AUSTRALIA AND NEW ZEALAND FOOD REGULATION
MINISTERIAL COUNCIL

PRINCIPLES AND PROTOCOLS FOR THE DEVELOPMENT OF
FOOD REGULATION POLICY GUIDELINES

Produced by the Food Regulation Standing Committee, Principles and
Protocols Working Group
For the Australia and New Zealand Food Regulation
Ministerial Council
Endorsed – 2 May 2008

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<th>Version control</th>
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<td>Amended in 2004 following a comprehensive review.</td>
<td>First endorsed in May 2002 (Version 1)</td>
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<td>Amended in 2006 to address additional actions arising from the 2004 Stakeholder Consultation Forum.</td>
<td>Endorsed by Ministerial Council March 2004 (Version 2)</td>
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<td>Amend in 2007 to address actions arising from the 2006 Stakeholder Consultation Forum and to update the document to reflect amendments to the FSANZ Act</td>
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List of Abbreviations

COAG – Council of Australian Governments
FRS – Food Regulation Secretariat
FRSC – Food Regulation Standing Committee
FSANZ – Food Standards Australia New Zealand
ISC – Implementation Sub-Committee
Ministerial Council – Australia and New Zealand Food Regulation Ministerial Council
OBPR – Office of Best Practice Regulation
RIS – Regulation Impact Statement
the FSANZ Act – Food Standards Australia New Zealand Act 1991
the Treaty – Agreement between the Government of Australia and the Government of New Zealand concerning a joint Food Standards System
WTO – World Trade Organization

1. INTRODUCTION

Statement of Purpose

1.1 ‘The Australia and New Zealand Food Regulation Ministerial Council Principles and Protocols for the Development of Food Regulation Policy Guidelines’ document was first endorsed by the predecessor of the Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) at its meeting in May 2002. The aim of this document is to clarify the scope of food regulation policy guidelines, the process for their development, and the roles of the policy departments and regulatory agencies involved in the development of food policy guidelines. At the time of endorsement it was agreed by Ministers that this document is a work in progress. The document may be reviewed as experience and knowledge of the processes that contribute to good policy development accumulate or change.
1.2 Food regulation policy guidelines aim to improve food regulatory outcomes through the articulation of clear, unambiguous policy principles to food regulators.

1.3 Food regulation guidelines should be consistent with:
   - the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act); and
   - the Food Regulation Agreement;
   - The Agreement between the Government of Australia and the Government of New Zealand concerning a joint Food Standards System (the Treaty);
   - obligations as members of the World Trade Organization (WTO);
   - policy objectives established by the Council of Australian Governments (COAG) and by New Zealand;
   - the requirements specified in the ‘Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard Setting Bodies’ (amended in 2004); and
   - the requirements specified in New Zealand policies on minimum effective regulation primarily contained in the New Zealand Code of Good Regulatory Practice.

**Background**

1.4 The Council of Australian Governments (COAG) signed an Inter-Governmental Agreement on Food (the Food Regulation Agreement), giving effect to a new food regulatory system in November 2000. An amendment to the Agreement was signed in December 2002.

1.5 Clauses 3(a)(i) and 3(a)(ii) of the Food Regulation Agreement provide for the Ministerial Council to develop policy guidelines for the development, implementation and enforcement of food standards. The Ministerial Council is comprised of 10 jurisdictions: the Governments of Australia and New Zealand, the Australian Capital Territory, New South Wales, the Northern Territory, Queensland, South Australia, Tasmania, Victoria, and Western Australia.

1.6 The FSANZ Act established FSANZ as the joint Australia and New Zealand food regulatory body, pursuant to the Food Regulation Agreement and as reflected in the Treaty. FSANZ has responsibility for determining appropriate standards that protect public health and safety that have regard for the policy guidelines set by the Ministerial Council.
Section 18 of the FSANZ Act establishes the objectives for FSANZ in its setting of food standards. These objectives also provide the basis for the development of Ministerial Council food regulation policy guidelines. In descending priority order these objectives, as stated in Section 18(1) are:

a) the protection of public health and safety;
b) the provision of adequate information relating to food to enable consumers to make informed choices; and
c) the prevention of misleading or deceptive conduct.

Section 18(2) of the FSANZ Act states that:

“In developing or reviewing food regulatory measures and variations of food regulatory measures, the Authority must also have regard to the following:

a) the need for standards to be based on risk analysis using the best available scientific evidence;
b) the promotion of consistency between domestic and international food standards;
c) the desirability of an efficient and internationally competitive food industry;
d) the promotion of fair trading in food; and
e) any written policy guidelines formulated by the Council for the purposes of this paragraph and notified to the Authority.”

Section 18(3A) of the FSANZ Act provides that policy guidelines formulated by the Ministerial Council must not be inconsistent with these objectives set out in section 18(1).

The Treaty commits the two countries to seek Trans-Tasman harmonisation of food standards and to be consistent with the obligations of both countries as members of the WTO.

COAG has articulated principles for national regulation making and assessment in its ‘Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard Setting Bodies’ (as amended in 2004). These principles are directed at achieving minimum effective regulation taking into account economic, environmental, health and safety concerns.
1.12 The principles are also consistent with the objectives of Australian National Competition Policy. National Competition Policy represents a commitment by all Australian Governments to a consistent approach to fostering greater economic efficiency and improving the overall competitiveness of the Australian economy. It requires proposals for new regulation to demonstrate that the competitive effects of regulation are no more restrictive than is necessary in the public interest and that the benefits of the regulation outweigh the likely costs.

1.13 Ministerial Council food regulation policy guidelines should also be consistent with New Zealand policies on minimum effective regulation. These are primarily contained in the ‘Code of Good Regulatory Practice’.

1.14 A Regulation Impact Statement (RIS) may be required for the consideration of the Ministerial Council before the Ministerial Council agrees on food regulation policy guidelines. As part of the policy development process, consultation with the Office of Best Practice Regulation (OBPR) should be considered in the development stages to determine if a RIS is required.

1.15 Further guidance on good regulatory practice, as specified by OBPR, can be found in the document ‘‘Best Practice Regulation Handbook’ that was published on 4 September 2007. In New Zealand these are contained in the ‘Regulatory Impact Analysis Unit (RIAU) Guidelines on the Regulatory Impact Analysis Requirements’, March 2007.
2. **ROLES AND RESPONSIBILITIES**

**Australia and New Zealand Food Regulation Ministerial Council**

2.1 Under the Food Regulation Agreement, the Ministerial Council has responsibility for:

I. the development of domestic food regulatory policy;

II. the development of policy guidelines for setting domestic food standards;

III. the promotion of harmonised food standards within Australia between the Parties (harmonisation of domestic standards between States and Territories and of domestic standards with export standards) and with Codex Alimentarius (harmonisation of domestic and export standards with international food standards set by Codex Alimentarius);

IV. the general oversight of the implementation of domestic food regulation and standards; and

V. the promotion of a consistent approach to the compliance with, and enforcement of, food standards.

2.2 Under the Treaty, the Ministerial Council’s responsibility is described in similar terms but limited to the areas of joint food standards between Australia and New Zealand.

**Food Regulation Standing Committee**

2.3 The Food Regulation Standing Committee (FRSC) was established under the Food Regulation Agreement to provide advice to the Ministerial Council. FRSC has responsibility for advising the Ministerial Council on the development of food regulation policy guidelines. This includes providing advice to Ministers on:

- issues that may require food regulation policy guidelines;
- developing policy principles and associated policy options for Ministerial Council consideration; and
- the process for development of food regulation policy guidelines.
2.4 To fulfil this role, FRSC may form a working group to consider a policy issue and report their findings back to FRSC. Where possible, a working group should be composed of a number of jurisdictions to consider the widest range of views. A FRSC working group may undertake, but is not limited to, the following activities:

- analysis of policy issues;
- consideration of the available scientific evidence;
- consideration of social and cultural issues for consumers;
- development of policy options;
- stakeholder consultation;
- consideration of minimum effective regulation;
- recommendation of a policy option or options; and
- development of draft food regulation policy guidelines, or options for consideration by FRSC.

**Implementation Sub-Committee**

2.5 The Implementation Sub-Committee (ISC) oversees a consistent approach across jurisdictions to implementation and enforcement of food regulations and standards, regardless of whether food is sourced from domestic, export-registered establishments or from imports. It is recognised that implementation and enforcement is the responsibility of the State and Territory and New Zealand governments and the Australian Quarantine and Inspection Service (for imported foods). New Zealand’s participation in ISC provides the opportunity for broader cooperation with New Zealand in areas outside the scope of the Treaty.

2.6 In developing a consistent approach, ISC:

- reports to FRSC on the national approach to consistent implementation and enforcement, incorporating a cost-effective approach;
- communicates to stakeholders on consistent interpretation of regulations and standards;
- consults with FSANZ to ensure consistency with statutory objectives and potential impacts of regulatory options; and
- engages local government authorities in the national approach.
Food Regulation Secretariat

2.7 The Food Regulation Secretariat (FRS) is located in the Australian Government Department of Health and Ageing. The FRS provides secretariat services to the Ministerial Council, FRSC and ISC.

Food Standards Australia New Zealand

2.8 FSANZ has a specific operational framework that is detailed in the FSANZ Act. The objectives, powers and functions of FSANZ, and matters that may be included in food standards are specified in the FSANZ Act. In the development of food standards, activities that are clearly the expertise and responsibility of FSANZ include:

- stakeholder consultations relating to the development of food standards (as distinct from stakeholder consultation relating to the development of food regulation policy guidelines);
- scientific analysis of public health and safety;
- assessment of risk and identification of management options for dealing with risk;
- analysis of regulatory measures; and
- choice of mechanism to deliver the agreed outcomes, and reach decisions on the appropriate regulatory measures.

2.9 The members of the FSANZ Board have statutory obligations as Directors under the Commonwealth Authorities and Companies Act 1997, and a responsibility to fulfil the requirements of the FSANZ Act.

2.10 FSANZ, through the course of its work, may from time to time propose policy issues for consideration by the Ministerial Council.

Jurisdictions

2.11 All member jurisdictions jointly participate in the Ministerial Council, FRSC and ISC. State and Territory Governments and the New Zealand Government are responsible for implementation and enforcement of food standards.
3. PURPOSE AND STRUCTURE OF FOOD REGULATION POLICY GUIDELINES

3.1 Food regulation policy guidelines need to be specific enough to be of practical meaning and application.

3.2 Food regulation policy guidelines may facilitate the work of FSANZ in meeting its statutory obligations for the development or review of standards where it is considered appropriate for a standard to be developed. The process of setting standards within the food regulation system is improved where FSANZ is provided with a clear, comprehensive and consistent policy framework. The guidelines, should not be so prescriptive that they specify the details of standards to FSANZ, and therefore cause potential conflict with the procedures that FSANZ undertakes in developing standards.

3.3 Food regulation policy guidelines should:

- be consistent with the FSANZ Act;
- reflect the application of the *Australia New Zealand Food Standards Code* to the whole food supply chain (Australia only);
- take into consideration existing law;
- prioritise policy principles, where appropriate;
- be clear, concise and unambiguous;
- be evidence based wherever possible;
- be developed with appropriate technical and scientific input;
- be developed in a level of detail commensurate with the complexity and sensitivity of the policy issue;
- take into account economic impacts and consideration of any relevant social or cultural impacts;
- be developed with appropriate consultation as described in Attachment D;
- take into account implementation requirements; and
- take into consideration the potential regulatory impact of the policy.
4. PROCEDURES FOR THE DEVELOPMENT OF FOOD REGULATION POLICY GUIDELINES

Identification of Issues that Require Policy Guidance

4.1 Issues that may require the development of food regulation policy guidelines may be nominated directly to either FRSC or the Ministerial Council by members of the Ministerial Council, FRSC, other Ministers, FSANZ, or individual jurisdictions. Industry, consumer or community groups may raise matters of policy interest either directly with a Minister, their local Member of Parliament or with a relevant government agency.

4.2 The Ministerial Council determines the issues for which food regulation policy guidelines should be developed and is responsible for prioritising the order in which they will be addressed. The Ministerial Council may seek further advice from FRSC or FSANZ to determine if the development of policy guidance for issues presented to them is warranted.

4.3 Once the Ministerial Council has agreed that an issue requires the development of a food regulation policy guideline, it is referred to FRSC for the establishment of a process to progress the policy development.

Establishing Working Groups

4.4 FRSC working groups are generally the means by which FRSC develops food regulation policy guidelines and progresses issues in support of the direction set by the Ministerial Council.

4.5 At the time of establishing a working group to develop a policy guideline, FRSC will agree to the terms of reference for the working group and nominate a member agency to act as chair. FRSC may also stipulate the timeframes and resources required for the development of specific food regulation policy guidelines.

4.6 Working groups are open to all interested FRSC members. With the view to best practice, working groups should aim to be comprised of members from at least two State and Territory Governments, the Australian Government, the New Zealand Government and a FSANZ representative who has observer status on working groups and provides technical advice as necessary. Persons with appropriate technical and scientific expertise may be invited to provide advice at appropriate steps in the process.
4.7 Jurisdictions/agencies/portfolios that volunteer to take part in working groups should ensure that they can commit the resources necessary to contribute to the work of the working group. In general, this will mean making the time available to assist in the preparation of various documents, reading and commenting upon documents and preparing for and taking part in meetings. It may also include travel and other administrative support expenses.

4.8 Working group members are expected to represent the views of the jurisdiction/agency/portfolio they are representing. This role is a two way function and may include:
  • ensuring that regular reports of the working group’s progress are provided to the group they are representing; and
  • researching/preparing and articulating the views of the group they are representing to the working group.

4.9 Any jurisdiction/agency may nominate to be the chair of a working group. In the event of multiple nominations, FRSC will decide which jurisdiction/agency will chair a working group. Extra resources may be required from a jurisdiction/agency that chairs a working group, such as provision of secretariat support and/or time to draft documents. Further information on the role of the working group chair is provided below.

4.10 Once a FRSC working group has been established, the Food Regulation Secretariat will email the chair and the working group members encouraging them to read and operate within the Principles and Protocols for the Development of Food Regulation Policy Guidelines document. A copy of the document will be included. The chair of the Principles and Protocols working group will be available if required to speak to the chair and the working group members of newly established FRSC working groups in relation to the contents of the document.

Role of the Working Group Chair

4.11 The chair is responsible for managing the progress of the working group and for reporting to FRSC and/or the Ministerial Council. However, the working group as a whole has responsibility for the resolution of an issue or the completion of a particular task. As such, the entire working group needs to be actively involved in all major decision making or drafting of documents.

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4.12 At the first meeting of the working group the chair should ensure that all members are familiar with the terms of reference, the *Principles and Protocols for the Development of Food Regulation Policy Guidelines* document, and that a timeframe and a workplan are agreed.

4.13 The chair of each working group is the point of contact for any interested parties to the work of the group.

4.14 The chair is responsible for ensuring that there are adequate communication processes in place:

- by providing continued feedback to working group members or members of any subgroup formed as part of the working group; and
- by providing feedback to stakeholders on the timing of steps in the policy development process via regular updates on the Food Regulation Secretariat website and the food policy newsletter.

In relation to working group members, this includes ensuring that all members of the working group have the opportunity to:

- regularly meet and discuss issues relevant to the policy development process; and
- comment on and clear all documents produced by the working group, unless otherwise agreed. This includes:
  - FRSC agenda papers and attachments;
  - Ministerial Council agenda papers and attachments;
  - draft Ministerial Council food regulation policy guidelines;
  - draft public consultation documents; and
  - any other documents, reports or statements made by the working group for consideration by FRSC or the Ministerial Council.

4.15 Minor editorial amendments may be made at the discretion of the chair, but any change with a significant impact on the content or intent of the paper should be put to the working group for agreement as soon as possible, and with a reasonable timeframe for a response by the working group.
4.16 Where the chair receives comments from a member of the working group but chooses not to act on these comments, the chair should provide a rationale for this decision to the working group. For example, this may occur if changes are proposed to a document that are inappropriate or have already been addressed by the working group. If there is continued disagreement, the issue should be put to FRSC for decision.

4.17 The jurisdiction/agency acting as chair of a working group is not a spokesperson for FRSC unless invited by FRSC or the Ministerial Council. The chair acts as the spokesperson for the working group in any communication with FRSC or the Ministerial Council.

**Resolution of Conflict within Working Groups**

4.18 Where possible, any decisions made by the working group should be made by consensus. Where a working group is unable to reach consensus, issues should be referred to FRSC for further consideration.

**Policy Development**

**Step 1: Scoping and Policy Research**

4.19 Within the context of the terms of reference, the first task for the working group is to scope the breadth and context of the policy issue that is being considered. The information gathered from the policy research phase will assist in determining the framework and process to best progress the development of policy options.

4.20 The primary objective of the policy research phase is to inform the development of the framework and methodology to be used in the development of each policy guideline. The aims of the policy research stage are to:

- Scope, or expand on, the broad context for the policy issue at hand;
- expedite the policy development process by ensuring that all relevant issues, barriers and expertise are appropriately canvassed prior to the development of the Food Regulation Policy Options Paper;
- ascertain where critical expertise/knowledge exists that can inform the development of the Policy Guideline;
• determine where critical sources of data/research exist that can inform the development of the Food Regulation Policy Options Paper;
• identify any gaps in knowledge/information/evidence related to the policy issue and make recommendations for addressing these gaps;
• identify potential implementation issues associated with policy directions for further consideration. This should include:
  - feasibility of implementation;
  - potential technical issues associated with implementation;
  - anticipated costs and who will bear these; and
  - resources that may be required to support enforcement activities.
• assist in determining a clear framework and process to be utilised in the development of a food regulation policy guideline.

4.21 In the context of the policy research phase the working group should give careful consideration to how different stakeholder views will be taken into account, or how they might contribute to the policy development process. For example, the working group may determine that the formation of a sub-group to provide advice, debate and discussion of the issue is the most appropriate way to progress the development of policy guidance.

4.22 Strategies for the development of food regulation policy guidelines to be considered by the working group may include, but are not necessarily limited to:
• development of a discussion paper for consultation;
• one to one consultation with various experts in the field;
• seeking input from individuals or groups with appropriate technical and scientific expertise;
• focus groups;
• literature reviews; and
• use of national or international data collections.
Step 2: Consultation

4.23 In developing food regulation policy guidelines it is important that Ministers have available to them a range of workable policy options, evidence and community views. To achieve this, policy development must be appropriately inclusive, transparent and accessible to key partners in the food regulatory system. Consultation with stakeholders is therefore an instrumental component of the food regulatory system and is fundamental to the development of good food regulation policy.

4.24 Development of food regulation policy guidelines will involve appropriate stakeholder consultation in accordance with the ‘Principles and Operating Protocols for Stakeholder Consultation’ as endorsed by Ministers on 4 April 2003 (refer Attachment D).

Development of the Food Regulation Policy Options Paper

4.25 The working group develops the Food Regulation Policy Options Paper using the findings from the policy research phase. A template for the Policy Options Paper is at Attachment A.

Structure and Style of Papers Produced by Working Groups

4.26 The structure and style of all papers developed by working groups should:

- be concise, aiming for a maximum length of around 10 pages;
- be accessible to a broad range of people, using plain English and a minimum number of words. Any additional, but non essential, material should be contained in appendices;
- be presented in size 12, Times New Roman font;
- where possible use examples to clarify messages;
- use diagrams to convey or reinforce messages wherever appropriate; and
- provide commentary on all relevant issues and positions in an objective way.

4.27 The aims of the Food Regulation Policy Options Paper are to:

- present issues and arguments in an objective, clear and succinct manner;
- present a range of positions and options for comment;
- generate public discussion;
- elicit broad community support; and
- create high level awareness with stakeholders.
4.28 The contents of the Food Regulation Policy Options Paper should include:

- the policy question and purpose of consultation;
- the scope of the policy guideline;
- the context – background, the current status of the issue in the Australia and New Zealand and any relevant international developments;
- any related issues/barriers;
- key issues/impacts for public health, consumers, industry and government;
- social, cultural and ethical considerations; and
- the policy options.

4.29 The policy options should:

- be clear and unambiguous;
- include the criteria by which options have been assessed (these are generally expressed as High Order and Specific Policy Principles);
- clearly articulate all options to be considered;
- further develop the options to be considered, including an analysis of the advantages and disadvantages including potential implementation issues identified;
- where relevant, discuss any options that have not been further explored and provide reasons why; and
- invite comment on the option/s being considered.

4.30 The working group must examine a range of options for inclusion in the Food Regulation Policy Options Paper. The working group must consider analysis that illustrates the advantages and disadvantages of options, as well as how the options complement or are consistent with the existing statutory and other elements of the approved policy framework.

4.31 A key section of the Food Regulation Policy Options Paper is the policy principles. These form the foundation of food regulation policy guidelines. The High Order Principles (refer Attachment A), are primarily drawn from the FSANZ Act, the Food Regulation Agreement and the Treaty. The High Order Policy Principles are applicable across all food regulation policy guidelines, and therefore will not alter between individual policy guidelines, except in instances where the policy guideline does not apply in New Zealand.
Specific Policy Principles are to be developed by the working group for the particular issue that is under consideration. The Specific Policy Principles should clearly set out the factors to be considered in the policy guideline beyond those articulated in the High Order Policy Principles (refer Attachment A). In conjunction with the High Order Policy Principles, the Specific Policy Principles will form the foundation of food regulation policy guidelines.

Endorsement of Consultation Papers by FRSC

FRSC must endorse any consultation paper and agree to its release for stakeholder consultation.

Using the table below as a guide, the working group should prepare advice for FRSC consideration, on a preferred approach for the advertising of public consultation and funding arrangements. The Food Regulation Secretariat will coordinate the advertising process.

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<tr>
<th>Option</th>
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<td>• one national Australian newspaper;</td>
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<td></td>
<td>• two national New Zealand newspapers;</td>
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<td></td>
<td>• notice placed on the Food Regulation Secretariat (FRS) website; and</td>
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<td></td>
<td>• email to all stakeholders on the FRS database.</td>
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<td>B</td>
<td>• one national Australian newspaper;</td>
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<td></td>
<td>• two national New Zealand newspapers;</td>
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<td>• one newspaper in each State/Territory;</td>
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<td>• one newspaper in each State/Territory;</td>
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<td>• selected local newspapers in each State/Territory;</td>
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<td>D</td>
<td>• Alternative option proposed by working group.</td>
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A minimum of period of 6-8 weeks should be allowed for public consultation.

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4.36 The working group is responsible for ensuring appropriate coordination with FSANZ to avoid any duplication of effort and any public confusion in consultation processes. This will be especially relevant when food regulation policy guidelines are being developed concurrently with the development of standards.

4.37 When releasing the Food Regulation Policy Options Paper for public consultation, the following statement should be clearly made on the first page of the document:

“All submissions are subject to the *Freedom of Information Act 1982* in Australia and the *Official Information Act 1982* in New Zealand. If you consider that all or part of your submission should not be released, please make this clear when making your submission and indicate the grounds for withholding the information.

A general summary of submissions will be produced and published on the Food Regulation Secretariat website at www.foodsecretariat.health.gov.au and the New Zealand Food Safety Authority website at www.nzfsa.govt.nz.

Copyright in an original submission resides with the copyright owner of that submission, but the act of making a submission will grant the Australian Government and the New Zealand Government a licence to use the submission for the purpose of making a summary of the submission for the website and for future policy or standard development work.”

**Step 3: Summary of Stakeholder Responses**

4.38 At the close of the consultation period, the working group is to collate all stakeholder submissions into a summary document that fairly and accurately represents the views expressed in all submissions received by the working group. A template for the Summary of Stakeholder Responses is at Attachment B.

4.39 To assist in the identification of any emerging themes or issues from particular stakeholder groups, the summary should present the results of stakeholder consultation in categories of respondents. For example:

- consumer;
- food industry;
- government;
- public health; and
- any other grouping appropriate to the policy issue at hand.

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4.40 A list of all submitting organisations (not identifying any individual submitters) should be included as part of the Summary.

4.41 The working group will provide submitters with a letter acknowledging receipt of their submission.

4.42 The working group is to present the consultation summary to FRSC and to the Ministerial Council for consideration and further action. The summary is then to be made publicly available on the Food Regulation Secretariat website.

4.43 After the completion of the public consultation period, stakeholders are encouraged to complete a feedback sheet (refer Attachment E). This feedback sheet aims to establish whether stakeholders found the consultation documentation and process user-friendly and easy to follow. Stakeholders are reminded to complete the feedback sheet after receipt from an email from the Food Regulation Secretariat.

4.44 Identity information collected from the feedback sheet, if provided, may be disclosed to:
   · the Food Regulation Standing Committee; and
   · the Australia and New Zealand Food Regulation Ministerial Council; and
   · Food Standards Australia New Zealand.

4.45 Feedback received may become publicly available and may be posted on the web site of the Food Regulation Secretariat at www.foodsecretariat.health.gov.au and the New Zealand Food Safety Authority website at www.nzfsa.govt.nz unless submitters indicate they do not want their feedback published. Any personal information will be handled in accordance with the Privacy Act 1988 (Cth) and with the relevant principles (3, 6 and 7) of the Privacy Act 1993 (NZ).

**Step 4: Development of Policy Guideline**

4.46 Analysis of all information gathered throughout this process will enable the working group to develop a draft Policy Guideline to be endorsed by FRSC and presented to the Ministerial Council. A template for the draft Policy Guideline is at Attachment C.

4.47 The draft Policy Guideline should outline the agreed policy principles and the recommended policy option.
Food regulation policy guidelines should be checked against the requirements as set out in 3.3 to ensure they:

- are consistent with the FSANZ Act;
- reflect the application of the Australia New Zealand Food Standards Code to the whole food supply chain (Australia only);
- take into consideration existing law;
- prioritise policy principles, where appropriate;
- are clear, concise and unambiguous;
- are evidence-based wherever possible;
- are developed with appropriate technical and scientific input;
- are developed in a level of detail commensurate with the complexity and sensitivity of the policy issue;
- take into account economic impacts and consideration any relevant social or cultural impacts;
- are developed with appropriate consultation as described in Attachment D
- take into account implementation requirements; and
- take into consideration the potential regulatory impact of the policy.

FRSC must endorse the draft Policy Guideline prior to it being presented to the Ministerial Council for consideration. FRSC should ensure that the policy guideline fulfills the requirements set out in paragraph 4.48. In some situations, FRSC may consider it appropriate to:

- request that the working group undertake further work;
- not present the proposed draft Policy Guideline to the Ministerial Council;
- modify the proposed draft Policy Guideline option; or
- present more than one Policy Guideline option to the Ministerial Council.
Step 5: New Policy Guideline

4.50 After a Policy Guideline is endorsed by the Ministerial Council, the working group is responsible for finalising the Policy Guideline according to any agreements or amendments made by the Ministerial Council. Where possible the working group chair or delegate should be in attendance when a Ministerial Council decision is to be made. If this is not possible, arrangements should be made in advance for communication of the decision to be made in a timely fashion to the working group chair. The revised Policy Guideline then forms the new Policy Guideline.

Policy Guideline placed in Public Domain and Notification to FSANZ

4.51 The chair of the working group is responsible for ensuring that the new Policy Guideline is submitted to the Food Regulation Secretariat for publication on the website.

4.52 The Food Regulation Secretariat is responsible for formally notifying FSANZ of the Policy Guideline. FSANZ is also required to make Ministerial Council Food Regulation Policy Guidelines public via its website.

Step 6: Review of Food Regulation Policy Guidelines

4.53 Food Regulation Policy Guidelines may be subject to review, at times to be determined by the Ministerial Council.
## Policy Development Checklist

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<th>Date completed</th>
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<tr>
<td>Identification of issues that require policy guidance</td>
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<tr>
<td>Establishment of FRSC working group and terms of reference</td>
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<tr>
<td>Policy development - policy research phase</td>
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<tr>
<td>Policy development - Food Regulation Policy Options Paper</td>
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<tr>
<td>Endorsement of Food Regulation Policy Options Paper by FRSC</td>
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<tr>
<td>Advertise impending consultation period</td>
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<tr>
<td>Consultation with stakeholders</td>
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<tr>
<td>Collation of stakeholder comments and development of Policy Guideline Proposal</td>
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<tr>
<td>Recommended Policy Guideline Proposal, completed policy development checklist and consultation summary to be presented to FRSC for consideration and if appropriate endorsement</td>
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<tr>
<td>The working group has considered and believes that the policy guideline fulfills the following requirements:</td>
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<tr>
<td>• is consistent with the FSANZ Act;</td>
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<tr>
<td>• reflects the application of the Australia New Zealand Food Standards Code to the whole food supply chain (Australia only);</td>
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<td>• takes into consideration existing law;</td>
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<td>• prioritises policy principles, where appropriate;</td>
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<td>• is clear, concise and unambiguous;</td>
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<td>• is evidence based wherever possible;</td>
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<td>• was developed with appropriate technical and scientific input;</td>
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<td>• includes a level of detail that is commensurate with the complexity and sensitivity of the policy issue;</td>
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<td>• takes into account economic impacts and consideration of any relevant social or cultural impacts;</td>
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<tr>
<td>• was developed with appropriate consultation as described in Attachment D;</td>
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<tr>
<td>• takes into account implementation requirements; and</td>
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<tr>
<td>• takes into consideration the potential regulatory impact of the policy.</td>
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<tr>
<td>Consultation summary and recommended Policy Guideline Proposal tabled to Ministerial Council for consideration and if</td>
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<tr>
<td>Finalise new Policy Guideline as agreed by Ministerial Council</td>
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<tr>
<td>Policy Guideline placed in public domain</td>
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<tr>
<td>FSANZ notified</td>
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<tr>
<td>Policy review date</td>
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</table>

A completed checklist covering these points should be presented to FRSC with the recommended policy guideline proposal. Comments or issues in relation to the requirements should be highlighted in the Agenda Paper.

Principles & Protocols document Version 4
FOOD REGULATION POLICY
OPTIONS CONSULTATION PAPER
for the Regulation of
XXX

Produced for the Food Regulation Standing Committee
By the XXX Working Group
Date (Month Year)
**Introduction (standard words to be used)**

This Food Regulation Policy Options Paper has been developed by the Food Regulation Standing Committee’s Working Group XXX and endorsed by the Food Regulation Standing Committee. Community responses to the proposed option/s are now being sought.

The Food Regulation Policy Options Paper, together with the community feedback received, will then be provided to the Australia and New Zealand Food Regulation Ministerial Council to assist the Council in its determination of food regulation policy guidelines in relation to the regulation of XXX. The final Ministerial Council food regulation policy guidelines will be provided to Food Standards Australia New Zealand for guidance in developing food standards, in accordance with its legislative requirements.

**Important notice to all submitters:** All submissions are subject to the *Freedom of Information Act 1982* in Australia and the *Official Information Act 1982* in New Zealand. If you consider that all or part of your submission should not be released, please make this clear when making your submission and indicate the grounds for withholding the information.


Copyright in an original submission resides with the copyright owner of that submission, but the act of making a submission will grant the Australian Government and the New Zealand Government a licence to use the submission for the purpose of making a summary of the submission for the website and for future policy or standard development work.

Electronic submissions to the e-mail addresses below are preferred.

Submissions should be provided using the response form provided, or in a similar format, by the [Insert date in bold font] to:

**Australia** Submissions – xxx C/-

Or email to: Or fax to:

**New Zealand** Submissions – xxx C/-

Or email to: Or fax to:
Purpose

To provide an understanding of the policy options for regulating XXX. The issues explored include an examination of how other countries define and assess XXX, and considerations of consumer, industry, public health and government issues.

Current Status

Australia and New Zealand

International context - this section can alternatively be placed in an attachment at the end of the document.

Codex [always included]

European Community and/or UK

USA

Canada

Asia

Key Impacts

The key priority for the food regulatory system is to protect public health and safety. In the competitive environment of innovation and rapidly changing technological developments, it is important that the food regulatory system maintains appropriate measures, including transparency of operation to ensure ongoing public confidence in the food supply.

Public Health Impacts

The extent to which policy guidelines address public health interests such as nutrition guidelines, health status of the population or demographic groups and individual health impacts.

Consumer Impacts

The increasing sophistication of the consumer and the increasing breadth of consumer interests need to be addressed. Both perceived and actual concerns should be reflected. Also of concern is the cost of the policy options on food. (NZ)

Industry Impacts

Implications include technical issues, market access, constraints on innovation and technological developments, competition and cost of production. (NZ)

Government Impacts

The Australian, New Zealand and State and Territory Governments may be impacted in differing ways by each regulatory option. In many cases the enforcement agencies, food safety agencies and departments of health, trade and agriculture/primary industries will be most significantly affected. Some of the impacts on government agencies include: harmonisation and consistency in food regulation, addressing public health issues, removal of unjustifiable trade barriers, international obligations, broad economic implications and implications for enforcement.
Scope/Aim

- To consider the issues arising from XXX in the food supply and develop regulatory options.
- To develop an overarching regulatory framework that ensures that FSANZ meets its statutory objectives established in section 18 of the FSANZ Act.

GUIDING PRINCIPLES

High Order Policy Principles – are standard text as these principles are generic and apply to the development of all food regulation policy guidelines.

The Food Standards Australia New Zealand Act 1991 (the FSANZ Act) establishes a number of objectives for FSANZ in developing or reviewing of food standards.

1. The objectives (in descending priority order) of the Authority in developing or reviewing food regulatory measures and variations of food regulatory measures are:
   (a) the protection of public health and safety; and
   (b) the provision of adequate information relating to food to enable consumers to make informed choices; and
   (c) the prevention of misleading or deceptive conduct.

2. In developing or reviewing food regulatory measures and variations of food regulatory measures the Authority must also have regard to the following:
   (a) the need for standards to be based on risk analysis using the best available scientific evidence;
   (b) the promotion of consistency between domestic and international food standards;
   (c) the desirability of an efficient and internationally competitive food industry;
   (d) the promotion of fair trading in food;
   (e) any written policy guidelines formulated by the Council for the purposes of this paragraph and notified to the authority.

These objectives apply to the development of standards regulating the XXXX.

A number of other policies are also relevant to the development of food standards including COAG Principles (Australia only), New Zealand Code of Good Regulatory Practice (Nov 1997), the Agreement between the Government of Australia and the Government of New Zealand Concerning a Joint Food Standards System and WTO agreements.

Specific Policy Principles

Principles that relate specifically to XXX. These must clearly set out the principles that the working group will use in the development of food regulation policy guidelines. These will often include a more detailed statement of concerns raised by the High Order Policy Principles, for example setting out the particular public health and safety concerns that relate to a particular issue.
XXX policy options are explored in this section. Stakeholders are asked to comment on their preferred policy option, which could also be a combination of specific elements from a number of the policy options. The policy options are listed below for quick reference. A table comparing the XXX policy options in terms of their consistency with the draft policy principles is on page xxx of this paper.

In brief, the policy options are: (provide a summary of the options presented)

1. Option title

For each option provide a summary of the option and an analysis of the advantages and disadvantages.

**Summary**

**Advantages**

- 

**Disadvantages**

- 
RESPONSE SHEET

POLICY OPTIONS FOR THE REGULATION OF XXX

Name: 
Title: 
Organisation: 
Address: 

Telephone: 
Fax: 
Email: 

1. [Insert question here]

2. [Insert question here] Etc…

x. Additional Comments:

Comments should be provided by [Day, Date, Month, Year]

Australia Submissions – xxx C/-

Or email to: Or fax to:

New Zealand Submissions – xxx C/-

Or email to: Or fax to:

Would you like to receive future information about food regulatory issues? If so, please indicate your main areas of interest and detail your e-mail address here:
# Summary of Stakeholder responses on Policy Options for the Regulation of XXX

## Overview

<table>
<thead>
<tr>
<th>General Comments</th>
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<tbody>
<tr>
<td>[Provide comments by sectors and where appropriate details of individual submissions]</td>
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</table>

## Comments on Policy Principles

## Comments on Policy Options

*Option 1 -*

*Option 2 –*

*Etc*

## Draft amended Policy Principles and Option [if necessary]

Tracked changed for ease of reading
Table A – Preferred options by stakeholder group

<table>
<thead>
<tr>
<th>Respondent</th>
<th>No. of Submissio</th>
<th>Option 1</th>
<th>Option 2</th>
<th>Combination of Option 2</th>
<th>Option 3</th>
<th>Option.. etc</th>
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<tr>
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<td>Health Professional</td>
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<td>Consumer Organisation</td>
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<td>Consumer Individual</td>
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<td>Industry Association</td>
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<td>Industry Company</td>
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<td>Research Institution</td>
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<td>Government</td>
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Note: This table is only one option for presenting the relevant information. Working groups may agree to devise other suitable tools for this purpose.
List of Respondents to Food Regulation Food Regulation Policy Options Paper

List of submitters
AUSTRALIA AND NEW ZEALAND FOOD REGULATION MINISTERIAL COUNCIL

Food Regulation Standing Committee
XXX Working Group
Recommended Policy Guideline
for the Regulation of XXX

<table>
<thead>
<tr>
<th>SCOPE/AIM</th>
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<table>
<thead>
<tr>
<th>HIGH ORDER POLICY PRINCIPLES</th>
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<table>
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<tr>
<th>SPECIFIC POLICY PRINCIPLES</th>
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<tr>
<th>ADDITIONAL POLICY GUIDANCE</th>
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Insert agreed text agreed by the working group, taking into account the feedback from the public consultation process under each heading.
PRINCIPLES AND OPERATING PROTOCOLS FOR STAKEHOLDER CONSULTATION

(Adopted by the Australia and New Zealand Food Regulation Ministerial Council - April 2003)

An effective and adaptable consultation mechanism will inform the development of food regulation policy guidelines by Ministers. The new food regulatory arrangements relating to food regulation policy to apply in Australia (under the Food Regulation Agreement), and New Zealand (through the Agreement between the Government of Australia and the Government of New Zealand concerning a joint Food Standards System) provides for effective stakeholder consultation. Such a consultation arrangement is separate from and additional to the statutory consultation requirements that Food Standards Australia New Zealand (FSANZ) must fulfil as part of its processes during the development of food standards.

Stakeholder consultation on food regulation policy guidelines aims to:

1. provide for the views of stakeholders to be considered by the Australia and New Zealand Food Regulation Ministerial Council when setting food regulation policy guidelines;

2. inform the policy guideline development process;

3. provide increased accountability and transparency in decision making on food regulation policy guidelines; and

4. enhance stakeholder confidence in the food regulatory system and build relationships with those developing policy.

Food regulation stakeholders include consumers, public health professionals and the food industry sectors which each represent a collection of groups and individuals with some common but many diverging interests. The diversity of stakeholders across Australia and New Zealand must also be accommodated.

Principles

The consultation mechanism will ensure:

- transparency;
- accountability;
- flexibility;
- increased stakeholder awareness of policy issues;
- broad stakeholder input and involvement;
- efficiency and effectiveness;
- promotion of stakeholder confidence; and
- an understanding of stakeholder perspectives.
Operating protocol

1. The following minimum level of consultation will be undertaken on all food regulation policy guidelines:

- Information will be provided to stakeholders in such a way that they clearly understand who is consulting and why, the way in which decisions will be made (and by whom) and the type of consultation to be undertaken in particular cases.
- The food regulation policy guidelines workplan will be available on the Food Regulation Secretariat website, with links from the jurisdictions’ websites.
- All policy guideline development will be subject to open consultation, with consultation being notified on the websites of all jurisdictions.
- Notice of the consultation will be sent to all those identified as potentially interested parties.
- Jurisdictions will consult with stakeholders and the public generally in their jurisdiction as they see fit.
- Where there is a need for further detail to be sought from specific sectors or stakeholders there will be further targeted consultation as appropriate.
- Comments and/or summaries of comments will be provided to the Food Regulation Standing Committee and the Ministerial Council.
- Outcomes of the consultations will be made publicly available.
- An annual consultative stakeholder forum will be held to gather issues to be presented to Ministers.

2. It is at the discretion of the Australia and New Zealand Food Regulation Ministerial Council and the Food Regulation Standing Committee to conduct additional consultation using the following options:

- working through already established jurisdictional advisory, expert or technical committees or groups;
- targeted consultation with specific stakeholder groups or in specific geographic areas;
- workshops;
- meetings;
- public forums;
- discussions at seminars and conferences;
- purpose-specific, time-limited advisory committees;
- hard copy mailouts or web-based mechanisms calling for submissions;
- interactive web-based consultation (eg. surveys, response sheets, ‘frequently asked questions’); and
- surveys.
3. Factors to be considered in determining the most appropriate consultation mechanism in each circumstance will include:

- the amount and type of consultation already undertaken;
- the level of broad stakeholder interest;
- the degree of complexity of the issue;
- the range of stakeholder groups affected;
- the level and type of expertise required (expertise may be required on other matters such as economic issues); and
- the time and resources available.

4. The Food Regulation Standing Committee will review this process in 12 months to evaluate the effectiveness of this approach to consultation. There will also be an ongoing monitoring and review process to identify and address the strengths and weaknesses of the mechanism.
STAKEHOLDER FEEDBACK SHEET ON THE POLICY GUIDELINE DEVELOPMENT CONSULTATION PROCESS

Feedback on Options Consultation Paper

xxx Contact Details (optional)
Name: 
Title: 
Organisation: 
Address: 

Telephone: Fax:
Email:

1. Did you find the overall consultation process user-friendly?

2. Did you find the consultation document user-friendly, easy to understand and follow?

3. How do you think the consultation process could be improved?

4. Is electronic submission of your response to the policy options your preferred format? If not, what other format(s) do you recommend?

5. Do you have any other comments on the consultation process?

Australia Submissions – xxx C/-
Or email to: Or fax to:

New Zealand Submissions – xxx C/-
Or email to: Or fax to:

Privacy Statement (Australia)
Personal information you provide on the Feedback Sheet will only be collected, held, used or disclosed by the Food Regulation Standing Committee Working Group to various Commonwealth, State and New Zealand bodies for the purpose of developing food regulation policy guidelines. Any personal information will be handled in accordance with the Privacy Act 1988 (Cth).

Privacy Statement (New Zealand)
In regard to any personal information being collected on this stakeholder feedback sheet (that is personal about an identifiable individual), notification is hereby provided in accordance with Principle 3 of the Privacy Act 1993, to individuals of the following matters:
This information is being collected for purposes relating to feedback on the policy guideline development consultation process.
The recipient of this information, which is also the agency that will collect and hold the information, is the New Zealand Food Safety Authority, P O Box 2835, Wellington. The supply of this information is voluntary. Under Principles 6 and 7 of the Privacy Act 1993, you have the right of access to, and correction of, any personal information, which has been provided.