

DIRECTION & MINUTE OF THE DECISION-MAKING COMMITTEE

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

Application APP203989: Amendment to the Firefighting Chemicals Group Standard

Direction & Minute WGT004 of the Decision-making Committee (DMC) – 12 November 2020

Background

1. The hearing for this application took place on Thursday 05 and Friday 06 November 2020.
2. In relation to this, in the Direction and Minute WGT002, the DMC directed that all information to be considered by the DMC be provided to the Environmental Protection Authority (EPA) by 5 pm on 22 October 2020. This was to allow for the requirement in section 58(2) of the HSNO Act that the applicant and submitters be notified of all further information obtained by the DMC a minimum of 10 working days prior to the commencement of the hearing.
3. The original submission period closed on Monday 2 December 2019, but this was extended to Monday 16 December 2019 (under section 52 of the HSNO Act) to allow more time for key stakeholders to make submissions.

Late submissions

4. The DMC notes that submitters and the EPA project team have provided new information after the timeframe outlined in the Direction and Minute WGT002.
5. The DMC notes that it has the ability to extend this timeframe under section 59(4) and (5) of the HSNO Act if it is considered that it would not unduly prejudice submitters.
6. In regards to the specific issue of late submission of information in relation to a submission, the DMC considers that this should be addressed on a case by case basis, rather than by the application of a broad extension.

Late submission of information – Air New Zealand Limited

7. The DMC notes that Air New Zealand, has provided additional information in relation to their original submission on 06 November 2020. This time is therefore after the timeframe of 22 October 2020.

8. Air New Zealand indicated that they held this information during their presentation to the hearing and offered to provide it upon request from the DMC. The DMC accepted this offer.
9. The DMC notes that the late information takes the form of requests of changes to the proposed amendments to the group standard. Further to this, Air New Zealand also provided some information to the DMC on 10 November 2020 (after the hearing was adjourned) in order to respond to a question asked by the EPA during their oral submission at the hearing.
10. The DMC has considered this late submission of information and any relevant consideration factors, including the timing of the request, natural justice, and the scope of the request and has decided to extend the time period for submission of information until 06 November 2020. The DMC is satisfied that submitters will not be unduly prejudiced by this extension.
11. It is at the discretion of the DMC as to whether it wishes to receive and consider late information provided after the hearing has been adjourned. The DMC has also decided to accept the information provided by Air New Zealand on 10 November 2020, after the hearing was adjourned, because it is considered relevant to the DMC's deliberations. The DMC is satisfied that submitters will not be unduly prejudiced by this.

Late submission of information – Fire and Emergency New Zealand

12. The DMC notes that Fire and Emergency New Zealand, has provided additional information in relation to their original submission on 06 November 2020. This time is therefore after the timeframe of 22 October 2020.
13. Fire and Emergency New Zealand provided physical copies of this information during their presentation to the hearing. The DMC accepted these documents during the presentation.
14. The DMC notes that the late information takes the form of a written summary of Fire and Emergency New Zealand's oral presentation at the hearing.
15. The DMC has considered this late submission of information and any relevant consideration factors, including the timing of the request, natural justice, and the scope of the request and has decided to extend the time period for submission of this information until 06 November 2020. The DMC is satisfied that submitters will not be unduly prejudiced by this extension.

Late submission of information – Nigel Holmes- EPA expert witness

16. The DMC notes that Nigel Holmes, acting in the capacity as expert witness for the EPA, has provided additional information on 06 November 2020. This time is therefore after the timeframe of 22 October 2020.
17. This information was presented in response to questions raised by submitters during the hearing. In particular to address questions on regulation established for PFAS substances in Queensland, which has been referred to as being comparable to the regulatory approach covered in the amendments proposed by the EPA.
18. The DMC has considered this late submission of information and any relevant consideration factors, including the timing of the request, natural justice, and the scope of the request and has decided to extend the time period for submission of this information until 06 November 2020. The DMC is satisfied that submitters will not be unduly prejudiced by this extension.

Directions

19. The DMC directs the following.
 - a. The time period for the receipt of information from Air New Zealand in relation to their submission is extended until 06 November 2020 and, therefore, the late information from Air New Zealand is accepted. The DMC also accepts the information provided by Air New Zealand on 10 November 2020, after the hearing was adjourned.
 - b. The time period for the receipt of information from Fire and Emergency New Zealand in relation to their submission is extended until 06 November 2020 and, therefore, the late information from Fire and Emergency New Zealand is accepted.
 - c. The time period for the receipt of information from the EPA is extended until 06 November 2020 and, therefore, the late information from the EPA is accepted.
20. 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 November 2020

Dr Ngaire Phillips
Chairperson

Date