

PROVINCE OF BRITISH COLUMBIA


ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No.

216

, Approved and Ordered

MAR 30 2006



Lieutenant Governor
Administrator

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the ~~Lieutenant Governor~~ ^{Administrator}, by and with the advice and consent of the Executive Council, orders that

- (a) the Woodlot Licence Regulation, B. C. Reg. 190/99 is repealed,
- (b) the attached Woodlot Licence Regulation is made, and
- (c) section 25 of the *Forests Statutes Amendment Act, 2004*, S.B.C. 2004, c. 36, is brought into force.



Minister of Forests and Range and
Minister Responsible for Housing



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- Forest Act, R.S.B.C. 1996, c. 157, ss. 46.1, 47.1 and 151 (2) (m)
Forests Statutes Amendment Act, 2004, S.B.C. 2004, c. 36, s. 147

Other (specify):- oic 737/99

WOODLOT LICENCE REGULATION

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Definition

- 1 In this regulation, “Act” means the *Forest Act*.

PART 1 – APPLICATIONS FOR WOODLOT LICENCES AND EVALUATION

Applications for woodlot licences

- 2 (1) The prescribed requirements referred to in section 44 (3) (b) of the Act for a woodlot licence application made in response to an invitation under section 44 (2) of the Act are that the application must
 - (a) be in the form specified by the regional manager or district manager, depending on which of them invites the applications, that he or she considers appropriate for the invitation,
 - (b) contain or be accompanied by a written tender, in a sealed container, of a bonus in a specified dollar amount payable to the government in addition to other amounts payable to the government under the Act and the regulations, and
 - (c) contain or be accompanied by information specified by the regional manager or district manager that he or she considers necessary for
 - (i) ascertaining the applicant’s eligibility by reference to section 44 (2) of the Act, and
 - (ii) evaluating the application, in comparison to the other competing applications, by reference to sections 3 to 5 of this regulation.
- (2) If stipulated in an invitation under section 44 (2) of the Act for woodlot licence applications, an application in response to that invitation must contain or be accompanied by a certificate of an individual with professional qualifications specified in the advertisement which certificate provides written assurance, based on
 - (a) the personal knowledge of the certifying individual, and

(b) information from credible sources,
that confirms the validity and accuracy of information provided by the applicant about matters relevant to the application that are within the competence of the certifying individual.

Definitions for section 4

3 (1) In section 4:

“**closing date**” means the closing date stipulated in an invitation under section 44 (2) of the Act for woodlot licence applications;

“**proposed private land of the applicant**” means

- (a) private land, or
- (b) all or part of a reserve as defined in the *Indian Act* (Canada), in British Columbia that
- (c) is proposed for inclusion in a woodlot licence by a woodlot licence applicant under an application made in response to an invitation under section 44 (2) of the Act, and
- (d) conforms to the requirements of the invitation;

“**principal residence**”, in relation to a woodlot licence application made in response to an invitation under section 44 (2) of the Act, means

- (a) if the applicant is an individual, the usual place in which the individual makes his or her home, having done so for at least 6 months immediately preceding the closing date,
- (b) if the applicant is a corporation, the usual place in which an individual, if any, with voting shares in the corporation makes his or her home, having done so for at least 6 months immediately preceding the closing date,
- (c) if the applicant is a partnership, the usual place in which an individual partner, if any, makes his or her home, having done so for at least 6 months immediately preceding the closing date, or
- (d) if the applicant is a first nation, the principal office of the first nation.

(2) For the purpose of a woodlot licence application referred to in section 4 (4), the distance factor for each area included in the proposed private land of the applicant is

- (a) 1.0 if the shortest distance between the area and the Crown land to be described in the woodlot licence applied for is 50 km or less,
- (b) 0.9 if the shortest distance between the area and the Crown land to be described in the woodlot licence applied for is more than 50 km but no more than 60 km,
- (c) 0.8 if the shortest distance between the area and the Crown land to be described in the woodlot licence applied for is more than 60 km but no more than 70 km,
- (d) 0.7 if the shortest distance between the area and the Crown land to be described in the woodlot licence applied for is more than 70 km but no more than 80 km,

- (e) 0.6 if the shortest distance between the area and the Crown land to be described in the woodlot licence applied for is more than 80 km but no more than 90 km,
 - (f) 0.5 if the shortest distance between the area and the Crown land to be described in the woodlot licence applied for is more than 90 km but no more than 100 km,
 - (g) 0.4 if the shortest distance between the area and the Crown land to be described in the woodlot licence applied for is more than 100 km but no more than 110 km,
 - (h) 0.3 if the shortest distance between the area and the Crown land to be described in the woodlot licence applied for is more than 110 km but no more than 120 km,
 - (i) 0.2 if the shortest distance between the area and the Crown land to be described in the woodlot licence applied for is more than 120 km but no more than 130 km, or
 - (j) 0.1 if the shortest distance between the area and the Crown land to be described in the woodlot licence applied for is more than 130 km,
- measured horizontally in a straight line.

Evaluation of competing woodlot licence applications

- 4 (1) Competing woodlot licence applications made in response to an invitation under section 44 (2) of the Act are to be evaluated under a point system in accordance with this section.
- (2) Subject to section 5, the woodlot licence application assigned the most points under this section is, for the purposes of section 44 of the Act, the best of those competing woodlot applications.
- (3) In evaluating each of the competing woodlot licence applications, the regional manager or district manager, depending on which of them is conducting the evaluation, must assign to the application
- (a) either
 - (i) 50 points if the bonus tendered under the application is the highest of the bonuses tendered under all of the competing applications, or
 - (ii) a lower number of points if the bonus tendered under the application was lower than the highest bonus, determined by
 - (A) dividing the amount of that lower bonus for the application by the amount of the highest bonus, and
 - (B) multiplying the result by 50,
 - (b) for the proximity of the applicant's principal residence to the Crown land to be described in the woodlot licence applied for,
 - (i) 25 points if that principal residence is 50 km or less from the Crown land,
 - (ii) 20 points if that principal residence is more than 50 km but no more than 100 km from the Crown land,

- (iii) 15 points if that principal residence is more than 100 km but no more than 150 km from the Crown land,
 - (iv) 10 points if that principal residence is more than 150 km but no more than 200 km from the Crown land, or
 - (v) 5 points if that principal residence is more than 200 km from the Crown land, and
- measured by the means stipulated in the invitation for the woodlot licence under section 44 (2) of the Act, and
- (c) for each area included in the proposed private land of the applicant, the number of points calculated under subsection (4).
- (4) The number of points referred to in subsection (3) (c) that are to be assigned to a woodlot licence application is to be calculated as follows:
- (a) first, for each of the competing applications, ascertain, for each area included in the proposed private land of the applicant, the product of
 - (i) the distance factor for that area, and
 - (ii) the number of hectares contained in it;
 - (b) second, for each of the competing applications,
 - (i) if there is only one area included in the proposed private land of the applicant, note the amount of the product obtained under paragraph (a) for that area, and
 - (ii) if there are 2 or more areas included in the proposed private land of the applicant, note the amount of the sum of the products obtained under paragraph (a) for those areas;
 - (c) third, ascertain which of all of the amounts noted under paragraph (b) is the highest amount and assign
 - (i) 25 points to the competing woodlot licence application to which that highest amount is applicable, and
 - (ii) a lower number of points to each of the other competing woodlot licence applications to which an amount lower than that highest amount is applicable, determined by
 - (A) dividing the lower amount noted under paragraph (b) for that woodlot licence application by that highest amount, and
 - (B) multiplying the result by 25.

Tie-breaker

- 5 (1) If the points assigned to each of 2 or more of the competing applicants under section 4 are the same and the competing applicants are tied for the highest number of points,
- (a) the minister, by notice in writing, must notify each of those competing applicants, inviting the applicant to submit a written tender, in a sealed container, of a further bonus in a specified dollar amount payable to the government in addition to other amounts payable to the government under the Act and the regulations, and

- (b) the application of the applicant submitting the highest bonus is the best, for the purposes of section 44 of the Act, among the competing applicants.
- (2) If 2 or more of the written tenders of a further bonus referred to in subsection (1) (a) contain the same bonus and are tied for the highest bonus among all of the competing applicants, the minister must carry out the procedure under subsection (1) until one of the applicants submits the highest bonus.

PART 2 – CHANGE IN BOUNDARY OR AREA

Minor change of boundary or area

- 6 (1) Under section 47.1 of the Act, a district manager or regional manager may change the boundary or the area of the Crown land portion of a woodlot licence area, if the change does not increase the area of that Crown land portion by more than 10% and the district manager or regional manager, depending on which of them is the decision maker, is satisfied that
 - (a) any area to be added is close to the woodlot licence area,
 - (b) the woodlot licence holder's financial accounts with the government are up to date at the time of the change or arrangements satisfactory to the minister responsible for Provincial revenue have been made to bring those financial accounts up to date, and
 - (c) the change is appropriate, given the circumstances or conditions applicable to the Crown land.
- (2) One or more changes under subsection (1), whenever proposed, must not cause the original area of the woodlot licence to increase by more than 10%.

Major increase in woodlot licence area

- 7 (1) This section does not apply to a woodlot licence
 - (a) entered into after January 1, 2005 unless the application for the licence was approved before that date.
 - (b) amended under section 24.5 of the Act, or
 - (c) entered into under section 24.7 of the Act.
- (2) Under section 47.1 of the Act, a district manager or regional manager may change the boundary or the area of the Crown land portion of a woodlot licence area by an increase of more than 10% if the district manager or regional manager, depending on which of them is the decision maker, is satisfied that
 - (a) after the increase the Crown land portion of the woodlot licence area will not exceed
 - (i) 400 ha if it is in the Coast forest region, or
 - (ii) 600 ha if it is the Northern Interior forest region or in the Southern Interior forest region,
 - (b) the area to be added is close to the woodlot licence area,
 - (c) the woodlot licence holder's financial accounts with the government are up to date at the time of the change or arrangements satisfactory to the minister

- responsible for Provincial revenue have been made to bring those financial accounts up to date,
- (d) the change is appropriate, given the circumstances or conditions applicable to the Crown land, and
 - (e) the holder of the licence has managed the woodlot licence area in substantial compliance with the licence for a sufficient period, in the opinion of the district manager or regional manager, given the applicable circumstances and conditions.
- (3) This section is repealed on January 1, 2010.

PART 3 – TIMBER PROCESSING FACILITIES

Requirements to be met before timber processing facility authorization

- 8 (1) Without limiting the requirement of compliance with the conditions referred to in section 46.1 (2) (b) and (3) (b) of the Act, the prescribed requirements referred to in section 46.1 (2) (a) and (3) (a) of the Act that a person, corporation or band, in this section called “the person”, that owns or leases, or controls a corporation that owns or leases, a timber processing facility in British Columbia must meet are
- (a) if the person is required under the *Forest and Range Practices Act* to establish a free growing stand, the person is complying with the provisions of that Act and the regulations under that Act that are applicable in that regard, and
 - (b) the person is complying with the commitments specified in the management plan approved for the woodlot licence area.
- (2) Without limiting the requirement of compliance with the conditions referred to in section 46.1 (4) (b) or (5) (c) of the Act, the prescribed requirements referred to in section 46.1 (4) (a) and (5) (b) of the Act in respect of a woodlot licence are those referred to in subsection (1) of this section.

Types of conditions in respect of a timber processing facility

- 9 The following are prescribed as types of conditions that the district manager may impose for the purposes of section 46.1 of the Act:
- (a) conditions respecting the location of a timber processing facility;
 - (b) conditions respecting the length of time that the timber processing facility may be situated at the location;
 - (c) conditions respecting the management of waste.