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Food and Agricultural Import Regulations and Standards

Country Report

2004

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Report Highlights:
This report outlines regulatory requirements for food and agricultural imports into New Zealand, including labeling, packaging, food additives, and other import procedures. Significant updates have been made in the following sections: Section I – NZFSA, Section V – Maximum Residue Limits, Section VI – BSE-Related Import Requirements for U.S. beef products, Section VII - Food Produced using Gene Technology and Section VIII – Plant Variety Rights.

Includes PSD Changes: No
Includes Trade Matrix: No
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NEW ZEALAND FOOD IMPORT REGULATIONS AND STANDARDS

DISCLAIMER: This report was prepared by the Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in Wellington, New Zealand for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.

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INTRODUCTION

The New Zealand Food Safety Authority (NZFSA) was established in July 2002 and has responsibility for the administration of all New Zealand Food laws related to food safety standards, import requirements, export assurances (certification) and food labeling and composition. Labeling and composition standards are developed for both Australia and New Zealand by a trans-Tasman agency, Food Standards Australia New Zealand (FSANZ). FSANZ has the responsibility for the development, variation, and review of food standards (primarily labeling and composition) for food available in New Zealand and Australia. The major areas not covered by the joint Australia New Zealand standards are:

- Maximum residue limits of agricultural compounds in food
- Food hygiene and food safety provisions (including high risk imported foods)
- Export requirements relating to third country trade
- Dietary supplements
- Country of origin labeling
- Processing requirements.

FSANZ is based on a partnership between the New Zealand and Australian governments. In December 1995, both governments signed an agreement that established a system for the development of Joint Food Standards (the "Food Standards Treaty"). The Food Standards Treaty led to the establishment of the joint food standards setting system.

Before food consignments are 'cleared' for import into New Zealand, they must meet food safety, labeling and compositional requirements addressed under the Joint Food Code, the Food Act of 1981, Food (Safety) Regulations 2002, various New Zealand Food Standards, and the Fair Trading Act 1986. In addition, food imports must also meet customs and biosecurity requirements.

The parts of the joint Code applying to New Zealand took full effect on December 20, 2002. In New Zealand the Food Regulations 1984 were revoked on that date and the Food (Safety) Regulations 2002 were introduced. The Food (Safety) Regulations 2002 cover regulations that generally fall outside of the Joint Food Standards System or are treated differently in New Zealand.

Following the December 2003, BSE (Bovine Spongiform Encephalopathy detection in the United States, New Zealand banned imports of U.S. beef, beef variety meats, processed foods containing beef, non-protein free tallow, gelatin derived from bovine bone material, and pet food containing specified risk materials (SRMs). The New Zealand Government, however, is demonstrating some flexibility in implementing its regulatory guidelines regarding imports of U.S. beef products. The New Zealand Food Safety Authority is reviewing import applications for U.S. beef products on a case-by-case basis and may grant import approval.

Total food and beverage imports into New Zealand in calendar year 2003 were valued at $1.34 billion, a 4 percent decline from 2002. U.S. agricultural exports to New Zealand during 2003 were valued at nearly $150 million, a 35 percent increase over 2002. The most important U.S. food exports to New Zealand include fresh fruit, dried nuts, processed fruit and vegetables, pet food, soybean meal and beverage bases.

For more information on New Zealand's food regulations see:
http://www.nzfsa.govt.nz/policy-law/food-standards/regulation-of-food-in-nz/index.htm
New Zealand Exporter Guide and Retail Foods Sector Reports are available from the FAS Attaché Reports site on the Internet.

SECTION I: FOOD LAWS

Food Standards Australia New Zealand (FSANZ)

FSANZ is based on a partnership between the New Zealand and Australian governments, and is responsible for developing, varying, and reviewing food standards for food available in New Zealand and Australia. In December 1995, the Australian and New Zealand governments signed an agreement that established a system for the development of Joint Food Standards (the "Food Standards Treaty"). The Food Standards Treaty established the joint food standards setting system, which was brought into force in New Zealand on July 1, 1996. The joint system's underlying aims are to consider the needs of both New Zealand and Australia, to protect the public health of both countries, and reduce unnecessary barriers to trade. The outcome of the Food Standards Treaty is a joint Australia New Zealand Food Standards Code (Joint Food Code or joint Code) based on a review of the Australian Food Standards Code, undertaken by FSANZ. The agreement does not cover some areas, such as maximum residue limits, food hygiene provisions and export requirements relating to third country trade. It contains provisions that allow New Zealand to opt out of a joint standard for exceptional reasons relating to health, safety, environmental concerns or cultural issues. In such cases, FSANZ may be asked to prepare a variation to a standard to apply only in New Zealand. As such, the joint Code applies only to food labeling and compositional requirements. All food for sale in New Zealand shall, therefore, not only comply with the Joint Food Code, but also the Food Act 1981, the Food (Safety) Regulations 2002, additives contaminants, microbiological safety and certain product standards, and the Fair Trading Act 1986.

FSANZ seeks to ensure that its processes and decisions are consistent with its legislation, the Treaty with New Zealand, the policies listed above and other international obligations, in particular World Trade Organization Agreements, including the Sanitary and Phyto-Sanitary (SPS) Agreement and the Technical Barriers to Trade (TBT) Agreement.

New Zealand Food Safety Authority (NZFSA)

The New Zealand Food Safety Authority was established in New Zealand in July 2002 and has responsibility for the administration of all New Zealand's Food Law including food safety standards setting, import requirements, export assurances (certification) and food labeling and composition.

Food law in New Zealand can be found at http://www.nzfsa.govt.nz/policy-law/food-standards/regulation-of-food-in-nz/index.htm

Food labeling and composition standards are developed for both, Australia and New Zealand by a trans Tasman agency, Food Standards Australia New Zealand (FSANZ). FSANZ has the responsibility for the development, variation, and review of food standards (primarily labeling and composition) for food available in New Zealand and Australia. In addition for Australia ONLY, FSANZ sets food safety standards. The major areas not covered by the joint Australia New Zealand standards are:

- Maximum residue limits of agricultural compounds in food
- Food hygiene and food safety provisions (including high risk imported foods)
- Export requirements relating to third country trade
- Dietary supplements
- Country of origin labeling

The Joint Food Code took full effect in New Zealand on December 20, 2002. Its implementation is the responsibility of NZFSA, which is also responsible for those regulations not covered by the joint Code and provisions in the joint Code that do not apply in New

Zealand and that are addressed by specific New Zealand standards. The sections of the joint Code excluded from applying in New Zealand are:

1. Standard 1.1A.3 Country of origin labeling (see Clause 1.2)
2. Standard 2.1.1 thiamine in bread (see Clause 4.1)
3. Standard 2.4.2 2(3) vitamin D in margarine (see Clause 2.2)
4. Standard 1.4.2 Maximum Residue Limits
5. Standard 1.6.2 Processing Requirements
6. Chapter 3 Food Safety Requirements.

Although 1, 2 and 3 are not applicable in New Zealand, 4, 5 and 6 are covered by specific New Zealand standards. These standards have been established under the Food (Safety) Regulations 2002:

1. High-risk food imports. Evidence must be provided that associated risks have been controlled, prior to the product being sold. Prescribed products are listed in the New Zealand (Prescribed Foods) Standards 2002.
2. Residues in food products imported into New Zealand must meet either Codex Maximum Residue Limits or New Zealand's domestic MRL standard (New Zealand (Maximum Residue Limits of Agricultural Compounds) Food Standards 2002), which includes a default standard. Although New Zealand has a well-developed policy regarding MRLs for domestically produced food products, MRL policies related to imported food products are currently in the early stages of a review process by the government of New Zealand to provide additional clarity.
3. Imported milk and milk products must comply with the New Zealand (Milk and Milk Products Processing) Food Standards 2002.
4. Imports of products containing royal jelly, bee pollen and propolis as dietary supplements, must comply with the New Zealand (Bee Product Warning Statements - Dietary Supplements) Food Standards 2002.

The following regulations also apply, although they are not under the administration of NZFSA:

1. Animal and animal product and plant and plant product import health standards.
2. Weights and Measures Amendment Regulations 2002. These regulations generally require every package of food to be marked with a statement of quality in the form of the net weight or volume or number of contents in the package, whichever is the most appropriate for the sale of the item concerned.

Changing the Joint Code

Food manufacturers seeking to introduce a new food, make a food using a new process or use a new additive can make an application to FSANZ to change a current standard or develop a new food standard or code of practice. Alternatively, a food manufacturer can initiate the development or review of a standard by raising a proposal. Both approaches follow the same procedure:

1. Lodging an application
Initially when first receiving an application, FSANZ will determine the complexity or degree of contention of the application and whether the application falls within FSANZ's area of responsibility.

2. Initial Assessment
At the Initial Assessment stage an Initial Assessment Report will be compiled that provides relevant information to stakeholders. A consultation process will be initiated according to the Community Involvement Protocol. This can vary depending on the nature of the application.

3. Draft assessment
After considering any submissions, a draft assessment is prepared. This will be done by taking into account statutory objectives under Section 10 of the FSANZ Act and any relevant New Zealand standards or matters pertinent to the particular standard. The statutory objectives are:

- The protection of public health and safety
- The provision of adequate information relating to food to enable consumers to make informed choices.
- The prevention of misleading or deceptive conduct

In developing or reviewing food standards in the joint Code, FSANZ is also required to consider the following:

- The need for standards to be based on risk analysis using the best scientific evidence
- The promotion of consistency between domestic and international food standards
- The desirability of an efficient and internationally competitive food industry
- The promotion of fair-trading in food.
- Any written policy guidelines formulated by the Council and notified to the Authority.

At this stage FSANZ undertakes most of its standards development work, including a comprehensive scientific risk assessment and a regulatory impact analysis.

4. More public consultation
After a standards amendment is drafted, a second round of public consultation usually follows. After considering any further public submissions FSANZ produces a Final Assessment Report.

5. Ministers decide on food standards
The final stage in this process is when the Board makes a recommendation to the Ministerial Council that is responsible for deciding whether an amendment should become law.

Other considerations

Each application is assessed and placed on the annual Work Plan. All applications are placed within a five-tier scale based on an estimate of the amount of work that will be required to complete that application or proposal. While new applications or proposals will be placed (in the appropriate group) on the Work Plan in the order they are received, and generally, worked on in that order, there will be situations where projects lower on the Work Plan are completed before projects placed higher on the Work Plan.

Group 1 - Applications and proposals received after June 30, 2000 having health/safety considerations and/or consumer interest to be progressed as a priority.

Group 2 - Applications and proposals received after June 30, 2000 scheduled for commencement in 2001-02 and 2002-03 listed in a rolling three-year Work Plan.

Group 3 - Applications for which a fee has been paid and which will be managed separately. FSANZ will use funds received from applicants to acquire additional resources to process externally funded applications, without affecting the processing of matters listed in Group 1 or 2.

Finalized Projects - Applications and proposals finalized by the Authority from July 1, 2002 - June 30, 2003, July 1, 2001 - June 30, 2002, July 1, 2000 - June 30, 2001.

FSANZ will recover costs for assessing applications where FSANZ determines that the applicant derives an exclusive commercial benefit from a sought change to the joint Code, or where the applicant chooses to pay a fee to expedite an application. Fees are paid in two stages. An Initial Assessment stage fee of US $1,848 must be paid when an application is lodged. Draft and final assessment fees vary depending on the complexity of the assessment.

Food manufacturers who wish to apply for the development of a new standard or variation of an existing standard can find information relating to the process at:
http://www.foodstandards.gov.au/standardsdevelopment/informationforapplic559.cfm

Alternatively, manufacturers can communicate directly with the 'Standards Management Officer' at:

Food Standards Australia New Zealand
Food Standards (Wellington)
108 The Terrace
Wellington
New Zealand
Tel: +64-4-473-9942
Fax: +64-4-473-9855
URL: www.foodstandards.govt.nz

Accessing the New Zealand Market

All foods sold in New Zealand must comply with laws designed to protect public health and safety and New Zealand's flora and fauna. The following information addresses public health and biosecurity requirements for foods exported to New Zealand. The Ministry of Agriculture and Forestry Quarantine Services (MAF QS) ensures compliance with biosecurity legislation, while the New Zealand Food Safety Authority (NZFSA) enforces compliance with food safety and health.

In the first instance, food imports must be declared to the New Zealand Customs Service using the "New Zealand Customs Service Working Tariff Document". The structure of the New Zealand Tariff Schedule meets New Zealand's obligations under the international Convention on the Harmonized Commodity Description and Coding System (commonly known as the Harmonized System).

Clearance of commercial consignments can be arranged by the owner/importer or an appointed Customs Broker (agent). The New Zealand Customs Service provides an electronic import entry service that is available on applications to users. If that service is not used, importers must complete an import entry in Customs Entry Format C4.

Food Safety Requirements

U.S. food exporters should not assume that because their products are accepted in other markets such as the European Union, that they will be automatically accepted in New Zealand. Food safety requirements may differ and in particular biosecurity regulations are likely to be stricter in New Zealand.

The New Zealand Customs Service operates electronic compliance checks via a computerized entry processing system. Electronic compliance checks will be undertaken for approvals issued by MAF, the NZFSA, and other third party agencies. Once the New Zealand Customs

Service receives an import declaration, the system will identify and alert the appropriate third party agency to 'critical' food products arriving in New Zealand.

Various high-risk prescribed food products require a health permit from the Auckland District Health Board Central Clearing House (Central Clearing House). Foods not listed in the prescribed foods list are categorized as low risk foods. These do not require a health permit, however, they are expected to comply with all requirements in the joint Code as well as biosecurity legislation. U.S. exporters are reminded that the food products listed in the Prescribed Food Standards 2002 differ from those that pose a biosecurity threat to New Zealand (see section Biosecurity below). For prescribed foods the Central Clearing House issues a health permit number that must be entered in the permit information field of the customs import entry form. Two types of permits are issued by the clearing house: a) a conditional release permit, and b) a full release permit. The conditional release permit is issued when a product must be held for further testing. This type of permit allows authorities to (i) verify an existing compliance history by the food importer or (ii) establish a compliance history. A full release permit is usually issued when an importer has an established verified compliance history. Compliance histories are established for each importer-food manufacturer-commodity combination. A change to a new supplier or a new product requires the importer to establish a new compliance history.

NZFSA also issues multiple clearance permits where a foreign country agency is approved by the NZFSA to undertake certification of certain food products, e.g. pistachios from California are certified by the California Pistachio Board. If no prior history exists, the Central Clearing House issues single entry permits. Each of the first five consignments is then audited to establish whether chemical and microbiological parameters in the joint Code are met. After the fifth consignment, and only if all previous five consignments complied with the parameters, every one of five consignments will be randomly checked. Once a compliance history is established, the importer will be certified but 1 in every 20 of the importer's consignments will be checked randomly. If an imported food product is found to be non-compliant during a random check, the importer will have to start over and every consignment will be inspected.

A food product for which no health permit was obtained before the product arrives in New Zealand will not be released by the New Zealand Customs Service until a health permit is issued by the Central Clearing House. The importer will be informed by the NZFSA that a health permit is required. Once the health permit is issued, testing of the food product may be undertaken depending on the importer's compliance history, unless a full release permit is issued.

A food product that is being held by the New Zealand Customs Service while a health permit is being issued can be transferred at the importer's request and cost to another location for transit storage until testing by one of Auckland Health Care's 21 field offices proceeds.

In general, testing is currently around checking for toxins and microbiological agents. Food products tested and found to be non-compliant must be disposed of at the importer's cost. Options may include further processing into pet food or re-exporting to a third country. Compliance audits of labeling and composition requirements under the joint Code are currently not undertaken. The NZFSA anticipates, however, that compliance checking of most aspects of the joint Code will be in place during 2004. New Zealand is currently reviewing its imported foods program and recommendations from this review are likely to be the subject of government consideration during 2005. A border surveillance program, such as the one currently operated in Australia, may well to implemented during 2005 as part of that consideration by government.

Biosecurity Requirements

All food products entering New Zealand require Ministry of Agriculture and Forestry (MAF) biosecurity clearance for import. Generally only products for which an Import Health Standard (IHS) has been issued are qualified to obtain biosecurity clearance. IHSs documents are issued under Section 22(1) of the Biosecurity Act 1993 that outlines the phytosanitary requirements for the import of food products. These requirements are established on the basis of risk analyses. Processed food products generally are not high biosecurity risk items. Therefore, biosecurity requirements for processed food products will usually not be as stringent as those imposed on unprocessed animal and plant products. MAF is moving towards developing IHSs for all commodities on a commodity/country basis. However, some products are currently still listed under a generic product group IHS.

New Zealand is generally viewed as being aligned with the requirements of the FAO International Plant Protection Convention and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. Phytosanitary measures should consequently only be developed for regulated pests. The strength of New Zealand's phytosanitary measures depends on the likelihood and consequences of the regulated pest being introduced into New Zealand. Higher biosecurity risk food imports may require an import permit under the corresponding IHS, and border inspections are likely to occur more frequently.

U.S. food manufacturers seeking to export to New Zealand should ascertain whether an IHS exists for the commodity and whether an import permit is required. If there is no existing IHS for a commodity, it cannot be imported into New Zealand. However, MAF should be contacted directly in the first instance. If MAF indicates that a commodity cannot be imported, a request for the development of an IHS can be lodged. Food manufacturers should note that all IHSs developed under the Biosecurity Act 1993 are required to be based on risk analyses, on which there is a statutory requirement for consultation. If no current supporting documentation or risk analysis exists for a commodity, a risk analysis needs top be conducted before the IHS can be drafted. This can be a lengthy process. Critical steps in the development of an IHS include: (a) establishment and categorization of a pest list, (b) draft of an IHS schedule and consultation on the draft, and (c) implementation of the IHS schedule.

Applications for Import Health Standards for Animals or Animal Products can be made on the Internet. Applications for IHSs for plants and plant products must be made directly to MAF (Appendix I).

MAF can enter into pre-clearance arrangements with foreign suppliers. For example table grapes from California can be pre-cleared by New Zealand MAF inspectors at a U.S. port. Such arrangements can expedite clearance of perishable products that cannot afford to be held up at the New Zealand port. Any costs MAF is incurring are passed on to the party requiring pre-clearance.

Importation of plants and plant products into New Zealand

Plants and plant products are grouped into commodity classes. Among others, these include fresh fruit and vegetables and grain for processing. Organisms that could be associated with plants or plant products imported into New Zealand are placed in one of two quarantine categories: regulated and non-regulated pests. The Unwanted Organisms Register (UOR) lists the names of regulated organisms.

Phytosanitary requirements for all fresh fruit and vegetables, approved for importation into New Zealand, have been summarized in the document: Importation and Clearance of fresh

fruit and vegetables into New Zealand. Food manufacturers can also view a list of IHSs currently being developed or under review.

Importation of animal products and animals into New Zealand

U.S. exporters seeking to export animal products (and animals) into New Zealand need to check whether a current IHS exists for the commodity concerned. If no IHS exists food manufacturers should in the first instance seek clarification from MAF whether an animal product (or animal) is prohibited from import into New Zealand.

See Animal and Animal Product Import Health Standards for a current list. The database is, however, not complete and wherever food exporters have difficulties locating the appropriate IHS they should contact MAF directly (Appendix I).

Biosecurity clearance procedure

Imported goods may only be landed at ports, which are designated as ports of first arrival under the Biosecurity Act 1993. Some imported goods are restricted to specified ports only. Upon arrival in New Zealand, an electronic compliance check (by New Zealand Customs Service) will notify MAF of critical product tariff codes. If the product is associated with a high biosecurity risk level as specified in the IHS, MAF will proceed to inspect the consignment. Generally, all fresh fruit and vegetables produce imports will be inspected. If a non-compliance according to the relevant IHS is determined MAF Quarantine Service will:

- Give biosecurity direction to re-ship or decontaminate or destruct the consignment;
- Supervise the transport to an approved transitional facility;
- Supervise decontamination;
- Re-inspect; and
- Give biosecurity clearance;
- Indicate specific requirements for plant or animal clearance.

Physical inspection of goods will in general be carried out (a) if it is a requirement of the IHS or the Permit to Import, (b) where there is a possibility because of the nature or origin of the product, that may be infested or contaminated, (c) if there is doubt that the material is correctly described (verbally or written) by the importer or agent, or (d) the product/item described by the importer is unknown to the inspector. When an inspection is required, imported risk goods will be inspected or directed into an approved transitional facility and held there until they can be inspected. In cases in which the import health standard provides for inspection of only a sample of the goods presented (e.g. air or sea containers, fresh produce, animal products, etc.), MAF Quarantine Service will follow the sampling specification provided in the IHS and act accordingly with regards to the whole consignment.

Import documentation (including certificates) for risk goods are also inspected on arrival by a MAF inspector to ensure compliance with the import health standard. All the required certificates must be original, correct and presented to the inspector before a biosecurity directive/clearance is issued. Unless permitted by an import health standard, facsimile certification shall not be accepted unless original documents have been delayed or lost. Where a Permit to Import has been issued the original Permit to Import must be presented to an inspector by the importer. Where the permit to import specifies post entry requirements for inspectors or other employees of MAF to undertake or supervise, a written notice shall be issued which stipulates those conditions.

If a risk food product is found to be non-compliant with respect to the relevant import health standard biosecurity clearance will not be given and the goods will be seized and remain in or

be taken to a place of secure custody. The goods will be classified (within process procedures) into the following categories and acted on accordingly:

- Minor technical non-compliances (e.g. typographical errors) are to be dealt with by the supplier.
- Other technical non-compliances where technical input is required (e.g. a treatment substitution on a Phytosanitary Certificate). These may be dealt with by the supplier if the supplier is satisfied that the appropriate expertise exists within the organization. If it is not, then advice may be sought from MAF's Import Management Section.
- For policy non-compliances (e.g. no standard exists for the product), in addition to the importer's option of reshipment or destruction, the supplier may give the importer the option of having a risk assessment undertaken by a MAF approved agency. If this last option (i.e. risk assessment) is taken up then the importer will be referred to the Permits Officer of Import Management section.

The importer will be advised of any seizure and the reason for it. The importer may then attempt to obtain certification/treatment/clarification that will allow the goods to comply with the import health standard. If the goods comply with the relevant IHS after addressing all issues the MAF QS inspector will issue a biosecurity clearance for the goods.

Inspection of grain for processing

Grain that meets all the conditions of the relevant import health standard need only be sampled to the extent necessary to be assured that the seed is true to label. That is, it is a truth of labeling test and not a phytosanitary inspection. Where such a test indicates that the product is not true to label, the consignment shall be held. Seed meeting all the conditions of the relevant import health standard shall be inspected/sampled for pests/disease/analysis.

Trout and trout products

Trout and trout products require approval from the Department of Conservation unless consignments weigh less than 10 kilograms or are not intended for sale. Import of toothfish is prohibited unless it is covered by a completed catch document issued by a party to the CCAMLR Convention.

CITES agreement - convention on international trade in endangered species

The importation of plants and plant products of some plant species is regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), of which New Zealand is a signatory. Regulated plant species, where appropriate, must be accompanied by a valid CITES export permit issued by the appropriate Management Authority in the country of export. Additional information can be obtained at www.CITES.org

A CITES import permit, issued by the Department of Conservation, may also be required by New Zealand legislation for specimens of selected species. Importers are advised to contact the Department of Conservation www.doc.govt.nz for further information.

SECTION II: LABELING REQUIREMENTS

The joint (Australia New Zealand Food Standards) Code is subject to on-going amendments. Food manufacturers seeking to export to New Zealand should always consult the most up-to-date version of the joint code for definitive information on current food labeling and composition requirements. In general, the composition and labeling standards from the

joint Code are the only standards applying to New Zealand. These are covered in subsequent sections in this report.

Important Note

For many sections of the joint Code FSANZ (and its predecessor ANZFA) has developed Users Guides to assist with interpretation of the standards and provide examples. These guides will be more up to date than the information in this report. Where a users guide is available, a hyperlink has been provided. The guides, unlike the standard itself, are not legally binding. However, we suggest that U.S. exporters seek independent legal advice if there are any doubts over the correct interpretation of the standards.

Chapter 1 of the joint Code covers the general standards that apply to all foods.

Chapter 2 contains standards for a number of specific commodity groups. These are:

- Part 2.1 - Cereals
- Part 2.2 - Meat, eggs & fish
- Part 2.3 - Fruit & vegetables
- Part 2.4 - Edible oils
- Part 2.5 - Dairy products
- Part 2.6 - Non-alcoholic beverages
- Part 2.7 - Alcoholic beverages
- Part 2.8 - Sugars & honey
- Part 2.9 - Special purpose foods
- Part 2.10 - Standards for other foods (vinegars & salt)

Chapter 3 relates to food safety standards, which are covered separately under various other New Zealand laws including the Food Act.

General Labeling Standard

There is a Users Guide that provides background information on the general labeling requirements in the Code. The information in the guide applies both to Food for Retail Sale and to Food for Catering Purposes.

Part 1.2.1 of the joint Code sets out the Application of Labeling and Other Information Requirements, and labeling and information requirements specific to certain foods in Chapter 2 of the joint Code. This Part sets out the labeling requirements for food for sale and information that must be provided in conjunction with the sale of certain foods, where labeling is not required. Food Product Standards in Chapter 2 may impose additional labeling and information requirements for specific classes of food.

Unless specifically exempted, the label on a package of food for retail sale or for catering purposes must include all of the following core information:

- Warning and Advisory Declarations
- Ingredient Labeling
- Date Marking
- Nutrition Information Requirements
- Legibility Requirements for Food Labels

- Percentage Labeling
- Food Additives
- Representations about Food
- Information Requirements for Foods Exempt from Bearing a Label
- Labeling Genetically Modified Food

Where for reasons of public health and safety, consumers should be informed of specific use or storage instructions, the label on a package of food for retail sale must include directions for use and storage.

The Name of the Food (Standard 1.2.2)

The label on a package of food must include:

- The prescribed name of the food, where the name of a food is declared in this Code to be a prescribed name; and
- In any other case, a name or a description of the food sufficient to indicate the true nature of the food.

The name or description of the food should be sufficiently specific to differentiate the food from other foods and reflect its true nature.

There is no specific requirement for where this information should appear on a label.

In accordance with food law and fair trading law, suppliers must not represent foods in a false, misleading or deceptive manner.

Lot Identification (Standard 1.2.2)

The label on a package of food must include its lot identification, unless the food is:

- An individual portion of ice cream or ice confection; or
- In small packages, and the bulk packages and the bulk container in which the food is stored or displayed for sale includes lot identification.

Lot marking is required on packaged food to assist in the rare event of a food recall. A lot mark identifies the 'lot' a food comes from as well as the premises from where the food was packed or prepared.

A date mark and address details can help satisfy the requirements of a lot mark.

Name and Address (Standard 1.2.2)

The label on a package of food must include the name and business address in Australia, of the supplier of the food. The term 'supplier' includes the packer, manufacturer, the vendor or importer of the food. Business address means a description of the location of the premises from which the business in question is being operated, but does not include a postal address.

Mandatory Warning & Advisory Statements (Standard 1.2.3)

As this standard is may change with time, exporters are advised to download the standard for up-to-date requirements. No product details are provided in this guide.

Users Guide to Standard 1.2.3

For reasons of health and safety, the joint Code requires that certain information be provided on labels. This information may be in the form of a prescribed statement (which includes warning statements), an advisory statement or a specific declaration depending on the degree of risk to health and safety of consumers.

A. Mandatory Warning Statements

Mandatory warning statements and declarations are required on foods where the risk to health is life threatening. For some foods/food components that have the potential to cause severe adverse reactions or adverse health effect, a warning statement about their presence and effect is required. Warning statements are required where the reaction is not widely known by consumers. Warning statements are prescribed statements required on labels and contain specific labeling statements that must be expressed on a label in the exact words and in the format specified in the standard. These statements must always be written on the food label or, where foods are exempt from bearing a label, on the food package or in connection with the display of the food.

Warning statements must be a minimum print size of 3 millimeters (mm) and in the case of small packages, a minimum print size of 1.5 mm. A small package is defined as a package with a surface area of less than 100 cm^2.

Some foods produced using gene technology also require a prescribed statement on the label that the food or ingredient is 'genetically modified'. This information must also be displayed on or in connection with the display of the food if it is sold unpackaged. Foods intended for immediate consumption that are prepared and sold from food premises and vending vehicles, e.g. restaurants, take away outlets, caterers or self-catering institutions, are not required to be labeled with this statement.

Standard 1.5.2 – Food Produced Using Gene Technology defines 'genetically modified food', 'novel DNA and/or novel protein' and 'altered characteristics' and lists labeling requirements for food produced using gene technology.

B. Mandatory Advisory Statements

The joint Code requires mandatory advisory statements on labels of certain foods or when certain substances are present in foods where there is a potential risk to health which is not life threatening. The specific wording of advisory statements is not prescribed.

C. Mandatory declarations of certain substances in food

Certain food ingredients or components, food additives and processing aids must be declared on labels due to their potential to cause adverse reactions. Food allergies and food intolerances are included in this category. The inclusion of a substance in the list of ingredients would normally fulfill the declaration requirement. Where the food is exempt from bearing a label, the declaration must be displayed on or in connection with the food or provided verbally or in writing upon the request of the consumer. Generally, certain substances must be declared on labels when present in a food whenever they are used as:

- An ingredient in a food;
- Part of a compound ingredient;
- A food additive or component of a food additive; or
- A processing aid or component of a processing aid

If any of the substances listed in the standard occur naturally in the food they do not require declaration. This is because people who are likely to suffer adverse reactions to any of these substances are usually well aware of the foods in which they naturally occur. For example, bee pollen in honey does not need to be declared, because it is naturally present at very low levels in honey and does not fall under the definition of 'ingredient' used in the manufacture of honey.

Any general exemption from the ingredient listing requirements of the joint Code does not exempt these substances from declaration. If they are added during manufacture of the food, they must be declared. Manufacturers and retailers are free to choose the wording of these mandatory declarations, as well as their size and placement on the label. Listing the substances in the ingredient list would fulfill this requirement.

Gluten - In addition to the mandatory declaration of the presence of the cereal containing gluten in the ingredient listing of a product, the following claims in relation to gluten are permitted: 'gluten free', 'low in gluten', 'high in gluten', or 'contains gluten'.

Standard 1.2.8 – Nutrition Information Requirements sets out the criteria for claims about gluten.

Wheat Starch - Any product that contains wheat starch must carry a declaration advising the presence of wheat. An example of such a product includes wheat-based corn flour. The declaration of wheat is required even if a 'gluten free' claim is made.

D. Advisory Statement in Relation to Foods Containing Polyols or Polydextrose

Foods containing polyols or polydextrose above certain levels must include an advisory statement on the label where the food contains:

- Lactitol, maltitol, maltitol syrup, xylitol, or mannitol at levels equal to or greater than 10g/100g
- Sorbitol, erythritol, isomalt, polydextrose at levels equal to or greater than 25g/100g
- A combination of any of the two groups above levels equal to or greater than 10g/100g

Foods not requiring a label according to the points above need to contain an advisory statement to the effect that excess consumption of the food may have a laxative effect. These must be a) displayed on or in conjunction with the display of the food; or b) provided to the purchaser upon request.

Additional Mandatory Warning & Advisory Statements & Declarations

In addition to the statements and declarations specified in Standard 1.2.3, there are other warning statements, prescribed statements and advisory statements set out in the Code. Mandatory Warning Statements are also required on:

- Skim and non-fat milk, reduced-fat milk, evaporated skim milk, skimmed sweetened condensed milk and skim milk powder (Standard 2.5.7)
- Kava (Standard 2.6.3)
- Infant foods (Standard 2.9.2)
- Formulated supplementary sports foods (Standard 2.9.4)

The following foods do not usually need to bear a label setting out all of the information prescribed in the joint Code (although they must comply with certain information requirements):

- Food not in a package;
- Food in inner packages not designed for sale without the outer package, other than individual portion packs that must bear a label containing a declaration of certain substances in accordance with clause 4 of Standard 1.2.3 (e.g. gluten, peanuts etc);
- Whole or cut fresh fruit and vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables;
- Food sold at fund raising events.

Foods exempt from bearing a label are still required to comply with the mandatory prescribed statements (including warning statements), advisory statements and declarations described earlier in this guide. In cases where mandatory warning statements and other prescribed statements are required, the statement must always be provided either:

- By a sign displayed on or in connection with the display of the food, or
- Verbally or in writing upon the request of the purchaser

Individual portion packs, which are sold within fully labeled outer packages, are still required to declare the presence of substances in the food in accordance with clause 4 of Standard 1.2.3 (e.g. gluten, peanuts etc). These declarations must be written on the label of the individual portion pack as well as on the outer package. For example, the labels on individually wrapped muesli bars containing nuts which are sold in a fully labeled outer box, will need to declare the presence of nuts on the individual label, even though the individual bars are not intended for retail sale.

Specific guidance on information requirements for foods exempt from bearing a label can be found in FSANZ's guideline: Information Requirements for Foods Exempt from Bearing a Label.

Labeling of Ingredients (Standard 1.2.4)

Users Guide to Standard 1.2.4

Unless specifically exempted, all packaged food must include a statement or list of ingredients and compound ingredients used in the manufacture of that food on the label. An ingredient means any substance, including a food additive, used in the preparation, manufacture or handling of a food. A compound ingredient means an ingredient of a food that is itself made from two or more ingredients. The statement of the ingredients must be prominent and legible. Ingredients must be listed in descending order of ingoing weight, although exceptions apply for dehydrated ingredients.

Ingredients must be declared in a statement of ingredients as one of the following:

- The common name of the ingredient
- A name that describes the true nature of the ingredient
- Where applicable, a generic name for the ingredient
- Where applicable, the genetic modification (GM) status of an ingredient must also be declared

The following ingredients need not be declared in a statement of ingredients:

- An ingredient of a flavoring
- A volatile ingredient, such as alcohol or water, that is completely removed during manufacture
- Added water (in certain cases)
- Permitted processing aids.

The following packaged foods are exempt from having a list of ingredients on the label:

- Where the food is labeled with the name of the food, and the ingredient list would be the same as the name of the food, e.g. 100% orange juice.
- Where the food is an alcoholic beverage standardized by Part 2.7 of the joint Code (including beer, wine, fruit wine and spirits)
- Where the food is contained in a small package, e.g. a small package of chewing gum
- Where the food is liquid milk or cream, or a liquid milk product or cream product, sold in glass bottles with no label other than that on the foil cap.

Date Marking of Packaged Food (Standard 1.2.5)

Users Guide for Standard 1.2.5

The standard applies to packaged foods with a shelf life of less than two years. The joint Code brings Australia and New Zealand into line with international food standards, where the 'best-before' date is the main date marking term used. The intention of date marking is to provide a guide to consumers on the shelf life of a food in terms of food quality. This means the length of time a food should keep before it begins to deteriorate. In some circumstances, date marking may also indicate how long a food can be expected to remain safe.

Standard 1.2.5 requires manufacturers to apply a 'best-before' date unless the food needs to be consumed within a certain period because of health or safety reasons. In such circumstances, the food must be date-marked with a 'use-by' date. This enables consumers to distinguish between products that need to be consumed by a certain time for health or safety reasons (those with a 'use-by' date) and those that do not (those with a 'best-before' date).

The manufacturer is responsible for determining whether a 'use-by' date or a 'best-before' date should be used. To do this, manufacturers must consider whether there are any health or safety issues associated with the food in terms of its shelf life. Decision trees to help decide are included in the Users Guide.

Foods that are date-marked with a 'best-before' date can continue to be sold after that date provided the food is not damaged, deteriorated or perished. Foods that are date-marked with a 'use-by' date are prohibited from being sold after this date because the food may then pose a health or safety risk.

Directions for Use and Storage (Standard 1.2.6)

No Users Guide is associated with Standard 1.2.6

This Standard requires either directions for use and/or directions for storage of food, to be included on the label, where, for reasons of health and safety, the consumer should be informed of specific use or storage requirements. The label on a package of food must include appropriate directions for the use or storage of the food, where the food is of a nature as to warrant such directions for reasons of health or safety.

This standard operates in addition to the Statement of Storage Conditions of Standard 1.2.5. Food Product Standards in Chapter 2 of the joint Code may contain directions for use and/or storage specific to individual commodities.

Nutrition Labeling (Standard 1.2.8)

Users Guide for Standard 1.2.8

Subject to specific exemptions, food required to bear a label must display a nutrition information panel setting out the energy, protein, fat, saturated fat, carbohydrate, sugars and sodium content of the food. A nutrition information panel must be set out in the prescribed format and must include the number of servings in the package and the average quantity of the food in a serving.

This standard does not apply to infant formula products except where Standard 2.9.1 (Infant Formula Products) otherwise provides. Standard 2.9.1 sets out specific nutrition labeling requirements that apply to infant formula products. Standard 1.3.2 (Vitamins and Minerals) sets out the labeling requirements for claims made about the vitamin and mineral content of foods.

A nutrition information panel must clearly indicate that:

- The average quantities set out in the panel are average quantities; and
- Any minimum and maximum quantities set out in the panel are minimum and maximum quantities

Additional requirements may apply if a nutrition claim is made. See Section VII below for information about making nutritional claims.

Exemptions:

The label on a package of food must include a nutrition information panel except where the food is:

- Sold at fund-raising events; or
- An alcoholic beverage standardized in Part 2.7 of this Code; or
- A herb, a spice, a herbal infusion; or
- Vinegar and related products as standardized in Standard 2.10.1; or
- Salt and salt products as standardized in Standard 2.10.2; or
- Tea, decaffeinated tea, decaffeinated instant or soluble tea, instant or soluble tea, coffee, decaffeinated coffee, decaffeinated instant or soluble coffee, instant or soluble coffee, as defined in Standard 1.1.2; or
- An additive for the purposes of Standard 1.3.1; or
- A processing aid as defined in Standard 1.3.3; or
- Fruit, vegetables, meat, poultry, and fish that comprise a single ingredient or category of ingredients; or
- In a small package; or
- Gelatine as defined in Standard 1.1.2; or
- Water, or mineral or spring water as defined in Standard 2.6.2; or
- Prepared filled rolls, sandwiches, bagels and similar products; or
- Jam setting compound; or
- A kit that is intended to be used to produce an alcoholic beverage standardized in Part 2.7 of this Code.

Declaration of key or characterizing ingredients and components (Standard 1.2.10)

Users Guide for Standard 1.2.10

This standard sets out specific requirements for the declaration of the percentage of characterizing ingredients and components of certain food products that are required to be declared. Percentage labeling means stating on a food label the percentage of a characterizing ingredient or component. Percentage labeling will help consumers make informed choices about the foods they buy by letting them compare how much of a characterizing ingredient or component is present in similar products. Manufacturers may find it easier to work out which are the characterizing ingredients and components of their product if they first work out the list of ingredients for the product label. Manufacturers should then be able to look at this ingredient list and, in conjunction with the definitions of characterizing ingredients and components set out in the standard, decide which of the ingredients should be declared as percentages. Manufacturers may also choose to declare more than one ingredient if they wish to inform consumers more fully about the content of their product.

In the simplest cases, an ingredient or component mentioned in the name of the food is the characterizing ingredient or component and should be declared as a percentage. The percentage declaration must be calculated on the basis of the ingoing weight. Characterizing ingredients and/or components may be declared as either the actual percentage, or a minimum percentage. If a minimum percentage is declared, it should be indicated clearly that it is a minimum percentage. The percentage declaration must immediately follow the common, descriptive or generic name of the ingredient. Characterizing ingredients or components may be declared anywhere on the label. If the declaration of a characterizing ingredient is made in the ingredient list, it must appear immediately after the name of the ingredient in the ingredient list.

Apart from some special exemptions, percentage labeling information for any characterizing ingredients and characterizing components must be provided for all foods, including unpackaged foods. Unless exempted from percentage labeling requirements, food that is unpackaged must have the percentage labeling information either:

- Displayed on or in connection with the display of the food, or
- Provided to the purchaser on request (verbally or in writing).

Country of Origin Labeling (Standard 1.1A.3)

New Zealand does not have a mandatory country of origin labeling requirements with the exception of mandatory labeling requirements for wine and wine products imported into New Zealand in this standard.

Clause 11 in this standard requires each package of wine or wine product to bear a label that clearly indicates the country of origin of the wine or wine product. If any of the grape juice, concentrated grape juice, potable spirit, or wine spirit used in any wine product originates in a country other than the country of origin of the wine, that country must be identified on the label as a source of ingredients used in the manufacture of the wine product.

Weights and Measures Requirements

With the implementation of the Food Standards Code and the Food (Safety) Regulations 2002 in December 2002, amendments were made to the Weights and Measures Regulations 1999 to the effect that packaged foods are required to state the net contents on the label. The amendment ensures that the way net contents requirements in New Zealand are consistent with regulations in Australia and other countries.

The Ministry of Consumer Affairs administers the Weights and Measures Regulations.

Labeling of Food Produced Using Gene Technology (Standard 1.5.2)

Users Guide to Standard 1.5.2

Division 1 of this Standard addresses health and safety requirements, regulating the sale of food produced using gene technology, other than additives and processing aids.

Division 2 in Standard 1.5.2 requires all genetically modified food and ingredients (including additives and processing aids) to be labeled where they contain novel DNA or protein in the final food or have altered characteristics when compared with the equivalent conventional food. Novel DNA and/or novel protein means DNA or a protein, which, as a result of the use of gene technology, is different in chemical sequence or structure from DNA, or protein present in counterpart food that has not been produced using gene technology. Altered characteristics include changed levels of nutritional values and natural toxicants, the occurrence of a new factor known to cause an allergic response and a change of the intended use of the genetically modified food product.

The label on a package of genetically modified food must include the statement 'genetically modified' in conjunction with the name of that food, food ingredient, food additive or processing aid. Unpackaged foods for retail sale (such as unpackaged fruit and vegetables, or unpackaged processed or semi-processed foods) must carry a display with the statement 'genetically modified' in association with the food or with the particular ingredient within that food.

GM food prepared for immediate consumption, such as restaurant and take-away food, and catered meals do not need to be GM labeled, although, consumers can request this information from businesses.

Labeling is not required for highly refined food that has no altered characteristics and where the refining process has removed novel DNA and/or novel protein. Also excluded from mandatory labeling are processing aids or food additives if novel DNA and/or novel protein from the processing aid or food additive is not present in the food to which it has been added. Genetically modified flavorings need not be labeled if they occur at concentrations of no more than 1 gram per kilogram. A food, ingredient, or processing aid in which genetically modified food is unintentionally present in a quantity of no more than 10 grams per kilogram per ingredient requires no GM label.

Voluntary negative label claims such as 'GM free' are not covered by the standard. Negative label claims must, however, be consistent with provisions of the overarching consumer protection legislation in the New Zealand Food Act 1981 and Fair Trading Act 1986.

Voluntary GM Labeling Initiative

The Royal Commission on Genetic Modification identified consumer demand for more information than the Joint Australia New Zealand Food Code requires about whether a food results from a genetic modification process, or contains any GM material. Within this context, a key issue the Commission identified for consideration was "can people choose whether or not to eat genetically modified food?" The Commission identified an information gap between the coverage of Standard 1.5.2 of the Australia New Zealand Joint Food Code and the information needs of consumers who wish to avoid food produced using genetic modification. The Commission supported the joint Code's mandatory labeling requirements, although it noted that some people are concerned that food not labeled may contain some

GM material, or may have been manufactured using a process involving genetic modification. An information gap exists under Standard 1.5.2 because there are several exemptions from the mandatory labeling of GM material or genetic modification processes. Two of these exemptions are for flavorings and the unintentional presence of GM material, as long as the amounts involved do not exceed certain percentage thresholds. If they exceed these thresholds, then the flavoring or ingredient would have to be declared on the label. The other exemption is for food intended for immediate consumption, such as that available at restaurants, cafes, and take-away, self-vending and self-catering outlets.

Following consideration of the Royal Commission's recommendations, the government directed an interdepartmental working group, consisting of the Ministry of Consumer Affairs and the New Zealand Food Safety Authority, to facilitate the development of a voluntary "GM-free" labeling system. GM-free means the complete absence of any genetically modified material, or use of a genetic modification process, in a food or food product. As it is a voluntary initiative, responsibility for developing a successful GM-free labeling system ultimately rests with stakeholders.

SECTION III: PACKAGING AND CONTAINER REQUIREMENTS

There are no packaging or container size regulations for food products in New Zealand. Manufacturers may pack food in any size container.

Food Packaging Materials

Neither the joint Code, nor the New Zealand Food Regulations 1984 specify details of materials permitted to be added to or used to produce food packaging materials. However, the effect of the New Zealand Food Act 1981 is that packaging when used must not cause food to be unsafe or tainted. Specific requirements in the joint Code which relate to contaminants must also be met (Standard 1.4.3) Articles and Materials in Contact with Food). Therefore, it is the responsibility of food manufacturers and sellers to ensure their products are safe and that they comply with legislation. In practice, packaging suppliers will need to ensure their products are suitable for the intended use. Compliance with recognized international food standards such as those of the European Union (EU) or the United States Food and Drug Administration would be reasonable evidence that materials are suitable for food use.

While no mandatory standards with regards to specific packaging materials are in place, authorities including the Ministry for the Environment and the Packaging Council of New Zealand are in the process of developing a voluntary code to improve material and energy efficiency in the production, use and recovery of packaging materials. (See: draft of "The New Zealand Packaged Goods Accord 2004").

Wood Packaging Materials Used for Shipping Products to New Zealand

Under the Biosecurity Act (1993) importers must comply with an Import Health Standard (IHS) that outlines phytosanitary requirements for wood packaging material to be given biosecurity clearance into New Zealand. The IHS for "Wood Packaging Material from All Countries" has been developed under the requirements of the Biosecurity Act (1993) and New Zealand's obligations under the International Plant Protection Convention (1997).

Import Health Standard for Sea Containers

All sea containers must be deemed to be free from contamination before they will be given biosecurity clearance by an inspector. Find the current Import Health Standard here: Sea Containers from All Countries.

From September 1, 2003 onwards, all imported containers must be covered by documentation giving the following information pertaining to the container and the cargo (if any) within: container number, origin (where the container was packed), the port at which the container was first loaded aboard a vessel for shipment to New Zealand, exporter, importer, a complete and accurate description of the contents, including packaging, a quarantine declaration, and treatment certification if applicable. In addition to the above inspections, some containers are deemed to be "high risk". These must be subjected to either:

- Six-sided external inspection on the port area by an inspector within 48 hours of discharge, or
- Fumigation with methyl bromide, or
- Be accompanied by an official phytosanitary certificate attesting to the container's freedom from specific contamination, or
- Have undergone a decontamination or certification system approved by the Director, Border Management for use in lieu of external inspection.

To expedite clearance, additional certification of containers as free from restricted packaging and freed of contamination of either the external or internal surfaces of the container or both is an option. In certain circumstances, certification may cover multiple arrivals of containers for periods of up to one year.

Import Health Standard for Air Containers

Air containers used for the import of food products into New Zealand must meet a minimum standard of cleanliness. All parts of the container including the internal and external sides must be free of contamination. Every container must also be free of any of the following:

- Animals, insects or other invertebrates (any life cycle stage), egg casings or rafts, or any organic material of animal origin (including blood, bones, fiber, meat, secretions, excretions, etc);
- Plants or plant products (including fruit, seeds, leaves, twigs, roots, bark, saw dust, or other organic material); or
- Soil or water

See details: Import Health Standard: Air Containers from any Country - MAF Regulatory Authority 152.07.01I

SECTION IV: FOOD ADDITIVE REGULATIONS (Standard 1.3.1)

Users Guide for Standard 1.3.1

Standard 1.3.1 regulates the use of food additives in the production and processing of food. A food additive may only be added to food where expressly permitted in this standard. Additives can only be added to food in order to achieve an identified technological function according to Good Manufacturing Practice (GMP).

The use of food additives must be linked to a technological function. A food additive may be capable of performing more than one technological function in a food. In these circumstances, the manufacturer must classify the food additive on the label under the most appropriate class name. Generally, the primary function that the food additive is performing

would be regarded as the most appropriate function for the purposes of labeling of food additives.

Food additives should always be used in accordance with GMP. Manufacturers are responsible for justifying the use of additives, and the level of additive used. The Codex Alimentarius Commissions Procedural Manual sets out the following relevant criteria for use in assessing compliance with GMP:

- The quantity of additive added to food shall be limited to the lowest possible level necessary to accomplish its desired effect;
- The quantity of the additive that becomes a component of food as a result of its use in the manufacture, processing or packaging of a food and which is not intended to accomplish any physical, or other technical effect in the food itself, is reduced to the extent reasonably possible; and
- The additive is prepared and handled in the same way as a food ingredient.

Specifications for food additives are listed in the schedules of Standard 1.3.1. Schedule 1 contains information on the permitted uses of food additives by food type; Schedule 2 miscellaneous additives permitted to Good Manufacturing Practice (GMP) in processed foods specified in Schedule 1; Schedule 3 contains colors permitted to GMP in processed foods specified in Schedule 1; Schedule 4 contains colors permitted in beverages and in foods other than beverages specified in Schedule 1; and, Schedule 5 contains technological functions which may be performed by food additives.

For the purposes of ingredient labeling, food additives are treated the same as other ingredients in a food. Schedule 1 of Standard 1.2.4, lists about twenty class names for additives based on their technical function. Schedule 2 of Standard 1.2.4 lists all permitted additives by their prescribed name and Code number.

An additive must be declared in the ingredient list in its correct place by using its appropriate class name (from Schedule 1), followed by the additive's specific name or code number (from Schedule 2). One exception to this rule is that enzymes need only be declared by the class name 'enzyme' and not by specifically declaring the name of the enzyme.
Where a food additive is capable of being classified in more than one class, the class name used must be the class name that best reflects the function of the additive in the food. A food additive that cannot be classified in one of the classes specified in Schedule 1 must be declared by using its prescribed name (from Schedule 2).

FSANZ carries out safety assessments of food additives before they are allowed to be used. The following things are checked:

- Is the food additive safe (at the requested level in that particular food)?
- Are there good technological reasons for the use of the food additive?
- Will consumers be clearly informed about its presence?

Information regarding applications for the approval of new food additive is available at: http://www.foodstandards.gov.au/standardsdevelopment/informationforapplic559.cfm

Special note should be taken for additives that are genetically modified. For more information on the declaration of genetically modified ingredients see FSANZ guideline: Labeling Genetically Modified Food.

SECTION V: PESTICIDE AND OTHER CONTAMINANTS

New Zealand is currently developing its policy related to MRLs of imported food products, utilizing the methodology established by the Codex Alimentarius Commission. Currently,

imported food products sold in New Zealand are tested against the MRLs specified for that food in the current editions or supplements of the Codex publications titled "Pesticide Residues in Food" or "Residues of Veterinary Drugs in Foods". If the imported food product/residue combination is not listed or does not meet these standards, it is measured against New Zealand's domestic MRL standard (New Zealand (Maximum Residue Limits of Agricultural Compounds) Food Standards 2002). New Zealand's domestic standard includes a provision for residues of up to 0.1 mg/kg as a default standard for food product/residue combinations that it does not list. NZFSA is aware that MRLs based on New Zealand's farming conditions don't always reflect appropriate overseas usage of agricultural compounds and that Codex MRLs are not established for all pesticides. NZFSA is now in the initial stages of reviewing its imported foods systems and is considering how to deal with imported foods containing residues that have not been considered through the New Zealand or Codex systems.
Imported food products that are not listed in or do not meet any of the three standards New Zealand applies to imported food products (codex, domestic and the default) may not legally be sold in New Zealand. At present NZFSA has the regulatory flexibility to assess imported food products in this situation on a case-by-case basis to determine whether any regulatory action is required. The course of action selected will be in response to the perceived public health risk of the food product. Regulatory action can range from notification to the importer of non-compliance, to product recall if an unacceptable public health risk is identified. Due to marketing concerns, importers have at times destroyed or re-exported food products that breached New Zealand's MRLs, even though not obligated to do so by NZFSA following determination that the food product was safe for human consumption.

Routine testing administered by the NZFSA for agricultural compound marker residues was initiated following the organization's creation in 2002. Testing of MRLs under NZFSA has increased with the introduction of the Food Residues Surveillance Programme (FRSP) in 2003. This ongoing program is being implemented to assess the effectiveness of current controls of chemical residues on imported and locally produced foods.

Contaminants and Natural Toxicants (Standard 1.4.1)

Additional Guidelines to Standard 1.4.1

This standard specifies the maximum levels of contaminants and natural toxicants that are permitted in the foods listed in the standard. All foods listed in the standard must comply with the maximum levels set out in the standard. In addition to these standards, FSANZ has developed 'generally expected levels'. These are a range of contaminant levels that would normally be expected in particular foods. They are also listed in the standard.

Articles and Materials in Contact with Food (Standard 1.4.3)

This standard provides permission for articles and materials to be in contact with food in accordance with the conditions set out in this standard. Standard 1.4.1 sets out the maximum levels for a number of metal and non-metal contaminants and natural toxicants that may be present in food as a result of contact with the articles and materials regulated in this standard.

Relevant articles and materials are any materials in contact with food, including packaging material, which may enclose materials such as moisture absorbers, mould inhibitors, oxygen absorbers, promotional materials, writing or other graphics. Articles and materials may be placed in contact with food, provided such articles or materials, if taken into the mouth, are not:

- Capable of being swallowed or of obstructing any alimentary or respiratory passage; and
- Otherwise likely to cause bodily harm, distress or discomfort

SECTION VI: OTHER REGULATIONS AND REQUIREMENTS

BSE-Related Import Requirements for U.S. Beef

In response to the finding in December 2003 of an adult cow, imported from Canada, that tested positive for Bovine Spongiform Encephalopathy (BSE) in the United States, New Zealand banned imports of U.S. beef, beef variety meats, processed foods containing beef, non-protein free tallow, gelatin derived from bovine bone material, and pet food containing specified risk materials. The restrictive trade measures were taken to minimize human exposure to materials that scientific studies have demonstrated are highly likely to contain the BSE agent in cattle infected with the disease. Scientists believe that the human disease variant Creutzfeldt-Jakob disease is likely caused by the consumption of products contaminated with the agent that causes BSE.

The New Zealand Government, however, is demonstrating some flexibility in implementing its regulatory guidelines for imports of U.S. bovine products. The New Zealand Food Safety Authority is reviewing import applications for U.S. bovine food products on a case-by-case basis and may grant import approval. For example, the Food Safety Authority will consider for approval applications to import U.S. beef and veal when accompanied by the submission of credible information that no specified risk materials (SRMs) are included in the shipment. This can consist of certification from a government authority, an independent verification agency, and/or a manufacturer's declaration.

Import Health Permit for High Risk Food Products

Most food products can enter New Zealand freely. These are classified as low risk products. However, selected food, food containers and food utensils being imported into New Zealand are subject to surveillance to ensure the imported product is fit for purpose. These are classified as high-risk products that require an import permit. Food products, food containers and food utensils are selected for this surveillance by identification of potential or historical food safety issues associated with the product concerned. The food and food containers which are subject to surveillance and the type of surveillance upon entering New Zealand are listed on the Auckland District Health Board Central Clearing House website. They include: beef and beef products (BSE), brandy & whisky, canned mushrooms, canned tomatoes, shrimps and prawns, lobster crab and bugs and their products, desiccated coconut, dried dates, smoked fish and vacuum packed smoked fish, fish susceptible to the production of histamine, fish susceptible to elevated levels of mercury and microbiological spoilage, ice cream and iced confectionery, manufactured fish products (surimi) and marinara mix, meat products, molluscs, nutmeg, peanuts and pistachio nuts, peanut butter, soft cheese and grated cheese, spices, and soy sauce (always check website for the most current list).

Applications for "Imported Foods Health Permit" can be made on the same website. Regardless of whether the food or food container/utensil undergoes surveillance upon entering New Zealand, the product must be in compliance with New Zealand food legislation.

Certification Arrangements

The New Zealand Food Safety Authority (NZFSA) can enter into arrangements with approved authorities in overseas countries. Before recognizing any certification issued by overseas country authorities, NZFSA must be satisfied that there is a system in place that is monitored

by the authorities and that ensures that foods will comply with New Zealand requirements. Random audit inspections and analyses are carried out on certified shipments by NZFSA.

Product Samples

Food product samples listed in the New Zealand (Prescribed Foods) Standards 2002 generally do not require a permit from the NZFSA. However, food products regulated under the New Zealand biosecurity legislation have to comply with biosecurity requirements. Food product samples must not be intended for human consumption and re-sale.

SECTION VII: OTHER SPECIFIC STANDARDS

Specific Commodity Standards

Chapter 2 of the joint Code contains standards for a number of specific commodity groups. These can be found at FSANZ:

Part 2.1 – Cereals
Part 2.2 - Meat, eggs & fish
Part 2.3 - Fruit & Vegetables
Part 2.4 - Edible oils
Part 2.5 - Dairy products
Part 2.6 - Non-alcoholic beverages
Part 2.7 - Alcoholic beverages
Part 2.8 - Sugars & honey
Part 2.9 - Special purpose foods
Part 2.10 - Standards for other foods (vinegars & salt)

Representations About Food

Users Guide
Food Standards Australia New Zealand has developed this user guide, in consultation with Australian and New Zealand governments' and industry representatives. It provides information from the standards in the joint Code that are relevant to representations about food. The guide also provides additional information to that contained in those standards. As well as complying with food standards requirements, food manufacturers must also continue to comply with the Food Act 1981 and Fair Trading Act 1986.

The Fair Trading Act 1986 prohibits false or misleading representation of goods or services. Food promotions and labeling of food will breach these sections if, through words, pictures or other representations, they mislead or deceive ordinary shoppers about the food's: composition, age or quality, quantity, nutritional quality, freshness or "natural" character, origin, health benefits, or desirability. An "ordinary shopper" has been defined very broadly by the courts to include people who may be gullible, of less than average intelligence, or poorly educated.

The Commerce Commission has published a Food Labeling, Promotion and Marketing guide.

A representation includes:

- Any particular claim made in writing or verbally
- Any advertising associated with the representation
- Any important facts that manufacturers have left out

Manufacturers making representations about their products must be able to substantiate these in a court of law. When assessing whether a representation is unlawful, consideration must be given to the overall impression it creates. Therefore, manufacturers need to ensure that the representation about their product does not send a message that creates or could create the wrong idea in the minds of others. The competitors of manufacturers may also take action on unlawful representations.

Representations

A representation about food is anything that sends a message to someone about a food whether stated or implied. The following elements can contribute to a representation about food:
The food itself (e.g. what a food itself looks like)
Advertising in newspapers, magazines, television, radio
The label of a food;
Particular aspects of the packaging and display of a food; and
Verbal statements made about a food

Pictorial representations

Pictorial representations include logos, stylized flags, emblems, symbols, photos, designs or drawings that may be used in a label or in the advertising of a food product. Manufacturers need to ensure that their pictorial representations do not give a misleading overall impression about their products. Manufacturers' considerations for using pictorial representations should include:

- A manufacturer should not give a pictorial representation that an insignificant ingredient is present in significant amounts; or
- That a significant ingredient is not present or present in insignificant amounts.

For example, when making pictorial representations about a fruit juice product which contains a mixture of a small amount of raspberry juice (1%) and a large amount of apple juice (99%), the manufacturer must determine if a picture of a raspberry is appropriate, especially given the small amount of raspberry juice in the product. It may be better to avoid raspberry pictures and instead represent the product as 'apple juice with a dash of raspberry'.
Advertising

The same guidelines that apply to pictorial representations on labels also apply to advertisements for food. The advertising must not give a misleading or deceptive overall impression about the food being advertised. Manufacturers must look at the overall impression created by the advertisement and be sure that the prospective consumer is not likely to be misled or deceived. It is critical that the way in which a representation is made is appropriate to the particular media used. Complex representations about food are not appropriate for short 'grabs' on television. Similarly, representations with a strong reliance on visual cues for accuracy are not appropriate for radio.

The Fair Trading Act covers all advertising and selling of goods and services by people in trade. It prohibits misleading and deceptive conduct, false representations, and unfair practices. To contravene any of the provisions is an offense that can be prosecuted under the Act.

Naming and Representation

In representing a food to consumers, manufacturers must make sure that the name of the food and the overall impression of the food is consistent with the nature of the food i.e. the food is what it says it is and the food is what it looks like. The names of food or ingredients should be sufficiently detailed and accurate to ensure they are not false, misleading or deceptive, or likely to mislead or deceive.

Negative Claims

Negative claims are representations that highlight the absence or non-addition of particular substances to food. Some examples include, 'No MSG', 'no added sugar', 'no preservatives', 'dairy-free' and 'nothing artificial'. Negative claims are subject to the same restrictions as all other representations about food. That is, the claim and the overall impression created by the claim must not be false, misleading or deceptive to consumers.

'FREE' Claims

The New Zealand Commerce Commission have advised that their policy in relation to the use of the term 'free' is zero tolerance, irrespective of food regulations or codes of practice. Hence the existing 'free' claims, which presently include small tolerance levels, would be considered in breach of trade practices/fair trading legislation.

Nutrition Claims

Where a nutrition claim is made, the panel must include the seven mandatory nutrients:

- Energy
- Protein
- Fat
- Saturated fat
- Carbohydrate
- Sugars, and
- Sodium

As well as any claimed nutrient or biologically active substance, and any other nutrients that constitute a nutrition claim.

Information regarding the type of nutrition claims that can and cannot be made as well as examples of Nutrition Information Panels for each type of claim are contained in the Users Guide to Standard 1.2.8.

Dietary Supplements Regulations 1985

The Dietary Supplements Regulations 1985 define "dietary supplements," state the maximum daily doses for some nutrients, list food additive permissions and labeling requirements. Except as permitted by the Medicines Act 1981 and any regulations made under that Act, no dietary supplement or package or container containing a dietary supplement shall be advertised or labeled with a statement relating to the treatment or prevention of a disease, the diagnosis of a disease, alteration of any aspects of the human body, or prevention or interference with the normal operation of a physiological function. As with other foods, it is the manufacturer's/importer's responsibility to ensure their products are safe and comply with the legal requirements. Although restrictive, the regulatory framework in the United States is more favorable to the development and marketing of functional food products.

The joint Australia New Zealand Food Regulation Standing Committee (FRSC) has conducted public consultation on a policy framework for food-type dietary supplements that might be covered within the Australia New Zealand Food Standards Code in the near future. (Discussion Paper – Policy Options for the Regulation of Food-Type Dietary Supplements)

Health Claims (Standard 1.1A.2)

Unless specifically permitted in this standard, health claims on food labels and advertisements for foods, advice of a medical nature, mentioning of any disease or physiological conditions, therapeutic or prophylactic action, or other alteration of the human body are not permitted, with the exception of specific claims with regards to folate consumption listed in the standard. If such a claim is permitted under this standard the label must also include a nutrition information panel in accordance with Standard 1.2.8. Health claims must not be made in respect to foods standardized in Part 2.7 of the joint code as well as Standards 2.9.1, 2.9.2, 2.9.4, soft cheeses and pâté, and formulated meal replacements standardized in Standard 2.9.3.

Advice on therapeutic claims and advertising

Unapproved therapeutic claims are prohibited under both the Dietary Supplements Regulations 1985 and the Medicines Regulations 1984. Advice on whether a claim is acceptable or not can be sought from The Therapeutics Advertising Pre-vetting System (TAPS). TAPS is a voluntary advisory service set up by the Association of New Zealand Advertisers in May 1999 to assist advertisers, advertising agencies and the media to comply with the Advertising Standards Authority Code for Therapeutic Advertising and hence the regulatory requirements for therapeutic products. TAPS contact details are:

Therapeutics Advertising Pre-vetting System (TAPS),
43 Tirohunga Drive, Henderson, Auckland
Ph 09 836 2680, fax 09 837 5057, mob 021 393 355
Email: njandrews@xtra.co.nz

Foods Requiring Pre-Market Clearance

Novel Foods (Standard 1.5.1)

This Standard regulates the sale of novel food and novel food ingredients. This Standard prohibits the sale of these foods unless they are listed in the Table to clause 2, and comply with any special conditions of use in that Table. The specific permission may impose conditions relating to matters such as the need for preparation or cooking instructions, warning statements or other advice, or the need to meet specific requirements of composition or purity.

The purpose of this Standard is to ensure that non-traditional foods that have features or characteristics that raise safety concerns will undergo a risk-based safety assessment before they are offered for retail for direct consumption in New Zealand. The Authority will assess the safety for human consumption of each novel food prior to its inclusion in the Table. The safety assessment will be performed in accordance with the Authority's safety assessment guidelines.

Information regarding application for the approval of a novel food product is available at: http://www.foodstandards.gov.au/standardsdevelopment/informationforapplic559.cfm

Food Produced Using Gene Technology (Standard 1.5.2)

Division 1 of this Standard addresses health and safety requirements, regulating the sale of food produced using gene technology, other than additives and processing aids.

FSANZ will assess the safety for human consumption of each food produced using gene technology or such class of food prior to its inclusion in the Table. The safety assessment will be performed according to the Authority's approved safety assessment criteria. Additives and processing aids that are produced using gene technology are not regulated in Division 1 of this Standard. Other Standards in this Code regulate additives and processing aids and require pre-market approval for these substances. For more information on the declaration of genetically modified ingredients see FSANZ guideline: Labeling Genetically Modified Food.

Division 2 of this Standard specifies labeling and other information requirements for foods, including food additives and processing aids, produced using gene technology.

The Standard prohibits the sale and use of these foods unless they are included in the Table to clause 2 and comply with any special conditions in that Table.

The prohibition in clause 2 does not apply to a food produced using gene technology where:

- That food is the subject of an application under section 12 of the Act to vary the Table to that clause
- The application has been accepted in accordance with section 13 of the Act by the Authority on or before 30 April 1999
- The Authority has evidence that food, in one or more countries, other than Australia or New Zealand, is lawfully permitted to be sold or used as an ingredient or component, by a national food regulatory agency
- The Council has not become aware of evidence that food poses a significant risk to public health and safety

See Section II in this report for information regarding labeling requirements for GM Foods.

The Users Guide for Food Produced Using Gene Technology (Standard 1.5.2) should be read in conjunction with this standard.

Irradiation of Food (Standard 1.5.3)

This Standard prohibits the irradiation of food, or ingredients or components of food, unless a specific permission is given. The specific permission may impose conditions relating to matters such as dose, packaging materials, approved premises or facilities.

Even where this Standard permits irradiation, food should only be processed by irradiation where such processing fulfills a technological need or is necessary for a purpose associated with food safety. Food should not be processed by irradiation as a substituted procedure for good manufacturing practices.

The absorbed radiation dose applied for the purpose of irradiating food should be the minimum that is reasonably commensurate with the technological and public health purposes to be achieved. It should also be in accordance with good radiation processing practice.

Food to be processed by irradiation, and the packages and packing materials used or intended for use in connection with food so processed, should be of suitable quality and in an acceptable hygienic condition appropriate for the purpose of such processing. They should

also be handled before and after irradiation according to good manufacturing practices, taking into account, in each case, the particular requirements of the technology of the process.

The operation of irradiation facilities and control of the irradiation process should be undertaken in accordance with New Zealand law governing radiation control. They should also be undertaken in accordance with an appropriate Code of Practice such as the 1983 Codex Alimentarius General Standard for Irradiated Foods and its associated Code of Practice for the Operation of Irradiation Facilities Used for the Treatment of Foods.

This Standard also sets out permitted sources of radiation, requires the keeping of certain records in relation to the irradiation of food, and requires the labeling of food that has been irradiated.

Foods listed in the standard may only be processed by irradiation where such processing:

- Fulfills a technological need; or
- Is necessary for a purpose associated with food hygiene; and
- Such processing is not a substitute procedure for good manufacturing practice.

The standard outlines which foods are permitted to be irradiated.

Approval of Foods Produced Using Gene Technology

Information for people wishing to apply to FSANZ to introduce a new food produced using gene technology as provided for in the Australia New Zealand Food Standards Code is available at the following website:
http://www.foodstandards.gov.au/standardsdevelopment/informationforapplic559.cfm

All genetically modified food must be assessed as safe by FSANZ before it is allowed for sale on the New Zealand market. If it is a viable crop, it must also first be approved by the Environmental Risk Management Authority New Zealand (ERMA NZ). However, New Zealand had a moratorium on the release of GM organisms into the environment until October 2003.

SECTION VIII: COPYRIGHT/TRADEMARK LAWS

Patents and Designs

The Patents Act 1953, as amended by the Patents Amendment Act 1994, and the Designs Act 1953, constitutes the basic New Zealand legislation governing these forms of industrial property protection. New Zealand is party to the Paris Convention for the Protection of Industrial Property ("Paris Union") and member of the Patent Cooperation Treaty (PCT). Patents are obtainable for "any manner of new manufacture" and those who wish to protect an invention by a patent can file an application the Patent Office. Patents are granted for a 20-year term. A New Zealand patent is a limited monopoly granted by the Crown (New Zealand Government) to make, use, exercise, and vend an invention and its products throughout a 20-year period, with the proviso that it may be terminated in certain circumstances. Those who infringe on patent rights are liable for damages and other penalties. Inventions, which are the subject of patent rights, may be used only under license, normally obtained from the patentee. The Patents Act of 1953 gives protection against the abuse of patent rights, and compulsory licenses and other remedies are available.

Designs may be registered to obtain protection for the shape, configuration, pattern, or ornament applied to articles by an industrial process or means. To register a design, an application must be made, supplemented by drawings or photographs of the design. The term of registration is five years but may be extended to 15 years. A design registration may be canceled if found to be invalid for any reason.

Trademarks

The Trade Marks Act 2002 (reference Trade Marks Act 1953), provides for the registration, in respect of particular goods or services, of a sign or combination of signs, capable of being represented graphically and capable of distinguishing the goods or services of one person from those of another. A "sign" includes, but is not limited to, a device, brand, heading, label, ticket, name, signature, word, letter, numeral, color or any combination of these. Thus, a registerable trademark may potentially include the shape of goods themselves, the shape of packaging, smells and sounds, if capable of graphical representation. The appropriate classification of goods and services is determined according to the Nice Agreement on the International Classification of Goods and Services, although New Zealand is not yet a party to that agreement.

Registration may be permanent subject to payment of renewal fees. To obtain registration of a trademark, it must have been used or proposed to be used. A trademark may be expunged from the register on the grounds of non-use.

A trademark registration is infringed by the unauthorized use of the identical sign on any goods or services for which the sign is registered, or the unauthorized use of the identical or a similar sign on those goods or services, or similar goods or services, if such use would be likely to deceive or cause confusion.

The Geographical Indications Act 1994 establishes a registration system for the protection of descriptions or presentations used to indicate a geographical origin for specified goods.

Copyright

The Copyright Act 1994 governs copyright law in New Zealand. New Zealand adheres to the Rome version (but not the Brussels revision) of the Berne Copyright Convention, and is also a signatory to the Universal Copyright Convention. These two treaties provide that citizens of member countries are afforded protection in respect of work that may be copyrighted.

On May 16, 1998 the New Zealand Government passed an amendment to the Copyright Act, 1994 legalizing parallel importing. The legislation removes exclusive importing rights to New Zealand importers. Under the legislation any New Zealand importer may purchase, import, and sell goods from anywhere in the world without the permission of any local franchise holder of the copyright.

New Zealand was placed on the Special 301 Watch List on April 30, 1999 due to concerns regarding the adequacy of copyright protection. The previous Labour-Alliance Government pledged to change the parallel import regime to take account of copyright concerns. In particular, parallel imports of newly released copyrighted materials would be banned for up to two years from initial release. New Zealand was removed from the Special 301 Watch list in April 2000 in anticipation of these changes, but placed back on the list in April 2001 and April 2002 due to the lack of concrete progress.

Plant Variety Rights

New Zealand is a member state of the International Union for the Protection of New Plant Varieties (UPOV), adhering to the 1978 UPOV Convention. Intellectual property protection rights for plants in New Zealand are covered by the New Zealand Plant Variety Rights Act 1987 (PVRA 87). The PVRA 87 is based on the 1978 revision of the International Union for the Protection of New Varieties of Plants (UPOV 78) Convention. In 1991, UPOV member states agreed on a new and enhanced convention (UPOV 91). The changes embodied in UPOV 91 considerably expand the rights available to plant breeders, reflecting a number of problems that had arisen under UPOV 78.

Debate continues in New Zealand in regard to the ratification of UPOV 91. There is an ongoing debate among breeders, growers, merchants and regulators over the perceived confusion of the PVRA 87 with respect to the increased use of proprietary cultivars in New Zealand. As a consequence, industry participants developed the view that the current act needs to be amended, although PVRA 87 amendments that reflect and enable full ratification of UPOV 91 conventions would entail significant changes for both growers and breeders. A cabinet paper seeking policy approval to make changes to the PVRA 87 was released in August 2003 following a review of UPOV 91 and PVRA 87. It recommended that although UPOV 91 should not be ratified by New Zealand at this time, some changes consistent with UPOV 91 should be made to PVRA 87.

A copy of the cabinet paper is available at:
http://www.med.govt.nz/buslt/int_prop/plantvarietyreview/cabinet/review/index.html

SECTION IX: IMPORT PROCEDURE

There is no pre-market approval of either the composition or labeling of any food in New Zealand. Imported food must comply with all aspects of the Food Standards Code at the point of entry into New Zealand. The NZFSA and MAF Quarantine Services can perform random inspections on any food imported. High-risk foods both from a food safety and biosecurity perspective can be targeted for inspection at a higher frequency.

All goods imported into New Zealand are cleared by the New Zealand Customs Service, irrespective of whether they arrive by air, sea or mail. Importers are responsible for obtaining a formal Customs clearance for consignments of goods imports which attract more than NZ $50 in duties and taxes combined. Cost recovery charges apply for the processing of entries. The cost will depend on whether the entry is an electronic entry or a documentary (manual) entry.

In addition to the import entry, the importer may in some cases be asked to provide additional documents or information such as an air waybill or bill of lading, invoices, and other documents (e.g. packing lists, insurance certificates).

Importers are responsible for making an accurate and correct Customs entry. Monetary penalties may be imposed for entries containing errors or omissions. Importers must also pay all Customs charges, and are required to keep and produce if so required all commercial documents for a period of seven years. Importers must ensure that they comply with all legislative requirements. Using Customs brokers is therefore a recommended practice. A list of brokers affiliated to the Customs Brokers and Freight Forwarders Association (CBAFF) is available at www.cbaff.org.nz.

Generally, samples of products are subject to the same rates of customs duty and taxes as commercially imported goods, based on the origin and customs value of the goods.

However, the New Zealand Customs Service collects duty and/or taxes only if the combined value exceeds NZ $50. Small samples of bulk goods may be entered free of duty and/or taxes on application to the New Zealand Customs Service (Client Services) at the time of entry, or by prior memorandum.

More information on importing goods into New Zealand is available from the New Zealand Customs Service on their Internet Site - http://www.customs.govt.nz/importers/default.asp.

APPENDIX I: GOVERNMENT REGULATORY AGENCY CONTACTS

Local government authorities with responsibilities for administration and evaluation of imported products:

New Zealand Food Safety Authority
PO Box 2835
Wellington
New Zealand
Phone: (+64)-4-463 2500
Fax: (+64)-4-463 2501
Web: www.nzfsa.govt.nz

Food Standards Australia New Zealand
PO Box 10559
Wellington 6036
New Zealand
Phone: (+64)-4-473 9942
Fax: (+64)-4-473 9855
Email: info@foodstandards.govt.nz
Web: www.foodstandards.gov.au

Ministry of Agriculture and Forestry
PO Box 2526 Wellington
New Zealand
Phone: (+64)-4-474 4100
Fax: (+64)-4-474 4244
Web: www.maf.govt.nz

Environmental Risk Management Authority
PO Box 131
Wellington
New Zealand
Phone: (+64)-4-916 2426
Fax: (+64)-4-914 0433
Email: info@ermanz.govt.nz
Web: www.ermanz.govt.nz

New Zealand Customs Service
(Wellington, Corporate Office)
PO Box 2218
Wellington, New Zealand
Phone: (+64)-4-473 6099
Fax: (+64)-4-473 7370
Email: feedback@customs.govt.nz
Web: www.customs.govt.nz

Ministry of Consumer Affairs
PO Box 1473
Wellington, New Zealand
Phone: (+64)-4-474 2750
Fax: (+64)-4-473 9400
Email: mcainfo@mca.govt.nz
Web: www.consumeraffairs.govt.nz

New Zealand Commerce Commission
PO Box 2351
Wellington
New Zealand
Phone: (+64)-4-924 3600
Fax: (+64)-4-924 3700
Email: contact@comcom.govt.nz
Web: www.comcom.govt.nz

Intellectual Property Office of New Zealand
PO Box 30 687
Lower Hutt
Wellington
New Zealand
Phone: (+64)-4-569 4400
Fax: (+64)-4-569 2298
Web: www.iponz.govt.nz

The Commissioner
Plant Variety Rights Office
PO Box 24
Lincoln
New Zealand
Phone: (+64)-3-325 2414
Fax: (+64)-3-325 2946

Ministry of Health
PO Box 5013
Wellington
New Zealand
Phone: (+64)-4-496 2000
Fax: (+64)-4-496 2340
Email: EmailMOH@moh.govt.nz
Web: www.moh.govt.nz

Auckland District Health Board Central Clearing House
Auckland
New Zealand
Phone: (++64)-9-638 9909
Fax: (++64)-9-630 7470
Email: baskern@adhb.govt.nz
Web: http://www.arphs.govt.nz/Services/ImportedFood/ImportedProducts.asp

Department of Conservation
PO Box 10420
Wellington
New Zealand
Phone: (+64)-4-471 0726
Fax: (+64)-4-471 1082
Web: www.doc.govt.nz

SPS & TBT Contacts

Each member government is responsible for the notification procedures associated with agreement under the World Trade Organization (WTO). Examples here relate to the Sanitary, Phytosanitary (SPS) and Technical Barriers to Trade (TBT) Agreements. WTO obligations include notifying any trade significant proposals that are not substantially the same as international standards to the WTO; providing copies of the proposed regulation upon request; allowing time for comments; and also to provide upon request copies of other relevant documents on existing regulations related to food and agriculture. Information on the country's regulations, standards and certification procedures can also be obtained through the Enquiry
Point(s) listed below.

SPS New Zealand is the combined New Zealand SPS Notification Authority and National Enquiry Point. It is responsible for fulfilling New Zealand's transparency obligations under the SPS agreement.

Coordinator, SPS New Zealand
Ministry of Agriculture and Forestry
PO Box 2526
Wellington
New Zealand
Phone: (++64)-4-474 4226
Fax: (++64)-4-470 2730
Web: http://www.maf.govt.nz/biosecurity/sps/index.htm

TBT Enquiry Point
Trade Negotiations Division

Ministry of Foreign Affairs and Trade
Private Bag 18 901
Wellington
New Zealand
Phone: (++64)-4-439 8000
Fax: (++64)-4-472 9596
Email: tnd@mft.govt.nz
Web: www.mfat.govt.nz

APPENDIX II: OTHER IMPORTANT SPECIALIST CONTACTS

Office of the Agricultural Attaché
U.S. Embassy
PO Box 1190
Thorndon
Wellington
New Zealand
Phone: (++64)-4-462 6030
Fax: (++64)-4-462 6016
Email: AgWellington@fas.usda.gov
Web: http://www.usembassy.org.nz

American Chamber of Commerce
PO Box 106 002
Auckland
New Zealand
Phone: (++64)-9-309 9140
Fax: (++64)-9-309 1090
Email: amcham@amcham.co.nz
Web: http://www.amcham.co.nz/

New Zealand Grocery Marketers Association
PO Box 1925
Wellington
New Zealand
Phone: (++64)-4-473 9223
Fax: (++64)-4-496 6550
Email: gma@businessnz.org.nz
Web: www.gma.org.nz

Foodworks - Food, Beverage & Grocery New Zealand
PO Box 32 418
Devonport
Auckland 1309
New Zealand
Phone: (++64)-9-445 3621
Fax: (++64)-9-445 6287
Email: chris@foodworks.co.nz
Web: www.foodworks.co.nz