



# Forest Service Announces Timber Sale Contract Relief

April 27, 2020

On April 15, 2020, the Forest Service (FS) announced options for timber purchasers to extend the terms of their contract to harvest timber from the National Forest System (NFS). ([Read the announcement here.](#)) The FS, within the Department of Agriculture (USDA), sells timber to willing buyers in the private sector (*timber purchasers*) pursuant to specified contract terms. Although timber sales generally must be completed in a set amount of time, the FS may extend that time if it finds a “substantial overriding public interest” (referred to as a *SOPI finding*) in doing so. The SOPI finding articulated in the announcement is in response to global timber market impacts from the coronavirus (COVID-19) pandemic, ongoing trade disputes, and other factors. The FS contends that these flexibilities will prevent adverse impacts to timber markets and rural communities.

## Forest Service Timber Contract Relief

The FS sells forest products from NFS lands to willing buyers (this product will refer to the most popular forest product, timber) pursuant to a contract between the timber purchaser and the FS. Each contract formalizes the terms of a timber harvest, such as what timber is to be cut, the methods for harvesting the timber, the length of time to complete the harvest, and other provisions. By law, [contracts may be up to 10 years in length](#), but they are often shorter, generally around 2-3 years. Multiyear contracts allow timber purchasers sufficient time to build necessary roads and prepare harvest sites, as well as some limited flexibility to respond to weather conditions and market fluctuations. Timber market conditions over the period of the contract can substantially affect purchasers’ ability to profitably harvest timber—for example, if timber prices decrease. According to the FS, adverse timber market conditions can lead to contract defaults, mill closures, bankruptcies, job losses, and other short- and long-term impacts to timber markets and rural communities. These conditions also could result in reduced timber revenues and increased contract default enforcement costs to the federal government.

The USDA has the authority to modify timber contracts to provide relief to purchasers if adverse timber market conditions develop. The Secretary of Agriculture (Secretary) may extend [the length of timber sale contracts](#) if the Secretary finds that a “substantial overriding public interest” (SOPI finding) justifies the extension. In addition, if specific “[adverse wood products market conditions](#)” develop, this constitutes an automatic SOPI finding. FS regulations define these conditions as a specified [percentage decrease over](#)

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two or more consecutive quarters in the Producer Price Indices (PPI) for hardwood lumber, softwood lumber, and wood chips. If the specified decreases in the PPI occur, the FS can issue a market-related contract term addition (MRCTA) at the timber purchaser's written request. MRCTAs are a subset of the Secretary's more flexible authority to issue SOPI findings, which also can be issued for economic reasons—for example, if market conditions deteriorate in less than two consecutive quarters. If the Secretary finds there will be better utilization of forest resources, timber sale contracts can be extended longer than 10 years.

## SOPI Finding Announcement

On April 15, 2020, the Secretary, as delegated to the Under Secretary for Natural Resources and Environment, issued a SOPI finding, announcing that the FS would extend certain NFS forest product contracts and permits, such as timber contracts, due to a combination of factors affecting the timber market. The announcement specified that a confluence of several factors, beginning in late 2019, has created “unprecedented worldwide instability” in timber markets. The factors cited are

- Trade disputes, such as retaliatory tariffs placed by China on U.S. exports of hardwood products, which have affected hardwood export volumes and values. Although China recently issued tariff exclusions on hardwood products, the FS expects the factors listed below to continue to affect the hardwood market;
- A bark beetle epidemic in central Europe, which has particularly influenced softwood markets by inducing sanitation harvesting, creating a supply glut and displacing U.S. softwood exports, particularly to China;
- The COVID-19 pandemic, which has caused disruptions throughout the global forest products industry, such as in milling, manufacturing, and transportation.

The finding also specified that softwood and hardwood timber prices were declining prior to the trade dispute, bark beetle epidemic, and COVID-19 pandemic, exacerbating the effects of those events.

In the SOPI, the USDA cited evidence of timber market impacts, such as declining hardwood values, reduced exports, and mill closures. The USDA specified that this SOPI would provide time for markets to stabilize and timber purchasers to resume disrupted operations. Because FS MRCTA regulations require a decline in the relevant PPI index for two or more consecutive quarters, and because the timber market conditions specified by the USDA have recently developed, they have not yet triggered MRCTA provisions. Therefore, the USDA specified that MRCTA procedures are not providing timely relief.

Under the SOPI finding, most contracts may be extended for a total of two years. (Read the provisions.) This includes time provided under other MRCTA or SOPI findings, either those made in the past or those made in the future. In particular, declines in the softwood lumber PPI triggered MRCTA provisions in 2019; therefore, this provision applies to softwood timber sales that were granted MRCTAs. Market conditions in Alaska have been particularly affected (e.g., due the region's reliance on foreign demand), so timber sale contracts in Alaska may be extended for up to three years. The USDA also authorized extension of timber sale contracts beyond 10 years. The USDA specified that timber sales are an important tool in maintaining forest health and, therefore, preventing adverse timber market outcomes would contribute to better utilization of forest resources.

This SOPI is not applicable to all timber sales. Sales where timber is in urgent need of removal (e.g., to mitigate wildfire risk) will not be extended. The SOPI does not apply to certain contracts, called *stewardship contracts*, if they include timber harvesting but are primarily for restoration services. It is unclear what proportion of overall timber sales is affected by this exclusion.

## Congress, the FS, and Timber Market Downturns

In the past, Congress and the USDA have acted to relieve NFS timber purchasers under other adverse market conditions. For example, in relation to the 2008 housing market downturn, U.S. timber prices experienced a historic decline. In response, the USDA [issued a SOPI finding](#) that authorized timber sale contracts extensions. In the [2008 farm bill](#), Congress authorized additional timber sale contract flexibilities, such as contract value recalculations to reflect changing timber prices, contract buyouts, and adjustment of required periodic payments for qualified contracts. Because these timber contract relief provisions apply only to NFS lands, and NFS timber sales remain exposed to broader market forces, their effects are unclear. General [timber market impacts](#) from the 2008 housing market downturn were acute, and recovery was prolonged. However, impacts to the volume and value harvested from NFS lands were relatively minor. Today, the array of confounding factors—such as the evolving COVID-19 pandemic and associated economic impacts, the proportion of timber sales excluded from contract extensions, and the evolving trade situation—mean outcomes for timber purchasers may remain uncertain indefinitely. If timber markets further deteriorate, the USDA has the option to offer additional timber sale contract extensions; however, if additional relief becomes desirable, the 2008 farm bill provisions may provide a model for congressional action.

### Author Information

Anne A. Riddle  
Analyst in Natural Resources Policy

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