



Ministry of
Forests, Lands, Natural
Resource Operations
and Rural Development

Woodlot Licence Consolidation Guidelines

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Document Change Control

Version	Date	Key Change
1	October 2009	Version 1
1.1	February 2019	Updated template and broken web links.

Questions or comments should be directed to:

Forest Tenures Branch, Ministry of Forests, Lands, Natural Resource Operations and Rural Development

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1 Purpose

The purpose of this document is to provide ministry staff and holders of woodlot licences (WL) issued under the *Forest Act* (Act) with guidelines for consolidating WLs entered into under Section 12 of the Act. These guidelines focus on licensee initiated requests for consolidation. The guidelines also provide an overview of the policy and legislation on consolidation along with linkages to the applicable Acts and Regulations.

The scope of this document does not include WL transfers or private land issues, as these are separate processes from consolidation. For information these processes, please contact the WL forester at the regional or district office.

2 Background

In March 2009, the government introduced *Forest Amendment Act, 2009* (Bill 13) which included legislation to enable the consolidation of 2 WLs subject to the maximum allowable size of 800 hectares of Crown land on the Coast and 1200 hectares in the Interior. The change enables licensees to combine the WL's administrative and reporting tasks and allows a holder to apply for an additional woodlot licence.

The consolidation of WLs will reduce administrative work for both licence holders Ministry staff and will allow licence holders more time in the forest managing their WLs. The consolidation of 2 WLs will allow holders to streamline their operations.

Section 46.2 of the Act provides for the consolidation of WLs. The methods of consolidation include deleting all or part of an area from one WL and adding it to the other WL or deleting all or part of the area of both WLs and entering into a new WL covering these areas. The preferred option for consolidation is to delete all or a portion of the area from one WL and add it to the other WL. At the end of the consolidation process only one woodlot will be in existence – if a small area remains on one WL after the deletion and consolidation process, that WL will be cancelled.

In order to allow the consolidation of 2 WLs, the minister requires consent of the holder of the WLs. Both WLs must be held by the same person.

If both WLs are replaceable, the new licence will also be replaceable. If both are non-replaceable, the resulting licence will be non-replaceable. If a non-replaceable licence and a replaceable licence are consolidated, the resulting licence will be non-replaceable.

Any private land currently associated with the 2 WLs will remain subject to the new or amended WL.

In addition, the Act requires that the overall allowable annual cut (AAC) attributable to the licences in question does not exceed the total of the AACs of the replaced WLs as a result of the consolidation. It also requires a licence that is amended or entered into for consolidation, does not expire later than the earliest expiry date of the licences being consolidated.

3 Legislation

3.1 Forest Act and Forest Amendment Act, 2009

The *Forest Amendment Act, 2009* adds Section 46.2 to the Act dealing with consolidation of WLs.

The *Forest Amendment Act, 2009* can be located at the following website:

http://www.leg.bc.ca/38th5th/3rd_read/gov13-3.htm

The *Forest Act* and its Regulations can be found at:

<http://www.bclaws.ca/civix/content/complete/statreg/1198514681/96157/?xsl=/templates/browse.xsl>

3.2 Regulations

The Act does not provide any specific Regulation making power with respect to the consolidation of agreements. However, the Cut Control Regulation deals with cut control when consolidating. This can be found at: <https://www2.gov.bc.ca/gov/content?id=6445890367504A5680A5877F75350FA1>

See section 7.0 for more details.

3.3 Policy

At this time, no formal policy has been developed for the consolidation of WLs. If policy and/or bulletins are developed in the future, they will be included in an appendix to this document.

4 Delegation of Responsibility

Section 46.2 of the Act indicates that the minister may consolidate 2 WLs.

The authority for Section 46.2(1) has been delegated to the Regional Executive Director (RED) or the District Manager (DM) as per the Act and Regulations authority matrix. At this time, authority has not been delegated (Sept 2009).

5 Guidelines For Consolidation of Woodlot Licences

5.1 Proposal to Consolidate a WL

If a licensee is considering the consolidation of two WL's, they should contact the Regional or District WL Forester to review and discuss the options. Prior to contacting the WL Forester, the licensee should have the following information ready.

1. General overview of the proposed consolidation including a map indicating the existing WL's and the proposed WL.
2. The current Crown land area of the two WLs and the resulting area of the new or amended WL. If the total area of the initial 2 WLs exceeds the maximum size of 800 hectares (Coast) or 1200 hectares (Interior), indicate which area(s) is proposed for deletion.
3. The AAC of current licences and proposed AAC of the new licence.
4. The status of the approved plans and outstanding obligations (e.g. silviculture, roads, hazard abatement, and others) of each WL..
5. Current cut control period and performance of each WL.
6. Approved cutting authorities and road permits for each WL.
7. Identify which licence will be amended by adding the area from the other WL or if a new licence will replace the existing WLs.
8. The name, position and phone number of contact person for the proposed consolidation.

Addresses for RM's and DM's can be found at the following website:

<https://www2.gov.bc.ca/gov/content?id=D49E6A6A67C944AC80A9F5B5686543F1>

5.2 Review of a Proposal to Consolidate a WL

The licensee and regional or district timber tenure staff should meet to discuss the proposal to determine the implications with regards to planning, outstanding obligations, cut control, area, AAC, cutting authorities and road permits. There should also be discussion around amending one WL to include the area and any clauses from Schedule C or creating a new licence. The new WL document should be reviewed by the licensee prior to making a decision. Clauses from both Schedule C's of the former licences must be included in the new licence. If the 2 WL's proposed for consolidation are in different districts/regions, a decision on which district will administer the licence document, management plans and operational plans will be needed. This will be done through discussions with the licensee, regional and district staff. Additional considerations should include any outstanding compliance and enforcement issues.

Regional or district tenures staff will notify and seek input as required from the following:

- Revenue (i.e. effects on average stumpage rates – road permits and blanket salvage permits, possible effects to road groups, various cost estimates)
- Stewardship (i.e. WLPs, FDPs, silviculture obligations)
- Districts (i.e. CPs, RPs)
- Headquarters (i.e. new policies and/or procedures)

If areas are proposed for deletion in order to keep the size of the consolidated WL to the limits set in Section 45(1)(b)(ii) of the Act, district staff must review the resulting area to ensure that the amended or new licence area is a reasonable management unit. The areas being deleted should be one contiguous piece taken off the outer boundary of the WLs and should be operationally suitable and accessible for other licensees.

5.3 Request to Consolidate 2 Woodlot Licences

If the licensee decides to proceed with the consolidation, a formal request, in writing, must be submitted to the RM or DM (depends on who signed the last replacement document). The submission should include:

1. General overview of the proposed consolidation including maps showing the existing WLs and proposed WL.
2. Specify the current Crown land area of the two WLs and the resulting area of the new or amended WL. If the total area of the initial 2 WLs exceeds the maximum size of 800 hectares (Coast) or 1200 hectares (Interior), indicate which area(s) is proposed for deletion.
3. Specify AAC volumes of current licences and proposed AAC of the new licence.
4. Implications with respect to approved plans and outstanding obligations (e.g. silviculture, roads, hazard abatement, and others).
5. Identify cut control implications in terms of undercut and excess harvest / penalty billing.
6. Details regarding the transfer of approved cutting authorities to the new licence.
7. Identify Road Permits associated with the WLs.
8. Identify which licence will be amended by adding the area from the other WL or if a new licence will replace the existing WLs.
9. Maps indicating the existing WLs and proposed WL.
10. The name, position and phone number of contact person for the proposed consolidation.

Addresses for RMs and DMs can be found at the following website:

<https://www2.gov.bc.ca/gov/content?id=D49E6A6A67C944AC80A9F5B5686543F1>

5.4 First Nations Consultation

Consolidation of licences is a statutory decision and requires First Nations consultation consistent with provincial standards and following regional authority consultation matrices. Special circumstances may apply with respect to Forest and Range Opportunities (FROs), Forest and Range

Agreements (FRAs), mountain pine beetle (MPB) agreements, other interim measure agreements or treaty areas, or where litigation is active.

The RED or DM may consider notification and/or consultation of other stakeholders (i.e. BCTS, communities, other government agencies) as necessary.

5.5 Notice That Consolidation May Proceed or Not Proceed

Staff will prepare a decision briefing note for the RED or DM that includes options and a recommendation. This will include the appropriate First Nations consultation summary. (See Section 5.3).

If the RED or DM decides to reject a proposed consolidation on the grounds that the proposed new or amended WL exceeds the maximum size set in Section 45 (1) (b) (ii) of the Act, that the 2 licences are not held by the same person, or that the AAC of the emended or new WL exceeds the total of the AAC's of the replaced WLs, a notice will be sent under the RED's signature or DM's signature, notifying the licensee of the decision. The notice may include the reasons why the request was rejected.

If the RED or DM decides that the consolidation may proceed, the RED or DM may advise the licensee accordingly. The notice will be cc'd to:

- Regional Executive Director
- District Manager(s)

If the request includes the deletion of area in order to produce a new WL area less than or equal to the maximum allowed for in Section 45(1)(b)(ii), the notification to proceed must include the requirement for the licensee to submit spatial information for the new or amended WL. This spatial information will be used to generate the new exhibit A for the licence document.

6 Licence Documentation

Licence documentation for consolidation of WLs is the responsibility of the licensor of the WLs being consolidated. If the licensee chooses to amend a WL, the district of the licence being amended will maintain the WL.

The following provides some guidance with respect to which agreement conditions should be reviewed and considered when amending the original and creating the new licence. A number of different templates are currently in use for existing WLs. The following sections make reference to the contractual issues in general terms.

When consolidating 2 WLs, they may be replaced by amending one of the WLs or with a new WL. Preference is for the amendment of one of the WL for administrative efficiency.

- Amend one of the WLs

Amend the woodlot licence that the licence holder indicated in the letter of intent using an FS 3. The FS 3 should include:

- same start date as the existing licence
- term is the same if the licence being amended has the earliest expiry date of the 2 WLs
- term will be reduced if the licence being amended had the later expiry date, the term must be adjusted so the amended licence has an expiry date that is no later than the earliest expiry date of the 2 WL's
- new Schedule A with maps of the private land from both WLs
- new Schedule B with maps of amended WL area
- all clauses from Schedule C of the WL that is being added to the WL.

The option of updating the licence template for the amended licence may be offered to the licensee with the approval of the RM or DM and agreement from the licence holder. The FS 3 should then identify all clauses that are deleted from and/or added to the licence document, and effective dates for these clauses.

For the purpose of these guidelines, if the Regional Manager (RM) has issued the WLs, the RM will amend or issue the resulting WL. If the DM has issued the WLs, the DM will amend or issue the WL.

- Issue a new WL

The current template in use for the type of licence in question must be used for the new licence. The new licence must include essentially the same terms and conditions that are included in the original WLs licence unless they are now covered in legislation. The "Whereas" paragraph of the new licence should state it was the result of a consolidation and have a reference to the former WLs.

A licensee who has requested the consolidation of 2 WLs into a new WL, may, based on the conditions set forth in the new licence document, decline the consolidated licence. In this case, the previous licence agreements remain in place and continue unchanged until the next replacement offer.

6.1 Effective (Beginning) Date, Expiry Date and Term

If a new licence is created, the expiry date must be the earliest expiry date of the 2 WLs being consolidated, with the effective (beginning) date and term remaining the same.

If the WL with the earliest expiry date is selected to become the consolidated licence, then the effective date and term of the licence will remain the same as that licence.

If the WL to be maintained does not have the earliest expiry date, the effective date of the licence may remain the same. However, the term of the licence must be amended to ensure that the licence will expire prior to or on the earliest expiry date of the licences being consolidated.

6.2 Special Conditions and Requirements

All licences being consolidated must be carefully reviewed for any special conditions and requirements that form part of the licences. Any such conditions must be carried forward in the consolidated licence.

7 Licence Administration

7.1 Cut Control

Cut control is governed by Section 75.61 of the Act and the Cut Control Regulations.

The new cut control period will begin on January 1 of the year of consolidation.

According to the Act Section 75.6(4), if the parent licences are in an over cut position, this volume is charged to the first cut control period of the maintained licence. If the limits were exceeded, then penalty provisions apply. If the parent licences are in an undercut position, the unharvested volume is not carried forward.

It is important to discuss the cut control implications with the licensee as soon as possible in the process.

7.2 Road Permits

All road permits associated with the licence(s) cancelled as part of a consolidation must be amended so that the reference is made to the licence being maintained.

If the consolidated WL is located within one district, the road permit timber mark consisting of the mark designate from the remaining/new WL followed by R1 will be applied. If the consolidated WL is located within 2 districts, the road permit timber marks will be the mark designate from the remaining/new WL followed by R1 will be applied to one district and the mark designate from the remaining/new WL followed by R2 will be applied to the second district.

**** Please Note ****

The original “R” road permit timber mark must remain assigned to one section/segment of the road so data is not lost.

Data from road permits and their associated agreement may be used in calculation of average stumpage rates for road permits and blanket salvage permits. Regional Revenue staff should be notified of any proposed and completed amendments.

7.3 Cutting Permits

All cutting permits issued under a licence being cancelled as part of a consolidation must be amended to make the reference to the licence being maintained.

Any active CP with obligations (PP, PL, HI, HS) under the licence being cancelled will be labelled to the remaining licence. All other CPs (HC, HX, S) will stay with the licence to be cancelled.

When CP numbers (ID) are duplicated (i.e. two CP99s), one of the CPs must be renumbered. Licensees will confirm the actions to be taken on all affected cutting permits.

This will be reviewed by the region, and performed by the district once approved.

****Please Note****

Any standing unlogged timber not designated to be reserved is considered standing waste, and may be subject to waste billing under the take or pay policy.

Data from blanket salvage permits may be used in calculation of average stumpage rates for road permits and blanket salvage permits, and changing the licence association of CPs may affect these average stumpage rates. There may also be implications to cost estimates in appraisals. Regional Revenue staff should be notified of any proposed and completed amendments.

7.4 Licence Security Deposits

If one licence is being amended to add the other WL area, the security deposit of the amended licence will be kept and the security deposit for the licence being cancelled will be returned to the licence holder.

If a new licence is being issued, a security deposit of \$1000 is required.

7.5 Annual Rent

Annual rent adjustments should be made consistent with Section 7.5 of the document titled “Annual Rent Billing Procedures”. This document is located at:

<https://www2.gov.bc.ca/gov/content?id=E3A54963C64C40D28B51045FA2F549CC>

Annual rent billings for the remaining WL will continue as per section 111 of the *Forest Act*.

7.6 Outstanding Obligations

As per Section 79 of the Act, despite the expiry, surrender, suspension or cancellation of a licence, the holder is liable to:

- to pay the rent, fees, costs and penalties owing to the government in respect of the agreement,
- to perform all other obligations under the agreement,
- to perform all other obligations imposed under this Act, the *Forest and Range Practices Act*, the *Forest Practices Code of British Columbia Act* or the *Wildfire Act* with respect to the agreement, and
- to pay to the government all other money required under this Act to be paid to the government in respect of the agreement

incurred before its expiry, surrender, suspension or cancellation.

It is important to keep track of the status and responsibility for outstanding obligations on all cutting permits involved. This is done mainly through the RESULTS system.

7.7 *Operational Plans

Legislation currently only allows one WLP for a woodlot licence so either a new WLP is required or one of the previous WLP's may be amended to include the additional area. The amended WLP will have an expiry date equal to the earliest expiry date of the 2 WLP's being consolidated.

7.8 AAC and Management Plans

The AAC of the new or amended WL must not exceed the total of the AACs of the consolidated WLs as they were immediately before the consolidation. After the amendment or new licence is signed, an amendment to or a new management plan is required to change the AAC.

7.9 Cancellation of Licences

If all or part of the licence area is deleted from a WL and added to the area of another WL, the WL that had the area removed must be cancelled.

If all or part of the licence area is deleted from both WLs and the deleted areas are combined to form a new WL, both of the original WLs must be cancelled.

8 Systems and Filing

District staff are responsible for identifying the appropriate cutting permits in the Forest Tenure Administration System as determined under 7.3. The cutting permits will be relabelled (transferred) by district geomatics staff upon confirmation from the licensee.

Newly created licences must be entered into FTA as well as closing out those licences which are cancelled.

Any areas deleted from the WLs must be completed spatially to ensure info in the LRDW is correct.

Hard copies of file documents (briefing notes, approval letters, cancellation letters, new licences;) must be placed on the appropriate files of all licences being amended, created, or cancelled as part of the consolidation.