

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

WGT008: Direction & Minute of the Decision-making Committee – 14 June 2019

Further information and procedural matters

1. This minute is to be documented and made available on the EPA website with the other application documents.
2. In its Direction & Minute WGT007 published in April 2019, the Decision-making Committee (DMC) extended the period of adjournment of the public hearing of this application on the basis that the Applicant indicated that they would provide further specific information, within a specified timeframe.
3. The schedule of provision of new data provided by the Applicant is outlined in Table 1.
4. The DMC also stated in that Direction & Minute that should information from any other source become available within the timeframe, the DMC would accept that information, upon provision, no later than 10 May 2019.
5. On 10 May 2019 the Applicant provided some of the requested information and stated that further information would be provided on 15 May 2019.
6. On 15 May and 20 May 2019 further information was provided by the Applicant. The Applicant also advised that further trials were due to be undertaken and results from these would be provided.
7. The DMC thanks the Applicant for providing the information to date.

8. Table 1 Schedule of provision of new data

#	Due to the EPA	Format	Content	Status
1	10 May 2019	Final Report	Analysis of worker exposure data by independent consulting occupational hygienist and applicability to potential buffer zones	Provided in draft form on 20 May 2019 Final version received 14 June 2019
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 	Provided in draft form on 10 May 2019 Updated draft version provided on 15 May 2019 Final version received 14 June 2019
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. 	Received on 15 May 2015 (report provided only mentions environmental EDN levels and not EDN levels under the tarpaulin over the fumigation period)

9. In addition, the DMC requested that the Applicant specifically ensured 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 DMC pointed out that this report and presentation only provide an overview and not the detail required for the DMC determination. It was outlined that the data required included 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. Of this information, the report and presentation mentioned in (ii) and the information mentioned in (iii) have been provided. The DMC notes that details listed in (ii) have not been provided, nor information on loading rates in (iii).
11. The Applicant has advised that worker exposure trials carried out in the United States of America have been completed. An indicative timeline of the end of May was provided for provision of the information. The DMC has not received this information at the time of issue of this minute.
12. All information received in response to Direction & Minute WGT007 has been provided to WorkSafe, and will be made available to other parties to the process, by way of the EPA website in due course.
13. The DMC invites comment on this new information from parties to the process, no later than 2 July 2019, 10 working days following it being made publicly available.

Timing of consideration

14. The DMC has considered the timing of the consideration in light of WorkSafe's stated intention to proceed with the development of safe work instrument(s) under HSWA to address the proposed use of this substance in a workplace, (WorkSafe response dated 21 February 2019) and the nature of the outstanding information directly relating to worker and workplace exposure.
15. The DMC considers that at this stage in proceedings, and while there remains uncertainty about the workplace requirements that would be applied to this substance, the adjournment of the hearing of this application will continue until such time that:
 - a) WorkSafe:
 - a. advises that an SWI (s) has been made or approved in principle, provides the DMC with any supporting information that has not already been made available to the DMC, and provides copies of the relevant SWI(s); or
 - b. advises that all processes that could potentially lead to the making of an SWI(s) are concluded and that no SWI(s) has been made.

This would then be considered as information to enable the HSNO DMC to consider if adequate workplace requirements are in place and to enable assessment of any residual risk arising to public health in light of these workplace requirements being known, or
 - b) The Applicant chooses to notify the DMC indicating they would prefer the certainty of a final decision under HSNO, and as such wish the DMC to enter into final consideration of the application in advance of provision of a SWI(s) prepared by WorkSafe.
 - c) The DMC uses its discretion to conclude the hearing and to initiate consideration of the application
16. With respect to the triggers in paragraph 15 (b) or (c), the DMC notes it has indicated previously that it was prepared to enter into final consideration following receipt of information in response to Direction & Minute 7, but also that were it to enter into final consideration in the absence of what

the DMC considered to be sufficient information there is a real prospect that the application would be declined.

17. The DMC considers the approach outlined in (a) is in keeping with s11(2A) of the HSNO Act and will allow for WorkSafe to engage directly with interested parties to give due consideration to any suitable workplace requirements.
18. The DMC therefore continues the adjournment of its consideration of this application, as at the date of issue of this minute, until such a time that one of the above triggers occur.
19. Additional information is provided below to further explain the role of the EPA DMC under HSNO with regards to the management of adverse effects of EDN through workplace controls/requirements.

Management of adverse effects of EDN through workplace controls

20. 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.
21. 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).
22. Therefore the DMC recognise that the responsibility and jurisdiction for the setting of such controls and requirements to manage adverse effects of a substance in the workplace now rest with WorkSafe.
23. The development of an SWI is a separate statutory process under HSWA independent of the application to import a hazardous substance under the HSNO Act
24. However, such controls that may be identified within a SWI(s) represent an intrinsic component of the information required by the DMC in entering into a consideration of the application.
25. 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 for reasons aforementioned.
26. Further communication from the DMC will follow at such a time as there is a further update to the application status or as any other matters relevant to this application become available.

For the Decision-making Committee:



Dr John Taylor

Date 18 June 2019

Chairperson