24 May 2023

Consultations
Environmental Protection Authority
Private Bag 63002
Wellington 6140

Email: notices@epa.govt.nz

Dear Sir/Madam

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on the *Hazardous substances international regulators notice: Consultation document.*

Yours sincerely

Raewyn Bleakley
Chief Executive

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Hazardous substances international regulators notice: Consultation document

Submission by the New Zealand Food & Grocery Council

24 May 2023

NEW ZEALAND FOOD & GROCERY COUNCIL

1. The New Zealand Food & Grocery Council (**NZFGC**) welcomes the opportunity to comment on the *Hazardous substances international regulators notice: Consultation document* (the **Consultation Document**).

2. NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. This sector generates over $40 billion in the New Zealand domestic retail food, beverage and grocery products market, and over $34 billion in export revenue from exports to 195 countries – representing 65% of total good and services exports. Food and beverage manufacturing is the largest manufacturing sector in New Zealand, representing 45% of total manufacturing income. Our members directly or indirectly employ more than 493,000 people – one in five of the workforce.

COMMENTS

3. NZFGC is aware of the recent amendments to the Hazardous Substances and New Organisms Act 1996 (**HSNO Act**) to allow the EPA to make better use of information from international regulators in two new hazardous substances pathways. This will permit the EPA to rely more on data and assessments from international regulators while still considering the New Zealand context.

4. The first step in this process is for the EPA to recognise overseas bodies as international regulators for the new pathways, through the publication of Notice.

Q1 Do you have any comments regarding the international regulators proposed in Table 1

5. NZFGC is a strong supporter of any developments that result in greater efficiency in the assessment and approvals process and we therefore strongly support the recognition of all the international bodies proposed in Table 1:

Australia
- Australian Pesticides and Veterinary Medicines Authority (**APVMA**)
- Australian Industrial Chemicals Introduction Scheme (**AICIS**)

Canada
- Health Canada
- Pest Management Regulatory Agency (**PMRA**)

European Union (EU)
- European Food Safety Authority (**EFSA**)
- European Chemicals Agency (**ECHA**)
- European Commission (**EC**)
- Member State Competent Authorities (**MSCA**)

United States
- United States Environmental Protection Agency (**USEPA**)

Q2 Do you disagree with any of the international regulators proposed in Table 1?

6. NZFGC does not disagree with any of the international regulators proposed. It is important to note that the APVMA assessment process is currently more comprehensive than the EPA process. For example, the APVMA considers stability and manufacturing, efficacy, residues, label claims and health and environmental safety. We understand the EPA Pesticide Assessment focuses on health and environmental safety. This should provide strong justification to include the APVMA on the final list of approved overseas regulators.

Q3 Do you believe there are any overseas bodies which are missing from Table 1 and which the EPA should recognise as international regulators for the purposes of section 28A and 63D of the HSNO Act?

7. NZFGC has not been alerted to any overseas bodies which are missing from Table 1 at this time. However, there may be agencies undertaking similar work in countries where English is not the first language and these might be assessed against the criteria in the future.

Section 28A rapid assessment for import or manufacture of Hazardous substances

8. The EPA states that where it receives an application to import or manufacture a hazardous substance under section 28 of the HSNO Act, new section 28A(2)(ab) permits the EPA to approve a new hazardous substance if it is satisfied that *"the use of the same substance or a substance having a similar composition and similar hazardous properties has been lawfully authorised by an international regulator"*. However, this can only be done if there are no significant cultural, economic, environmental, ethical, health, or international effects or no significant effects in an area in which the EPA lacks sufficient knowledge or expertise.

9. Industry requires to know the threshold for what constitutes 'significant' in the above context. For example, is this local, regional or national for environment and individual, business, local or regional for economic effects. We would also ask if such effects would be subject to cost-benefit analyses?

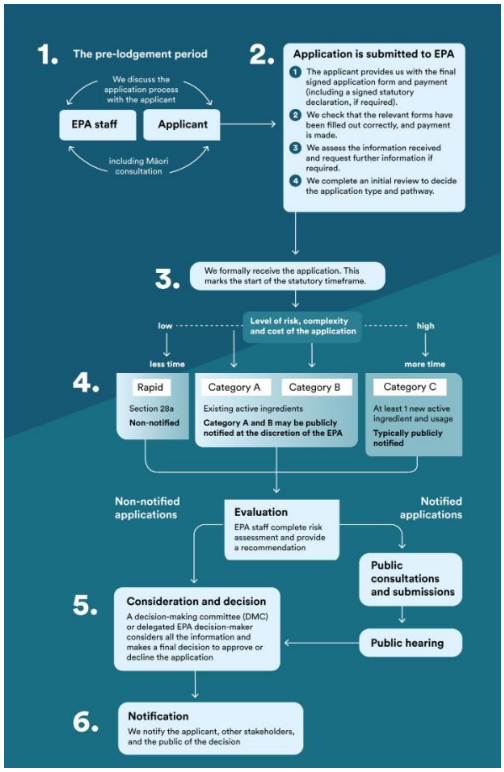
10. We question whether the individual applicant should have to provide the EPA with evidence of the right to use the information relied on in all situations or whether agreements between the EPA and other international bodies would permit such information to be shared on a confidential basis.

Section 63D Modified assessment to align classifications or controls of hazardous substances

11. We note that new section 63D provides an additional modified reassessment pathway and that through section 63D(1)(c)(i), the EPA can undertake a modified reassessment where it is necessary to change a hazard classification or control to align with *"the equivalent of a hazard classification or control that has been set by an international regulator"*. Such a reassessment can vary one or more of the following:
    - EPA controls attached to a hazardous substance
    - description of a hazardous substance
    - hazard classification of a hazardous substance.

12. One additional point to note is that in the proposal it seems that the intention is to add the new pathway to step 4 of the Application and approval process (see the 6 Step process next page and at hazardous-substance-application-process-mar22.jpg (1500×2471) (epa.govt.nz)). In the experience of NZFGC members, the current bottle-neck with applications is in steps 1 and 2 (pre-lodgement period and application submitted to EPA), before Step 3-6 which "marks the start of the statutory timeframe" and the Pathway Determination is complete.

13. NZFGC strongly recommends that the products eligible under the new overseas approval pathway are prioritised for Pathway Determination, ideally within a fixed time. It is only once the Rapid Assessment Pathway has been determined that the 10-day legislative time frame begins.



14. Without such a process, we could continue to see cases where the EPA takes 12 or more months to determine that a Rapid Assessment is suitable (which has been the case with several of recent applications). Having a way to specify at the submission stage that the application has already been approved by an eligible overseas regulator and therefore able to be fast tracked would be the best outcome and have the greatest impact on reduced approval time and workload for the EPA.

15. NZFGC understands that recognising overseas bodies as international regulators does not describe what information from them will be needed to use the new hazardous substance pathways. We look forward to further consultation on the necessary operational guidance to support the implementation of the new pathways.

<u>Q4 Do you have any other general comments on points you believe the EPA should take into account when finalising our proposals for the overseas bodies we will recognise as international regulators</u>

16. All the points we wish to make are reflected in the foregoing comments.