

AUSTRALIA AND NEW ZEALAND FOOD REGULATION MINISTERIAL COUNCIL

26 SEPTEMBER 2008

FOOD MINISTERS REQUEST A REVIEW OF VARIATION TO STANDARD 1.4.1 – CONTAMINANTS AND NATURAL TOXICANTS – THAT HAS RESULTED FROM APPLICATION A552 – CADMIUM IN PEANUTS

The Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) has requested that Food Standards Australia New Zealand (FSANZ) review variation to Standard 1.4.1- Contaminants and Natural Toxicants that has resulted from Application A552 – Cadmium in Peanuts.

Application A552 seeks to amend Standard 1.4.1 to increase the existing maximum level for cadmium in peanuts from 0.1 to 0.5 mg/kg. The Criteria/Ground/s for the review are that:

It is not consistent with the objectives of the legislation with establishes FSANZ

Given that data is unavailable, it is believed that the precautionary principle should be applied to foods containing contaminants which pose a risk to human health, especially as there are peanut growers both local and overseas able to meet the existing maximum level for cadmium standard of 0.1mg/kg.

It does not protect public health and safety

Given the uncertainties associated with the absorption of cadmium from food, cadmium in the diet should be at levels that are as low as reasonably achievable to minimise exposure of the community to cadmium.

It is requested that FSANZ review the ‘Absorption, distribution and excretion’ section of the Hazard Assessment to include a critical review of studies conducted on cadmium in food. Specific attention should be given to distinguishing and discussion difference associated with the absorption of inorganic cadmium and cadmium adsorption from food and how this may impact on the determination of safe levels of cadmium in the diet.

It places an unreasonable cost burden on industry or consumers

Increasing the maximum limit may negate the work done to date to improve practices that have lead to lower levels of cadmium in Australian soils and hence lower levels of cadmium in foods.

Australia has the capacity to gain market advantage for its “clean” peanuts and an increased cadmium maximum limit will send the wrong message to producers.

FSANZ has 3 months to review the draft standard and re-affirm, re-affirm with amendments, or withdraw its approval of the draft standard.

The process for requesting a review

After Food Standards Australia New Zealand (FSANZ) notifies the Australia and New Zealand Food Regulation Ministerial Council (the Council) of a draft standard or variation the Council may request a review if any jurisdiction believes that one or more of the Criteria/Ground/s¹ set out in the Food Regulation Agreement 2000 (as amended in 2008) (the Agreement) or the Agreement between the Government of Australia and the Government of New Zealand concerning a Joint Food Standards System (the Treaty) applies. The Criteria / Ground/s set out in the Agreement and in the Treaty are:

- (i) it is not consistent with existing policy guidelines set by the Ministerial Council;
- (ii) it is not consistent with the objectives of the legislation which establishes FSANZ;
- (iii) it does not protect public health and safety;
- (iv) it does not promote consistency between domestic and international food standards where these are at variance;
- (v) it does not provide adequate information to enable informed choice;
- (vi) it is difficult to enforce or comply with in both practical or resource terms; and / or
- (vii) it places an unreasonable cost burden on industry or consumers.

In exercising this power the Council must comply with the Agreement and the Treaty. Under the Agreement the Council will request a review if any jurisdiction considers that one or more of the Criteria applies. The Council would also, at this point in the process, request a review if New Zealand notifies the Council of concerns that the standard would be inappropriate for New Zealand (Annex C(2) of the Treaty).

If such a review is undertaken and the Council receives notice from FSANZ that the draft standard or variation has been reaffirmed (either entirely or subject to amendments) the Council may request a second¹ review. In exercising this power the Council must comply with the Agreement. Under the Agreement the Ministerial Council will request FSANZ to review the draft standard or variation a second time if it is agreed, by a majority vote, that one or more of the Criteria applies.

¹ This part of the protocol will have to be updated once the 'Agreement between the Government of Australia and the Government of New Zealand Establishing a System for the Development of Joint Food Standards' (the Treaty) has been amended to reduce from two to one the number of occasions on which the Council may request the Authority to review a draft or a variation to a standard. This will harmonize it with the Food Standards Australia New Zealand Amendment Act 2007.