



SUBMISSION TO THE
WESTERN AUSTRALIAN GOVERNMENT
ENQUIRY INTO

COMPENSATION FOR GM CONTAMINATION ON GM FREE FARMS

Dear Mr Swinbourne,

I congratulate you and your Committee on investigating the need for compensation for farmers contaminated by Genetically Modified Organisms.

I write to give you specific information of a number of common held views that are incorrect.

- There are four (5) recognised organic / biodynamic standards used in Australia.
 - Two National Standards
 - National Standard for Organic & Biodynamic Produce Edition 3.7 Updated September 2016 (The Export Standard)
 - AS6000 – 2009 Amended 2011 Organic & Biodynamic Products
 - Three private standards
 - Australian Certified Organic Standard 2017 v.1 (ACOS)
 - NASAA Organic & Biodynamic Standard 2004 Amended February 2016
 - Demeter Biodynamic Standard
- All standards specifically prohibit the use of Genetically Modified Organisms (GMO) in organic production systems
- All Standards, both domestic & International clearly define the tolerance level of unintended presence of GMO's at farm gate level as being zero; that is, prohibited.
- Only the European Union, EC 834/2007, defines the tolerance level of unintended presence of GMO's post farm gate.

National Standard for Organic & Biodynamic Produce; Page 15, Section 1.3

1.3 Genetic modification

General Principles

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





AS6000; Page 15, Section 2.3

2.3 GENE TECHNOLOGY

2.3.1 General principles

- (a) *Products or by-products that are derived from gene technology are not compatible with the principles of organic and biodynamic agriculture.*

Australian Certified Organic Standard, Page 23, Section 4.2.12

- 4.2.12. **GMO** products and GE processes are prohibited in all aspects of organic production systems and products. This includes prohibition of GE seeds and propagative material. "Genetic pollution" may be a reality in some instances, and control of this contamination source shall require similar means of risk management as for other contaminants. Contamination detection in a given crop or product will lead to decertification of that given crop or product.

And

Australian Certified Organic Standard, Page 28, Section 4.7.14 to 4.7.18

- 4.7.17. **GMOs** and their derivatives are prohibited in all aspects of the organic production and consumption chain, including, but not limited to, vaccines used in livestock, bacterial strains, seeds and materials derived from **GMO** organisms. Inputs shall be traced back one step in the biological chain to the direct source organism (see Definitions) from which they are produced to verify that they are not derived from **GMOs**.

NASAA Organic Standard Page 25, Section 3.2

3.2 GENETICALLY MODIFIED ORGANISMS

GENERAL PRINCIPLES

Organisms, which are derived from recombinant DNA technology, are genetically modified organisms and have no place in organic production and processing systems.

The NASAA Organic Standard prohibits the presence of **GMO's** either deliberate or accidental in any segment of the organic food chain.





- All Australian Standards are compatible with and are aligned with, all major International Organic Standards.
- A common misconception is that the EU and the US have a defined GMO tolerance of 0.9%. This is incorrect.
- The USDA National Organic Program (NOP) prohibits the use of GM materials at farm gate production level

USDA National Organic Program CI 7 CFR § 205.105

GMOs are prohibited as excluded methods:

Allowed and prohibited substances, methods, and ingredients in organic production and handling.

To be sold or labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)),” the product must be produced and handled without the use of:

(e) Excluded methods, except for vaccines: Provided, That, the vaccines are approved in accordance with §205.600(a);

- The USDA NOP does not specifically address the issue of tolerance for the presence of GMO's in organic agricultural products. It clearly states the 'farm gate' tolerance is zero (ie it is prohibited), however inadvertent or adventitious contamination further down the production line, does not constitute a breach of 7 CFR §205.105
- Unlike Australia, EU, NZ, Korea, China, & Japan, the USDA tolerates an 'inadvertent presence' of GMO's in the organic food chain post farm gate, providing the farmer has followed an approved Organic Management Plan and took all reasonable steps to avoid contamination.
- The USDA NOP does not establish GMO tolerance levels whereas in all other Organic Standards, it is zero tolerance all the way through the organic food chain.

NOP Policy (ref: Miles McEvoy, Deputy Administrator, USDA Agricultural Marketing Services)

The NOP regulations do not establish GMO tolerance levels.

The NOP regulations establish a tolerance for the presence of pesticides registered by the U.S. Environmental Protection Agency (EPA) that is set at 5% of the EPA tolerance level for the specific residue detected.





No federal agency, including EPA or USDA has established tolerance levels for the inadvertent presence of the products of excluded methods (GMOs).

- The EU do have laws re contamination within the organic food system. They do have a 0.9% 'adventitious or technically unavoidable' tolerance in all food production systems, including organic.

EU LAW ON ORGANIC PRODUCTION: AN OVERVIEW

https://ec.europa.eu/agriculture/organic/eu-policy/eu-legislation/brief-overview_en

Labelling organic foods

Organic production outlaws the use of genetically modified organisms and derived products. However, the [regulation on genetically modified food and feed](#) lays down a threshold (0.9%) under which a product's GMO content does not have to be indicated. Products with GMO content below this threshold can be labelled organic.

- Organic products with a GMO content above this threshold, lose their certification.

REGULATION (EC) No 1831/2003 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 22 September 2003

concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003R1831&from=en>

Article 7. 2. the following paragraph is added to Article 21:

'3. For products intended for direct processing, paragraph 1 shall not apply to traces of authorised GMOs in a proportion no higher than 0,9 % or lower thresholds established under the provisions of Article 30(2), provided that these traces are adventitious or technically unavoidable.'

- The 0.9% tolerance is applicable regardless of organic or conventional food systems.
- It should be clearly understood that the EU Organic Regulations EC 834/2007 is an umbrella Standard that sits atop the individual Member States domestic organic standard. In all cases, the individual Member States domestic organic standard overrides the requirements of EC 834/2007.





- The individual Member States do **not** have a GMO tolerance in their domestic standards effectively rendering the 0.9% adventitious tolerance, useless.
- The Department of Agriculture & Water Resources (DAWR) is responsible for the oversight of the organic industry. It does this through its management of the Export Control Orders and as the 'owner' of the National Standard
- The Department has the legal entitlement to negotiate such issues as market access on behalf of the organic industry and can do so in isolation of the industry
- The Department has never enforced this entitlement and has never negotiated any market access, equivalency or any other issue affecting the industry without first consulting the industry.
- In his Judgement Summary of *Marsh v Baxter* (2014) WASC 187 (CIV 1561 of 2012), page 4, paragraph 5, Justice Martin "assessed that it had not been shown that there had been any unreasonable interference by Mr Baxter in the Marshes' use and enjoyment of Eagle Rest."
- The Australian rural industry has an unwritten rule that says a property owner may do whatever they wish on their own property but not at the expense of your neighbours enjoyment.
- Marshes "use and enjoyment" of his certified organic property, was negatively impacted by the events of November 2010.
- The *Marsh v Baxter* case highlights just how easy it is, intentionally or otherwise, to infringe on your neighbours use and enjoyment of their property.

Again, I congratulate you on your initiative and look forward to your decisions.

Yours sincerely

Ben Copeman
Chief Executive Officer
Australian Certified Organic Pty Ltd

