



---

## DECISION

---

22 October 2020

### Summary

Substance Name	AGPRO AQUALON
Application code	APP204110
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)(c) – rapid reduced hazard – formulated so that one or more hazardous properties has a lesser degree of hazard than a substance that has been approved under the Act
Applicant	Agro NZ Limited
Purpose of the application	To import or manufacture AGPRO AQUALON for release
Date application formally received	9 October 2020
Consideration date	22 October 2020
Considered by	The Group General Manager <sup>1</sup> of the Regulatory Systems and Operations group of the Environmental Protection Authority (“the EPA”)
Decision	<b>Approved with controls</b>
Approval code	<b>HSR101446</b>
Hazard classifications	3.1C, 6.1E (oral), 6.5B, 6.9B (oral), 8.3A, 9.1B, 9.2A, 9.3C

---

<sup>1</sup> The Group General Manager of the RSOP group of the EPA has made the decision on this application under delegated authority in accordance with section 19 of the Act.



---

## DECISION

---

### 1. Substance

- 1.1. AGPRO AQUALON is an aquatic herbicide containing 537.8 g/L maximum of triclopyr triethylamine as the active ingredient. It is intended to be manufactured and applied using ground-based and aerial application methods at rates of up to 7.92 kg triclopyr /ha to control aquatic problem plants, such as alligator weed and broadleaf weeds in or near wetlands.

### 2. Process and consultation

#### Application receipt

- 2.1. The application, including the statutory declaration, was formally received on 9 October 2020 under section 28 of the Act.

#### Information available for consideration

- 2.2. The information available for the consideration comprised:
- the application form
  - the confidential appendices to the application
  - the EPA staff advice memorandum.
- 2.3. There was sufficient information to assess the application.

#### Notification to government departments

- 2.4. The following government departments were notified of the application on 9 October 2020: the Ministry for Primary Industries (Agricultural Compounds and Veterinary Medicines Group), the Ministry of Health and the Department of Conservation. No comments were received.

#### Legislative criteria for the application

- 2.5. This application meets the criteria for rapid assessment under section 28A(2)(c) of the Act, as it is considered that a substance having a similar composition and greater degree of hazard has been approved. This is referred to as the reference substance.
- 2.6. 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 AGPRO AQUALON with the reference substance

#### Identity of reference substance

- 3.1. The approved substance Garlon 360, which has the approval code HSR007690 has been identified as a reference substance to which AGPRO AQUALON could be compared as part of a rapid assessment. This reference substance is considered eligible for comparing with AGPRO AQUALON.

#### Hazardous properties

- 3.2. The hazard classifications of AGPRO AQUALON 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. AGPRO AQUALON has a reduced hazard profile than the reference substance in that AGPRO AQUALON has no classification for metal corrosivity, and a reduced hazard classification for acute toxicity (oral) and aquatic ecotoxicity compared to the reference substance.

**Table 1: Hazard classifications of AGPRO AQUALON and the reference substance**

Hazard	AGPRO AQUALON	Garlon 360
Flammable liquid	3.1C	3.1C
Acute toxicity (oral)	<b>6.1E</b>	<b>6.1D</b>
Eye corrosivity	8.3A	8.3A
Metal corrosivity	<b>ND</b>	<b>8.1A</b>
Contact sensitisation	6.5B	6.5B
Target organ or systemic toxicity	6.9B	6.9B
Aquatic ecotoxicity	<b>9.1B</b>	<b>9.1A</b>
Soil ecotoxicity	9.2A	9.2A
Terrestrial vertebrate ecotoxicity	9.3C	9.3C

#### Use

- 3.4. AGPRO AQUALON and the reference substance are both proposed for use at comparable rates as herbicides to control aquatic weeds in or near wetlands, using comparable application methods and rates. There are no substantial differences in the lifecycle, use and purpose of AGPRO AQUALON 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 AGPRO AQUALON 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 risks to human health

4.3. The risks to human health are less than those of the reference substance and as such are managed by the suite of controls.

### Assessment of risks to the environment

4.4. The risks to the environment from this substance are less than those of the reference substance and as such are managed by the suite of controls.

### Assessment of risks to Māori and their relationship to the environment

4.5. The risks to Māori and their relationship to the environment from this substance are less than 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

4.6. No risks to society, communities or the market economy from the approval of AGPRO AQUALON have been identified.

### New Zealand's international obligations

4.7. No international obligations that may be impacted by the approval of AGPRO AQUALON have been identified.

### Summary of assessment

4.8. The risks associated with AGPRO AQUALON arise from its hazardous properties and its proposed use pattern. These risks are less than those posed by the reference substance, and the suite of controls applied to the reference (including any modifications and deletions) can be applied to AGPRO AQUALON 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 AGPRO AQUALON determine a set of prescribed controls specified by the EPA Notices<sup>2</sup> 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.
- 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 AGPRO AQUALON.

### 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. The following Tolerable Exposure Limit (TEL) value has been set previously for triclopyr in the reference substance:  $TEL_{\text{water}} = 0.1 \text{ mg/L}$ . This value must be stated on the SDS.
- 5.6. An Environmental Exposure Limit (EEL) value had been set previously for triclopyr in the reference substance:  $EEL_{\text{water}} = 59 \text{ }\mu\text{g/L}$ . This value must be stated on the SDS.
- 5.7. There are no Workplace Exposure Standard (WES) nor Prescribed Exposure Standard (PES) values currently set for components of AGPRO AQUALON.
- 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):

---

<sup>2</sup> There may also be default controls in regulations made under the Act for certain hazardous substances such as fireworks.

**Table 2: Components required on the label and SDS**

Labelling requirement	SDS requirement
Triclopyr triethylamine (6.5B, 6.9B, 8.3A)	Triclopyr triethylamine (6.5B, 6.9B, 8.3A, 9.1B)

## 6. Changes to prescribed controls

6.1. The following modifications to the EPA Notice controls apply to AGPRO AQUALON, as set out in Table 3:

**Table 3: Justification for s77 changes to prescribed controls (see Appendix A for the control wordings)**

Control	Justification
Application restrictions HPC Notice Clause 50	<p><b>Maximum application rate, frequency and number of applications per year</b></p> <p>Significant human health and environmental risks may occur from the use of this substance, due to the hazards posed by triclopyr, the active ingredient in AGPRO AQUALON. Therefore, it is considered necessary to set a maximum application rate, number of applications and frequency under clause 50 of the HPC Notice. The maximum application rate for AGPRO AQUALON is 7.92 kg triclopyr/ha which equates to 22 L of formulated substance applied per hectare with a maximum application frequency of 3 per calendar year and a minimum application interval of 30 days.</p>

6.2. The following additional HSNO controls apply to AGPRO AQUALON 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
Permission	A person must not apply or otherwise use this substance onto or into water, unless that person first obtains a permission from the Authority under section 95A of the Hazardous Substances and New Organisms Act 1996.
Aquatic Herbicide Aquatic Farms	A person who applies the substance onto or into water must ensure that the substance is not applied in a manner that may cause harm to aquatic farms where food is produced.
Aquatic Herbicide Irrigation	A person who applies the substance onto or into water must ensure that the substance is not applied in a manner that may cause harm to crops using water taken from that water body.
Aquatic Herbicide Signage	<p>A person who applies the substance onto or into water must ensure that signage is erected and maintained at all public access points within 100 m of the application area to notify the public that application of a herbicide onto or into water has been undertaken and state the following:</p> <ul style="list-style-type: none"> <li>• Do not swim;</li> <li>• Do not gather food from the waterway (including fish); and</li> </ul>

## Decision on application for approval to import or manufacture AGPRO AQUALON for release (APP204110)

	<ul style="list-style-type: none"> <li>Do not take water for consumption.</li> </ul> <p>The signs must be erected on the day of, and prior to, the operation and remain in place for five days after application. The signs must be removed at the end of this period. The signs must be capable of being read at a distance of at least five metres during daylight hours.</p>
Aquatic Herbicide Notification	A person who applies the substance onto or into water must ensure that any parties who may be potentially directly affected are notified of details of the operation, including treatment dates, the identity of the substance which is being used and relevant restrictions on the use of water, at least five working days prior to each application of the substance.
Aquatic Herbicides Nonylphenols	A person who applies the substance onto or into water must ensure that the substances covered by this approval are not applied onto or into water if they contain nonylphenol ethoxylates as a component of their formulation.
Aquatic Static Water	<p>A person who applies the substance onto or into water must ensure that the substance is not applied, in any single application, onto more than 33% of the surface area of any static water body.</p> <p>If applications of the substance onto or into any static water body, taken cumulatively within a seven day period, arrive at more than 33% of the surface area of the water body, the substance must not be applied to any additional sections of the water body for at least seven days after the last application of the substance to that water body.</p> <p>These controls do not apply if the average dissolved oxygen level for the static water body is less than 4 mg/l at the time of application.</p>
Aquatic Incident Reporting	A person who applies the substance onto or into water must ensure that any instances of unintended or accidental by-kills, are reported (including the time, date and location monitoring was undertaken) to the EPA within a week of the application of the substance. This excludes the by-kill of non-target plants that may be expected from the herbicidal nature of the substance.
Aquatic Herbicide Reporting	<p>A person who applies the substance onto or into water must ensure that the Environmental Protection Authority is provided with an annual written report by 31st July each year. This report will cover all applications of the substances onto or into water for which they are responsible and must include the following information;</p> <ul style="list-style-type: none"> <li>A map of all locations where the substance has been applied;</li> <li>Details of the spray operation by location, including application method used, quantity of the substance applied, rates of application, frequency of application and the dates of application;</li> <li>Details (including results) of water sampling conducted to confirm compliance with EEL values;</li> <li>Details of sediment testing conducted;</li> <li>Details of pest plant species targeted;</li> <li>Details of dissolved oxygen levels prior to application of the substance to any static water body;</li> <li>Details of pH testing conducted prior to application of substances containing metsulfuron-methyl;</li> <li>Details of engagement/consultation activities undertaken;</li> </ul>

---

Decision on application for approval to import or manufacture AGPRO AQUALON for release (APP204110)

- Details of any incidents reported or complaints received in reference to the application of the substance and details of any actions taken to remedy complaints; and
  - An overall assessment of the outcome of each operation and any proposed follow-up spraying for the forthcoming year.
- 

### Assessment of changes to controls

- 6.3. The changes to the prescribed controls in the above section under sections 77 and 77A of the Act fulfil the legislative criteria.
- 6.4. These controls have been incorporated into Appendix A of this document.

## 7. Decision

- 7.1. Having considered the composition, hazardous properties and use of AGPRO AQUALON, I am satisfied that it meets the criteria for rapid assessment under section 28A(2)(c) as it has one or more hazardous properties with a lesser degree of hazard than a substance that has already been approved under the Act. I consider that there are no other effects of AGPRO AQUALON that would prevent this application for AGPRO AQUALON 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 AGPRO AQUALON.
- 7.3. I consider that applying the suite of controls to AGPRO AQUALON set out in Appendix A will ensure adequate management of the adverse effects of AGPRO AQUALON.
- 7.4. Therefore, the application to import or manufacture of AGPRO AQUALON is approved with controls as listed in Appendix A.



Environmental  
Protection Authority  
An tAidíneacht  
Éireann

---

Siobhan Quayle

Date: 22 October 2020

---

**Group General Manager - RSOP**

---

## Appendix A: Controls applying to *AGPRO AQUALON*

### EPA Controls

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

## HSNO Additional Controls and Modifications to Controls

Control code	HSNO Act	Control
Application rate	Section 77 variation to HPC Notice clause 50	The maximum application rate of this substance is 22 L/ha (equivalent to 7.92 kg triclopyr/ha) per application, with a maximum application frequency of 3 per calendar year and a minimum application interval of 30 days.
Permission	Section 77A	A person must not apply or otherwise use this substance onto or into water, unless that person first obtains a permission from the Authority under section 95A of the Hazardous Substances and New Organisms Act 1996.
Aquatic Herbicide Aquatic Farms	Section 77A	A person who applies the substance onto or into water must ensure that the substance is not applied in a manner that may cause harm to aquatic farms where food is produced.
Aquatic Herbicide Irrigation	Section 77A	A person who applies the substance onto or into water must ensure that the substance is not applied in a manner that may cause harm to crops using water taken from that water body.
Aquatic Herbicide Signage	Section 77A	<p>A person who applies the substance onto or into water must ensure that signage is erected and maintained at all public access points within 100 m of the application area to notify the public that application of a herbicide onto or into water has been undertaken and state the following:</p> <ul style="list-style-type: none"> <li>• Do not swim;</li> <li>• Do not gather food from the waterway (including fish); and</li> <li>• Do not take water for consumption.</li> </ul> <p>The signs must be erected on the day of, and prior to, the operation and remain in place for five days after application. The signs must be removed at the end of this period. The signs must be capable of being read at a distance of at least five metres during daylight hours.</p>
Aquatic Herbicide Notification	Section 77A	A person who applies the substance onto or into water must ensure that any parties who may be potentially directly affected are notified of details of the operation, including treatment dates, the identity of the substance which is being used and relevant restrictions on the use of water, at least five working days prior to each application of the substance.
Aquatic Herbicides Nonylphenols	Section 77A	A person who applies the substance onto or into water must ensure that the substances covered by this approval are not applied onto or into water if they contain nonylphenol ethoxylates as a component of their formulation.

Decision on application for approval to import or manufacture AGPRO AQUALON for release (APP204110)

Aquatic Static Water	Section 77A	<p>A person who applies the substance onto or into water must ensure that the substance is not applied, in any single application, onto more than 33% of the surface area of any static water body.</p> <p>If applications of the substance onto or into any static water body, taken cumulatively within a seven day period, arrive at more than 33% of the surface area of the water body, the substance must not be applied to any additional sections of the water body for at least seven days after the last application of the substance to that water body.</p> <p>These controls do not apply if the average dissolved oxygen level for the static water body is less than 4 mg/l at the time of application.</p>
Aquatic Incident Reporting	Section 77A	<p>A person who applies the substance onto or into water must ensure that any instances of unintended or accidental by-kills, are reported (including the time, date and location monitoring was undertaken) to the EPA within a week of the application of the substance. This excludes the by-kill of non-target plants that may be expected from the herbicidal nature of the substance.</p>
Aquatic Herbicide Reporting	Section 77A	<p>A person who applies the substance onto or into water must ensure that the Environmental Protection Authority is provided with an annual written report by 31st July each year. This report will cover all applications of the substances onto or into water for which they are responsible and must include the following information;</p> <ul style="list-style-type: none"> <li>• A map of all locations where the substance has been applied;</li> <li>• Details of the spray operation by location, including application method used, quantity of the substance applied, rates of application, frequency of application and the dates of application;</li> <li>• Details (including results) of water sampling conducted to confirm compliance with EEL values;</li> <li>• Details of sediment testing conducted;</li> <li>• Details of pest plant species targeted;</li> <li>• Details of dissolved oxygen levels prior to application of the substance to any static water body;</li> <li>• Details of pH testing conducted prior to application of substances containing metsulfuron-methyl;</li> <li>• Details of engagement/consultation activities undertaken;</li> <li>• Details of any incidents reported or complaints received in reference to the application of the substance and details of any actions taken to remedy complaints; and</li> </ul> <p>An overall assessment of the outcome of each operation and any proposed follow-up spraying for the forthcoming year.</p>

Decision on application for approval to import or manufacture AGPRO AQUALON for release (APP204110)

## 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	Extra information
HSW2-1	Reg 2.1 - 2.4	<a href="#">Workplace labelling of hazardous substance containers</a>	
HSW2-2	Reg 2.5-2.10	<a href="#">Signage</a>	
HSW2-3	Reg 2.11	<a href="#">Safety data sheets</a>	
HSW2-4	Reg 2.12-2.14	<a href="#">Packaging</a>	
HSW3-1	Reg 3.1	<a href="#">Inventory</a>	
HSW3-2	Reg 3.2 -3.3	<a href="#">Managing risks associated with hazardous substances</a>	
HSW4-2	Reg 4.5-4.6	<a href="#">Information, instruction, training and supervision</a>	
HSW5-1	Reg 5.2-5.5	<a href="#">Fire extinguishers</a>	
HSW5-2	Reg 5.6-5.13	<a href="#">Emergency response plans</a>	
HSW8-1	Reg 8.1-8.2	<a href="#">Compliance certification</a>	
HSW8-2	Reg 8.3-8.4	<a href="#">Requirements for public transportation of class 1 to 5 substances</a>	
HSW10-1	Reg 10.3	<a href="#">General controls on class 2, 3, and 4 substances</a>	
HSW10-3	Reg 10.5	<a href="#">Requirement to segregate class 2, 3, and 4 substances</a>	
HSW10-4	Reg 10.6-10.7	<a href="#">Duty of PCBU to establish a hazardous area</a>	
HSW10-5	Reg 10.8-10.20	<a href="#">Requirements to prevent unintended ignition of class 2.1.1, 2.1.2 and 3.1 substances</a>	
HSW10-10	Reg 10.26	<a href="#">Duty of PCBU to establish hazardous substance location</a>	
HSW10-12	Reg 10.30-10.33	<a href="#">Secondary containment for class 3 and 4 pooling substances</a>	
HSW10-13	Reg 10.34-10.35	<a href="#">Requirement to have compliance certificate if class 2.1.1, 2.1.2, or 3.1 substance present at hazardous substance location</a>	
HSW10-15	Reg 10.37	<a href="#">Requirement for transit depot</a>	

## Decision on application for approval to import or manufacture AGPRO AQUALON for release (APP204110)

HSW11-1	Part 11	<a href="#">Controls relating to adverse effects of unintended ignition of class 2 and 3.1 substances</a>	
HSW13-2	Reg 13.7	<a href="#">Duty of PCBU who directs work using class 6, 8.1, 8.2, or 8.3 substances to ensure equipment is appropriate</a>	
HSW13-3	Reg 13.8	<a href="#">Duty of PCBU who directs work using class 6 and 8 substances to ensure personal protective equipment used</a>	
HSW13-7	Reg 13.14 - 13.16	<a href="#">Transportation of certain class 6 and 8 substances</a>	
HSW13-8	Reg 13.17	<a href="#">Prohibition on use of substance in excess of tolerable exposure limit</a>	The TEL set for triclopyr is 0.1 mg/L
HSW13-9	Reg 13.18	<a href="#">Duty of PCBU to ensure prescribed exposure standards for class 6 substances not exceeded</a>	
HSW13-14	Reg 13.30 -33	<a href="#">Secondary containment requirements for class 6 and 8 pooling substances</a>	
HSW16-1	Part 16	<a href="#">Requirements for tank wagons and transportable containers</a>	
HSW17-1	Part 17	<a href="#">Requirements for stationary container systems</a>	