



FOOD STANDARDS
Australia New Zealand
Te Mana Kounga Kai – Ahitereiria me Aotearoa

5 October 2007

CONSULTATION PAPER FOR FINAL ASSESSMENT

PROPOSAL P274

REVIEW OF MINIMUM AGE LABELLING OF FOODS FOR INFANTS

DEADLINE FOR PUBLIC SUBMISSIONS: 6pm (Canberra time) 19 October 2007
SUBMISSIONS RECEIVED AFTER THIS DEADLINE
WILL NOT BE CONSIDERED

(See 'Invitation for Public Submissions' for details)

For Information on matters relating to this Assessment Report or the assessment process generally, please refer: <http://www.foodstandards.gov.au/standardsdevelopment/>

1. Introduction and Overview

Food Standards Australia New Zealand (FSANZ) has recommenced work on Proposal P274 - Review of Minimum Age Labelling of Foods for Infants. The purpose of this Proposal is to revise Standard 2.9.2 – Foods for Infants of the *Australia New Zealand Food Standards Code* (the Code) to ensure consistency with the revised Australian and proposed New Zealand recommendations for the introduction of solid food to infants at ‘around six months’. Currently, Standard 2.9.2 requires infant foods to be labelled 'from four months' which is a reflection of previous recommendations.

In October 2004, FSANZ released the Draft Assessment Report¹ for public comment recommending the revision of the minimum age labelling requirement of foods for infants to ‘around 6 months’. Twelve submissions were received from key stakeholders representing maternal, infant and child health and welfare, jurisdictions, public health and industry groups. The majority of submitters at Draft Assessment supported amending the minimum reference age to ‘around six months’. Submitters’ comments have informed the development of this Consultation Paper.

This Paper provides an update on the proposed regulatory approach and key recommendations that FSANZ is considering at Final Assessment.

Overview of Proposed Regulatory Approach:

- Amend the permitted minimum reference age to ‘around six months’;
- Retain the minimum age reference labelling, expressed in numbers, from which the food is suitable;
- Retain the warning statement ‘Not recommended for infants under the age of 4 months’ on the labels of foods promoted as suitable from ‘around 6 months’;
- Amend subclause 2(4) to ‘Food intended for infants around the age of 6 months, except for rusks, must be formulated and manufactured to a consistency that is soft and free of lumps’; and
- Remove the redundant Editorial note immediately following subclause 2(4);
- Remove the redundant subclause 3(2) referring to cereal-based food for infants from 4 months of age; and
- Amend subclause 3(1) to mandate a minimum amount of iron, and to permit the voluntary addition of thiamin, niacin, vitamin B6, Vitamin C, folate and magnesium to restorative levels in all cereal-based foods for infants.

¹ <http://www.foodstandards.gov.au/standardsdevelopment/proposals/index.cfm>

2. Background

2.1 Infant Feeding Recommendations

2.1.1 Australia

The Australian National Health and Medical Research Council (NHMRC) *Dietary Guidelines for Children and Adolescents* (incorporating *Infant Feeding Guidelines for Health Workers*)² recommend exclusive breastfeeding for the first six months of life and the introduction of solid foods at around six months, to meet the infant's increasing nutritional and developmental needs.

The importance of the NHMRC recommendations was further recognised by the 2007 Australian Parliamentary Inquiry into the health benefits of breastfeeding³. The Inquiry Report included a number of recommendations aimed at increasing breastfeeding rates in Australia. One of the recommendations is that FSANZ amends the labelling requirements for foods for infants to align with the NHMRC Dietary Guidelines which recommend babies be exclusively breastfed for the first six months.

2.1.2 New Zealand

In July 2007, the New Zealand Ministry of Health released a revised draft of the *Food and Nutrition Guidelines for Healthy Infants and Toddlers (Aged 0-2 years)*⁴ for consultation. The revised guidelines recommend that infants be fed exclusively on breast milk to around six months of age, at which time complementary foods can be introduced with breastfeeding continuing until the child reaches two years of age or beyond. Appropriate complementary solid foods should be introduced when an infant is at the appropriate stage of development, which will vary between individuals, occurring around six months of age but not before four months of age.

The current guidelines⁵ recommend that infants be fed exclusively on breast milk from birth to four-six months of age and preferably until at least 12 months, with appropriate complementary solid foods being introduced at around four to six months.

2.1.3 World Health Organization

Both the revised Australian and proposed New Zealand guidelines reflect the recommendation of the World Health Organization (WHO) of *exclusive breastfeeding for 6 months, with introduction of complementary foods and continued breastfeeding thereafter*⁶.

² NHMRC Dietary Guidelines for Children and Adolescents (incorporating Infant Feeding Guidelines for Health Workers) (2003)

³ Standing Committee on Health and Ageing, House of Representatives, Canberra, *The Best Start: Report on Health Benefits of Breastfeeding*. (2007)

⁴ New Zealand Ministry of Health, Food and Nutrition Guidelines for Healthy Infants and Toddlers (Aged 0-2): A Background Paper, Draft for consultation. (2007)

⁵ New Zealand Ministry of Health, Food and Nutrition Guidelines for Healthy Infants and Toddlers (Aged 0-2): A Background Paper. (1999)

⁶ World Health Organization (2002) The Optimal Duration of Exclusive Breastfeeding - Report of an Expert Consultation, Geneva, Switzerland, 28-30 March 2001

2.2 Current Labelling Requirements

Standard 2.9.2 – Foods for Infants, provides the compositional and labelling requirements of foods intended and/or represented for use as foods for infants. In relation to minimum age labelling, subclause 5(3) of Standard 2.9.2 requires the label of an infant food to contain:

- a statement indicating the consistency of the food and the minimum age, expressed in numbers, of the infants for whom the food is recommended; and
- where the food is recommended for infants between the age of 4-6 months, in association with the statement required above the words – *Not recommended for infants under the age of 4 months.*

In addition, the label of an infant food must not include a recommendation, expressed or implied, that the food is suitable for infants less than four months old (subclause 5(2)).

2.3 Current Industry Labelling Practices

Infant food manufacturers currently label their products in accordance with Standard 2.9.2 of the Code. They also provide additional labelling information to assist parents/carers in selecting appropriate foods for their infant. This includes uniform colour coding (blue, red and green) which corresponds to the reference ages and/or recommended ‘stages’ for the infant food (1st, 2nd, and 3rd Foods or Stage 1, 2 and 3) adjacent to the reference age labelling. This helps to distinguish between the different textures of infant foods available to meet the developmental requirements of growing infants.

Freecall phone numbers and websites are commonly provided on infant food labels as a source of further information.

3. Proposed Labelling Amendments

3.1 Minimum Age Labelling ‘around six months’

The proposed regulatory option to amend the minimum reference age to ‘around six months’ reflects both the policy guidelines in Australia and New Zealand and the WHO recommendations. This will address the inconsistency between infant feeding recommendations and the current infant food labelling regulations.

3.2 Consequential Amendments to Standard 2.9.2

In addition to amending Standard 2.9.2 to reflect the minimum reference age of ‘around six months’, a number of consequential amendments were considered at Draft Assessment. These are discussed below.

3.2.1 Age or Stage Labelling

At Draft Assessment, FSANZ discussed possible options for minimum age labelling, including raising the minimum reference age, or replacing the reference to ‘age’ with an alternate scheme, e.g. phases or stages.

There are divergent views as to whether ‘age’, ‘stage’ or a modified version of these elements is required. Submissions in response to the Draft Assessment tended to support ‘age’ or ‘age’ and ‘stage’ rather than a ‘stage’ only approach. The New Zealand Government considered that labelling must ‘cater for individual variations among infants’ and supports a ‘stages of development approach’ in conjunction with ‘age’. Generally, industry was supportive of the inclusion of ‘age’ on the label.

FSANZ recognises that physiological ‘readiness’ rather than age is the preferred basis for introducing solids. However, a stage only approach would be a difficult message to convey on a label due to the amount of supporting information that would need to be provided to consumers to assist their decision making. On this basis, FSANZ believes that retaining an age reference is preferable and would assist parents/carers with poor literacy skills to continue making appropriate food selections.

Current Australian and the revised draft New Zealand Infant Feeding Guidelines reflect the WHO recommendation to introduce solid foods at ‘around six months’. FSANZ does not consider it necessary to mandate both ‘age’ and ‘stage’ on foods for infants. Prescribing ‘age’ only is in line with the FSANZ objective of ‘minimum effective regulation’ and should simplify enforcement processes. It also allows for industry innovation in using developmental variation in labelling on infant foods. Current industry practice demonstrates the effectiveness of this approach with the provision of additional consumer information, such as ‘stages’ and colour coding, on infant food labels on a voluntary basis. FSANZ has no evidence that consumers are being misled by the provision of information in this format.

The preferred regulatory approach remains a mandatory age reference. It should be noted that in addition to an age reference, a statement indicating the consistency is required on infant food labels. FSANZ considers parents/carers are therefore provided with adequate information on the timing (and consistency) of infant foods to make appropriate choices.

3.2.2 *Advisory Statement*

FSANZ proposed at Draft Assessment that an advisory statement be required on the label encouraging parents/carers to consult a health professional to seek assistance when introducing solids. This requirement recognised the importance of the decision to introduce solids and the developmental cues underpinning this decision.

Submitters, generally, did not believe the advisory statement was justified, or that it would be particularly helpful to parents/carers. It was noted that all major infant food manufacturers include freecall phone numbers and websites on infant food labels for further information. On this basis, FSANZ no longer proposes a mandatory requirement for this type of advisory statement on the label of infant foods.

3.2.3 *Warning Statement*

Current regulations do not allow the label on an infant food to include a recommendation, expressed or implied, that it is suitable for infants less than four months. Furthermore, foods recommended for infants between four and six months require the warning statement *not recommended for infants under the age of four months* to be included on the label.

As noted at Draft Assessment Report, there are concerns around the early introduction of solid foods and there is evidence that infants younger than four months of age in both Australia and New Zealand are continuing to be fed solid foods. The retention of the warning statement was supported by all submissions. FSANZ therefore proposes that the warning statement labelling requirement be retained in Standard 2.9.2.

3.2.4 Consistency that Minimises the Risk of Choking

Currently, subclause 2(4) of Standard 2.9.2 requires food intended for infants under the age of six months to be formulated and manufactured to a consistency that minimises the risk of choking. The corresponding editorial note explains the intent of subclause 2(4) and describes the required consistency as being ‘soft and free of lumps’.

At Draft Assessment, FSANZ proposed removing subclause 2(4) on the grounds that it was considered redundant given the ‘consistency’ declaration requirement of subclause 5(3)(a), the proposed mandatory warning and the advisory statements of Standard 2.9.2. These provisions were considered sufficient to enable parents/carers to select suitable products for their infants and thereby minimise the risk of choking. FSANZ also noted that the enforceability of this clause was questioned during stakeholder consultation on the Proposal.

While industry submissions in response to the Draft Assessment Report favoured the removal of subclause 2(4), the New Zealand government supported the retention of the clause as it provided an extra assurance for carers that first solids for infants would be of an appropriate consistency, independent of labelling.

In response to New Zealand government concerns and noting FSANZ’s decision not to proceed with the mandatory advisory statement (as discussed in Section 3.2.2), FSANZ now proposes that subclause 2(4) be amended such that ‘Food intended for infants around the age of 6 months, except for rusks, must be formulated and manufactured to a consistency that is soft and free of lumps’. As a consequence of this amendment the Editorial note will be removed.

3.2.5 Additional Compositional Provisions for Cereal-based Foods.

Clause 3 of Standard 2.9.2 currently permits cereal-based food containing more than 70% cereal and promoted as being suitable for infants over the age of six months to contain thiamin, niacin, vitamin B6, vitamin C, folate and magnesium⁷ added to restoration levels, and mandates a minimum amount of iron (20 mg/100 g). Cereal-based food containing more than 70% cereal manufactured and marketed as suitable for infants from four months of age are permitted the voluntary addition of iron and vitamin C.

The proposed amendment to the Code to remove the current permissions for foods to be labelled as suitable from four months renders the particular reference to these foods (subclause 3(2)) redundant.

⁷ The addition of the listed vitamins and minerals are permitted in accordance with the permitted forms in schedule 1 of Standard 2.9.1 – Infant formula products

FSANZ therefore proposes that Standard 2.9.2 be varied by removing subclause 3(2) and amending subclause 3(1) to mandate a minimum amount of iron, and to permit the voluntary addition of thiamin, niacin, vitamin B6, Vitamin C, folate and magnesium to restorative levels in all cereal-based foods for infants.

4. Other Issues

4.1 International Trade Barriers

FSANZ is of the view that this Proposal will have little (if any) effect on international trade, given the majority of infant foods are manufactured locally in either Australia or in New Zealand.

5. Draft Variation

The proposed draft variations to the Code that FSANZ is considering at Final Assessment are outlined at Attachment 1. It is expected that the draft variations will commence on gazettal.

DRAFT VARIATIONS TO THE AUSTRALIA NEW ZEALAND FOOD STANDARDS CODE

Section 94 of the FSANZ Act provides that standards or variations to standards are legislative instruments, but are not subject to disallowance or sunseting

To commence: on gazettal

[1] *Standard 1.1.1 of the Australia New Zealand Food Standards Code is varied by omitting paragraph (d) in the definition of warning statement, substituting –*

(d) paragraph 5(4)(b) and subclause 6(2) of Standard 2.9.2; and

[2] *Standard 2.9.2 of the Australia New Zealand Food Standards Code is varied by –*

[2.1] *omitting subclause 2(4), substituting –*

(4) Food intended for infants around the age of 6 months, except for rusks, must be formulated and manufactured to a consistency that is soft and free of lumps.

[2.2] *omitting subclause 3(1), substituting –*

(1) Cereal-based food for infants which contains more than 70% cereal, on a moisture free basis –

(a) must contain no less than 20 mg iron/100 g on a moisture free basis; and
(b) may contain added iron in the following forms –

- (i) electrolytic iron; or
- (ii) reduced iron; or
- (iii) in the permitted forms set out in Schedule 1 of Standard 2.9.1; and

(c) may contain added thiamin, niacin, vitamin B₆, vitamin C, folate, magnesium in the forms permitted in Schedule 1 of Standard 2.9.1; and

(d) may contain added vitamin C to a maximum level of 90 mg/100 g on a moisture free basis.

[2.3] *omitting subclause 3(2).*

[2.4] *omitting clause 5, substituting –*

5 Labelling

(1) This clause does not apply to packaged water.

(2) The label on a package of food for infants must not include a representation, whether express or implied, that the food is suitable for infants less than 4 months.

- (3) The label on a package of food for infants must include –
- (a) a statement indicating the consistency of the food; and
 - (b) a statement indicating from which age, expressed in numbers, the food is suitable; and
 - (c) where the added sugars content of the food for infants exceeds 4 g/100 g, the word –

‘sweetened’; and
 - (d) where honey has been used as an ingredient, the words –

‘sterilised honey’.
- (4) In addition to the requirements in subclause (3), where the food is suitable for infants aged around 6 months the label on a package of food for infants must include the following statements –
- (a) ‘Around 6 months’; and
 - (b) ‘Not recommended for infants under the age of 4 months’.

Editorial note:

This Standard does not place limits on the use of sugars except in the case of a vegetable juice, fruit drink and non-alcoholic beverage.

Claims such as ‘no added sugar’, ‘sweetened’ or words of similar import are subject to the general labelling provisions.