

DIRECTION & MINUTE OF THE DECISION-MAKING COMMITTEE

Hazardous Substances and New Organisms Act 1996 (“HSNO Act”)

Application APP203660: modified reassessment of methyl bromide

Direction & Minute WGT014 of the Decision-making Committee (DMC) – 4 June 2020

CALMET dataset

1. On 19 March 2020, a joint statement in respect of air dispersion modelling was signed by four experts. This included an agreement amongst the experts that an up-to-date CALMET dataset (an important input in the new air dispersion modelling the applicant is conducting) was required, and agreement as to who they thought was in the best position to provide this data.
2. On 4 May, in the DMC’s twelfth direction and minute (WGT012), the Environmental Protection Authority (EPA) was directed to discuss the possibility of pre-hearing discussions between the Applicant and the submitter Bay of Plenty Regional Council on outstanding issues surrounding this CALMET dataset. The Applicant requested that the EPA facilitate such a meeting, which occurred on 13 May 2020, under the Hazardous Substances and New Organisms (Methodology) Order 1998, Schedule, clause 2(2)(d).
3. On 19 May 2020, the DMC received a report from the EPA as to the outcome of the 13 May pre-hearing discussion. The EPA suggested that there was a basis for a series of questions to be put to the experts who had previously provided the joint statement, to attempt to clarify technical issues with the air dispersion modelling.

Late submissions

4. The EPA has received two requests to be allowed to provide a late submission on the methyl bromide reassessment. These requests are from new submitters who did not provide information in the original submission period.
5. The DMC has considered these requests, though note that if these late submissions were to be accepted then, in order to meet considerations of fairness and natural justice, further additional late submissions would also need to be considered. This would involve waiving the original time frame for submissions to a later date. This could significantly impact the current critical time frames in the reassessment process.

6. The DMC consider that a significant time has elapsed since the original submission period closed, such that there has been significant progression of the reassessment. Any reopening of submissions would create a precedent whereby further information from other parties could be provided to the process which could significantly set things back in respect of timing.
7. As a result, the DMC do not consider that it would be beneficial to the reassessment to open for further submissions.

Direction

8. The DMC direct the EPA to decline receipt of the late submissions.
9. Given the previous joint statement, and the report of the pre-hearing discussions, the DMC direct that the following questions are considered by the experts and a further joint statement is provided by 19 June 2020, setting out their responses to these questions.
 - a. In the Joint Statement of 19 March 2020, the experts “agree[d] that using a 2018 and 2019 CALMET data set would be useful to match up with Genera’s operational records and recent ambient monitoring. This is necessary for robust model validation and to cover a 5 year period that the experts consider is best practice for the circumstances of this project.” During a recent meeting to discuss the provision of the CALMET dataset, Jenny Barclay (Atmospheric Science Global, ASG; the expert nominated by BOPRC) indicated that although useful this dataset is not required for Sullivans to be able to construct and validate a scientifically defensible revised model. Please can the experts indicate:
 - i. whether such an updated CALMET dataset is a necessary requirement for the updated modelling, or would provide for a significantly improved model and subsequent risk assessment
 - ii. whether the results of the updated modelling would be valid without such an updated CALMET dataset
 - iii. what level of uncertainty would result from using the existing 2014-16 CALMET dataset compared to a new (2017-)2018-19 CALMET dataset?
 - b. In the same Joint Statement, the experts “agree[d] that the Bay of Plenty Regional Council is well placed to undertake [the development of the 2018-19 dataset using the ASG methods], given that they were responsible for the 2014 – 2016 data.” We now understand that this was meant to say that ASG would develop the updated CALMET dataset. Please can the experts:
 - i. indicate whether this updated understanding that you agreed that ASG was the best placed to prepare the CALMET dataset is correct
 - ii. indicate whether it is suitable for Sullivans to prepare this dataset instead of ASG?
 - iii. provide, for clarity, the reference material describing the approach to be followed to create the CALMET dataset?
11. The DMC will continue to issue Directions and Minutes as necessary to advise parties to the process of further communications or procedural matters.

For the Decision-making Committee:



Tipene Wilson
Chairperson

4 June 2020
Date