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Secretariat
National Standard Subcommittee OISCC
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By email

Reject DAFWA application to compromise the National Organic and Biodynamic Standard

Dear Sir/Ms:

We recommend that Organic Industry Standards and Certification Council (OISCC) reject the Department of Agriculture and Food Western Australia's (DAFWA) application to replace zero tolerance for GM contamination with a 0.9% threshold, in the Standard for Organic and Biodynamic produce. We also recommend that the OISCC support the passage of Farmer Protection to compensate organic and GM-free farmers and supply chains where GM contamination occurs and Sensitive Site laws to minimise the risk.

DAFWA's application has no merit

The DAFWA application is an opportunistic and ill-conceived reaction to temporary and local issues, particularly the judgement in the Marsh vs Baxter case which is now on appeal. It also seeks to advance the interests of the GM industry and the one-quarter of WA grain growers who grow GM canola.

The application ignores the vast majority of farmers who want to remain GM-free. It also fails to take into account the many consequent changes that would be required in other parts of the Standard if its proposal were adopted, referred to in Appendix A to this letter.

The merits of the application must be assessed in the context of the Organic Standard's commitment to regulate or exclude the products of other new technologies that also have zero or limited history of safe use in the human food supply – genetically manipulated foods, foods and food packaging made using nano-materials, irradiated foods, foods made using synthetic biology, and many other new technologies under development.

Compromising the organic standard as DAFWA proposes, by accepting GM contamination, would invite other industries promoting their new food technologies to also seek the relaxation of standards that would compromise the thresholds of acceptance of, and contamination by, their products.

As a result, 'organic' produce would be at serious risk of becoming indistinguishable from conventionally produced foods, with MRLs and ADIs of allowable contamination set in consultation with the chemical and related industries. Organic produce would then attract no premium prices for its unique qualities of assured purity and quality, and would lose its constituency of dedicated shoppers and the organic advocates who buy its products,

The DAFWA application to allow up to 0.9% GM contamination in organic production systems would also ignore or leave unresolved the bigger GM contamination problems that all GM-free growers, organic and conventional, face as:

- Marsh vs Baxter case is on appeal and unresolved, with the final outcome unknown;
- conventional GM-free farmers (as well as organic growers) are at risk of losing their GM-free premiums – now running at up to \$70/tonne in WA. The DAFWA application appears to both ignore and undermine this benefit to GM-free growers;
- the responsibility of GM growers to contain their crops and not compromise the rights of other growers is ignored;
- the whole standard would need to be reviewed and possibly amended to take account of the contamination potential of other new and novel food processing technologies that are prohibited or regulated by the standard, such as nano-materials and irradiation;
- more challenges to the integrity of the organic standard would be created as, for instance, the users of nano-materials or irradiation in food production or packaging used the precedent to seek allowable thresholds for contamination of organics with their prohibited products;
- consequential changes would be triggered in the rest of the standard on genetic manipulation throughout supply chains, as detailed in Appendix A.

Inequitable favouritism to GM technology, based on false promises

GM growers are still no more than a quarter of West Australia's 4,300 grain growers (according to the pro-GM PGA) and are an even smaller proportion of oilseed growers nationally. Yet the DAFWA application would fundamentally compromise the integrity of the organic standard for the corporate GM seed owners and a noisy minority of farmers who choose to grow polluting GM canola.

Governments knowingly and deliberately backed the agrochemical and GM industry giants against organic and GM-free farmers on issues of liability for contamination, because of the false promises made for the future products of GM techniques. The Commonwealth Agriculture Department paper: "Liability Issues Associated with GM Crops in Australia", September 2003 concluded that:

"When drafting the Gene Technology Act 2000 (Cth), the legislature considered liability issues associated with GMOs and chose not to implement a specific liability regime for damage caused by GMOs. ... where the activities of one farmer affect a neighbour, recourse is to existing statute and common law."

http://www.daff.gov.au/__data/assets/pdf_file/0004/182821/liability_issues_paper_final.pdf

So farmer vs farmer in court became inevitable, if a GM-contaminated farmer (such as Steve Marsh) sought redress for economic loss. Under seed contracts, GM companies transfer liability for GM contamination onto the GM grower and, indirectly, to their vulnerable neighbours. Yet the companies

retain ownership of their patented GM seed, merely 'renting' it to growers for one season, as replanting is prohibited. Thus, the companies get off scot free but reap the benefits.

The enormously expensive Marsh vs Baxter case before Justice Kenneth Martin in the WA Supreme Court probably means GM affected farmers (conventional and organic) have lost their option of compensation through the courts and common law that governments promised would protect them.

The Farmer Protection laws that we advocate would restore fairness and security to the GM regulatory system and should be passed immediately. They would require the collection of a levy on all GM seed sales so the GM industry would pay for the impacts of its technology. At just 50 cents/kg, according to GM industry figures \$275,000 would have been raised from GM canola seed sales in the 2013 season, and over \$400,000 this year. Thus landholders (like Steve Marsh, Bob Mackley, and others) suffering damage and economic loss caused by GM contamination could be automatically compensated from the fund without suing their GM neighbour or risking their farm.

DAFWA application flawed

The core problem with the DAFWA approach is that it solely serves the short-term needs of the GMO industry and its licensees. The GM industry wants to escape any liability for the acknowledged negative impacts of GM crops and foods on other sectors of the food industry, from seed to stomach. A measure of the GM industry's refusal to accept responsibility for its product is that under the contracts of GM seed sales, GM growers accept all liability for GM contamination but receive no ownership rights over the seed. Using GM seed for any other purposes than those mandated by the companies is prohibited in the contracts of sale and the reporting requirements on its fate are stringent.

DAFWA's proposal is out of step with its own reality. It acknowledges the contamination challenges to organic and other sensitive production systems that rely for their integrity and success on the purity of their products. <https://www.agric.wa.gov.au/grains/sensitive-sites-western-australia> Its program locates and reports on sensitive sites, and supports grower plans to protect farm systems that are sensitive to impacts from threatening activities on nearby land - especially for certified organic, biodynamic, aquaculture, viticulture, horticulture & tree nurseries. This refutes DAFWA's contention that diverse systems can successfully coexist in proximity to each other. The location of commercial GM canola sites is not published, so organic growers have little prospect of successfully avoiding GM contamination.

In its application to OISCC, DAFWA claims that: "Many pesticides are excluded from organic and biodynamic production systems as it is known that these are toxic." Thus, DAFWA admits the legitimacy of excluding synthetic chemicals from organic production systems because of their toxicity. Yet, in accepting that, it ignores the regulatory roles and responsibilities of the APVMA (which sets MRLs) to optimize on farm use of these toxics under Good Agricultural Practice and FSANZ (which sets ADIs) to minimise the adverse health impacts (with the exception of cancers) of life-time exposure to toxic pesticide residues in the food supply.

But then DAFWA seeks to segue immediately into the illogical claim that: "In contrast, the standard excludes all GM organisms and GM products regardless of whether the GM organism or GM product is harmful. This treatment of GM organisms ignores the work of the Australian Gene Technology Regulator in assessing the risk of harm from GM organisms." Yes, regulation of GM organisms is important but such regulations also apply to toxic pesticides.

Moreover, neither regulatory system delivers the absolute assurance of safety that DAFWA appears to assume. The OGTR, as a result of its assessments of GM organisms, merely concludes (using the unscientific logic of 'substantial equivalence') that specific GM events (each the product of a single GM

transformation) are as safe as their conventional counterparts. A chemical analysis conducted by the applicant for registration is the main basis for the OGTR's conclusions. Other evidence is ignored, such as the results of animal feeding studies.

DAFWA also claims that: "The current zero tolerance to GM material in Australian organic products is more stringent than Australian trading partners and so may work as a disincentive to organic and biodynamic producers." This is illogical as high standards enhance our access to any export and local market, many at premium prices. Moreover, our proposals for Farmer Protection laws and a fairer and more open application of the Sensitive Sites rules in WA, would provide assurances and incentives for new growers to enter production.

While we may be able to agree that: "Australian growers should be able to choose production systems to produce products to meet customer requirements," it defies logic to suppose that mixing organic and conventional production systems and supply chains in the way DAFWA proposes would be practical or desirable in maintaining the integrity of GM-free and organic production systems and supply chains. DAFWA defies the fundamental logic of the organic standard and proposes to fatally compromise the work of organic certifiers with its claim that: "If a producer wishes to produce a GM crop for one customer they should have the choice to produce organic product on the same property or using the same production equipment as long as reasonable steps are taken to ensure the quality of the final products."

This is really the rationale for a threshold of "**routine and continuous**" 0.9% of allowable GM contamination in organic food. Even Food Standard 1.5.2 does not permit this, when it approves a 1% threshold for "**adventitious (accidental)**" contamination in unlabelled GM products.

Compromising the Organic Standard - other negative changes

The organic standard prohibits a range of food technologies, including GM, which have a zero or minimal history of safe use in the human food supply, including all those presently in Food Standard 1.5 - novel, GM and irradiated foods. They must undergo pre-market regulatory assessment and their products must be labelled.

Amendments proposed in the DAFWA application, to set a threshold of allowable contamination of GM product, would likely trigger a review of all aspects of prohibitions with zero tolerance now set in the standard, with knock on effects to the use or presence of the products of irradiation, nano-materials and other novel food production methods.

Watering down the organic standard as DAFWA proposes would serve no positive purpose for the organic industry, as the most pressing economic threats from other GM contamination – for instance, in imported animal feed - would remain.

Instead of watering down the organic standard, governments should pass Farmer Protection laws, as we propose, to compensate organic and non-GM farmers where they sustain GM-related economic loss, without going to court.

To allow GM to contaminate the Australian organic food supply would be foolhardy as GM is under scientific, agronomic and shopper scrutiny and rejection. The products of GM techniques have never gained public acceptance. They have failed to deliver on their many promises of drought and salt tolerance, nitrogen fixation in grains and healthier foods, etc. They stalled in 1996 when Monsanto launched Roundup tolerant and Bt insect toxin traits in soy, corn, canola and cotton. Little has been added since.

International trends

US farmers and shoppers were seen as complacent adopters of GM technology and its products. But farmers now have glyphosate resistant superweeds on 70 million acres of US farms.

<http://www.scientificamerican.com/article/farmers-fight-explosion-of-superweeds/> and shoppers are demanding GM labelling nation-wide.

Doctors and the public report health problems improving when GM is removed from their diet.

<http://www.responsibletechnology.org/gmo-dangers/health-risks/articles-about-risks-by-jeffrey-smith/Doctors-Warn-Avoid-Genetically-Modified-Food-May-2009> which mirrors other anecdotal reports of improved animal health among those transferred exclusively to GM-free feed.

<https://www.youtube.com/watch?v=yyuOTKkqZ9M&feature=youtu.be>

Regulators approve toxic chemicals and GM organisms on a case-by-case basis, using a 'science-based' methodology that is unscientific because it sets no benchmarks or standards in advance. Also, assessors do not consider total toxic load from the accumulation, mixing and synergistic impacts of chemical residues. The exposure of children in utero or in breast feeding are insufficiently explored.

<http://www.centerforfoodsafety.org/issues/311/ge-foods/press-releases/3321/citing-health-risks-doctors-and-scientists-urge-congress-to-reject-potent-herbicide-mix-for-genetically-engineered-crops>

GM crops harm experimental animals and probably us

There is a growing body of scientific and other evidence that some varieties of GM may be unsafe as they harm experimental animals. The second edition of GMO Myths and Truths, by scientists with impeccable credentials, collates and explains this evidence.

<http://earthopensource.org/index.php/reports/gmo-myths-and-truths>

There is no scientific consensus on the safety of GM foods, with hundreds of scientists signing the statement: <http://www.ensser.org/increasing-public-information/no-scientific-consensus-on-gmo-safety/>

Prof. Seralini's long term rat feeding study of GM corn NK603 and its associated herbicide Roundup is republished in the scientific literature after its earlier retraction for being 'inconclusive'.

<http://www.gmoseralini.org/republication-seralini-study-science-speaks/> All scientific findings must be inconclusive as they must be open to new evidence that could lead to refutation.

Conclusion

Organic and biodynamic foods help protect the health and well-being of those who choose to eat them instead of conventionally produced foods. The Organic Standard has been agreed by all parties and DAFWA's proposal to compromise it could well lead to a loss of integrity, credibility and confidence among practitioners and the general public. The local and temporary problem that DAFWA perceives to need fixing would fundamentally compromise the National and International Organic Standards.

To solve DAFWA's problem, Australian Governments must be encouraged to adopt other policies on liability for GM contamination and the impacts of other novel technologies. Farmer Protection laws would provide a ready source of compensation to any landholder or supply chain manager that suffers economic loss from GM contamination. And a properly framed and enforced Sensitive Sites Act would also ameliorate the GM contamination problem.

We therefore recommend that OISCC reject the DAFWA application and resolve to advocate for the Farmer Protection and Sensitive Site policies that we propose.

Yours sincerely,



Executive Director

Supporting organisations

MADGE, GM-free Australia Alliance, FOODwatch, PAGWA, Sovereign Seeds WA, Organic Association of WA

Appendix A

Following are some references in the Organic Standard to aspects of GM regulation and prohibition that would require review if DAFWA's proposed amendments were adopted. Irradiation and nano-materials would also, in due course, require reassessment along with emerging food technologies such as synthetic biology <http://www.etcgroup.org/issues/synthetic-biology> - novel organisms that have never existed in nature before and are created from scratch – and other emerging forms of genetic manipulation such as RNA interference http://en.wikipedia.org/wiki/RNA_interference

We recommend that if any such far-reaching review were held, it should engage the whole organic industry and also the general public as we support the organic industry with our food budgets.

1.3 This Standard applies to the following products:

- a. unprocessed products from plants, animals and other cultured organisms; and
- b. processed products derived mainly from (a) above.

1.4 Paragraph 1.3 (above) does not apply, where these terms clearly have no connection with the production method.

1.5 Products or by-products that:

- a. are derived from genetic modification technology, or**
- b. treated with ionising radiation, or**
- c. which interfere with the natural metabolism of livestock and plants,
- d. that are manufactured / produced using nanotechnology,**
- e. are not compatible with the principles of organic and bio-dynamic agriculture and therefore are not permitted under this Standard.

1.6 In itself, this Standard cannot guarantee that organic or bio-dynamic products are free of non-allowed residue material, or other environmental contaminants as they maybe subjected to pollution sources beyond the control and/or detection by the certified operator. However, **the procedures practiced in accordance with this Standard by the certified operator will ensure the lowest possible risk of contamination of organic and bio-dynamic produce.**

In contrast, DAFWA's application implies that routine and continuous GM contamination would be permissible up to 0.9% of the product. Not even the Food Standard 1.5.2 allows that in conventional food as its 1% threshold is for occasional and accidental contamination.

Standards

3.1.4 Only inputs listed in this Standard are permitted. The use of prohibited treatments or substances will make the product ineligible for sale under this Standard.

3.1.5 The use of products comprised of or derived from genetic engineering is prohibited.

This is one of the provisions that DAFWA's application seeks to compromise. It offers flimsy reasons for its proposal.

3.1.9 Where product has been contaminated with non-permitted substances as a result of factors beyond the control of the certified operator, then:

b. Product known to be contaminated by genetically modified organisms, or their by-products must be excluded from sale.

3.1.12 Where Genetically Modified crops have been grown on a production unit, a minimum of at least five years must elapse before products grown or produced on said area can be certified according to this Standard.

The following section would require a complete review if DAFWA's application were accepted. In that event, the review should embrace the whole organic industry and also be open for public comment.

3.3 GENETIC MODIFICATION

General Principles

i. Products or by-products that are derived from genetic modification, are not compatible with the principles of organic and biodynamic agriculture.

ii. Before purchasing or committing new production areas to organic or biodynamic operations, operators should assess the risk from production areas that have previously grown or produced crops or livestock that were subject to genetic engineering or modified organisms to ensure they are able to meet the expectation of freedom of their organic or biodynamic products from genetic engineering contamination.

Standards

3.3.1 The use of genetically modified organisms or their derivatives is prohibited. This includes but is not limited to, animals, seed and farm inputs such as fertilisers, soil conditioners, vaccines, crop production materials, food additives or processing aids.

3.3.2 Operators shall implement a risk management process to assess how they will avoid the accidental introduction of genetically modified organisms to the organic farm. These actions may include, but are not limited to:

- a) knowing about contaminant risks
- b) implementing distances / buffer zones from potential contaminants
- c) implementing special handling, transport and storage arrangements
- d) maintaining samples
- e) testing a crop perceived at risk.

3.3.3 Inputs, processing aids and ingredients shall be traced back one step in the biological chain to the organism from which they were produced to verify that they are not derived from genetically modified organisms.

Few aspects of organic production would be unaffected by the DAFWA application yet it ignores these consequences and offers no rationale for its proposal. For instance:

3.3.4 Where genetically modified crops or livestock have been grown or used on a production unit, other than a landless system, a minimum of at least five years must have elapsed before products grown in or on that land can be certified according to this standard.

3.3.5 The certification of organic crops, livestock or agricultural products will be withdrawn where genetically modified crops, live stock or agricultural products are grown or produced on the same farm.

3.7.3 The use of genetically modified/engineered seed and transgenic plants or the application of GMO derived substances for treating plants is prohibited in organic and bio-dynamic farming.

Standards

3.13.1 Breeding techniques that employ any of the activities listed below are not permitted:

- a. Embryo transfer.
- b. Genetic engineering.**
- c. Treatments with reproductive hormones.
- d. Semen sexing.
- e. Artificial insemination using segregated, separated or otherwise modified sperm.

3.21.3 Operators must demonstrate that hive locations are in foraging areas more than five kilometres distant from any prohibited substances which may be derived from, but not limited to:

- a. flower-bearing crops that are treated with pesticides not permitted by this Standard, **or genetically engineered and/or modified organisms or their products;**

3.22.3 Polyploid and **genetically engineered aquatic species are not allowed.**

4.3.4 The use of genetically modified organisms for the processing of organic and bio-dynamic products or their derivatives is prohibited including food additives or processing aids.

Our Sensitive Sites proposal and Farmer Protection laws would assist with the following provision in the standard and offers another justification for their adoption.

4.3.5 Operators shall implement a risk management process to assess how they will avoid the accidental introduction of genetically modified organisms to the production area during the time that organic or biodynamic production is in progress. This shall include a procedure that ensures that only organic or biodynamic products are in the processing area at the one time.

4.3.7 Where cleaning or flushing procedures are used, the operator must ensure the removal of potential GMO contamination before organic and bio-dynamic produce is passed through the equipment

4.3.8 Irradiation is not permitted in the processing, storage or handling of products complying with this Standard.

4.5.3 The use of genetically engineered products either directly or indirectly is prohibited.

We especially support section 7.3.f which says in relation to the labelling and advertising of organic foods that:

“The final product, or any of its ingredients, must not have been subject to treatments involving the use of ionising radiation (excluding X-rays used for detection of foreign matter), or products subject to genetic manipulation, or nanotechnology.”

OISCC review should review the new policy guideline on novel foods from the Legislative and Governance Forum on Food Regulation (Health Ministers of all Australian Governments & NZ)
[http://www.health.gov.au/internet/main/publishing.nsf/Content/4DCF744789D1AF64CA257BF001C9622/\\$File/novel_guidelines.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/4DCF744789D1AF64CA257BF001C9622/$File/novel_guidelines.pdf)

PROCESSING INPUTS

Definitions and requirements for use

4. Micro-organisms and enzymes used as aids in food processing are permitted provided they are not genetically engineered/modified organisms.

Annex B

Microbiological, biological and botanical preparations

Products derived from genetic modification technology are prohibited

Annex D
Vaccines

May be used only for a specific disease, which is known to exist on the organic farm or neighbouring farms and which threatens livestock health and which cannot be effectively controlled by other management practices. Vaccines must not contain genetically modified ingredients or by-products.

5. In organic or bio-dynamic food products the following categories of additives and processing aids are prohibited:

a. "Nature identical" synthetic substances.

b. Synthetic substances primarily considered as being unnatural or as a "new construction" of food compounds such as acetylated cross-linked starches.

c. Additives or processing aids produced using genetic engineering techniques.

d. Synthetic colouring and synthetic preservatives.