

To: Food Standards Australia New Zealand (FSANZ)

**Submission on:**

**Proposal P1055: Definitions for gene technology and new breeding techniques**

**Date:** 2 December 2021

**Submitter:**

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## **Submission on:**

### **Proposal P1055: Definitions for gene technology and new breeding techniques**

#### **1. Introduction**

- 1.1 Agcarm is the industry association representing manufacturers, suppliers and distributors of animal health and crop protection products in New Zealand. We welcome the opportunity to comment on the proposed revisions to the definitions for 'food produced using gene technology' and 'gene technology' in the Australia New Zealand Food Standards Code, released in October 2021.
- 1.2 Agcarm supports a balanced and science-based regulatory environment that gives our members freedom to operate and grow in New Zealand while creating an environment that encourages competition through innovation. On this basis, Agcarm fully supports the overall objectives of P1055 of improving clarity about what foods are captured for pre-market approval, better accommodation of new and emerging genetic technologies and the regulation of NBT foods in a manner that is science-based and proportional to the risks posed.
- 1.3 Agcarm supports FSANZ's preferred approach of Option 3 to amend the definitions of "gene technology" and "food produced using gene technology" in the Australia New Zealand Food Standards Code which we see as being crucial to future-proof FSANZ's regulatory approach, and to providing clarity and certainty on the regulatory status and assessment requirements for food produced using NBTs.

#### **2. General comments**

- 2.1 As a general theme we are supporting and re-emphasising the key points put forward within the **CropLife Australia** submission. We have highlighted some key points below.
- 2.2 We strongly support and emphasise the finding of the Review that NBT foods should be regulated in a manner that is proportionate to the risk they pose and welcome the recognition that some NBT foods have the same characteristics as conventional foods, and as such, should be regulated in the same manner as conventionally produced food.

#### **3. Definitions**

- 3.1 Agcarm supports the two new definitions of "gene technology" and "foreign DNA" proposed by CropLife Australia as follows
  - 'Gene technology' means techniques that modify a genome by introducing foreign DNA that remains in the final organism used for food.
  - "Foreign DNA" means the stable integration into the genome of one or more genes that are part of a designed genetic construct and that originate from

outside the organism's cross-compatible gene pool and are inaccessible through conventional methods

- 3.2 With these proposed amendments above we do not consider a definition of “conventional breeding” to be necessary in the Code. These amendments make it clear and do not rely on the outdated process-based conventional versus biotech dichotomy. They are also consistent with FSANZ's safety assessment, which concludes that there are GM foods, which are the foods within its regulatory scope, and there are conventional/conventional-equivalent foods that are not within its regulatory scope.

## **4 Advisory Committee**

- 4.1 Agcarm does not see a clear need for an advisory committee (AC) as outlined in the proposal (p 23; Non-regulatory measures) and notes that very few details are provided on this in the proposal. We note the proposed purpose of “being a point of enquiry in situations where a developer remains uncertain about whether application to FSANZ may be required” however, it is not clear why the proposed advisory committee would be a preferable avenue to a general consultation with FSANZ.
- 4.2 We submit that if an advisory committee is to be established then use of it by developers must be voluntary, and there are many questions that must be clarified, e.g.:
- The composition of the AC and criteria for membership.
  - How will the AC make an assessment – will they follow the same guidance material that is proposed to assist developers?
  - How will the work of the advisory committee be funded?  
It is important for developers to know if this will be based on cost-recovery. As consultation with the AC is voluntary, we expect that there would be no fee charged.
  - What will be the timelines for the provision of advice?
  - What will be the legal status of the advice?
  - What recourse will be available to developers if they do not agree with the advice given by the AC, and what would the consequences be for not following it?
  - What kind of data and information, and how much, will be required for a consultation with the AC?
  - How will data and information provided by a developer to the AC be managed - Noting the sensitivities regarding commercial confidential information and freedom of information.
  - What aspects of the consultation process can be confidential, and what will be public – noting that the current AC for Novel Foods posts their advice on the FSANZ website. Developers may have a competitive need to keep the totality of a consultation confidential.

## **5 Alignment between food and gene technology regulations**

- 5.1 Agcarm strongly agrees with the need to avoid inconsistencies between what is regulated as a genetically modified organism and what is regulated as a GM food. The P1055 proposal to regulate NBT foods in a manner that is science-based and proportional to the risks posed is welcomed but brings into sharper focus the inconsistencies with the regulation of GMOs under the Hazardous Substances and New Organisms (HSNO) Act.
- 5.2 In New Zealand, the Hazardous Substances and New Organisms (HSNO) Act regulates the release into the environment of live and viable GMOs. Releases are prohibited unless approved by the EPA. Although there is workable legislation in place and risk assessments are science based, the current government's policy is inhibitive to innovation. The current legislation and a High Court interpretation decision mean that all NBTs are currently considered to be GMOs. Agcarm submits that looking to the future, our legislation, and the role of NBTs in New Zealand needs urgent review.
- 5.3 To this end we recommend there is a review of regulatory requirements for the registration of biotech products in New Zealand that recognises developments in NBTs, with a view to developing a more appropriate and targeted regime for managing risks. The sooner this happens, then the quicker we can realise the potential of these technologies to deliver positive outcomes for New Zealand.

## **6. About Agcarm**

Agcarm is the peak New Zealand industry association of companies which manufacture, distribute, and sell crop protection and animal health products. Our mission is to protect and enhance the health of crops, animals, and the environment - through innovation and responsible use of quality products and services.

For over 70 years, Agcarm has taken a lead role in managing issues of importance to the crop protection and animal medicines industries. This involves engaging with politicians, regulators, and stakeholders to ensure that decision-makers take account of industry's views. It also ensures that industry aligns itself with best practice in the management of pests and disease.

Our members research the safest and best methods to do this. In the crop protection industry, our manufacturers support the use of Integrated Pest Management (using all means available to tackle pests and disease). They research all means of control, including biologicals, to ensure the best and most sustainable result for farmers and growers.

Membership to Agcarm is voluntary, with all applicants requiring Board endorsement before being accepted. Agcarm backs this by ensuring all members comply with a Code of Conduct.

This Code certifies that Agcarm members meet industry standards. Compliance with it is a condition of membership - with companies required to meet a number of obligations. This includes complying with relevant legislation, participating in

environmental stewardship programmes, acting ethically in product promotion and in accordance with the best interests of industry.

Protecting the environment is integral to this, with support and participation of the rural recycling programme Agrecovery being compulsory for members. Companies must also ensure that their products meet an appropriate standard, all people involved with industry products are appropriately trained, and that they are supportive of ensuring environmental sustainability.

In promoting a healthy environment, Agcarm is involved in a number of other stewardship campaigns, within the crop protection and the animal medicines industries.

Bee health is high on the association's agenda with regular campaigning to protect the wellbeing of New Zealand's bee population and ensuring that products are used responsibly. The 'Bee Responsible' awareness campaigns were produced in conjunction with the Rural Contractors and Agricultural Aviators associations to raise awareness of the importance of protecting bees and providing guidance for doing so.

Preventing resistance management in animals and plants is another priority for the association and its members. As part of this, Agcarm leads and supports programmes that prolong the effectiveness of crop protection and animal health products liable to encounter resistance problems, and limit losses should resistance appear.

This includes an integral role in the Wormwise Trust - providing expert advice to farmers on managing worms on farms (anthelmintic resistance) as well as antimicrobial resistance. Agcarm contributed to New Zealand's Antimicrobial Resistance Plan which was submitted to the World Health Organisation in May 2017.

The association's ultimate purpose is to ensure that New Zealand continues to lead the world in producing safe, healthy, and sustainable food by using the best and safest technology. By dealing with an Agcarm member you too will be part of this worthy goal. So, next time you are considering a purchase of a pesticide or animal medicine, ask if the company is an Agcarm member and if they are you can be assured that you are dealing with knowledgeable staff and a quality product.

## **APPENDIX 1: Agcarm Membership**

### **Agcarm Membership**

Agcarm represents around 90 percent of the crop protection, animal medicines and rural retailers industries within New Zealand. Our companies are both local and globally linked, producing products that enable our farmers and growers to supply high-quality food and fibre into domestic and international markets, along with keeping our animals and pets healthy.

#### **Animal Health Manufacturers**

- Boehringer Ingelheim
- Ceva Animal Health
- Donaghys
- Elanco Animal Health
- MSD Animal Health
- Zoetis NZ
- Troy Animal Medicines

#### **Crop Protection Manufacturers**

- ADAMA New Zealand
- AgriNova NZ Ltd (trading as Grochem)
- BASF New Zealand
- Bayer CropScience
- Donaghys
- Corteva
- FMC
- UPL
- Key Industries
- Ravensdown
- Nufarm
- Syngenta Crop Protection
- Lonza
- Kiwicare

#### **Distributors**

- Ashburton Trading Society
- Farmlands Co-operative
- Horticulture
- ICD Group
- New Zealand Farm Source
- PGG Wrightson Ltd
- Venture Exports
- Hodder and Turner

#### **Corporate Associates**

- AgriMedia
- Argenta
- Eurofins Agroservices Services
- Medicines New Zealand
- Peracto New Zealand
- Philstic Labels
- Rural Contractors
- Sumitomo Chemical
- Rainbow chemicals

**Individual Associates**

- BioGro
- Zespri
- HortNZ
- NZKGI
- Kiwifruit Vine Health
- Hill Laboratories
- RxVet Limited
- Mantissa Corporation
- Agworld
- Ag Services
- NZ Apple and Pears
- Market Access Solutionz
- Renovo Technologies
- NZ Sports Turf Institute
- Molloy Agricultural Spraying
- Intuit Animal Health Consultants
- Tracta
- IPPC
- Redcap solutions
- De Groot
- Ranfurly Orchard Services
- FieldTek
- On Regulatory
- De Sangosse
- Educhem
- JP Munro
- AS Harrison
- AgRecruit
- Dechra