



Advisory Bulletin No. 2017-06-01 – Category 2 TSL Administration & Enforcement

This advisory bulletin provides information to BC Timber Sales (BCTS) staff and customers on administering and enforcing the timber processing obligation for Category 2 timber sale licences (hereafter referred to as “Cat 2 TSLs”) for which competition was restricted to BC timber sales enterprises registered in Cat 2.

Purpose of Cat 2 TSLs

Cat 2 TSLs are an important aspect of the Ministry of Forests, Lands and Natural Resource Operations (FLNRO) Value-added Sector Action Plan. Cat 2 TSLs are designed to provide value-added manufacturers and independent lumber producers with additional opportunities for obtaining a supply of timber and other wood fibre on the open market.

BCTS is committed to annually advertise Cat 2 TSLs in an amount equal to 10 percent of BCTS’s total business plan sales target, in locations and at levels consistent with the past ~9 years of performance.

Cat 2 TSL Development

Cat 2 TSLs do not currently contribute pricing data for the Market Pricing System¹ (MPS) because they are available only to a restricted pool of eligible bidders. Hence, within the bounds of BCTS’s applicable strategic goals, Cat 2 licences may be developed to meet the needs of timber processors by offering a wider array of licence terms, timber volumes, timber profiles, and operating characteristics.

Timber Processing Obligation

In response to a recommendation arising from the 2014 BCTS Role and Effectiveness Review and subsequent ministerial guidance, where feasible, and at the discretion of the timber sales manager (TSM), BCTS should offer more Cat 2 TSLs with a 75% - 100% processing requirement instead of the minimum 50% requirement. Regardless of the threshold, it is important to note that the requirement to process a minimum volume for each TSL will be based on the advertised timber volume and not on the volume of timber actually harvested from the licence area and subsequently billed².

Once a Cat 2 TSL has been advertised, the minimum volume of timber to be processed within the timber process facility that the Licensee used to register should not be changed. The volume

¹ Note: Cat 2 TSLs still contribute to MPS costs.

² The processing obligation is expressed through the following TSL Schedule “A” clause:
“The Licensee, during the term of this Licence and in the timber processing facility identified in the Licensee’s Application for Registration, must process a minimum volume of [number] cubic metres of timber or other wood products, either harvested from or received in trade for timber from the cutting authority area, or otherwise purchased.”

processed and charged to a specific Cat 2 TSL for milling performance cannot be transferred, assigned or double counted towards another Cat 2 TSL.

FLNRO has established and published conversion factors for converting various forest products input volume into round log volume (cubic meters). The TSL holder and BCTS will use these conversion factors to determine conformance with milling obligations. These conversion factors are contained within the timber processing report.

Reporting and Inspections

As with any other obligation that is required to be performed under a TSL, the Cat 2 TSL holder is required to fulfill these obligations and the TSM is obligated to enforce them. The TSM enforces the timber processing obligation by determining whether the Cat 2 TSL holder has consumed, in its timber processing facility, the required volume of wood fibre for the manufacturing “functional and usable” product.

Under the terms of the TSL, the TSL holder is required to submit one or more timber processing report(s) describing, in detail, the volume of wood fibre consumed within the Cat 2 registrant’s timber processing facility at times determined by the TSM. Failure to supply the report may constitute a breach of the agreement.

Report Forms

A copy of the timber processing report will be part of the tender package for the advertised Cat 2 TSL. The timber processing report contains the necessary instructions for calculating and entering the timber volumes consumed within the Cat 2 registrant’s timber processing facility. The completed timber processing report must be submitted back to the TSM requesting the report.

The timber processing report will be completed for the entire timber processing facility and not on a TSL by TSL bases. If the Cat 2 registrant’s holds more than one Cat 2 TSL with overlapping terms, even in other Business Areas, the Cat 2 registrant’s must identify and report the volume that is required to be processed for **all** Cat 2 TSLs held during the reporting period.

Example:

The example below illustrates the volume that a Cat 2 registrant will be required to process in his timber process facility if he holds multi Cat 2 TSLs with overlapping terms. During the term of TSL #1, the Cat 2 registrant will be required to process a minimum volume of 36,476 m³ of timber within their timber processing facility.

Example

Audit for TSL #1

ABC Company

Audit period 2012-10-23 to 2016-01-20

TSL held during audit period	Effective date	Expiry Date	Term (months)	Volume to be processed (m3)	Volume to be process/month (m3)	Months overlap with audit period	Total volume to be processed during audit period (m3)
TSL #1	2012-10-23	2016-01-20	39	6,880	176	39	6,880
TSL #2	2012-12-20	2016-06-17	42	21,338	508	37	18,798
TSL #3	2014-09-19	2017-05-17	32	15,820	494	16	7,910
TSL #4	2011-10-18	2012-01-17	14	4,044	289	10	2,889
Total					1,468		36,476

The BCTS staff may inspect the TSL holder's timber processing facility and demand that the TSL holder provide evidence (usually in the form of raw material invoices, or product sales invoices) of the mill production and the timber input volume processed.

Enforcement

With regard to the timber processing requirement, if the TSL holder has

- a) failed to submit the processing reports when required or requested;
- b) submitted processing reports containing false information or misrepresented performance; or
- c) failed to process the volume of timber within the term of a licence;

the Cat 2 TSL holder will be subject to Section 21 of the BC Timber Sales Regulation (BCTSR) and to Section 78 of the *Forest Act*.

A determination under Section 78 of the *Forest Act* or Section 21(2) of the BCTSR will have an impact of the TSL holder primary performance designation for the purpose of Section 16.3 of the BCTSR for determining the amount of deposit that will be required to be submitted for any future TSL that may be awarded to the person.

Continuing Liability

Timber processing is an obligation under the licence and failure to fulfil that obligation could potentially lead to deposit forfeiture. Therefore, the TSM may allow the TSL holder more time, up to a two (2) year period, to complete that obligation under Section 21 of the BCTSR. Any additional time to complete obligations must be granted by the TSM in writing before the expiry of the TSL. Granting additional time to complete obligations under Section 21 of the BCTSR is different and should not be confused with an extension to the TSL under Section 58.1 of the *Forest Act*.

Contacts

For further information regarding this bulletin please contact your local business area.