



RESOURCE TENURES & ENGINEERING BRANCH

Administration Guide for Cut Control

December 21, 2005

Consistent with the *Forest Act* consolidated to Mar. 31, 2005, the *Cut Control Regulation* consolidated to Dec. 9, 2005 and the *Tree Farm Licence Area-Based Allowable Annual Cut Trial Program Regulation* deposited Nov. 1, 2004



**BRITISH
COLUMBIA**

Ministry of Forests and Range

Amendment Log

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December 21, 2005	Guide completed under contract	

Cut Control Guide Issues

Readers:

If you notice any errors or omissions or have concerns about an interpretation provided in this guide, please send an email to Dennis McPhail, RPF, Senior Timber Tenures Forester, Resource Tenures and Engineering Branch.

Send to: dennis.mcphail@gov.bc.ca

In the subject line, type: **Cut Control Guide Issues**

In the body of the email, include:

- the guide's section number and heading
- your concern
- suggestions to improve the guide

About This Guide

This *Administration Guide for Cut Control* explains and references cut control business processes and rules for administering *allowable annual cut* in *agreements* under the *Forest Act*. The guide is designed as a reference source for Ministry of Forests and Range staff. It is also available to *agreement* holders and the public.

Focus on legislation

While providing practical explanations, the guide often paraphrases or isolates elements of the legislation. By doing so, nuances may be lost that are important to some situations. Therefore, the legislation itself should always be studied before making any decision regarding cut control. In complex situations, advice from legal counsel may be needed.

Questions about interpretations provided in this guide or about situations not covered should be directed to one of the regional cut control experts or the Resource Tenures and Engineering Branch.

Guide structure

Users of this guide are not expected to read from beginning to end. Different parts of the guide are designed for different purposes. Users are encouraged to use just the parts of the guide applicable to their needs.

Part 1 is an introduction for anyone unfamiliar with the recently changed cut control framework.

Part 2 describes the administrative steps in the cut control process and the associated cut control rules.

Part 3 contains a comprehensive set of cut control rules for each form of agreement. Each rule has Advice on how the Ministry interprets each rule is followed by a link to the source legislation.

Part 4 contains reference material, including a glossary, legislation and some example scenarios.

Italics indicate a term that is defined in the glossary or to indicate legislation.

Bold text indicates emphasis.

Underlines draw attention to key details.

In the guide, references to the *Forest Act* occur like this: "...section 75.1 ..." within a sentence or [FA s75.1] at the end of a statement, regardless whether it is actually a reference to a section, subsection, paragraph or subparagraph.

For users viewing the document online, hyperlinks can be followed to websites or to the legislation in the appendix. Press *Alt + left arrow* to return.

Acknowledgements

The *Administration Guide for Cut Control* is offered as best available advice from cut control experts.

The project of producing this guide was initiated and managed by Dennis McPhail, RPF, Senior Timber Tenures Forester, Resource Tenures and Engineering Branch. The December 21, 2005 version of the guide was prepared under contract by Stephen Osborn, RPF, Nexus Forest Solutions.

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Preface

Interior Forest Region; Robert Weeks, RFT, Northern Interior Forest Region.

The guide also utilizes pre-existing material owned by the Province of BC, including the consolidated legislation available on the government website: www.for.gov.bc.ca/tasb/legsregs/comptoc.htm

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1 Introduction to Cut Control

1.1 What is Cut Control?

Cut control is the set of rules and actions that regulates the rate of timber harvesting under *agreements* that specify or provide for an *allowable annual cut* (AAC). The AAC of an *agreement* is a portion of the AAC determined by the Chief Forester for the management unit that the *agreement* pertains to. (Woodlot licence AACs are determined by the district manager.)

The concept of harvest regulation through allowable annual cuts (AACs) was initiated in BC after the Sloan Commission of 1945. Sloan saw harvest regulation as an instrument to establish a sustained yield policy in which allowable annual cuts were to prevent the depletion of the timber resource over time and provide some continuity of harvest for community stability.

The AAC of an *agreement* is now essentially an option to harvest a certain amount of timber per year. The holder of the *agreement* can exercise their harvest rights subject to cut control limits specified in the *Forest Act (Act)*. The Ministry of Forests and Range (Ministry) tracks the amount of timber harvested during a *cut control period* (up to 5 years). If harvesting exceeds the cut control limit, the Ministry applies the monetary penalty specified in the *Act*.

Agreement means an agreement entered into under the *Forest Act*.

In this guide, the term usually refers to agreements that specify or provide for an AAC, such as a forest licence (**FL**), a tree farm licence (**TFL**), a woodlot licence (**WL**); or certain forms of timber sale licence (**TSL**).

1.2 Background of Recent Policy Changes

Amended cut control legislation is one of several forest policy changes designed to create competitive markets for standing timber, logs and tenure; and expand the role of market forces in the forest sector. BC's previous cut control requirements and government's intended policy changes were outlined in British Columbia's December 2001 proposal to the Canada-U.S. Softwood Lumber Trade Discussions.

This policy change was implemented with the *Forest (Revitalization) Amendment Act*, (Bill 29 – 2003, in force November 4, 2003) The amendment repealed the *Forest Act's* previous cut control provisions and added a new Division 3.1 – Cut Control (in Part 4 of

From BC's Dec. 2001 proposal to the Canada-U.S. Softwood Lumber Trade Discussions:

Cut Control Requirements:

Proposal

To eliminate the minimum levels at which companies must harvest timber under provincial tenures.

Measure

The Forest Act will be amended to eliminate: (a) the annual requirement for tenure holders to harvest at least 50% and no more than 150% of their AAC; and (b) the five-year requirement to harvest at least 90% of the five-year AAC.

Discussion

AAC is effectively apportioned to licencees for a five year period (AAC x 5). The annual and five-year minimum and maximum harvest volumes for each licencee are specified by the province's "cut control" provisions: a licencee must harvest within plus or minus 50% of the AAC each year, and within plus or minus 10% of the aggregate AAC over the five year period. The "penalty" for undercutting the AAC in a cut control period is loss of AAC in the subsequent cut control period.

In order to preserve the ability to manage the forests on a sustainable basis, the province does not propose to eliminate the maximum five-year cut control provision.

Introduction to Cut Control

Key Features of the 2003 Changes

the *Forest Act*). Bill 33 – 2004 (*Forests Statutes Amendment Act, 2004*) refined administrative aspects of the cut control legislation. The Cut Control Regulation (B.C. Reg. 578/2004) was replaced with updated regulations on December 13, 2004 and subsequently amended by Reg. 148/2005 March 18, 2005.

The new legislation simplifies the administration of cut control in many respects; especially in the elimination of most statutory decisions. However, the need to deal with different forms of *agreement*, transitional issues, licensee flexibility and other tenure reforms has resulted in complex legislation wording; hence the need for this guide.

1.3 Key Features of the 2003 Changes

A new model

Fewer controls on the use of AAC allow the holders of *agreements* to view their AAC as an “option to harvest”. The agreement holder is free to exercise that option (by applying for and using cutting permits) or allow the option to lapse without penalty. Although there is no longer an administrative penalty for undercutting; there is still an economic cost associated with the forgone opportunity. In this “option to harvest” model, market forces are the primary factor in the timing and level of timber harvesting. Cut control legislation focuses on the mechanics of comparing the harvest with the AAC and the consequences for excessive harvesting.

Applicability

Most¹ of the provisions set out in Division 3.1 of Part 4 of the *Forest Act* have been in force since November 4, 2003 and apply to harvesting in calendar 2003 and to certain *5 year cut control periods* that were in effect in the period January 1, 2003 to November 30, 2003.

Maximum volume limits and penalties are now applicable to all AAC-bearing *agreements*. The legislation has transitional provisions that capture existing *agreements* and shift non-replaceable forest licences from contractual to statutory requirements. The new cut control requirements vary somewhat based on differences in:

- form of agreement
- term (5 years or less versus greater than 5 years), and
- size of AAC (‘10,000 m³ or less’ versus ‘greater than 10,000 m³’)

Despite the conversion of section 24 timber sale licences (TSL), and the repeal of provisions that allowed TSLs to have an AAC and cutting permits, there are still previously-awarded TSLs that specify an AAC and will be subject to these statutory cut control requirements.

¹ Section 12(b) of the *Forest (Revitalization) Amendment Act, 2003* repealed the authority to approve undercut carry forward effective July 1, 2003. Cut Control Regulations and administrative amendments came into force after Nov 4, 2003.

Cut Control Period

The foundation of cut control is the time interval over which harvest volumes are reconciled with the authorized AAC. Any *agreement* with a term of 5 years or less is reconciled over the term of the *agreement*. *Agreements* with terms greater than 5 years have a *cut control period* (CCP) defined by the legislation. Depending on the form of *agreement* and size, the *agreement* holder may have some control over the length of CCP.

Elimination of minimum harvesting limits

There are no annual or periodic minimum harvest requirements nor any penalties for not utilizing AAC. AAC from any year in a cut control period can be harvested at anytime before the end of that period.

No undercut carry forward from one period to the next

At the end of a period, unharvested volume cannot be carried forward into the next period; with the exception of certain transitional carry forward approvals.

Maximum harvest limits

Maximum harvest limits apply to the *agreement's* applicable cut control period. Limits vary based on the type, size and term of the *agreement*:

- 120% of a CCP's cumulative AAC for smaller *agreements*
- 110% of a CCP's cumulative AAC for larger *agreements*.
- Short term *agreements*, or other *agreements* in their *final cut control period*, are restricted to 100% of the cumulative AAC within the original term of the agreement.

Holders of *agreements* who exceed the limit are subject to monetary penalties in addition to stumpage or other penalty. Any harvest volume exceeding 100% of the AACs will be treated as harvest in the next cut control period.

Special circumstances

Transitional provisions for pre-existing *agreements* allow a seamless transition:

- 5 year cut control periods that were in effect in the period January 1, 2003 to November 3, 2003 are converted to first cut control periods under the statutory rules
- Previous overcuts and approved undercuts are grandfathered into the first cut control period.

Division 3.1 also has special provisions to address other tenure policy reforms such as the splitting and consolidation of *agreements*.

Other provisions in the *Forest Act* and the *Cut Control Regulation* address cut control implications of TSL Conversion and AAC reductions under the *Forestry Revitalization Act*.

Introduction to Cut Control

Key Features of the 2003 Changes

Area-based AAC on TFLs

In 2002, the *Forest Act* was amended to enable trials to establish AACs on the basis of harvested area (hectares per year) rather than harvested volume (cubic metres per year). The intent of the trials is to determine if area-based AACs can provide a viable alternative for regulating harvest levels in B.C.

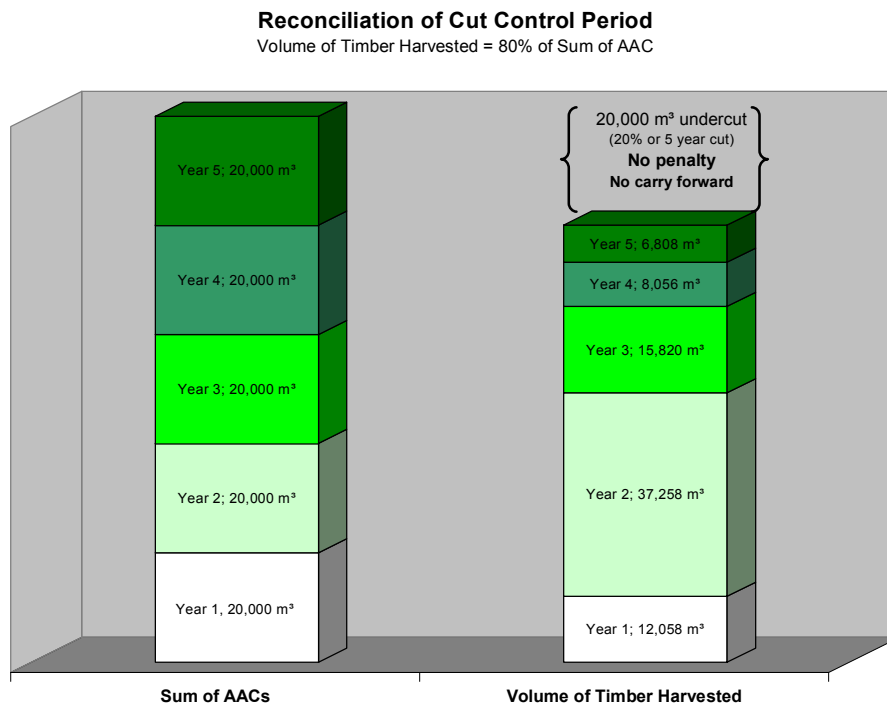
The *Tree Farm Licence Area-based Allowable Annual Cut Trial Program Regulation* went into effect on November 1, 2004. The regulation establishes a trial with certain Tree Farm Licence (TFL) holders who have expressed an interest in the area-based AAC trial program. A key part of the regulation makes adjustment to cut control legislation to facilitate the area-based AAC trial.

2 Cut Control Process

2.1 Overview

- At the beginning of each year, the holder of the *agreement* effectively acquires an option to harvest that year's AAC. The option can be exercised any time in the cut control period (CCP).
- After the end of each year, the holder of the *agreement* will be provided with, or have access to a report on the *volume of timber harvested* for that year.
- A reconciliation of *volume of timber harvested* versus AAC will only occur after the end of the CCP.
- There is a monetary penalty for overcutting during a CCP.
- Although there is no penalty for undercutting, any undercut at the end of the CCP is unavailable to the holder of the agreement.
- *Agreement* holders are not prohibited from early harvesting of their AAC (e.g. harvesting all 5 years AAC in the first year of the CCP), there is a risk of a penalty for overcutting if an unforeseen AAC reduction or agreement termination.

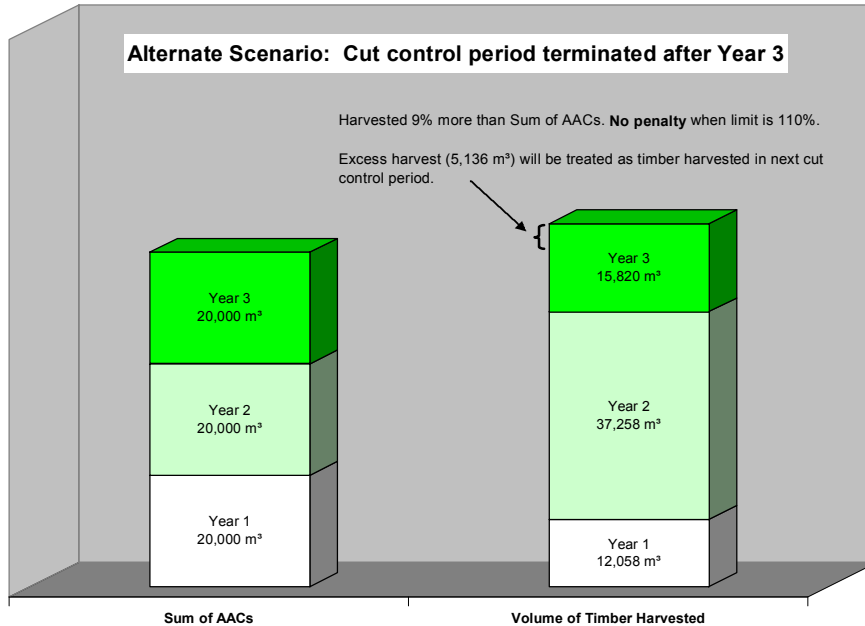
The following chart illustrates a scenario for a 20,000 m³ per year replaceable licence at the end of a cut control period that was 5 years long.



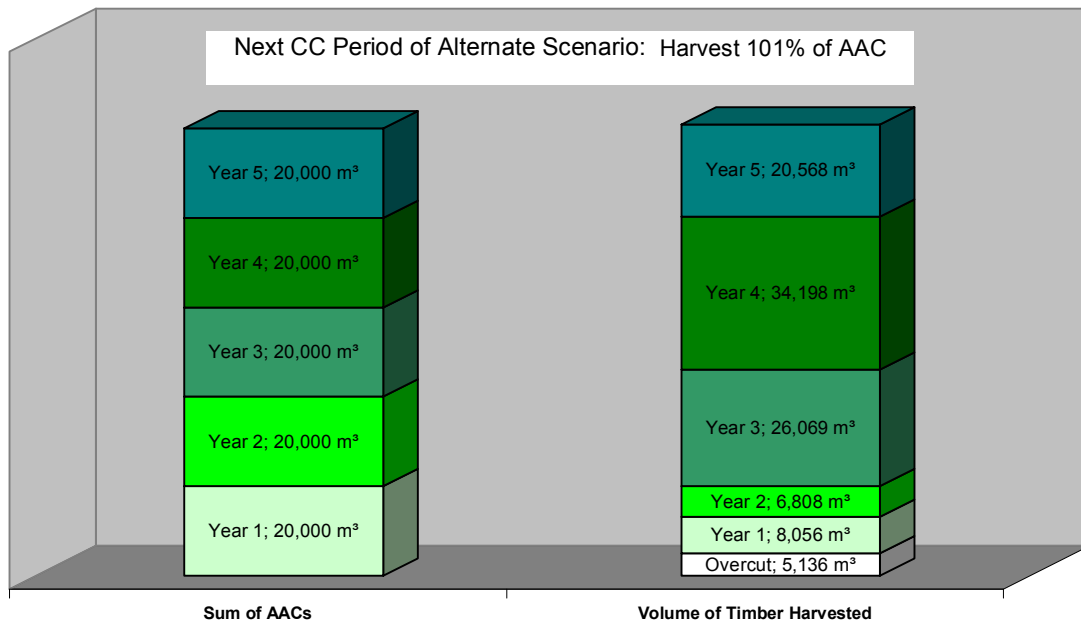
Cut Control Process

Overview

Holders of certain *agreements* (generally larger and long-term) can terminate their CCP sooner than the maximum 5 years by serving notice within six months after the desired end of their CCP. The chart below uses the same data as the above chart but terminates the period after year 3.



The next chart continues the alternate scenario with harvest rates in the first 2 years of the next CCP the same as the harvests in the 4th and 5th years of the original scenario. There is now more time left in the CCP to utilize the available AAC.



The holder of the *agreement* avoided the lost opportunity of a CCP undercut by restarting the CCP as soon as the harvest was over 100% but less than the penalty limit.

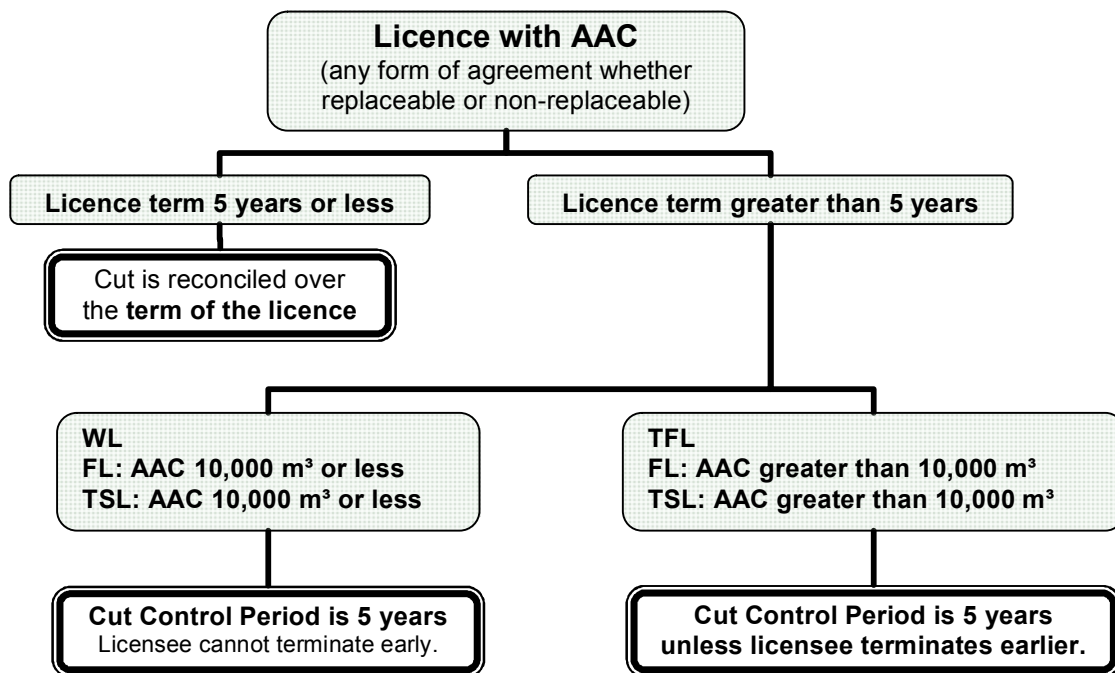
2.2 Administration Steps

The following sections provide more detail in the four steps of cut control administration:

- 1) Establish the cut control period
- 2) Identify the applicable limits and exemptions
- 3) Annually compile harvest data from previous year
- 4) If the cut control period has ended, reconcile the cut

2.2.1 Establish the cut control period

The interval between cut control reconciliations is determined by form of *agreement*, term and size. The paragraphs following the chart give details about the various periods and how they begin and end.



The *Forest Act* defines the CCP for *agreements*

A *cut control period* of 5 years is defined for AAC-bearing *agreements* with a term greater than 5 years. *Agreements* with an original term of 5 years or less are reconciled over the term of the *agreement*. [\[FA s75.2\]](#)

First cut control period for new *agreements*

A new *agreement* that was issued after November 4, 2003 with a term of more than 5

Cut Control Process

Administration Steps

years has a *cut control period* defined by section [75.4](#) or [75.5](#). The *cut control period* will begin on January 1 of the calendar year in which the term of the *agreement* begins; with the potential exception of woodlot licences. The district manager may designate a different starting month for a woodlot licence [\[FA s75.5\(3\)\]](#).

First cut control period for pre-existing agreements

For pre-existing *agreements* with a term greater than 5 years, a *5 year cut control period* that was in effect on January 1, 2003, or came into effect by November 3, 2003, is deemed to be the *first cut control period* for the purposes of the new cut control legislation. [\[FA s75.93\(1\)\]](#) The *5 year cut control period* could be one that was mandated by legislation or established contractually by a licence provision such as in most non-replaceable forest licences.

First cut control period for replacement licences

A forest licence, tree farm licence or woodlot licence, with a term greater than 5 years, that is a replacement under section 15, 36 or 46 for another licence will have a *first cut control period* with the same beginning date as the *cut control period* for the replaced licence. [\[FA s75.4\(3\)](#) and [FA s75.5\(3.1\)\]](#)

End of cut control period and subsequent cut control period

- If the *agreement* expires or is surrendered, the *cut control period* will end on that date [\[FA s75.4\(7\)](#) and [FA s75.5\(5\)\]](#) and that *cut control period* will be considered the *final cut control period* for the purposes of the limits specified in sections [75.41](#) and [75.51](#).
- If the *5 year cut control period* expires, the *cut control period* will end and a new *cut control period* of 5 years immediately begins. [\[FA s75.4\(6\), FA s75.5\(4\)\]](#) If the holder of an *agreement* gives notice to terminate a *cut control period* under section [75.4\(5\)](#) for a forest licence greater than 10,000 m³ AAC, timber sale licence greater than 10,000 m³ AAC or a tree farm licence, then the *cut control period* ends on December 31 of the year preceding the year the notice was delivered and a new *cut control period* of 5 years begins on January 1 of the calendar year of the notice.
- If an *agreement* with a term greater than 5 years is consolidated with 1 or more other *agreements* under section 19 or 39 (FL or TFL), then the *agreement* is deemed to have ended on December 31 of the calendar year immediately preceding the calendar year of consolidation and the *first cut control period* of the resulting consolidated *agreement* begins on January 1 of the calendar year of replacement. [\[FA s75.6\(4\)\]](#)

Cut Control Process

Administration Steps

2.2.2 Identify applicable limits and exemptions

Term	Form of Agreement	Cut Control Period	Cut Control Limit
any term	Forestry Licence to Cut or Community Salvage Licence	Licence term	Maximum harvestable volume specified in the licence [FA s75.21]
5 years or less	TSL with AAC Forest Licence Tree Farm Licence Woodlot Licence	Licence term	100% of sum of AACs during the original term of the licence.
			Maximum harvestable volume specified in the licence (prevails over sum of AACs) [FA s75.2]
More than 5 years	TSL – AAC ≤10,000 m ³ FL – AAC ≤10,000 m ³ Woodlot Licence	CCP of 5 years	120% of sum of AACs in the CCP
			100% of sum of AACs in the final CCP [FA s75.51]
		Licence term if licence is non-replaceable	In addition to CCP limit, the maximum harvestable volume specified in the licence cannot be exceeded (prevails over CCP limit if any inconsistency) [FA s75.51]
		5 year cut control period unless licensee ends sooner.	110% of sum of AACs in the CCP
	TSL – AAC >10,000 m ³ FL – AAC >10,000 m ³ Tree Farm Licence		100% of sum of AACs in the final CCP [FA s75.41]

2.2.3 Annually compile harvest data from previous year

Holders of *agreements* should be provided the *volume of timber harvested* under the *agreement* for every complete calendar year in their current period. This can be done through a statement mailed to the holder of the *agreement* or by making the data available electronically. The statement or data should include all of the volumes identified under section 75.1 definition of *volume of timber harvested* plus any adjustments (see *volume of timber harvested* in Appendix A – Definitions). A statement of volumes harvested is not a determination but does contain facts which could be precipitate a penalty. Licensees should therefore be offered an opportunity to respond with corrections to the harvest data.

Cut Control Process

Administration Steps

2.2.4 If the period has ended, reconcile the cut

Volume of timber harvested

The *volume of timber harvested* during the *cut control period* (or during the licence term for *agreements* with term of 5 years or less), will include all volumes identified in the section [75.1](#) definition of *volume of timber harvested*.

The cut control legislation also requires adjustments for special circumstances such as licence splitting or consolidation [[FA s75.3](#) & [FA s75.6](#)], licence replacement [[FA s75.4\(3\)](#)], or transitional undercut carry-forward. [[FA s75.94](#)] Part 3 of this guide provides details on how these special circumstances affect cut control for each form of *agreement*.

Sum of AACs

For an *agreement* with a term of 5 years or less, the sum of AACs is obtained by adding together the AACs that were in effect for each year of the *agreement's* original term.

For an *agreement* with a term greater than 5 years, the sum of AACs is based on the AACs that were in effect during each of the years of the *cut control period* that just ended.

When determining the sum of AACs and providing cut control statements, it is important to understand the following rules about the annual aspect of AACs:

1. The AAC for an *agreement* is expressed as a volume of timber that may be harvested each year. For cut control purposes, the year that the AAC pertains to is determined by context:
 - An *agreement's* AAC is based on calendar years for *agreements* with CCPs that are based on calendar years.
 - A woodlot licence CCP can begin on January 1 or the first day of another month that the district manager designates [[FA s75.5\(3\)](#)]. Therefore in the absence of a clause stating otherwise, the AAC should apply to the series of 12 month periods starting at the beginning of the first CCP.
 - Any *agreement* with a term of 5 years or less will have cut control based on the term of the *agreement* rather than a defined CCP, so the AAC applies to the series of 12 month periods starting at the beginning of the *agreement's* term (i.e. the issue date) and each subsequent anniversary prior to the end of the original term.
2. AAC is an annual entitlement that is fully available at the beginning of each cut control year. Clearly, a licensee is not restricted just 1/12th of their AAC each month. AAC can only be pro-rated for partial years if specifically provided for by legislation and even then there is still only one AAC applicable to the year. (e.g. section 63.2(3) of the *Forest Act* pro-rates certain AAC reductions that take effect on a date other than January 1 and then applies that pro-rated AAC throughout the full calendar year.)

3. The entitlement to a full AAC each cut control year extends to non-replaceable *agreements* that have a CCP based on calendar years but an issue date other than January 1. Since this rule could result in more years of AAC entitlement than years in the *agreement's* term, the legislation provides a mechanism to ensure that non-replaceable forest licences receive only the harvest rights originally intended. Section 14 of the *Forest Act* now requires NRFLs to specify the maximum volume that may be harvested under the *agreement*. Sections 75.51(3) and 75.2(2.1) make that limit subject to cut control penalties and sections 75.51(4) and 75.2(2.2) ensures that the maximum volume limit prevails over a CCP limit.

Consequences of undercut or overcut

If the *volume of timber harvested* is less than the sum of AACs during the applicable period (term of the licence or *cut control period* as appropriate), then the holder of the *agreement* has no right to the unharvested volume in any subsequent period. [[FA s75.8](#) for CCP Where no CCP, harvest rights expire when licence ends.]

Where the *volume of timber harvested* exceeds the sum of AACs during the applicable period, one of the following consequences will apply:

- a) If the applicable period was a *cut control period*, other than the *final cut control period*, the excess volume of timber must be treated as being timber harvested during the next *cut control period* [[FA s75.7](#)] and any volume in excess of the applicable cut control limit will result in a penalty that must be paid by the holder of the *agreement*. [[FA s75.91](#)].
- b) If the applicable period was the term of the licence or the final *cut control period*, any excess volume is over the limit of 100% and so a penalty must be paid by the holder of the *agreement*. [[FA s75.2\(3\)](#) or [FA s75.91](#)]

Cut Control Statement

The holder of the *agreement* should have access to a cut control statement describing:

- the applicable cut control period
- the *volume of timber harvested* during the period, identifying sources listed in section [75.1](#)
- the *sum of allowable annual cuts* for the period
- any overcut volume that will be carried forward into the next *cut control period*
- the applicable cut control limit and any section [75.9](#) exemption that is in effect
- the volume, if any, exceeding the cut control limit that may be subject to penalty.
- how and when the holder of the *agreement* may respond with corrections to the data and, if eligible, request for penalty relief under section [75.92](#).

Cut Control Process

Administration Steps

Apply penalty if required

Since the *Forest Act* does not provide an opportunity for review or appeal of a cut control penalty made under section [75.2](#) or [75.91](#), it is reasonable for the ministry, prior to any penalty, to provide the holder of the *agreement* with an opportunity to review the statement of their cut control position and respond with corrections or a request for relief.

2.3 Responsibilities

The following are the offices of primary responsibility for the various aspects of cut control administration.

Resource Tenures and Engineering Branch

- develop and maintain policies and procedures,
- provide support and advice to Ministry of Forests and Range' staff and to holders of *agreements*,
- annually provide regions with billing and residue data for cut control purposes.
- monitor the cut control process and develop improvements to policy and procedures as needed

Revenue Branch

- Stumpage billing
- Waste billing
- Penalty billing after any penalty determination

Forest Regions and/or Districts

- Monitor cut control status of licensees.
- Associate road permit volumes to appropriate *agreement*
- Annually issue statements or make data available on *volume of timber harvested*
- When a period ends, reconcile harvest volumes with sum of AACs
- Determine penalty if harvest exceeds limit.
- Where appropriate, suggest to RTEB appropriate changes to policy and procedures.

Licensees

Holders of *agreements* covered by Division 3.1 of Part 4 of the *Forest Act* are required by legislation to ensure that harvesting does not exceed the limits set out for their *agreement*.

If the holder of an *agreement* intends to terminate a cut control period early and is eligible to do so, it is the holder's responsibility to serve notice within the legislation's time limit.

3 Cut Control Rules by Form of Agreement

3.1 Timber Sale Licence with AAC

3.1.1 Timber Sale Licence with AAC and term of 5 years or less

Cut Control Period	Cut control is reconciled over the term of licence. (The <i>Forest Act</i> does not define a CCP for licences with term of 5 years or less.)
Start	beginning of licence term
End	expiry or termination of licence
Cut control limit	<p><i>Volume of timber harvested</i> during the full term of the licence must not exceed the <i>sum of the AACs</i> that, during the original term of the licence, are authorized for the licence [FA s75.2 (2)]</p> <p><i>Volume of timber harvested</i> during the licence must not exceed the maximum harvestable volume specified in the licence. [FA s75.2(2.1)] This limit prevails over the other limit if there is any inconsistency [FA s75.2(3)]</p>
Exemption	No exemption from limit.
Penalty	If the limit is exceeded, the holder must pay a penalty that is the product of the volume that exceeds the limit and the <i>prescribed rate</i> . [FA s75.2(3) & (4)] , in addition to stumpage or another penalty [FA s75.2(5)]
Prescribed rate	<p>For the portion of the volume in excess of the limit that is less than or equal to 10% of the total volume authorized over the term of the licence, the <i>prescribed rate</i> is the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s2(2)(a)]</p> <p>For the portion of the volume in excess of the limit that exceeds 10% of the total volume authorized over the term of the licence, the <i>prescribed rate</i> is twice the average stumpage rate that was applicable to the licence during the last year in which stumpage was payable. [CC Reg s2(2)(b)]</p>
Relief	Full or partial relief from penalty may be granted if licence AAC was reduced under certain sections of the <i>Forest Act</i> . [FA s75.92]
Unharvested volume at end of licence term	The holder of a licence has no right to unharvested volume upon licence termination nor does the licensor have any ability to grant the volume to them. Unharvested volume can only be disposed in accordance with the <i>Forest Act</i> .

Cut Control Rules by Form of Agreement

Timber Sale Licence with AAC

3.1.2 Timber Sale Licence - AAC 10,000 m³ or less, term 5+ years

Cut Control Period	CCP has a 5 year term. [FA s75.5] The holder of the licence cannot terminate the period early.
Start	First CCP begins on January 1 of the calendar year in which the term of the licence begins [FA s75.5 (2)]
End	CCP ends after expiry of first CCP or any subsequent CCP or upon licence expiry, surrender or termination. [FA s75.5(5)]
Start of next	A new CCP with a 5 yr term begins immediately after expiry of the first CCP or any subsequent CCP. [FA s75.5(4)]
Transitional first CCP	If a <i>5 year cut control period</i> was in effect in the period January 1, 2003 to November 3, 2003, the first CCP under this legislation will have the same beginning date as that original <i>5 year cut control period</i> [FA s75.93(1)]
Cut control limit	<p><i>Volume of timber harvested</i> during the CCP must not exceed 120% of the <i>sum of the AACs</i> that, during the CCP, are authorized for the licence [FA s75.51(1)]</p> <p><i>Volume of timber harvested</i> during the final CCP must not exceed 100% of the <i>sum of the AACs</i> for the period [FA s75.51(2)]</p> <p><i>Volume of timber harvested</i> under a non-replaceable licence must not exceed the maximum harvestable volume specified in the licence. [FA s75.51(3)] This limit prevails over other limits if any inconsistency [FA s75.51(4)]</p>
Exemption	The regional manager or person authorized by the RM may grant an exemption from limits in FA s75.51 due to wind, fire, insect or disease. The exemption must specify a different limit and may attach conditions. [FA s75.9(1)] . The holder must comply with conditions. [FA s75.9(2)]
Penalty	If a limit is exceeded, the holder must pay a penalty. [FA s75.91(1)] The penalty is the product of the volume exceeding the limit and the <i>prescribed rate</i> . [FA s75.91(2)] Penalty is in addition to stumpage or another penalty [FA s75.91(3)]
Prescribed rate	<p>If the licence is replaceable, the <i>prescribed rate</i> is twice the average stumpage rate that was applicable during the last year in which stumpage was payable. [CC Reg s3(2)]</p> <p>If the licence provides that a replacement for it must not be offered, the <i>prescribed rate</i> for the portion of the volume in excess of the limit that is less than or equal to 10% of the total volume authorized over the term of the licence, the <i>prescribed rate</i> is the average stumpage rate that was applicable to timber</p>

Cut Control Rules by Form of Agreement

Timber Sale Licence with AAC

	<p>harvested under the licence during the last year in which stumpage was payable. [CC Reg s4(2)(a)]</p> <p>If the licence is non-replaceable, the <i>prescribed rate</i> for the portion of the volume in excess of the limit that exceeds 10% of the total volume authorized over the term of the licence is twice the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s4(2)(b)]</p>
Relief	Full or partial relief from penalty may be granted if licence AAC was reduced under certain sections of the <i>Forest Act</i> . [FA s75.92]
Volume of Timber Harvested	In addition to harvest volumes listed in FA s75.1 , the following volumes must be included:
Transitional first CCP	<p>If a <i>5 year cut control period</i> was in effect in the period Jan 1 – Nov 3, 2003, the <i>volume of timber harvested</i> during the first CCP includes harvest volumes from that 5 year cut control period. Section 75.93(3) is a special transitional provision that captures volumes charged under contractual cut control rules. The definition of <i>volume of timber harvested</i> and the continuation of the CCP by section 75.93 will capture applicable volumes for pre-existing replaceable licences.</p> <p>Also include any excess harvest volume that was carried forward into the <i>5 year cut control period</i> that was in effect in the period Jan 1 – Nov 3, 2003. [FA s75.93(2)]</p>
Excess carried forward	Any <i>volume of timber harvested</i> during a CCP that exceeds the sum of the AACs for the CCP, will be treated as being timber harvested during next CCP [FA s75.7 & FA s75.1(e)]
Undercut	<p>If the <i>volume of timber harvested</i> is less than the <i>sum of the AACs</i> for the CCP, the holder must not harvest that unharvested volume during a subsequent CCP [FA s75.8(1)(a)]. The licensor has no authority to direct the undercut to the licensee. Unharvested volume can only be disposed in accordance with the <i>Forest Act</i>.</p>
Transitional undercut	If undercut carry forward was approved under repealed s67 for a licence, the volume must be harvested in the <i>first cut control period</i> without restriction as to year of harvest. The harvested volume is deemed not to be charged to the <i>volume of timber harvested</i> . [FA s75.94]

Cut Control Rules by Form of Agreement

Timber Sale Licence with AAC

3.1.3 Timber Sale Licence - AAC more than 10,000 m³, term 5+ years

Cut Control Period	<i>Cut control period</i> (CCP) has a 5 year term [FA s75.4(2)] The holder of the licence may terminate the period early by written notice served on the regional manager or authorized person after January 1 but before June 30 [FA s75.4 (4)]
Start	First CCP begins on January 1 of the calendar year in which the term of the licence begins [FA s75.4 (2)]
End	Termination of CCP takes effect December 31 of the year immediately preceding the calendar year in which the licence holder gave notice of termination [FA s75.4 (5)(a)] . Otherwise, CCP ends upon expiry of the CCP [FA s75.4(6)] or upon the date the licence expires, is surrendered or terminated [FA s75.4(7)]
Start of next	A new CCP with a 5 year term starts January 1 of the calendar year in which notice of termination was delivered [FA s75.4 (5)(b)] or, if the holder did not terminate the CCP, immediately after expiry of previous CCP, [FA s75.4(6)]
Transitional first CCP	If a 5 year <i>cut control period</i> was in effect in the period Jan 1 – Nov 3, 2003, the first CCP under this legislation will have the same beginning date as that original 5 year cut control period [FA s75.93(1)]
Cut control limit	<i>Volume of timber harvested</i> during the CCP must not exceed 110% of the <i>sum of the AACs</i> that, during the CCP, are authorized for the licence [FA s75.41 (1)] <i>Volume of timber harvested</i> during the <i>final CCP</i> must not exceed 100% of the <i>sum of the AACs</i> for the period [FA s75.41(2)] <i>Volume of timber harvested</i> under a non-replaceable licence must not exceed the maximum harvestable volume specified in the licence. [FA s75.41(3)] This limit prevails over other limits if any inconsistency [FA s75.41(4)]
Exemption	The regional manager or person authorized by the RM may grant an exemption from limits in FA s75.41 due to wind, fire, insect or disease. The exemption must specify a different limit and may attach conditions. [FA s75.9(1)] . The holder must comply with conditions. [FA s75.9(2)]
Penalty	If the limit is exceeded, the holder must pay a penalty [FA s75.91(1)] that is the product of the volume that exceeds the limit and the <i>prescribed rate</i> [FA s75.91 (2)] , in addition to stumpage or another penalty [FA s75.91(3)] .

Cut Control Rules by Form of Agreement

Timber Sale Licence with AAC

Prescribed rate	<p>If the licence is replaceable, the <i>prescribed rate</i> is twice the average stumpage rate that was applicable during the last year in which stumpage was payable. [CC Reg s3(2)]</p> <p>If the licence provides that a replacement for it must not be offered, the <i>prescribed rate</i> for the portion of the volume in excess of the limit that is less than or equal to 10% of the total volume authorized over the term of the licence, the <i>prescribed rate</i> is the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s4(2)(a)]</p> <p>If the licence is non-replaceable, the <i>prescribed rate</i> for the portion of the volume in excess of the limit that exceeds 10% of the total volume authorized over the term of the licence is twice the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s4(2)(b)]</p>
Relief	<p>Full or partial relief from penalty may be granted if licence AAC was reduced under certain sections of the <i>Forest Act</i>. [FA s75.92]</p>
Volume of Timber Harvested	<p>In addition to harvest volumes listed in FA s75.1, the following volumes must be included:</p>
Transitional First CCP	<p>If a <i>5 year cut control period</i> was in effect in the period Jan 1 – Nov 3, 2003, the <i>volume of timber harvested</i> during the first CCP includes harvest volumes from that 5 year cut control period. Section 75.93(3) is a special transitional provision that captures volumes charged under contractual cut control rules. The definition of <i>volume of timber harvested</i> and the continuation of the CCP by section 75.93 will capture applicable volumes for pre-existing replaceable licences.</p> <p>Also include any excess harvest volume that was carried forward into the <i>5 year cut control period</i> that was in effect in the period Jan 1 – Nov 3, 2003. [FA s75.93(2)]</p>
Excess carried forward	<p>Any <i>volume of timber harvested</i> during a CCP that exceeds the sum of the AACs for the CCP, will be treated as being timber harvested during next CCP [FA s75.7 & FA s75.1(e)]</p>
Undercut	<p>If the <i>volume of timber harvested</i> is less than the <i>sum of the AACs</i> for the CCP, the holder must not harvest that unharvested volume during a subsequent CCP [FA s75.8(1)(a)]. The licensor has no authority to direct the undercut to the licensee. Unharvested volume can only be disposed in accordance with the <i>Forest Act</i>.</p>

Cut Control Rules by Form of Agreement

Timber Sale Licence with AAC

Transitional undercut	If undercut carry forward was approved under repealed s67 for a licence, the volume must be harvested in the <i>first cut control period</i> without restriction as to year of harvest. The harvested volume is deemed not to be charged to the <i>volume of timber harvested</i> . [FA s75.94]
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3.1.4 TSL affected by *Forestry Revitalization Act*

See the transitional provisions in section 3.4.5 which apply to forest licences, tree farm licences and timber sale licences affected by the *Forestry Revitalization Act*. The transitional provisions over-ride only certain cut control rules. All other rules still apply.

Cut Control Rules by Form of Agreement

TSL Conversion Transitional Provisions

3.2 TSL Conversion Transitional Provisions

3.2.1 Section 24.2 or 24.6 TSL conversion/surrender and the resulting FL

The following transitional provisions over-ride certain cut control rules for the pre-existing licence or resulting FL. All other cut control rules still apply.

“*pre-existing licence*” is defined in section 24.1 of the *Forest Act* and in this section of the guide refers to a pre-existing timber sale licence that is converted by section 24.2 or surrendered under section 24.6

“*resulting FL*” in this section of the guide refers to a forest licence resulting from the conversion under section 24.2 or surrender under section 24.6 of a pre-existing licence.

Cut Control Period

End of CCP for pre-existing TSL	On the conversion or surrender of a <i>pre-existing licence</i> , the <i>cut control period (CCP)</i> of the <i>pre-existing licence</i> is deemed to end on Dec 31 of the year preceding the calendar year in which the <i>pre-existing licence</i> is converted or surrendered. [CCR s6(2)(a)].
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Start of CCP for resulting FL	The first CCP for the <i>resulting FL</i> begins on January 1 of the calendar year of the conversion or surrender [CCR s6(2)(b)]
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Volume of Timber Harvested

	The volume of timber harvested that was charged to the <i>pre-existing licence</i> during the calendar year of the conversion or surrender, must be charged to the first CCP of the <i>resulting FL</i> . [CCR s6(2)(c)]
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Excess of pre-existing TSL carried forward	If the <i>volume of timber harvested</i> during the final CCP of the <i>pre-existing licence</i> exceeds the sum of the AACs for that CCP, the excess volume will be treated as being timber harvested during the first CCP of the <i>resulting FL</i> [CCR s6(3)]
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Undercut of pre-existing TSL carried forward	If the <i>volume of timber harvested</i> during the final CCP of a <i>pre-existing licence</i> is less than the <i>sum of the AACs</i> for that CCP, the holder of the <i>resulting FL</i> may harvest the difference in the first CCP of the <i>resulting FL</i> [CCR s6(4)(a)].
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For the purposes of the definition of “volume of timber harvested”, the difference is deemed not to be charged to the *resulting FL* [CCR s6(4)(b)].

Transitional undercut	If undercut carry forward was previously approved for a <i>pre-existing licence</i> [s75.94(2)/(4) or s67(4)], the volume that was not harvested under the <i>pre-existing licence</i> , is approved for harvesting in the <i>first cut control period</i> of the <i>resulting FL</i> [CCR s6(5)(a)].
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For the purposes of the definition of “volume of timber harvested”, the undercut carry forward is deemed not to be charged to the *resulting FL* [CCR s6(5)(b)].

Cut Control Rules by Form of Agreement

TSL Conversion Transitional Provisions

Cut control limit	If the <i>volume of timber harvested</i> during the final CCP of the <i>pre-existing licence</i> exceeds 120% of the “final sum of the AACs” (= the sum of AACs that would have been authorized if the final CCP had a term of 5 years and the AACs remained the same), a penalty must be paid. [CCR s6(6)&(7)]
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Penalty	The penalty is the product of the volume exceeding the limit and twice the average stumpage rate that was applicable to timber harvested under the <i>pre-existing licence</i> during the last year in which stumpage was payable. [CCR s6(8)] The penalty is in addition to stumpage or another penalty [CCR s6(9)]
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Cut Control Rules by Form of Agreement

TSL Conversion Transitional Provisions

3.2.2 Section 24.3 or 24.4 TSL surrender and the resulting amended FL

The following transitional provisions over-ride certain cut control rules for the pre-existing licence or resulting amended FL. All other cut control rules still apply.

“*pre-existing licence*” is defined in section 24.1 of the *Forest Act* and in this section of the guide refers to a pre-existing timber sale licence that is surrendered under section 24.3 or 24.4

“*amended FL*” in this section of the guide refers to a forest licence amended under section 24.3 or 24.4.

Cut Control Period

End of CCP for pre-existing TSL	On the surrender of the <i>pre-existing licence</i> , the <i>cut control period</i> (CCP) of the <i>pre-existing licence</i> is deemed to end on Dec 31 of the year preceding the calendar year in which the <i>pre-existing licence</i> is surrendered. [CCR s7(2)(a)].
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Volume of Timber Harvested

The volume of timber harvested that was charged to the *pre-existing licence* during the calendar year of the surrender, must be charged to the CCP that is in effect at the time of surrender, of the *amended FL*. [CCR s7(2)(b)]

Excess of pre-existing TSL carried forward	If the <i>volume of timber harvested</i> during the final CCP of the <i>pre-existing licence</i> exceeds the sum of the AACs for that CCP, the excess volume must be treated as being timber harvested during the CCP that is in effect at the time of surrender, of the <i>amended FL</i> . [CCR s7(3)]
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Undercut of pre-existing TSL carried forward	If the <i>volume of timber harvested</i> during the final CCP of a <i>pre-existing licence</i> is less than the <i>sum of the AACs</i> for the CCP, the holder of the <i>amended FL</i> may harvest the difference in the <i>amended FL</i> 's CCP that is in effect at the time of the surrender. [CCR s7(4)(a)]
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For the purposes of the definition of “volume of timber harvested”, the difference is deemed not to be charged to the *amended FL* [CCR s7(4)(b)].

Transitional undercut	If undercut carry forward was previously approved for a <i>pre-existing licence</i> [s75.94(2)/(4) or s67(4)], the volume that was not harvested under the <i>pre-existing licence</i> , is approved for harvesting in the <i>amended FL</i> 's CCP that is in effect at the time of the surrender. [CCR s7(5)(a)].
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For the purposes of the definition of “volume of timber harvested”, the undercut carry forward is deemed not to be charged to the *amended FL* [CCR s7(5)(b)].

Cut Control Rules by Form of Agreement

TSL Conversion Transitional Provisions

Cut control limit	If the <i>volume of timber harvested</i> during the final CCP of the <i>pre-existing licence</i> exceeds 120% of the “final sum of the AACs” (= the sum of AACs that would have been authorized if the final CCP had a term of 5 years and the AACs remained the same), a penalty must be paid. [CCR s7(6)&(7)]
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Penalty	The penalty is the product of the volume exceeding the limit and twice the average stumpage rate that was applicable to timber harvested under the <i>pre-existing licence</i> during the last year in which stumpage was payable. [CCR s7(8)] The penalty is in addition to stumpage or another penalty. [CCR s7(9)]
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Cut Control Rules by Form of Agreement

TSL Conversion Transitional Provisions

3.2.3 Section 24.5 TSL surrender and the resulting amended WL

The following transitional provisions over-ride certain cut control rules for the pre-existing licence or resulting amended WL. All other cut control rules still apply.

“*pre-existing licence*” is defined in section 24.1 of the *Forest Act* and in this section of the guide refers to a pre-existing timber sale licence that is surrendered under section 24.5.

“*amended WL*” in this section of the guide refers to a woodlot licence amended under section 24.5.

Cut Control Period

End of CCP for pre-existing TSL	On the surrender of the <i>pre-existing licence</i> , the <i>cut control period</i> (CCP) of the <i>pre-existing licence</i> is deemed to end on Dec 31 of the year preceding the calendar year in which the <i>pre-existing licence</i> is surrendered. [CCR s8(2)(a)].
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Volume of Timber Harvested

The volume of timber harvested that was charged to the *pre-existing licence* during the calendar year of the surrender, must be charged to the CCP that is in effect at the time of surrender, of the *amended WL*. [CCR s8(2)(b)]

Excess of pre-existing TSL carried forward	If the <i>volume of timber harvested</i> during the final CCP of the <i>pre-existing licence</i> exceeds the sum of the AACs for that CCP, the excess volume must be treated as being timber harvested during the CCP that is in effect at the time of surrender, of the <i>amended WL</i> . [CCR s8(3)]
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Undercut of pre-existing TSL carried forward	If the <i>volume of timber harvested</i> during the final CCP of a <i>pre-existing licence</i> is less than the <i>sum of the AACs</i> for that CCP, the holder of the <i>amended WL</i> may harvest the difference in the <i>amended WL</i> 's CCP that is in effect at the time of the surrender. [CCR s8(4)(a)]
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For the purposes of the definition of “volume of timber harvested”, the difference is deemed not to be charged to the *amended WL* [CCR s8(4)(b)].

Transitional undercut	If undercut carry forward was previously approved for a <i>pre-existing licence</i> [s75.94(2)/(4) or s67(4)], the volume that was not harvested under the <i>pre-existing licence</i> , is approved for harvesting in the <i>amended WL</i> 's CCP that is in effect at the time of the surrender. [CCR s8(5)(a)].
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For the purposes of the definition of “volume of timber harvested”, the undercut carry forward is deemed not to be charged to the *amended WL* [CCR s8(5)(b)].

Cut Control Rules by Form of Agreement

TSL Conversion Transitional Provisions

Cut control limit	If the <i>volume of timber harvested</i> during the final CCP of the <i>pre-existing licence</i> exceeds 120% of the “final sum of the AACs” (= the sum of AACs that would have been authorized if the final CCP had a term of 5 years and the AACs remained the same), a penalty must be paid. [CCR s8(6)&(7)]
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Penalty	The penalty is the product of the volume exceeding the limit and twice the average stumpage rate that was applicable to timber harvested under the <i>pre-existing licence</i> during the last year in which stumpage was payable. [CCR s8(8)] The penalty is in addition to stumpage or another penalty. [CCR s8(9)]
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Cut Control Rules by Form of Agreement

TSL Conversion Transitional Provisions

3.2.4 Section 24.7 TSL surrender and the resulting WL

The following transitional provisions over-ride certain cut control rules for the pre-existing licence or resulting WL. All other cut control rules still apply.

“*pre-existing licence*” is defined in section 24.1 of the *Forest Act* and in this section of the guide refers to a pre-existing timber sale licence that is surrendered under section 24.7

“*resulting WL*” in this section of the guide refers to a woodlot licence resulting from the surrender under section 24.7 of a pre-existing licence.

Cut Control Period

End of CCP for pre-existing TSL	On the surrender of a <i>pre-existing licence</i> , the <i>cut control period</i> (CCP) of the <i>pre-existing licence</i> is deemed to end on Dec 31 of the year preceding the calendar year in which the <i>pre-existing licence</i> is surrendered. [CCR s9(2)(a)].
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Start of CCP for resulting WL	The first CCP for the <i>resulting WL</i> begins on January 1 of the calendar year of the conversion or surrender [CCR s9(2)(b)]
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Volume of Timber Harvested

The volume of timber harvested that was charged to the *pre-existing licence* during the calendar year of the surrender, must be charged to the first CCP of the *resulting WL*. [CCR s9(2)(c)]

Excess of pre-existing TSL carried forward	If the <i>volume of timber harvested</i> during the final CCP of the <i>pre-existing licence</i> exceeds the sum of the AACs for that CCP, the excess volume will be treated as being timber harvested during the first CCP of the <i>resulting WL</i> [CCR s9(3)]
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Undercut of pre-existing TSL carried forward	If the <i>volume of timber harvested</i> during the final CCP of a <i>pre-existing licence</i> is less than the <i>sum of the AACs</i> for that CCP, the holder of the <i>resulting WL</i> may harvest the difference in the first CCP of the <i>resulting WL</i> [CCR s9(4)(a)].
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For the purposes of the definition of “volume of timber harvested”, the difference is deemed not to be charged to the *resulting WL* [CCR s9(4)(b)].

Transitional undercut	If undercut carry forward was previously approved for a <i>pre-existing licence</i> [s75.94(2)/(4) or s67(4)], the volume that was not harvested under the <i>pre-existing licence</i> , is approved for harvesting in the first CCP of the <i>resulting WL</i> [CCR s9(5)(a)].
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For the purposes of the definition of “volume of timber harvested”, the undercut carry forward is deemed not to be charged to the *resulting WL* [CCR s9(5)(b)].

Cut control limit

If the *volume of timber harvested* during the final CCP of the *pre-existing licence* exceeds 120% of the “final sum of the AACs” (= the sum of AACs that would have been authorized if the final CCP had a term of 5 years and the AACs remained the same), a penalty must be paid. [CCR s9(6)&(7)]

Cut Control Rules by Form of Agreement

TSL Conversion Transitional Provisions

Penalty

The penalty is the product of the volume exceeding the limit and twice the average stumpage rate that was applicable to timber harvested under the *pre-existing licence* during the last year in which stumpage was payable. [CCR s9(8)] The penalty is in addition to stumpage or another penalty [CCR s9(9)]

Cut Control Rules by Form of Agreement

TSL Conversion Transitional Provisions

3.2.5 Sec 24.8 or 24.9 TSL conversion/surrender and the resulting FLC

The following transitional provisions over-ride certain cut control rules for the pre-existing licence or resulting FLC. All other cut control rules still apply.

“*pre-existing licence*” is defined in section 24.1 of the *Forest Act* and in this section of the guide refers to a pre-existing timber sale licence that is converted by section 24.8 or surrendered under section 24.9.

“*resulting FLC*” in this section of the guide refers to a forestry licence to cut resulting from the surrender under section 24.8 or conversion under section 24.9 of a pre-existing licence. Note that a section 24.9 conversion occurs on March 31, 2005 unless the TSL was converted under section 24.2 or an application was made under sections 24.3 to 24.8.

Cut Control Period

End of CCP for pre-existing TSL	The <i>cut control period</i> (CCP) of a <i>pre-existing licence</i> that was surrendered under sec 24.8 ends on Dec 31 of the year preceding the calendar year in which the <i>pre-existing licence</i> is surrendered. [CCR s10(2)(a)(i)].
	The CCP of a <i>pre-existing licence</i> that was converted under sec 24.9 ends on Dec 31, 2004. [CCR s10(2)(a)(ii)].

Volume of Timber Harvested

	The volume of timber harvested that was charged to the <i>pre-existing licence</i> during the calendar year of the conversion or surrender, must be treated as timber harvested under the <i>resulting FLC</i> . [CCR s10(2)(c)]
Excess of pre-existing TSL carried forward	If the <i>volume of timber harvested</i> during the final CCP of the <i>pre-existing licence</i> exceeds the sum of the AACs for that CCP, the excess volume will be treated as being timber harvested under the <i>resulting FLC</i> . [CCR s10(3)]
Undercut of pre-existing TSL carried forward	If the <i>volume of timber harvested</i> during the final CCP of a <i>pre-existing licence</i> is less than the <i>sum of the AACs</i> for that CCP, the holder of the <i>resulting FLC</i> may harvest the difference during the term of the <i>resulting FLC</i> [CCR s10(4)(a)]. For the purposes of the definition of “volume of timber harvested”, the difference is deemed not to be charged to the <i>resulting FLC</i> [CCR s10(4)(b)].
Transitional undercut	If undercut carry forward was previously approved for a <i>pre-existing licence</i> [s75.94(2)/(4) or s67(4)], the volume that was not harvested under the <i>pre-existing licence</i> , is approved for harvesting during the term of the <i>resulting FLC</i> [CCR s10(5)(a)]. For the purposes of the definition of “volume of timber harvested”, the undercut carry forward is deemed not to be charged to the <i>resulting FLC</i> [CCR s10(5)(b)].

Cut Control Rules by Form of Agreement

TSL Conversion Transitional Provisions

Cut control limit	If the <i>volume of timber harvested</i> during the final CCP of the <i>pre-existing licence</i> exceeds 120% of the “final sum of the AACs” (= the sum of AACs that would have been authorized if the final CCP had a term of 5 years and the AACs remained the same), a penalty must be paid. [CCR s10(6)&(7)]
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Penalty	The penalty is the product of the volume exceeding the limit and twice the average stumpage rate that was applicable to timber harvested under the <i>pre-existing licence</i> during the last year in which stumpage was payable. [CCR s10(8)] The penalty is in addition to stumpage or another penalty [CCR s10(9)]
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3.3 Forestry Licence to Cut and Community Salvage Licence

3.3.1 Forestry Licence to Cut or Community Salvage Licence

Bill 33 – 2004 brought these two licence types under the *Forest Act's* cut control rules on May 13, 2004.

Cut Control Period	Cut control is reconciled over the term of licence. (The <i>Forest Act</i> does not define a CCP for forestry licence to cut or community salvage licence.)
Cut control limit	<i>Volume of timber harvested</i> under the licence must not exceed the maximum harvestable volume specified in the licence. [FA sec 75.21(2)]
Exemption	No exemption from limit.
Penalty	If the limit is exceeded, the holder must pay a penalty that is the product of the volume that exceeds the limit and the <i>prescribed rate</i> . [FA sec 75.21(3) & (4)] , in addition to stumpage or another penalty [FA s75.21(5)]
Prescribed rate	<p>For the portion of the volume in excess of the limit that is less than or equal to 10% of the total volume authorized over the term of the licence, the <i>prescribed rate</i> is the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s2(2)(a)]</p> <p>For the portion of the volume in excess of the limit that exceeds 10% of the total volume authorized over the term of the licence, the <i>prescribed rate</i> is twice the average stumpage rate that was applicable to the licence during the last year in which stumpage was payable. [CC Reg s2(2)(b)]</p> <p>Note: Due to the timing of the legislation, the ministry will only penalty bill where the <i>volume of timber harvested</i> exceeds the limit <u>and</u> where the date of scale for that timber was after June 30, 2005. In situations where the ministry refrains from penalty billing, C&E staff may pursue a penalty under section 52 of the <i>Forest and Range Practices Act</i>. [refer to August 25, 2005 memo in section 4.2.1]</p>
Relief	No provisions for relief from penalty.
Unharvested volume at end of licence term	The holder of a licence has no right to unharvested volume upon licence termination nor does the licensor have any ability to grant the volume to them. Unharvested volume can only be disposed in accordance with the <i>Forest Act</i> .

3.3.2 Forestry Licence to Cut resulting from TSL Conversion

See the transitional provisions in section 3.2.5 for TSLs converted or surrendered under sections 24.8 and 24.9 of the *Forest Act*. The transitional provisions over-ride only certain cut control rules. All other rules still apply.

Cut Control Rules by Form of Agreement

Forest Licence

3.4 Forest Licence

3.4.1 Forest Licence - term of 5 years or less

Cut Control Period	Cut control is reconciled over the term of licence. (The <i>Forest Act</i> does not define a CCP for licences with term of 5 years or less.)
Start of period	beginning of licence
End of period	expiry or termination of licence
Cut control limit	<p><i>Volume of timber harvested</i> during the full term of the licence must not exceed the <i>sum of the AACs</i> that, during the original term of the licence, are authorized for the licence [FA sec75.2 (2)]</p> <p><i>Volume of timber harvested</i> during the licence must not exceed the maximum harvestable volume specified in the licence. [FA SEC 75.2(2.1)] This limit prevails over sum of AACs if any inconsistency [FA s75.2(3)]</p>
Exemption	No exemption from limit.
Penalty	If the limit is exceeded, the holder must pay a penalty that is the product of the volume that exceeds the limit and the <i>prescribed rate</i> . [FA s75.2(3) & (4)] , in addition to stumpage or another penalty [FA s75.2(5)]
Prescribed rate	<p>For the portion of the volume in excess of the limit that is less than or equal to 10% of the total volume authorized over the term of the licence, the <i>prescribed rate</i> is the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s2(2)(a)]</p> <p>For the portion of the volume in excess of the limit that exceeds 10% of the total volume authorized over the term of the licence, the <i>prescribed rate</i> is twice the average stumpage rate that was applicable to the licence during the last year in which stumpage was payable. [CC Reg s2(2)(b)]</p>
Relief	Full or partial relief from penalty may be granted if licence AAC was reduced under certain sections of the <i>Forest Act</i> . [FA s75.92]
Unharvested volume at end of licence term	The holder of a licence has no right to unharvested volume upon licence termination nor does the licensor have any ability to grant the volume to them. Unharvested volume can only be disposed in accordance with the <i>Forest Act</i> .

Cut Control Rules by Form of Agreement

Forest Licence

If licence is split

For the purposes of FA s75.2, the term of each of the resulting licences is deemed to have begun on the first day of the term of the licence that was split. [\[FA s75.3\(2\)\(a\)\]](#)

The *volume of timber harvested* charged to the licence before replacement is allocated to each of the resulting licences proportionate to the "split" of AAC. [\[FA s75.3 \(2\)\(b\) & FA s75.3 \(3\)\]](#)

If 2 or more licences are replaced with a consolidated licence

For cut control purposes, the term of resulting consolidated licence is deemed to have begun on the first day of the term of the replaced licences if the terms began on the same day; otherwise the term of the consolidated licence begins on the "earliest" start date of the replaced licences [\[FA s75.3 \(4\)\(a\)\]](#)

Volumes that before replacement were charged to the replaced licences are charged to the resulting consolidated licence [\[FA s75.3\(4\)\(b\)\]](#)

Cut Control Rules by Form of Agreement

Forest Licence

3.4.2 Forest Licence - AAC 10,000 m³ or less, term 5+ years

Cut Control Period	<p><i>Cut control period</i> (CCP) has a 5 year term. [FA s75.5] The holder of the licence cannot terminate the period early.</p>
Start	<p>First CCP for a licence <u>that is not a replacement</u> for another licence, begins on January 1 of the calendar year in which the term of the licence begins [FA s75.5 (2)]</p> <p>If the forest licence is a section 15 replacement, the first CCP is the same as the CCP for the replaced licence [FA s75.5(3.1)(a)]</p>
End	<p>CCP ends after expiry of first CCP or any subsequent CCP or upon licence expiry, surrender or termination. [FA s75.5(5)]</p>
Start of next	<p>A new CCP with a 5 yr term begins immediately after expiry of the first CCP or any subsequent CCP. [FA s75.5(4)]</p>
Transitional first CCP	<p>If a 5 year <i>cut control period</i> was in effect in the period Jan 1 – Nov 3, 2003, the first CCP under this legislation will have the same beginning date as that original 5 year <i>cut control period</i> [FA s75.93(1)]</p>
Cut control limit	<p><i>Volume of timber harvested</i> during the CCP must not exceed 120% of the <i>sum of the AACs</i> that during the CCP are authorized for the licence [FA s75.51(1)]</p> <p><i>Volume of timber harvested</i> during the <i>final CCP</i> must not exceed 100% of the <i>sum of the AACs</i> for the period [FA s75.51(2)]</p> <p><i>Volume of timber harvested</i> under a non-replaceable licence must not exceed the maximum harvestable volume specified in the licence. [FA s75.51(3)] This limit prevails over other limits if any inconsistency [FA s75.51(4)]</p>
Exemption	<p>The regional manager or person authorized by the RM may grant an exemption from limits in FA s75.51 due to wind, fire, insect or disease. The exemption must specify a different limit and may attach conditions. [FA s75.9(1)]. The holder must comply with conditions. [FA s75.9(2)]</p>
Penalty	<p>If a limit is exceeded, the holder must pay a penalty. [FA s75.91(1)] The penalty is the product of the volume exceeding the limit and the <i>prescribed rate</i>. [FA s75.91 (2)] Penalty is in addition to stumpage or another penalty [FA s75.91(3)]</p>

Cut Control Rules by Form of Agreement

Forest Licence

Prescribed rate	<p>If the licence is replaceable, the <i>prescribed rate</i> is twice the average stumpage rate that was applicable during the last year in which stumpage was payable. [CC Reg s3(2)]</p> <p>If the licence provides that a replacement for it must not be offered, the <i>prescribed rate</i> for the portion of the volume in excess of the limit that is less than or equal to 10% of the total volume authorized over the term of the licence, the <i>prescribed rate</i> is the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s4(2)(a)]</p> <p>If the licence is non-replaceable, the <i>prescribed rate</i> for the portion of the volume in excess of the limit that exceeds 10% of the total volume authorized over the term of the licence is twice the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s4(2)(b)]</p>
Relief	<p>Full or partial relief from penalty may be granted if licence AAC was reduced under certain sections of the <i>Forest Act</i>. [FA s75.92]</p>
Volume of Timber Harvested	<p>In addition to harvest volumes listed in section 75.1, the following volumes must be included:</p>
Replaced licence	<p>If the forest licence was replaced under section 15 during the current CCP, include the volume of timber that was charged to the replaced licence during the current CCP. [FA s75.5(3.1)(b)]</p>
Transitional first CCP	<p>If a <i>5 year cut control period</i> was in effect in the period Jan 1 – Nov 3, 2003, the <i>volume of timber harvested</i> during the first CCP includes harvest volumes from that 5 year cut control period. Section 75.93(3) is a special transitional provision that captures volumes charged under contractual cut control rules. The definition of <i>volume of timber harvested</i> and the continuation of the CCP by section 75.93 will capture applicable volumes for pre-existing replaceable licences.</p> <p>Also include any excess harvest volume that was carried forward into the <i>5 year cut control period</i> that was in effect in the period Jan 1 – Nov 3, 2003. [FA s75.93(2)]</p>
Excess carried forward	<p>Any <i>volume of timber harvested</i> during a CCP that exceeds the sum of the AACs for the CCP, will be treated as being timber harvested during next CCP [FA s75.7 & FA s75.1(e)]</p>
Undercut	<p>If the <i>volume of timber harvested</i> is less than the <i>sum of the AACs</i> for the CCP, the holder must not harvest that unharvested volume during a subsequent CCP [FA s75.8(1)(a)]. The licensor has no authority to direct the undercut to the licensee. Unharvested volume can only be disposed in accordance with the <i>Forest Act</i>.</p>

Cut Control Rules by Form of Agreement

Forest Licence

Transitional undercut	If undercut carry forward was approved under repealed s67 for a licence, the volume must be harvested in the <i>first cut control period</i> without restriction as to year of harvest. The harvested volume is deemed not to be charged to the <i>volume of timber harvested</i> . [FA s75.94]
If licence is split	The first CCP of each the resulting licences is deemed to have the beginning date as the most recent CCP for the licence being split. [FA s75.6 (2)(a)]
CCP	
VoTH	The <i>volume of timber harvested</i> charged before the split is allocated to each of the resulting licences proportionate to the "split" in AAC. [FA s75.6 (2)(b) & FA s75.6 (3)]
Transitional undercut	Undercut carry forward approved under FA s75.94 for harvesting in the first CCP of a licence will continue to be approved for that licence alone even if that licence is amended in a section 19 or 39 subdivision. There is no provision for proportionate allocation of undercut rights nor harvested volumes.
If licences are replaced by one consolidated licence	The CCP of the replaced licences are deemed to have ended on December 31 of the calendar year immediately preceding the calendar year of the replacement. [FA s75.6 (4)(a)]
CCP	The first CCP of the resulting consolidated licence begins January 1 of the calendar year of the replacement. [FA s75.6 (4)(b)]
VoTH	The volume that was charged to replaced licences during the calendar year of the replacement must be charged to the consolidated licence [FA s75.6(4)(c)(i)] , and any excess harvest from immediately preceding CCPs of the replaced licences must be charged to the first CCP of the consolidated licence. [FA s75.6(4)(c)(ii)]
Transitional undercut	Rights to undercut carry forward approved under FA s75.94 for harvesting in the first CCP of a licence will expire with the end of the first CCP, which in the case of a consolidation under s19 or 39 is December 31 of the calendar year immediately preceding the calendar year of the consolidation. There is no provision for transferring the approved undercut carry forward to the new first CCP of the consolidated licence.

Cut Control Rules by Form of Agreement

Forest Licence

3.4.3 Forest Licence - AAC more than 10,000 m³, term 5+ years

Cut Control Period	<p><i>Cut control period</i> (CCP) has a 5 year term or the same CCP term of the licence replaced under section 15 (evergreen). [FA s75.4(2)&3]</p> <p>The holder of the licence may terminate the period early by written notice served on the regional manager or authorized person after January 1 but before June 30 [FA s75.4 (4)]</p>
Start	<p>First CCP for a licence <u>that is not a replacement</u> for another licence, begins on January 1 of the calendar year in which the term of the licence begins [FA s75.4(2)]</p> <p>If the forest licence is a section 15 replacement, the first CCP is the same as the CCP for the replaced licence [FA s75.4(3)(a)]</p>
End	<p>Termination of CCP takes effect December 31 of the year immediately preceding the calendar year in which the licence holder gave notice of termination [FA s75.4 (5)(a)].</p> <p>Otherwise, CCP ends upon expiry of the CCP [FA s75.4(6)] or upon the date the licence expires, is surrendered or terminated [FA s75.4(7)]</p>
Start of next	<p>A new CCP with a 5 year term starts January 1 of the calendar year in which notice of termination was delivered [FA s75.4 (5)(b)] or, if the holder did not terminate the CCP, immediately after expiry of previous CCP, [FA s75.4(6)]</p>
Transitional first CCP	<p>If a <i>5 year cut control period</i> was in effect in the period Jan 1 – Nov 3, 2003, the first CCP under this legislation will have the same beginning date as that original <i>5 year cut control period</i>. [FA s75.93(1)]</p>
Cut control limit	<p><i>Volume of timber harvested</i> during the CCP must not exceed 110% of the <i>sum of the AACs</i> that, during the CCP, are authorized for the licence [FA s75.41 (1)]</p> <p><i>Volume of timber harvested</i> during the <i>final CCP</i> must not exceed 100% of the <i>sum of the AACs</i> for the period [FA s75.41(2)]</p> <p><i>Volume of timber harvested</i> under a non-replaceable licence must not exceed the maximum harvestable volume specified in the licence. [FA s75.41(3)] This limit prevails over other limits if any inconsistency [FA s75.41(4)]</p>
Exemption	<p>The regional manager or person authorized by the RM may grant an exemption from limits in FA s75.41 due to wind, fire, insect or disease. The exemption must specify a different limit and may attach conditions. [FA s75.9 (1)]. The holder must comply with conditions. [FA s75.9 (2)]</p>

Cut Control Rules by Form of Agreement

Forest Licence

Penalty	If the limit is exceeded, the holder must pay a penalty [FA s75.91(1)] that is the product of the volume that exceeds the limit and the <i>prescribed rate</i> [FA s75.91 (2)], in addition to stumpage or another penalty [FA s75.91(3)].
Prescribed rate	<p>If the licence is replaceable, the <i>prescribed rate</i> is twice the average stumpage rate that was applicable during the last year in which stumpage was payable. [CC Reg s3(2)]</p> <p><u>If the licence provides that a replacement for it must not be offered</u>, the <i>prescribed rate</i> for the portion of the volume in excess of the limit that is less than or equal to 10% of the total volume authorized over the term of the licence, the <i>prescribed rate</i> is the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s4(2)(a)]</p> <p>If the licence is non-replaceable, the <i>prescribed rate</i> for the portion of the volume in excess of the limit that exceeds 10% of the total volume authorized over the term of the licence is twice the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s4(2)(b)]</p>
Relief	Full or partial relief from penalty may be granted if licence AAC was reduced under certain sections of the <i>Forest Act</i> . [FA s75.92]
Volume of Timber Harvested	In addition to harvest volumes listed in section 75.1, the following volumes must be included:
Replaced licence	If the forest licence was replaced under section 15 during the current CCP, include the volume of timber harvested that was charged to the replaced licence during the current CCP. [FA s75.4(3)(b)]
Transitional first CCP	<p>If a <i>5 year cut control period</i> was in effect in the period Jan 1 – Nov 3, 2003, the <i>volume of timber harvested</i> during the first CCP includes harvest volumes from that 5 year cut control period. Section 75.93(3) is a special transitional provision that captures volumes charged under contractual cut control rules. The definition of <i>volume of timber harvested</i> and the continuation of the CCP by section 75.93 will capture applicable volumes for pre-existing replaceable licences.</p> <p>Also include any excess harvest volume that was carried forward into the <i>5 year cut control period</i> that was in effect in the period Jan 1 – Nov 3, 2003. [FA s75.93(2)]</p>
Excess carried forward	Any <i>volume of timber harvested</i> during a CCP that exceeds the sum of the AACs for the CCP, will be treated as being timber harvested during next CCP [FA s75.7 & FA s75.1(e)]

Cut Control Rules by Form of Agreement

Forest Licence

Undercut	If the <i>volume of timber harvested</i> is less than the <i>sum of the AACs</i> for the CCP, the holder must not harvest that unharvested volume during a subsequent CCP [FA s75.8(1)(a)] . The licensor has no authority to direct the undercut to the licensee. Unharvested volume can only be disposed in accordance with the <i>Forest Act</i> .
Transitional undercut	If undercut carry forward was approved under repealed s67 for a licence, the volume must be harvested in the <i>first cut control period</i> without restriction as to year of harvest. The harvested volume is deemed not to be charged to the <i>volume of timber harvested</i> . [FA s75.94]
If licence is split	The first CCP of each the resulting licences is deemed to have the beginning date as the most recent CCP for the licence being split. [FA s75.6 (2)(a)]
CCP	
VoTH	The <i>volume of timber harvested</i> charged before the split is allocated to each of the resulting licences proportionate to the "split" in AAC. [FA s75.6 (2)(b) & FA s75.6 (3)]
Transitional undercut	Undercut carry forward approved under FA s75.94 for harvesting in the first CCP of a licence will continue to be approved for that licence alone even if that licence is amended in a section 19 or 39 subdivision. There is no provision for proportionate allocation of undercut rights nor harvested volumes.
If licences are replaced by one consolidated licence	The CCP of the replaced licences are deemed to have ended on December 31 of the calendar year immediately preceding the calendar year of the replacement. [FA s75.6 (4)(a)]
CCP	The first CCP of the resulting consolidated licence begins January 1 of the calendar year of the replacement. [FA s75.6 (4)(b)]
VoTH	The volume that was charged to replaced licences during the calendar year of the replacement must be charged to the consolidated licence [FA s75.6(4)(c)(i)] , and any excess harvest from immediately preceding CCPs of the replaced licences must be charged to the first CCP of the consolidated licence. [FA s75.6(4)(c)(ii)]
Transitional undercut	Rights to undercut carry forward approved under FA s75.94 for harvesting in the first CCP of a licence will expire with the end of the first CCP, which in the case of a consolidation under s19 or 39 is December 31 of the calendar year immediately preceding the calendar year of the consolidation. There is no provision for transferring the approved undercut carry forward to the new first CCP of the consolidated licence.

Cut Control Rules by Form of Agreement

Forest Licence

3.4.4 FL amended by or resulting from TSL Conversion

See the transitional provisions for the TSL converted or surrendered under sections 24.2 to 24.9 of the *Forest Act*. The transitional provisions over-ride only certain cut control rules. All other rules still apply.

3.4.5 FL, TFL or TSL affected by *Forestry Revitalization Act*

The following transitional provisions over-ride the corresponding cut control rules. All other rules still apply.

Affected licence in this section of the guide refers to a forest licence, tree farm licence or timber sale licence that is in a “group of licences” as defined by the *Forestry Revitalization Act* and was the subject of an AAC reduction under that Act. (An ungrouped licence does not have any transitional cut control provisions as it received its AAC reduction directly by the legislation on March 31, 2003.)

AAC reduction in this section of the guide refers to a reduction in a licence AAC made by a *Minister’s Order* under section 3(2) of the *Forestry Revitalization Act*.

Date of the AAC reduction in this section of the guide is a reference to the date specified for the AAC reduction in the *Minister’s Order* or the date that the *Minister’s Order* was signed if the order does not specify a date for the AAC reduction. Note that the *date of the AAC reduction* for a “group of licences” is different than the date that the *Minister’s Order* is deemed to come into force (i.e. March 31, 2003).

Group licence interim period is precisely defined in section 80.2 of the *Forest Act*. In this section of the guide, the following general description is sufficient for an overview of transitional cut control provisions:

Each *AAC reduction* for a licence has an associated *group licence interim period*:

- For the licence’s first or only *AAC reduction*, a *group licence interim period* is from March 31, 2003 until the date of the *AAC reduction*.
- For any further *AAC reduction(s)*, a *group licence interim period* is from the end of the previous *group licence interim period* until the date of the *AAC reduction*.

Minister’s Order in this section of the guide refers to an order made by the Minister under section 3(2) of the *Forestry Revitalization Act*.

Cut Control Period	The <i>cut control period</i> (CCP) of an <i>affected licence</i> is not directly impacted by the <i>Forestry Revitalization Act</i> . However, if the CCP of an <i>affected licence</i> is terminated or expires or the licence is surrendered soon after the <i>Minister’s Order</i> , the licence may be subject to an <u>adapted cut control limit</u> as described below.
Cut control limit	The interpretation of cut control limits and penalty for an <i>affected licence</i> will be affected by section 80.2 of the <i>Forest Act</i> and possibly by Division 3 of the <i>Cut Control Regulation</i> .
Cut control without regard to reduction	Section 80.2 of the <i>Forest Act</i> affects the determination of cut control compliance for an <i>affected licence</i> . The specific wording of the legislation must be applied to each circumstance. In general, when determining the <i>sum of AACs</i> for the CCP, the AAC during a <i>group licence interim period</i> will ignore the <i>AAC reduction</i> associated with that period.

Cut Control Rules by Form of Agreement

Forest Licence

Adapted cut control limit

If, by the next June 30 after the Minister's Order was signed:

- the holder terminated the CCP that was in effect on the date that the Minister's Order was signed,
- surrendered the licence, or
- the CCP expired on December 31 of the year in which the Minister's Order was signed,

then the holder of the licence has the following adapted cut control limit for the CCP that was terminated, surrendered or expired:

The *volume of timber harvested* during the CCP must not exceed 110% of the *sum of the AACs* that would have been authorized under the licence if the CCP had a term of 5 years and during that period the AACs remained the same. [CC Reg s13]

Penalty for adapted cut control

For the purposes of determining if a penalty is applicable, the AAC of an *affected licence* is not reduced by the order until the end of the year in which the order is effective with respect to the licence. [CC Reg s16]

If the adapted cut control limit described above applies and the holder exceeds that limit, the holder must pay a penalty [CC Reg s13(1)] that is the product of the volume that exceeds the limit and twice the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s13(2)].

A penalty is in addition to stumpage or another penalty [CC Reg s14].

Relief No relief provisions are specified.

Volume of Timber Harvested

No Excess carry forward

For the purposes of Section 75.7 of the *Forest Act*, the AAC of an *affected licence* is not reduced by the order until the end of the year in which the order is effective with respect to the licence. [CC Reg s16]

Section 75.7 of the *Forest Act* (regarding carry forward of any *volume of timber harvested* during a CCP that exceeds the sum of the AACs for the CCP), does not apply if the AAC of the licence is reduced to zero by a *Minister's Order* [CC Reg s15].

3.5 Woodlot Licence

3.5.1 Woodlot Licence - term 5 years or less

Cut Control Period	No <i>cut control period</i> – Grouped with section 75.2 licences which reconcile cut over the term of licence.
Start of period	beginning of licence
End of period	expiry or termination of licence
Cut control limit	<p><i>Volume of timber harvested</i> during the full term of the licence must not exceed the <i>sum of the AACs</i> that, during the original term of the licence, are authorized for the licence [FA s75.2 (2)]</p> <p><i>Volume of timber harvested</i> during the licence must not exceed the maximum harvestable volume specified in the licence. [FA s75.2(2.1)] This limit prevails over sum of AACs if any inconsistency [FA s75.2(3)]</p>
Exemption	No exemption from limit.
Penalty	If the limit is exceeded, the holder must pay a penalty that is the product of the volume that exceeds the limit and the <i>prescribed rate</i> . [FA s75.2(3) & (4)] , in addition to stumpage or another penalty [FA s75.2(5)]
Prescribed rate	<p>For the portion of the volume in excess of the limit that is less than or equal to 10% of the total volume authorized over the term of the licence, the <i>prescribed rate</i> is the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s2(2)(a)]</p> <p>For the portion of the volume in excess of the limit that exceeds 10% of the total volume authorized over the term of the licence, the <i>prescribed rate</i> is twice the average stumpage rate that was applicable to the licence during the last year in which stumpage was payable. [CC Reg s2(2)(b)]</p>
Relief	Full or partial relief from penalty may be granted if licence AAC was reduced under certain sections of the <i>Forest Act</i> . [FA s75.92]
Unharvested volume at end of licence term	The holder of a licence has no right to unharvested volume upon licence termination nor does the licensor have any ability to direct the volume to the licensee. Unharvested volume can only be disposed in accordance with the <i>Forest Act</i> .

Cut Control Rules by Form of Agreement

Woodlot Licence

3.5.2 Woodlot Licence - term 5+ years

Cut Control Period	<i>Cut control period</i> (CCP) has a 5 year term. [FA s75.5] The holder of the licence cannot terminate the period early.
Start	The first CCP begins January 1 of the calendar year in which the term of the woodlot licence begins; or the first day of another month that the district manager may designate within that calendar year. [FA s75.5(3)] If the woodlot licence is a section 46 replacement, the first CCP is the same as the CCP for the replaced licence [FA s75.5(3.1)(a)]
End	CCP ends after expiry of first CCP or any subsequent CCP or upon licence expiry, surrender or termination. [FA s75.5(5)]
Start of next	A new CCP with a 5 yr term begins immediately after expiry of the first CCP or any subsequent CCP. [FA s75.5(4)]
Transitional first CCP	If a <i>5 year cut control period</i> was in effect in the period Jan 1 – Nov 3, 2003, the first CCP under this legislation will have the same beginning date as that original <i>5 year cut control period</i> . [FA s75.93(1)]
Cut control limit	<i>Volume of timber harvested</i> during the CCP must not exceed 120% of the <i>sum of the AACs</i> that during the CCP are authorized for the licence [FA s75.51(1)] <i>Volume of timber harvested</i> during the <i>final CCP</i> must not exceed 100% of the <i>sum of the AACs</i> for the period [FA s75.51(2)] <i>Volume of timber harvested</i> under a non-replaceable licence must not exceed the maximum harvestable volume specified in the licence. [FA s75.51(3)] This limit prevails over other limits if any inconsistency [FA s75.51(4)]
Exemption	The regional manager or person authorized by the RM may grant an exemption from limits in FA s75.51 due to wind, fire, insect or disease. The exemption must specify a different limit and may attach conditions. [FA s75.9(1)] . The holder must comply with conditions. [FA s75.9(2)]
Penalty	If a limit is exceeded, the holder must pay a penalty. [FA s75.91(1)] The penalty is the product of the volume exceeding the limit and the <i>prescribed rate</i> . [FA s75.91 (2)] Penalty is in addition to stumpage or another penalty [FA s75.91(3)]

Cut Control Rules by Form of Agreement

Woodlot Licence

Prescribed rate	<p>If the licence is replaceable, the <i>prescribed rate</i> is twice the average stumpage rate that was applicable during the last year in which stumpage was payable. [CC Reg s3(2)]</p> <p>If the licence provides that a replacement for it must not be offered, the <i>prescribed rate</i> for the portion of the volume in excess of the limit that is less than or equal to 10% of the total volume authorized over the term of the licence, the <i>prescribed rate</i> is the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s4(2)(a)]</p> <p>If the licence is non-replaceable, the <i>prescribed rate</i> for the portion of the volume in excess of the limit that exceeds 10% of the total volume authorized over the term of the licence is twice the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s4(2)(b)]</p>
Relief	<p>Full or partial relief from penalty may be granted if licence AAC was reduced under certain sections of the <i>Forest Act</i>. [FA s75.92]</p>
Volume of Timber Harvested	<p>In addition to harvest volumes listed in section 75.1, the following volumes must be included:</p>
Replaced licence	<p>If the woodlot licence was replaced under section 46 during the current CCP, include the volume of timber that was charged to the replaced licence during the current CCP. [FA s75.5(3.1)(b)]</p>
Transitional first CCP	<p>If a <i>5 year cut control period</i> was in effect in the period Jan 1 – Nov 3, 2003, the <i>volume of timber harvested</i> during the first CCP must include harvest volumes from that 5 year cut control period. (The definition of <i>volume of timber harvested</i> and the continuation of the CCP by section 75.93 captures applicable volumes for pre-existing replaceable licences.)</p> <p>Also include any excess harvest volume that was carried forward into the <i>5 year cut control period</i> that was in effect in the period Jan 1 – Nov 3, 2003. [FA s75.93(2)]</p>
Excess carried forward	<p>Any <i>volume of timber harvested</i> during a CCP that exceeds the sum of the AACs for the CCP, will be treated as being timber harvested during next CCP [FA s75.7 & FA s75.1(e)]</p>
Undercut	<p>If the <i>volume of timber harvested</i> is less than the <i>sum of the AACs</i> for the CCP, the holder must not harvest that unharvested volume during a subsequent CCP [FA s75.8(1)(a)]. The licensor has no authority to direct the undercut to the licensee. Unharvested volume may be disposed of as a licence to cut or s20 TSL to a person other than the holder. [FA s75.8(2)]</p>

Cut Control Rules by Form of Agreement

Woodlot Licence

Transitional undercut	If undercut carry forward was approved under repealed s67 for a licence, the volume must be harvested in the <i>first cut control period</i> without restriction as to year of harvest. The harvested volume is deemed not to be charged to the <i>volume of timber harvested</i> . [FA s75.94]
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3.5.3 WL amended by or resulting from TSL Conversion

See the transitional provisions for the TSL converted or surrendered under sections 24.2 to 24.9 of the *Forest Act*. The transitional provisions over-ride only certain cut control rules. All other rules still apply.

3.6 Tree Farm Licence

3.6.1 Tree Farm Licence - term 5 years or less

The cut control legislation has provisions for Tree Farm Licences (TFLs) with terms of 5 years or less, but currently there are no TFLs with such a short term.

3.6.2 Tree Farm Licence - term 5+ years

Cut Control Period	<i>Cut control period</i> (CCP) has a 5 year term or the same term of a licence replaced under section 36 (evergreen). [FA s75.4(2 & 3)] The holder of the licence may terminate the period early by written notice served on the regional manager or authorized person after January 1 but before June 30 [FA s75.4 (4)]
Start	The first CCP for a licence <u>that is not a replacement</u> for another licence, begins on January 1 of the calendar year in which the term of the licence begins [FA s75.4(2)] If the tree farm licence is a section 36 replacement, the first CCP is the same as the CCP for the replaced licence [FA s75.4(3)(a)]
End	Termination of CCP takes effect December 31 of the year immediately preceding the calendar year in which the licence holder gave notice of termination [FA s75.4 (5)(a)] . Otherwise, CCP ends upon expiry of the CCP [FA s75.4(6)] or upon the date the licence expires, is surrendered or terminated [FA s75.4(7)]
Start of next	A new CCP with a 5 year term starts January 1 of the calendar year in which notice of termination was delivered [FA s75.4 (5)(b)] or, if the holder did not terminate the CCP, immediately after expiry of previous CCP, [FA s75.4(6)]
Transitional first CCP	If a <i>5 year cut control period</i> was in effect in the period Jan 1 – Nov 3, 2003, the first CCP under this legislation will have the same beginning date as that original <i>5 year cut control period</i> . [FA s75.93(1)]

Cut Control Rules by Form of Agreement

Tree Farm Licence

Cut control limit	<p><i>Volume of timber harvested</i> during the CCP must not exceed 110% of the <i>sum of the AACs</i> that, during the CCP, are available to the holder under the licence [FA s75.41 (1)]</p> <p><i>Volume of timber harvested</i> during the <i>final CCP</i> must not exceed 100% of the <i>sum of the AACs</i> that, during the CCP, are available to the holder under the licence [FA s75.41(2)]</p> <p><i>Volume of timber harvested</i> under a non-replaceable licence must not exceed the maximum harvestable volume specified in the licence. [FA s75.41(3)] This limit prevails over other limits if any inconsistency [FA s75.41(4)]</p>
Exemption	<p>The regional manager or person authorized by the RM may grant an exemption from limits in FA s75.41 due to wind, fire, insect or disease. The exemption must specify a different limit and may attach conditions. [FA s75.9 (1)]. The holder must comply with conditions. [FA s75.9 (2)]</p>
Penalty	<p>If the limit is exceeded, the holder must pay a penalty [FA s75.91(1)] that is the product of the volume that exceeds the limit and the <i>prescribed rate</i> [FA s75.91 (2)], in addition to stumpage or another penalty [FA s75.91(3)].</p>
Prescribed rate	<p>If the licence is <u>replaceable</u>, the <i>prescribed rate</i> is twice the average stumpage rate that was applicable during the last year in which stumpage was payable. [CC Reg s3(2)]</p> <p>If the licence provides that a replacement for it must not be <u>offered</u>, the <i>prescribed rate</i> for the portion of the volume in excess of the limit that is less than or equal to 10% of the total volume authorized over the term of the licence, the <i>prescribed rate</i> is the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s4(2)(a)]</p> <p>If the licence is non-replaceable, the <i>prescribed rate</i> for the portion of the volume in excess of the limit that exceeds 10% of the total volume authorized over the term of the licence is twice the average stumpage rate that was applicable to timber harvested under the licence during the last year in which stumpage was payable. [CC Reg s4(2)(b)]</p>
Relief	<p>Full or partial relief from penalty may be granted if licence AAC was reduced under certain sections of the <i>Forest Act</i>. [FA s75.92]</p>
Volume of Timber Harvested	<p>In addition to harvest volumes listed in section 75.1, the following volumes must be included:</p>
Replaced licence	<p>If the tree farm licence was replaced under section 36 during the current CCP, include the volume of timber harvested that was charged to the replaced licence during the current CCP. [FA s75.4(3)(b)]</p>

Cut Control Rules by Form of Agreement

Tree Farm Licence

Transitional first CCP	<p>If a <i>5 year cut control period</i> was in effect in the period Jan 1 – Nov 3, 2003, the <i>volume of timber harvested</i> during the first CCP must include harvest volumes from that 5 year cut control period. (Section 75.1's definition of <i>volume of timber harvested</i> and the continuation of the CCP by section 75.93 captures applicable volumes for pre-existing replaceable licences.)</p> <p>Also include any excess harvest volume that was carried forward into the <i>5 year cut control period</i> that was in effect in the period Jan 1 – Nov 3, 2003. [FA s75.93(2)]</p>
Excess carried forward	<p>Any <i>volume of timber harvested</i> during a CCP that exceeds the sum of the AACs for the CCP, will be treated as being timber harvested during next CCP [FA s75.7 & FA s75.1(e)]</p>
Undercut	<p>If the <i>volume of timber harvested</i> is less than the <i>sum of the AACs</i> for the CCP, the holder must not harvest that unharvested volume during a subsequent CCP [FA s75.8(1)]. The licensor has no authority to direct the undercut to the licensee. Unharvested volume may be disposed of as a licence to cut or s20 TSL to a person other than the holder. [FA s75.8(2)]</p>
Transitional undercut	<p>If undercut carry forward was approved under repealed s67 for a licence, the volume must be harvested in the <i>first cut control period</i> without restriction as to year of harvest. The harvested volume is deemed not to be charged to the <i>volume of timber harvested</i>. [FA s75.94]</p>
If licence is split	
CCP	<p>The first CCP of each the resulting licences is deemed to have the beginning date as the most recent CCP for the licence being split. [FA s75.6 (2)(a)]</p>
VoTH	<p>The <i>volume of timber harvested</i> charged before the split is allocated to each of the resulting licences proportionate to the "split" in AAC. [FA s75.6 (2)(b) & FA s75.6 (3)]</p>
Transitional undercut	<p>Undercut carry forward approved under FA s75.94 for harvesting in the first CCP of a licence will continue to be approved for that licence alone even if that licence is amended in a section 19 or 39 subdivision. There is no provision for proportionate allocation of undercut rights nor harvested volumes.</p>
If licences are replaced by one consolidated licence	
CCP	<p>The CCPs of the replaced licences are deemed to have ended on December 31 of the calendar year immediately preceding the calendar year of the replacement. [FA s75.6 (4)(a)]</p> <p>The first CCP of the resulting consolidated licence begins January 1 of the calendar year of the replacement. [FA s75.6 (4)(b)]</p>

Cut Control Rules by Form of Agreement

Tree Farm Licence

VoTH	The volume that was charged to replaced licences during the calendar year of the replacement must be charged to the consolidated licence [FA s75.6(4)(c)(i)] , and any excess harvest from immediately preceding CCPs of the replaced licences must be charged to the first CCP of the consolidated licence. [FA s75.6(4)(c)(ii)]
Transitional undercut	Rights to undercut carry forward approved under FA s75.94 for harvesting in the first CCP of a licence will expire with the end of the first CCP, which in the case of a consolidation under s19 or 39 is December 31 of the calendar year immediately preceding the calendar year of the consolidation. There is no provision for transferring the approved undercut carry forward to the new first CCP of the consolidated licence.

3.6.3 TFL with Area-Based AAC

The *Tree Farm Licence Area-based Allowable Annual Cut Trial Program Regulation (Area-Based AAC Reg)* went into effect on November 1, 2004 to enable trials that establish AACs on the basis of harvested area (hectares per year) rather than harvested volume (cubic metres per year).

The following is a summary of the cut control provisions relevant to the current *Trial Management Units* as affected by the *Area-Based AAC Reg*.

Although the *Area-Based AAC Reg* addresses situations where only a portion of a TFL's area or a portion of the AAC is area-based, each of the current *trial management units* consist of a whole TFL and each TFL's AAC is expected to be fully area-based. This section of the guide therefore omits those provisions to simplify the explanation of cut control rules.

Definition of terms used to simplify explanation of area-based cut control:

Trial Management Unit refers to each of the following: all of TFL 25, all of TFL 54 and all of TFL 57 [sec 2 of Schedule A of the *Area-Based AAC Reg*]

Trial Period is from November 5, 2004 until the winding up of the trial program (not later than February 1, 2010, when section 151.3 of the *Forest Act* is repealed.) [sec 2 of Schedule A of the *Area-Based AAC Reg*] Note that an *area-based AAC* is only in effect after the Chief Forester makes a determination for the trial management unit. i.e. at some point after the beginning of the *trial period*.

Area-based AAC in this section of the guide refers to the AAC available to the TFL holder that was determined for a *trial management unit* expressed as **the amount of land from which timber is to be harvested annually** as defined by section 1 of the *Area-based AAC Reg*.

Note that a CCP at the beginning or end of the trial program may include a period of *volume-based AAC* and a period of *area-based AAC*.

Note that although an *area-based AAC* may be partitioned under section 4(3) the *Area-Based Reg*, and areas harvested under each partition must be tracked in yearly reports prepared under section 5(3) of the *Area-Based Reg*, this information is not used to determine compliance with cut control limits.

Area harvested in this section of the guide refers to the **amount of land from which timber was harvested** is the total area identified in yearly report(s) prepared under section 5(3) of the *Area-based AAC Reg*.

Volume-based AAC in this section of the guide refers to the AAC that is based on a **volume of timber that may be harvested** that is available to the holder of the licence. Note that a CCP at the beginning or end of the trial program may include a period of *volume-based AAC* and a period of *area-based AAC*.

Volume of timber harvested (VoTH) in this section of the guide refers to volume of timber harvested while the *agreement* had a *volume-based AAC*.

Cut Control Rules by Form of Agreement

Tree Farm Licence

Cut Control Period	<p>Note: The start and end of a CCP is not affected by the Area-Based AAC Reg.</p> <p><i>Cut control period</i> (CCP) has a 5 year term or the same term of a licence replaced under section 36 (evergreen). [FA s75.4(2 & 3)] The holder of the licence may terminate the period early by written notice served on the regional manager or authorized person after January 1 but before June 30 [FA s75.4 (4)]</p>
Start	<p>The first CCP for a licence <u>that is not a replacement</u> for another licence, begins on January 1 of the calendar year in which the term of the licence begins [FA s75.4(2)]</p> <p>If the tree farm licence is a section 36 replacement, the first CCP is the same as the CCP for the replaced licence [FA s75.4(3)(a)]</p>
End	<p>Termination of CCP takes effect December 31 of the year immediately preceding the calendar year in which the licence holder gave notice of termination [FA s75.4 (5)(a)].</p> <p>Otherwise, CCP ends upon expiry of the CCP [FA s75.4(6)] or upon the date the licence expires, is surrendered or terminated [FA s75.4(7)]</p>
Start of next	<p>A new CCP with a 5 year term starts January 1 of the calendar year in which notice of termination was delivered [FA s75.4 (5)(b)] or, if the holder did not terminate the CCP, immediately after expiry of previous CCP, [FA s75.4(6)]</p>
Transitional first CCP	<p>If a <i>5 year cut control period</i> was in effect in the period Jan 1 – Nov 3, 2003, the first CCP under this legislation will have the same beginning date as that original <i>5 year cut control period</i>. [FA s75.93(1)]</p>
Cut control limit	<p>If the TFL had an <i>area-based AAC</i> for the duration of the CCP:</p> <ul style="list-style-type: none">• <i>area harvested</i> during the CCP must not exceed 110% of the <i>sum of the area-based AACs</i> that, during the CCP, are authorized for the licence [FA s75.41 (1)] as modified by the Area-Based AAC Reg]• <i>area harvested</i> during the <i>final CCP</i> must not exceed 100% of the <i>sum of the area-based AACs</i> for the period. [FA s75.41(2)] as modified by the Area-Based AAC Reg] <p>If the trial program begins or ends part way through a CCP, (i.e. the licence has <i>area-based AAC</i> for part of the CCP and <i>volume-based AAC</i> for part of the CCP), then the overcut, as determined in Schedule C of the <i>Area-Based AAC Reg</i>:</p> <ul style="list-style-type: none">• must not exceed 10% during a CCP that is not a final CCP [FA s75.41 (1)] as modified by the Area-Based AAC Reg]• must not exceed 0% during a final CCP. [FA s75.41(2)] as modified by the Area-Based AAC Reg].

Cut Control Rules by Form of Agreement

Tree Farm Licence

Exemption The regional manager or person authorized by the RM may grant an exemption from limits in FA s75.41 due to wind, fire, insect or disease. The exemption must specify a different limit and may attach conditions. [\[FA s75.9 \(1\)\]](#). The holder must comply with conditions. [FA s75.9 (2)]

Penalty If the limit is exceeded, the holder must pay a penalty [\[FA s75.91\(1\)\]](#).

If the TFL had an *area-based AAC* for the duration of the applicable CCP, the penalty will be the product of two times the excess amount of land times the following stumpage per hectare calculation: (total stumpage paid in respect of the *agreement* during the preceding year divided by the total amount of land from which timber was harvested under the *agreement* during that year). [Area-based AAC Reg sec 5(10)]

Relief Full or partial relief from penalty may be granted if licence AAC was reduced under certain sections of the *Forest Act*. [\[FA s75.92\]](#)

Information about timber harvested Cut control will utilize the total amount of land identified in a report of *area harvested* if area-based AACs are in effect for the duration of the CCP.

If the trial period begins or ends part way through a CCP, cut control will utilize:

- the amount of land identified in the report of *area harvested* for the time that area-based AACs are in effect and
 - *volume of timber harvested* for the time that a volume-based AAC is in effect.
-

Cut Control Rules by Form of Agreement

Tree Farm Licence

Report of Area Harvested	<p>Within 3 months of the end of a calendar year, (or other mutually agreed period), the ministry must prepare a report [Area-Based AAC Reg sec 5(2)&5(3)] listing for that calendar year, the total amount of land from the following:</p> <ul style="list-style-type: none">• harvested areas in a CP or RP that were used to create an access structure or incurred a regeneration obligation under FRPA, [Area-based AAC Reg sec 5 (2)(a) & 5(8)]• unharvested areas within an expired CP that were suitable to harvest and were not previously reported, [Area-based AAC Reg sec 5 (2)(b), 5(7) & 5(8)]• areas within the trial management unit on which the licensee cut, damaged or destroyed timber without authority, contrary to section 52 of FRPA. [Area-based AAC Reg sec 5 (2)(c)]• area harvested within the previous CCP that exceeded the sum of area-based AACs in the previous CCP. [Area-based AAC Reg sec 5 (2)(d) & 5(9)] <p>The report also includes a breakdown of area harvested by the partitions specified under section 4(3) of the regulation, but this information is not used for cut control purposes.</p>
Corrections to Report	<p>The report must be sent to the licensee. The licensee may request corrections within one month of receiving the report. If the error or omission is confirmed, the ministry must correct the report and use the corrected version for cut control purposes. [Area-based AAC Reg sec 5 (3)(b), (4), (5) and (6)]</p>
Volume of Timber Harvested	<p>If the trial program begins or ends part way through the CCP, (i.e. the licence has <i>area-based AAC</i> for part of the CCP and <i>volume-based AAC</i> for part of the CCP), then the <i>volume of timber harvested</i> includes the harvested timber listed in section 75.1 of the <i>Forest Act</i>.</p>
Replaced licence	<p>If the tree farm licence was replaced under section 36 during the current CCP, the timber harvested before the replacement must be charged to the replacement licence. [FA s75.4(3)(b)]</p>
Transitional first CCP	<p>If a <i>5 year cut control period</i> was in effect in the period Jan 1 – Nov 3, 2003, the <i>volume of timber harvested</i> during the first CCP must include harvest volumes from that 5 year cut control period. (Section 75.1's definition of <i>volume of timber harvested</i> and the continuation of the CCP by section 75.93 captures applicable volumes for pre-existing replaceable licences.)</p> <p>Also include any excess harvest volume that was carried forward into the <i>5 year cut control period</i> that was in effect in the period Jan 1 – Nov 3, 2003. [FA s75.93(2)]</p>

Cut Control Rules by Form of Agreement

Tree Farm Licence

Excess carried forward	<p>Any <i>volume of timber harvested</i> during a previous CCP that exceeds the sum of the AACs for the that CCP, will be treated as being timber harvested during subsequent CCP [FA s75.7 & FA s75.1(e)]</p> <p>Any <i>area harvested</i> during a CCP that exceeds the sum of the area-based AACs for that period will be treated as <i>area harvested</i> during the subsequent CCP. [Area-based AAC Reg s5(9)]</p>
Undercut	<p>If the <i>area harvested</i> during the <i>CCP</i> is less than the <i>sum of the area-based AACs</i> for the period, or</p> <p>if there is an <i>undercut</i>, as determined in Schedule C of the <i>Area-Based AAC Reg</i>, then</p> <p>the holder must not harvest that unharvested volume during a subsequent CCP [FA s75.8(1)(a)]. The licensor has no authority to direct the undercut to the licensee. Unharvested area may be disposed of as a licence to cut or s20 TSL to a person other than the holder. [FA s75.8(2)]</p>
Transitional undercut	<p>If undercut carry forward was approved under section 75.94 (i.e. repealed s67) for a licence that is a trial management unit, then the minister or person authorized by the minister must specify an amount of land which is to be substituted for the volume referred to in the approval. The amount must be subtracted from the amount of land in the report of <i>area harvested</i> for the period to which the approval applies. [Area-based AAC Reg sec 5 (11)]</p>
If licence is split	
CCP	<p>The first CCP of each the resulting licences is deemed to have the beginning date as the most recent CCP for the licence being split. [FA s75.6 (2)(a)]</p>
VoTH	<p>The <i>volume of timber harvested</i> and/or <i>area harvested</i> that was charged before the split is allocated to each of the resulting licences proportionate to the "split" in AAC. [FA s75.6 (2)(b) & FA s75.6 (3)]</p>
Transitional undercut	<p>Undercut carry forward approved under FA s75.94 for harvesting in the first CCP of a licence will continue to be approved for that licence alone even if that licence is amended in a section 19 or 39 subdivision. There is no provision for proportionate allocation of undercut rights nor harvested timber.</p>
If licences are replaced by one consolidated licence	
CCP	<p>The CCPs of the replaced licences are deemed to have ended on December 31 of the calendar year immediately preceding the calendar year of the replacement. [FA s75.6 (4)(a)]</p> <p>The first CCP of the resulting consolidated licence begins January 1 of the calendar year of the replacement. [FA s75.6 (4)(b)]</p>

Cut Control Rules by Form of Agreement

Tree Farm Licence

VoTH	The <i>volume of timber harvested</i> and/or <i>area harvested</i> that was charged to replaced licences during the calendar year of the replacement must be charged to the consolidated licence [FA s75.6(4)(c)(i)] , and any excess harvest from immediately preceding CCPs of the replaced licences must be charged to the first CCP of the consolidated licence. [FA s75.6 (4)(c)(ii)]
Transitional undercut	Rights to undercut carry forward approved under FA s75.94 for harvesting in the first CCP of a licence will expire with the end of the first CCP, which in the case of a consolidation under s19 or 39 is December 31 of the calendar year immediately preceding the calendar year of the consolidation. There is no provision for transferring the approved undercut carry forward to the new first CCP of the consolidated licence.

3.6.4 TFL affected by *Forestry Revitalization Act*

See the transitional provisions in section 3.4.5 which apply to forest licences, tree farm licences and timber sale licences affected by the *Forestry Revitalization Act*. The transitional provisions over-ride only certain cut control rules. All other rules still apply.

4 Appendices

4.1 Glossary of Terms Used in this Guide

The following terms occur in italics or as abbreviations in this guide:

Agreement means an agreement entered into under the *Forest Act*. In this guide, *agreement* usually refers to agreements that specify or provide for an AAC; i.e. a timber sale licence (TSL), a forest licence (FL), a tree farm licence (TFL) or a woodlot licence (WL). In specific sections of this guide, *agreement* refers to forestry licence to cut and community salvage licence.

allowable annual cut (AAC) is defined by section 1 (1) of the *Forest Act* (unofficial consolidation July 23, 2004):

““allowable annual cut” means

- (a) in respect of a tree farm licence area, community forest agreement area, woodlot licence area or timber supply area, the rate of timber harvesting determined for the area under section 8, as increased or reduced under this Act, and
- (b) in respect of an agreement entered into under this Act specifying an allowable annual cut, the rate of timber harvesting specified in the agreement, as increased or reduced under this Act;”

Also see the discussion about AAC years with respect to determining Sum of AACs in section 2.2.4 of this guide.

cut control period (CCP) as defined by section 75.1 of the *Forest Act*, refers to the cut control period determined for a licence under section 75.4 or 75.5. CCPs are only established for licences with terms greater than 5 years.

Several variations of the term “cut control period” occur in the legislation:

A *first CCP* is established by sections 75.4 and 75.5 to create a statutorily defined starting point for cut control on new licences. Licences that were already in effect when the new legislation came into force (November 4, 2003) require special treatment from section 75.93 to bring them under the new rules.

Section 75.93 references the **5 year cut control period that was in effect in the period beginning January 1, 2003 and ending on November 3, 2003** and calls it the “**original cut control period**”. The “original cut control period” could have been a contractual provision under a non-replaceable forest licence or a statutory cut control period for a replaceable licence. The effect of section 75.93 is the inclusion and continuation of these original cut control periods into the new cut control rules.

Final CCP is used by sections 75.41 and 75.51 in the context of setting maximum harvest limits for a CCP. The legislation does not provide a definition so the plain meaning should be used. This guide interprets final CCP as being the last cut control

Appendices

Glossary of Terms Used in this Guide

period before a licence expires or is surrendered.

Licence refers to an *agreement* under the *Forest Act* that specify or provide for an AAC; i.e. a timber sale licence (TSL), a forest licence (FL), a tree farm licence (TFL) or a woodlot licence (WL).

In the cut control legislation, the term “**licence**” has different definitions for different sections. For example, section 75.4 defines *licence* for the purposes of sections 75.4 and 75.41 as being an FL, TSL or TFL with a term of more than 5 years and, if it is a FL or TSL, with an AAC of greater than 10,000 m³. Similarly, the definition of licence in section 75.5 is considered to apply to the limits of section 75.51.

Major licence is a term defined in section 1(1) of the *Forest Act*. The words are also used in the heading for section 75.4 “Cut control period for major licences”. Note that the group of licences described in section 75.4(1) does not fully match the licences in the statutory definition of major licence. This should not be an issue because section headings are only for convenience and not part of the legislation.

Prescribed rate in sections 75.2(4) and 75.91(2) refers to the rate in a regulation that is made by order in council. That regulation did not exist at the time this guide was written. A penalty can only be assessed if and when the regulation exists.

Volume of timber harvested is defined by [section 75.1](#) of the *Forest Act*. This is subject to change as part of pending changes to interior grades.

4.2 Memos and Bulletins Referenced in this Guide

4.2.1 Penalty for Excess Harvest on Forestry Licence to Cut

August 25, 2005 memo from the Directors of RTEB and C&E providing guidance on the administration of section 75.21 of the *Forest Act*, and its interaction with section 52 of the *Forest and Range Practices Act*.



S75-21 Exceeding
Maximum Harvestable

4.3 Legislation

Legislation directly relevant to cut control:

- Division 3.1 of Part 4 of the *Forest Act* (Excerpt included on the following page.)
Web: www.for.gov.bc.ca/tasb/legsregs/forest/foract/part4.htm#part4_division3-1
- Section 80.2 of the *Forest Act* (regarding licences affected by minister's orders reducing AAC under the Forestry Revitalization Act):
www.for.gov.bc.ca/tasb/legsregs/forest/foract/part4.htm#section80-2
- Cut Control Regulation: (consolidated to Dec 9, 2005)
www.for.gov.bc.ca/tasb/legsregs/forest/faregs/cutcontr/ccr.htm
- Tree Farm Licence Area-Based Allowable Annual Cut Trial Program Regulation
www.for.gov.bc.ca/tasb/legsregs/forest/faregs/tflabaac/tflabaac.htm

Division 3.1 of Part 4 of the Forest Act

The following is an excerpt from the web version of the
Ministry of Forest's Consolidation – July 23, 2004.

(Division 3.1 has not received any further amendments as of November 30, 2005.)

Warning: This is an unofficial consolidation of the *Forest Act* which incorporates amendments to the Act brought into force up to July 23, 2004. Official consolidations of the *Forest Act* are the sole responsibility of the Ministry of Attorney General.

While every attempt has been made to ensure accuracy and completeness, the content of this unofficial consolidation cannot be guaranteed. Users should refer to the official copies of legislation, produced by Queen's printers, where necessary.

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Division 3.1 – Cut Control

Interpretation

- 75.1** In this Division:
- "cut control period"** in relation to a licence, means the cut control period determined for that licence under section 75.4 or 75.5;

"volume of timber harvested", in relation to a licence, as defined in

section 75.2, 75.21 or 75.4, a forest licence, as defined in section 75.5, a timber sale licence, as defined in section 75.5 or a woodlot licence, as defined in section 75.5, means the total of the following volumes that are charged to the licence during the term of the licence, if it is a licence as defined in section 75.2 or 75.21, or during the cut control period, if it is not, in statements issued on behalf of the government to the holder of the licence:

- (a) the volume of timber cut under the licence and under road permits associated with the licence;
- (b) the volume of timber estimated to be wasted or damaged under the licence and under road permits associated with the licence;
- (c) the volume of timber cut, damaged or destroyed without authorization by the holder of the licence;
- (d) the volume of timber credited in respect of the licence by the regional manager or the district manager;
- (e) additionally, except for a licence as defined in section 75.2 or 75.21, the excess volume of timber, if any, carried forward under section 75.7 from the immediately preceding cut control period.

Limit on total cut for licences with a term of 5 years or less

- 75.2** (1) In this section, "**licence**" means a
- (a) timber sale licence that specifies an allowable annual cut,
 - (b) forest licence,
 - (c) tree farm licence, or
 - (d) woodlot licence
- originally having a term ending 5 years or less after its commencement date.
- (2) The holder of a licence must ensure that the volume of timber harvested during the term of the licence does not exceed a limit equal to the sum of the allowable annual cuts
- (a) authorized for the licence if it is a forest licence, timber sale licence or woodlot licence, or
 - (b) available to the holder under the licence if it is a tree farm licence for the period of the original term of the licence.
- (2.1) The holder of a licence must ensure that the volume of timber harvested under the licence does not exceed the maximum harvestable volume specified in the licence.
- (2.2) If compliance with subsection (2) is inconsistent with compliance with

subsection (2.1), subsection (2.1) prevails to the extent of the inconsistency.

- (3) If the volume of timber harvested during the term of a licence exceeds the applicable limit under subsection (2) or the limit under subsection (2.1), the holder of the licence must pay to the government the penalty determined under subsection (4).
- (4) The penalty under subsection (3) is the product of
 - (a) the volume of timber harvested during the term of the licence that exceeds the applicable limit under subsection (2) or the limit under subsection (2.1), and
 - (b) the prescribed rate.
- (5) A penalty under this section is in addition to stumpage payable or another penalty under this Act or another enactment.

Limit on total cut for forestry licence to cut and community salvage licence

- 75.21**
- (1) In this section, "**licence**" means a forestry licence to cut or community salvage licence.
 - (2) The holder of a licence must ensure that the volume of timber harvested under the licence does not exceed the maximum harvestable volume specified in the licence.
 - (3) If the volume of timber harvested under a licence exceeds the limit specified in subsection (2), the holder of the licence must pay to the government the penalty determined under subsection (4).
 - (4) The penalty under subsection (3) is the product of
 - (a) the volume of timber harvested under the licence that exceeds the limit referred to in subsection (2), and
 - (b) the prescribed rate.
 - (5) A penalty under this section is in addition to stumpage payable or another penalty under this Act or another enactment.

Reconciliation of cut control for short term licences

- 75.3**
- (1) In this section, "**licence**" means a licence that is a forest licence or tree farm

licence and has a term of 5 years or less.

- (2) If a licence is replaced under section 19 or 39 by 2 or more other licences,
 - (a) each of the other licences, for the purposes of section 75.2, is deemed to have begun on the first day of the term of the replaced licence, and
 - (b) the volume of timber harvested that, before the replacement, was charged to the replaced licence must be charged to the other licences by allocating that volume among the other licences by the method set out in subsection (3).

- (3) The part of the volume of timber harvested referred to in subsection (2) (b) to be allocated among each of the other licences must be determined by multiplying that volume by the fraction obtained by dividing the allowable annual cut of that other licence by the allowable annual cut of the replaced licence.

- (4) If 2 or more licences are replaced under section 19 or 39 by one other licence,
 - (a) the term of that other licence, for the purposes of section 75.2, is deemed to have begun
 - (i) on the first day of the terms of the replaced licences, if their terms began on the same day, or
 - (ii) on the earliest of the dates on which the any of the terms of the replaced licences began, if their terms began on different dates, and
 - (b) the volumes that before the replacement were charged to the replaced licences must be charged to that other licence.

Cut control period for major licences

- 75.4** (1) In this section and in section 75.41 "**licence**" means
- (a) a forest licence that specifies an allowable annual cut greater than 10 000 m³ and has a term of more than 5 years,
 - (b) a timber sale licence that specifies an allowable annual cut greater than 10 000 m³ and has a term of more than 5 years, or
 - (c) a tree farm licence that has a term of more than 5 years.
- (2) The first cut control period for a licence that is not a replacement for another licence is 5 years beginning on January 1 of the calendar year in which the term of the licence begins.

- (3) For a licence that is a replacement under section 15 or 36 for another licence,
 - (a) the first cut control period is the same as the cut control period for the replaced licence, immediately before its replacement, and
 - (b) the volume of timber harvested that, before the replacement, was charged to the replaced licence must be charged to the replacement licence.

- (4) The holder of a licence may terminate
 - (a) the first cut control period for the licence, and
 - (b) any subsequent cut control period determined under this section, by written notice, delivered after January 1 and before June 30 of the calendar year of delivery, to the regional manager or another person authorized by the regional manager.

- (5) If the holder of a licence terminates a cut control period under subsection (4),
 - (a) the termination takes effect on December 31 of the year immediately preceding the calendar year of delivery of the notice of termination, and
 - (b) a new cut control period of 5 years for the agreement begins on January 1 of the calendar year of delivery of the notice of termination.

- (6) If the holder of a licence who under subsection (4) may terminate the cut control period for the licence does not do so, then, immediately after the expiry of that cut control period, a new cut control period of 5 years for the licence begins.

- (7) If a licence
 - (a) expires or is surrendered, or
 - (b) is terminated under this Act,the cut control period for the licence ends on the date the licence expires, is surrendered or is terminated despite any thing to the contrary in this Division.

Cut control limit for major licences

- 75.41** (1) The holder of a licence must ensure that the volume of timber harvested during its cut control period does not exceed 110% of the sum of the allowable annual cuts that for that period are
- (a) authorized for the licence if it is a timber sale licence or forest licence,
or

- (b) available to the holder under the licence if it is a tree farm licence.
- (2) Despite subsection (1), the holder of a licence must ensure that the volume of timber harvested during its final cut control period does not exceed 100% of the sum of the allowable annual cuts for that period that are
 - (a) authorized for the licence if it is a timber sale licence or forest licence, or
 - (b) available to the holder under the licence if it is a tree farm licence.
- (3) The holder of a licence that provides that a replacement for it must not be offered must ensure that the volume of timber harvested under the licence does not exceed the maximum harvestable volume specified in the licence.
- (4) If compliance with subsection (1) or (2) is inconsistent with compliance with subsection (3), subsection (3) prevails to the extent of the inconsistency.

Cut control period for other licences

75.5 (1) In this section and in section 75.51:

"forest licence" means a forest licence that specifies an allowable annual cut of 10 000 m³ or less and has a term of more than 5 years;

"timber sale licence" means a timber sale licence that specifies an allowable annual cut of 10 000 m³ or less and has a term of more than 5 years;

"woodlot licence" means a woodlot licence that has a term of more than 5 years.

- (2) The first cut control period
 - (a) for a forest licence that is not a replacement under section 15 for another forest licence, or
 - (b) for a timber sale licenceis 5 years beginning on January 1 of the calendar year in which the term of the licence begins.
- (3) The first cut control period for a woodlot licence that is not a replacement under section 46 for another woodlot licence is 5 years beginning on
 - (a) January 1, or

- (b) the first day of another month, that the district manager may designate, of the calendar year in which the term of the woodlot licence begins.
- (3.1) For a licence that is a replacement under section 15 or 46 for another licence,
- (a) the first cut control period is the same as the cut control period for the replaced licence, immediately before its replacement, and
 - (b) the volume of timber harvested that, before the replacement, was charged to the replaced licence must be charged to the replacement licence.
- (4) Immediately after the expiry of the first cut control period, or any subsequent cut control period, for a forest licence, timber sale licence or woodlot licence, a new 5 year cut control period for the licence begins.
- (5) If a forest licence, timber sale licence or woodlot licence
- (a) expires or is surrendered, or
 - (b) is terminated under any provision of this Act,
- the cut control period for the licence ends on the date the licence expires, is surrendered or is terminated despite any thing to the contrary in this Division.

Cut control limit for other licences

- 75.51** (1) The holder of a timber sale licence, forest licence or woodlot licence must ensure that the volume of timber harvested during a cut control period for the licence is not more than 120% of the sum of the allowable annual cuts for that period that are authorized for the licence.
- (2) Despite subsection (1), the holder of a timber sale licence, forest licence or woodlot licence must ensure that the volume of timber harvested during the final cut control period for the licence is not more than 100% of the sum of the allowable annual cuts for that period that are authorized for the licence.
- (3) The holder of
- (a) a timber sale licence,
 - (b) a forest licence, or
 - (c) a woodlot licence
- that provides that a replacement for it must not be offered must ensure that the volume of timber harvested under the licence does not exceed the maximum harvestable volume specified in the licence.

- (4) If compliance with subsection (1) or (2) is inconsistent with compliance with subsection (3), subsection (3) prevails to the extent of the inconsistency.

Reconciliation of cut control for major and other licences

- 75.6** (1) In this section, "**licence**" means
- (a) a licence as defined in section 75.4, or
 - (b) a forest licence as defined in section 75.5.
- (2) If a licence is replaced under section 19 or 39 by 2 or more other licences,
- (a) the first cut control period for each of the other licences is deemed to have begun on the same day on which the latest cut control period for the replaced licence began, and
 - (b) the volume of timber harvested that, before the replacement, was charged to the replaced licence during its latest cut control period must be charged to the other licences by allocating that volume among the other licences during their first cut control period by the method set out in subsection (3).
- (3) The part of the volume of timber harvested referred to in subsection (2) (b) to be allocated among each of the other licences must be determined by multiplying that volume by the fraction obtained by dividing the allowable annual cut of that other licence by the allowable annual cut of the replaced licence.
- (4) If 2 or more licences are replaced under section 19 or 39 by one other licence,
- (a) the cut control periods for the replaced licences are deemed to have ended on December 31 of the calendar year immediately preceding the calendar year of the replacement,
 - (b) the first cut control period for the other licence begins on January 1 of the calendar year of the replacement, and
 - (c) the volume of timber harvested that
 - (i) was charged to the replaced licences during the calendar year of the replacement, and
 - (ii) exceeded the volume that was authorized for, or available to the holders of, the replaced licences for the immediately preceding cut control periodsmust be charged to the first cut control period of that other licence.

Carry forward of excess harvest volume

- 75.7** If the volume of timber harvested during a cut control period for a licence, as defined in section 75.4, a forest licence, as defined in section 75.5, a timber sale licence, as defined in section 75.5 or a woodlot licence, as defined in section 75.5, exceeds the sum of the allowable annual cuts for that period that are
- (a) authorized for the licence if it is a forest licence, timber sale licence or woodlot licence, or
 - (b) available to the holder under the licence if it is a tree farm licence,
- the excess volume of timber must be treated as being timber harvested during a cut period that is the next cut control period.

No carry forward of unharvested volume

- 75.8** (1) If the volume of timber harvested during a cut control period for a licence, as defined in section 75.4, a forest licence, as defined in section 75.5, a timber sale licence, as defined in section 75.5 or a woodlot licence, as defined in section 75.5, is less than the sum of the allowable annual cuts for that period that are
- (a) authorized for the licence if it is a forest licence, timber sale licence or woodlot licence, or
 - (b) available to the holder under the licence if it is a tree farm licence,
- the holder of the licence must not harvest that unharvested volume of timber in a subsequent cut control period.
- (2) The unharvested volume of timber, referred to in subsection (1), in a tree farm licence area or woodlot licence area may be disposed of to a person other than the holder of the tree farm licence or woodlot licence by means of
- (a) a licence to cut, or
 - (b) a timber sale licence under section 20.

Exemption from cut control limits

- 75.9** (1) If the regional manager or a person authorized by the regional manager considers that timber on Crown land or other forest resources on Crown land is at risk because of wind, fire, insect or disease, he or she
- (a) may exempt the holder of a licence, as defined in section 75.4, a forest licence, as defined in section 75.5, a timber sale licence, as defined in section 75.5 or a woodlot licence, as defined in section 75.5, from the

- limit under section 75.41 or 75.51, as the case may be, and
- (b) in granting the exemption must specify a different limit and may attach conditions to the exemption.
- (2) The holder of a licence who is exempted under this section must comply with a condition of the exemption.

Penalty for exceeding cut control limits

- 75.91** (1) If the volume of timber harvested during a cut control period for a licence, as defined in section 75.4, a forest licence, as defined in section 75.5, a timber sale licence, as defined in section 75.5 or a woodlot licence, as defined in section 75.5, exceeds
- (a) the limit under section 75.41 or 75.51, as the case may be, or
- (b) the limit specified under section 75.9,
- the holder of the licence must pay to the government the penalty determined under subsection (2).
- (2) The penalty under subsection (1) is the product of
- (a) the volume of timber harvested during the cut control period that exceeds the applicable limit referred to in subsection (1), and
- (b) the prescribed rate.
- (3) A penalty under this section is in addition to stumpage payable or another penalty under this Act or another enactment.

Relief

- 75.92** If the allowable annual cut that is
- (a) authorized for a forest licence, a timber sale licence that specifies an allowable annual cut or woodlot licence, or
- (b) available to the holder of a tree farm licence,
- is reduced under section 8, 9, 61, 63 or 173, the minister or a person authorized by the minister may grant to the holder of the licence full or partial relief from the penalty under section 75.2 or 75.91.

Transitional – cut control

- 75.93** (1) A 5 year cut control period that was in effect in the period beginning on January 1, 2003 and ending on November 3, 2003, in this section called the

"original cut control period",

- (a) under a forest licence or timber sale licence that provides that a replacement for it must not be offered,
- (b) for a licence as defined in section 75.4 that does not so provide,
- (c) for a forest licence as defined in section 75.5 that does not so provide,
- (d) for a timber sale licence as defined in section 75.5 that does not so provide, or
- (e) for a woodlot licence as defined in section 75.5 that does not so provide.

is deemed for the purposes of this Division to be the first cut control period for the licence, in this section called the "first cut control period", having the same beginning date as the original cut control period.

- (2) A volume of timber that under section 65 of this Act immediately before the repeal of that section by the *Forest (Revitalization) Amendment Act, 2003* was deemed to be timber harvested in the original cut control period is deemed to be timber harvested in the first cut control period, without regard to any direction, as to amount of volume each year, under section 65 (5) before its repeal.
- (3) A volume of timber that is referred to in a forest licence or timber sale licence, and is treated in the licence as timber harvested in the original cut control period, is deemed, for the purposes of this Division, to be timber harvested in the first cut control period, if the licence
 - (a) provides that a replacement for the licence must not be offered, and
 - (b) was in effect in the period beginning on January 1, 2003 and ending on November 3, 2003.
- (4) If, after December 31, 2002, any provisions of
 - (a) a timber sale licence described in subsection (1), or
 - (b) a forest licence described in subsection (1)that pertain to cut control conflict or are inconsistent with this Division, this Division prevails.
- (5) Section 75.2 applies to a licence as defined in section 75.2 (1) if the licence was in effect in the period beginning on January 1, 2003 and ending on November 3, 2003.

Transitional – carry forward

75.94 (1) In this section:

"first cut control period", in relation to a licence, means the first cut control period under this Division for that licence;

"licence" means a licence, as defined in section 75.4, a forest licence, as defined in section 75.5 or a woodlot licence, as defined in section 75.5.

- (2) A volume of timber that, before the repeal of section 67 of this Act by the *Forest (Revitalization) Amendment Act, 2003*, was the subject of an approval under section 67 (4) granted to the holder of a licence, is approved for harvesting in the first cut control period.
- (3) A restriction under section 67 (4), as it was before its repeal, on volume of timber permitted to be harvested each year is without effect.
- (4) Subject to subsections (5) and (6) of this section, an approval referred to in section 67 (4) may be granted under that provision, as if section 67 had not been repealed, in respect of a 5 year cut control period that ended before January 1, 2003, to the holder of a licence if
 - (a) no previous approval under section 67 (4) has been granted in respect of that 5 year cut control period, and
 - (b) the holder applies in writing before July 1, 2003 to the minister or a person authorized by the minister for the approval.
- (5) An approval authorized under subsection (4) may not restrict the volume that may be harvested in any year of the first cut control period.
- (6) The volume of timber that is the subject of an approval authorized under subsection (2) or (4) and granted to the holder of a licence
 - (a) must be harvested in the first cut control period for the licence, and
 - (b) for the purposes of the definition of "volume of timber harvested" in section 75.1 is deemed not to be charged to the licence.

4.4 Cut Control Scenarios

Scenario 1 below shows hypothetical harvest levels for a licence under two successive cut control periods of 5 years each.

Scenario 1: Fixed Five Year Cut Control Periods



Scenario 2: Licensee Terminates Control Period Early

In Scenario 2, there appears to be a sustained good market for logs from year 3 on. So, after harvesting at the same level as in Scenario 1 for years 1-4, the holder of the licence serves notice early in year 5 to terminate the cut control period at the end of year 4. The licence holder now has greater flexibility to take advantage of the market cycle without exceeding cut control limits.

