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SPECIAL SUPPLEMENT

Gene Technology (GM Crop Moratorium) Act 2003

Exemption Order Number 4

I, IAN MACDONALD, Minister for Primary Industries, pursuant to Section 8 of the *Gene Technology (GM Crop Moratorium) Act 2003*, confer the exemptions specified in Schedule 2 from the operation of the moratorium order specified in Schedule 1.

Schedule 1

Moratorium order in respect of which these exemptions are conferred

Moratorium Order Number 1 made on 22 July 2003 (the **moratorium order**) in respect of GM canola of the species *Brassica napus*, common name canola, tolerant to the herbicide glufosinate ammonium due to genetic modification which are derived from the lines defined in the applications under Section 40 of the Commonwealth Act designated DIR010/2001 and DIR021/2002 made to the Gene Technology Regulator and further particularised in the moratorium order.

Schedule 2

Exemption conferred

1. Expressions in this exemption order that are defined in Schedule 3 have the meaning set out in Schedule 3.
2. **Exempt person:** Bayer CropScience Pty Ltd.
3. **Exempt cultivation:** The cultivation of GM canola in research trials in accordance with the following conditions.

Conditions subject to which exempt cultivation may take place.

4. The exempt cultivation must be undertaken by the exempt person.
5. The exempt person must, at all times, be an accredited organisation.
6. The GM canola must be planted before 31 July 2004.

Location of planting:

7. The GM canola must be planted within the site.

Informing people of their obligations:

8. The exempt person must inform any personnel engaged in exempt cultivation of the obligations imposed on it under the conditions of this exemption order.
9. The exempt person must, on request by the Director General, provide evidence in writing to the Director General's satisfaction, of the exempt person's compliance with clause 8.

Control of location:

10. The exempt person must have access to and control of the site or other area used to carry out activities in connection with the exempt cultivation to the extent necessary to comply with the conditions of this exemption order.
11. The exempt person must, on request by the Director General, provide evidence in writing to the Director General's satisfaction, of the exempt person's ability to access and control the site or other area used to carry out activities in connection with the exempt cultivation.

Notification:

12. The exempt person must notify the Director General in writing of the:
 - 12.1 date of planting of the GM canola within 7 days of planting;
 - 12.2 forecasted date of flowering of the GM canola not more than 20 days and not less than 7 days before the forecasted date of flowering; and
 - 12.3 forecasted date of harvesting of the GM canola not more than 20 days and not less than 7 days before the forecasted date of harvesting.
13. The exempt person must, before planting GM canola notify neighbours of the date of planting and the location of the site.

Planting:

14. The exempt person must, within 30 days of the commencement of this order, provide evidence in writing to the Director General's satisfaction of the measures to be undertaken to clean planting equipment following planting of GM canola at the site.
15. The exempt person must, after planting GM canola, clean any equipment involved in planting the GM canola. Planting equipment must be cleaned in a manner consistent with the measures notified to the Director General under clause 14.

Buffer zones:

16. A buffer zone of at least 50 metres must extend in all directions from the edge of the site.
17. The buffer zone must be inspected for the presence of Brassica plants at least once every 35 days commencing 14 days before the forecasted flowering of the GM canola at the site and concluding when flowering of the GM canola at the site ceases.
18. If the exempt person becomes aware of Brassica plants in the buffer zone during the growth of the GM canola the exempt person must, before seed set of the GM canola or Brassica plants, destroy the Brassica plants or the GM canola at the site.
19. The exempt person must keep records of inspections during the period referred to in clause 17 and make a copy of any such records available to the Director General within 7 days of a request by the Director General. Details in the records must include:
 - 19.1 date of inspection;
 - 19.2 name of the inspector and their contact details;
 - 19.3 species and number of Brassica plants detected in the buffer zone;
 - 19.4 developmental state of any Brassica plants detected in the buffer zone; and
 - 19.5 details of the date and method of destruction of the GM canola at the site or any Brassica plant in the buffer zone.

Harvest and transportation of GM canola:

20. The exempt person must, within 30 days of the commencement of this order, provide evidence in writing to the Director General's satisfaction of the measures to be undertaken to clean harvesting equipment following harvest of GM canola at the site.
21. The exempt person must harvest the GM canola at the site if the plants are not destroyed before seed set.
22. The exempt person must, after harvesting the GM canola, clean any equipment used to harvest, in a manner consistent with the measures notified to the Director General under clause 20.
23. The exempt person must, immediately following harvest of the GM canola or as soon as is reasonably practicable following harvest of the GM canola:
 - 23.1 store the seed harvested from the site in a locked, sealed container marked "Genetically Modified (GM) canola seed"; or
 - 23.2 render the GM canola unviable by autoclaving or destroy it by burning; or
 - 23.3 transport the GM canola to a location outside NSW in accordance with clause 26.
24. If the container referred to in clause 23.1 cannot be locked, the container must be stored within a locked facility that has a sign on it indicating that "Genetically Modified (GM) canola seed" is stored within the facility.

25. If the GM canola is removed from storage it must be:
 - 25.1 rendered unviable by autoclaving or destroyed by burning; or
 - 25.2 transported to a location outside NSW in accordance with clause 26; or
 - 25.3 planted in accordance with an exemption order under the *Gene Technology (GM Crop Moratorium) Act 2003* (NSW).
26. GM canola may only be transported in an unbreakable and sealed container marked "Genetically Modified (GM) canola" with the contact details of the exempt person clearly marked on the container. If the primary container is a bag then the bag must be placed in an unbreakable, sealed secondary container with the contact details of the exempt person clearly marked on the container.

Cleaning:

27. The exempt person must, within 30 days of the commencement of this order, provide evidence in writing to the Director General's satisfaction of the measures to be undertaken to clean equipment used to transport GM canola from the site.
28. The exempt person must, after transporting GM canola clean any equipment used to transport the GM canola in a manner consistent with the measures notified to the Director General under clause 27.

Conditions relating to subsequent use of site:

29. The exempt person must, within 3 months of harvest, or after rain, lightly till the site under conditions when germination of any canola seed is likely.
30. Grazing at the site is prohibited unless tillage as described in clause 29 and germination of canola seed has occurred.
31. Deep cultivation of the site (ie to a depth of greater than 50 millimetres) is prohibited in the 12 months following harvest.
32. After the harvest or destruction of GM canola at the site no Brassica plants may be planted at the site before 3 March 2006 except where authorised in writing by the Director General.
33. The exempt person must ensure that a crop planted at the site in accordance with clause 32 allows herbicide control of volunteer plants as required in clause 36.
34. The exempt person must after harvest or destruction of the GM canola inspect the site for the presence of volunteer plants until 3 March 2006 in accordance with the following:
 - 34.1 From April 1 to September 30 (inclusive) each year the site must be inspected on three separate occasions with each inspection occurring at least 30 days apart; and
 - 34.2 Between October 1 and March 31 (inclusive) each year the site must be inspected at least every 60 days.

35. The exempt person must keep records of inspections carried out in accordance with clause 34 and make a copy of any such records available to the Director General within 7 days of a request by the Director General. The records must include the following:
 - 35.1 date of inspection;
 - 35.2 name of the inspector and their contact details;
 - 35.3 number of volunteer plants at the site;
 - 35.4 developmental state of any volunteer plants at the site; and
 - 35.5 details of the date and method of destruction of the volunteer plants at the site.
36. The exempt person should, during the post-harvest monitoring period, immediately destroy any volunteer plant at the site.
37. If the total number of volunteer plants at the site exceeds an average of 1 per 50m² over the area of the site action must be taken by the exempt person to control all volunteer plants on the site before seed set.

Reporting:

38. The exempt person must make available to the Director General any data relating to the trials conducted at the site, including but not limited to the trial design, results of specific experiments or any other results as required by the Director General, within 7 days of a written request.
39. For the purposes of clause 38 the exempt person does not need to provide written details of any data which, in the reasonable opinion of the Director General, is commercially confidential.
40. The exempt person must, within 30 days of the commencement of this order, provide evidence in writing to the Director General's satisfaction of a proposed communication strategy relating to the trial.

Liability:

41. The exempt person must hold and maintain, and must ensure that all subcontractors are beneficiaries under or otherwise hold and maintain, for the period of the trial and the post-harvest monitoring period, a public liability insurance policy that provides coverage as a minimum:
 - 41.1 in respect of each occurrence, for at least the Australian dollar equivalent of 10 million Euros; and
 - 41.2 for any losses it may incur in connection with the cultivation of GM canola in research trials conducted in accordance with any exemption order made in accordance with the *Gene Technology (GM Crop Moratorium) Act 2003*.
42. The exempt person must, within 30 days of commencement of this order, provide evidence in writing to the Director General's satisfaction of insurance policies described in clause 41.

Director General notice:

43. Where in this order the exempt person is required to provide evidence in writing to the Director General, the Director General will notify the exempt person within 21 days if the evidence is not satisfactory.

Schedule 3 Interpretation

accredited organisation has the meaning in Section 10(1) of the Commonwealth Act.

buffer zone means an area of land surrounding a site that does not contain any Brassica plant.

Brassica plant means plants of the species *Brassica rapa*, *Brassica juncea*, and *Brassica napus*.

canola means plants of the species *Brassica napus*.

Commonwealth Act means the *Gene Technology Act 2000* (Cth).

destroy (or **destroyed** or **destruction** as the case requires), means to kill or be killed by one or more of the following methods:

- stalk pulling; or
- light tillage; or
- burning; or
- treatment with a herbicide; or
- slashing; or
- mowing; or
- hand weeding.

Note:

“as the case requires” has the effect that, depending on the circumstances, one or more of these techniques may not be appropriate. For example, in the case of killing the remains of harvest of the GM canola, treatment of post harvest remains by herbicide would not be a sufficient mechanism.

Director General means the Director General of NSW Agriculture.

equipment includes harvesters, planting equipment, storage equipment, transport equipment, clothing, tools, augers and windrowers.

GM canola means:

1. canola that has been genetically modified to confer tolerance to the herbicide glufosinate ammonium and further defined as lines RF3 and/or MS8 in moratorium order 1; and
2. any canola planted at the site during the term of this order.

light tillage or **lightly till** means the use of a technique to disturb the soil in an area so as not to bury plant material in the area to a depth of more than 30mm.

losses means any liability, loss, action, claim, damage, injury, cost, charge, penalty, expense or diminution in value, including:

- legal costs and other costs incurred in connection with investigating, defending or settling any action or claim;
- those arising from damage or destruction to, or any loss of use of, any property or injury to or death of any person; or
- any loss of profit or consequential damage.

neighbour means:

- if the site on which the GM canola are growing comprise part of a holding, all occupiers of holdings that are adjacent to that holding; or
- if the site on which the GM canola are growing comprise the whole of a holding (the **first holding**), all occupiers of holdings (**second holdings**) adjacent to the first holding, and all occupiers of holdings that are adjacent to the second holdings.

The terms “holding” and “occupier” have the same meaning as in the *Rural Lands Protection Act 1998*.

personnel means any officers, employees, agents, contractors, consultants or advisors of the relevant person.

post-harvest monitoring period means the period that the site must be monitored after destruction of the GM canola or after harvest.

site means the area described by the following coordinates, excluding the buffer zone:

	Southing	Easting
North Eastern	35 deg 01' 58.1"	147 deg 15' 13.1"
North Western	35 deg 01' 59.5"	147 deg 15' 20.7"
South Eastern	35 deg 02' 16.5"	147 deg 15' 10.0"
South Western	35 deg 02' 17.1"	147 deg 15' 19.0"

Note:

46151 - This site is approximately 10km West of Wagga in Wagga Wagga Shire

volunteer plant means canola growing at the site during the post-harvest monitoring period.

Date: 24th May 2004

IAN MACDONALD MLC
MINISTER FOR PRIMARY INDUSTRIES

Gene Technology (GM Crop Moratorium) Act 2003

Exemption Order Number 5

I, IAN MACDONALD, Minister for Primary Industries, pursuant to Section 8 of the *Gene Technology (GM Crop Moratorium) Act 2003*, confer the exemptions specified in Schedule 2 from the operation of the moratorium order specified in Schedule 1.

Schedule 1

Moratorium order in respect of which these exemptions are conferred

Moratorium Order Number 1 made on 22 July 2003 (the **moratorium order**) in respect of GM canola of the species *Brassica napus*, common name canola, tolerant to the herbicide glufosinate ammonium due to genetic modification which are derived from the lines defined in the applications under Section 40 of the Commonwealth Act designated DIR010/2001 and DIR021/2002 made to the Gene Technology Regulator and further particularised in the moratorium order.

Schedule 2

Exemption conferred

1. Expressions in this exemption order that are defined in Schedule 3 have the meaning set out in Schedule 3.
2. **Exempt person:** Bayer CropScience Pty Ltd.
3. **Exempt cultivation:** The cultivation of GM canola in research trials in accordance with the following conditions.

Conditions subject to which exempt cultivation may take place.

4. The exempt cultivation must be undertaken by the exempt person.
5. The exempt person must, at all times, be an accredited organisation.
6. The GM canola must be planted before 31 July 2004.

Location of planting:

7. The GM canola must be planted within the site.

Informing people of their obligations:

8. The exempt person must inform any personnel engaged in exempt cultivation of the obligations imposed on it under the conditions of this exemption order.
9. The exempt person must, on request by the Director General, provide evidence in writing to the Director General's satisfaction, of the exempt person's compliance with clause 8.

Control of location:

10. The exempt person must have access to and control of the site or other area used to carry out activities in connection with the exempt cultivation to the extent necessary to comply with the conditions of this exemption order.
11. The exempt person must, on request by the Director General, provide evidence in writing to the Director General's satisfaction, of the exempt person's ability to access and control the site or other area used to carry out activities in connection with the exempt cultivation.

Notification:

12. The exempt person must notify the Director General in writing of the:
 - 12.1 date of planting of the GM canola within 7 days of planting;
 - 12.2 forecasted date of flowering of the GM canola not more than 20 days and not less than 7 days before the forecasted date of flowering; and
 - 12.3 forecasted date of harvesting of the GM canola not more than 20 days and not less than 7 days before the forecasted date of harvesting.
13. The exempt person must, before planting GM canola notify neighbours of the date of planting and the location of the site.

Planting:

14. The exempt person must, within 30 days of the commencement of this order, provide evidence in writing to the Director General's satisfaction of the measures to be undertaken to clean planting equipment following planting of GM canola at the site.
15. The exempt person must, after planting GM canola, clean any equipment involved in planting the GM canola. Planting equipment must be cleaned in a manner consistent with the measures notified to the Director General under clause 14.

Buffer zones:

16. A buffer zone of at least 50 metres must extend in all directions from the edge of the site.

17. The buffer zone must be inspected for the presence of Brassica plants at least once every 35 days commencing 14 days before the forecasted flowering of the GM canola at the site and concluding when flowering of the GM canola at the site ceases.
18. If the exempt person becomes aware of Brassica plants in the buffer zone during the growth of the GM canola the exempt person must, before seed set of the GM canola or Brassica plants, destroy the Brassica plants or the GM canola at the site.
19. The exempt person must keep records of inspections during the period referred to in clause 17 and make a copy of any such records available to the Director General within 7 days of a request by the Director General. Details in the records must include:
 - 19.1 date of inspection;
 - 19.2 name of the inspector and their contact details;
 - 19.3 species and number of Brassica plants detected in the buffer zone;
 - 19.4 developmental state of any Brassica plants detected in the buffer zone; and
 - 19.5 details of the date and method of destruction of the GM canola at the site or any Brassica plant in the buffer zone.

Harvest and transportation of GM canola:

20. The exempt person must, within 30 days of the commencement of this order, provide evidence in writing to the Director General's satisfaction of the measures to be undertaken to clean harvesting equipment following harvest of GM canola at the site.
21. The exempt person must harvest the GM canola at the site if the plants are not destroyed before seed set.
22. The exempt person must, after harvesting the GM canola, clean any equipment used to harvest, in a manner consistent with the measures notified to the Director General under clause 20.
23. The exempt person must, immediately following harvest of the GM canola or as soon as is reasonably practicable following harvest of the GM canola:
 - 23.1 store the seed harvested from the site in a locked, sealed container marked "Genetically Modified (GM) canola seed"; or
 - 23.2 render the GM canola unviable by autoclaving or destroy it by burning; or
 - 23.3 transport the GM canola to a location outside NSW in accordance with clause 26.
24. If the container referred to in clause 23.1 cannot be locked, the container must be stored within a locked facility that has a sign on it indicating that "Genetically Modified (GM) canola seed" is stored within the facility.

25. If the GM canola is removed from storage it must be:
 - 25.1 rendered unviable by autoclaving or destroyed by burning; or
 - 25.2 transported to a location outside NSW in accordance with clause 26; or
 - 25.3 planted in accordance with an exemption order under the *Gene Technology (GM Crop Moratorium) Act 2003* (NSW).
26. GM canola may only be transported in an unbreakable and sealed container marked "Genetically Modified (GM) canola" with the contact details of the exempt person clearly marked on the container. If the primary container is a bag then the bag must be placed in an unbreakable, sealed secondary container with the contact details of the exempt person clearly marked on the container.

Cleaning:

27. The exempt person must, within 30 days of the commencement of this order, provide evidence in writing to the Director General's satisfaction of the measures to be undertaken to clean equipment used to transport GM canola from the site.
28. The exempt person must, after transporting GM canola clean any equipment used to transport the GM canola in a manner consistent with the measures notified to the Director General under clause 27.

Conditions relating to subsequent use of site:

29. The exempt person must, within 3 months of harvest, or after rain, lightly till the site under conditions when germination of any canola seed is likely.
30. Grazing at the site is prohibited unless tillage as described in clause 29 and germination of canola seed has occurred.
31. Deep cultivation of the site (ie to a depth of greater than 50 millimetres) is prohibited in the 12 months following harvest.
32. After the harvest or destruction of GM canola at the site no Brassica plants may be planted at the site before 3 March 2006 except where authorised in writing by the Director General.
33. The exempt person must ensure that a crop planted at the site in accordance with clause 32 allows herbicide control of volunteer plants as required in clause 36.
34. The exempt person must after harvest or destruction of the GM canola inspect the site for the presence of volunteer plants until 3 March 2006 in accordance with the following:
 - 34.1 From April 1 to September 30 (inclusive) each year the site must be inspected on three separate occasions with each inspection occurring at least 30 days apart; and
 - 34.2 Between October 1 and March 31 (inclusive) each year the site must be inspected at least every 60 days.

35. The exempt person must keep records of inspections carried out in accordance with clause 34 and make a copy of any such records available to the Director General within 7 days of a request by the Director General. The records must include the following:
 - 35.1 date of inspection;
 - 35.2 name of the inspector and their contact details;
 - 35.3 number of volunteer plants at the site;
 - 35.4 developmental state of any volunteer plants at the site; and
 - 35.5 details of the date and method of destruction of the volunteer plants at the site.
36. The exempt person should, during the post-harvest monitoring period, immediately destroy any volunteer plant at the site.
37. If the total number of volunteer plants at the site exceeds an average of 1 per 50m² over the area of the site action must be taken by the exempt person to control all volunteer plants on the site before seed set.

Reporting:

38. The exempt person must make available to the Director General any data relating to the trials conducted at the site, including but not limited to the trial design, results of specific experiments or any other results as required by the Director General, within 7 days of a written request.
39. For the purposes of clause 38 the exempt person does not need to provide written details of any data which, in the reasonable opinion of the Director General, is commercially confidential.
40. The exempt person must, within 30 days of the commencement of this order, provide evidence in writing to the Director General's satisfaction of a proposed communication strategy relating to the trial.

Liability:

41. The exempt person must hold and maintain, and must ensure that all subcontractors are beneficiaries under or otherwise hold and maintain, for the period of the trial and the post-harvest monitoring period, a public liability insurance policy that provides coverage as a minimum:
 - 41.1 in respect of each occurrence, for at least the Australian dollar equivalent of 10 million Euros; and
 - 41.2 for any losses it may incur in connection with the cultivation of GM canola in research trials conducted in accordance with any exemption order made in accordance with the *Gene Technology (GM Crop Moratorium) Act 2003*.
42. The exempt person must, within 30 days of commencement of this order, provide evidence in writing to the Director General's satisfaction of insurance policies described in clause 41.

Director General notice:

43. Where in this order the exempt person is required to provide evidence in writing to the Director General, the Director General will notify the exempt person within 21 days if the evidence is not satisfactory.

Schedule 3 Interpretation

accredited organisation has the meaning in Section 10(1) of the Commonwealth Act.

buffer zone means an area of land surrounding a site that does not contain any Brassica plant.

Brassica plant means plants of the species *Brassica rapa*, *Brassica juncea*, and *Brassica napus*.

canola means plants of the species *Brassica napus*.

Commonwealth Act means the *Gene Technology Act 2000* (Cth).

destroy (or **destroyed** or **destruction** as the case requires), means to kill or be killed by one or more of the following methods:

- stalk pulling; or
- light tillage; or
- burning; or
- treatment with a herbicide; or
- slashing; or
- mowing; or
- hand weeding.

Note:

“as the case requires” has the effect that, depending on the circumstances, one or more of these techniques may not be appropriate. For example, in the case of killing the remains of harvest of the GM canola, treatment of post harvest remains by herbicide would not be a sufficient mechanism.

Director General means the Director General of NSW Agriculture.

equipment includes harvesters, planting equipment, storage equipment, transport equipment, clothing, tools, augers and windrowers.

GM canola means:

1. canola that has been genetically modified to confer tolerance to the herbicide glufosinate ammonium and further defined as lines RF3 and/or MS8 in moratorium order 1; and
2. any canola planted at the site during the term of this order.

light tillage or **lightly till** means the use of a technique to disturb the soil in an area so as not to bury plant material in the area to a depth of more than 30mm.

losses means any liability, loss, action, claim, damage, injury, cost, charge, penalty, expense or diminution in value, including:

- legal costs and other costs incurred in connection with investigating, defending or settling any action or claim;
- those arising from damage or destruction to, or any loss of use of, any property or injury to or death of any person; or
- any loss of profit or consequential damage.

neighbour means:

- if the site on which the GM canola are growing comprise part of a holding, all occupiers of holdings that are adjacent to that holding; or
- if the site on which the GM canola are growing comprise the whole of a holding (the **first holding**), all occupiers of holdings (**second holdings**) adjacent to the first holding, and all occupiers of holdings that are adjacent to the second holdings.

The terms “holding” and “occupier” have the same meaning as in the *Rural Lands Protection Act 1998*.

personnel means any officers, employees, agents, contractors, consultants or advisors of the relevant person.

post-harvest monitoring period means the period that the site must be monitored after destruction of the GM canola or after harvest.

site means the area described by the following coordinates, excluding the buffer zone:

	Southing	Easting
North Eastern	34 deg 40' 40.7"	147 deg 09' 32.5"
North Western	34 deg 40' 41.9"	147 deg 09' 43.9"
South Eastern	34 deg 40' 51.1"	147 deg 09' 30.9"
South Western	34 deg 40' 52.2"	147 deg 09' 41.9"

Note:

46152 - This site is approximately 15km North of Coolamon in Coolamon Shire

volunteer plant means canola growing at the site during the post-harvest monitoring period.

Date: 24th May 2004

IAN MACDONALD MLC
MINISTER FOR PRIMARY INDUSTRIES

Gene Technology (GM Crop Moratorium) Act 2003

Exemption Order Number 6

I, IAN MACDONALD, Minister for Primary Industries, pursuant to Section 8 of the *Gene Technology (GM Crop Moratorium) Act 2003*, confer the exemptions specified in Schedule 2 from the operation of the moratorium order specified in Schedule 1.

Schedule 1

Moratorium order in respect of which these exemptions are conferred

Moratorium Order Number 1 made on 22 July 2003 (the **moratorium order**) in respect of GM canola of the species *Brassica napus*, common name canola, tolerant to the herbicide glufosinate ammonium due to genetic modification which are derived from the lines defined in the applications under Section 40 of the Commonwealth Act designated DIR010/2001 and DIR021/2002 made to the Gene Technology Regulator and further particularised in the moratorium order.

Schedule 2

Exemption conferred

1. Expressions in this exemption order that are defined in Schedule 3 have the meaning set out in Schedule 3.
2. **Exempt person:** Bayer CropScience Pty Ltd.
3. **Exempt cultivation:** The cultivation of GM canola in research trials in accordance with the following conditions.

Conditions subject to which exempt cultivation may take place.

4. The exempt cultivation must be undertaken by the exempt person.
5. The exempt person must, at all times, be an accredited organisation.
6. The GM canola must be planted before 31 July 2004.

Location of planting:

7. The GM canola must be planted within the site.

Informing people of their obligations:

8. The exempt person must inform any personnel engaged in exempt cultivation of the obligations imposed on it under the conditions of this exemption order.
9. The exempt person must, on request by the Director General, provide evidence in writing to the Director General's satisfaction, of the exempt person's compliance with clause 8.

Control of location:

10. The exempt person must have access to and control of the site or other area used to carry out activities in connection with the exempt cultivation to the extent necessary to comply with the conditions of this exemption order.
11. The exempt person must, on request by the Director General, provide evidence in writing to the Director General's satisfaction, of the exempt person's ability to access and control the site or other area used to carry out activities in connection with the exempt cultivation.

Notification:

12. The exempt person must notify the Director General in writing of the:
 - 12.1 date of planting of the GM canola within 7 days of planting;
 - 12.2 forecasted date of flowering of the GM canola not more than 20 days and not less than 7 days before the forecasted date of flowering; and
 - 12.3 forecasted date of harvesting of the GM canola not more than 20 days and not less than 7 days before the forecasted date of harvesting.
13. The exempt person must, before planting GM canola notify neighbours of the date of planting and the location of the site.

Planting:

14. The exempt person must, within 30 days of the commencement of this order, provide evidence in writing to the Director General's satisfaction of the measures to be undertaken to clean planting equipment following planting of GM canola at the site.
15. The exempt person must, after planting GM canola, clean any equipment involved in planting the GM canola. Planting equipment must be cleaned in a manner consistent with the measures notified to the Director General under clause 14.

Buffer zones:

16. A buffer zone of at least 50 metres must extend in all directions from the edge of the site.

17. The buffer zone must be inspected for the presence of Brassica plants at least once every 35 days commencing 14 days before the forecasted flowering of the GM canola at the site and concluding when flowering of the GM canola at the site ceases.
18. If the exempt person becomes aware of Brassica plants in the buffer zone during the growth of the GM canola the exempt person must, before seed set of the GM canola or Brassica plants, destroy the Brassica plants or the GM canola at the site.
19. The exempt person must keep records of inspections during the period referred to in clause 17 and make a copy of any such records available to the Director General within 7 days of a request by the Director General. Details in the records must include:
 - 19.1 date of inspection;
 - 19.2 name of the inspector and their contact details;
 - 19.3 species and number of Brassica plants detected in the buffer zone;
 - 19.4 developmental state of any Brassica plants detected in the buffer zone; and
 - 19.5 details of the date and method of destruction of the GM canola at the site or any Brassica plant in the buffer zone.

Harvest and transportation of GM canola:

20. The exempt person must, within 30 days of the commencement of this order, provide evidence in writing to the Director General's satisfaction of the measures to be undertaken to clean harvesting equipment following harvest of GM canola at the site.
21. The exempt person must harvest the GM canola at the site if the plants are not destroyed before seed set.
22. The exempt person must, after harvesting the GM canola, clean any equipment used to harvest, in a manner consistent with the measures notified to the Director General under clause 20.
23. The exempt person must, immediately following harvest of the GM canola or as soon as is reasonably practicable following harvest of the GM canola:
 - 23.1 store the seed harvested from the site in a locked, sealed container marked "Genetically Modified (GM) canola seed"; or
 - 23.2 render the GM canola unviable by autoclaving or destroy it by burning; or
 - 23.3 transport the GM canola to a location outside NSW in accordance with clause 26.
24. If the container referred to in clause 23.1 cannot be locked, the container must be stored within a locked facility that has a sign on it indicating that "Genetically Modified (GM) canola seed" is stored within the facility.

25. If the GM canola is removed from storage it must be:
 - 25.1 rendered unviable by autoclaving or destroyed by burning; or
 - 25.2 transported to a location outside NSW in accordance with clause 26; or
 - 25.3 planted in accordance with an exemption order under the *Gene Technology (GM Crop Moratorium) Act 2003* (NSW).
26. GM canola may only be transported in an unbreakable and sealed container marked "Genetically Modified (GM) canola" with the contact details of the exempt person clearly marked on the container. If the primary container is a bag then the bag must be placed in an unbreakable, sealed secondary container with the contact details of the exempt person clearly marked on the container.

Cleaning:

27. The exempt person must, within 30 days of the commencement of this order, provide evidence in writing to the Director General's satisfaction of the measures to be undertaken to clean equipment used to transport GM canola from the site.
28. The exempt person must, after transporting GM canola clean any equipment used to transport the GM canola in a manner consistent with the measures notified to the Director General under clause 27.

Conditions relating to subsequent use of site:

29. The exempt person must, within 3 months of harvest, or after rain, lightly till the site under conditions when germination of any canola seed is likely.
30. Grazing at the site is prohibited unless tillage as described in clause 29 and germination of canola seed has occurred.
31. Deep cultivation of the site (ie to a depth of greater than 50 millimetres) is prohibited in the 12 months following harvest.
32. After the harvest or destruction of GM canola at the site no Brassica plants may be planted at the site before 3 March 2006 except where authorised in writing by the Director General.
33. The exempt person must ensure that a crop planted at the site in accordance with clause 32 allows herbicide control of volunteer plants as required in clause 36.
34. The exempt person must after harvest or destruction of the GM canola inspect the site for the presence of volunteer plants until 3 March 2006 in accordance with the following:
 - 34.1 From April 1 to September 30 (inclusive) each year the site must be inspected on three separate occasions with each inspection occurring at least 30 days apart; and
 - 34.2 Between October 1 and March 31 (inclusive) each year the site must be inspected at least every 60 days.

35. The exempt person must keep records of inspections carried out in accordance with clause 34 and make a copy of any such records available to the Director General within 7 days of a request by the Director General. The records must include the following:
 - 35.1 date of inspection;
 - 35.2 name of the inspector and their contact details;
 - 35.3 number of volunteer plants at the site;
 - 35.4 developmental state of any volunteer plants at the site; and
 - 35.5 details of the date and method of destruction of the volunteer plants at the site.
36. The exempt person should, during the post-harvest monitoring period, immediately destroy any volunteer plant at the site.
37. If the total number of volunteer plants at the site exceeds an average of 1 per 50m² over the area of the site action must be taken by the exempt person to control all volunteer plants on the site before seed set.

Reporting:

38. The exempt person must make available to the Director General any data relating to the trials conducted at the site, including but not limited to the trial design, results of specific experiments or any other results as required by the Director General, within 7 days of a written request.
39. For the purposes of clause 38 the exempt person does not need to provide written details of any data which, in the reasonable opinion of the Director General, is commercially confidential.
40. The exempt person must, within 30 days of the commencement of this order, provide evidence in writing to the Director General's satisfaction of a proposed communication strategy relating to the trial.

Liability:

41. The exempt person must hold and maintain, and must ensure that all subcontractors are beneficiaries under or otherwise hold and maintain, for the period of the trial and the post-harvest monitoring period, a public liability insurance policy that provides coverage as a minimum:
 - 41.1 in respect of each occurrence, for at least the Australian dollar equivalent of 10 million Euros; and
 - 41.2 for any losses it may incur in connection with the cultivation of GM canola in research trials conducted in accordance with any exemption order made in accordance with the *Gene Technology (GM Crop Moratorium) Act 2003*.
42. The exempt person must, within 30 days of commencement of this order, provide evidence in writing to the Director General's satisfaction of insurance policies described in clause 41.

Director General notice:

43. Where in this order the exempt person is required to provide evidence in writing to the Director General, the Director General will notify the exempt person within 21 days if the evidence is not satisfactory.

Schedule 3 Interpretation

accredited organisation has the meaning in Section 10(1) of the Commonwealth Act.

buffer zone means an area of land surrounding a site that does not contain any Brassica plant.

Brassica plant means plants of the species *Brassica rapa*, *Brassica juncea*, and *Brassica napus*.

canola means plants of the species *Brassica napus*.

Commonwealth Act means the *Gene Technology Act 2000* (Cth).

destroy (or **destroyed** or **destruction** as the case requires), means to kill or be killed by one or more of the following methods:

- stalk pulling; or
- light tillage; or
- burning; or
- treatment with a herbicide; or
- slashing; or
- mowing; or
- hand weeding.

Note:

“as the case requires” has the effect that, depending on the circumstances, one or more of these techniques may not be appropriate. For example, in the case of killing the remains of harvest of the GM canola, treatment of post harvest remains by herbicide would not be a sufficient mechanism.

Director General means the Director General of NSW Agriculture.

equipment includes harvesters, planting equipment, storage equipment, transport equipment, clothing, tools, augers and windrowers.

GM canola means:

1. canola that has been genetically modified to confer tolerance to the herbicide glufosinate ammonium and further defined as lines RF3 and/or MS8 in moratorium order 1; and
2. any canola planted at the site during the term of this order.

light tillage or **lightly till** means the use of a technique to disturb the soil in an area so as not to bury plant material in the area to a depth of more than 30mm.

losses means any liability, loss, action, claim, damage, injury, cost, charge, penalty, expense or diminution in value, including:

- legal costs and other costs incurred in connection with investigating, defending or settling any action or claim;
- those arising from damage or destruction to, or any loss of use of, any property or injury to or death of any person; or
- any loss of profit or consequential damage.

neighbour means:

- if the site on which the GM canola are growing comprise part of a holding, all occupiers of holdings that are adjacent to that holding; or
- if the site on which the GM canola are growing comprise the whole of a holding (the **first holding**), all occupiers of holdings (**second holdings**) adjacent to the first holding, and all occupiers of holdings that are adjacent to the second holdings.

The terms “holding” and “occupier” have the same meaning as in the *Rural Lands Protection Act 1998*.

personnel means any officers, employees, agents, contractors, consultants or advisors of the relevant person.

post-harvest monitoring period means the period that the site must be monitored after destruction of the GM canola or after harvest.

site means the area described by the following coordinates, excluding the buffer zone:

	Southing	Easting
North Eastern	35 deg 26' 44.1"	147 deg 12' 33.9"
North Western	35 deg 26' 44.8"	147 deg 12' 39.8"
South Eastern	35 deg 26' 52.6"	147 deg 12' 31.7"
South Western	35 deg 26' 54.1"	147 deg 12' 37.1"

Note:
46153 - This site is approximately 10km South West of Mangoplah in Wagga Wagga Shire

volunteer plant means canola growing at the site during the post-harvest monitoring period.

Date: 24th May 2004

IAN MACDONALD MLC
MINISTER FOR PRIMARY INDUSTRIES

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