



Management of Cut Control on a Woodlot Licence Due to Timber and/or Forest Resources at Risk

June 3, 2022

Version 1.00

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Document Change Control

Version	Date	Key Change
1.00	June 2022	Replaces previous 2009, 2011 and 2017 Guidance

Questions can be directed to district or regional Ministry of Forests (FOR) staff with further guidance specific to this document available by emailing Forest Tenures Branch staff at ForestTenuresBranch@gov.bc.ca.

1.0 Purpose of this Guide

- The purpose of this Guide is to assist FOR staff and woodlot licensees with the management of cut control on a woodlot licence (WL) when timber or forest resource is at risk.
- The Guide summarizes the *Forest Act* provisions, available options and basic process requirements and also includes a sample application template letter.
- This Guide has been specifically developed for WLs and is not applicable to other area-based tenures.

2.0 Introduction

WL licensees are expected to monitor forest health and to the extent possible, harvest any timber at risk as part of their allowable annual cut (AAC). In some cases, WL licensees may be in a position where timber or a forest resource is at risk on their WL, requiring timber to be harvested as soon as possible, without adequate volume remaining in their current 5-year cut control period (CCP).

3.0 *Forest Act* Provisions

Section 75.41 (1.1) of the *Forest Act* requires that a WL licensee ensure the volume of timber harvested during a 5-year CCP does not exceed 120% of the sum of the WL's AAC for that period.

Section 75.91 (1) of the *Forest Act* exceeding cut control limit results in a non-discretionary penalty calculated in accordance with Section 75.91 (2).

4.0 Management Options

There are two options by which a WL licensee may receive authorization for additional cut control volume to address timber or a forest resource at risk:

- Cut Control Limit Exemption (CCLE);
- AAC determination consistent with Section 8 (6) of the *Forest Act* for the short-term based upon a management plan (MP) submission. The delegated decision-maker may stipulate that a subsequent long-term sustainable AAC determination will be made within a specified time frame thereafter.

A CCLE is the recommended option and WL licensees are encouraged to consider this first, mindful of the advantages and disadvantages of each option and based upon specific circumstances. Each option requires an accurate estimate of the volume that is at risk and licensees must ensure approvals are in place prior to harvesting the timber that is damaged or at risk.

Timber - trees, whether standing, fallen, living, dead, limbed, bucked or peeled.

Forest Resource - either an objective of the *Forest and Range Practices Act* (i.e., water, soil, wildlife including habitat, fish including habitat, biodiversity, visual quality and cultural heritage resources) or societal values such as community, safety or infrastructure (roads, fences, etc.) located within the forest.

At Risk - Crown timber and/or forest resource(s) that is/are susceptible because of wind, fire, insect or disease.

5.0 Cut Control Limit Exemption

In order for a CCLE to be authorized, the timber or other forest resources must, in the view of the minister, be at risk because of wind, fire, insect or disease consistent with Section 75.9 of the *Forest Act*.

Approval of a CCLE is a discretionary decision and the minister may attach conditions, such as:

- designating the area from which the timber may be harvested;
- describing the timber (species, size, condition - burned, blowdown, incidental volume to access the area, etc.) to which the exemption applies; and
- specifying when the harvest must occur (e.g., deadline to remove trap trees to limit spread of beetle).

The CCLE approval may provide options to enforce any non-compliance with the terms of the CCLE, such as silviculture obligations, waste assessment and reporting which may include the CCLE being rescinded.

5.1 Requesting a Cut Control Limit Exemption

The WL licensee must submit a request for a CCLE to the minister prior to commencement of timber harvesting. The WL licensee may wish to discuss their specific situation with FOR staff and review what information is required. A sample letter of the CCLE request is provided in Appendix 1.

If the WL licence is in an overcut position at the time of the CCLE request (e.g., harvest volume exceeds 120%), the minister will consider this in their determination and may attach conditions to the CCLE to address the overcut. In some cases, the overcut will need to be addressed prior to the adjudication of the CCLE request.

The WL licensees should have reasonable expectations regarding approval timeframes and be mindful that decisions may be subject to First Nations consultation. Licensees should plan accordingly and consider engagement with First Nations in advance of a formal application.

A CCLE approval is expressed as a percentage and may also include volume for the current CCP. If the CCLE authorization does not already do so, it is strongly recommended that the WL licensee confirm the volume in cubic meters authorized under the CCLE with FOR district staff.

5.2 Cut Control Reconciliation

Consistent with Section 75.7 of the *Forest Act*, the volume of timber harvested that exceeds 100% for a 5-year CCP is called an overcut carry forward (OCF) and will be charged against subsequent CCPs. Depending on the magnitude of the OCF, the WL licensee could face a prolonged period of little or no harvesting because there is not enough AAC available against which to charge the volume.

There are two options to reconcile the cut control and OCF. The WL licensee should indicate their preferred option in the application for a determination by the minister:

Option 1 - Status Quo

The OCF remains in place, annual rent is billed on the base AAC, and the licensee does not harvest until such time as there is AAC available in a subsequent CCP. If another timber or forest resource at risk situation occurs, the licensee would have to request and receive another CCLE prior to any additional timber harvesting.

This option is generally only considered acceptable when the OCF is relatively small and there is still some AAC available in the next cut control period.

Option 2 - Reconcile Cut Control

This is generally done in cases when a WL has a significant OCF and will be subject to a prolonged period of no harvesting. If the minister decides, at any time, that the current AAC or a prolonged period of no harvest is not appropriate, then they can require that the overcut be reconciled using this process.

To reconcile an authorized overcut resulting from a CCLE, the WL licensee submits, either voluntarily or at the request of the minister, a new MP that proposes two AACs:

- AAC #1: short-term (1-year) AAC equal to the OCF plus the new sustainable AAC.
- AAC #2: new sustainable AAC.

Example: OCF is 12,000 m ³ , new long-term AAC is 1,000 m ³ /year. AAC for YEAR 1 is 13,000 m ³ and the AAC for subsequent years is 1,000 m ³ /year.
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The one-time AAC addresses the OCF volume, which then allows the WL to resume operations at the new sustainable AAC level. The new AAC moving forward may be lower, depending on the size of the CCLE and current inventory.

Following the determination of a new sustainable AAC, and before commencing harvesting, the WL licensee should verify their cut control situation, using resources such as the Harvest Billing System. Consideration of the anniversary date on which the new, sustainable AAC determination comes into effect is necessary because it may have a bearing on the volume of timber that may be harvested during the time remaining in the current CCP (*Forest Act*, Section 63.2). It is highly recommended that the CCP be restarted to coincide with the approval of the new AAC and to simplify this process.

A new annual rent invoice will be generated following the approval of the combined AAC and is payable upon receipt. The annual rent attributed to the sustainable AAC will be prorated to reflect the time remaining in the current licence year (i.e., until the licence anniversary date) and will reflect annual rent previously paid for the current year. The annual rent attributed to the OCF will reflect an entire year regardless of approval date.

6.0 AAC Determination

The second option to deal with timber or other forest resources at risk in the current CCP is via a short-term AAC determination, commonly referred to as an uplift. This would remain in place for a short period of time, another MP would then need to be submitted and the AAC would need to be determined.

The WL licensee submits a revised MP, proposing an increased AAC for a specified timeframe to address timber or other forest resources at risk. The proposal must match the volume of timber damaged or at risk and be verifiable. Once the new AAC is approved via determination, the WL licensee can proceed with harvesting timber.

In cases where there is a substantial uplift in AAC, it is anticipated that the minister will require a new MP once timber harvesting under the uplift has been completed.

Information specific to Woodlot Licence Management Plans can be found at:

<https://www2.gov.bc.ca/gov/content/industry/forestry/forest-tenures/timber-harvesting-rights/woodlot-licence>

7.0 Implications of the Cut Control Limit Exemption or AAC Determination

Cut Control Limit Exemption

- A CCLE authorizes the WL licensee to exceed the cut control limit of the current CCP by establishing a new cut control limit that is specified in percentage¹. The volume harvested under the CCLE is treated as an OCF.
- A CCLE establishes a new cut control limit for the current 5-year CCP.
- A CCLE does not exempt the WL licensee from paying annual rent, stumpage or meeting any other obligation or responsibility associated with the timber harvesting under the CCLE.
- A CCLE cannot be used to avoid a pre-existing mandatory overcut penalty situation.

¹ A cut control limit exemption is most often expressed as a percentage of the sum of the AAC for the current 5-year cut control period (e.g., 300% instead of normal 120%).

- A WL licensee who exceeds the new cut control limit established by a CCLE shall be subject to overcut penalties as per the *Forest Act*.
- The *Forest Act* only allows for a CCLE to be applied to Crown lands. Should a situation arise that needs to be addressed on the Schedule A land, a CCLE is not the appropriate mechanism.
- The effect of an OCF is that there will be less or no volume available in subsequent CCPs.
- Following the harvesting of timber under a CCLE, a licensee may not recommence regular harvesting until there is available volume in the current CCP; either by reconciling the OCF, waiting until there is AAC available in a future CCP, or another CCLE has been approved (if there is additional timber at risk).
- A CCLE only applies to the CCP in which the CCLE was approved. If harvesting must extend into the next CCP, then the cut control situation must be re-adjudicated with due consideration to the 5 years of AAC available in the new CCP. If there is not enough volume or AAC to address the timber at risk within the new CCP then a subsequent CCLE may be submitted.
- If a licensee is approaching the volume limit in the approved CCLE, they will need to apply for a subsequent CCLE prior to exceeding the approved CCLE volume. If the subsequent CCLE is not approved by the expiration date in the current cut control period, penalty billing is administered automatically as per Section 75.91 of the *Forest Act*.

Allowable Annual Cut Determination

- A new MP and AAC that reflects the volume needed to address damaged or at-risk timber in excess of the current AAC are submitted for approval.
- Due to the complexity of the MP, AAC calculations and determinations including the time involved in preparation, review and approval, this option generally does not allow for expedient harvest of damaged timber or values at risk.
- Following the approval of a MP with a new AAC, and once the threat has stabilized, a new subsequent MP and AAC may be requested to establish a

long-term AAC that accurately accounts for past harvest and current inventory data. The initial MP approval letter may speak to this.

- Annual rent is billed and due on the new AAC at time of approval, regardless of whether the timber is harvested or not. There is no adjustment if the volume of timber at risk that is harvested is less than the AAC.

8.0 Notes to Reader

This bulletin cancels and replaces the following:

- September 22, 2009, memo titled “Guidance When Dealing with a Catastrophic Event Necessitating Increased Harvesting on Woodlot Licences”.
- June 27, 2011, memo titled “Guidance Document to Deal with the Two Available Options Regarding Overcut Carry Forward Volumes of Timber Harvested as a Result of Catastrophic Events on Woodlot Licences”.
- Advisory Bulletin 2017-01: Managing Catastrophic Events in Woodlots.

This document refers to the Minister, a Delegated Decision maker will exercise the Minister’s authority in accordance with the Delegation Matrix found here:

https://www2.gov.bc.ca/assets/gov/environment/natural-resource-policy-legislation/transfer-of-authority-matrices/fa_delegation_matrix.pdf

Harvest Billing System:

<https://www2.gov.bc.ca/gov/content/industry/forestry/competitive-forest-industry/timber-pricing/harvest-billing-system>

APPENDIX A
WOODLOT LICENCE: CUT CONTROL LIMIT EXEMPTION²
REQUEST

Date of Request: [Date]

Woodlot #: [WL #]

WL Licensee: [WL licensee's name] Phone: [Licensee's phone #] email: [Licensee's email]

Contact Person (if someone other than the WL licensee): [Contact person's name]

Phone: [Contact person's phone #] email: [Contact person's email]

TO: Regional Executive Director or District Manager (see delegation Matrix)

Pursuant to Section 75.9 of the *Forest Act*, I hereby request a cut control limit exemption in the amount of [Enter volume estimate] m³, for a total of [additional volume plus 5 year AAC] m³ or [?] % without penalty for the cut control period ending in [Insert year]. I understand that, if approved, the exemption will only apply to the volume of timber harvested within the current cut control period detailed above.

I have discussed this request with district staff - [Identify who and when].

Current Cut Control Situation:

- I am in year [Enter year number] of my 5-year cut control period (CCP), which ends on [Enter date].
- The sum of AACs for this 5-year cut control period is [Enter volume] m³.
- As of the date of this request, the total volume harvested during this 5-year cut control period is [Enter volume] m³.
- I [plan/do not plan] on harvesting more timber between the date of this request and the next 2 months. Estimated additional volume: [XX] m³.

Licensee Rationale:

- Describe the situation; i.e., why you consider the timber and/or forest resource risk factors as per Section 75.9 of the *Forest Act* (wind, fire, insect, disease). [Enter details]
- Attach a map showing the location(s) of the timber and/or forest resource at risk.
- Photographs attached? [Yes or No]

Signature:

WL Licensee's signature

Date

² Cut Control Limit Exemption – see Forest Act, Section 75.9.