

FSC® PROCEDURE

Pesticide Derogation Procedure

FSC-PRO-30-001 V1-0 EN



Title: Pesticide Derogation Procedure

Document reference code: FSC-PRO-30-001 V1-0 EN

Approval: FSC Board of Directors

Contact for comments: FSC International Center
- Policy and Standards Unit -
Charles-de-Gaulle-Str. 5
53113 Bonn, Germany



+49-(0)228-36766-0



+49-(0)228-36766-30



pesticides@fsc.org

© 2014 Forest Stewardship Council, A.C. All rights reserved.

No part of this work covered by the publisher's copyright may be reproduced or copied in any form or by any means (graphic, electronic or mechanical, including photocopying, recording, recording taping, or information retrieval systems) without the written permission of the publisher.

Printed copies are uncontrolled and for reference only. Please refer to the electronic copy on the FSC website (www.fsc.org) to ensure you are referring to the latest version.

PESTICIDE DEROGATION PROCEDURE

FSC-PRO-30-001 V1-0 EN

DRAFT 2-0

The Forest Stewardship Council® (FSC) is an independent, not for profit, non-government organization established to promote environmentally appropriate, socially beneficial, and economically viable management of the world's forests.

FSC's vision is that the world's forests meet the social, ecological, and economic rights and needs of the present generation without compromising those of future generations.

INTRODUCTION

In relation to pesticides, the FSC Principles and Criteria aim to prevent, minimise and mitigate the negative environmental and social impacts of pesticides use whilst promoting economically viable management of the world's forests.

In accordance with the FSC Pesticides Policy, pesticides containing any of the active ingredients listed in the *FSC list of 'highly hazardous' pesticides* shall not be used in FSC-certified Management Units except in specific circumstances authorized by the FSC Board of Directors through the issue of a formal temporary derogation.

FSC takes a precautionary approach to pesticide use, in part because experience has repeatedly shown the difficulty of ensuring consistent proper use, and the limits of knowledge of the ecological and environmental impacts of pesticides and the consequent unforeseen consequences of their use.

VERSION HISTORY

FSC-PRO-01-004 V1-0 was approved by the FSC Board of Directors at their 40th meeting in December 2005. This version was again reviewed in August-September 2006 taking into account the solicited stakeholder input.

FSC-PRO-01-004 V2-0 was approved by the FSC Executive Committee on the 5th of May 2007. An amendment to Section 5.13 of this procedure was approved by the FSC Pesticides Committee in June, 2007.

FSC-PRO-01-004 V2-2 specifies the process in case of emergencies and includes some minor amendments throughout the document. It also introduces the option of a preliminary approval in the case of precedents. The revised procedure was approved by the Head of the Policy and Standards Unit on 25 October 2009.

FSC-PRO-30-001 V1-0: introduces the option of national derogation review processes as proposed by the FSC Pesticides Policy (FSC-POL-30-001 Clause 2.1 b) and GA Motion 2011:23. We also used the opportunity to align the document code with the FSC Pesticides Policy for clarity and consistency.

Contents

- A Objective
- B Scope
- C Effective date
- D References
- E Terms and definitions

Part I - General Requirements

- 1 Basic principles
- 2 Roles and responsibilities

Part II - The 'National Pest Management Group'

- 3 Setting up a 'National IPM Advisory Group'
- 4 Operations of the 'National IPM Advisory Group'

Part III - Applying For Derogation

- 5 Preparing an application
- 6 Submitting applications
- 7 Joint applications
- 8 Emergency use of HHP
- 9 HHP use mandated or carried out by public authorities
- 10 Renewal of derogations

Part IV - Decision Making

- 11 General principles
- 12 Evaluation of applications
- 13 Decision making
- 14 Evaluation of notifications in cases of emergency or public use

Part V - Other Issues

- 15 Appeals
- 16 Changes in the FSC 'highly hazardous' pesticides list

Annex 1: Application form for a temporary derogation to use a 'highly hazardous' pesticide

Annex 2: Notification form for an emergency use of a 'highly hazardous' pesticide

Annex 3: Registration form for the 'National Pest Management Group'

Annex 4: Minimum elements for the Terms of Reference of the 'National Pest Management Group'

Annex 5: Fee Structure

A Objective

The objective of this procedure is to ensure that applications for derogations to the FSC Pesticides Policy are handled transparently, consistently, efficiently, timely and in compliance with the FSC Pesticides Policy.

B Scope

This procedure applies to staff of the FSC Policy and Standards Unit as well as to FSC-accredited certification bodies, FSC certificate holders (or applicants for certification), FSC National Offices, National IPM Advisory Groups and FSC Technical Advisors.

All aspects of this procedure are considered to be normative, including the scope, effective date, references, terms and definitions, tables and annexes, unless otherwise stated.

C Effective date

Approval date	July 2014
Publication date	August 2014
Effective date	01 October 2014
Period of validity	until 31 December 2019 (or until replaced or withdrawn)

D References

The following referenced documents are relevant for the application of this document. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

FSC-STD-01-001 FSC Principles and Criteria

FSC-POL-30-001 FSC Pesticides Policy

FSC-GUI-30-001 FSC Pesticides Policy: Guidance on Implementation

FSC-GUI-30-001a FSC approved derogations for the use of 'highly hazardous' pesticides in FSC-certified forests and plantations

FSC-STD-01-005 FSC Dispute Resolution System

FSC-PRO-01-005 Processing Appeals

FSC normative documents superseded and replaced by this standard

FSC-ADV-30-001 V1-0 Mosquito nets treated with a 'highly hazardous' pesticide

FSC-ADV-30-002 The FSC Fee Structure For Processing Pesticides Derogation Applications

FSC-PRO-01-004 V2-2 Processing Pesticide Derogation Applications

FSC-PRO-01-004a Checklists and forms for pesticide derogation applications

E Terms and definitions

For the purposes of this procedure, the terms and definitions given in *FSC-STD-01-002 FSC Glossary of Terms*, and the following apply:

Derogation: shall be taken to mean temporary derogation.

Emergency: Emergencies may include sudden invasions or infestations of pests, weed plants, diseases, or dramatic changes in vegetation composition, which

threaten ecological stability and long-term functioning of the forest ecosystem or human well-being. Emergency situations require immediate action and cannot feasibly be controlled by pesticides not listed on the list of FSC's 'highly hazardous' pesticides. Scenarios which are predicted through planning, monitoring or the application of an integrated pest management system cannot be described as emergencies. Where a pest outbreak can be predicted and a listed 'highly hazardous' pesticide is identified as the only feasible control then a derogation shall be sought through the regular application channel.

FSC National Office: a legally established and independent FSC partner organization promoting responsible management of the world's forests on behalf of FSC at the national level on the basis of a formal cooperation agreement. NOs are required to establish a multi-stakeholder governance structure, similar to that of FSC AC.

FSC Pesticides Committee: Decision making body, acting on behalf of the FSC Board of Directors. The Committee decides on derogation applications and consists of the FSC Policy Director, the FSC Program Manager for Forest Management, and the FSC Pesticide Derogation Administrator. The Committee may consult additional experts as necessary.

'Highly hazardous' pesticide (HHP): Pesticides that FSC considers to be 'highly hazardous' based on published technical indicators and associated thresholds approved by the FSC Board of Directors.

National IPM Advisory Group: Optional group of impartial individuals with local expertise in forest management and integrated pest management (IPM) with the mandate to review applications for the use of 'highly hazardous' pesticides from certificate holders in their country in line with the FSC Pesticides Policy. The Group needs to be formally established by an FSC National Office and approved by the FSC International Center before being able to operate. The Group may voluntarily take on additional tasks in the context of the FSC Pesticides Policy (e.g. researching or advising on alternatives).

NOTE: on request and upon approval of FSC IC, the 'National IPM Advisory Group' may also review applications from other countries within the region, where no FSC National Offices have been established.

Pest: Organisms, which are harmful or perceived as harmful and as prejudicing the achievement of management goals. Some pests, especially introduced exotics, may also pose serious ecological threats, and suppression may be recommended. They include animal pests, plant weeds, pathogenic fungi and other micro-organisms.

Pesticide: Any substance or preparation prepared or used in protecting plants or wood or other plant products from pests; in controlling pests; or in rendering such pests harmless. (This definition includes insecticides, rodenticides, acaricides, molluscicides, larvaecides, fungicides and herbicides).

Technical Advisors: Independent international experts on pesticides use in forestry, appointed by the FSC Board of Directors, providing technical advice to the FSC Pesticides Committee.

PART I - GENERAL REQUIREMENTS

1 Basic principles

- 1.1 Each FSC-certified organization shall use an Integrated Pest Management (IPM) system as required by the FSC Principles and Criteria in order to avoid, or aim at eliminating, the use of chemical pesticides.
- 1.2 Each FSC-certified organization that identifies the need to use a 'highly hazardous' pesticide (HHP) through the Integrated Pest Management system shall individually apply for a derogation from the FSC Board of Directors acting through the FSC Pesticides Committee (see Part III, below). The need for using a 'highly hazardous' pesticide may arise from protecting the forest against pests or hazards, protecting human health or livestock, or protecting the biodiversity.
- 1.3 Organizations applying for FSC certification that are using a pesticide classified by FSC as 'highly hazardous', shall discontinue the use of the pesticide or obtain a derogation before an FSC certificate can be granted.
- 1.4 The use of a 'highly hazardous' pesticide by FSC certified organizations without valid derogation is temporarily permitted where:
 - a) a new pesticide becomes listed by FSC as 'highly hazardous' and the organization is in the process of applying for derogation (see Section 16, below) and the decision is pending;
 - b) an application for renewal of a previously approved derogation has been submitted to FSC within the recommended timeline and the decision is pending (see Section 10, below);
 - c) an emergency situation requires an urgent use of a 'highly hazardous' pesticide (see Section 8, below);
 - d) the use of a 'highly hazardous' pesticide is ordered or carried out by governmental authorities (see Section 9, below).
- 1.5 The use of plants (e.g. seedlings) or products (e.g. fence posts, mosquito nets¹) in the Management Unit that were treated with 'highly hazardous' pesticides at off-site locations does not require a derogation. Measures to protect workers and the environment shall be taken to mitigate the risks associated with the handling of treated material.
- 1.6 The unauthorized use of 'highly hazardous' pesticides in an FSC-certified Management Unit shall be considered a major nonconformity.

2 Roles and responsibilities

- 2.1 FSC-certified organizations (and applicants for certification) are responsible for:
 - a) Applying for a derogation for the use of 'highly hazardous' pesticides from the FSC Pesticides Committee through their certification body;
 - b) Implementing any conditions that are determined by the FSC Pesticides Committee in relation to the approved use of 'highly hazardous' pesticides;
 - c) Recording quantitative data of the use of pesticides including 'highly hazardous' pesticides under derogation in FSC-certified Management Units.

¹ Limited to nets officially registered as 'WHO recommended long-lasting insecticidal mosquito nets'. Should the WHO withdraw the use of any of its previously recommended 'product type', the FSC certified operation shall stop the use of insecticide treated mosquito nets within 12 months of its withdrawal.

2.2 Where a 'National IPM Advisory Group' is established (see Part II, below), the FSC National Office is responsible for:

- a) Managing and administering the 'National IPM Advisory Group';
- b) Reviewing the recommendations from the 'National IPM Advisory Group' for completeness and submitting them to the FSC Pesticides Committee for decision making.

NOTE: Where no 'National IPM Advisory Group' exists, FSC National Offices have no formal role in the pesticides derogation process in the context of this procedure and would be considered a normal "stakeholder". The National Offices may however offer to carry out stakeholder consultation or support the stakeholder consultation process in the country.

2.3 Where existing, 'National IPM Advisory Groups' are responsible for:

- a) Evaluating applications for derogations from FSC-certified organizations (or applicants for certification) from their country or region (depending on the approved geographical scope);
- b) Providing impartial technical recommendations to the FSC Pesticides Committee in support of the decision making process.

2.4 FSC-accredited certification bodies are responsible for:

- a) Advising their clients on the need for derogation if 'highly hazardous' pesticides are used or planned to be used in an FSC-certified Management Unit, on the pesticides derogation process and on the appropriate derogation application mechanism;

NOTE: Certification bodies may support their clients in collecting the required information and conducting the stakeholder consultation process in order to prepare an accurate and complete application.

- b) Evaluating the derogation applications of their clients for eligibility and completeness and submitting them to the FSC National Office (in cases where a 'National IPM Advisory Group' does exist) or to the FSC Pesticides Committee through the FSC Policy and Standards Unit (in cases where a 'National Pest Management Group' does not exist);
- c) Collecting the derogation administration fee and transferring it to FSC;
- d) Submitting notifications to the FSC Policy and Standards Unit in cases of emergency or mandated use by public authorities of 'highly hazardous' pesticides;
- e) Evaluating the use of 'highly hazardous' pesticides and the implementation of derogation conditions in each audit;
- f) Reporting quantitative data on the annual use of pesticides and the results of evaluating the implementation of the derogation conditions in each audit report.

2.5 The FSC Policy and Standards Unit is responsible for:

- a) Reviewing applications from FSC-certified organizations (and applicants for certification) and recommendations from 'National IPM Advisory Groups' for accuracy and completeness;
- b) Managing the relationship with the FSC Pesticides Committee, the Technical Advisors, and National Offices hosting 'National IPM Advisory Groups';

- c) Managing the pesticides derogation program, including the FSC list of 'highly hazardous' pesticides, the FSC list of approved derogations, and monitoring the overall implementation of the FSC Pesticides Policy.
- 2.6 The Technical Advisors to the FSC Pesticides Committee are responsible for:
- a) Reviewing applications for derogations on behalf of the FSC Pesticides Committee;
 - b) Providing impartial technical recommendations to the FSC Pesticides Committee in support of decision making;
 - c) Reviewing the implementation of derogation conditions;
 - d) Providing technical advice to the FSC Pesticides Committee.
- 2.7 The FSC Pesticides Committee is responsible for:
- a) Evaluating and deciding on derogation applications from FSC-certified organizations (and applicants for certification) in accordance with the FSC Pesticides Policy and associated rules and procedures.

PART II - THE 'NATIONAL IPM ADVISORY GROUP'

3 Setting up a 'National IPM Advisory Group'

- 3.1 FSC National Offices are eligible to set up a 'National IPM Advisory Group' if the National FSC Board decides to get involved in the pesticides derogation process for the benefits of FSC-certified organizations (and applicants for certification) in their country.
- 3.2 A National Office can apply for the registration of a 'National IPM Advisory Group' by submitting the attached form (see Annex 3) to the FSC Policy and Standards Unit. The establishment of the 'National IPM Advisory Group', as well as any change in its composition, needs to be approved by the FSC Policy and Standards Unit.
- NOTE: A National Office may apply for an expanded geographic scope to enable the 'National IPM Advisory Group' to also review applications from countries within the region, where no FSC National Offices have been established. The expanded scope requires special approval by the FSC Policy and Standards Unit.
- 3.3 The National FSC Board shall appoint two (2) or more independent experts on forest management and pest management to be members of the 'National IPM Advisory Group'.
- 3.4 The National Office shall provide the members of the 'National IPM Advisory Group' with a copy of this procedure and a set of Terms of Reference, regulating at minimum the issues of operations, impartiality and confidentiality.
- 3.5 The Terms of Reference for the 'National IPM Advisory Group' shall further include, but not be limited to, the elements listed in Annex 4.
- 3.6 FSC National Offices hosting a 'National IPM Advisory Group' may develop a fee scheme to cover their costs for administrating the national derogation process. These fees would be charged in addition to the fees charged by FSC International according to Annex 5.

4 Operations of the 'National IPM Advisory Group'

- 4.1 The 'National IPM Advisory Group' shall be responsible to their National FSC Board and shall operate according to their Terms of Reference, the FSC Pesticides Policy, and this procedure.
- 4.2 The National Office shall inform the FSC Policy and Standards Unit within ten (10) days where a 'National IPM Advisory Group' stopped operating or ceases to exist. Any applications received in the absence of a 'National IPM Advisory Group' shall be forwarded to the FSC Policy and Standards Unit.

PART III - APPLYING FOR DEROGATION

5 Preparing an application

- 5.1 Each FSC-certified organization (or applicant for certification) that identifies the need to use 'highly hazardous' pesticides in their operations shall individually apply for derogation from the FSC Pesticides Committee.
- 5.2 The application shall include evidence of demonstrated need justifying the temporary use of a 'highly hazardous' pesticide as the only current socially, environmentally and economically feasible way of controlling forest pests within the requested scope of derogation. This evidence may consist of previous feasibility study reports on the control methods for the specified pest(s), demonstrated through field-trials of alternative non-chemical or less toxic pest-management methods, cost-benefit analysis, social and environmental impact assessments.
- 5.3 The application shall specify the controls (e.g. restrictions related to weather conditions, soil types, application method, waters courses, safety of workers etc.) that are in place to prevent, minimize and mitigate negative social and environmental impacts associated with the use of the 'highly hazardous' pesticide. Documented evidence of specified controls should be part of the derogation application.
- 5.4 The application shall specify the forest operation's programs in place to investigate, research, identify and test alternatives to the 'highly hazardous' pesticide, with clear actions, timelines, targets and resources allocated. Supporting evidence for the specified alternative programs should be part of the derogation application.
- 5.5 The application shall demonstrate that during a minimum 45-day public consultation period, directly affected parties (e.g. the neighboring communities) and other stakeholders (e.g. social and environmental NGOs, environmental departments/authorities, forest/fisheries departments, National FSC Offices, etc.) were given the opportunity to comment on the derogation application and also how their comments have been taken into account during application development process.
- 5.6 In order to apply for derogation, the application form provided in Annex 1 shall be used.

6 Submitting an application

- 6.1 The certificate holder (or applicant for certification) shall pass on to the certification body the derogation application together with any supportive evidence. The application shall be addressed to the FSC Pesticides Committee.
- 6.2 The certification body shall evaluate the application for its eligibility, accuracy and completeness (in line with this procedure) and shall submit the application together with the supportive evidence to the National FSC Office (in countries where a 'National IPM Advisory Group' exists) or to the FSC Policy and Standards Unit

(where a 'National IPM Advisory Group' does not exist). Applications submitted to a National Office shall also be copied to the FSC Policy and Standards Unit.

NOTE: Incomplete applications will not be processed until the missing information has been submitted.

- 6.3 Each FSC-certified organization (or applicant for certification) shall pay a fee per application to FSC AC to cover the costs of the evaluation and administration of the pesticides derogation system. The fee shall be collected by the certification body and passed on to FSC AC.

NOTE: The fee structure of FSC International is presented in Annex 5. National Offices may charge additional fees for administrating a national derogation system.

7 Joint applications

- 7.1 In order to minimize the administrative burden, certificate holders located in the same country may submit a joint application if they are facing similar challenges and have identified similar needs for the use of 'highly hazardous' pesticides.
- 7.2 The certification body shall confirm the eligibility of each organization to join an application.
- 7.3 In the case of a joint application, the application form (see Annex 1) can cover all certificate holders participating in an application.
- 7.4 Certificate holders may also apply to join a derogation after its approval for the remaining period of validity, provided that they are paying the fee for 'late-comers' and that they are able to demonstrate their eligibility to join the derogation according to the conditions specified in Clause 7.1 (above).
- 7.5 A joint derogation application from two or more certification bodies seeking derogation for the same pesticide in the same country or region is possible, provided that all applicable requirements of this procedure are followed.

8 Emergency use of HHP

- 8.1 If an emergency situation requires the timely use of a 'highly hazardous' pesticide on certified lands, the certificate holder can start using the pesticide in the absence of a derogation from the FSC Pesticides Committee.
- 8.2 In this case, the certificate holder shall inform its certification body of the emergency within thirty (30) days of starting the use of the pesticide using the attached emergency notification form (Annex 2), including an explanation on the nature of the emergency and the justification for the use of the 'highly hazardous' pesticide. The notification shall include a timeline and specify whether this was a one-time occurrence or whether the use is likely to be continued or repeated.
- 8.3 Failure to inform the certification body shall be considered a major nonconformity.
- 8.4 If the use of the 'highly hazardous' pesticide is likely to be continued or repeated (e.g. in the case of periodical pest events), the submission of a 'normal' derogation application is required within six (6) months of starting the use of the pesticide.
- 8.5 The certification body shall inform the FSC Pesticides Committee (through the FSC Policy and Standards Unit) of the occurrence of the emergency within ten (10) days of the receipt of the notification. The information shall include a copy of the certificate holder's notification together with a brief written evaluation by the certification body if from their perspective the emergency use was justified or if it constitutes a violation of the FSC Pesticides Policy.

9 HHP use mandated or carried out by public authorities

- 9.1 If a public authority orders the use of a 'highly hazardous' pesticide on certified lands, the certificate holder can start using the pesticide in the absence of a derogation from the FSC Pesticides Committee.
- 9.2 In this case, the certificate holder shall inform its certification body of the use within thirty (30) days of receiving the decree, using the attached notification form (Annex 2). The notification shall include a copy of the decree.
- 9.3 The certification body shall also be informed by the certificate holder when a public authority is directly applying a 'highly hazardous' pesticide on their certified lands, within thirty (30) days of the application.
- 9.4 Failure to inform the certification body shall be considered a major nonconformity.
- 9.5 When the 'highly hazardous' pesticide was used in a public forest, the notification shall include a description that demonstrates the impartiality of the public authority mandating or using the 'highly hazardous' pesticide from the public authority owning or managing the forest. Failure to demonstrate the impartiality shall be considered a major nonconformity.
- 9.6 The certification body shall inform the FSC Pesticides Committee (through the FSC Policy and Standards Unit) and the 'National IPM Advisory Group' (where existing) of the use within ten (10) days of the receipt of the notification. The information shall include a copy of the certificate holder's notification and the decree. The certification body shall add a brief written evaluation if from their perspective the situation was justified or if it constitutes a violation of the FSC Pesticides Policy.
- 9.7 The 'National IPM Advisory Group' shall analyze the circumstances of the case and involve public authority officials in exploring potential alternatives to the use of the prescribed 'highly hazardous' pesticide. The outcome of the analysis shall be submitted to the FSC Policy and Standards Unit within three (3) months of the notification by the certification body.
- 9.8 If the use of the 'highly hazardous' pesticide is likely to be continued or repeated (e.g. in the case of periodical pest events), the submission of a 'normal' derogation application is required within six (6) months of starting the use of the pesticide.

10 Renewal of derogations

NOTE: Derogations will not be renewed unless there is a demonstrated continued need and the applicant can clearly demonstrate that the program to identify alternatives has been fully implemented but failed to identify acceptable alternatives in the available timeframe.

- 10.1 The application for renewal of derogation shall follow the same process as described above for initial applications, with the following differences:
 - 10.1.1 The application for renewal must be supported by a report on the implementation of the Integrated Pest Management System over the full period of the existing derogation.
 - 10.1.2 The report shall further include:
 - a) quantitative data of the use of 'highly hazardous' pesticides per year for the full period of the existing derogation;
 - b) a description of the effectiveness of the specified controls to prevent, minimize and mitigate negative social and environmental impacts associated with the use of the 'highly hazardous' pesticides;

- c) a description of the forest operation's programs and their results that have been implemented to investigate, research, identify and test alternatives to the 'highly hazardous' pesticide.

10.1.3 Where the last public consultation was conducted more than three (3) years ago, it shall be repeated and presented as part of the application for renewal. Otherwise, the last public consultation is still considered valid.

10.2 Report size and level of detail shall reflect the scale, intensity and risk of the operation and their pesticides use.

10.3 The application form provided in Annex 1 shall be used for applications for renewal.

NOTE: Incomplete applications for renewal will not be processed until any missing information has been submitted.

10.4 In order to ensure continuous derogation, applications for renewal should be submitted not later than six (6) months before the expiry date of the existing derogation.

10.5 Where an application has been submitted on time (as per Clause 10.4, above), the certificate holder may continue to use the 'highly hazardous' pesticide while the application for renewal is being processed, until a decision has been taken. Otherwise the use of the pesticide must be stopped at the expiry date of the existing derogation until a new derogation has been granted.

PART IV - DECISION MAKING

11 General principles

11.1 All applications shall be evaluated on the basis of documented evidence of compliance with the requirements specified in the FSC Pesticides Policy and associated rules and procedures.

11.2 Derogation applications shall only be approved where:

- a) there is a demonstrated need - the use of the pesticide as the only socially, environmentally and economically feasible way of controlling specific organisms which are causing severe damage in natural forests, plantations or nurseries in the specified country or region (as indicated by documented evidence of current feasibility study reports: field-trials of alternative non-chemical or less toxic pest-management methods, cost-benefit analysis, social and environmental impact assessment);
- b) controls are specified to prevent, minimize and mitigate negative social and environmental impacts associated with the use of the 'highly hazardous' pesticide in question (for example: health and safety equipment, restrictions related to weather conditions, soil types, application method, waters courses, terrain or land use);

NOTE: Prevention of negative social and environmental impacts shall always take priority over minimization and mitigation measures.

- c) programs are in place to investigate, research, identify and test alternatives to the 'highly hazardous' pesticide, with clear actions, timelines, targets and resources allocated;

NOTE: The information on requirements a) through c) shall be specifically provided for each forest management enterprise. However, a general description may be provided if multiple companies within a region can demonstrate that they have common protocols with regard to a) through c) above.

d) The public consultation part of the derogation application process shows that:

- directly affected parties (e.g. neighboring communities) have had an opportunity to provide comments on the derogation and have agreed (with the applicant) on the measures for preventing, minimizing and mitigating negative social and environmental impacts associated with the use of the 'highly hazardous' pesticide in question;
- other stakeholders (e.g. social or environmental non-governmental organizations (NGOs), government agencies for environmental protection, wildlife conservation, or forestry, regional/local authorities, representatives of local communities, unions of forest workers, associations of hunters, farmers or local residents, etc.) have been consulted and have had an opportunity to provide comments on the need for the derogation and on the controls established to prevent, minimize and mitigate negative impacts associated with the use of the 'highly hazardous' pesticide; and,
- Stakeholders have been given appropriate time, not less than 45 days, to provide their comments.

11.3 Derogations will be approved for a maximum period of five (5) years. Expired derogations may be renewed on re-application (see Section 10, above).

12 Evaluation of applications

Countries with a 'National IPM Advisory Group'

12.1 The 'National IPM Advisory Group' shall evaluate all derogation applications received from FSC-certified organizations (or applicants for certification) from their country or region (according to the approved geographic scope).

12.2 The 'National IPM Advisory Group' shall prepare and submit an evaluation report including any recommendations and conditions to the FSC Pesticides Committee (through the FSC Policy and Standards Unit) for decision making.

12.3 The evaluation and submission of the report should be completed within three (3) months from receipt of the application.

Countries without a 'National IPM Advisory Group'

12.4 Completed derogation applications from certificate holders in countries without a 'National IPM Advisory Group' will be processed by the FSC Policy and Standards Unit within three (3) months of receipt of the application.

12.5 The applications will be evaluated by the Pesticides Technical Advisors who should provide their recommendation to the FSC Pesticides Committee within four (4) weeks of receiving the application.

13 Decision Making

13.1 The FSC Pesticides Committee shall strive to take decisions in consensus. Where consensus cannot be achieved, decisions shall be made by a simple majority vote.

13.2 The FSC Pesticides Committee shall decide on the derogation application based on the recommendations of the Pesticides Technical Advisors or the 'National IPM Advisory Group'. The decision may consist of approval (with or without conditions), request for more information, or rejection.

13.3 When the FSC Pesticides Committee has taken its decision, the FSC Policy and Standards Unit will inform the certification body and the National Office responsible

for the application of the decision and any conditions in writing. It is the responsibility of the certification body to forward the decision and to monitor the implementation of the conditions.

NOTE: When an application for the use of 'highly hazardous' pesticides has been rejected and the decision has been communicated, the continued or repeated use of the pesticide shall constitute a major nonconformity.

- 13.4 In cases where forest management circumstances (e.g. due to the seasonality of pest or management cycles) require the use of a 'highly hazardous' pesticide before the application evaluation process is finished, the FSC Pesticides Committee may grant a preliminary derogation upon request until the application evaluation process is finished, if the applied use has been granted in comparable situations or where an approval is likely.

14 Evaluation of notifications in cases of emergency or public use

- 14.1 The FSC Pesticides Committee shall determine if the use of the 'highly hazardous' pesticide was justified in the absence of an approved derogation and decide:
- a) if the use of the 'highly hazardous' pesticide was justified under the circumstances presented. In this case the use shall be discontinued within three (3) months of the initial use of the pesticide. Failure to do so shall constitute a major nonconformity. A formal derogation application in addition to the notification is not required; OR
 - b) if the use of the 'highly hazardous' pesticide was justified under the circumstances presented, and the continued or repeated use of pesticides requires an approved derogation. In this case the certificate holder and its certification body shall submit a complete derogation application within six (6) months of the initial use of the pesticide. Failure to do so shall constitute a major nonconformity; OR
 - c) if the use of the 'highly hazardous' pesticide was not justified under the circumstances presented in which case its continued or repeated use shall constitute a major nonconformity. Following the complete discontinuation to use the pesticide for which the emergence use has been rejected, the certificate holder may formally submit an application for derogation.
- 14.2 The FSC Pesticides Committee may consult the 'National IPM Advisory Group' and / or the Pesticides Technical Advisors in evaluating notifications, as necessary.

PART V - OTHER ISSUES

15 Appeals

- 15.1 If an applicant for derogation disagrees with the decision of the FSC Pesticides Committee, an appeal may be submitted within thirty (30) days according to the FSC appeals procedure.
- 15.2 Alternatively, the applicant may modify the original derogation application or provide additional supporting documentation to respond to any issues identified by the FSC Pesticides Committee, and then resubmit the derogation application.

16 Changes in the FSC 'highly hazardous' pesticides list

- 16.1 Certification bodies and National Offices will be informed by the FSC Policy and Standards Unit of any new pesticides added to the 'highly hazardous' pesticides list, which is updated periodically according to the FSC Pesticides Policy.

- 16.2 Certification bodies shall inform their certificate holders of changes to the list of 'highly hazardous' pesticides within thirty (30) days. Certificate holders must either discontinue the use of any added pesticides within six (6) months or submit an application for derogation.
- 16.3 Continued or repeated use of a newly listed 'highly hazardous' pesticides without derogation shall constitute a major nonconformity.

DRAFT

Annex 1: Application form for a temporary derogation

This form shall be used to submit derogation requests for the use of 'highly hazardous' pesticides to FSC (initial applications and applications for renewal).

In cases of joint applications, common information can be provided together. Information that is not common shall be presented by applicant.

Application Submission date	
Name, and contact details of certification body submitting the application	
Active ingredient for which a derogation is being requested	
Trade name and formulation type of the pesticide	
Method of application and application equipment	
Common and scientific name of the pest (or description of the problem /issue, as applicable)	
Name and FSC certification codes of certificate holders² requesting a temporary derogation	
Scope for which a temporary derogation is being requested (attach map)	
Type of forest, species and expected forest area where use of the HHP is intended	

DEMONSTRATED NEED

- a) Explain how the pesticide is used for protecting native species and forests against damage caused by introduced species or for protecting human health against dangerous diseases and why is the only economically, environmentally, socially and technically feasible way of controlling specific organisms which are causing severe damage in forest management units in the specified region (as indicated by documented evidence of current feasibility study reports: field-trials of alternative non-chemical or less toxic pest-management methods, cost-benefit analysis, social and environmental impact assessment);
- b) Please indicate briefly the usual practices for harvesting and regeneration, the average time between successive rotations and methods for site preparation. Include information (method and rate) and approximate timing of main treatments. Include an estimate of the amount of area over which the pesticide is to be applied and how much of the pesticide is expected to be used annually.
- c) Statement of the estimated damage by area (%ha) and the dollar value of the potential damage to the operation from the pest problem.

² In the case of forest management enterprises applying for FSC certification, the FSC certificate holder code can be provided at a later stage, if and when the company achieves certification.

d) Comparative Cost/Benefit Analysis (including the social, environmental and economic aspects or costs) of using the requested pesticide versus other non-highly hazardous control alternatives, justifying the analysis and conclusions with supporting evidence such as field trial reports, IPM reports, EIAs, SIAs etc. (If the costs cannot be quantified compare the disadvantages and advantages of different methods.)

Response:

STAKEHOLDER CONSULTATION

a) Description of the nature of the information provided and consultation undertaken with potentially affected groups and local communities (e.g. neighbors on directly adjoining land) who use managed forests for various purposes (as a source of groundwater, for hunting, fishing or gathering medicinal or edible plants) and those stakeholders with the more general interest regarding the use of pesticides.

b) Description of the consultation mechanism (i.e. public notices in local newspapers or on local radio stations, letters sent to potentially affected persons, meetings, field observations etc.) used to inform, consult and receive significant feedback from the majority of the potentially affected persons.

c) Evidence of balanced stakeholder consultation with:

- Potentially (directly or indirectly) affected persons or groups of individuals
- Local/regional environmental organizations (non-governmental organizations)
- Local/regional government (environmental authorities)
- Representatives of the local community (e.g. contacted at community meetings)
- Representatives of the forest industry

d) A summary of the comments received and any responses presented for each stakeholders category. Explanations should be given of how stakeholder concerns were addressed. Where necessary, the original stakeholder comments may be requested.

Response:

SPECIFIED CONTROLS TO PREVENT, MINIMISE AND MITIGATE HAZARDS.

- a) Description of the nature of the controls that will be implemented for the use of the derogated pesticide to prevent, mitigate and minimize any deleterious effects on ecological, social and economic values within and beyond the management unit.
- b) References to national laws/ regulations on safety measures should be made and any additional safety measures to supplement these laws/ regulations should be stated.
- c) Optional: Description of any relevant site-specific conditions that might mitigate likely negative effects resulting from the derogated pesticide) and/or description of mitigating properties specific to the formulation/ product used.

Response:

PROGRAM TO IDENTIFY ALTERNATIVES TO A 'HIGHLY HAZARDOUS' PESTICIDE INCLUDING PREVENTATIVE SILVICULTURAL MEASURES.

- a) Nature of research and development (R&D) on alternative pest management regimes in the short, medium and longer-term research plan covering the 5-year derogation period and including:
- the resources devoted to the R&D,
 - expected timelines,
 - results from ongoing field trials with alternatives (outcomes),
 - relevant supporting studies.
- b) With respect to (a) above, a clear distinction of the research and development programs that are run by the forest enterprises themselves and research conducted in collaboration with other research agencies/institutions(e.g. Universities) or commercial enterprises.
- c) a list of all registered pesticides available for the control of the targeted pest species
- d) The proportion of pest control intended to be achieved during the derogation period via the use of:
- Chemical methods: requested 'highly hazardous' pesticide and other non-'highly hazardous' pesticides
 - Non-chemical methods
- e) Where the derogation applicants have established a common (joint venture) program(s) for researching into non-'highly hazardous' alternatives, there should be evidence of control systems to ensure the consistent implementation of the stated program.

Describe the programs that are in place to identify alternatives, including a timetable as well as research partners and targets:

Annex 2: Notification form for the use of ‘highly hazardous’ pesticides in the case of emergency or decree by public authorities

This form shall be used to notify FSC of the use of ‘highly hazardous’ pesticides in the case of emergency or decree or use by public authorities.

A. Notification	
Notification date:	
Name, and contact details of certification body submitting the notification:	
Name and FSC certification code of certificate holder using the HHP:	
Reason for using the HHP (describe emergency or mandated use). In the case of a mandated use, a copy of the decree shall be attached to the notification.	specify whether this was a one-time occurrence or whether the use is likely to be continued or repeated
Active ingredient of the HHP used:	
Trade name and formulation type of the pesticide:	
Method of application and application equipment:	
Common and scientific name of the pest: (or description of the problem /issue, as applicable)	
Specify whether this was a one-time occurrence or whether the use is likely to be continued or repeated. If the latter, please declare the willingness to apply for a regular derogation	
B. FSC Evaluation (to be filed-in by FSC)	
Justification accepted and approved?	
Regular derogation required?	
	(Date and Name)

Annex 3: Application form to register a 'National IPM Advisory Group'

This form shall be used by National Offices to apply for registration of their 'National IPM Advisory Group'. A 'National IPM Advisory Group' shall not formally evaluate and recommend on derogation applications before they have been approved by the FSC Pesticides Committee.

Applications shall be submitted in English or Spanish and shall be signed by the Chair of the National Board. The Terms of Reference / Operational Procedures for the 'National IPM Advisory Group' shall be attached.

A. General Information				
Application Submission date:				
Name, and contact details of National Office submitting the application:				
Geographic scope of the 'National IPM Advisory Group':				
B. Members of the 'National IPM Advisory Group'				
The Group shall consist of independent experts in forest management and IPM which are accepted by all 3 chambers. A minimum of two (2) members are required, but more can be added.				
Name	Expertise	Contact details		
C. FSC Evaluation (to be filed-in by FSC)				
Group members and TORs evaluated				
Group approved and registered				
	(Date and Name)			

Annex 4: Minimum elements for the Terms of Reference / Operational Procedures of the 'National IPM Advisory Group'

1. Background

The FSC procedure for processing derogation applications establishes the processes through which temporary derogation applications to use 'highly hazardous' pesticides shall be evaluated and approved. When derogation applications are submitted to a National Office, the recommended decision shall follow a thorough evaluation of the applicant's compliance with the requirements for granting a temporary derogation. These requirements are outlined in the main part of this procedure.

2. Tasks of the 'National IPM Advisory Group'

- To evaluate derogation applications in relation to *FSC-PRO-01-004* and to the requirements as outlined in Section 3 (below) and to inform the applicant of any additional information that may be necessary to complete the evaluation.
- To provide recommendations to the FSC Pesticides Committee on the appropriateness of the derogation requested.
- To propose conditions that should be implemented by the applicant as part of the approval.

3. Requirements for approving temporary derogation

- a) The application must include evidence of demonstrated need justifying the temporary use of a 'highly hazardous' pesticide as the only current socially, environmentally and economically feasible way of controlling forest pests within the requested scope of the derogation. This evidence may consist of previous feasibility study reports on the control methods for the specified pest(s), demonstrated through field-trials of alternative non-chemical or less toxic pest-management methods, cost-benefit analysis, social and environmental impact assessments.
- b) The application must specify the controls (e.g. restrictions related to weather conditions, soil types, application method, waters courses, safety of workers etc.) that are in place to prevent, minimize and mitigate negative social and environmental impacts associated with the use of the 'highly hazardous' pesticide. Documented evidence of specified controls should be part of the derogation application.
- c) The application must specify the forest operation's programs that in place to investigate, research, identify and test alternatives to the 'highly hazardous' pesticide, with clear actions, timelines, targets and resources allocated. Supporting evidence for the specified alternative programs should be part of the derogation application.
- d) The application must demonstrate that during the 45-day public consultation period, the directly affected parties (e.g. the neighboring communities) and other stakeholders (e.g. social and environmental NGOs, environmental departments/authorities, forest/fisheries departments, etc) were given the opportunity to comment on the derogation application and also how their comments have been taken into account during application development process.

During the evaluation process, the 'National IPM Advisory Group' shall take into account the justification for the scope of the derogation requested, the authenticity of the information provided and the feasibility of the alternative programs that have been proposed in the application.

4. Outcomes and deliverables

The 'National IPM Advisory Group' is expected to provide FSC with an evaluation report, including:

- A summary on the completeness of the derogation application prior to its evaluation;
- Results of the evaluation of the applicant's compliance with the FSC derogation requirements that are outlined in Paragraph 3, above;
- Recommendations pertaining to whether the derogation application merits approval;
- Recommendations of any conditions that should be imposed on the applicant as part of the approval;
- There shall always be a condition requiring forest managers to maintain records of their use of pesticides.

In all cases, the recommendations of the 'National IPM Advisory Group' shall be based on consensus. Consensus in the FSC system is understood as the lack of sustained opposition. If consensus cannot be achieved the different positions shall be captured in the evaluation report.

5. Record keeping

The National Office shall keep the following records with regards to the 'National IPM Advisory Group'.

- a) Approved registration of the 'National IPM Advisory Group';
- b) Names and affiliations of the members of the 'National IPM Advisory Group';
- c) Minutes of meetings held by the 'National IPM Advisory Group';
- d) Copies of the application submitted by the certification bodies;
- e) Copies of the evaluation report (incl. the recommendation and any conditions) of the 'National IPM Advisory Group'.

Annex 5: Fee structure

In order to cover the administrative costs of handling derogation applications by FSC International and the FSC Technical Advisors to the FSC Pesticide Committee, the following fees will be charged by FSC International:³

Fee for applications submitted to FSC IC directly	1000 Euro	Flat rate per initial application or re-application
Fee for applications submitted to FSC IC through a National Office*	600 Euro	Flat rate per initial application or re-application
Applicant fee for applications submitted to FSC IC directly	500 Euro	Per certificate holder in a joint derogation request
Applicant fee for applications submitted to FSC IC through a National Office*	300 Euro	Per certificate holder in a joint derogation request
Applicant fee for SLIMFs	50% of the regular applicant fee	Per SLIMF certificate holder in a joint derogation request
Applicant fee for late-comers	80% of the regular applicant fee in P1** 50% of the regular applicant fee in P2**	Per certificate holder joining an existing approved derogation

* Additional fees may be charged by the National Office for processing the application at the national level.

**P1: first half of the derogation validly period

**P2: second half of the derogation validly period

NOTE: a National Office operating a 'National IPM Advisory Group' may develop its own fee scheme for processing derogation applications. Any national fees have to be paid in addition to the fees charged by FSC International.

³ Per decision of the FSC Director General, the pesticides derogation program must be financially independent from the FSC core budget. The fees are therefore calculated to cover the costs of managing and maintaining the pesticides derogation program.