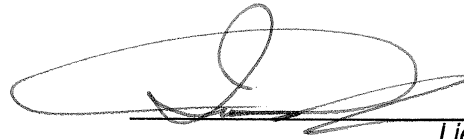


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 865, Approved and Ordered DEC - 8 2005



Lieutenant Governor

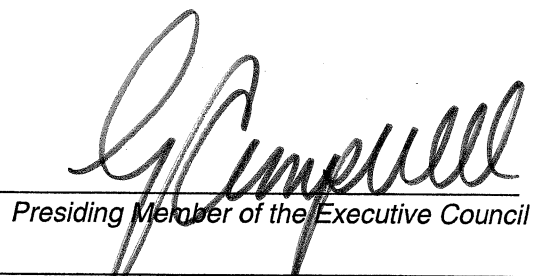
Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective February 1, 2006,

- (a) the following sections of the *Land Amendment Act*, 2003, S.B.C. 2003, c.74, are brought into force:
 - (i) section 1, to the extent that it enacts
 - (A) the title to Part 7.1, and
 - (B) sections 93.01, 93.02 and 93.4 to 93.81
 - of the *Land Act*, and
 - (ii) sections 3 and 5 to 7,
- (b) the attached Land Use Objectives Regulation is made, and
- (c) the Strategic Planning Regulation, B.C. Reg. 180/95, is repealed.



Minister of Agriculture and Lands



Presiding Member of the Executive Council

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

Authority under which Order is made:

Act and section:- Land Act, R.S.B.C. 1996, c. 245, ss. 8, 93.81; Land Amendment Act, S.B.C. 2003, c. 74, s. 8,
Forest Practices Code of British Columbia Act, R.S.B.C. 1996, c. 159, s. 198

Other (specify):- oic 437/95

LAND USE OBJECTIVES REGULATION

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Definitions

- 1 In this regulation:

“**Act**” means the *Land Act*;

“**agreement**” means

- (a) an agreement in the form of a licence, permit or agreement referred to in section 12 of the *Forest Act*, or
 - (b) a licence or permit under the *Range Act*
- and includes a pulpwood agreement;

“**land use objective**” means an objective

- (a) established under section 93.4 of the Act, or
- (b) referred to in section 93.8 of the Act;

“**minister**” means the minister responsible for the administration of the *Land Act*;

“**section 93.4 order**” means an order made under section 93.4 of the Act for the purposes of the *Forest and Range Practices Act*.

Criteria for establishing land use objectives

- 2 (1) In making a section 93.4 order establishing or significantly amending a land use objective for an area, the minister may consider information that
- (a) is contained in a land use plan that is endorsed by the Executive Council and that relates to the area, or
 - (b) is relevant to the management and use of the forest and range resources within the area.
- (2) Before making a section 93.4 order establishing or significantly amending a land use objective, the minister must be satisfied that
- (a) the land use objective or amendment will
 - (i) provide for management and use of forest or range resources in a manner that has not otherwise been provided for under this regulation or another enactment, and
 - (ii) provide for an appropriate balance of social, economic and environmental benefits, and

- (b) the importance of the land use objective or amendment outweighs any adverse impact on opportunities for timber harvesting or forage use within or adjacent to the area that will be affected.
- (3) In making a section 93.4 order establishing or significantly amending a land use objective the minister must consider any written comment received under whichever is applicable of section 3 or 4.

Orders that must be made available for public review and comment

3 (1) In this section:

“**newspaper**” includes a free newspaper and a newspaper without subscribers;

“**order**” does not include a section 93.4 order that is the subject of an opinion of the minister under section 93.6 (2) of the Act, stated in the order, that the order is urgently required to protect a resource value.

- (2) If the minister proposes by order to establish or significantly amend a land use objective, the minister, before making the order, must publish a notice, briefly describing the land use objective or amendment, in a newspaper circulating in
 - (a) the area in which the land use objective applies, or
 - (b) if no newspaper circulates in that area, the area nearest to that area, and in the Gazette, and stating
 - (c) that the proposed order is publicly available for review and comment at the ministry’s regional office for the region that includes the area referred to in paragraph (a),
 - (d) the date on which the land use objective or the amendment is to take effect,
 - (e) the period, as determined under subsection (3), during which persons have the opportunity to review, and provide written comments about, the proposed land use objective or amendment, and
 - (f) the ministry office to which written comments may be sent.
- (3) The period referred to in subsection (2) (e) is
 - (a) 60 days beginning on the later of
 - (i) the date the notice is published in a newspaper, and
 - (ii) the date the notice is published in the Gazettein accordance with subsection (2), or
 - (b) a different period that the minister, before publication of the notice, may specify, beginning on the later of the dates referred to in paragraph (a), which period may be
 - (i) longer than 60 days, if the minister is satisfied that the longer period is necessary to provide adequate opportunity for review and comment, or
 - (ii) shorter than 60 days, if the minister is satisfied that the shorter period will provide adequate opportunity for review and comment or is necessary to address concerns respecting the protection of resource values.

- (4) Before the minister makes an order to establish or significantly amend a land use objective, a holder of a forest stewardship plan, woodlot licence plan, range use plan or range stewardship plan must be consulted by an official of the ministry only if both of the following conditions are fulfilled:
 - (a) the land use objective or amendment, as proposed, would have a material adverse impact on the holder, in relation to any
 - (i) intended results or strategies specified in the plan, or
 - (ii) matters specified in the plan;
 - (b) the holder gives written notice to the minister within the period referred to in subsection (2) (e), requesting the consultation and stating the material adverse impact.

Review and comment on urgent orders by affected agreement holders

- 4 (1) In this section, “**order**” means a section 93.4 order that is the subject of an opinion of the minister under section 93.6 (2) of the Act that the order is urgently required to protect a resource value.
- (2) If the minister proposes by order to establish or significantly amend a land use objective, the minister, before making the order, must provide agreement holders that may be affected by the order an opportunity to review, and to provide written comments about, the land use objective or amendment.

Specifying conflicts with *Forest and Range Practices Act* objectives

- 5 (1) Before making a section 93.4 order establishing or amending a land use objective the minister must determine if the proposed land use objective or the land use objective as proposed to be amended would conflict with other objectives established under the *Forest and Range Practices Act*.
- (2) If the minister determines that the order, if made, would result in a conflict referred to in subsection (1), the minister may make the order
 - (a) in an amended form that avoids the conflict, or
 - (b) as proposed, but must specify the nature and extent of the conflict in the order.

Content of order establishing or amending a land use objective

- 6 (1) A section 93.4 order that establishes or amends a land use objective must be in writing and must specify all of the following:
 - (a) the land use objective or the amendment;
 - (b) the geographic location to which the land use objective or the amendment applies, including a map showing the location of the area to which the land use objective or amendment applies;
 - (c) the date on which the land use objective or the amendment is to take effect, if that date is different than the date the order is published in the Gazette;
 - (d) the period that is to apply under section 8 (2) (b) of the *Forest and Range Practices Act* if the period is other than 2 years;
 - (e) if section 16 (2) of the *Forest and Range Practices Act* will be disapplied.

- (2) A section 93.4 order that establishes or amends a land use objective must be filed at the regional office for the forest region to which the order relates by the date notice of the order is posted or published under section 7.

Notice of order establishing or amending a land use objective

- 7 (1) If the minister makes a section 93.4 order establishing or significantly amending a land use objective, the minister must
 - (a) post notice of the order on the website of the ministry, and
 - (b) publish notice of the order in the Gazette.
- (2) A notice under subsection (1) must
 - (a) identify that an order has been made that has established or amended a land use objective,
 - (b) identify where the land use objective or the amendment, as applicable, applies,
 - (c) specify the date on which the land use objective or the amendment takes effect,
 - (d) state that the order is filed at the regional office for the forest region to which the order relates, and
 - (e) state that there is available a summary, filed with the order, of any revision made to the objective as a result of the proposed objective having been made available for review and comment under this regulation.

Effective date of a section 93.4 order

- 8 (1) A section 93.4 order takes effect on the later of
 - (a) the date notice is published under section 7 (1) (b), and
 - (b) the date specified under section 7 (2) (c).
- (2) A section 93.4 order does not affect any of the following that are in effect at the beginning of the day the order takes effect:
 - (a) a cutting permit;
 - (b) a road permit;
 - (c) a timber sale licence that does not provide for cutting permits;
 - (d) an area described in section 7 (1) (b) or 196 (1) of the *Forest and Range Practices Act*;
 - (e) a schedule, as it applies for the calendar year in which the order is made, which schedule is
 - (i) in a range use plan for grazing of livestock and is referred to in section 33 (1) (b) of the *Forest and Range Practices Act*,
 - (ii) in a range use plan for hay cutting and is referred to in section 34 (1) (b) of that Act, or
 - (iii) required under section 43 of that Act, in relation to a range stewardship plan.