



MINISTRY OF FORESTS,
LANDS, AND NATURAL
RESOURCE OPERATIONS
POLICY

POLICY SUBJECT		
Timber Sale Licence Deposit Administration		
EFFECTIVE	RESPONSIBLE BRANCH	NUMBER
June 22, 2011	BC Timber Sales	19.1
APPROVED		

Scope

This policy, which cancels and replaces any policy or procedure pertaining to the administration of timber sale licence (TSL) deposits that existed prior to the effective date of this policy, applies in respect of any TSL issued under the *Forest Act* unless specifically exempted by an Executive Director, for the Timber Operations and Pricing Division.

Purpose

To ensure that TSL deposits are established and administered in a manner that is fair, legally compliant and consistent with the goals of BC Timber Sales (BCTS).

Definitions

For the purpose of this policy:

TSL means TSLs competitively awarded pursuant to Section 20 of the *Forest Act*, or Section 21 of the *Forest Act* as it was prior to its repeal on May 29, 2003, in which eligibility was restricted to one or more categories of *BC timber sales enterprises*.

TSL bid deposit means an acceptable form of deposit paid by an applicant for a TSL in accordance with Section 15 of the BC Timber Sales Regulation (BCTSR).

TSL deposit means an acceptable form of deposit paid by the successful applicant for a TSL in accordance with Section 16 of the BCTSR.

The total estimated upset stumpage value

- a) For a scale-based TSL is the product of the advertised competitive volume multiplied by the upset stumpage rate; or
- b) For a lump sum TSL (i.e., cruise-based/bonus offer), is the advertised upset stumpage amount.

The total stumpage value

- a) For a scale-based TSL, is the product of the advertised competitive volume multiplied by the sum of the upset stumpage rate plus the bonus bid; or
- b) For a lump sum TSL (i.e., cruise-based/bonus offer), is the advertised upset stumpage amount exclusive of any bonus offer.

Acceptable form of deposit means any or all of the following:

- cash, money order, bank draft, or certified cheque, payable to the revenue minister;
- a Safekeeping Agreement form executed by a chartered bank, credit union or trust company, verifying that assignable securities in

the amount designated by a Timber Sales Manager, are being held in safekeeping, and the rights and claims to the securities have been assigned to Minister of Finance; or

- an Irrevocable Letter of Credit, issued by a chartered bank, credit union or trust company, payable to the Minister of Finance, with a termination date not less than 120 days after the date of the deadline for applications, and which, if submitted by the successful applicant, must be replaced. Any Irrevocable Letter of Credit shall incorporate the following statement:

"This Letter of Credit shall be deemed to be automatically extended on an annual basis without any formal amendment unless, thirty days prior to the present expiry or any future expiry date as automatically extended, we shall notify {name and address of licensee} and {timber sales manager and address of BC Timber Sales Office} in writing that we elect not to extend the Letter of Credit for any further period, and at the same time forward to the Timber Sales Manager, together with such written notice of election, a bank draft payable to the Minister of Finance in the amount of {\$_____} less any amount previously paid under this Letter of Credit."

Policy

It is the policy of the Ministry of Forests, Lands and Natural Resource Operations (the Ministry) that deposits associated with TSLs shall be established and administered as follows:

Pre-issuance Deposit Management

Applications

Where the Timber Sales Manager has specified that a **TSL bid deposit** is required and in accordance with the Section 15 of the BCTSR, each application for a TSL must be secured by its own discrete **TSL bid deposit**.

Setting the TSL bid deposit

Subject to the exceptions described below, the timber sales manager will set the **TSL bid deposit** at the default amount determined in accordance with Section 15 (3) of the BCTSR (i.e., the greater of \$3,000 or 2% of the total estimated upset stumpage value).

Exceptions

In cases where the **total estimated upset stumpage value** is anticipated to be less than \$3,000, and pursuant to Section 15 (2)(a) and (b)(i) of the BCTSR, the Timber Sales Manager shall set the bid deposit amount at \$500 or stipulate that a bid deposit is unnecessary.

Where a Timber Sales Manager has set the bid deposit at \$500 or stipulated that a bid deposit is unnecessary, the Timber Sales Manager must state in the TSL Particulars that the normal standing **TSL bid deposit** provisions set out in Section 15 (1)(b) of the BCTSR do not apply.

Refund of TSL bid deposits

Pursuant to Section 18 of the BCTSR, and subject to the following conditions, if an application for a TSL is not approved, the Timber Sales Manager will refund the **TSL bid deposit** paid in respect of that application:

1. The highest eligible application has been identified and approved by the Timber Sales Manager;
2. The Timber Sales Manager is satisfied that there is no longer a need for the **TSL bid deposit**;

3. The **TSL bid deposit** associated with the unsuccessful application is not needed to offset an outstanding debt payable to Government; and,
4. The unsuccessful applicant understands that the return of their **TSL bid deposit** signifies their withdrawal from the competition for the TSL.

Setting the TSL deposit

Subject to the exceptions described below, the Timber Sales Manager shall set the **TSL deposit** at the default amount calculated in accordance with Section 16 (2) of the BCTSR (i.e., 10% of first \$100,000 of the total estimated stumpage and 5% of the remaining total estimated stumpage value):

Exceptions

In cases where an assessment indicates a significant risk to the Crown may result from a potential incidence of non-conformance with a contractual requirement of the TSL or non-compliance with a statutory requirement related to applicable forestry legislation, the Timber Sales Manager will set the amount of the **TSL deposit** at an appropriate level that is above the default minimums that would otherwise be calculated under Section 16 (2) of the BCTSR.

Where a Timber Sales Manager has set the **TSL deposit** amount at a level above the default amount calculated in accordance with Section 16 (2) of the BCTSR, the timber sales manager must state as such in the TSL Particulars.

Submission of the TSL deposit

The successful applicant for a TSL must, on the demand of a timber sales manager, pay the **TSL deposit** before entering into that TSL. Subject to the exceptions described below, the maximum duration of that demand period shall be no longer than 10 business days following the advertised application opening date for the TSL.

Exceptions

1. Where a Timber Sales Manager requires more than 2 business days, to confirm the successful applicant's eligibility and to approve that person's application for the TSL; or,
2. Where an Executive Director for the Timber Operations and Pricing Division determines that a longer period is warranted.

In the event that the applicant fails to pay the **TSL deposit** in accordance with the demand notice and timing limitations set out above, the Timber Sales Manager shall, for the purposes of Section 19 (1) of the BCTSR, deem the applicant as having refused to enter into the TSL resulting in the forfeiture of the **TSL bid deposit**.

Post-issuance Deposit Management

Extension, Surrender, Expiry, Cancellation

Deposits associated with TSLs that have been successfully entered into shall be administered in accordance with the *Forest Act*, the specific terms of the agreement, the BCTSR and the general procedures described within Schedules A, B and C.

Responsibilities

Executive Directors, Timber Operations and Pricing Division

The Executive Directors, Timber Pricing and Operations Division are responsible for:

- Monitoring the effectiveness and administration of this policy;
- Ensuring TSL deposits are established and administered in accordance with this policy;

- Providing advice to the Timber Sales Managers respecting the implementation of this policy; and,
- Recommending changes to this policy to the Assistant Deputy Minister, Timber Operations and Pricing Division as required.

Timber Sales Managers

Timber Sales Managers are responsible for:

- Establishing and administering TSL deposits in accordance with this policy; and,
- Recommending changes to this policy to the Executive Directors, Timber Operations and Pricing Division.

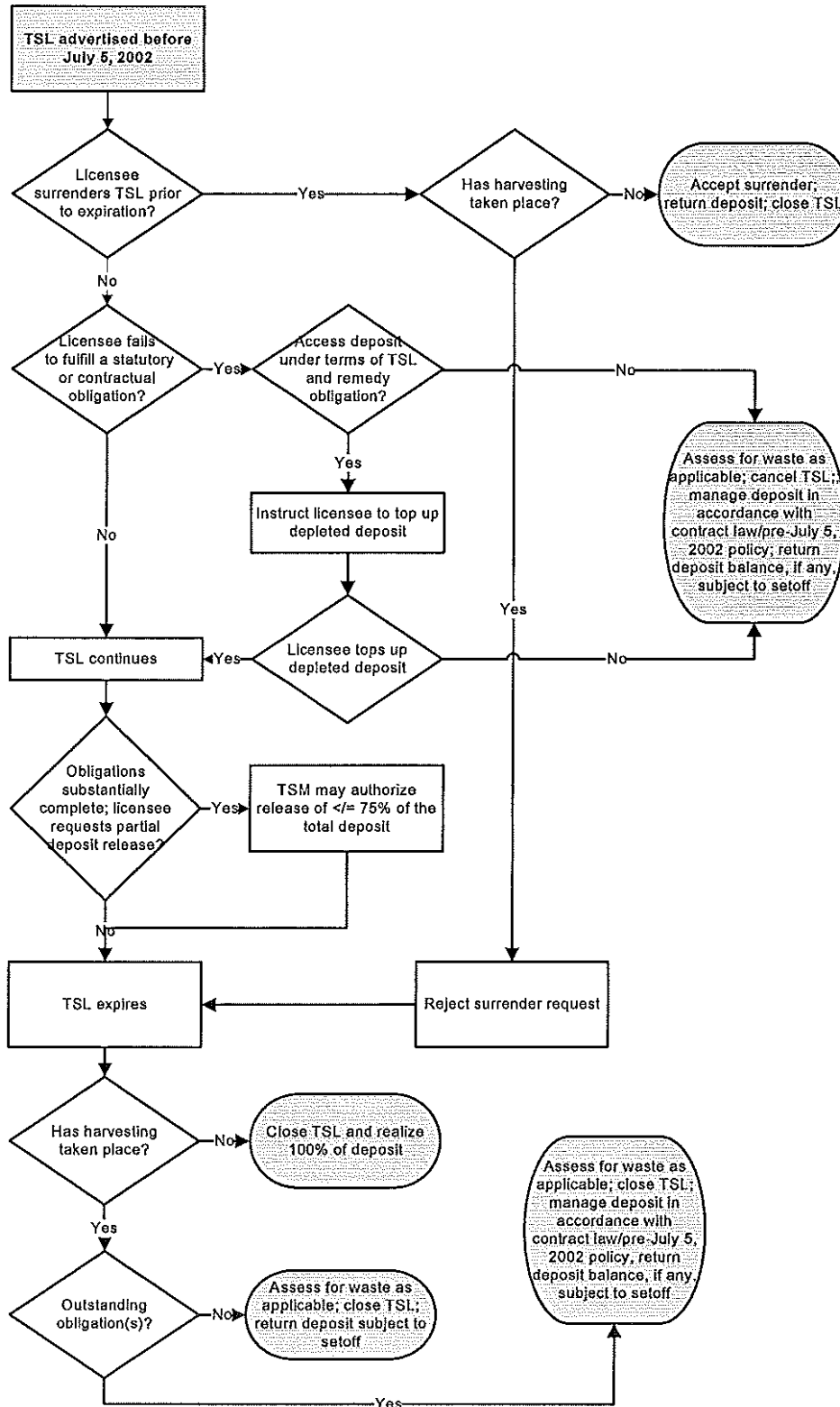
Effective Date

This policy is in effect June 22, 2011

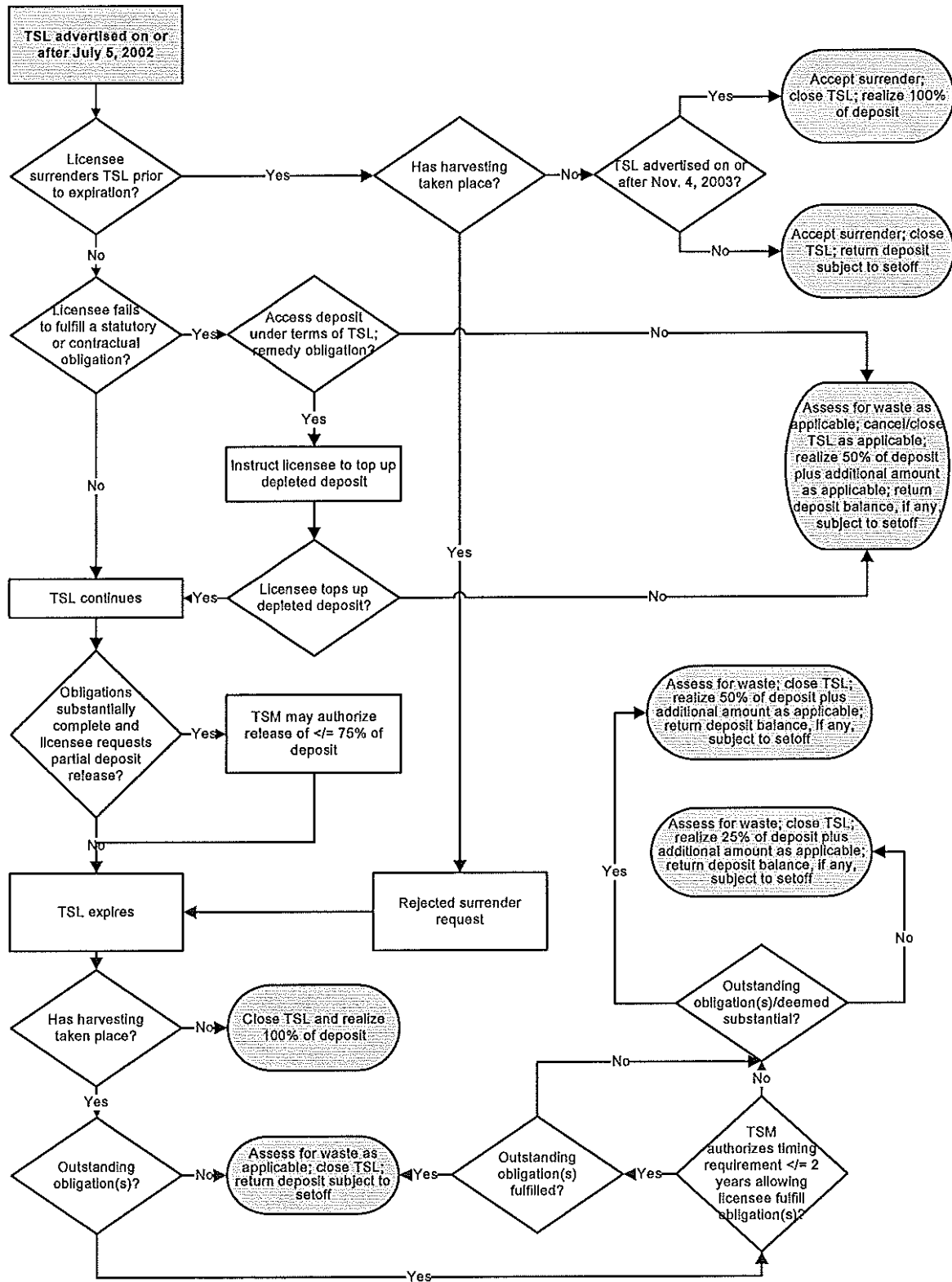
References

- *Forest Act*, Sections 20, 21 as it was prior to its repeal, 22, 58.3 and 78
- *BC Timber Sales Regulation* (B.C. Reg. 381/2008)

Schedule A - General post-issuance deposit management procedures for TSLs advertised before July 5, 2002



Schedule B - General post-issuance deposit management procedures for TSLs advertised on or after July 5, 2002



Schedule C – Pre-July 5, 2002 TSL Deposit Management Policy

Contact BCTS policy department for guidance.