



File: 19400-00

October 30, 2015

BY EMAIL

To: Regional Executive Directors
Area Assistant Deputy Ministers

From: Dave Peterson
Assistant Deputy Minister
Tenures, Competiveness and Innovation Division

Re: *Forest Act*, Sections 61 and 62, Bulletin #3

Attached is a revised Bulletin #3 regarding: Temporary Allowable Annual Cut (AAC) Reductions in accordance with Sections 61 and 62 of the *Forest Act*. The attached bulletin cancels and replaces Bulletin #3 dated June 25, 2001.

The bulletin provides a clearer interpretation and use of Sections 61 and 62. The bulletin outlines the following:

- Interpretation of Sections 61 and 62;
- Conditions where Section 61 is appropriate;
- Government considerations;
- Information requirements;
- Disposition of AAC; and
- How a temporary reduction in AAC affects cut control, annual rent and security deposit.

A guidance document (attached) has also been prepared to assist staff with the implementation and delivery of a temporary AAC reduction. The document provides a detailed process to assist staff and licensees in the preparation and review of *Forest Act*, Sections 61 or 62 requests. It also provides guidance in the preparation of a decision package for the delegated decision maker.

The attached information is available at:

<https://www.for.gov.bc.ca/ftp/hth/external/!publish/web/fa-bulletins/>

Regional Executive Directors
Area Assistant Deputy Ministers

Further assistance is available at Forest Tenures Branch.

A handwritten signature in black ink, appearing to read 'Dave Peterson', with a stylized, cursive script.

For Dave Peterson
A/Assistant Deputy Minister
Tenures, Competiveness and Innovation Division

Attachments: 1. *Forest Act*, Section 61/62, Bulletin # 3
2. *Forest Act*, Section 61/62, Guidance Document

Forest Act Bulletin

Number 3

**Temporary Reduction and Disposition
of a Licence's Allowable Annual Cut (Section 61)
and the Restoration of that AAC (Section 62)**

APPROVED BY:

A handwritten signature in black ink, appearing to read 'D. Williams', with a stylized flourish at the end.

**Duncan Williams,
Acting Assistant Deputy Minister**

Dated: October 30, 2015

Forest Act Bulletin

Number 3

October 27, 2015

Temporary Reduction and Disposition of a Licence's Allowable Annual Cut (Section 61) and the Restoration of that AAC (Section 62)

1.0 - Summary

This bulletin and the “Guidelines for the Interpretation and Use of Section 61 and 62 of the *Forest Act*” has been prepared to assist ministry staff in the interpretation and application of Sections 61 and 62 of the *Forest Act*. This document cancels and replaces Bulletin #3, dated June 25, 2001.

Sections 61 and 62 of the Act enable the temporary reduction and the disposition of the allowable annual cut (AAC) authorized under a forest licence (FL), timber sale licence (TSL), woodlot licence (WL), community forest agreement (CFA), First Nations woodland licence (FNWL) or tree farm licence (TFL).

2.0 - Definitions

“*licence*” means an FL (replaceable and non-replaceable), TSL (with an AAC), WL, CFA, FNWL, or TFL;

“*licensor*” means the minister or the applicable regional manager or district manager for the licence; and,

“*total volume of timber comprised in the reduction*” means the sum of the reductions in the AAC of the licence for the term of the reduction.

3.0 - Interpretation

Section 61 allows:

- the minister, with the consent of the licensee, to temporarily reduce the AAC authorized for harvest under a licence for a specified period,
- the minister, with the consent of the licensee, to extend the period of the AAC temporary reduction or increase or decrease the amount of the AAC temporary reduction for the period of the extension, or both, and,
- the ministry to dispose of the volume of the reduction during the term of the reduction to persons other than the licensee, in accordance with the provisions of the *Forest Act*.

Section 62 does the following:

- after the expiry of the reduction period, the AAC is restored to the pre-reduction amount (less any non-Section 61 reductions made during the period of the reduction).

4.0 - Application of a temporary reduction in licence AAC under Section 61

4.1 - Initiation

A temporary AAC reduction may be initiated by:

- a licence holder request; or,
- the minister on his own initiative (requires the consent of the licensee).

4.2 - When

The licence AAC may be temporarily reduced, when:

- the minister has approved the reduction pursuant to Section 61; and,
- the licensee has consented to the reduction.

Note: Licence administration requires that the licensor and the licensee to have entered into an amendment to the licence evidencing the terms and conditions of the reduction.

Application for a temporary AAC reduction is for exceptional circumstances only.

Examples for an application of Section 61

- initiatives to meet government's social and economic objectives such as those involving First Nations or communities;
- to meet forest management objectives (for example: forest health, sustainable resource management)
- during the construction period to replace a destroyed sawmill;
- to meet licensee operational requirements such as a change over in processing facilities to better utilize the timber resource; or,
- where for reasons beyond the control of the licensee all or substantial portions of the AAC are not available due to causes such as a lack of access to the licence area or portion thereof.

Temporary AAC reductions should not be employed as a means to circumvent the cut control provisions of the *Forest Act* or regulations or for financial reasons (for example a downturn in the markets). The social and economic benefits to the Crown of granting the temporary AAC reduction should be considered in the decision to recommend or not recommend approval.

4.3 – Information required to proceed with a temporary reduction for a licence AAC under Section 61

The following information is required to process a Section 61 reduction:

- amount of the AAC reduction,
- period of the AAC reduction

- reasons for the AAC reduction.
- ability to meet forest management social and economic objectives
- ability or opportunities to dispose of the available AAC
- stakeholders and the public input, and any proposed mitigation initiatives by the licensee.
- input from the principal stakeholders such as contractors, labour organizations, workers, First Nations and communities to the potential Section 61 reduction.(see Section 4.4 Identification of Stakeholder Impacts).
- notification of reduction and term of reduction.

4.5 - Term

The temporary AAC reduction will be approved for a period of time determined by the minister.

The term of the approval may not exceed the term of the licence and should reflect the nature and objectives of the temporary AAC reduction.

A Temporary AAC Reduction under Section 61 cannot be retroactive prior to the date of the application.

4.6 - Extension of term

Before the end of the period for which a temporary AAC reduction applies, the minister, with the consent of the licensee, may:

- extend the period of the temporary AAC reduction, or
- increase or decrease the size of temporary AAC reduction for the current year and a future period or
- both.

The temporary AAC reduction amounts may not be changed retroactively.

4.7 - Conditions

The minister's approval must be evidenced by an amendment that is consented to by both the licensee and licensor.

The amendment should include the following information:

- identification of the authorized licence(s);
- the effective term of the temporary AAC reduction;
- the amended AAC in the licence document;
- any other terms and conditions consistent with the objective of the temporary AAC reduction and with the licence(s).

5.0 - Other Administrative Considerations

5.1 - Cut Control

The AAC will be reduced accordingly by the annual amount of the temporary AAC reduction and the period for which it is approved. AAC pro-ration for cut control may be necessary where the AAC reduction is approved for a portion of a calendar year.

All standard cut control provisions will apply.

5.2 - Restoration of AAC (Section 62)

At the end of the period of a Section 61 temporary AAC reduction the AAC is restored by means of Section 62 to the amount that is equal to the AAC that was in effect for the licence immediately before the temporary reduction, less any additional changes to the licence done in accordance with the legislation that resulted in an AAC reduction(s).

5.5 - Adjustment in Annual Rent

During the term of the temporary AAC reduction the annual rents requires a recalculation and adjustment based on the temporarily reduced AAC available to the holder of the licence. Annual rents are to be prorated for partial years.

5.6 - Adjustment in Security Deposit

A temporary AAC reduction does not trigger a change in the security deposits for the licence.

6.0- Disposition of the volume approved from a temporary AAC reduction

Disposition of any volume made available through a Section 61 temporary AAC reduction must be in accordance with the *Forest Act*. A temporary AAC reduction does not change any AAC reservations stated in a Tree Farm Licence Agreement, Community Forest Agreement or First Nations Woodlands Agreement. A temporary AAC reduction must also consider BCTS Disposition Agreements.

7.0 – Forest Act and Regulation References

Forest Act

Section 22.2	BCTS Disposition Agreements
Section 47.8	Disposition of timber in a tree farm licence
Section 58	Extension of term of non-replaceable forest licences and timber sale licences
Section 61	Temporary reductions
Section 62	Return of surrendered harvesting rights
Section 63	Proportionate reduction
Section 65	Excess harvesting
Section 111	Annual rent
Section 112	Calculation of annual rent

Regulations

Advertising, Deposits, Disposition, and Extension Regulation
Annual Rent Regulation

Contacts

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Guidelines for the Interpretation and Use of Forest Act, Sections 61 and 62

October 27, 2015

Section 61

**Temporary Reduction and Disposition
of a Licence's Allowable Annual Cut**

Section 62

Restoration of Temporary AAC reduction

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1.0 - Purpose

This guideline has been prepared by the Ministry of Forests, Lands and Natural Resource Operations (FLNRO) to assist ministry staff in the interpretation and application of Sections 61 and 62 of the *Forest Act* (July 13, 2012, *Reproduced in Appendix 1*). This document supports the Forest Act Bulletin # XX (date tbd) which cancels and replaces Bulletin #3, June 25, 2001.

Sections 61 and 62 of the *Forest Act* provide for the temporary reduction, disposition and return of all or part of the allowable annual cut (AAC) on Crown lands authorized under a forest licence (FL), First Nations woodland licence (FNWL), community forest agreement (CFA), woodlot licence (WL), or tree farm licence (TFL).

2.0 - Definitions

“*licence*” or “*tenure*” means a Forest Licence (FL) (replaceable and non-replaceable), Woodlot Licence (WL), Community Forest Agreement (CFA), First Nations Woodland Licence (FNWL), Tree Farm Licence (TFL), Timber Sales Licence (TSL), or Forest Licence to Cut (FLTC).

“*disposition*” means the disposition of the AAC made available as the result of an approved temporary AAC reduction in the form of an acceptable tenure within the reduction period. “*total volume of timber comprised in the reduction*” means the sum of the reductions in the AAC of the licence for the term of the reduction.

“*Reduction period, Period of Reduction*” is the length of time for the approved temporary AAC reduction.

“*TSL*” means a timber sale licence issued pursuant to *Forest Act*, Section 20.

3.0 - Interpretation

Section 61:

- The minister¹, with the consent of the licensee, can temporarily reduce the AAC authorized for harvest under a specified licence for a specified period of time.
- Before the expiry of the temporary AAC reduction period, the minister, with the consent of the licensee, can extend the period of the AAC temporary reduction and/or increase or decrease the amount of the AAC temporary reduction for the period of the extension. and,
- The ministry can dispose of the volume of the reduction, in accordance with the *Forest Act*, to persons other than the licensee.

Section 62:

- After the expiry of the reduction period, the AAC of the licence is restored to the pre-reduction amount (less any non-Section 61 reductions made during the period of the reduction).

¹ Please refer to the current Delegation Matrix to confirm the delegated decision maker for Section 61 of the *Forest Act*. All correspondence may be addressed to the delegated decision maker. On the date of this bulletin Section 61 is delegated to the Area Assistant Deputy Minister.

Quick Facts:

- *Forest Act*, Section 61(1) provides the Minister the ability to temporarily reduce the AAC.
- As of August 2014, *Forest Act*, Section 61(1) and 61(2) are delegated to the Area Assistant Deputy Minister
- *Forest Act* Section 61(3) is not an administrative decision point under the *Forest Act*: as such this section is not delegated. This section provides the Province the authority to dispose of this volume in accordance with part 3 of the *Forest Act* without the need for a formal apportionment under Section 10.
- Section 61(3) allows the accumulated timber volume made available as a result of the temporary AAC reduction be issued under Part 3 of the *Forest Act* by the Regional Executive Director in the form of a Non Replaceable Forest Licence (NRFL) or a Licence to Cut (LTC) (including Forestry Licence to Cut (FLTC)), by the Timber Sales Manager in the form of a Timber Sales Licence (TSL) or by the District Manager in the form of a FLTC.
- A temporary AAC reduction under Section 61 is licence holder specific.
- A temporary AAC reduction under Section 61 does not reduce the AAC of the management unit.
- A disposition strategy should be developed at the time of the AAC reduction approval; however, this is not a requirement under the *Forest Act*. A disposition strategy, if ever developed, can occur after the approval of the AAC reduction.
- Cut control rules apply in accordance with Sections 75.4 and 75.5 of the *Forest Act*.
- Amendments to the Management Plan and Forest Stewardship Plan are not required for a licence that has been temporarily reduced under Section 61.
- A temporary AAC reduction in accordance with Section 61 of the *Forest Act* only applies to the licensee AAC and does not affect any AAC reservations stated in the licence agreement.

4.0 Implementation of Section 61(1) and 61(2)

4.1 Initiation

At any time during the term of the licence,

- the licence holder, or
- the minister,

may initiate a temporary reduction to the AAC of the licence.

4.2 Considerations

When contemplating a temporary reduction, the Minister may wish to consider certain factors, including, but not limited to:

- Damage to, or destruction of, the licensee's timber processing facility;
- Whether the licensee has committed to repair or re-construct that timber processing facility;

- Current factors beyond the control of the licensee, i.e. the licensee has been prevented from accessing all or substantial portions of the licence area;
- Consistency with Ministry objectives, i.e. best interest of the public;
- Currently viable and available volume;
- Results of consultation with First Nations
- First Nations' interests in timber volume;
- Other groups or stakeholders interests in the timber volume;
- Market pricing data obligations (i.e. BCTS and auctioned TSLs); and
- government revenue.

4.3 Process

The following is a suggested process to submit, review and prepare a Section 61 request.

Note:

Most Section 61 requests are made by the licensee. In the event the Minister initiates an AAC reduction process, Area staff will notify the Licensee of the Minister's intention and request the Licensee for a letter of consent.

Section 61 requests for a TFL is led by Forest Tenures Branch staff, requests for other forms of tenures are led by Area staff.

To assist with the process a route card is provided in Appendix 3

4.31 Decision 1: Section 61(1)

- Licensee submits request (with rationale) for reduction in AAC to the Minister, (refer to Section 4.6 of this bulletin and Table 1: Roles and Responsibilities);
 - District staff conducts consultation with First Nations for request under Section 61(1) (and 61(2) if required) of the *Forest Act*,
 - Licensee may conduct a public review (if required by Area staff),
 - Area staff conducts interest groups referrals and prepares summaries (if required by Area staff),
 - Area staff conducts agency referrals and prepares summaries (if required by Area staff), and
 - Licensee provides supporting information (if applicable).
- Branch/Area staff prepare the decision package for the Minister, (refer to Section 4.7 of this bulletin) to:
 - Approve/not approve a temporary AAC reduction [Section 61(1)]. This decision package may explain the various disposition options that would be available if the AAC reduction is approved.
- Upon receipt of a decision which approved an AAC reduction, Area or District staff administer the licence AAC reduction by completing the following;
 - Annual rent adjustment;
 - Cut control adjustments; and
 - Letter of notification to First Nations.

Note:

- Security deposit and AAC reservations are unchanged.
- Adjustment to the Apportionment is not required.

Table 1 Section 61: Roles and Responsibilities

Tenure Type	Application Submission to (as defined by the Delegation Matrix, June 2, 2014):	Decision Package Prepared by:	Decision Maker (as defined by the Delegation Matrix, June 2, 2014)
TFL	Minister/TCID ADM	FTB Director/TFL Forester with input from RED and DM.	TCID ADM
FL	Minister/Area ADM	RED/Tenures Section Head with input from the DM.	Area ADM
CFA/FNWL	Minister/Area ADM	RED/Tenures Section Head with input from the DM.	Area ADM
WL	Minister/Area ADM	DM/Tenures Officer with input from RED.	Area ADM

4.4 Term

The temporary AAC reduction will be approved for a period of time determined by the minister.

The period of the reduction may not exceed the term of the licence. The reduction period should be for a minimum of two years to allow staff time to dispose of the volume in accordance with the legislation. The volume per year can be reduced to 50% over two years rather than 100% in one year (if necessary) to allow time to dispose of the entire volume.

The effective date of the temporary AAC reduction will commence on the date as determined by the Minister's decision and identified in the notice. In the case of partial years, the temporary AAC reduction is pro-rated for that year based on the number of days remaining in the year.

Note:

The date of the decision and the effective date of the AAC reduction may be backdated to the date of the application or time of consent. Although a verbal request may be accepted as the date of consent it should be followed with a formal written request noting the time of the original request.

4.5 Extension to the Term, and modification, of Allowable Annual Cut Reduction (Section 61(2))

Under the authority of Section 61(2) of the *Forest Act*, with the consent of the licensee and before the end of the period for which a temporary AAC reduction applies, the Minister may:

- (a) extend the period of the temporary AAC reduction, or
- (b) increase or decrease the size of the temporary AAC reduction for a specified period, or
- (c) both.

Note:

A decision package with a Letter of Notification must be prepared to amend the term and/or the amount of AAC reduction. In the case of a request for both an extension to the period and a change to the AAC two separate decisions are required, but both decisions can be included under one briefing note decision package. In addition consultation with First Nations must be completed for both Section 61(1) and 61(2) of the *Forest Act*.

4.6 Information Requirements

The licensee **must** supply the following information:

- Amount of the AAC reduction;
- Time period of the AAC reduction;
- Reasons for the AAC reduction;
- Description of applicable management unit partitions;
- BCTS Disposition Agreements and/or AAC Reservations identified in a TFL, CFA, or FNWL if applicable;
- Implications to contractors and workers consistent with the Timber Harvesting Contractors and Subcontractors Regulation and/or Licence Agreement; and
- Summary of interest groups and public input, interests and all proposed mitigation measures, if applicable.

Note:

Section 61(1) and 61(2) are separate decisions and a plan for the disposition of the applicable volume cannot influence the decision to temporarily reduce the AAC. For example, in cases where the licence holder has entered into a business agreement with government (e.g. BCTS) for the auctioning of the licensee's timber, the licence holder cannot place conditions on its consent to reduce the AAC, nor can it place conditions regarding the decision to dispose of the AAC volume.

Ministry staff will supply the following information:

- First Nations Consultation Summary;
- Assessment of implications to the Province;
- Summary of Agency and interest group referrals of the Licensee's final submission; and

- Recommended disposition strategy.

Note:

A Management Plan and Forest Stewardship Plan Amendment is not required for an AAC reduction done under Section 61/62 of the *Forest Act*. In the case of a reduction under Section 61, only the AAC available to the licensee is affected; the AAC for the management unit is unchanged.

4.7 Content of Decision Package (Section 61):

Temporary AAC Reduction under Section 61(1)

The decision package prepared for the Minister will describe and/or discuss the following topics:

- Legal authority to make decision (Section 61(1) of the *Forest Act*);
- Applicable considerations as stated in Section 4.2 of this bulletin;
- Amount of AAC Reduction
- Time period of AAC Reduction and potential total volume made available
- Commitments made by the licensee in its request, regarding forest stewardship, employment, etc.;
- Identification of partition requirements;
- Confirmation of responsibility for silviculture, access, fire liabilities, and related fees;
- Results of consultation with interest groups including First Nations;
- Social and economic implications of the proposed reduction;
- Implications to the Crown (i.e. stumpage revenue, annual rent, fire liabilities, employment);
- Forest health issues or concerns;
- Implication on industry market demand, including impact on the fibre flow to timber processing facilities; and
- Rationale for approving or not approving the Section 61(1) temporary AAC reduction; (as described in Section 4.2 of this Bulletin).

Considerations for AAC Disposition under Section 61(3)

- Volume reduced under Section 61(1) and/or 61(2) is made available to persons other than the holder of the reduced affected licence;
- Disposition of the volume is optional;
- The reduced volume is from licences administered by the RED (TFLs, CFA, FNWLs, RFLs, and WLs);
- The disposition plan for this available volume is determined and administered by the RED. The RED may consider direction provided by their inline supervisor, the Area ADM;

Temporary AAC Disposition under Section 61(3):

The decision package prepared for the Minister will describe and/or discuss the following topics:

- Reference to the Section 61(1) decision
 - Potential interest in the AAC from other parties and First Nations,
 - the influence of market conditions,
 - forest health, biodiversity, recreation and cultural concerns
 - social and economic opportunities,
 - access and logging chances,
 - Agencies, First Nations and interest groups concerns,
 - government initiatives and mandates,
 - BCTS Disposition Agreements and AAC Reservations if applicable
 - Implications for forest certification initiatives, and
 - Rationale for accepting or not accepting a disposition plan for the volume made available under Section 61(1).
- The following attachments will be appended to the decision note:
 - (a) Summary of agencies, public and interest groups input and mitigation measures;
 - (b) First Nations' consultation summary;
 - (c) Disposition plan;
 - (d) Letter of notification from the RED to the licensee (see appendix IV); and
 - (e) Memorandum from the RED of the AAC disposition strategy to DM/TSM.

Note:

The disposition plan should describe one or more of the following:

- (a) The opportunities and implications to dispose of the AAC or portions thereof, through one or more tenure types,
- (b) The opportunities and implications to defer disposition of the AAC or portions thereof, until additional information is obtained, or
- (c) The opportunities and implications to not dispose of the AAC or portions thereof.

4.8 Letter of Notification to Applicant- Content:

4.81 Section 61 (1) Request - Approved

Information requirements for Letter of Notification - Approved (see appendix IV) should include the following:

- Licence number;
- Authorized licensee;
- Effective date and term of the temporary AAC reduction;
- New temporary AAC for primary licence holder;
- Total cumulative volume available for disposition;

- Cumulative AAC of the timber volume reduction is available for disposition through licence issuance during the term of the reduction;

4.82 Section 61(1) Request - Not Approved

Information requirements for Letter of Notification – Not Approved (see appendix V) should include the following:

- Licence number;
- Authorized licensee; and
- Rationale for not approving request.

4.9 Memorandum of AAC Disposition to Regional Executive Director, District Manager, or Timber Sales Manager

Minister instructs the RED, and notifies the DM, and/or the TSM on the disposition of the available volume. The following information may be included in the memorandum (see appendix VI):

- Total accumulated AAC available for disposition;
- Start and end date for temporary AAC reduction;
- Type of tenure(s) to be issued;
- The term(s) of the new issued licence(s), a licence can (likely) extend beyond the expiry date of the term of the reduction;
- Any conditions consistent with the objective of the temporary AAC reduction and with the licence(s);
- Requirements of advertisement in accordance with legislation and policy;
- Objectives that are consistent with FLNRO objectives and legislation,
 - for example, to support Market Pricing System or interest of the public.

Note:

While the Act is not specific, the reduced AAC should be disposed of only through the following type of tenure agreement: TSL, NRFL, or FLTC.

All disposition(s) must be concluded within the term of the reduction. This means the tenure agreement must be entered into (i.e. executed or issued) prior to the expiry of the AAC reduction period, but can continue on past the AAC reduction.

5.0 Section 62: Return of Surrendered Harvest Rights

Unless otherwise requested in accordance with Section 61(2) of the *Forest Act*:

- The AAC for the licence is reinstated to the original amount at the end of the term of the reduction less any deletion or adjustments that occurred during the term of the reduction.
- Annual rent is reinstated to the original amount and may be prorated, if applicable.

- The AAC awarded under Section 61(3) of the *Forest Act* is available to the tenure holder(s) until the expiry date stated on the applicable tenure(s).

Appendix I

Forest Act **Section 61 and 62**

Section 61 - Temporary reduction

1. The minister, with the consent of the holder of the licence or agreement, may reduce for a specified period the allowable annual cut authorized
 - (a) in a forest licence, or
 - (b) for a tree farm licence area, community forest agreement area, First Nations woodland licence area or a woodlot licence area.
2. Before expiry of a period of reduction specified under this section, the minister, with the consent of the holder of the licence or agreement, may
 - (a) extend the period of the reduction, or
 - (b) increase or decrease the size of the reduction.
3. During the period of a reduction under this section, the total volume of timber comprised in the reduction is available for disposition under this Act to persons other than the holder of the licence or agreement.

Section 62 - Return of surrendered harvesting rights

At the end of the period of any reduction specified under Section 61, the allowable annual cut authorized in or for the licence or agreement that was subject to the reduction is restored by this section to the amount that is equal to the allowable annual cut that was in effect for the licence or agreement immediately before the reduction, minus any reductions, other than under Section 61, that have been made under this Act or the licence or agreement during the period of the reduction.

Appendix II

Route Card for *Forest Act*, Section 61/63 Temporary Reduction

DATE: _____

Step	Initials	Date																																							
Licensee submits application to Minister																																									
Request for Temporary AAC Reduction Applies to (circle appropriate licence): TFL FL CFA FNWL WL																																									
Minister's office forwards request to TFL – Director, Forest Tenures Branch FL/CFA/FNWL – Regional Executive Director WL – District Manager																																									
Request received from Licensee <ul style="list-style-type: none"> • Licensee Name: _____ • Date Received: _____ • Contact: _____ • Tenure Type: _____ • Current AAC: _____ 																																									
Application Review (Licensee Submission Requirements) <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Item</th> <th style="width: 10%;">Included</th> <th style="width: 10%;">Accepted</th> </tr> </thead> <tbody> <tr><td>Amount of AAC reduction</td><td></td><td></td></tr> <tr><td>Term of reduction (note: retroactive request is not permissible)</td><td></td><td></td></tr> <tr><td>Reason for reduction</td><td></td><td></td></tr> <tr><td>Impact to First Nations</td><td></td><td></td></tr> <tr><td>Impact to local communities</td><td></td><td></td></tr> <tr><td>Impact to contractors</td><td></td><td></td></tr> <tr><td>Plan for public engagement</td><td></td><td></td></tr> <tr><td>Other stakeholders (i.e. trappers, guides, recreational users, other tenure holders including mining, forestry and oil and gas)</td><td></td><td></td></tr> <tr><td>Potential changes in operations (i.e. access)</td><td></td><td></td></tr> <tr><td>Impact to forest stewardship</td><td></td><td></td></tr> <tr><td>Impact to forest certification</td><td></td><td></td></tr> <tr><td>Mitigations measures</td><td></td><td></td></tr> </tbody> </table>	Item	Included	Accepted	Amount of AAC reduction			Term of reduction (note: retroactive request is not permissible)			Reason for reduction			Impact to First Nations			Impact to local communities			Impact to contractors			Plan for public engagement			Other stakeholders (i.e. trappers, guides, recreational users, other tenure holders including mining, forestry and oil and gas)			Potential changes in operations (i.e. access)			Impact to forest stewardship			Impact to forest certification			Mitigations measures				
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Impact to forest stewardship																																									
Impact to forest certification																																									
Mitigations measures																																									

Step			Initials	Date
FLNRO Referrals				
Agency	Required	Any concerns		
Ministry of Environment (Parks),				
Ministry of Aboriginal Relations and Reconciliation				
Ministry of Forests, Lands and Natural Resource Operations (Water, Habitat, Fish and Wildlife, Biodiversity, Recreation, Visuals, FAIB, FTB, Land tenures, SRMP etc.)				
BC Timber Sales				
Justifiable Application				
Is the reduction for the re-construction or repair of a destroyed or damaged mill?		Y/N		
Is the reduction due to the prevention of access to all or portions of the licence area?		Y/N		
Is the reduction for another purpose?		Y/N		
First Nations' consultation initiation (only conduct if applications is justifiable)				
Date: _____				
First Nations' consultation completion				
Date: _____				
Application Evaluation				
Item	Y/N	Value¹		
Social benefits to the Crown				
Economic benefits to the Crown (positive or negative)				
Industrial demand for fibre (BCTS or other tenure holders interested)				
Amount of AAC reduction				
Term of AAC reduction				
Ability to dispose of the AAC (Is timber available)				
Economics of harvest (Is timber accessible)				
Achieve forest stewardship objectives				
Acceptable mitigations measures provided				
BCTS opportunities				
Any concerns from Agencies				
Any concerns from First Nations				
Any concerns from Local communities				
Any concerns from Stakeholders				
Any concerns from Public				
Any concerns from Contractors				

¹ Value is an assessment for the contribution of the attribute: 1 = positive impact, 0 no impact, -1 negative impact. Values are added to determine the overall benefit of the request.

Step	Initials	Date
Prepare disposition strategy (Recommendation may be to defer disposition decision at this time until additional information is obtained.)		
Decision package <ul style="list-style-type: none"> • Briefing note Section 61(1) and 61(3) decisions • Licensee application includes summary of input from public, First Nations, agencies and stakeholders • Referrals with Licensee mitigation measures • First Nations' consultation summary • Notification to tenure holder (see appendix IV) • Memorandum to RED/DM/TSM regarding Disposition of AAC (describes available AAC, form of tenure, and period of reduction) 		
Submit for Minister decision		
Forward notice to Licensee and cc Area ADM, Regional Executive Director, District Manager, Timber Sales Manager, Director of Forest Tenures Branch, and Director of Forest Analysis and Inventory Branch		
Update files and FTA		
Annual Rent Adjustment (Security Deposit is not adjusted) (note retroactive reduction is not permitted)		
Initiate Disposition Strategy, if one approved.		

Appendix III

File:

19700-25/TFL XX

19490-25/N XX

19460-25/K XX

19720-25/W XX

19500-25/FL XX

**NOTICE OF ALLOWABLE ANNUAL CUT
FOREST ACT, SECTION 61
TEMPORARY REDUCTION and DISPOSITION
Licence XX**

I HEREBY:

In accordance with Section 61(1) of the *Forest Act* licence XX held by *licensee name* has consented to reduce the allowable annual cut by the amount of XX m³

In accordance with Section 61(3), during the period of the reduction, the total volume of timber, or portion thereof, comprised in the reduction may be made available for disposition under the *Forest Act* to persons other than the holder of the licence or agreement.

In accordance with the delegation matrix of June 2, 2014 decisions in accordance with Section 61(1) have been delegated to the Area Assistant Deputy Minister.

THEREFORE: (if applicable)

The new allowable annual cut available to the Licensee would be is XX m³ for the period specified in this order.

The period of the temporary allowable annual cut reduction for licence XX will commence on (date) and end on (date).

For the period of the above reduction, the total volume of timber available for disposition by the Regional Executive Director, under the *Forest Act* to persons other than the holder of the licence or agreement is XX m³.

APPROVED: _____ this ____ day of _____, 2015.

Area Assistant Deputy Minister

Ministry of Forests, Lands and Natural Resource Operations

pc: Chief Forester
Regional Executive Director
Director, Forest Tenures Branch
Assistant Deputy Minister, Tenure Operations, Pricing and First Nations
Executive Director, BC Timber Sales
Timber Sales Manager
District Manager

Appendix IV

File: 19710-70/TFL XX
19700-25/TFL XX
19490-25/N XX
19460-25/K XX
19720-25/W XX
19500-25/FL XX

NOTICE OF ALLOWABLE ANNUAL CUT *FOREST ACT*, SECTION 61 TEMPORARY REDUCTION and DISPOSITION **Licence XX**

In accordance with Section 61(1) of the *Forest Act*, the request to reduce the allowable annual cut of **Licence XX** held by *licensee name* by the amount of **XX** m³/year is denied for the following reasons:

_____ this ____ day of _____, 2015.

Area Assistant Deputy Minister

Ministry of Forests, Lands and Natural Resource Operations

pc: Chief Forester
Regional Executive Director
Director, Forest Tenures Branch
Executive Director, BC Timber Sales
Timber Sales Manager
District Manager

Appendix V

File:

19700-25/TFL XX

19490-25/N XX

19460-25/K XX

19720-25/W XX

19500-25/FL XX

MEMORANDUM:

TO: Regional Executive Director/District Manager/Timber Sales Manager

RE: Temporary AAC Reduction and AAC Disposition Strategy

On **Date** I approved a temporary AAC reduction in accordance with Section 61(1) of the *Forest Act* for **Licence Type & Number**, held by **Licensee Name**. This reduces the AAC of the **Licence r** from **XXm³** to **XXm³**, but does not affect the allowable annual cut of the management unit. The total volume of **XXm³** is available for disposition within the *NAME OF Timber Supply Area, First Nations Woodland Licence area, Community Forest area, Woodlot area or Tree Farm Licence area.*

OPTION 1:

After careful consideration, I hereby direct you to dispose in accordance with Section 61(3) of the *Forest Act* **XXm³**, as follows:

XXm³ for a competitive award Non Replaceable Forest Licence
XXm³ for a direct award Non Replaceable Forest Licence to First Nations
XXm³ for a Timber Sales Licence
XXm³ for a Forest Licence to Cut or Licence to Cut
(Select all that apply)

This volume is available for disposition from **Start Date** to **End Date**.

These tenure(s) are to be advertised and awarded in accordance with the *Forest Act* and the Regulations.

OPTION 2:

After careful consideration, I hereby direct you not to dispose of any of this volume in accordance with Section 61(3) of the *Forest Act*.

OPTION 3:

As a result of my decision to approve a temporary AAC reduction under Section 61(1), there is **XXm³** of volume available for disposition in accordance with Section 61(3) of the *Forest Act*. This volume is available for disposition (i.e. licence issuance) from **Start**

Date to **End Date**. Please evaluate the opportunities for the possible disposition of this volume.

Yours truly,

Area Assistant Deputy Minister

pc: Chief Forester
Regional Executive Director
Director, Forest Tenures Branch
Assistant Deputy Minister, Tenure Operations, Pricing and First Nations
Executive Director, BC Timber Sales
Timber Sales Manager
District Manager

Appendix VI

QUESTION AND ANSWERS

Conditions of Disposition

- ***Who is eligible for a disposition?***

As stated in Section 61(3) of the *Forest Act* the total volume of timber comprised in the temporary AAC reduction is available for disposition to persons other than the licensee during the period of the temporary AAC reduction. This includes TSL holders, FL holders, NRFL holders, CFA, WL and FNWL holders.

Note:

In accordance with Section 61(3) of the *Forest Act*, the licensee granted the Section 61 temporary AAC reduction is not eligible to be awarded the subsequent licence or AAC.

- ***Upon approval of a temporary AAC reduction does the AAC have to be harvested “during the period of reduction”?***

No the AAC does not have to be harvested during the period of the reduction, however the AAC must be awarded to one of the following forms of tenure agreements: NRFL, TSL, or FLTC prior to the end of the period of reduction. This does not limit the term of the tenure agreement (newly awarded), nor the time required to develop and harvest the timber.

In order to provide appropriate time for disposition the statutory decision maker must ensure there is sufficient time to award a tenure. The amount of the total volume reduction would not need to change, only the term for which it would be available.

AAC Determination : unused portion would be included in the next AAC Determination

Strategy:

- Calculate the sum of the reduced AACs (i.e. total volume reduced during the reduction period)
- Reduction period should be two or more years, so if needed, the volume per year is reduced. This will allow time to dispose of entire volume.

- ***What forms of agreements (or tenures) can the Minister issue the approved temporary AAC reduction?***

The temporary AAC reduction may be issued as TSLs (*Forest Act*, Section 20) or non-replaceable FLs (Section 13 or 47.3 of the *Forest Act*), or FLTCs (Section 47.3 or 47.6 of the *Forest Act*) and associated road permits within the specified TSA, TFL, CFA, WL, or FNWL from which the reduction AAC volume originated.

The volume approved for temporary AAC reduction may not be sold as replaceable area-based tenures (FNWLs, CFAs or WLs) or a replaceable volume-based tenure (replaceable forest licence).

Furthermore, if the timber is to be disposed of in a TSL, and if the Licensee responsible for the reduction is registered as a BCTS enterprise, the Timber Sales Manager will not accept an application submitted by that entity for that timber sale licence, as doing so would be contrary to Section 61(3) of the *Forest Act*

Note:

Decision makers will need to follow normal business procedure to determine the authority to issue tenures for the volume. For example,

- Timber Sales Manager has the authority to issue a Timber Sales Licence,
- Regional Executive Director has the authority to issue a Non-Replaceable Forest Licence, and a Forest Licence to Cut, and
- District Manager has the authority to issue a Forestry Licence to Cut.

- ***How are partitions accounted for with the approval of a temporary AAC reduction?***

Any and all tenures issued to dispose of the Section 61 reduced AAC volume must consider any provisions limiting harvesting rights from partitions in effect under the AAC Determination done in accordance with Section 8 of the *Forest Act*. .

- **Can the AAC of a temporary AAC reduction be awarded to more than one tenure or form of tenure?**

Yes, as long as the total volume awarded does not exceed the total amount of the reduction.

Other Administrative Considerations

- ***When are the Forest Tenures Administration System (FTA) and Annual Rent adjusted?***

The licence AAC is temporarily reduced, when the minister:

- has approved the reduction pursuant to Section 61, and
- signed a Letter of Notification

Once the temporary AAC reduction has been approved, ministry staff must update FTA and/or the AAC Summaries.

- ***Are retroactive reductions permissible?***

No, for the purposes of an application in accordance with Section 61, a retroactive (i.e. period of time prior to date of licensee request) reduction is not permitted.

- ***How does a temporary AAC reduction impact cut control?***

For the purpose of determining compliance with cut control, the AAC will be reduced by the annual amount of the temporary AAC reduction and the period for which it is approved. AAC pro-rating for cut control may be necessary where the AAC reduction is approved for a portion of a calendar year.

All standard cut control provisions in accordance with Section 75 of the *Forest Act* will apply.

- ***Are Crown Reservations affected by a temporary AAC reduction?***
No, in the case of a Licence that has a Crown AAC Reservation (i.e. TFL or FNWL) the approved Section 61 temporary AAC reduction will not apply to the Crown AAC reserve.
- ***How is the temporary AAC reduction restored?***
At the end of the period for a Section 61 temporary reduction, the AAC authorized for the licence is automatically restored by means of Section 62. The AAC is restored to the amount that is equal to the AAC that was in effect for the licence or agreement immediately before the temporary reduction.
- ***In the event an AAC reduction occurs during the reduction period is the temporary AAC reduced proportionately?***
Section 62 of the *Forest Act*, states, “At the end of the period of any reduction specified under Section 61, the AAC authorized in or for the licence or agreement that was subject to the reduction is restored by this section to the amount that is equal to the AAC that was in effect for the licence or agreement immediately before the reduction, **minus any reductions**, other than under Section 61, **that have been made under this Act or the licence or agreement during the period of the reduction.**”

This implies that a reduction made under *Forest Act*, Section 63 would reduce the AAC of the affected licence once the reduction period is complete, provided the Section 63 AAC reduction is less than the Section 61 AAC reductions. If the Section 63 reduction is greater than the Section 61 reduction, then the difference in AAC between the reductions must be removed from the AAC effective the date of the Section 63 reduction.

It is not recommended that the reduction period of a licence be extended or the size of the reduction increased or decreased in situations where a Section 63 proportionate reduction has been implemented during the period of a Section 61 temporary reduction. A new Section 61 temporary reduction may be considered once the Section 63 proportionate reduction has been applied to the licence.

During the period of a reduction under Section 61, the total volume of timber comprised in the reduction is available for disposition to persons other than the holder of the licence or agreement. If a Section 63 reduction has been implemented as described above before the volume has been subsequently disposed of, it would be appropriate for the ministry to consider the impacts of the Section 63 reduction on any remaining timber disposition plans, and adjust temporary volume offering accordingly.

- ***Is the apportionment adjusted?***
No, the Minister has no authority to reapportion the AAC in accordance with Section 10 of the *Forest Act* for a decision made in accordance with Section 61. There is no reason to apportion an AAC due to an approval of a temporary reduction in accordance with Section 61 of the *Forest Act*, as the base AAC has not changed.

- ***Are Annual Rent adjusted by a temporary AAC Reduction?***
Yes, annual rents are to be pro-rated for partial years as described in Section 7.1 of the Annual Rent Billing Procedures, August 1, 2009.
- ***Are Security Deposits adjusted by a temporary AAC Reduction?***
No.

Implementation Strategies

- ***How do I ensure there is sufficient time to issue a licence (e.g. non-replaceable forest licence, forestry licence to cut, and/or a Timber Sales Licence)?***
To avoid period of approved reduction expiration prior to the disposition of the Section 61 reduced AAC the reduction period should be for an appropriate time period. For example: if the request is to reduce the AAC for 100,000 m³ with a reduction period of one year, recommend a AAC reduction of 50,000m³ with a reduction period of 2 years. This results in the same total AAC reduction and allows the Crown additional time to issue a tenure for the Section 61 volume.
- ***How does a Section 8 AAC determination resulting in a reduction of the AAC impact the AAC available to the Management Unit?***
AAC are reduced proportionately for all tenure holders in the event of an AAC determination with a reduced AAC. The term of a non-replaceable tenure issued as a result of a Section 61 reduction can be extended to allow the tenure holder extended time to harvest the awarded volume.
- ***What other sections should I consider of the Forest Act and Regulation when considering a request for a temporary AAC reduction?***
Forest Act

Section 58	Extension of term of non-replaceable forest licences and timber sale licences
Section 61	Temporary reductions
Section 62	Return of surrendered harvesting rights
Section 63	Proportionate reduction
Section 111	Annual rent
Section 112	Calculation of annual rent

Regulations

Advertising, Deposit Disposition and Extension Regulation
Annual Rent Regulation
Cut Control Regulation

Other Acts and Regulations References

Financial Administration Act
Section 19 Remission

1. Who should I contact for additional help with a Forest Act, Section 61 or 62 requests?

Forest Tenures Branch, Kevin Kilpatrick (250) 387-8644
Kevin.Kilpatrick@gov.bc.ca

BC Timber Sales, Gilbert Richir (250) 387-8637
Gilbert.Richir@gov.bc.ca