

COMPLIANCE ORDER

(ISSUED UNDER AUTHORITY OF THE HAZARDOUS SUBSTANCES AND NEW ORGANISMS ACT 1996)

Section 106, Hazardous Substances and New Organisms Act 1996

To: The New Zealand Institute for Plant & Food Research Limited
Mt Albert Research Centre
120 Mt Albert Road
Mt Albert
Auckland 1025

1. The reasons for this order are:

To require The New Zealand Institute for Plant & Food Research Limited to undertake action that is necessary to avoid, remedy, or mitigate any actual or likely adverse effects on people or the environment resulting from the breach of controls imposed by an approval granted under the Hazardous Substances and New Organisms Act 1996 (ERMA application code GMF06001), namely controls 1.8 and 1.12. The text of these controls is as follows:

- 1.8 *Brassica oleracea* plants shall be prevented from producing open flowers in the field test site. Plants identified as initiating bolting must either be immediately moved back into a containment structure (control 1.4) or killed (control 1.12).
- 1.12 All living brassica vegetative material the subject of this approval and not retained for research purposes shall be killed by composting, autoclaving or another scientifically validated method.

2. The action required to be taken is:

Within a site comprising the trial plot, the guard rows or buffer zone and adjacent shed, composting and burial areas (referred to here as the controlled site), follow the actions described here and in Schedule 1:

- i. The contents of the compost bin and the top layer of soil on which the compost bin is located is to be transferred to autoclave bags and destroyed by autoclaving
- ii. Leave the controlled site soil undisturbed for a period of approximately 18 months, i.e. without ploughing, sowing or other cropping. This measure to ensure any inadvertently buried immature seed would decompose
- iii. During this 18 month period apply a regime of broadleaf-selective herbicide to kill any germinating brassicas, at a frequency preventing emerging brassica from flowering
- iv. Also during this 18 month period, on a monthly basis visual surveillance, removal and destruction of Brassica volunteer plants within the controlled

site. Note: it is recognised that sward management will significantly impact the effectiveness of surveillance

- v. In Spring, 2010, and at intervals described in (d) of this notice, until Autumn 2013, the ground to be ploughed to a depth of 30 cm, and irrigated within 7 days if there is insufficient rain to stimulate germination of dormant seeds. Sufficient rain is defined as greater than 5mm.
- vi. Visual surveillance, removal and testing for GM construct of Brassica volunteer plants within the controlled site to be undertaken at 3 to 5 weeks after each ploughing. Testing to be conducted at a MAF approved facility
- vii. Cleaning, wash-down and dusting of machinery and implements visiting the site
- viii. Detailed recording of plants observed and removed, Records of testing completed and results of testing
- ix. Appropriate audit of these measures, coordinated with any MAF Facilities Approval and ERMA post-harvest monitoring protocol requirements
- x. Cycle of surveillance to be continued for up to 5 years after the last detection of GM construct Brassica volunteers at the controlled site.

3. The date on or before which action must be taken or cease is:

3.1 The timing of the actions required will comply with the following table:

<i>Date</i>	<i>Soil management</i>	<i>Volunteers</i>	<i>Comment</i>
2009-2010	Soil undisturbed	Apply broadleaf selective herbicide in a regime to be approved by an Enforcement Officer. Monthly search for volunteers	Broadleaf herbicide application programme to be agreed. Buried immature seed decomposes
2009-2010	Soil undisturbed	Monthly search	Buried immature seed decomposes
Spring 2010, no later than end September.	Plough, then irrigate within 7 days if insufficient rain	Search conducted at 3-5 weeks after ploughing	Dormant seed stimulated to germinate then any volunteers tested for GM construct
Summer 2010/11, no later than end December.	Plough, then irrigate within 7 days if insufficient rain	Search conducted at 3-5 weeks after ploughing	Testing of brassica volunteers for GM construct
Autumn 2011, no later than end February.	Plough, then irrigate within 7 days if insufficient rain	Search conducted at 3-5 weeks after ploughing	Testing of brassica volunteers for GM construct
Spring 2011, no later than end September.	Plough, then irrigate within 7 days if insufficient rain	Search conducted at 3-5 weeks after ploughing	Testing of brassica volunteers for GM construct

Summer 2011/12, no later than end December.	Plough, then irrigate within 7 days if insufficient rain	Search conducted at 3-5 weeks after ploughing	Testing of brassica volunteers for GM construct
Autumn 2012, no later than end February.	Plough, then irrigate within 7 days if insufficient rain	Search conducted at 3-5 weeks after ploughing	Testing of brassica volunteers for GM construct
Spring 2012, no later than end September.	Plough, then irrigate within 7 days if insufficient rain	Search conducted at 3-5 weeks after ploughing	Testing of brassica volunteers for GM construct
Summer 2012/13, no later than end December.	Plough, then irrigate within 7 days if insufficient rain	Search conducted at 3-5 weeks after ploughing	Testing of brassica volunteers for GM construct
Autumn 2013, no later than end February.	Plough, then irrigate within 7 days if insufficient rain	Search conducted at 3-5 weeks after ploughing	Testing of brassica volunteers for GM construct
Spring 2013, no later than end September.	Plough, then irrigate within 7 days if insufficient rain	Search conducted at 3-5 weeks after ploughing	Testing of brassica volunteers for GM construct

3.2 No action is required to be taken before the **12th of March 2009**

4 The rights of appeal under section 125 of this Act;

You have the right to appeal to the District Court against the whole or any part of this order by lodging a notice of appeal with the District Court in Christchurch in accordance with section 125 of the Hazardous Substances and New Organisms Act 1996, not later than the 14th of April 2009. If you lodge an appeal you may apply to the District Court for a stay of the compliance order until the determination of the appeal.

5. The name of the enforcement officer serving this notice is:

Angela Kidd

6. The name and address of the agency whose enforcement officer served this order is:

Ministry of Agriculture and Forestry
 Pastoral House
 PO Box 2526
 25 The Terrace
 Wellington
 New Zealand

Note: If you do not comply with this order or do not lodge a notice of appeal with the District Court you may be liable to prosecution under section 109 of the Hazardous Substances and New Organisms Act 1996

Angela Kidd

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Angela Kidd
Enforcement Officer

5th March 2009