

EXPLANATORY STATEMENT

AUSTRALIA NEW ZEALAND FOOD STANDARDS CODE

EDITORIAL NOTE AMENDMENTS

June 2009

Following the 2007 amendments to the *Food Standards Australia New Zealand Act 1991* (FSANZ Act), editorial notes are not considered to be part of the legally binding Standards that make up the Code. This also means that the process for adding, varying or removing editorial notes is not governed by the statutory procedures (including consultation or requests for a review by the Australia and New Zealand Food Regulation Ministerial Council) as set down in Part 3 of the FSANZ Act.

The *Australia New Zealand Food Standards Code* (the Code) is considered a Commonwealth legislative instrument and amendments to the Code must also be gazetted in the Food Standards Gazette for the purposes of being given legal effect under the State and Territory Food Acts. Amendments to Editorial notes will continue to be included in these two processes to ensure openness and transparency in any change to the Code.

June 2009 amendments

Proposal P1008 – Code Maintenance VIII

Amendments to Editorial notes in five Standards were included as part of this Proposal.

Consultation

For convenience, with the exception of the Editorial note in Standard 2.2.3, the Editorial note amendments were included as part of the public consultation process for this Proposal. No concerns were raised during the consultation process.

In relation to the Editorial note amendment in Standard 2.2.3, this issue was raised after public consultation. Seafood Services noted in a recent letter to FSANZ that the reference to the Australian Fish Name Standard AS SSA 5300 – 2007 in the Editorial Note in the Standard appeared to have been inadvertently omitted during consideration of Proposal P1001 – Omnibus VII. This issue was considered by FSANZ. FSANZ noted that the Australian reference was included in the list of the description of the proposed amendments in Attachment 3 to the Assessment Report for Proposal P1001, which was released for public consultation. However, due to an oversight, the specific reference to the Australian Standard was omitted from the drafting. No concerns were raised during that consultation period.

To correct this oversight, the omitted words, intended for Proposal P1001, were proposed to be inserted into the Editorial Note as part of this Proposal. The wording was distributed to jurisdictions for consideration. No concerns were raised.

The FSANZ Board recently approved these amendments.

Regulatory issues

FSANZ considered the comparative costs and benefits of two options in relation to these amendments:

- Option 1, which was not to make variations to the editorial notes; or
- Option 2, which was to make those variations to the editorial notes.

Option 1 was not considered desirable as it would perpetuate errors, inconsistencies and outdated provisions in the Code. Option 2 was considered the more desirable option for the following reasons:

- it would clarify the existing provisions of the Code and did not add regulatory measures;
- it would have no discernable public health or safety considerations;
- it would strengthen public confidence in the Code; and
- any costs were outweighed by these benefits.

ATTACHMENT

1. Variations to Editorial Notes in the *Australia New Zealand Food Standards Code*

To commence: on gazettal

[1] **Standard 1.2.8** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note to subclause 5(2), substituting –

Editorial note:

‘Average quantity’ is determined in accordance with the definition set out in clause 2 of Standard 1.1.1. Average quantities may be indicated, for example, by inserting the word ‘Average’ or an abbreviation for average at the beginning of ‘Quantity per Serving’ and the ‘Quantity per 100 g (or 100 mL)’ columns, or including a note at the end of the panel stating that all specified values are averages.

No format is prescribed for the indication of minimum and maximum quantities. They may be indicated, for example, by inserting the bracketed abbreviations ‘(min)’ and ‘(max)’ immediately after the relevant quantities in the Quantity per Serving column and the Quantity per 100 g (or 100 mL) column.

Clause 12 explains when minimum and maximum quantities may be indicated.

[2] **Standard 1.4.1** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial Note to clause 1, substituting –

Editorial note:

It is recognised both lead and cadmium are ubiquitous in the environment and occur at low levels in foods other than those listed in this Standard. Therefore, in order to assist with the enforcement of MLs in mixed foods which may contain these contaminants, the calculation requires the inclusion of a representative contaminant level for those foods that do not have an allocated ML. In the past, an ML was set for ‘all other foods’. As the category for ‘all other foods’ was discontinued, a representative level is selected for the contaminants cadmium and lead. These levels are set at the limit of quantification (LOQ), and are 0.01 mg/kg for lead and 0.005 mg/kg for cadmium.

The calculation for mixed food for all other contaminants with an ML will assume that the contributing commodity, e.g. peanuts in peanut sauce, contains all of the contaminant.

[3] **Standard 1.6.2** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note at the end of clause 8, substituting –

Editorial note:

Processed meat in this clause includes processed meat and manufactured meat in accordance with Standard 2.2.1, irrespective of the prescribed names set out in that Standard.

Guidelines for the Safe Manufacture of Smallgoods published by Meat and Livestock Australia, will assist manufacturers and appropriate enforcement agencies to give effect to the provisions in this clause.

[4] **Standard 2.2.3** of the Australia New Zealand Food Standards Code is varied by inserting immediately before the first paragraph in the Editorial Note following clause 1 –

This Standard does not define specific names for fish. An Australian Fish Names Standards (AS SSA 5300 – 2007) has been published.

[5] **Standard 4.2.4A** is varied by omitting the first paragraph from the Editorial Note after the Table to clause 1, substituting –

Editorial note:

Legislation or documentation will only be listed in the Table to clause 1 if it incorporates or provides for methods which provide a level of safety protection equivalent to that provided by a process that includes treatment of the milk or milk product in accordance with paragraph 2(1)(a) of Standard 1.6.2 before 5 October 2008 and then with paragraphs 16(a) and (b) of Standard 4.2.4 after 5 October 2008, and has adequate hazard identification and process controls.