

Response of TMFAG to the

Direction & Minute WGT034 of the Decision-making Committee (DMC) – 6 May 2021

1. In WGT034, the DMC has directed that feedback from all parties on the “additional information discussed in WGT033 and above” is due by the close of business on 13 May 2021.
2. The additional information referred to includes reports commissioned by WorkSafe (with the co-operation of the fumigator Genera). Also, a further fumigation modelling report from Golder dated 29 January 2021 (the “Golder January 2021 Report”) and a further report from Sullivan Environmental Consulting (SEC) dated 29 January 2021 (the “SEC January 2021 Report”) submitted by the applicant STIMBR and comments on those reports by BOPRC.

TMFAG Feedback on the additional information referred to in WGT034

3. TMFAG’s comments on the additional information are made without prejudice to its primary position (set out below) that the SEC January 2021 Report and the Golder January 2021 Report should be struck from the record, together with all comments on those reports.
4. TMFAG supports the comments from the BOPRC (12 April 2021) which identify that the WorkSafe commissioned reports lack any real-world analysis as to how Methyl Bromide is actually applied by operators such as Genera or how Ports operate:

“The size of the log fumigation events summarised in the AirMatters’ report which were reported separately as AirMatters interim reports 12-20 are relatively small compared to normal practise, with **six single low row events and one double log row ventilation monitored**. This also calls into question just how representative of typical fumigation practise the results are.” (Emphasis added).

5. TMFAG also considers that the latest suggestions as to conditions for use of Methyl Bromide in the SEC January 2021 Report, appears to be an example of clutching at straws. The report tries to minimise the alarming peer review criticism on the lack of proper probative sampling and monitoring data. Despite lacking in detail, the monitoring samples still prove that Methyl Bromide has been applied unsafely outside of the recommended quantities and outside the recommended buffer distances, and it is clear that this has been the case at the Port of Tauranga for at least the past decade. The SEC January 2021 Report suggests restrictions on levels of log stacks, and restrictions on Methyl Bromide use to certain times of day and subject to prevailing winds. At the same time, the size of fumigation events, speed of release, and timings of ventilation are still areas of uncertainty, without proper data or suggested controls.
6. As commented by the BOPRC, some of the types of mitigation suggested by STIMBR such as in the SEC January 2021 Report, will also practicably be impossible to monitor and enforce for Regulatory Authorities. The proposal for timing and log stack size restrictions ignore the time pressures for cargo handling on the Port docks and narrow window of time for ships to enter and exit ports, with loading completed. Efficiency and time restrictions were also discussed by logging Industry submitters at the EPA hearing. It is also inconsistent with the pattern of behaviours of how operators at the Ports have managed application of Methyl Bromide in the past, including where consent condition statutory compliance obligations have been ignored by operators and their workers in the ‘real time’ context.

Process being adopted by the DMC

7. TMFAG notes that STIMBR is being allowed additional time to comment on its own reports and to comment on comments on its own reports. These are reports that were submitted after the hearing and were not called for by the DMC.
8. TMFAG understand that, once the comments of STIMBR and others are received, TAS and ASG will be asked to independently review the Golder January 2021 Report. The DMC has not set a date for that to be completed. The DMC has not stated whether it will allow further comments on the TAS and ASG review of the Golder January 2021 Report.
9. All the while, the use of Methyl Bromide at the Port of Tauranga and elsewhere continues, unabated, in breach of the requirements in the 2010 EPA Reassessment (with the obligation to comply with that decision being suspended time and again).
10. TMFAG has given its comments on the additional information above.
11. However, TMFAG's primary submission is that enough is enough. This process cannot be allowed to go on *ad infinitum*.
12. The Golder January 2021 Report and the SEC January 2021 Report should be removed from the record and all references and comments on those reports should be removed from the record. That means that no further assessment by TAS and ASG will be required and the DMC should make its decision on the basis of the record excluding those reports (and excluding all comments on those reports).
13. All of the modelling makes it clear that the Tauranga Port is a wholly unsuitable location for Methyl Bromide fumigation of log stacks or ship holds. The EPA must not allow this practice to continue without requiring recapture of 100% to the level of 5ppm as was the direction in the 2010 Reassessment.

Submission of TMFAG

13 May 2021