

# TALKING NOTES FOR STIMBR PRESENTATION TO DMC, 25 NOVEMBER 2021

## Introduction

### Personnel

### Talking Points

- What is to be treated
- Treatment enclosures – ship holds
- Risks – to workers, to the public, to the environment
- One set of national controls

### What is to be treated

Draslovka's application is for approval to use EDN as a phytosanitary treatment of wood products, including logs. That includes use on imported wood products. MPI will address you on the importance of having EDN as a treatment for imported goods and biosecurity responses protecting New Zealand from unwanted pest species.

The EPA Staff Report describes the use of EDN as a fumigant for “timber and logs for export”.

STIMBR supports MPI's submission that the approval needs to encompass both exported and imported wood products.

### Treatment enclosures – Ship Holds

When this hearing was last convened (2018), there was a lack of air dispersion modelling for ship holds, and a lack of real-world data from ship-hold trials. The EPA staff concluded this prevented them from making a proper risk assessment for the use of EDN in ship holds.

The application was then put on hold to allow time for WorkSafe to develop a SWI.

The DMC acknowledged (WGT007) that it is WorkSafe's responsibility to set controls to manage effects on workers; and that any such controls would be directly relevant to the DMC's assessment of this application under the HSNO Act.

WorkSafe has now developed a SWI, which addresses the use of EDN under sheets and in shipping containers. It does not address the use of EDN in ship holds.

STIMBR understands there are two reasons why the SWI did not cover ship holds:

1. Worksafe did not consider it could progress a SWI for ship-holds in the absence of real-world data from ship hold tests. In relation to that issue, WorkSafe has advised Draslovka that it will develop a SWI for ship holds once data becomes available; and STIMBR understands Draslovka is working towards obtaining that data as soon as possible.
2. WorkSafe restricted its consideration because it thought the EPA was not likely to include ship holds in its approval.

There is a circularity here that is concerning to STIMBR. The DMC wanted to know what controls WorkSafe would impose before deciding the EDN application; but the controls WorkSafe then developed were based on assumptions about what the DMC would and would not include in its approval.

If Draslovka can obtain real-world data for ship holds, and WorkSafe develops a SWI based on that data, there should not be any need for a further assessment (a reassessment) of EDN by the EPA at that time.

Rather, STIMBR considers that it is open to you to grant approval for the use of EDN in ship-holds on a conditional basis, avoiding the need for a further HSNO assessment following the development of a SWI.

The condition would be that EDN could not be used in ship holds until there is a SWI in force in relation to ship holds.

That is an outcome open to the DMC because of the work that has already gone into the other controls, particularly the setting of a TEL to protect public health.

If a conditional approval was granted in this way, then when WorkSafe gets to the stage of developing a SWI to cover ship holds, it would have the certainty of knowing what the TEL is, and would use the SWI for other enclosures as the basis to assess what controls are necessary in respect of ship holds.

STIMBR anticipates many of the controls would or could remain the same.

For example,

- the requirement for concentration to decrease to 700ppm before ventilation seems as applicable to ship holds as it is for other enclosures
- the exposure standards for worker protection (8 Hr/3ppm, and a ceiling value of 5ppm) would remain the same
- just as the current *in principle* SWI sets a minimum buffer zone, a buffer zone would be set in the new SWI specifically for ship holds, taking into account the data and modelling.

In those circumstances no further change to the HSNO approval would be required. If approval for ship holds is given, conditional on WorkSafe developing a targeted SWI, then once the SWI takes effect, the industry will be able to rely on HSNO approval without further delay.

It is critical to the industry to avoid further unnecessary delay; and therefore critical that approval to use EDN in ship holds is included in the approval, subject to WorkSafe developing a SWI for this use.

## **Risks**

### Risks to Workers

Risks to have already been comprehensively addressed by the *in principle* SWI developed by WorkSafe. It is WorkSafe's role to assess and set appropriate controls for those risks.

The role of the EPA, and this DMC, is not to duplicate WorkSafe's role, but to take account of the work that WorkSafe has done.

That is the approach the EPA Staff Report has correctly adopted – recommending controls that will work alongside those in the SWI.

### Risks to the Public

Risks to the public will be addressed by the setting of buffer zone from which the public must be excluded, and the setting of a Tolerable Exposure Level to be met at the boundary of that buffer zone.

The setting of the buffer zone is already achieved by the provisions of the *in principle* SWI.

As for the TEL, STIMBR endorses the assessment made by the EPA staff that compliance with the requirements of the SWI will reduce the risks to members of the public to “negligible” as concentrations outside the buffer zone would be maintained below the TEL.

STIMBR considers this level of protection is more than adequate, as the TEL itself incorporates significant conservatism.

STIMBR relies on the expertise of Dr Mark Pemberton.

### Environmental Risks

Finally, on environmental effects, STIMBR endorses the views expressed in the updated Science Memorandum – that the controls in the *in principle* SWI will reduce exposure levels for non-target organisms, so that it is unnecessary to include any controls specifically to address environmental effects.

#### **One set of national controls**

The application is for HSNO approval at a national scale, not controls specific to any one region or fumigation site.

If the controls are based on robust science, and incorporate appropriate conservatism to ensure risks are reduced to negligible, then there will be no reason for regulation to be more onerous at a local level.

STIMBR believes the controls supported by EPA staff (adjusted to reflect STIMBR's requests), in combination with the controls that will take effect in due course in the SWI, are based on robust science, and do incorporate an appropriately precautionary approach towards risk.

#### **Conclusion**

In 2010 the EPA set a high bar for the users of methyl bromide and STIMBR to fund and undertake research to find alternatives to methyl bromide.

STIMBR has risen to that challenge and met the 2010 aspirations by identifying in EDN a potential substitute for methyl bromide, and supporting Draslovka to seek HSNO approval for this sustainable alternative.

STIMBR considers this DMC has all the information it needs to make a robust and science-based decision, approving EDN with workable controls.