

Sumter Forest Plan Amendment #3

to

Standard FW-40

USDA Forest Service

Sumter National Forest

Abbeville, Greenwood, McCormick, Edgefield, Saluda, Chester, Union, Fairfield, Newberry, Laurens,
and Oconee Counties, South Carolina

Background

Forest plan direction on Forest Health is located in Chapter 2 on pages 2-11 to 2-14 of the Sumter National Forest's land management plan (Sumter Forest Plan). Changes to Standard FW-40 on page 2-13 of the Sumter Forest Plan are needed. This standard contains information, particularly with regard to class B, C, and D chemicals that were identified in the 1989 Vegetation Management Environmental Impact Statement that is out-of-date and inconsistent with the Forest Service's Pesticide-Use Management and Coordination Handbook (FSH 2109.14) direction. Human Health and Ecological Risk Assessments (HERA) are now available, and are used as the Forest Service's basis for analyzing risks from pesticide applications. HERA documents and worksheets have been developed for a number of pesticides that are used by the Forest Service. These HERA worksheets are available at <http://www.fs.fed.us/foresthealth/pesticide/risk.shtml>. The update to the Standard FW-40 is described below.

Decision

In this Decision Memo, I amend the 2004 Sumter Forest Plan to update forest plan Standard FW-40. This amendment eliminates references to class B, C, and D chemicals and emphasize the use of risk assessments to quantitatively evaluate the probability that a pesticide might pose harm to human beings or other species in the environment. FSH 2109.14, Chapter 20 identifies the requirements for developing a Risk Assessment. Below is a comparison of the current standard with the the new, amended wording for forest plan Standard FW-40.

Current Standard FW-40 Herbicides and application methods are chosen to minimize risk to human and wildlife health and the environment. No class B, C, or D chemical (defined in Glossary, Appendix B) may be used on any project, except with Regional Forester's approval. Approval will be granted only if a site-specific analysis shows that no other treatment would be effective and that all adverse health and environmental effects will be fully mitigated. Diesel oil will not be used as a carrier for herbicides, except as it may be a component of a formulated product when purchased from the manufacturer. Vegetable oils will be used as the carrier for herbicides when available and compatible with the application proposed.

Amended Standard FW-40 *Risk assessments are completed to evaluate risks to human health and wildlife before pesticides are applied. Pesticides with a suitable risk assessment with an evaluation of effects on human health and safety may be used. Diesel oil will not be used as a*

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carrier for pesticides, except when it is a component of a formulated product. Vegetal oils may be used as the carrier for pesticides when available and compatible with the application proposed. Only surfactants recommended for aquatic applications (such as non-ionic surfactants) will be used in aquatic systems.

Rationale for Categorically Excluding the Decision

This action is categorically excluded from documentation in an environmental impact statement (EIS) or an environmental assessment (EA). The applicable category of actions is identified in agency regulations at 36 CFR 220.6(e)(16) as "Land management plans, plan amendments, and plan revisions developed in accordance with 36 CFR 219 et seq. that provide broad guidance and information for project and activity decision-making in a National Forest System administrative unit." This amendment updates direction in the Sumter Forest Plan on the use of risk assessments to evaluate any risks from using pesticides, and provides some clarifications to the existing plan direction on the types of pesticides that can be used when implementing projects.

Extraordinary Circumstances

I find that my decision does not have extraordinary adverse effects that would warrant further analysis and documentation in an Environmental Assessment (EA) or Environmental Impact Statement (EIS). I do not believe that updating forest plan Standard FW-40 would have extraordinary circumstances as defined by 36 CFR 220:

Federally listed threatened or endangered species or designated critical habitat, species proposed for federal listing or proposed critical habitat, or Forest Service sensitive species

This amendment would have no effect on federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or on any Region 8 Forest Service designated sensitive species. This forest plan amendment does not change on-going management on the Sumter National Forest, but clarifies direction on how risk assessments for pesticide applications are evaluated.

Flood plains, wetlands, or municipal watersheds

This amendment would not pose new risks to flood plains, wetlands or municipal watersheds. Standards for the protection of these areas would remain in place. There are no changes in the management direction for Management Prescription 11 Riparian Areas or in standards that protect soil and water quality.

Congressionally designated areas such as roadless areas, wilderness, wilderness study areas, or national recreation areas

This amendment would not pose any risk to roadless areas, wilderness, wilderness study areas or national recreation areas. There are no changes to forest plan direction for these designated areas.

Research Natural Areas

This amendment would not pose any risks to Research Natural Areas. There are no changes to forest plan direction for these designated areas.

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American Indians and Alaska Native religious or cultural sites

Ongoing consultation with federally recognized American Indian tribes is occurring to ensure protection of religious and cultural sites. This amendment would not have any effect on these sites.

Archaeological sites, or historic properties or areas

Section 106 of the National Historic Preservation Act requires each Federal agency to take into account the effects of its actions on historic properties, prior to approving expenditure of Federal funds on an undertaking or prior to issuing any license. However, according to the Advisory Council's regulations 36 CFR Part 800.1 (c): *This does not prohibit agency official from conducting or authorizing nondestructive project planning activities before completing compliance with section 106, provided that such actions do not restrict the subsequent consideration of alternatives to avoid, minimize or mitigate the undertaking's adverse effects on historic properties. The agency official shall ensure that the section 106 process is initiated early in the undertaking's planning, so that a broad range of alternatives may be considered during the planning process for the undertaking.*

I find this decision is fully compliant with the Act. The land management plan amendment is a programmatic level planning effort that will not directly authorize any specific activities or projects. Site-specific projects that are undertaken as a result of the direction in the amended plan will fully comply with laws and regulations that ensure protection of heritage resources. Significant cultural resources will be identified, protected, and monitored in compliance with the National Historic Preservation Act. Tribal consultation will occur and proposed activities will be coordinated with the State Historic Preservation Office (SHPO) of South Carolina.

Forest Plan Amendment

In meeting the requirements for amending a forest plan, the preliminary identification of the need to change a plan can be based on a new assessment; a monitoring report; or other documentation of new information, changed conditions, or changed circumstances (36 CFR 219.13(b)(1)). For this amendment, the need for change is based on new information that is available (the Pesticide-Use Management and Coordination Handbook, and the HERA risk assessments) and the recognition that the information and analysis supporting the decisions made in the Vegetation Management Environmental Impact Statement is outdated, given that it is almost 30 years old (it was approved in 1989).

Public Involvement

This action was listed as a proposal on the Francis Marion and Sumter National Forests Schedule of Proposed Actions (August 2018) and was updated periodically during the analysis. A public scoping letter was sent to the mailing list on November 30, 2018. A total of three responses were received in response to the public scoping letter.

- **Some commentors brought up the health risks associated with Round-up which has an active ingredient of glyphosate.**

FS response: A HERA for herbicides containing the active ingredient glyphosate has been completed. The HERAs are available at <http://www.fs.fed.us/foresthealth/pesticide/risk.shtml>.

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- **Some commentors asked for clarification on the development of the risk assessments, who developed them and how they are used in the Forest Service decision making process for projects that use pesticides. There are concerns that the change in Standard FW-40 would remove due diligence in defining the actual need to apply a pesticide and choosing the one that poses the least risk to humans, wildlife and the environment.**

FS response: For pesticides used by the Forest Service in its management activities, Human Health and Ecological Risk Assessments (HERAs) have been prepared by Syracuse Environmental Research Associates, Inc. (SERA). In these documents, the process of risk assessment is used to quantitatively evaluate the probability (i.e. risk) that pesticide use might pose harm to people or to other species in the environment. These assessments utilize published scientific literature. The Forest Service incorporates relevant information from the HERA into project-level NEPA analysis contained in environmental assessments prepared for pesticide use. Information in the HERAs are used to guide the decision-making and not replace the requirements to comply with laws and policy. The analysis in the NEPA documents will still need to address the question of whether or not pesticides should be used and if so which pesticides should be used based on the results of the risk assessments. The HERAs are a tool to disclose potential environmental effects to the public and wildlife. Risk assessment worksheets are a computational tool that perform the calculations used in the HERAs. The HERA worksheets and additional information available are at <http://www.fs.fed.us/foresthealth/pesticide/risk.shtml>.

- **One commentor brought up that the Sumter National Forest has been doing exactly what is in the proposed action for years. The analysis methodology and protocol that has been used so why amend the Sumter Forest Plan now?**

FS Response: As you noted, the Sumter National Forest and the Forest Service have been using this protocol for several years and the forest plan amendment is updating the forest plan direction to reflect the guidance in the Pesticide-Use Management and Coordination Handbook (FSH 2109.14). This forest plan amendment is clarifying how risk from pesticide use is evaluated. It is uncertain when the Sumter Forest Plan might be revised.

- **One commetor asked if you can provide the documentation that shows you are unable to meet the desired conditions of the plan using the Vegetation Management Environmental Impact Statement? Specifically, the fact you propose to remove the language requiring “No class B, C, or D chemical (defined in Glossary, Appendix B) may be used on any project, except with Regional Forester’s approval. Approval will be granted only if a site-specific analysis shows that no other treatment would be effective and that all adverse health and environmental effects will be fully mitigated” makes we wonder if the Forest is going back to using Tordon and 2-4-D.**

FS Response: The context for the reference to Class B, C or D chemical is the Vegetation Management Final Environmental Impact Statement, which is outdated. As noted above, the forest plan amendment aligns direction in the Sumter Forest Plan on Forest Service’s policy on analyzing risk from pesticide applications. This forest plan amendment does shift the decision

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authority from the Regional Forester to either a District Ranger or Forest Supervisor for the use of 2,4 D-amine, 2,4-D ester and Tebuthion. A NEPA analysis still needs to be completed to determine whether pesticide use is needed and if so which ones, based on the results of the risk assessment.

Findings Required By Other Laws and Regulations

Table 2. Compliance with Other Laws, Regulations, and Policies

Year Enacted	Title	Summary	How applied to this project
1897	Organic Act	The law is the foundation for multiple use and Forest Service management of National Forest System lands.	This project follows direction in this law for the National Forest to manage National Forest System land.
1969	National Environmental Policy Act (NEPA)	Establishes the content and format requirements of environmental analysis and documentation as well as requirements for public involvement and disclosure. Forest Service implementing regulations at 36 CFR 220 provides further direction for categorical exclusions.	The project is consistent with the NEPA and its implementing regulations. Procedures for public disclosure were followed in 26 CFR 220 and 36 CFR 219.
1973	Endangered Species Act (ESA)	Provides broad protection for species of fish and wildlife and plants that are listed as threatened or endangered in the U.S. or elsewhere. Provisions are made for listing species, as well as for recovery plans and the designation of critical habitat for listed species. The Act outlines procedures for federal agencies to follow when taking actions that may jeopardize listed species, and contains exceptions and exemptions.	<p>The project is in compliance with the Endangered Species Act. Applicable procedures were followed with respect to threatened and / or endangered species.</p> <p>A Biological Evaluation/Biological Assessment was completed for this project in February 2019. A “no effect” determination was made for Proposed, Threatened and Endangered Species. Pursuant to section 7 of the Endangered Species Act, as amended, consultation with US Fish and Wildlife Service is not needed. There are no species on the Sumter National that fall under the responsibility of the National Marine Fisheries Service.</p>
1976	National Forest Management Act (NFMA)	Requires the Secretary of Agriculture to assess forest lands, develop a management program based on multiple use, sustained yield principles and implement a resource management plan for each unit of the National Forest System. It is the primary statute governing the management of national forests. Forest Service implementing regulations at 36 CFR 219 provide further guidance to determine consistency.	This forest plan amendment was developed in full compliance with NFMA. This forest plan amendment updates direction in the 2004 Sumter Forest Plan to clarify how the risk associated with pesticide application are evaluated.

Meeting Substantive Requirements of the Rule

In conducting a plan amendment, the specific substantive planning rule requirements within 36 CFR 219.8 through 219.11 that are “directly related” to the plan direction being amended need to be identified and applied (Conversely, any substantive rule requirements that are not directly related do not need to be applied to the amendment) (See 36 CFR 219.13(b)(5)).

For this plan amendment, given the purpose of the amendment, I have identified that the planning rule requirement at 36 CFR 219.8(a)(1)(iv) is directly related to this plan amendment. 36 CFR 219.8(a)(1)(iv) states that plan components to maintain or restore ecological integrity must take into account system drivers such as disturbance regimes, stressors, natural succession, and invasive species.

This forest plan amendment meets the planning rule requirement in 36 CFR 219.8(a)(1)(iv) as follows:

This amendment incorporates into the plan the current Forest Service policy and direction for evaluating the use of pesticides, which in turn are used to address certain stressors to maintaining or restoring ecological integrity. This amendment does not change any other direction in the plan that provides for maintaining or restoring the ecological integrity of the terrestrial and aquatic ecosystems and watersheds in the plan area.

Administrative Review Opportunities

This decision is not subject to additional administrative review.

Implementation Date

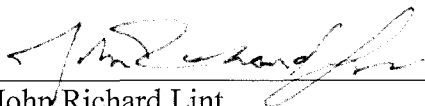
This decision may be implemented immediately.

Contact Information

For additional information about this decision memo, contact: Mary Morrison, Forest Planner, 803-561-4058 or mary.morrison@usda.gov.

Approval

I approve the Amendment #3 Update to Forest Plan Standard FW-40. This forest plan amendment aligns direction in the Sumter Forest Plan with Forest Service’s policy on analyzing risk from pesticide applications. While this amendment does update guidance on how the Forest Service evaluates the risk associated with pesticide applications, it does not approve specific projects or activities related to pesticide applications. Amendment #3 is effective upon my signature.


John Richard Lint
Forest Supervisor
Francis Marion and Sumter National Forests

5/23/19
Date