Environmental Protection Authority
Te Mana Rauhī Taiao

DECISION

25 February 2019

Summary

Substance Name	SCAL 5188 W
Application code	APP203790
Application type	To import or manufacture for release any hazardous substance under Section 28 of the Hazardous Substances and New Organisms Act 1996 (“the Act”)
Application sub-type	Section 28A(2)(a) – rapid similar – having a similar composition and similar hazardous properties to a substance that has been approved under the Act
Applicant	Sumitomo Chemical Australia Pty Limited
Purpose of the application	To import or manufacture SCAL 5188 W for release
Date application formally received	11 February 2019
Consideration date	25February 2019
Considered by	The General Manager[1] of the Hazardous Substances and New Organisms group of the Environmental Protection Authority (“the EPA”)
Decision	**Approved with controls**
Approval code	**HSR101341**
Hazard classifications	6.3B, 6.9B (narcotic effects), 9.1A, 9.4B

[1] The General Manager of the HSNO group of the EPA has made the decision on this application under delegated authority in accordance with section 19 of the Act.

1. Substance

1.1. SCAL 5188 W is an insecticide formulated as an aerosol spray containing 2.0 g/kg prallethrin and 1.0 g/kg d-phenothrin as the active ingredients for the outdoor control of wasps in domestic, commercial and industrial areas.

2. Process and consultation

Application receipt

2.1. The application, including the statutory declaration, was formally received on 11 February 2019 under section 28 of the Act.

Information available for consideration

2.2. The information available for the consideration comprised:

- the application form
- the confidential appendix to the application
- the EPA staff advice memorandum.

2.3. There was sufficient information to assess the application.

Notification to government departments

2.4. In line with section 53(4) of the Act, as the application was not publicly notified under section 53(2) of the Act, government departments were equally not notified of the application for SCAL 5188 W

Legislative criteria for the application

2.1. This application meets the criteria for rapid assessment under section 28A(2)(a) of the Act, as it is considered that a substance having a similar composition and similar hazardous properties has been approved. This is referred to as the reference substance.

2.2. In considering this application, the relevant provisions of the Act, the EPA Notices, the Health and Safety at Work Act 2015 (HSW Act), the Health and Safety at Work (Hazardous Substances) Regulations 2017 (HSW (HS) Regulations) and the HSNO (Methodology) Order 1998 were taken into account.

3. Comparison of SCAL 5188 W with the reference substance

Identity of reference substance

3.1. The approved substance SCAL 5149 OBA, which has the approval code HSR101321 has been identified as a reference substance which SCAL 5188 W could be compared to as part of a rapid assessment. This reference substance is considered eligible for comparing with SCAL 5188 W.

Hazardous properties

3.2. The hazard classifications of SCAL 5188 W were determined based on the information provided by the applicant and other available information. The hazard classifications are shown in Table 1 alongside those of the reference substance.

3.3. SCAL 5188 W has a reduced hazard profile than the reference substance in that has no classification for flammability substance because it uses a different propellant.

Table 1: Hazard classifications of SCAL 5188 W and the reference substance

Hazard	SCAL 5188 W	Reference Substance
Flammable aerosol	No	2.1.2A
Skin irritancy/corrosivity	6.3B	6.3B
Target organ or systemic toxicity	6.9B (narcotic effects)	6.9B (narcotic effects)
Aquatic ecotoxicity	9.1A	9.1A
Terrestrial invertebrate ecotoxicity	9.4B	9.4B

Use

3.4. SCAL 5188 W and the reference substance are both proposed for use as insecticides used by non-professional and commercial users. SCAL 5188 W will be applied directly on wasps or wasp nests, whereas the reference is applied directly on target pests and also on various indoor and outdoor surfaces in residential and commercial situations. The application method proposed for SCAL 5188 W is targeted and no effect is expected outside the treated area so that environmental exposure of SCAL 5188 W can be considered similar to that of the reference substance. There are no substantial differences in the lifecycle, use and purpose of SCAL 5188 W and the reference substance.

4. Rapid assessment of adverse effects

4.1. The rapid risk assessment of adverse effects has taken into account the hazardous properties of the substance, the considerations under Part 2 of the Act, the prescribed controls under the Act and the requirements under other relevant legislation such as the HSW Act 2015, Land Transport Rule 45001, Civil Aviation Act 1990 and Maritime Transport Act 1994.

4.2. The assessment:

- considered the risks posed by SCAL 5188 W compared to those associated with the reference substance
- determined whether any variations or additions to the prescribed controls are required to manage the risks of this substance, and identified controls that may not be applicable or necessary that can, therefore, be deleted.

Assessment of physical risks

4.1. The risks resulting from the physical properties of SCAL 5188 W are less than those of the reference substance because SCAL 5188 W is not a flammable aerosol.

Assessment of risks to human health

4.2. SCAL 5188 W is only intended to be used outdoor, therefore chronic human exposure is less likely than for the reference. The risks to human health are lower than those of the reference substance and as such are managed by the suite of controls.

Assessment of risks to the environment

4.3. The risks to the environment from this substance are similar to those of the reference substance and as such are managed by the suite of controls, including the requirements to avoid adverse effects outside the application area.

Assessment of risks to Māori and their relationship to the environment

4.4. The risks to Maori and their relationship to the environment from this substance are similar to those of the reference substance and as such are managed by the suite of controls.

Assessment of risks to society, the community and the market economy

4.5. No risks to society, communities or the market economy from the approval of SCAL 5188 W have been identified.

New Zealand's international obligations

4.6. No international obligations that may be impacted by the approval of SCAL 5188 W have been identified.

Summary of assessment

4.7. The risks associated with SCAL 5188 W arise from its hazardous properties and its proposed use pattern. These risks are similar to those posed by the reference substance, and the suite of controls applied to the reference (excluding the modifications relating to indoor uses) can be applied to SCAL 5188 W to equally mitigate its risks to human health and the environment, so that these are negligible.

5. Prescribed controls

5.1. The hazard classifications of SCAL 5188 W determine a set of prescribed controls specified by the EPA Notices[2] under section 77 of the HSNO Act. There are also requirements in the HSW (HS) Regulations. Note: the HSW (HS) requirements are not set for the substance under this approval but apply in their own right.

5.2. The prescribed controls set the baseline for how the substance must be managed and include specifications on how the substance is to be packaged, labelled, stored, disposed, transported, handled and used. The prescribed controls also set information requirements (eg Safety Data Sheets), signage and emergency management. These controls form the basis of the controls specified in Appendix A.

[2] There may also be default controls in regulations made under the Act for certain hazardous substances such as fireworks.

5.3. The Labelling, Safety Data Sheet (SDS), Packaging, Disposal and Hazardous Property Controls (HPC) Part 1, Part 3, Part 4A, Part 4B and Part 4C Notices apply to SCAL 5188 W.

Exposure limits

5.4. Under s77B of the Act, the EPA may set a Tolerable Exposure Limit (TEL) and/or an Environmental Exposure Limit (EEL) for a substance with toxic or ecotoxic properties:

- Regulation 13.17 of the HSW (HS) Regulations prohibits the use of a class 6 substance in excess of a TEL
- Clause 49 of the HPC Notice prohibits use of a class 9 substance in excess of an EEL

5.5. No TEL values have been set previously for the active ingredients in SCAL 5188 W because it is considered that exposure to this substance is not likely to result in an appreciable toxic effect to people, provided controls on use are followed.

5.6. No EEL values are set at this time, or have been set previously for the active ingredients in SCAL 5188 W, as the level of risk of adverse effects to the environment has been qualitatively assessed as being negligible, with controls in place.

5.7. There are Workplace Exposure Standard (WES) values currently set for components of SCAL 5188 W but, as they are not Prescribed Exposure Standard (PES) values, they are guidance values used for the management of health risk. No PES has been set for any component of SCAL 5188 W.

5.8. Clause 17 of the Hazardous Substances (Labelling) Notice 2017 and Section 3 of Schedule 1 of the Hazardous Substances (Safety Data Sheets) Notice 2017 require that certain toxic, corrosive or ecotoxic components are identified on the product label and on the SDS, respectively. Section 8 of Schedule 1 of the SDS Notice requires occupational exposure limits to be identified on the SDS.

5.9. The name and concentration of the following components need to be specified on the label and SDS. (Table 2):

Table 2: Components required on the label and SDS

Labelling requirement	SDS requirement
Hydrocarbon solvent) (6.9B)	Prallethrin (9.1A)
	d-phenothrin (9.1A)
	Hydrocarbon solvent) (6.9B)
	Carbon dioxide (WES)

5.10. Label statements are triggered by the hazard classification of the substance, and because the substance is a consumer product and an aerosol (Clause 18 of the Labelling Notice) and has class 9.1A and 9.4B classifications.

6. Changes to prescribed controls

6.1. The following additional HSNO controls apply to SCAL 5188 W under section 77A of the Act, as set out in Table 4.

Table 4: Justification for s77A additional controls (see Appendix A for the control wordings)

Control	Justification
Application method	The environmental risk assessment indicates that restrictions on the application method of this substance are necessary to mitigate the risk of death or adverse to non-target organisms in the environment. Accordingly, it is considered that the application of controls addressing these potential risks will be more effective than the prescribed controls with respect to their effects on the management, application and risks of this substance.

Assessment of changes to controls

6.2. The changes to the prescribed controls in the above section under sections 77 and 77A of the Act fulfil the legislative criteria.

6.3. These controls have been incorporated into Appendix A of this document.

7. Decision

7.1. Having considered the composition, hazardous properties and use of SCAL 5188 W, I am satisfied that it meets the criteria for rapid assessment under section 28A(2)(a) as a substance having a similar composition and similar hazardous properties has been approved under the Act. I consider that there are no other effects of SCAL 5188 W that would prevent this application for SCAL 5188 W being approved under section 28A of the Act.

7.2. I am satisfied with the hazard classifications identified in Table 1 and have applied this classification to SCAL 5188 W.

7.3. I consider that applying the suite of controls to SCAL 5188 W set out in Appendix A will ensure adequate management of the adverse effects of SCAL 5188 W.

7.4. Therefore, the import or manufacture of SCAL 5188 W is approved with controls as listed in Appendix A.

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Dr Fiona Thomson-Carter	Date: 25 February 2019
General Manager, HSNO, EPA	

Appendix A: Controls applying to SCAL 5188 W

EPA Controls

Control code	EPA Notice	Control description
LAB	EPA Labelling Notice 2017	Requirements for labelling of hazardous substances
PKG	EPA Packaging Notice 2017	Requirements for packaging of hazardous substances
SDS	EPA Safety Data Sheet Notice 2017	Requirements for safety data sheets for hazardous substances
DIS	EPA Disposal Notice 2017	Requirements for disposal of hazardous substances
HPC-1	EPA Hazardous Property Controls Notice 2017 Part 1	Hazardous Property Controls preliminary provisions
HPC-3	EPA Hazardous Property Controls Notice 2017 Part 3	Hazardous substances in a place other than a workplace
HPC-4A	EPA Hazardous Property Controls Notice 2017 Part 4A	Site and storage controls for class 9 substances
HPC-4B	EPA Hazardous Property Controls Notice 2017 Part 4B	Use of class 9 substances
HPC-4C	EPA Hazardous Property Controls Notice 2017 Part 4C	Qualifications required for application of class 9 pesticides

HSNO Additional Controls and Modifications to Controls

Control code	HSNO Act	Control
Application method	Section 77A	This substance must be applied as a spot treatment.

HSW HS Requirements

Note: these requirements are triggered by the classification of the substance. They are listed here for information purposes only.

Code	Regulation	Description
HSW2-1	Reg 2.1 - 2.4	Workplace labelling of hazardous substance containers
HSW2-3	Reg 2.11	Safety data sheets
HSW2-4	Reg 2.12-12.14	Packaging
HSW3-1	Reg 3.1	Inventory
HSW3-2	Reg 3.2 -3.3	Managing risks associated with hazardous substances
HSW4-2	Reg 4.5-4.6	Information, instruction, training and supervision
HSW13-2	Reg 13.7	Duty of PCBU who directs work using class 6, 8.1, 8.2, or 8.3 substances to ensure equipment is appropriate
HSW13-3	Reg 13.8	Duty of PCBU who directs work using class 6 and 8 substances to ensure personal protective equipment used
HSW13-8	Reg 13.17	Prohibition on use of substance in excess of tolerable exposure limit
HSW13-9	Reg 13.18	Duty of PCBU to ensure prescribed exposure standards for class 6 substances not exceeded
HSW15-1	Part 15	Requirements for gases under pressure
HSW16-1	Part 16	Requirements for tank wagons and transportable containers
HSW17-1	Part 17	Requirements for stationary container systems