



DECISION

10 February 2017

1. Summary

Substance	Rabbit Haemorrhagic Disease Virus (K5 variant)
Application code	APP203034
Application type	Determination of Hazardous Substance
Applicant	Canterbury Regional Council (Environment Canterbury)
Application purpose	To determine if Rabbit Haemorrhagic Disease Virus (K5 variant) lyophilised powder is a hazardous substance.
Date application formally received	5 October 2016
Consideration date	3 February 2017
Considered by	The Chief Executive ¹ of the Environmental Protection Authority (“the EPA”)
Decision	Non-hazardous substance.

¹ The Chief Executive of the EPA has made the decision on this application under delegated authority in accordance with section 19 of the Act.

2. Process and notification

Application receipt

- 2.1. The application was formally received on 5 October 2016 pursuant to section 26 of the Hazardous Substances and New Organisms Act 1996 (“the Act”).

Information available for consideration

- 2.2. WorkSafe New Zealand, the Department of Conservation and the Ministry for Primary Industries (ACVM group) were advised of the application on 5 October 2016 and requested to provide any relevant information. No information was provided.
- 2.3. The information available for consideration comprises:
 - the application form
 - confidential appendices to the application
- 2.4. I consider I have sufficient information to determine the application.

Legislative criteria

- 2.5. Pursuant to section 26 of the Act, I have considered this application to determine whether Rabbit Haemorrhagic Disease Virus (K5 variant) lyophilised powder is a hazardous substance. In doing so, I have applied the relevant sections of the Act.

3. Decision

- 3.1. Rabbit Haemorrhagic Disease Virus (K5 variant) lyophilised powder contains an organism as defined in the Act, namely rabbit haemorrhagic disease virus. However, rabbit haemorrhagic disease virus is not a new organism as defined in the Act by virtue of the exception contained in s 2A(4) of the Act.
- 3.2. Section 2A(4) provides an express statutory carve-out for Rabbit Haemorrhagic Disease Virus. It represents a decision taken by Parliament to place Rabbit Haemorrhagic Disease Virus outside the regulatory scope of the Act.
- 3.3. In considering the application for a s 26 determination, the EPA has undertaken an analysis of the properties of Rabbit Haemorrhagic Disease Virus (K5 variant) lyophilised powder other than the Rabbit Haemorrhagic Disease Virus itself. Those properties are not hazardous. Nor do they alter the fundamental nature of the powder as containing Rabbit Haemorrhagic Disease Virus which, as just noted, is exempted under the Act. As such, Rabbit Haemorrhagic Disease Virus (K5 variant) lyophilised powder is not a hazardous substance as defined in the Act.
- 3.4. It necessarily follows from this that my determinations under s 26 of the Act are that:

- (a) Rabbit haemorrhagic disease virus (K5 variant) lyophilised powder is not a hazardous substance as defined in the Act (s 26(3)(a));
- (b) Rabbit haemorrhagic disease virus (K5 variant) lyophilised powder cannot be classified under the Act (s 26(3)(b));
- (c) No approvals under the Act can or do apply, and none are required to be obtained, for Rabbit haemorrhagic disease virus (K5 variant) lyophilised powder (s 26(3)(c)).

3.5. For the avoidance of any doubt this decision has not involved, and is not based on, an assessment of the risks or hazards presented by the Rabbit haemorrhagic disease virus. As set out above above, Rabbit haemorrhagic disease virus is outside the regulatory scope of the Act as a result of the startory carve-out in s 2A(4) of the Act.



Date: 10 February 2017

Dr Allan L. Freeth

Chief Executive, EPA
