2, will ensure policies are updated in conjunction with any new regulations.

If you have any questions about this response, please contact Kristin Bail, Assistant Director - Resources and Planning at (202) 208-4896 or Tiya Samuels, Chief - Division for Evaluation and Management Services at (202) 912-7090.

Sincerely,

Joseph R. Balash

Assistant Secretary

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**Appendix III: GAO Contact and Staff  
Acknowledgments**

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Land and Minerals Management

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