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## Advisory Bulletin No. **2015-01-30** – BCTS Regulation Amendment December 2014

### PURPOSE

This bulletin provides information to BC Timber Sales (BCTS) staff and registrants regarding new rules pertaining to registration and cancellation and Timber Sale Licence (TSL) deposits that will come into effect February 1, 2015 by amendments of the BC Timber Sales Regulation (BCTSR).

The amendments were made in response to recommendations arising from the 2014 BC Timber Sales Role and Effectiveness Review and will help the program fulfil its role and will ensure that program participants are treated in a fair and consistent manner.

### BC Timber Sales Regulation Amendment

#### General details

Q1. What was changed in the BC Timber Sales Regulation by these amendments?

A1. The amendments:

- Reduce the overdue account limit used to manage active registrations and calculate the amount of TSL deposits; and
- Provide for the automatic de-registration of inactive registrants.

#### Overdue Account Limit

Q2. How has the overdue account limit been changed?

A2. The overdue account limit set out in sections 9(2)(c) and 16.3(3)(b) of the BCTSR has been reduced from “*more than \$500,000 overdue by more than 84 days*” to “*more than \$250,000 overdue by more than 60 days*”



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Q3. What is the overdue account limit used for?

A3. The overdue account limit is used to:

1. Determine whether a person's registration is in good standing; and
2. Evaluate a registrant's financial performance for the purpose of calculating the amount of the deposit required for a TSL.

Q4. Is this a fundamental change from the way registrations and financial performance were managed before this amendment?

A4. No. Registration and financial performance are still managed in the same manner as before the amendment. Only the overdue account limit has been changed.

Q5. How does this affect a person's registration as a BCTS enterprise?

A6. If a registrant owes money to Government of an amount more than \$250,000 overdue by more than 60 days then the registrant is deemed not to be registered until such time that the account is brought below the overdue account limit.

Q6. If a registrant currently owes money to Government of an amount more than \$250,000 overdue for more than 60 days would they still be able to bid on a TSL?

A6. No. The registrant would be deemed "not registered" and would be ineligible to bid on a TSL.

Q7. If a registrant exceeds the overdue account limit but already holds a TSL, is that TSL affected?

A7. Not necessarily. A TSL held by a person is not affected by this change of the overdue account limit. However, there have always been separate mechanisms under Section 78 of the *Forest Act* that enables the Timber Sales Manager to suspend or cancel any TSL for non-compliance obligations under or in respect of the agreement, including outstanding stumpage owed to Government.

Q8. If the registrant pays the overdue accounts do they have to re-register?

A8. No. Once the balance of overdue account is below the new \$250,000 and 60 day limit the person is deemed registered again and, all other bidding requirements being met, is once again eligible to bid on a TSL. That said, if a registrant has an overdue account of any amount and is the successful applicant for a TSL, the application may be refused by a Timber Sales Manager pursuant to Section 81 of the *Forest Act*.



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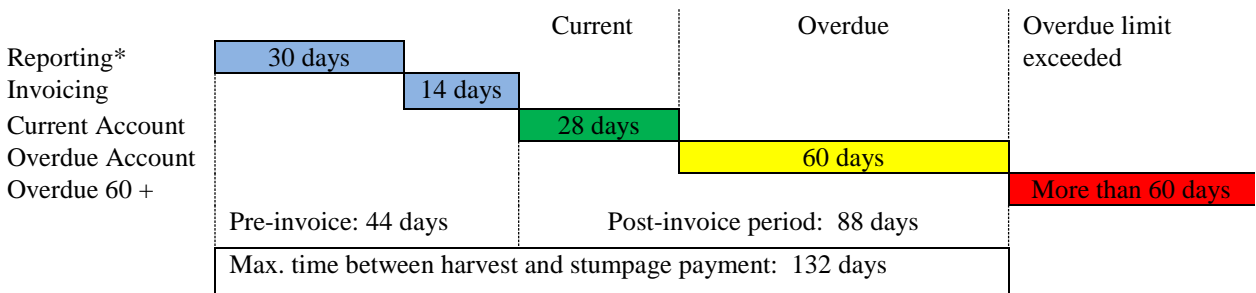
Q9. Is the financial performance criteria that is used to determine a TSL deposit affected by this change in the overdue account limit?

A9. Yes. The financial performance criteria will consider whether an applicant has had a non-current stumpage account more than \$250,000 overdue by more than 60 days in the preceding 24 months (i.e., the financial performance evaluation period). If the applicant has exceeded these thresholds at any point during the prior 24 months the applicant is considered not to have met the financial performance criteria and will be required to pay a higher TSL deposit amount.

Q10. How long can it typically take from when timber is harvested to when the \$250,000/60 day overdue account limit is triggered?

A10. The time can vary slightly (see Fig. 1.). On scale-based TSLs the scale returns for timber harvested are rolled up monthly. On cruise-based TSLs the licensee submits a monthly harvesting report that accounts for timber harvested (even if no volume was harvested) in the preceding month. There can be a processing time that averages 10 business days (14 calendar days) between the date a harvest report or scale return is submitted and a stumpage invoice is issued. The licensee has a 28 day period from the date the invoice is issued during which the account remains current. Once that 28 day period has passed the account is deemed to be overdue. If the amount overdue is greater than \$250,000 the licensee then has 60 days to bring the account into good standing before the maximum overdue debt limit is exceeded. In summary, in addition to the time between harvesting and the submission of the monthly harvest report or scale returns, the licensee has upwards of 102 calendar days (i.e., almost 3 ½ months) to bring the account balance below \$250,000 before exceeding the maximum overdue debt limit.

Figure 1. Typical Estimated Timeline for Stumpage Accounts Greater than \$250,000



\* Scale returns and harvest reports submitted for timber harvested during the previous month.



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Q11. Will there be a transition period to phase in the new overdue account limit?

A11. No. There will not be a transition period. The new overdue account limit comes into effect February 1, 2015 and will be applied to all TSL auctions closed on and after that date. The financial performance of registrants will be evaluated by looking back over the 24 month period immediately preceding the closing date for a TSL and applying the new overdue account limit.

Q12. What if a registrant met the old overdue account limit but exceeded the new one in the 24 months before the February 1, 2015 would they be affected?

A12. Yes. On February 1, 2015 the new overdue account limit will apply on the 24 month period that precedes the closing date for applications for a TSL. Over the next two years, part of the 24 month financial performance evaluation period will include a period of time before the new rules were in place. If a registrant exceeded the new overdue account limit at any time in that 24 month period it will affect the calculation of the TSL deposit.

Q13. Why has the overdue account limit been changed?

A13. The change was made, in part, in response to the recommendation of the 2014 BC Timber Sales Role and Effectiveness Review to develop a qualified bidder's list that reflects past operational and financial performance.

### De-registration of Inactive Registrations

Q14. What is an inactive registration?

A14. An inactive registration is one that has not been used to apply for a TSL within a 5 year period, either from the time of initial registration or from the last time an application for a TSL was made.

Q15. What happens to inactive registrations?

A15. The inactive registrations are automatically deemed "not registered" on the date the 5 year inactive period is exceeded.

Q16. Will the registrant receive any notification that the end of the 5 year period is approaching or that the registration is deemed not registered?

A16. No. Registrants will not receive notification prior to the end of the 5 year period nor a notification when the registration is deemed not registered. Registrants must keep track of their own activity in BCTS. A person can ascertain the status of their registration



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with BCTS at any time by contacting their local Timber Sales Office or by checking online at the following BCTS website: <http://www.for.gov.bc.ca/mof/wapr/bcts01/>

Q17. Is this a new rule to manage inactive registrations?

A17. No. The rule requiring the cancellation of inactive registrations has been in place since 2008. The recent change makes the process automatic instead of one that requires manual processing.

Q17. Does this work like an expiry date?

A17. Yes. A registration is valid for 5 years from the date of registration. Provided the registrant continues to meet the registration requirements and has not been disqualified or had the registration cancelled for other reasons.

Q18. What happens if a registrant applies for a TSL before the 5 year period is up?

A18. On the date an application for a TSL is made the registration is automatically extended for another full 5 year period.

Q19. Can a registration remain valid indefinitely by periodically applying for TSL?

A19. Yes. Each time a registrant applies for a TSL the registration becomes valid for another 5 year period. BCTS encourages registrants to actively participate in the program.

Q20. If a registration is deemed not registered because of inactivity can a TSL application be made to renew it?

A20. No. A registration cannot be renewed. If a person becomes not registered because of inactivity and a person subsequently wishes to participate in future Timber Sale Licence auctions they must re-register.

Q21. What happens if a person re-registers and successfully bids for a TSL?

A21. They would be considered a new registrant for the purpose of determining the TSL deposit. The operational and financial performance criteria applicable to new registrants are more stringent than for persons who have been registered with BCTS for more than 24 months. As a new registrant they may be required to pay a higher TSL deposit amount.

Q22. What is the purpose of removing inactive registrations?

A22. The purpose is to maintain an accurate list of registrants who participate in the program which, in part, gives an indication of the activity and vitality of the industry.



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## CONTACTS

For further information regarding this bulletin please contact your local timber sales office.