



11 December 2015

Environmental Protection Authority  
Private Bag 63002  
Wellington 6140

## **Submission on "Consultation on Potential Changes to the Hazardous Substances and New Organisms (Organisms not Genetically Modified) Regulations 1998"**

### **Background**

1. The New Zealand Forest Owners Association Incorporated (FOA) is the representative membership body for the commercial plantation forest growing industry.
2. FOA members are responsible for the management of approximately 1.2 million hectares of New Zealand's plantation forests and over 80% of the annual harvest.
3. FOA is submitting on behalf of its national membership.

### **Overview**

4. The EPA is undertaking consultation on two proposed amendments to the regulations intended to:
  - a. correct drafting errors in clause 3(1)(b); and
  - b. clarify that any organisms developed using chemical and radiation treatments, where those treatments were in use in 1998, are captured by the regulations and therefore do not require approval as genetically modified organisms under the HSNO Act

The proposed amendments do not include any techniques developed after the Regulations came into effect in 1998.

5. FOA agrees with the pre-consultation Regulatory Impact Statement (RIS) assessment that the regulatory framework used in New Zealand to define and regulate GMOs is out of date and has been unable to adapt to new technologies developed since the framework was introduced 18 years ago.

It is noted that for this period a wide range of crops have been allowed to be grown and developed in New Zealand via techniques that have modified, but not introduced, genetic material.

A large number of plants using these types of techniques have been released into New Zealand. The FOA notes that there is considerable economic contribution by these plants to the New Zealand economy and that we have not heard of any examples of such plants, with modified genetic material, causing any negative impacts.

6. The proposed amendment – Option 2 in the RIS - provides a solution to the drafting errors and concerns regarding the scope and interpretation of traditional mutagenesis identified by the High Court in the existing regulations. However, it fails to take account of the considerable scientific progress and innovation that has occurred since 1998. Continuing a regulatory framework based on 18-year old technologies and knowledge will damage the global competitiveness of New Zealand science and stifle the innovation that will provide valuable tools to maintain the competitiveness of the New Zealand forestry industry.
7. This regulatory burden is a barrier to technology development, investment, field testing and release. These barriers put New Zealand at risk of being left behind in the development and future implementation of biotechnologies. A short term fix as proposed by Option 2 in the Regulatory Impact Statement (RIS), amending the regulations to address the drafting concerns raised by the High Court, would bring New Zealand in to alignment with most countries' regulation of chemical and radiation treatments. However, the proposed amendment will not do so for bio-tech based directed mutagenesis technologies.
8. Regulation based on the technology used to produce the changes rather than the risk associated with the modification is not logical.
9. Regulation based upon the whether the technology was introduced more or less than 18 years ago (1998), rather than the risk associated with the modification, is not logical.



10. Forest based exports bring in over \$5 billion per annum. Forestry is one of New Zealand's very few truly sustainable industries. Forest-based exports compete in a highly competitive international market with countries that have embraced genetic engineering such as Brazil, China and the United States. The New Zealand forest industry has immediate use for herbicide resistant plants, sterile plants, lignin modified plants and disease resistant plants.

Development of these GMO's is being delayed by the current legislation.

### Submission

11. The FOA considers the legislation must reflect that plants created by non-transgenic-based forms of gene editing technologies do not create GMOs. This would bring New Zealand in line with Australia and the USA, two of our major trading partners. Option 3 (RIS), which would allow re-drafting such that plants generated using non-transgenic gene-editing methodology, is the best **immediate** approach to enable this.

12. The FOA considers that it is essential the HSNO legislation is updated to allow New Zealand to take advantage of bio-technological innovation. The legislation needs to be amended to reflect current international best practice for the regulation of GMOs.

**For this reason FOA ultimately supports Option 4 as outlined in the RIS – “a review of the new organisms provisions in the Act”.**

13. We strongly disagree that Option 4 be discarded on the grounds that the length of time and resource required to undertake a review of the Act is not an efficient approach to address the immediate problem. The current provisions are having very real implications in the development of GMO options for the forest industry.

14. Inappropriate regulation of these technologies will be a barrier to their development and deployment in New Zealand. This will affect New Zealand's international forest sector competitiveness.



On behalf of the FOA and its members, thank you your consideration in this matter.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'G Mackie', is written over a light blue horizontal line.

Glen Mackie  
Technical Manager

