

APP202804 - Application for approval to import EDN for release Draslovka's response to Direction and Minute 16 in the registration process

January 2022

1. Direction & Minute 16 released by the DMC on the 2nd December 2021 directed that;
 - STIMBR provide the DMC with a written copy of the legal submissions which were read out at the hearing; and, that the EPA to make STIMBR's legal submissions available on the EPA website;
 - The EPA provide a written response to these legal submissions to the DMC and make the legal advice available on the EPA website;
 - The EPA to make the legal advice provided to the DMC on 18 November 2021 in respect of ship's holds available on the EPA website;
 - Any party to the application wishing to provide legal submissions in response to the EPA's legal advice (referred to above) and/or STIMBR's legal submission is to do so by 17 January 2022.

2. Draslovka has considered the legal submissions placed on the EPA web site and the EPA legal advice to the DMC. Draslovka has no additions or comments that it wishes to make on or in addition to these legal opinions.

3. Draslovka's application for the registration of EDN was first submitted to the EPA in July 2017. The New Zealand forest industry is now in a situation where its use of methyl bromide has been severely curtailed and the need for a replacement to support the export of New Zealand logs and timber is now urgent.

4. Draslovka considers it has provided the DMC with a robust data package founded on sound science. Using that information WorkSafe has developed a Safe Work Instrument for the use of EDN as a fumigant on logs and timber under tarpaulins (sheets) and in shipping containers.

5. As previously stated (March 2020) Draslovka has no additional data to provide the DMC and asks that the DMC use the information it has been provided with to make a decision, as soon as possible to enable the use of EDN in New Zealand.

6. Draslovka notes the EPA's legal opinion of the 20th December 2021 infers that a reassessment of any decision should not be a time-consuming process stating "*If EDN is approved under HSNO, and a SWI for use in ship holds is developed at a later date, HSNO processes are not likely to be unduly complex or time-consuming (although the outcome of these processes cannot, of course, be predetermined). We note that different legislative and regulatory settings around methyl bromide means the modified reassessment process for that substance is not necessarily a useful comparator*".

7. Should the DMC decision not include the use in EDN in ship holds Draslovka will apply for a reassessment of that decision as soon as it has the sufficient data to competently demonstrate the atmospheric levels of EDN that can be expected during the fumigation of a ship with EDN.