



File: 19400-00

Advisory Bulletin No. 02/06/17 – Timber Sale Licence Standing Deposits

Purpose

This bulletin provides information regarding standing deposits for timber sale licences (TSL) as administered under the BC Timber Sales Regulation (BCTSR).

Definitions

Deposit: means a deposit paid under section 16 of the BCTSR.

Level 1 Applicant: means an applicant who meets the criteria as specified in Section 16.4(1) of the BCTSR.

Standing deposit: means a standing deposit specified under section 16.1 of the BCTSR.

What is a Standing Deposit?

A standing deposit is designed to satisfy the deposit requirements of multiple TSLs. While the amount of a deposit is dependent on applicant level and total TSL value, a standing deposit is always set at \$100,000 regardless of how many TSLs are held by the registrant.

Standing Deposit Eligibility

The successful applicant for a TSL may specify in writing that they are relying on a standing deposit in lieu of paying a deposit if the following criteria are met:

- a) the applicant must be a level 1 applicant,
- b) the applicant must be a BC timber sales enterprise, and
- c) the government must have already received the standing deposit from the applicant.

Establishment Rules

A standing deposit must be:

- 1) In the amount of \$100,000, and
- 2) Paid in cash, certified cheque or other security acceptable to the minister.

Administration Rules

- 1) A standing deposit is subject to the same rules that apply to deposits under the Financial and Deposits Part in the TSL agreement.
- 2) A standing deposit is subject to the same rules respecting forfeiture that apply to deposits under section 21 of the BCTSR.
- 3) The successful applicant for a new TSL must notify the Timber Sales Manager (TSM), in writing, that they are relying on a standing deposit before entering into the TSL.

- 4) A standing deposit may be accessed by the government during the term of a TSL to cover outstanding payments or licence obligations with respect to the TSL. If this occurs, the licence holder must maintain the standing deposit in the amount of \$100,000.
- 5) A standing deposit may be refunded in full if the TSM is satisfied that the licence holder has fulfilled all obligations under or in respect of a TSL and the licence holder is not relying on the standing deposit in respect of another TSL.
- 6) A standing deposit is non-refundable during the 12-month period immediately following the date on which the standing deposit is first established.
- 7) A standing deposit is forfeited to government if a TSL is surrendered. The minister has the discretion to relieve the licence holder from forfeiture for reasons that are beyond the licence holder's control and unrelated to the licence holder's financial situation in accordance with section 58.3 of the *Forest Act*.

TSL Transfer Rules

- 1) If a TSL is transferred under section 54 of the *Forest Act*, the recipient is required to pay a deposit.
- 2) If the eligibility rules for a standing deposit are met, the recipient of a transferred TSL may specify to the TSM, in writing, that they are relying on a standing deposit to fulfil the deposit requirements of the TSL.
- 3) The standing deposit must be in place and the written statement referred to in rule (2) must be received by the TSM before the end of the day of the day of completion of the disposition for the transfer to be effective.

Questions and Answers

Q1. Who is eligible to make a standing deposit?

A1. Any BC timber sales enterprise that is a level 1 applicant, i.e. meets all of the "primary performance criteria" and "financial performance criteria" specified in section 16.3 of the BCTSR.

Q2. How do I get a standing deposit set up?

A2. A standing deposit can be established at any BCTS Timber Sales office. You will need to provide the deposit in the form of cash, certified cheque or other security acceptable to the minister. Your local BCTS staff can provide further information about the acceptable forms of payment.

Q3. How do I use a standing deposit when entering into a TSL?

A3. Your standing deposit must be made before entering into a licence agreement. Before signing a new TSL, you simply indicate to the TSM, in writing, that you are relying on your standing deposit.

Q4. Are there limitations for a standing deposit?

A4. You can rely on a standing deposit for any number, value and volume of newly acquired TSLs provided you continue to maintain your status as a level 1 applicant. A standing deposit can be used in conjunction with a TSL issued under section 20 of the *Forest Act* for any registration category (Cat 1, Cat 2, Cat Any).

Q5. What happens if a registrant with a standing deposit is no longer a level 1 applicant?

A5. The person would lose the ability to rely on a standing deposit for any newly acquired TSLs. However, the standing deposit would continue to apply for any TSLs the applicant currently holds.

Q6. A BCTS registrant currently holds TSLs that were acquired with individual deposit amounts and has just set up a standing deposit. Can the new standing deposit be applied against the pre-existing TSLs and can the TSL-specific deposits be returned?

A6. No. The standing deposit can only be used in respect of TSLs awarded after the standing deposit has been established.

Q7. Is a standing deposit refundable?

A7. Yes. A standing deposit can be refunded no earlier than one year after it is established provided there are no TSLs that currently rely upon the standing deposit. The refund is subject to the normal financial set-off rules and thereby could be applied to other debts owed to government.

Q8. Can a TSM access a standing deposit to remedy a TSL or road permit (RP) obligation?

A8. Yes. If the TSL or RP is still valid, the TSM can access the standing deposit in accordance with the terms set out in the TSL or the RP and the amount taken would need to be topped up by the TSL holder. If the TSL has expired, the TSM can access the standing deposit in accordance with the deposit forfeiture rules set out in section 21 of the BCTSR.

Q9. Can a TSM access a standing deposit to remedy a road use permit (RUP) obligation?

A9. No. The TSM does not have legal authority to administer a RUP and therefore the role of enforcing RUP obligations should be left to the District Manager who issued the RUP.

Q10. Does the forfeiture of a standing deposit resulting from the surrender of a TSL affect the licence holder's applicant level?

A10. No, the surrender of a TSL does not affect the applicant level. The only deposit forfeitures that affect the primary performance criteria, and hence the applicant level are:

- 1) a determination concerning the deposit disposed of under section 21(2) of the BCTSR (remedying outstanding obligation); or
- 2) a determination concerning the deposit forfeiture under section 21(4) of the BCTSR (expiry with no harvesting).

Q11. If the TSL holder allows their TSL to expire and no harvesting has taken place, does the forfeiture of the standing deposit affect their applicant level?

A11. Yes. A standing deposit that was forfeited pursuant to section 21(4) of the BCTSR will affect the applicant's deposit level.

Q12. If a BCTS registrant has a standing bid deposit, does it then automatically become a standing deposit, if they are the successful bidder?

A12. No, standing deposits and standing bid deposits are separate and distinct under the BCTSR. Eligibility for a standing deposit requires meeting specific criteria in accordance with section 16.1(3)

of the BCTSR. If the registrant meets these criteria, then section 16.1(1) of the BCTSR allows for relying on a standing deposit.

Q13 If a licence is being transferred from one BCTS registrant to another can the standing deposit be transferred to the recipient as well?

A13 No, subject to the eligibility rules, the recipient of the transferred TSL must establish a new standing deposit and notify the TSM that they are relying on a standing deposit.

Q14 When must a standing deposit be established with respect to a TSL that is being transferred from one BCTS registrant to another?

A14 The standing deposit must be established prior to the completion of the disposition of the TSL to the recipient. This also means that the recipient must have notified the TSM that they will be relying on a standing deposit prior to the completion of the disposition.

Q15 I've received my TSL for signing and the TSM has given me 10 days to return the signed licence and submit a deposit. Can I return the signed licence and notify the TSM that I will be relying on a standing deposit as long as I pay the standing deposit within the 10 day period?

A15 No, the government must already have received the standing deposit in order for you to notify the TSM that you will be relying on it.

Contacts

For further information regarding this bulletin, please contact your local BCTS office.