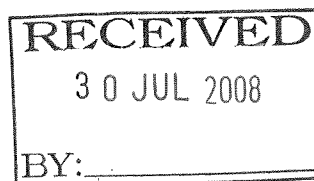




Hon Trevor Mallard
Minister for the Environment
Minister of Labour
Minister of Broadcasting
Minister for State Owned Enterprises
Associate Minister of Finance



Richard Woods
Chair, Environmental Risk Management Authority
P O Box 131
Wellington

Dear Richard

Proposed HSNO Regulations for genetically modified organisms

On 14 July 2008 the Cabinet Business Committee (having been given Power to Act by Cabinet) considered a series of proposals from me relating to New Zealand's future management of genetically modified organisms (GMOs) under the Hazardous Substances and New Organisms (HSNO) Act 1996.

The proposals considered were aimed primarily at providing a greater level of transparency, increased accountability and greater public openness in the management of genetically modified (GM) crops should they be approved for use in New Zealand. The underlying objective is to provide a heightened level of assurance to non-GM growers about the integrity and marketability of their product, while still allowing the Environmental Risk Management Authority (the Authority) to approve GM crops subject to its standard assessment practices.

Key among the Committee's decisions was an invitation for me, as Minister for the Environment, to submit recommendations to the Cabinet Legislation (LEG) Committee for the purpose of making an Order in Council to prescribe requirements for segregation and traceability schemes that the Authority would have particular regard to imposing as controls when considering applications to conditionally release any GM crop.

The Cabinet Committee agreed that such requirements would be provided for either through amendment to the Hazardous Substances and New Organisms (Methodology) Order 1998; or through new regulations under section 140(1) of the Act; or both.

Following discussion with ERMA New Zealand, the Ministry for the Environment (MfE) has advised me that a step-wise process, focusing on developing new regulations only at this stage, would be the most appropriate approach to meet the Committee's directive.

To comply with the Cabinet Business Committee's invitation to me, I therefore intend to submit draft regulations to this effect to the LEG Committee for consideration by 31 August 2008.

Need for consultation to commence

As you will be aware, the HSNO Act prescribes the consultation required before a recommendation can be made for an Order in Council to make a regulation.

Specifically, section 141 states that before recommending the making of any such Order in Council, the Minister shall request the Authority to do everything reasonably practicable on its part to advise all persons, who or which in its opinion may be affected by any Order in Council made in accordance with the recommendation, of the proposed terms of the Order in Council; and give such persons a reasonable opportunity to make submissions on them to the Authority.

To enable me to address the Committee's invitation in a timely fashion, I therefore write to ask the Authority to commence the required consultation as soon as possible, with a view to providing me with an analysis of submissions by **22 August 2008**.

Consistent with the requirements of the Act, I would like such analysis to include any comments the Authority wishes to make on the submissions or the proposed Order in Council along with any advice on best international practices and standards for the safe management of new organisms.

I am aware that the short time available for consultation on these proposals is less than optimal and does not sit well with ERMA New Zealand's best practice model that I am advised normally provides for six weeks consultation. However, the time allowed for consultation needs to be shorter than normal to allow sufficient time for my assessment of the report, drafting by Parliamentary counsel and meeting the deadline that the Cabinet Business Committee has decided.

I understand that this work has not been scheduled on ERMA New Zealand's work programme for the coming month and that delivering this outcome may require some re-prioritisation of work for relevant staff. However, I would ask that you please consider this work as a matter of high priority. MfE will see the regulations through the drafting and Cabinet process and I have instructed Ministry staff to work closely with you to support you in meeting my deadline.

The Ministry has also been instructed to work with you when it prepares the LEG paper and consulting with you on the draft regulations when it receives them from Parliamentary counsel. A Regulatory Impact Analysis and a statement of the compliance cost implications for business arising from the proposed regulations will also need to be submitted to the LEG Committee with the draft regulations. I have asked the Ministry to work with ERMA New Zealand to ensure that the consultation on the proposed regulations can provide the information needed to inform these submissions.

Review of the HSNO Methodology Order

I am aware that ERMA New Zealand has carried out considerable work over recent years to review the Methodology Order, in particular to reflect the experience of the past 10 years using the current Methodology and to reflect the 2003 amendments for new organisms and the 2004 and 2005 hazardous substances amendments. In light of this I consider that the work to address the CBC's decisions provides a useful opportunity for that ongoing work to be brought to completion.

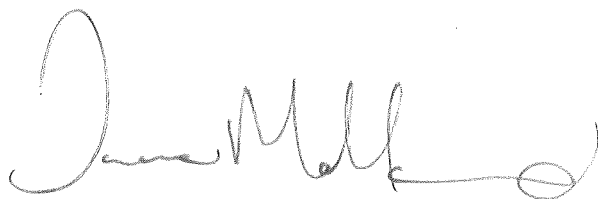
Therefore, in accordance with section 9(2) of the HSNO Act, I am requesting you to also prepare advice to me on a revised Methodology to incorporate the Cabinet Committee's directive that the Authority would have particular regard to imposing the above regulations as controls when considering applications to conditionally release a GMO.

In this regard, I consider that the standard six-week consultation time you normally employ would provide adequate time and opportunity for the public to make submissions of the proposed revised Methodology. I would be grateful if you could commence this work with a view to reporting to me by **14 November 2008**.

MfE officials are to provide further advice to Cabinet Policy Committee by 1 December 2008 on any amendments to the HSNO Act considered necessary, over and above the proposed new regulations, to ensure mandatory use of segregation models in the context of GMO approvals. I would like to consider whether the Methodology should be comprehensively revised in conjunction with preparing that advice.

I thank you for your assistance in these matters.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Trevor Mallard', with a stylized flourish at the end.

Hon Trevor Mallard
MINISTER FOR THE ENVIRONMENT