

APPENDIX A

Section 3, Section 4 and the Regulation Table

For the purposes of Section 13(2.1) of the *Forest Act*, the minister may specify that applications for a non-replaceable forest licence must only be invited from one or more categories of applicants established by Section 3 or 4 of the Regulation.

Section 3's category selection process should be used in the majority of situations, as Section 3(3)(a) includes restrictions on the amount of volume (in replaceable licences) an eligible applicant can hold. Section 3(3)(a) restrictions are in keeping with the Regulation's fundamental premise of providing restricted non-replaceable forest licence (NRFL) opportunities to processing facility applicants with limited long-term fibre security.

However, where the minister specifies that applications be invited from categories established under Section 4 of the Regulation, Column 2, Item 5 of the Regulation Table (any type of processing facility) cannot be selected.

Licence Requirements

Processing facility requirements regarding proof of, i) ownership, ii) lease, iii) intends to lease, iv) intends to own by way of purchase, or v) intends to build and own, must be included in both the advertisement and the licence document as needed. A copy of the draft licence document should be included with the advertising package to ensure that all applicants are aware of the various requirements specific to the advertised opportunity. The following general principles apply to all forest licences advertised under Section 13(2.1) of the *Forest Act*:

- Licence must be awarded to the successful applicant upon completion of the tendering process. Failure of the successful applicant to enter into the licence within 60 days upon completion of the tendering process shall result in the forfeiture of deposit(s) and bid.
- No harvesting rights shall be awarded until proof of processing facility ownership, lease, and/or substantial completion is provided to the ministry. Timelines (time commences on the advertised closing date) include:
 - Successful applicants that have indicated that they currently own or lease a processing facility have up to 60 days to provide proof of processing facility ownership or lease. Once the processing facility obligation (proof) is met, there are no further processing facility ownership, lease or processing facility operation requirements. Failure to provide proof within 60 days shall result in the forfeiture of deposit(s) and bid.

For additional flexibility in the tendering process: If the tender process only allows for bidders that currently own or lease a processing facility, government has the flexibility to require up front proof of ownership/lease when bids are submitted. In these situations, no processing facility construction/operation deposit would be required and the 60 day "proof" timeframe would not be available to the bidder.

- Successful applicants that have indicated that they intend to own by way of purchase or intend to lease a processing facility have up to 3 months to provide proof of processing facility ownership (purchase) or lease. Once the processing facility obligation (proof) is met, there are no further processing facility ownership, lease or processing facility operation requirements. Failure to provide proof within 3 months shall result in the cancellation of the licence and forfeiture of deposits.
- Successful applicants that have indicated that they intend to build and own a processing facility have up to 2 years to provide proof of processing facility construction (substantial completion). Once the processing facility obligation (proof) is met, there are no further processing facility ownership, lease or processing facility operational requirements. Failure to provide proof within 2 years shall result in the cancellation of the licence and forfeiture of deposits. "Substantial Completion" defined as the date at which the building project is sufficiently complete so that the owner may use or occupy the building project for the intended use for which it was originally designed and intended for.
- Extending timelines associated with proof of ownership, lease and/or substantial completion is not recommended to ensure an impartial, fair process for all bidders.
- The successful applicant will be required to pay annual rent on the full licence allowable annual cut (AAC) from the date the licence is awarded.
- To be considered an eligible applicant in which i) intends to lease, ii) intends to own by way of purchase, or iii) intends to build and own is a tender option, the following licence deposits must be provided by all applicants as part of the bid process:
 - **Annual rent** in accordance with Section 8(1)(a), of the Advertising, Deposits, Disposition and Extension Regulation (ADDER): payable at a rate of \$0.37 per m³ of AAC.
 - **Security deposit** in accordance with Section 9(1)(b) ADDER, payable at a rate of \$0.15 per m³ of AAC.
 - **Processing facility construction or operation deposit** (\$1.50 per m³ of AAC) as referenced under Section 8(3)(a) ADDER, or in lieu of the Section 8(3)(a) deposit being provided, the applicant can alternatively provide (as part of the bid) upfront proof of processing facility ownership or lease.
 - If a deposit under Section 8(3)(a) ADDER is collected (upfront proof not provided), once proof of ownership or lease of a timber processing facility is provided to the regional executive director then the processing facility construction or operation deposit shall be returned to the successful applicant subject to the *Financial Administration Act*.
- To be considered an eligible applicant in which i) intends to lease, ii) intends to own by way of purchase, or iii) intends to build and own is **not** a tender option, the following licence deposit must be provided as part of the bid process:
 - **Annual rent**, in accordance with Section 8(1)(a) ADDER: payable at a rate of \$0.37 per m³ of AAC.

- **Security deposit** in accordance with Section 9(1)(b) ADDER: payable at a rate of \$0.15 per m³ of AAC.
- In lieu of a Section 8(3)(a) ADDER deposit being provided, the applicant may provide (as part of the bid) upfront proof of processing facility ownership or lease.

Processing Facility – Proof of Ownership or Lease

Proof of ownership or lease may be provided at the time of application or within the required timelines provided above. In providing proof, a sworn affidavit must be provided to the regional executive director that states the applicants processing facility(s) is in operational working order, the type of products capable of being produced at the facility(s), the capacity(s) of the facility(s), the location(s), and the applicant owns the facility(s) or leases the facility(s) with lease rights for the term of the licence. The sworn affidavit must also state that there is presently no other party who has the right to occupy or operate or prevent the applicant from occupying and operating the facility(s) in question in order to process the available fibre. Where applicants have elected to “build and own”, the sworn affidavit must also include a statement that the definition of “substantial completion” has been met. In addition:

- Ownership proof – a State of Title Certificate, bill of sale, and/or other legal or verifiable documentation.
- Lease proof – a copy of a legal and verifiable contract/lease with the lessor, and/or other legal and verifiable documentation confirming the lessee’s rights to the use of the processing facilities for the term of this licence.
- A photograph of the facility in its current condition.

Bonus Offer vs. Bonus Bid

A bonus offer – is the lump sum amount of money the successful bidder has tendered in order to acquire the right to harvest timber. The bonus offer must be paid in accordance with the terms of the tender offer.

A bonus bid – is the dollar per cubic metre (\$/m³) amount the successful bidder has tendered in order to acquire the right to harvest timber. The bonus bid is paid on each cubic metre harvested.

Recommendation: Tender restricted NRFL offerings using a bonus offer (not a bonus bid).

Reasons: Restricted NRFLs are generally set up to receive volume from other licence holders in the business of logging. If the restricted NRFL holder does not harvest the wood, then no bonus bid is collected. As well, attributing volume from a licence without a bonus bid to a restricted NRFL with a bonus bid will likely not be in the public interest (financial issues).

Annual Combined Input Capacity Range of Processing Facilities

The Forest Licence Regulation Table, Column 4, provides the opportunity for the minister to specify (select) one of the annual combined input capacity ranges (e.g. over 5,000 m³ to 50,000 m³).

For further clarity the:

- Annual combined input capacity – means the annual combined input capacity (volume m^3) of all of the processing facilities (that are of the specified type, that are in the specified location, in which the applicant has the specified type of interest) based on each processing facility operating 16 hours per day, 6 days per week and 52 weeks per year.
- Column 4, item 5: “any annual combined input capacity range” provides an opportunity for the minister to specify a range between zero cubic metres and a reasonable upper limit (e.g. 2,000,000 m^3).
- Column 4 is intrinsically linked to Section 3(3)(a) – which restricts the amount of replaceable licences an eligible bidder can hold. Example: If applicants for a restricted NRFL are invited from Section 3 of the Regulation and an input capacity range of $>50,000 \text{ m}^3$ to $100,000 \text{ m}^3$ is selected, then eligible applicants can hold no more than $50,000 \text{ m}^3$ of AAC in replaceable licences.

Secondary Processing Facility:

At times, it may be difficult to determine what a processing facility produces as its primary product. The following is to help in clarifying what is meant by “produce as its primary product” associated with Column 2, Item 1 of the Table.

“Facility” typically refers to an assemblage of processing devices or workstations that are proximal to one another to assist in the manufacture of a product(s). Generally, there is some connectivity of equipment, personnel and/or production integration.

Example: A work site consists of a sawmill, a chipper and an area dedicated to manufacturing secondary products. The work site utilizes a combined total of $100,000 \text{ m}^3$ of timber annually. Question: Is this “primarily” a secondary processing facility?

To determine the answer to the question it is necessary to assess the following:

- Does the facility represent a collection of separate entities or an integrated unit – if the sawmill cuts the boards that are further refined to produce secondary manufactured products, they represent an integrated “processing facility”. Therefore, the annual combined input capacity of the “processing facility” would be equivalent to $100,000 \text{ m}^3$.
- Does the facility produce ($>50\%$ based on either volume (m^3) or value (\$) of output) as its primary product, secondary manufactured products? Continuing with the example above, if the sawmill produces $35,000 \text{ m}^3$ of lumber, the chipper produces $10,000 \text{ m}^3$ in chips and the secondary product line produces $55,000 \text{ m}^3$ of mouldings, then the facility is a “secondary processing facility”. Alternatively, if the sawmill generates \$1,000,000 in sales, the chipper produces \$100,000 in sales and the secondary product line generates \$1,500,000 in sales, then the facility is a “secondary processing facility”.

APPENDIX B

The following provides a list of eligible materials produced by processing facilities associated with the Forest Licence Regulation, Column 2, Item 1 – Types of Processing Facilities – a secondary processing facility:

- Boxes, Bins and Crates
- Cabinets
- Chopsticks
- Coffins
- Countertops
- Crafting Stock
- Doors and Door stock
- Edge Glued Components
- Finger-Jointed Lumber
- Flooring
- Flooring/Engineered
- Furniture
- Hardboard (High Density Fiberboard)
- House Logs
- Joinery Stock
- Ladder Stock
- Medium Density Fiberboard (MDF)
- Mouldings
- Pallets
- Particle Board (Low Density Fiberboard)
- Poles
- Posts
- Shakes
- Siding
- Shingles
- Stakes, Lathe, Strips and Batten
- Staircase Components
- Structural Laminated Beams
- Turned Wood Products
- Turning Squares
- Windows and Window Stock
- Wood Novelties

The following provides a list of eligible materials produced by processing facilities associated with the Forest Licence Regulation, Column 2, Item 2 – Types of Processing Facilities – a facility that produces pulp, paper, oriented strand board or newspaper:

- Pulp
- Paper
- Oriented Strand Board
- Newspaper

The following provides a list of eligible materials produced by processing facilities associated with the Forest Licence Regulation, Column 2, Item 3 – Types of Processing Facilities – a facility that produces wood chips or ground wood and is not an excluded processing facility [see also Forest Licence Regulation, Section 1(3)]:

- Wood chips
- Ground wood

The following provides a list of eligible materials produced by processing facilities associated with the Forest Licence Regulation, Column 2, Item 4 – Types of Processing Facilities – a facility that produces pellets, bio-energy, or bio-chemicals from timber or wood residue:

- Pellets
- Bio-energy (e.g. uses hog fuel or low quality fibre for energy production)
- Bio-chemicals

The following provides a list of eligible materials produced by processing facilities associated with the Forest Licence Regulation, Column 2, Item 5 – Types of Processing Facilities – any type of processing facility:

- All types of materials produced by processing facilities in Column 2, Item 1 to Column 2, Item 4 above, and
- Boards
- Cants
- Flitches
- Lumber
- Veneer
- Any other facility that processes (a) timber or wood residue or both, (b) products produced from timber or wood residue or both, or (c) products under both Paragraphs (a) or (b).

APPENDIX C

Cut Control Regulation – refer to Sections 18 through 23 of the Cut Control Regulation.

Section 20 Attribution if the licences is in the same Timber Supply Area (TSA)

A portion of the timber harvested may be attributed from one licence to another licence in a TSA if each licence is one of the following: a forest licence (FL), a timber sale licence (TSL) that specifies an AAC, or a Forestry Licence to Cut (FLTC) that is a major licence. The licences need not be of the same type. A forest licence includes both replaceable and non-replaceable forest licences.

Applicable legislation associated with “a major licence”

Forest Act - Definitions and interpretation 1 (1) "major licence" means

(e) a forestry licence to cut that

- (i) specifies that it is a major licence,
- (ii) is issued to satisfy the obligations of the government under a pulpwood agreement, or
- (iii) is entered into under Section 47.3 (1)(a)

Section 21 Exception for Woodlot Licences and Restricted Forest Licences

Section 21 provides an exception to Section 20 (TSA attributions). Exception: A woodlot licence can attribute volume to a restricted NRFL within the (surrounding/underlying) TSA or **adjacent** TSA. For example: A woodlot within the Kamloops TSA can attribute volume to a restricted NRFL in any of the following TSAs: Kamloops, Lillooet, Merritt, 100 Mile House, Robson Valley, Revelstoke or Okanagan.

A woodlot licence cannot attribute volume to other licences (i.e. FLTC major, other types of FLs, or TSL with an AAC) within the (surrounding/underlying) TSA or adjacent TSA (or vice versa).

A restricted NRFL within the (surrounding/underlying) TSA or other TSA cannot attribute volume to a woodlot licence.

Section 22 Attribution if Licences are in the Same Tree Farm Licence (TFL) Area

“TFL area” attributions can only occur between a forest licence (FL), a timber sale licence (TSL) that specifies an AAC, a Forestry Licence to Cut (FLTC) that is a major licence, or the TFL licence itself (e.g. TFL to NRFL). Attributions cannot occur between licences outside the TFL area, including a WL that is surrounded by the TFL (or vice versa).

Section 23 Attribution if Licences are in the same Woodlot Licence (WL)

“WL area” attributions can only occur between a non-replaceable forest licence (NRFL), a Forestry Licence to Cut (FLTC) that is a major licence, or the WL licence itself (e.g. WL to NRFL). See also Section 21 above. Note: The disposition of volume to other parties (e.g. issuance of a FLTC or NRFL) in a woodlot area is rare but necessary at times to ensure that the harvesting of timber does occur, or to facilitate an agreement between the Crown and a woodlot owner to dispose of a portion of the AAC within a woodlot.

Applicable legislation associated with the disposition of unharvested volume

***Forest Act*, Section 75.8 No Carry Forward of Unharvested Volume**

(1) If the volume of timber harvested during a cut control period for a licence, as defined in Section 75.4, a forest licence, as defined in Section 75.5, or a timber sale licence, as defined in Section 75.5, is less than the sum of the allowable annual cuts for that period that are

- (a) authorized for the licence if it is a forest licence, timber sale licence or woodlot licence, or
- (b) available to the holder under the licence if it is a tree farm licence, the holder of the licence must not harvest that unharvested volume of timber in a subsequent cut control period.

(2) The unharvested volume of timber, referred to in Subsection (1), in a tree farm licence area or woodlot licence area may be disposed of to a person other than the holder of the tree farm licence or woodlot licence by means of

- (a) a forestry licence to cut,
- (b) a timber sale licence under Section 20, or
- (c) a non-replaceable forest licence.

Community Forest Agreements and First Nation Woodland Licences

Community Forest Agreements (CFAs) and First Nation Woodland Licences (FNWLs) are two forms of tenure agreements that are not included in the cut control part of the *Forest Act*. Instead, cut control for CFAs and FNWLs are dealt with in the individual licence documents.

Transfer Regulation

Refer to the Transfer Regulation, “Transfer of Restricted Forest Licences” for information associated with the transfer of restricted forest licences between parties.

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No.

, Approved and Ordered

Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that

- (a) sections 63 and 94 (b) of the *Miscellaneous Statutes Amendment Act (No.2)*, 2011, S.B.C. 2011, c. 13, are brought into force,
- (b) the Cut Control Regulation, B.C. Reg. 578/2004, is amended as set out in the attached Schedule 1,
- (c) the Forest Licence Regulation, B.C. Reg. 68/2009, is repealed and the Forest Licence Regulation set out in the attached Schedule 2 is made, and
- (d) the Transfer Regulation, B.C. Reg. 351/2004, is amended as set out in the attached Schedule 3.

Draft 11 redline (edited)

*Minister of Forests, Lands
and Natural Resource Operations*

Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Miscellaneous Statutes Amendment Act (No.2)*, 2011, S.B.C. 2011, c. 13, section 137;
Forest Act, R.S.B.C. 1996, c. 157, sections 13, 54.4, 75.1 and 151

Other: OIC 1242/2004, 192/2009 and 782/2004

June 5, 2012

R/337/2012/10

SCHEDULE 1

CUT CONTROL REGULATION

- 1 *The Cut Control Regulation, B.C. Reg. 578/2004, is amended in sections 5, 11 and 16.1, by striking out "In this Division" and substituting "In this Part".*
- 2 *Section 18 is repealed and the following substituted:*

Division 2 – Attributing Volume

Definitions and interpretation

- 18 In this Division:

"licence" means a licence, as defined in a provision of Division 3.1 of Part 4 of the Act;

"restricted forest licence" means a licence that is also a restricted forest licence, as defined in section 54.4 (0.1) of the Act.

Crediting volume between licences

- 19 The minister may attribute a portion of the volume of timber harvested under a licence to another licence if,
- (a) subject to section 20, each licence grants rights to harvest timber within the same timber supply area,
 - (b) subject to section 22, each licence grants rights to harvest timber within the same tree farm licence area, or
 - (c) subject to section 23, each licence grants rights to harvest timber within the same woodlot licence area.

Attribution if licences in same timber supply area

- 20 An attribution may be made under section 19 (a) only if
- (a) each licence is one of the following types of ~~licences~~ licence, but the licences need not be of the same type:
 - (i) a forest licence;
 - (ii) a timber sale licence that specifies an allowable annual cut;
 - (iii) a forestry licence to cut that is also a major licence,
 - (b) neither licence grants rights to harvest timber within
 - (i) a tree farm licence area, or
 - (ii) a woodlot licence area, and
 - (c) the minister is satisfied that
 - (i) the licence holders consent to the attribution,
 - (ii) a cut control statement has not been issued in respect of the volume being attributed,

- (iii) the attribution can be made for the same calendar year as the calendar year in which the timber is harvested,
- (iv) the licence holders are not in contravention of a provision under Division 3.1 of Part 4 of the Act, and
- (v) the attribution is not contrary to the public interest.

Exception for woodlot licences and restricted forest licences

21 Despite section 20, a portion of the volume of timber harvested under a licence that is a woodlot licence may be attributed to a restricted forest licence if

- (a) the woodlot licence area
 - (i) is entirely or partly within the timber supply area specified in the restricted forest licence, or
 - (ii) is entirely within a timber supply area that is adjacent to the timber supply area specified in the restricted forest licence, and
- (b) the minister is satisfied that all of the requirements set out in subparagraphs (i) to (v) of section 20 (c) are met.

Attribution if licences in same tree farm licence area

22 An attribution may be made under section 19 (b) only if

- (a) each licence is one of the following types of ~~licences~~licence, but the licences need not be of the same type:
 - (i) a forest licence;
 - (ii) a timber sale licence that specifies an allowable annual cut;
 - (iii) a tree farm licence;
 - (iv) a forestry licence to cut that is also a major licence, and
- (b) the minister is satisfied that all of the requirements set out in subparagraphs (i) to (v) of section 20 (c) are met.

Attribution if licences in same woodlot licence area

23 An attribution may be made under section 19 (c) only if

- (a) each licence is one of the following types of ~~licences~~licence, but the licences need not be of the same type:
 - (i) a non-replaceable forest licence;
 - (ii) a woodlot licence;
 - (iii) a forestry licence to cut that is also a major licence, and
- (b) the minister is satisfied that all of the requirements set out in subparagraphs (i) to (v) of section 20 (c) are met.

SCHEDULE 2

FOREST LICENCE REGULATION

Contents

- 1 Definitions and interpretation
- 2 Categories of applicants for restricted forest licences
- 3 Categories that exclude major licensees
- 4 Categories that include major licensees
- 5 Proof of eligibility

TABLE

Definitions and interpretation

- 1 (1) In this regulation:
 - "Act" means the *Forest Act*;
 - "affiliate" has the same meaning as in section 53 of the Act;
 - "annual combined input capacity" means the annual combined input capacity of one or more processing facilities based on each processing facility operating for 16 hours per day, 6 days per week and 52 weeks per year;
 - "control of a corporation" has the same meaning as in section 53 of the Act;
 - "processing facility" means a facility that processes
 - (a) timber or wood residue or both,
 - (b) products produced from timber or wood residue or both, or
 - (c) products under both paragraphs (a) and (b);
 - "restricted forest licence" means a non-replaceable forest licence for which applications are invited in accordance with section 13 (2.1) of the Act from one or more categories of applicants as established by this regulation;
 - "secondary processing facility" means a processing facility that does not produce, as its primary product, boards, cants, flitches, lumber, veneer, oriented strand board, pulp, paper, newspaper, wood chips, pellets, ground wood, bioenergy, biochemicals or hog fuel;
- (2) For the purposes of sections 3 (3) and 4 (3), a person holds a licence or agreement referred to in those sections if any of the following apply:
 - (a) the person is an individual or corporation that holds the licence or agreement;
 - (b) the person is an individual who is in control of a corporation that
 - (i) holds the licence or agreement, or
 - (ii) is affiliated with another corporation that holds the licence or agreement;
 - (c) the person is a corporation that is affiliated with another corporation that holds the licence or agreement.

- (3) For the purposes of item 3 in Column 2 of the Table, “**excluded processing facility**”, in relation to a processing facility that produces wood chips or ground wood, means a facility to which one or more of the following apply:
- (a) the facility uses the wood chips or ground wood to produce other products at that facility;
 - (b) the facility is owned by an individual or corporation that uses the wood chips or ground wood to produce other products at another facility that the individual or corporation owns;
 - (c) the facility is owned by an individual who is in control of a corporation that
 - (i) uses the wood chips or ground wood to produce other products at another facility, or
 - (ii) is affiliated with another corporation that uses the wood chips or ground wood to produce other products at another facility;
 - (d) the facility is owned by a corporation and the corporation is affiliated with another corporation that uses the wood chips or ground wood to produce other products at another facility.

Categories of applicants for restricted forest licences

- 2 For the purposes of section 13 (2.1) of the Act, the minister may specify that applications for a non-replaceable forest licence must only be invited from one or more categories of applicants established by section 3 or 4 of this regulation.

Categories that exclude major licensees

- 3 (1) The categories of applicants established by this section are those categories that, subject to subsection (3), result from combining the following:
- (a) one or more types of interest listed ~~in the items in~~ Column 1 of the Table;
 - (b) one or more types of processing ~~facilities~~facility listed ~~in the items in~~ Column 2 of the Table;
 - (c) one of the locations listed ~~in the items in~~ Column 3 of the Table;
 - (d) one of the annual combined input capacity ranges listed ~~in the items in~~ Column 4 of the Table.
- (2) For the purposes of this section, each annual combined input capacity range listed in Column 4 of the Table refers to the annual combined input capacity range of all of the processing facilities
- (a) that are of the type,
 - (b) that are in the location, and
 - (c) in which an applicant has the type of interest
- required in order for the applicant to be included in a category established by this section.
- (3) A category of applicants established by this section does not include a person that holds any of the following:
- (a) one or more major licences that are replaceable and together have an aggregate allowable annual cut greater than

- (i) 25 000 m³, in the case of a category that includes processing facilities with an annual combined input capacity within the range listed in item 1 in Column 4 of the Table,
- (ii) 50 000 m³, in the case of a category that includes processing facilities with an annual combined input capacity within the range listed in item 2 in Column 4 of the Table,
- (iii) 125 000 m³, in the case of a category that includes processing facilities with an annual combined input capacity within the range listed in item 3 in Column 4 of the Table,
- (iv) 250 000 m³, in the case of a category that includes processing facilities with an annual combined input capacity within the range listed in item 4 in Column 4 of the Table, or
- (v) one half of the annual combined input capacity of the processing facilities, in the case of a category that includes processing facilities with an annual combined input capacity range listed in item 5 in Column 4 of the Table;
- (b) 3 or more restricted forest licences;
- (c) an agreement referred to in section 12 of the Act the rights in respect of which are under suspension, in whole or in part, under section 76 or 78 of the Act.

Categories that include major licensees

- 4 (1) The categories of applicants established by this section are those categories that, subject to subsection (3), result from combining the following:
 - (a) one or more types of interest listed ~~in the items in~~ Column 1 of the Table;
 - (b) one or more types of processing facilities ~~listed in the items in~~ facility listed in Column 2 of the Table, other than the type of processing facility listed in item 5 of that column;
 - (c) one of the locations listed ~~in the items in~~ Column 3 of the Table;
 - (d) one of the annual combined input capacity listed ~~in the items in~~ Column 4 of the Table.
- (2) For the purposes of subsection (1), each annual combined input capacity range listed in Column 4 of the Table refers to the annual combined input capacity range of all of the processing facilities
 - (a) that are of the type,
 - (b) that are in the location, and
 - (c) in which an applicant has the type of interest
 required in order for the applicant to be included in a category established by this section.
- (3) A category of applicants established by this section does not include a person that holds any of the following:
 - (a) 3 or more restricted forest licences;

- (b) an agreement referred to in section 12 of the Act the rights in respect of which are under suspension, in whole or in part, under section 76 or 78 of the Act.

Proof of eligibility

- 5 (1) A person who that applies for a restricted forest licence must provide proof satisfactory to the minister that the person
- (a) meets all the requirements in respect of the category of applicants applicable to the person, as specified by the minister in the invitation for applications for the licence, and
 - (b) is not excluded from a category under section 3 (3) or 4 (3).
- (2) If a person does not comply with subsection (1), the minister may reject the application without further consideration.

Table

Item	Column 1 Types of Interest in Processing Facilities	Column 2 Types of Processing Facilities	Column 3 Location of Processing Facilities	Column 4 Annual Combined Input Capacity Range of Processing Facilities
1	owns	secondary processing facility	a forest district	over 5 000 m ³ to 50 000 m ³
2	leases	processing facility that produces pulp, paper, oriented strand board or newspaper	an area comprising up to 6 forest districts	over 50 000 m ³ to 100 000 m ³
3	intends to lease	processing facility that produces wood chips or ground wood and is not an excluded processing facility	the Province	over 100 000 m ³ to 250 000 m ³
4	intends to own by way of purchase	processing facility that produces pellets, bioenergy or biochemicals from timber or wood residue		over 250 000 m ³ to 500 000 m ³
5	intends to build and own	any type of processing facility		any annual combined input capacity range

SCHEDULE 3

TRANSFER REGULATION

51 Section 4 of the Transfer Regulation, B.C. Reg. 351/2004, is amended

(a) in subsection (1) by adding the following definitions:

“processing facility” has the same meaning as in section 1 (1) of the Forest Licence Regulation;

“restricted forest licence” has the same meaning as in section 54.4 (0.1) of the Act;

“secondary processing facility” has the same meaning as in section 1 (1) of the Forest Licence Regulation., *and*

(b) in subsection (2) by adding “and (1.01)” after “section 54.4 (1) (b)”.

62 The following section is added:

Transfer of restricted forest licences

- 8 (1) This section applies to the holder of a restricted forest licence if the holder, at the time the restricted forest licence was entered into, owned or leased, or intended to own or lease, one or more of the following types of processing ~~facilities~~facility:
- (a) a secondary processing facility;
 - (b) a processing facility that produces pulp, paper, oriented strand board or newspaper;
 - (c) a processing facility that
 - (i) produces wood chips or ground wood, and
 - (ii) is not an excluded processing facility, as defined in section 1 (3) of the Forest Licence Regulation;
 - (d) a processing facility that produces pellets, bioenergy or biochemicals from timber or wood residue.
- (2) For the purposes of section 54.4 (1.01) of the Act, the holder of a restricted forest licence to whom this section applies may dispose of the licence to another person only if both of the following apply at the time of the disposition:
- (a) the holder of the licence owns or leases the type of processing ~~facilities~~facility that applicants for the licence were required to own or lease, or intend to own or lease, when categories of applicants for the licence were established under section 13 (2.1) of the Act;
 - (b) the intended recipient of the licence
 - (i) owns or leases the type of processing ~~facilities~~facility described referred to in paragraph (a), or
 - (ii) is obtaining from the holder the ownership or lease of the type of processing ~~facilities~~facility described referred to in paragraph (a).

- (3) The disposition of a licence under subsection (2) to an intended recipient ~~whether~~that is obtaining the ownership or lease of ~~a processing facilities~~facility, as described in subsection (2) (b) (ii), is without effect if the intended recipient fails to obtain that ownership or lease within 60 days of the disposition.

