

DIRECTION & MINUTE OF THE DECISION- MAKING COMMITTEE

Hazardous Substances and New Organisms Act 1996 (“HSNO Act”)

Application APP202804; to import EDN (Ethanedinitrile), a fumigant for use on timber/logs under commercial conditions

WGT007: Direction & Minute of the Decision-making Committee – 05 April 2019

Further information and timetabling

1. This minute is to be documented and made available on the EPA website with the other application documents.
2. In its Direction & Minute WGT006 published in February 2019, the DMC identified a need for new information it regarded as necessary for its evaluation of the application to use EDN gas as a fumigant without the imposition of a control to recapture the gas. Specifically, the DMC requested technical information on EDN levels measured in the environment during fumigation and subsequent ventilation of appropriately sized log stacks, either conducted locally or sourced from reputable trials conducted with EDN overseas. Evaluation of this technical information will take into consideration proposed tolerable exposure limits determined by the expert conferencing process held in late 2018. Therefore, parameters used in collecting this information should match as closely as possible or practically feasible those proposed in the application to use EDN commercially at Tauranga.
3. The EPA received responses to that (Direction & Minute WGT006) from the Applicant and WorkSafe and from seven submitters to the hearing, these being; Nordiko Quarantine Systems Pty Limited, Matariki Forests, Port Blakely Limited, Aubade Global Resources Limited, Quarantine Scientific Limited, Bay of Plenty Regional Council, and STIMBR.
4. All responses and submissions have been made available on the EPA website.
5. The DMC thanks the Applicant and WorkSafe for their responses, and those submitters who provided additional comment.
6. With reference to the Direction & Minute WGT006 section 9(ii) the DMC are extending the period of adjournment of the public hearing of the application on the basis that the Applicant has indicated that they will provide further specific information, within a specified timeframe, of the type identified in that Direction & Minute.

7. The DMC now wish to minute the timeframes in which this information will be supplied, in accordance with the schedule provided by the Applicant.
8. Table 1 Schedule of provision of new data from the Applicant

#	Due to the EPA	Format	Content
1	10 May 2019	Final Report	Analysis of worker exposure data by independent consulting occupational hygienist and applicability to potential buffer zones
2	10 May 2019	Summary report of data set and commentary of methods and experimental parameters	Collated data from the 'confirmatory trial' being conducted at Tokoroa which demonstrate: <ul style="list-style-type: none"> • EDN levels under the tarpaulin over the fumigation period • Temperature
3	10 May 2019	Final report	Collated data from trials conducted globally which demonstrate: <ul style="list-style-type: none"> • Environmental EDN levels associated with fumigations • EDN levels under the tarpaulin over the fumigation period.

9. In addition, the DMC requests that the Applicant specifically ensures that the following information be included:

- i. EDN efficacy data in the laboratory.

The level of information in the presentation "Ethanedinitrile (EDN): A New Fumigant for Phytosanitary Treatment of New Zealand Export Logs – An Update" MBAO Conference, Orlando, November 2018 would be adequate, supplemented by any additional data since that time.

- ii. Commercial scale trials in the Czech Republic

"New Technology of Wood Fumigation Against Bark Beetle – First Trial Results EDN Product Used for Forest Protection in Czech Republic", Lesnicka Prace 19-21, 11, 2017.

"Commercial Fumigations of Wood in Czech Forests – First Experiences" MBAO Conference, Orlando, November 2018.

The report and presentation only provide an overview and not the detail required for the DMC determination. Data required includes log characteristics, determination of stack sizes and loading rates, fumigation dose and methodology, in stack and ambient concentration measurement methodology and results and meteorological data particularly wind direction at time of ventilation.

iii. Commercial scale trial in New Zealand 2019

Data requested includes log characteristics, determination of stack sizes and loading rates, fumigation dose and methodology, in stack and ambient concentration measurement methodology.

10. Should information from any other source become available within this timeframe the DMC will accept this information, upon provision no later than 10 May 2019.
11. While the DMC acknowledge and accept the timeframe proposed herein by the Applicant for the provision of new information, it requests that the Applicant provide any information already available, (as indicated by submissions from STIMBR and Mr John Armstrong), **as soon as possible, to ensure timely review and interpretation by parties, the EPA and DMC.**
12. All information provided as outlined above will be made available to all parties upon receipt.

Management of adverse effects of EDN through workplace controls

13. The DMC note that previously, when considering the adverse effects of a substance under HSNO, a DMC could impose controls as part of any approval to manage use of a substance in the workplace and thus lower risks associated with the substance to an acceptable level. Workplace controls that were once in HSNO have now been transferred to HSWA regulations. HSWA provides significant and detailed regulation on the management of hazardous substances in the workplace including the setting of a SWI(s). Therefore the DMC recognise that the responsibility and jurisdiction for the setting of such controls to manage adverse effects of a substance on workers in the workplace now rest with WorkSafe.
14. As indicated in WorkSafe's response, based on the current information WorkSafe will proceed to development of an SWI(s). This is a process independent of the application to import a hazardous substance under the HSNO Act. However, such controls that may identified within a SWI(s) represent an intrinsic component of the sufficiency of information required by the DMC in entering into a consideration of the application. **Therefore, the DMC regard any SWI relating to the management of the risks of EDN in workplaces as directly relevant to its consideration of this application under the HSNO Act.**
15. The DMC consider that because the new data indicated in Table 1 relates to worker exposure and environmental EDN levels (concentrations), its provision will have a dual purpose in informing the outcomes of HSNO and HSWA legislative processes. However WorkSafe NZ may have different or additional requirements of the Applicant in line with their legislative mandate.
16. Further communication from the DMC will follow receipt and assessment of the information as outlined in this Minute.

Timing of consideration

17. In view of the above statements, the DMC wishes to advise that while the separate statutory process to develop an SWI(s) is allowed to run it is likely there will be a prolonged adjournment of this application.
18. The DMC are aware that submissions made to this hearing have expressed concern over the length of time taken for progression of the application to this point and the need to minimise further delay going forward. While it retains discretion to conclude the hearing and to initiate

consideration of the application at any stage, the DMC wish to indicate that were it to do so in the absence of what the DMC consider to be sufficient information there is a real prospect that the application would be declined.

19. If, nonetheless, the Applicant would prefer the certainty of a final decision after the DMC has considered the new information, to be provided by 10 May 2019, the DMC is prepared to enter into final consideration at that time. The Applicant is invited to file a response to this invitation indicating whether they wish the DMC to enter into final consideration of the application post 10 May 2019 in advance of provision of a SWI(s) prepared by WorkSafe, should they wish to do so.

For the Decision-making Committee:



Environmental
Protection Authority
Te Mana Rauhi Taiao

5 April 2019

Dr John Taylor

Date

Chairperson