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## DECISION

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12 November 2020

### Summary

Substance	Mortein Powergard All in One Insect Killer
Application code	APP204116
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")
Applicant	RB (Hygiene Home) New Zealand Limited
Purpose of the application	To import or manufacture Mortein Powergard All in One Insect Killer for release
Date application formally received	1 October 2020
Consideration date	12 November 2020
Considered by	The Manager <sup>1</sup> of the Hazardous Substances Reassessments group of the Environmental Protection Authority ("the EPA")
Decision	<b>Approved with controls</b>
Approval code	<b>HSR100450</b>
Hazard classifications	2.1.2A, 6.3B, 6.4A, 6.5B, 9.1A, 9.4B

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

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## 1. Substance

1.1. Mortein Powergard All in One Insect Killer is an aerosol containing imiprothrin, bioallethrin and permethrin at 0.2 g/kg, 1.2 g/kg and 0.5 g/kg respectively as the active ingredients, plus other components. It is intended for use as an insecticide for the control of flying and crawling insects in the home.

## 2. Process and consultation

### Application receipt

2.1. The application was formally received on 1 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 appendix to the application
- the EPA staff advice memorandum

2.3. There was sufficient information to assess the application.

### Public notification

2.4. This application was not publicly notified under section 53(2) of the Act because it was unlikely that there would be significant public interest in the application.

### Notification to government departments

2.5. 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 Mortein Powergard All in One Insect Killer

### Legislative criteria for the application

2.6. The application was considered under section 29 of the Act, taking into account other relevant sections of the Act, the EPA Notices, the HSW Act, the HSW (HS) Regulations and the Hazardous Substances and New Organisms (Methodology) Order 1998.

## 3. Hazardous properties of Mortein Powergard All in One Insect Killer

3.1. The hazard classifications of Mortein Powergard All in One Insect Killer were determined based on the information provided by the applicant, information on the individual components of Mortein Powergard All in One Insect Killer and mixture rules.

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3.2. The EPA staff classification of Mortein Powergard All in One Insect Killer differed from that of the applicant in that the applicant classified the substance as 6.3A and the EPA classified it as 6.3B. This is because the applicant based their classifications on those identified for Mortein Powergard All in One Insect Killer in the section 26 formal determination application APP204017. After the decision for APP204017 was made, the hazard classifications for a component of the substance were updated as part of a modified reassessment. This change resulted in Mortein Powergard All in One Insect Killer's hazard classification for skin irritancy being downgraded from 6.3A to 6.3B.

**Table 1: Hazard classifications of Mortein Powergard All in One Insect Killer**

Hazard	Applicant classification	EPA classification
Flammable aerosol	2.1.2A	2.1.2A
Acute toxicity (oral)	No	NA
Acute toxicity (dermal)	No	ND
Acute toxicity (inhalation)	No	ND
Skin irritancy/corrosivity	<b>6.3A</b>	<b>6.3B</b>
Eye irritancy/corrosivity	6.4A	6.4A
Metal corrosivity	No	ND
Respiratory sensitisation	No	ND
Contact sensitisation	6.5B	6.5B
Mutagenicity	No	ND
Carcinogenicity	No	ND
Reproductive/ developmental toxicity	No	ND
Reproductive/ developmental toxicity (via lactation)	No	ND
Target organ or systemic toxicity (oral/dermal/inhalation)	No	ND
Aquatic ecotoxicity	9.1A	9.1A
Soil ecotoxicity	No	ND
Terrestrial vertebrate ecotoxicity	No	NA
Terrestrial invertebrate ecotoxicity	9.4B	9.4B

## 4. Risk and benefit assessment

### Risk assessment

4.1. The risk assessment has taken into account the hazardous properties of the substance, the considerations in Part 2 of the Act, the prescribed controls under the Act and the requirements under

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other relevant legislation such as the HSW Act, Land Transport Rule 45001, Civil Aviation Act 1990 and Maritime Transport Act 1994.

- 4.2. The human health and environmental risks have been assessed in accordance with Section 29(1) of the Act. This assessment takes into account the full life cycle of this substance, including import and manufacture, packaging, transport, storage, use and disposal.
- 4.3. The EPA determined that there is a potential for significant exposures to people and the environment during the import and use of Mortein Powergard All in One Insect Killer.
- 4.4. Mortein Powergard All in One Insect Killer has the same active ingredients at similar concentrations as other insecticides that are already approved, and is intended to be used in similar ways. Accordingly, the risks to human health and the environment are not likely to be significantly higher from the use of Mortein Powergard All in One Insect Killer compared to other approved substances containing the same active ingredients. Therefore, the assessment of risks to human health and the environment for Mortein Powergard All in One Insect Killer has been limited to a qualitative assessment.
- 4.5. The risk and benefit assessment:
  - considered the risks posed by Mortein Powergard All in One Insect Killer,
  - determined whether the risks are outweighed by the benefits,
  - determined whether any variations, additions to or deletion of the prescribed controls are required to manage the risks of the substance.

### Assessment of physical risks

- 4.6. Mortein Powergard All in One Insect Killer is a flammable aerosol and could cause damage in the instance of a spill or leak of the substance in presence of an ignition source. The magnitude of this effect would be **moderate**. The prescribed controls under HSW (HS) regulations and other relevant legislation specifically address risks associated with the flammability of this substance during storage, transport, use, disposal, and in the event of an emergency. Therefore, the likelihood of an event of this nature of occurring during the life cycle of this substance would be **highly improbable**. Accordingly, the level of residual risk from the physical hazards of Mortein Powergard All in One Insect Killer is **negligible**, provided that the prescribed controls are in place and complied with.

### Assessment of risks to human health

- 4.7. Mortein Powergard All in One Insect Killer is intended to be supplied to the domestic market. It is purchased in a ready-to-use form that is packaged in an aerosol can with spray nozzle. Users are expected to spray the substance from the aerosol can directly onto the target insect, and there is no mixing or loading required. It is **likely** that users will be exposed to the substance during application. Risks during other phases of the lifecycle are mitigated by the prescribed controls.
- 4.8. Mortein Powergard All in One Insect Killer is classified as 6.3B, 6.4A and 6.5B, so has the potential to cause skin and eye irritation and to cause skin sensitisation. Long-term skin sensitisation effects require

multiple exposures over a period of time and are considered **improbable**, while skin irritation is expected to be minor and irreversible. The substance label should state that humans, pets, clothing, bedding and surfaces in contact with food should not be sprayed. Based on the prescribed and additional controls, the risk from skin irritation and sensitisation are assessed as **negligible**.

- 4.9. An additional control to address the issue of paraesthesia (a temporary burning, itching, tingling and numbness most common in the face, occurring one to two hours after the beginning of exposure and resolving spontaneously) caused by pyrethroids, such as permethrin, is proposed for Powergard All in One Insect Killer. The label of Mortein Powergard All in One Insect Killer should include a warning statement about the potential for permethrin to cause paraesthesia, as required by clause 15 of the Hazardous Substances (Labelling) Notice 2017.
- 4.10. Eye irritation is **unlikely**, as this would involve either spraying directly at the eyes or getting substance on the hands then rubbing the eyes. Any effect is expected to be **moderate** and reversible. As such, the risk from the eye irritancy hazard is assessed as **negligible**.

## Assessment of risks to the environment

### *Aquatic ecotoxicity (9.1A)*

- 4.11. It is **very unlikely** that aquatic organisms will be exposed to Mortein Powergard All in One Insect Killer, as application is intended to be inside the home. However, exposure could occur due to an accident during transport or storage, or from spray drift if used outside.
- 4.12. Mortein Powergard All in One Insect Killer is classified as highly ecotoxic to aquatic organisms (fish and crustaceans) and as such, it is expected that exposure may result in **major** effects to organisms. The prescribed controls do not fully mitigate this risk. The classification of Mortein Powergard All in One Insect Killer triggers prescribed controls that prohibit the application of the substance directly into or onto water. The label of the substance should also state that the spray should not be allowed into or onto aquarium water. These controls mitigate the risks to aquatic organisms to a **negligible** level.

### *Toxicity to terrestrial invertebrates (9.4B)*

- 4.13. It is **highly likely** that terrestrial invertebrates will be exposed during the use of Mortein Powergard All in One Insect Killer, as crawling and flying insects in the home are the intended targets. However, non-target terrestrial invertebrates such as bees are **unlikely** to be exposed based on the intended, targeted, use pattern.
- 4.14. Synthetic pyrethroids are highly toxic to honey bees. However, Mortein Powergard All in One Insect Killer will not be used in a dispersive manner and is not intended for use on plants, where bees and other beneficial insects are likely to be found. An additional control is proposed to restrict the substance's use to indoor situations only. With its intended use pattern and the prescribed and additional controls in place, the risks to terrestrial invertebrates from the use of Mortein Powergard All in One Insect Killer will be **negligible**.

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## Reassessment

4.15. Permethrin is one of 11 synthetic pyrethroids for which grounds for reassessment have been determined (APP203683). Therefore, any substances containing permethrin may be impacted by any subsequent reassessment of permethrin.

## Cultural Assessment

4.16. A cultural assessment has been undertaken by the EPA to consider potential impacts of the application on the economic, social, and cultural well-being of Māori, and the relationship of Māori with the environment, pursuant to sections 5(b), 6(d) and 8 of the HSNO Act. The cultural assessment includes tangible and intangible taonga, such as culturally significant species, resources, and places, and the customary values, practices and uses associated with these taonga. Key findings of the assessment are outlined below.

### Impact on the relationship of Māori and their culture and traditions with their environment and taonga

4.17. This application is not likely to significantly affect the relationship of Māori and their culture and traditions with their environment and taonga, including culturally significant species, resources, and places, and the customary values, practices and uses associated with these taonga.

### Impact on the maintenance and enhancement of the capacity of people and communities to provide for their own economic, social and cultural well-being

4.18. This application is not likely to significantly affect the ability and capacity of Māori to maintain their economic, social, and cultural well-being.

### Treaty of Waitangi principles

4.19. The Principles of the Treaty of Waitangi have been considered in relation to this application, as summarised below.

*The active protection principle: the Crown has a duty to actively protect Māori interests.*

No issues arise

*The informed decision making principle: the Crown has a duty to make informed decisions.*

No issues arise

*The partnership principle: to act fairly, reasonably, and in good faith.*

No issues arise

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

4.20. No risks to society, communities or the market economy from the approval of Mortein Powergard All in One Insect Killer have been identified.

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### **New Zealand's international obligations**

4.21. No international obligations that may be impacted by the approval of Mortein Powergard All in One Insect Killer have been identified.

### **The effects of the substance being unavailable**

4.22. The likely effects of Mortein Powergard All in One Insect Killer being unavailable have been considered. Should Mortein Powergard All in One Insect Killer not be available, it could lead to less consumer choice.

## **5. Prescribed controls**

5.1. The hazard classifications of Mortein Powergard All in One Insect Killer determine a set of prescribed controls, specified by the EPA Notices<sup>2</sup> under section 77 of the 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 (e.g. Safety Data Sheets), signage and emergency management. These controls form the basis of the controls specified in Appendix A.

### **Exposure limits**

5.3. 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 Hazardous Property Controls Notice prohibits use of a class 9 substance in excess of an EEL.

5.4. The EPA has not provided ADE (Acceptable Daily Exposure) and PDE (Potential Daily Exposure) values for any components in this substance. Therefore a TEL for Mortein Powergard All in One Insect Killer, or any element or compound in the substance, is also not set as exposure to this substance is not likely to result in an appreciable toxic effect to people, provided controls on use are followed.

5.5. No EEL values are set at this time, or have been set previously for imiprothrin, bioallethrin or permethrin, as the level of risk of adverse effects to the environment has been qualitatively assessed as being negligible, with controls in place.

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

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5.6. There are Workplace Exposure Standard (WES) values currently set for components of Mortein Powergard All in One Insect Killer 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 Mortein Powergard All in One Insect Killer

## 6. Changes to prescribed controls

6.1. The following modifications to the EPA Notice controls apply to Mortein Powergard All in One Insect Killer, as set out in Table 2:

**Table 2: Justification for section 77 changes to the prescribed controls (see Appendix A for control wordings)**

Control	Justification
Label Labelling Notice	<p>The label must include a warning statement about the potential for permethrin to cause paraesthesia and how to avoid it. This requirement could be met by a labelling statement such as:</p> <ul style="list-style-type: none"> <li>- <i>“Facial skin contact may cause temporary numbness.”</i></li> </ul> <p>In order to mitigate risks associated with the use of Mortein Powergard All in One Insect Killer, the following information, or words to the same effect, must be included on the label:</p> <ul style="list-style-type: none"> <li>- <i>“Do not spray directly onto humans, pets, food, food preparation surfaces or food utensils. Additionally, any food utensils or food preparation surfaces should be thoroughly cleaned before reuse.”</i></li> <li>- <i>“Do not apply to clothing or human bedding.”</i></li> <li>- <i>“Do not touch treated surfaces until dry.”</i></li> </ul> <p>To mitigate risks associated with the 9.1A hazard classifications, the following information, or words to the same effect, must be included on the label:</p> <ul style="list-style-type: none"> <li>- <i>“Do not allow spray to get into or onto aquarium water.”</i></li> </ul> <p>To ensure that Mortein Powergard All in One Insect Killer is used in indoor situations only, the following information, or words to the same effect, must be included on the label:</p> <ul style="list-style-type: none"> <li>- <i>“For indoor use only.”</i></li> </ul>

6.2. The following additional HSNO controls apply to Mortein Powergard All in One Insect Killer under section 77A of the Act, as set out in Table 3:



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**Table 3: Justification for the section 77A additional controls (see Appendix A for the control wordings)**

Control	Justification
Use	The substance must only be used in indoor situations.

## 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 the Appendix of this document.
- 6.5. The applicant was provided an opportunity to comment on the controls as set out in this decision. The applicant asked that the labelling variations requiring the statements '*spray only onto surfaces*' and '*do not touch treated surfaces until dry*' be removed, as they did not think these were applicable and may conflict with usage instructions. The EPA removed the first label statement from the controls, but left the second statement as this was considered applicable to the substance's use pattern.

## 7. Summary

- 7.1. After taking into account the prescribed controls and any variations to these controls, it was concluded that the residual level of risk of any potentially significant adverse effects, is **negligible**.

## 8. Decision

- 8.1. Pursuant to section 29 of the Act, I have considered this application for approval under section 28 of the Act. I have considered the effects of this substance throughout its life cycle, the controls that may be imposed on this substance and the likely effects of this substance being unavailable. I have also taken into account the considerations set out in Part 2 of the Act.
- 8.2. I consider that, with controls in place, the risks to human health and to the environment are negligible, and the benefits associated with the release of this substance will outweigh the adverse effects. Therefore, I consider that the application to import or manufacture Mortein Powergard All in One Insect Killer for release is approved with controls in accordance with section 29 of the Act and clause 26 of the Hazardous Substances and New Organisms (Methodology) Order 1998.

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Dr Clark Ehlers

Date: 12 November 2020

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**Manager, Hazardous Substances Reassessments, EPA**

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## Appendix: Controls applying to Mortein Powergard All in One Insect Killer

### 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>

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## HSNO Additional Controls and Modifications to Controls

Control Code	HSNO Act	Control
Label	Section 77 variation to Labelling Notice	<p>The label must include a warning statement about the potential for permethrin to cause paraesthesia and how to avoid it. This requirement could be met by a labelling statement such as:</p> <ul style="list-style-type: none"> <li>- <i>“Facial skin contact may cause temporary numbness.”</i></li> </ul> <p>The label must include the following statements, or words to the same effect:</p> <ul style="list-style-type: none"> <li>- <i>“Do not spray directly onto humans, pets, food, food preparation surfaces or food utensils. Additionally, any food utensils or food preparation surfaces should be thoroughly cleaned before reuse.”</i></li> <li>- <i>“Do not apply to clothing or human bedding.”</i></li> <li>- <i>“Do not touch treated surfaces until dry.”</i></li> <li>- <i>“Spray only onto surfaces.”</i></li> <li>- <i>“Do not allow spray to get into or onto aquarium water.”</i></li> <li>- <i>“For indoor use only.”</i></li> </ul>
Use	Section 77A	The substance must only be used in indoor situations.

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## HSW Requirements

Note: these requirements are not set for the substance under this approval but apply in their own right under the HSW legislation according to the classification of the substance. They are listed here for information purposes only.

Code	Regulation	Description
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>
HSW10-2	Reg 10.4	<a href="#">Substances that must be secured</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>
HSW10-13	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>
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>

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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>
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>
HSW15-1	Part 15	<a href="#">Requirements for gases under pressure</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>

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## Definitions

Terms used in the controls have the same meaning as defined in the Act, EPA Notices or regulations made under the Act. In addition, the following definitions apply:

Term	Definition
ai	Active ingredient - the biologically active chemical in a pesticide product
Ground-based application	Ground-based methods of applying pesticides include, but are not limited to, application by ground boom, airblast or knapsack, and do not include aerial application methods.
Improbable	Considered to only occur in very rare circumstances.
Likely	Good chance that it may occur under normal operating conditions.
Major	<p>A descriptor used to describe the magnitude of the effect of a substance. This descriptor is used when one or more of the following impacts are met:</p> <ul style="list-style-type: none"> <li>significant irreversible adverse health effects affecting individuals and requiring hospitalisation and/or reversible adverse health effects reaching beyond the immediate community</li> <li>long term/irreversible damage to localised ecosystem but no species loss</li> <li>measurable adverse effect on GDP, some long-term (more than five years) job losses</li> <li>social disruption to surrounding community, including some evacuations.</li> </ul>
Minor	<p>A descriptor used to describe the magnitude of the effect of a substance. This descriptor is used when one or more of the following impacts are met:</p> <ul style="list-style-type: none"> <li>mild reversible short-term adverse health effects to identified and isolated groups</li> <li>localised and contained reversible environmental impact, some local plant or animal communities temporarily damaged, no discernible ecosystem impact or species damage</li> <li>regional adverse economic effects on small organisations (businesses, individuals) lasting less than six months, temporary job losses</li> <li>potential social disruption (community placed on alert).</li> </ul>
Moderate	<p>A descriptor used to describe the magnitude of the effect of a substance. This descriptor is used when one or more of the following impacts are met:</p> <ul style="list-style-type: none"> <li>minor irreversible health effects to individuals and/or reversible medium-term adverse health effects to larger (but surrounding) community (requiring hospitalisation)</li> <li>measurable long term damage to local plant and animal communities, but no obvious spread beyond defined boundaries, medium term individual ecosystem damage, no species damage</li> <li>medium term (one to five years) regional adverse economic effects with some national implications, medium term job losses</li> <li>some social disruption (for example, people delayed).</li> </ul>
Very likely	Almost certain or expected to occur if all conditions met.
Water	Has the meaning provided in the HPC Notice.

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Water body	Includes all natural and modified/artificial water courses such as reservoirs, irrigation canals, water-supply races, canals for the supply of water for electricity generation or farm drainage, ditches, streams, rivers, ponds and lakes. For clarity, it excludes fully covered pipes, tanks or other enclosed structures, puddles or groundwater.
Watercourse or Waterway	Includes every river, stream, passage, and channel on or under the ground, whether natural or not, through which water flows, whether continuously or intermittently.

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