

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 WGT021 of the Decision-making Committee (DMC) – 12 August 2020

Background

1. The hearing for this application commenced on Tuesday 11 August 2020. In the Direction and Minute WGT016, the DMC indicated that the hearing will continue during the week ending 14 August and on 17 August 2020.
2. In relation to this, in WGT016, the DMC directed that all parties must submit all information and evidence to be considered for the application and/or presented at the hearing in relation to the application or submissions to the Environmental Protection Authority (EPA) by 5 pm on 27 July 2020. This aligns with the requirements in section 58(2) of the HSNO Act which requires that the applicant and submitters be notified of all further information a minimum of 10 working days prior to the commencement of the hearing.
3. The original submission period closed on 2 September 2019. This includes a two working day timeframe extension in response to submitter requests (under section 52 of the HSNO Act).

Late submissions of evidence

4. The DMC notes that multiple submitters have provided evidence in relation to their submissions after the timeframe outlined in the Direction and Minute WGT016.
5. The DMC notes that it has the ability to waive a timeframe under the HSNO Act if it deems it necessary, and if it is considered that it would not prejudice any party to which the timeframe relates.
6. In regards to the specific issue of late submission of evidence the DMC considers that this should be addressed on a case by case basis, rather than by the application of a broad waiver.

Late submission of evidence – BioVapor

7. The DMC notes that Lance Dear, Managing Director of BioVapor (International) Limited (“BioVapor”), provided evidence in relation to Genera’s submission at 6.33pm on 7 August 2020,

providing further evidence to replace a blank document at 10.08am on 10 August 2020. Both of these times are therefore after the submission timeframe.

8. This evidence provides information on an alternate technology developed by BioVapor.
9. The DMC notes that the related correspondence from Genera appreciates the support indicated by BioVapor.
10. The DMC also notes that Genera has not requested, either in that correspondence or separately, for the BioVapor information to be provided as part of their submission or evidence at the hearing.
11. The DMC has considered this request, and for reasons pertaining to the timing of the request, natural justice, and the scope of the request has decided to decline the late request for submission of evidence.

Directions

12. The DMC directs the following.
 - a. The late evidence from BioVapor (International) Limited is not accepted.
13. 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:



12 August 2020

Tipene Wilson
Chairperson

Date