



General Bulletin

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Requirements for Consistency between Forest Development Plans and Higher Level Plans

Introduction

Forest Practices Code (FPC) [General Bulletin #24](#) – Strategic Land Use Plans describes how declaring specific sections of a strategic land use plan (SLUP) as a higher level plan (HLP) creates a legal obligation for operational plans to be consistent with those SLUP sections. Determining when this newly created HLP becomes effective is the subject of this bulletin.

When an HLP* is established, it may overlap an area subject to forest development in the form of:

1. active forest development planning;
2. proposed category A cutblocks/roads;
3. approved category A cutblocks/roads subject to limited protection (Section 21 of the Operational Planning Regulation [OPR21]); or,
4. approved category A cutblocks and approved roads subject to full protection (OPR22).

This bulletin will discuss the implications of an HLP being established during these stages with emphasis on the latter three.

**See the last section of this document for a complete list of the types of areas eligible for HLP status.*

HLP Objectives

In order to achieve consistency between the forest development plan (FDP) and the HLP, it is very important that the objectives in the HLP be clear and unambiguous. If they are not, it is difficult for the preparer of the FDP to know if his or her plan is consistent with the HLP and it is equally difficult for the statutory decision maker (SDM) to determine this at the FDP approval stage. Since the role of HLPs is to ensure strategic direction is reflected in field operations, time spent on developing clear objectives is well worth the effort.

The effective date of an HLP

SDMs must specify the effective date of HLP objectives in the order filed with the regional manager. During the time period leading to the effective date, as specified in the order, the HLP is not in effect and there is no requirement for the FDP to be consistent. Once the effective date specified in the order is past, the HLP comes into effect, however, this is followed by a 4 month period of "grace" allowed for under FPC10(1)(d). After this four month period is past, all new FDPs and amendments to existing FDPs either being submitted or being given effect by the SDM must be consistent with the HLP (except for OPR22 protected blocks).

A proposed FDP must be consistent with the FPC and regulations and any HLP in effect 4 months before submission of the FDP in accordance with FPC10(1)(d).

FDP submission prior to HLP effective date

If the FDP is submitted less than 4 months after the HLP comes into effect, the SDM does not need to consider consistency of the FDP with the HLP (i.e., the FDP will pass the FPC41(1)(a) test without being consistent with the HLP). FPC10(1)(d) provides an exception to this in that it allows the HLP to specify a shorter (or longer) period of time within which the FDP must be consistent. If this is not stated, the default is 4 months.

Despite the requirements of FPC10(1)(d) and the period during which an HLP is established but not in effect, the approval process still provides the opportunity for the SDM, prior to FDP submission, to express what portions, if any, of the draft FDP that must be consistent with the yet to be effective HLP in order to meet his or her test under FPC41(1)(b) – adequately manage and conserve.

In addition to the above changes to the draft FDP, the proponent may voluntarily, with or without input from the SDM, incorporate further information from the HLP into the FDP, over and above that needed for FPC41(1)(b) approval.

FDP approved before HLP effective date

An existing FDP, approved before an HLP comes into effect, does not have to be consistent with an HLP that comes into effect during the term of the FDP. The holder of the FDP may apply at any time for a cutting permit and, upon issuance, may harvest the cutblock. The DM is obligated to issue the cutting permit if the FDP holder is acting in accordance with the legislation, regulations and licence agreement. The same is true of applying for a road permit and building a road. Within the Small Business Forest Enterprise Program, the DM may invite applications for or enter into a timber sale licence regardless of any inconsistencies with established HLPs while the current FDP is still in effect.

FDP submission after HLP effective date

Any FDP submitted for approval more than 4 months after the HLP takes effect, must be consistent with the HLP (except cutblocks and roads afforded protection by OPR22); otherwise, the SDM is not able to approve them.*

**If the FDP was not consistent with the HLP it would be in contravention of FPC10(1)(d) which means it could not pass the FPC41(1)(a) test for approval.*

Approved category A cutblocks subject to OPR21 (limited protection)

Once a cutblock has achieved approved category A status, it is afforded a certain level of protection under OPR21 from being affected by new standards. In terms of the current FDP, there is no limit to the protection provided however there are situations where the cutblock could lose its category A status when it is carried over to the next FDP. One of these situations occurs when an HLP is established over an FDP. In this circumstance the SDM may refuse to approve the next FDP if:

1. it includes existing category A cutblocks and roads that cause the FDP to be inconsistent with the HLP, and
2. it is submitted for approval more than 4 months after the HLP came into effect.

Determining the consistency of approved category A cutblocks and approved roads, subject to OPR21, with the HLP

Once an HLP has been established for 4 months and a new FDP is proposed, there is the potential for all existing category A cutblocks and approved roads on the current FDP to be reviewed to determine if they are consistent with the HLP before being carried over to the new FDP. Given a recent trend to plan for more than 5 years of AAC on an FDP (some licencees have substantially more than 5 years of wood on their FDPs), this can be a daunting task.

In order to minimize this effort, the first strategy is to ensure that HLP objectives are very clear as to what existing cutblocks and roads they apply to. OPR21(1)(a)(i) suggests that new HLPs being established do not necessarily have to apply to all existing category A cutblocks and approved roads within the area of the HLP. Normally, the objectives themselves will identify which cutblocks are affected within the HLP area. For instance, if there is an ungulate winter range objective, it would only apply to cutblocks and roads within ungulate winter ranges (as identified on the FDP) within the HLP area.

However, utilizing OPR21(1)(a)(i), an HLP objective could be made specific to a particular portion of the HLP area, such as a watershed, and the objective would apply only to those approved category A cutblocks and approved roads located within it. This is a potentially useful way to reduce the workload associated with reviewing, for example, 1000 cutblocks within a particular resource management zone (RMZ).

Using a simple example, an HLP may consist of an objective each for scenic areas, ungulate winter ranges (UWR's) in a specific watershed and old growth management areas (OGMAs) for an RMZ. In order to meet the requirements of the HLP, the following steps would have to be undertaken:

- Identify the 3 types of planning areas on the FDP.

- Identify the cutblocks within each of the 3 planning areas. It is quite likely that some cutblocks will be subject to more than one objective (i.e., the planning areas may overlap each other, for example, UWRs and OGMAs).
- Determine which of the cutblocks are protected by OPR22 – these blocks should be excluded as they are not subject to the HLP.

The remaining category A cutblocks and approved roads need to be reviewed to ensure consistency with the HLP before they are carried over to the next FDP.

Note: If there were UWRs throughout the HLP area, there could be a significant workload savings by specifying in the HLP that the UWR objectives only apply to one watershed (i.e., only blocks and roads in that watershed would have to be reviewed).

Approved category A cutblocks and roads subject to OPR22 (full protection)

Cutblocks subject to OPR22 are provided full protection from changing standards, including an HLP coming into effect. Once the terrain stability field assessment required under OPR16 or 17 is completed and assessments required at the silviculture prescription stage (OPR37) are completed (and all shown as completed on the FDP*), or a cutting permit has been issued, the cutblock has full protection. At this stage, a cutblock can be carried over to future FDPs and, regardless of inconsistencies with an HLP, or other new standards, the cutblock will not have to be amended and the SDM cannot refuse to approve the FDP for any reason related to the cutblock.

**If any of the assessments for cutblock or roads (e.g. TSFAs) are not required, a statement to that effect should be included in the FDP. Doing so satisfies the OPR22 "shown as completed" requirement.*

The same is true for a road if a road permit has been issued or if the road is on the current approved FDP with the assessments required by Sections 4 and 5 of the Forest Road Regulation shown as completed.

Amending FDPs with approved category A cutblocks

Amending cutblocks with OPR21 protection

Before an HLP has been in effect for 4 months (or less if the HLP, FPC or regulations specify otherwise), there is no requirement for the proposed amendment to be consistent with the HLP. After the HLP has been in effect for 4 or more months, the proposed amendment must be consistent with the HLP. If the cutblock is not harvested during the term of the FDP, the entire cutblock must be made consistent with the HLP before the next proposed FDP can be approved.

Amending cutblocks with OPR22 protection

Before an HLP has been in effect for 4 months (or less if HLP, FPC or regulations specify otherwise), there is no requirement for the proposed amendment to be consistent with the HLP. After the HLP has been in effect for 4 or more months, the proposed

amendment must be consistent with the HLP. However, at no time does the original cutblock, protected by OPR22, have to be made consistent with the HLP.

Extension of FDPs

FPC18(8) and FPC19(5) require that an FDP, for which the term is extended, must be amended to the extent necessary to ensure compliance with current requirements of the FPC and regulations. This means that all cutblocks and roads on the extended FDP, with the exception of those protected by OPR22, must be consistent with an HLP in effect or be made consistent with the HLP promptly after the extension is approved by the DM (if the HLP has been in effect for at least 4 months at the time of approval of the extension).

Term of FDPs

The advice in this bulletin applies to all FDPs regardless of their length of term (i.e., one or two years).

Effective area of the HLP and exclusions.

The effective area of an HLP (which is an objective) is the area to which the objective applies. This area is normally mapped and established by the SDMs at the same time the HLP objective(s) are established.

There are 6 strategic planning areas that may be established for the purpose of creating an HLP:

1. Resource management zones
2. Landscape units
3. Sensitive areas
4. Recreation sites
5. Recreation trails
6. Interpretive forest sites

Summary

HLPs come into effect on the date specified in the order filed with the regional manager. That is followed by a 4-month transition period authorized by FPC10(1)(d) after which FDPs and amendments submitted for approval must be consistent with the HLP.

Existing FDPs are not affected by HLPs coming into effect, however, all cutblocks and roads on the next FDP must be consistent with the HLP unless they are protected by OPR22.

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