Draft Animal Products (Regulated Control Scheme - Hormonal Growth Promotants) Notice 2011

Pursuant to section 38(2)(b) and 167(1)(f) of the Animal Products Act 1999, I, Mary Western, Director (New Zealand Standards) issue the following notice for use and management of hormonal growth promotants implanted in bovine animals, and the handling and identification of hormonal growth promotant implanted animals and animal products derived from such animals.

Signed at Wellington this day of October 2011

Mary Western
Director (New Zealand Standards)
Ministry of Agriculture and Forestry
(Acting under delegated authority)

Certified in order for signature

Solicitor

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Notice

1 Title
This notice is the Animal Products (Regulated Control Scheme - Hormonal Growth Promotants Notice) 2011.

2 Commencement
This notice comes into force on 1 November 2011.

Part 1
Preliminary Provisions

3 Application
(1) The regulated control scheme in this notice applies to—
(a) veterinarians who implant an HGP to an animal, train and supervise technicians to implant an HGP to an animal, or supervise the implantation of an HGP to an animal; and
(b) competent persons; and
(c) persons in charge of animals, including suppliers; and
(d) primary processors of an HGP implanted animal; and
(e) verifiers of primary processing of animal material or animal products; and
(f) other persons as referred to in clauses 7, 12, 21 and Part 9.

4 Purpose
(1) This notice creates a regulated control scheme for the use and management of HGP implanted to animals, and for the handling and identification of HGP implanted animals and animal products derived from such animals.

(2) The prime purpose of this regulated control scheme is to meet the requirements of certain overseas markets which require New Zealand to impose controls to ensure that animal material and product from HGP implanted animals is not exported to those overseas markets.

5 Interpretation
(1) In the notice, unless the context otherwise requires—
Act means the Animal Products Act 1999
animal has the same meaning as in the Act but is limited in this notice to a bovine animal implanted with, or intended to be implanted with, an HGP

animal identification means:-

(i) the identifying combination of letters and numbers impressed onto the barcoded primary or replacement barcoded primary tag of an animal; and

(ii) the tamperproof radio frequency identification device (RFID tag) tag

animal material and animal product has the same meaning as in the Act, but relate only to an animal to which this notice applies.

animal status declaration or ASD means a completed and signed supplier statement regarding an animal presented for slaughter, as provided for in clause 40 of the Animal Products (Specifications for Products Intended for Human Consumption) Notice 2004

authorised user means a user of the HGP database who has been given database access rights by the Director-General

barcoded primary tag means an AHB approved barcoded ear tag with a pre-printed individual animal identifier included in the barcode

competent person means a veterinarian or a technician

direct-to-slaughter ear tag means the animal identification device marked with the letter ‘S’

directly supervise means the activity of a competent person being physically present and in direct control of the actions of the person that they are supervising

employment means employment by the veterinarian or the veterinary practice with which the veterinarian is associated

HGP means any veterinary medicine that contains either natural or synthetic hormones and is registered under the Agricultural Compounds and Veterinary Medicines Act 1997 for the purpose of increasing the muscle tone, growth rate, weight gain or feed efficiency of an animal

HGP database means the database maintained by the Director-General under Part 9, into which specified information regarding HGP implanted animals is required to be entered under the supervision of a veterinarian

HGP identification ear tag means an ear tag that is a two piece orange plastic rectangular ear tag, no smaller than 50 mm x 16 mm, that bears only the words "growth promotant" clearly printed, and that is used for identifying an HGP implanted animal

HGP surveillance list means the list of suppliers under surveillance that is kept by the Director-General under Part 7 and, for the purposes of the European Union (EUN) Overseas Market Access Requirements, is equivalent to a suspect list

HGP control system means all the activities described under Parts 2-9 of this notice and includes the control of HGPs under the Agricultural Compounds and Veterinary Medicines Act 1997

HGP implanted animal means an animal into which an HGP has been implanted

mob means animals of the same species presented for slaughter by a primary processor and slaughtered as a continuous line

person in charge means a person for the time being in charge of an animal at any point from the time an HGP is implanted in that animal until the time the HGP implanted animal is presented to a primary processor for processing
primary processor means a primary processor of animals for an overseas market where an official assurance is required attesting to the absence of any animal material or products derived from an HGP implanted animal

replacement barcoded primary tag means an AHB approved barcoded ear tag, marked with the letter ‘R’, with a pre-printed individual animal identifier applied when a barcoded primary tag is lost

RFID tag means a tamperproof radio frequency identification device which is an ISO coded transponder with a unique 16 digit number programmed into it

supervise as it applies to a veterinarian, means the activity of a veterinarian overseeing a technician implanting an HGP without that veterinarian necessarily being physically present

supervising veterinarian means a person who supervises a technician implanting an HGP to an animal and, where the veterinarian implants the HGP, includes that veterinarian

supplier means a person (not being a person solely engaged in facilitating the physical transfer of an animal or animal material, such as a transporter, purchasing agent or sale-yard operator) who presents an animal or animal material to a processor for processing

technician means a person trained by a veterinarian to implant an HGP or to directly supervise implantation of an HGP by another person

veterinarian means a veterinarian who holds a current practising certificate issued by the Veterinary Council of New Zealand and who has been issued with a username and password to access the HGP database

(2) Unless stated otherwise, references in this notice to clauses and schedules are to clauses in and schedules to this notice.

Part 2
General Requirements and Restrictions in relation to HGPs

6 Implanting an HGP
(1) Only a competent person or a person in charge acting under the direct supervision of a competent person may implant an HGP into an animal.

(2) A technician implanting an HGP into an animal, or directly supervising HGP implantation into an animal, must be acting under a supervising veterinarian.

7 Improper use of ear tags and an HGP
(1) An HGP identification ear tag must not be used for any purpose other than identification of an HGP implanted animal in accordance with this notice.

(2) No person may remove an HGP or an HGP identification ear tag from any live animal.

Part 3
Obligations of Supervising Veterinarians

8 Application of this part
This Part applies only to supervising veterinarians.
9 **Supervising veterinarians and competency records**

(1) A supervising veterinarian must use his or her best endeavours to ensure the technicians he or she supervises maintain ongoing compliance with this notice.

(2) For the purposes of this clause and section 144(1) of the Act a technician being supervised by a veterinarian is an agent of the veterinarian.

(3) A supervising veterinarian must reassess the competency of each technician he or she supervises in relation to HGP implantation, at a frequency of at least once every 12 months.

(4) A supervising veterinarian must keep a record of each technician supervised by that veterinarian, which must include—

(a) the full name of the technician; and

(b) the date of commencement of the technician’s employment and the date the employment ceased; and

(c) the dates when any HGP competency training took place and was completed; and

(d) the name of the supervising veterinarian responsible for training the technician; and

(e) the dates and results of the competency re-assessments of the technician carried out by the supervising veterinarian.

(5) A supervising veterinarian must keep the records required by subclause (4) for a period of at least 4 years from when their employment of the technician ceases.

(6) The records kept by a supervising veterinarian under subclause (4) must be kept in a readily accessible form and be made available on request to a verifier, animal product officer, or auditor of the HGP control system acting under an international agreement.

**Part 4**

**Obligations of Competent Persons**

10 **Application of this part**

This Part applies only to competent persons.

11 **Implantation of an HGP**

(1) A competent person may only implant an HGP into an animal in accordance with—

(a) this notice; and

(b) the conditions of registration of the HGP under the Agricultural Compounds and Veterinary Medicines Act 1997.

(2) An HGP must not be implanted into—

(a) a lactating dairy cow; or

(b) a cow intended for the production of milk for human consumption; or

(c) a bobby calf; or

(d) an animal bearing a ‘direct-to-slaughter’ (S) ear tag; or

(e) an animal fitted with only an RFID tag.

(3) An HGP implanted animal must be fitted with—

(a) a barcoded primary or replacement barcoded primary tag; and

(b) an RFID tag; and

(c) an HGP identification ear tag.
(4) If an animal is implanted with an HGP a competent person must record into the HGP database the barcoded primary or replacement barcoded primary tag and the RFID unique identification number.

(5) If an animal has an HGP identification ear tag fitted but is not implanted with an HGP a competent person must comply with subclause (4) as if the animal had been implanted with an HGP.

12 Custody of an HGP

A competent person must not transfer possession or custody of an HGP to any person other than a competent person, except where the transfer is to a person implanting or intending to implant an HGP into an animal under the supervision of a competent person.

13 Collection of information by competent person

Where for the purpose of the record required under clause 14, a competent person implanting an HGP into an animal collects personal information from a person in charge (including a supplier), the competent person must explain to the person in charge that—

(a) the information is being collected for the purpose of the regulated control scheme under this notice; and

(b) the information will be entered into the HGP database as required under clause 14 and Part 9.

14 Veterinarians required to enter information on the HGP database and keep records of implantation of an HGP

(1) ‘Required information’ for the purposes of this clause means the information required by sub-clause (3).

(2) A record of HGP implantation in relation to every HGP implanted animal must be entered into the HGP database established under Part 9.

(3) The required information to be entered into the HGP database is the—

(a) name of the farm owner or person in charge at the time the HGP was implanted; and

(b) physical address and phone number of the business operated by the person referred to in (a); and

(c) herd identification number; and

(d) date of HGP implantation of the animal; and

(e) barcoded primary or replacement barcoded primary tag identification; and;

(f) RFID tag unique number; and

(g) HGP product; and

(h) veterinary practice details; and

(i) competent person name.

(4) The supervising veterinarian in relation to an HGP implanted animal must ensure that the required information is entered into the HGP database—

(a) within 10 working days of the HGP identification ear tag being fitted to that animal; and

(b) prior to saving the final record to the HGP database and completing the approval requirement.

(5) The supervising veterinarian must keep written information collected when an HGP is implanted into an animal, that is later entered into the HGP database, for a period of at least 4 years from the date of HGP implantation of that animal.
The supervising veterinarian must give the person in charge a copy of the information that was entered into the HGP database within 20 working days of an animal being fitted with an HGP identification ear tag.

Part 5
Obligations of Persons in Charge

15 Application of this part
This Part only applies to persons in charge of animals including (but not limited to) suppliers.

16 Identification of animals
(1) A person in charge of an HGP implanted animal must ensure that the animal has been, or is, correctly fitted with an HGP identification ear tag prior to the animal being implanted with an HGP or sent for primary processing.

(2) An HGP implanted animal must not be fitted with a 'direct to slaughter' (S) tag.

(3) An HGP implanted animal must not be fitted with only an RFID tag.

(4) An HGP implanted animal supplied for slaughter by a person in charge (including if applicable, the supplier) must be identified by—
   (a) an HGP identification ear tag; and
   (b) a barcoded primary or replacement barcoded primary tag; and
   (c) an RFID tag; and

   be accompanied by an Animal Status Declaration form with the section relating to HGPs fully and correctly completed.

(5) An HGP identification ear tag that is lost from an HGP implanted animal must be replaced by the person in charge of the animal before the animal is sold or supplied for processing.

(6) Where a lost barcoded primary tag is replaced on an HGP implanted animal the replacement barcoded primary tag identifier must be notified by the person in charge within 10 days of replacing the ear tag to a competent person, for the purpose of updating the HGP database.

(7) Where the RFID tag is lost from an HGP implanted animal and a replacement RFID tag is fitted the RFID unique number must be notified by the person in charge within 10 days of replacing the RFID tag to a competent person, for the purpose of updating the HGP database.

Part 6
Obligations of Primary Processors

17 Application of this part
This Part applies only to primary processors.
18 Consignments of HGP implanted animals

(1) A primary processor must have a documented HGP control system for identifying and separating animal material or animal product derived from an HGP implanted animal from animal material or animal product derived from a non-HGP implanted animal.

(2) A primary processor must not supply any animal material or animal product which is or may be derived from an HGP implanted animal for export to any overseas market to which this notice applies.

(3) A primary processor may, for commercial reasons, declare an animal to be HGP implanted.

(4) A primary processor must process an animal that is identified or declared by a processor as having been HGP implanted separately from a non-HGP implanted animal, and in accordance with this notice.

(5) A primary processor must ensure that the barcoded primary or replacement barcoded primary tag of every bovine animal for export to an overseas market where an official assurance is required is scanned at the time of processing and that the result of this scan is recorded and compared to the animal identification from every HGP implanted animal, supplied to the primary processor from the HGP database.

(6) From 31 December 2012 a primary processor must ensure that—
   (a) the barcoded primary or replacement barcoded primary tag and the RFID tag of every bovine animal for export to an overseas market where an official assurance is required is scanned at the time of processing; and
   (b) the results of these scans are recorded and compared to the animal identification from every HGP implanted animal supplied to the primary processor from the HGP database.

(7) A primary processor must ensure that each carcass and edible offal from an HGP implanted animal can be identified as an HGP implanted animal at all stages of processing until post-mortem inspection is completed.

(8) An animal must be identified or declared as an HGP implanted animal by the primary processor in any of the following circumstances—
   (a) the animal bears an HGP identification ear tag;
   (b) scanning the animal’s barcoded primary or replacement barcoded primary tag shows that the animal identification is recorded on the HGP database;
   (c) from 31 December 2012, scanning the animal’s barcoded primary or replacement barcoded primary tag or RFID tag shows that the animal identification is recorded on the HGP database;
   (d) the animal is declared as HGP implanted on the animal status declaration form on which that animal is listed;
   (e) evidence of possible past use of an HGP is detected at post-mortem inspection;
   (f) laboratory testing confirms the presence of an HGP implant or the active ingredient of an HGP in the animal;
   (g) if the animal has no HGP identification ear tag and is not on the HGP database but is present in a mob of HGP implanted animals from the same supplier and its freedom from HGP implantation cannot be independently confirmed;
   (h) there is any other cause for the primary processor to suspect that an HGP has been implanted into the animal.

(9) Where a non-compliance with the primary processor’s HGP control system is identified, the primary processor must—
   (a) identify and record the reasons for the non-compliance; and
   (b) record the disposition of the animal material or product; and
   (c) ensure that the animal’s HGP status is declared correctly in accordance with this notice; and
(d) ensure that corrective action measures are put in place at the primary processor’s premises to prevent a recurrence of the non-compliance.

(10) From 31 December 2012, a primary processor must ensure that dual scanning of the barcoded primary or replacement barcoded primary tag and the RFID tag of every bovine animal for export to an overseas market where an official assurance is required continues until notified by notice by the Director-General that the barcoded primary or replacement barcoded primary tag scanning may cease.

19 Records of primary processing

(1) A primary processor must keep records in a readily accessible form relating to the processing of an HGP identified or declared animal, including HGP non-compliances, for a period (in relation to each animal) of at least 4 years from the date of processing of that animal.

(2) These records must be made available on written request to a verifier, animal products officer, or an auditor under an international agreement.

Part 7
Surveillance list

20 Surveillance list

(1) The Director-General must keep and maintain an HGP surveillance list.

(2) The purpose of the list is to identify a supplier who has not kept records in accordance with this notice.

(3) The list may be kept in the manner and form determined by the Director-General including on the Ministry of Agriculture and Forestry’s website.

(4) The Director-General may enter a supplier onto the HGP surveillance list if—

(a) the record supplied by the supplier when the animal is presented for slaughter is not, or is suspected not to be, a record which complies with this notice; or

(b) the record supplied by a previous supplier prior to the supplier of the animal presented for slaughter is not, or is suspected not to be, a record which complies with this notice; or

(c) according to the requirements of a notice issued under section 60 of the Act, any acts or omissions of the supplier require or permit the Director-General to add the supplier onto the HGP surveillance list.

(5) Every entry on the HGP surveillance list must identify the supplier by name and business address.

(6) The Director-General must notify a supplier in writing (in accordance with section 165 of the Act) of any entry in relation to that supplier on the HGP surveillance list, and any subsequent amendments to the supplier’s details.

21 Prohibition on exporting animals, material and products from sources on the HGP surveillance list

(1) No person may export animal material or animal products to any overseas market to which this notice applies, which are sourced from a supplier that is on the HGP surveillance list at the time official assurance for export is sought.

(2) No supplier on the HGP surveillance list may supply any animal material or animal products to any person for export to any overseas market to which this notice applies.
22 Amendment of incorrect entry on the HGP surveillance list
(1) A supplier whose name is entered onto the HGP surveillance list may apply in writing to the Director-General to request that an entry relating to that supplier is amended because it is incorrect.
(2) Following an application made under subclause (1) the Director-General must amend the entry within 5 working days of receipt of the application unless the Director-General is satisfied that the entry is correct.
(3) If, after receiving and considering an application under subclause (1), the Director-General decides not to revoke or amend the entry, the Director-General must provide written reasons to the applicant within 5 working days of the Director-General’s decision.

23 Amendment or revocation of entry on the HGP surveillance list if risk under control or eliminated
(1) The Director-General may revoke or amend an entry on the surveillance list if the Director-General is provided with written information that shows there were insufficient grounds for the entry to be made, or that the risk associated with the entry has been eliminated or brought under control.
(2) A supplier whose name is entered onto the HGP surveillance list may apply in writing to the Director-General and supply such information as is necessary to demonstrate to the satisfaction of the Director-General that there were insufficient grounds for the entry or (as the case may be) that the risk associated with the entry has been eliminated or brought under control.
(3) If, after receiving and considering an application under subclause (2), the Director-General decides not to revoke or amend the entry, the Director-General must provide written reasons to the applicant within 5 working days of the Director-General’s decision.

24 Surveillance notice
(1) The Director-General must provide a surveillance notice in writing to the affected supplier as soon as practicable but not later than 7 working days after making a new entry or revoking or amending an existing entry on the surveillance list.
(2) A surveillance notice under subclause (1) must be notified in accordance with section 164(2) to (4) of the Act and must specify—
   (a) the date on and from which the notice takes effect; and
   (b) the part or parts of this regulated control scheme that have not been complied with; or
   (c) if applicable, any other lawful reason that the Director-General has for placing the supplier on the surveillance list; and
   (d) other administrative matters as the Director-General considers appropriate.

Part 8
Obligations of Verifiers

25 Application of this part
This Part applies to verifiers who are responsible for verifying that—
(a) the requirements of any notice issued under section 60 of the Act or other overseas market access requirements in relation to an HGP implanted animal have been met, for the purposes of an official assurance; and
(b) the control of HGP implanted animals by primary processors is in accordance with this notice.

26 Verification procedures

(1) A recognised agency employing a verifier to whom this Part applies must implement and maintain documented procedures for verifying the compliance with this notice of any primary processor to whom that agency provides verification services.

(2) At least once in each calendar month a verifier must audit the documented system implemented by the primary processor (under clause 18(1)) for the control of HGP identified or declared animals.

(3) Any non-compliance by a primary processor detected by a verifier acting under this Part must be fully documented by the verifier and may be used as a basis for determining whether an official assurance can be issued for a consignment of animal material from an HGP implanted animal.

(4) Where HGP implanted animals are received for slaughter and the barcoded primary or replacement barcoded primary tag, the HGP identification ear tag or the HGP declaration is missing or incorrect, then the primary processor must inform the verifier. In the event of repeated non-compliance, the supplier must be placed on the surveillance list.

Part 9
HGP Database

27 Application of this part

This Part applies to—
(a) authorised users; and
(b) eligible persons wishing to become authorised users.

28 HGP database

(1) The Director-General must maintain a database containing the information about every HGP implanted animal required to be entered under clause 14(3).

(2) The HGP database must be accessible only to authorised users, and the Director-General must ensure that sufficient measures are in place at all times to protect the HGP database from being accessed and used by unauthorised persons.

(3) The required information for the HGP database must be entered accurately and within the periods required by this notice.

29 Authorised users

(1) A person who accesses or enters information into the HGP database must, at the time of accessing the database, be an authorised user, and have a user name and password issued to them by the Director-General.

(2) Any of the following persons may apply to be authorised users of the HGP database—
(a) veterinarians and supervising veterinarians;
(b) technicians;
(c) data entry personnel who input required HGP information;
(d) verifiers;
(e) employees of the Ministry of Agriculture and Forestry.

(3) In conferring authorised user status on any person the Director-General may grant the authorised user a level of access to the HGP database that is commensurate with the functions of the authorised user under this notice or (in the case of a person referred to in subclause (2)(c) or (e)), as required to perform that person’s functions in relation to HGP information.

(4) An authorised user must not disclose—
(a) his or her HGP database username or password; or
(b) any information contained on the HGP database.

to any other person, except as reasonably required to enable the authorised user to perform his or her functions under this notice or (in the case of a person referred to in subclause (2)(c) or (e)), as required to perform that person’s functions in relation to HGP information.

(5) The Director-General may at any time, and without notice (if the seriousness of the situation requires), suspend or withdraw authorised user status from any authorised user of the HGP database, if the Director-General becomes aware on reasonable grounds that the authorised user—
(a) is no longer eligible to be an authorised user of the HGP database (under subclause (2)); or
(b) has failed to comply with this notice; or
(c) has disclosed his or her username or password to the HGP database to any other person (except as provided in subclause (4)); or
(d) has disclosed any information from the HGP database to any other person (except as provided in subclause (4)); or
(e) has otherwise misused his or her access rights or privileges to the database in any way.

(6) In the event that the Director-General suspends access to the HGP database in respect of any user, he or she must notify the user of the expected duration of the suspension and any steps required to be taken by the user to enable the user’s access to be restored.

Part 10
Revocation

30 Revocation
This notice replaces and revokes the Animal Products (Regulated Control Scheme - Hormonal Growth Promotants) Notice 2009.

Issued under section 167(1)(f) of the Animal Products Act 1999.

This notice is administered by the Ministry of Agriculture and Forestry.