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Environment and Public Affairs Committee

Inquiry into mechanisms for compensation for economic loss to farmers in Western Australia caused by contamination by genetically modified material.

On behalf of the GM-Free Farmers I would like to thank you for the opportunity to provide a written submission. I would also like the opportunity for either myself or another member of the GM-Free Farmers to address the committee.

Farmers should be mindful of all farming systems and farm appropriately so as not to infringe on the rights of others, that is, basic common courtesy. Clear and enforceable guidelines should be in place to lower the risk of contamination and help manage co-existence.

Such as;

Public grower map

Informing neighbours of intent to grow GM

Increase buffer zones

No swathing of GM crops

GM crops disallowed close to farm boundaries

GM crops disallowed in areas prone to flooding and uncontrollable water run off

Movement of stock from a GM farm to be declared on a livestock weighbill / NVD

Reporting all GM seed spills, with follow up monitoring, management and containment

Reporting any breaches of co-existence rules

Machinery cleaning regime for GM contaminated machinery

Declaration of GM status on land sales or lease transactions

Declaration of GM status on machinery sales or lease transactions

Should there be a contamination event then the GM -Free Farmers prefer the approach outlined in the 'Principles for Farmer Protection Legislation.'

Principles for Farmer Protection Legislation

Objectives:

A Bill to establish a publicly managed fund, paid into by GM seed merchants, in order to compensate non-GM land holders for contamination by GM seed or other GM material.

To strengthen the protection of non-genetically modified landholders (both organic and conventional, and including public land) from all forms of contamination by genetically modified organisms (GMOs).

To strengthen monitoring and detection mechanisms in order to detect contamination early and reduce compensation costs. This includes, but is not limited to, making the existing guidelines mandatory.

Rationale:

The Farmer Protection Legislation will replace sole reliance on common law remedies by:

- Establishing a Fund to allow simple and efficient compensation for losses suffered by non-GM landholders whose land is contaminated by GM crops, seed or other GM material;
- Making GM seed merchants responsible to compensate landholders when GM contamination occurs, by requiring GM seed merchants to pay a levy on seed sales into the Fund;
- Entitling farmers and other affected parties to rapidly and efficiently recover for any losses, extra costs or harm they suffer, without having to resort to the Common Law.

The Farmer Protection Fund

- The Government will establish a Fund to provide speedy, no-fault compensation in cases of GM contamination for purposes of cleaning up such contamination and compensating for economic loss or other harm;
- The Minister will appoint an independent Administrator to administer the fund;
- The Administrator will have broad investigative powers, including auditing financial records, inspecting properties and recommending enforcement action;

- The Administrator to make recommendations as needed to the Minister regarding any measures he or she believes would reduce the levels of contamination and therefore reduce the amount of the levy;
- The Fund will protect the right of all non-GM landholders to be free of GM contamination, at the limit of detection of the presence of a GM event;
- Non-GM landholders must be able to recover costs and losses related to all manner of contamination by GM seeds and crops, quickly and easily by lodging an application with the Administrator;
- Applicants for compensation funds would have to prove the presence of a GM event on their land or in their seeds or crops and provide a declaration that they did not plant or authorise the planting of the GM seed or crop;
- Funding for the compensation Fund will be annually levied on the GM seed merchants;
- The levy will be assessed per kilo of seed sold;
- All GM seed merchants must submit to the Administrator declarations on the amount of GM seed sold in a financial year, no later than the end of September following;
- The amount of the initial levy will be set in the regulations;
- The Administrator may from time to time recommend changes to the amount of the levy, to the Minister, taking into account the costs of previous GM contamination cases;
- If compensation claims exceed the value of the fund, the Administrator will request from the Minister that the levy in the subsequent year be raised in order to cover the cost of the shortfall;
- The Administrator may seek submissions from third parties regarding compensation and interested parties may appeal decisions under the Judicial Review Act.

Factors to use in determining compensation payments for contamination incidents:

The Administrator will pay non-GM landholders compensation for actual economic loss or extra costs which must include:

- costs for detection and identification of GM seeds or plants;
- all GM contamination clean-up costs;
- lost profits;
- lost premiums on non-GM produce;
- reduced property values;
- compensation for time spent dealing with the contamination;
- harm, where harm includes unwanted GM contamination for the full duration of its impacts.

Note: The Administrator will determine an annual calculation for payable losses, extra costs and harm where continuing GM crop contamination occurs.

Definitions

GM seed merchants - businesses licensed by the GM patent holders for the sale of GM seed, their agents, licensees, subsidiaries or contractors and any other legal entity that deals with the sale or other distribution of GM organisms ('dealing' is defined in the Gene Technology Act 2000).

Non-GM landholders - any party occupying, owning or caring for land (including local or state government) where no-one intended that GM plants would be grown.

Non-GM land - any land on which no-one intended to grow GM plants.

Thank you for your time

Anne-Marie Copeland
GM-Free Farmer Member