



AUSTRALIAN
**FOOD &
GROCERY**
COUNCIL

AFGC SUBMISSION

PROPOSAL P1027 – MANAGING LOW LEVEL AG & VET
CHEMICALS WITHOUT MAXIMUM RESIDUE LIMITS [26-14]

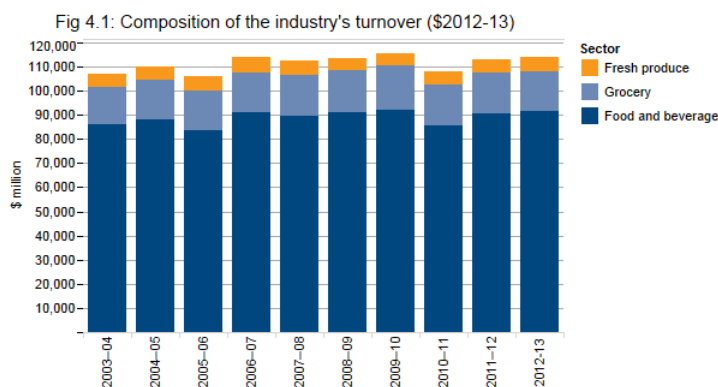
Sustaining Australia

PREFACE

The Australian Food and Grocery Council (AFGC) is the leading national organisation representing Australia's food, drink and grocery manufacturing industry.

The membership of AFGC comprises more than 178 companies, subsidiaries and associates which constitutes in the order of 80 per cent of the gross dollar value of the processed food, beverage and grocery products sectors.

With an annual turnover in the 2013-14 financial year of \$114 billion, Australia's food and grocery manufacturing industry makes a substantial contribution to the Australian economy and is vital to the nation's future prosperity.



Source: Based on ABS, catalogue number 8221.0, 8159.0 and 8155.0

Note: As outlined in chapter 3 of the State of the Industry 2014 report, caution should be applied when comparing data before and after the 2006 ANZSIC code changes.

Manufacturing of food, beverages and groceries in the fast moving consumer goods sector is Australia's largest manufacturing industry. Representing 27.5 per cent of total manufacturing turnover, the sector accounts for over one quarter of the total manufacturing industry in Australia.

The diverse and sustainable industry is made up of over 27,469 businesses and accounts for over \$55.9 billion of the nation's international trade in 2013-14. These businesses range from some of the largest globally significant multinational companies to small and medium enterprises. Industry spends \$541.8 million in 2011-12 on research and development.

The food and grocery manufacturing sector employs more than 299,731 Australians, representing about 3 per cent of all employed people in Australia, paying around \$12.1 billion a year in salaries and wages.

Many food manufacturing plants are located outside the metropolitan regions. The industry makes a large contribution to rural and regional Australia economies, with almost half of the total persons employed being in rural and regional Australia. It is essential for the economic and social development of Australia, and particularly rural and regional Australia, that the magnitude, significance and contribution of this industry is recognised and factored into the Government's economic, industrial and trade policies.

Australians and our political leaders overwhelmingly want a local, value-adding food and grocery manufacturing sector.

1. Introduction

The Australian Food and Grocery Council (AFGC) welcome the opportunity to make this submission in response to Food Standards Australia New Zealand (FSANZ) Proposal P1027 - *Managing Low-level Ag & Vet Chemicals without Maximum Residue Limits* ("the Proposal").

The AFGC has consulted with our members and provides the following feedback to FSANZ for consideration.

2. Overall Position

The AFGC does **not support** the approach proposed by FSANZ to set MRLs for "*all other foods*" for agvet chemicals where an MRL is already listed for a specific commodity(s) in the schedule to Standard 1.4.2.

The proposed approach fails to address the acknowledged issues of:

- Consistency of approach with international trading partners and facilitation of trade; and
- Increased sensitivity of testing.

Further, the proposed approach is inconsistent with ministerial policy guidelines and appears to be very resource intensive and inefficient as a regulatory process. In fact, the proposal will not provide any additional benefit over the current route for establishing or changing MRL's, and may only confuse matters further.

The AFGC recommends that FSANZ reconsider the proposed approach and specifically re-examine the default MRL system in place in New Zealand as the preferred option.

3. Comments

3.1. The Problem

The AFGC emphasises that in the vast majority of instances, MRL regulation is not directed to any safety concern but rather to the achievement of good agricultural practice. While the AFGC supports good agricultural practice, the starting point for any food regulatory policy must be public health and safety. A principal industry concern in relation to existing regulatory arrangements and approaches is that it prohibits residues of no safety concern.

In particular, that the current “zero tolerance” regime places an unnecessary regulatory burden on industry. The practical issues that zero tolerance fails to address are –

- The need for case-by-case approval for residues in imported food where chemicals are legally and appropriately used in country of origin or are approved under CODEX;
- The prohibition of minor level incidental residues due to spray drift;
- The question of technology creep, where improvements in test method sensitivity lead to foods being acceptable (under LOD) one day but illegal (residues detectable) the next.

These are real problems that require the industry to spend significant resources to apply for, and in cases pay for the assessment of, MRLs that should, in best practice regulation, already be permitted.

Further, there is in current MRL arrangements an inwardly-focussed ‘Australianism’ where chemical use regulation intersects with residue regulation. While the improvements in inter-agency cooperation are welcome and supported, the AFGC is concerned that residue regulation has broader impact in relation to international trade, and this broader impact does not always appear to be recognised or accommodated under current arrangements.

For example:

An example of this is Tricyclazole, which is neither a registered chemical with APVMA nor is it included in Schedule 1 of Standard 1.4.2. This chemical is commonly used in crops such as rice in countries such as Brazil.

A member company has advised that they have halted a project due to the issues of detected pesticides in Basmati rice that are currently not covered in Standard 1.4.2. The rice would conform to the NZ regulations and comply with EU regulations (please refer to table below).

Indian Traditional Brown Basmati

CHEMICALS	LEVEL DETECTED	EUROPE TOLERANCE	NZ TOLERANCE	AUSTRALIA LIMIT
BUPROFEZIN	0.2704	0.5 ppm	0.1ppm	No MRL specific for rice/cereal grains
ISOPROTHIOLANE	0.1002	5 ppm	0.1ppm	No MRL – not APVMA registered
TRICYCLAZOLE	0.0688	1 ppm	0.1ppm	No MRL – not APVMA registered

Pakistan Basmati Super Brown

CHEMICALS	LEVEL DETECTED	EUROPE TOLERANCE	NZ TOLERANCE	AUSTRALIA LIMIT
PYRIMETHANIL	0.0119	0.05 ppm	0.1ppm	No MRL specific for rice/cereal grains

The important point is that the current zero tolerance approach to residues is impeding competition and innovation, with the costs and inefficiencies of regulatory compliance having the consequence that the Australian market, and Australian consumers, are missing out on new food products.

3.2. Ministerial Policy Guidelines

The Ministerial Policy Guideline on the Regulation of Residues of Agricultural and Veterinary Chemicals in Food issued to FSANZ in 2006 provides specific principles for FSANZ to consider when suggesting alternative approaches that might address issues with the current 'zero tolerance' approach for regulating agricultural and veterinary chemical residues in food.

FSANZ acknowledge that the Public Consultation Paper on the Draft Ministerial Policy Guidelines (April 2006) articulated a number of issues with the current regulatory system:

- when low level residues of agvet chemicals with no MRL are found in food, the food commodity becomes illegal for sale even if it poses a very low risk to public health;
- the current zero tolerance approach fails to recognise the increasing sensitivity of analytical techniques;
- very low but detectable residues may occur in commodities following legitimate use of a chemical, for which no MRL has previously been established; and
- trade issues associated with domestic and imported food.

The proposed approach in particular does not address last point in relation to trade issues.

With respect to the Specific Policy Principles of the policy guideline, the proposed approach is not consistent with guidelines 4 and 5:

'Any changes to the existing regulatory approach for the regulation of residues of agricultural and veterinary chemicals in food should;

4. promote a consistent approach to MRLs for both domestic and imported foods where appropriate; and

5. be consistent with Australia's obligations under the World Trade Organisation (WTO) Sanitary and Phytosanitary Agreement (SPS Agreement).'

3.3. The Proposed Approach

FSANZ advises that under the proposal:

"...specific MRLs in Standard 1.4.2 would be set at an appropriate level for all other foods to account for inadvertent low levels of residues for a nominated set of agvet chemicals."

The AFGC note the following statement by FSANZ and stress that the proposed approach must encompass legitimate approved use in other countries **as well as** inadvertent exposure.

"The proposed approach is that MRLs be set for all other foods for specific chemicals to account for the presence of low level residues in commodities that could be inadvertently exposed to the chemical product."

FSANZ suggests that the approach gives importers (among others) a clear and transparent target – but this would only be the case for agvet chemicals which have an "all other foods MRL". All other commodities/agvet chemicals would continue to be disadvantaged by the current system. This is an example of the inwardly-focussed "Australianism" that seems inherent in current residue regulation.

Further, the AFGC is greatly concerned at the regulatory and stakeholder resources required to evaluate an "all foods" MRL for the hundreds of existing chemicals. The scale of resources required would seem to be so large as to practically preclude the workability of the proposed approach. This is of particular concern as less burdensome alternatives, such as the NZ approach, would seem both practical and efficient.

Lack of detail

For this reason, FSANZ needs to provide detail on how the proposed process would be applied in reality, especially with respect to timing, responsiveness to industry needs and cost. The AFGC understands that FSANZ is currently struggling with workload, evidenced by the current 2015 MRL Proposal – the call for submissions was posted in late December however the new template and Guide to assist industry are still not available.

If the proposed process is to run alongside of the current process for changes to MRLs for agricultural and veterinary chemicals requested by the APVMA, and other parties seeking to harmonise Australian laws with those overseas already – how will this be resourced and prioritised?

The information in the consultation paper provides no certainty for industry and potentially sets up a lengthy process for requesting and assessing agvet chemicals by chemical and commodity – there is no detail provided as to how this process would be managed; the costs associated and the timings.

3.4. Default limits

The AFGC disagrees with FSANZ in relation to the disadvantages of default limits and provide the following comments:

- *“Inconsistency between default limits in different countries”* - this is not a reason to fail to proceed with a default model, as differing countries’ regulation is derived from different policy goals, trade implications and risk tolerance. All of these factors should be considered in establishing an Australian default MRL which may well be different from that of other countries.
- *“High default limits of 0.1mg/kg”* - again, this is an issue of individual country policy and is not a problem with the underlying rationale for a default MRL. Australia does not need to establish our default limit at 0.1mg/kg. FSANZ have the ability to decide what is appropriate for Australia based upon risk.
- *“With new analytical instrumentation and the capability...”* - a default MRL is directly intended to overcome the problems of improved analytic methods. Testing to a higher sensitivity does not render a residue more dangerous, and such a comment reflects the industry concern that residue regulation has become an exercise in chasing molecules rather than addressing safety risks.
- *“Some exclusions or exceptions would need to apply to account for chemicals that are highly toxic and able to be detected at very low levels”* - these types of chemicals (if not already) need to be ones established within Schedule 1 of Standard 1.4.2 with clearly defined default limits under *all other foods*.

The AFGC notes that food imported into Australia from New Zealand is permitted to comply with New Zealand requirements for MRLs and is therefore permitted to comply with the default MRL. The TTMRA therefore recognises the default MRL approach.

4. Specific Comments – Proposed Approach

4.1. Scope

Regulatory agencies and industry (including food producers, importers, processors, manufacturers and food retailers) are invited to present specific examples of cases where unexpected agvet chemical residues were identified in foods and reasons why this has occurred if known. This information will enable a priority list of agvet chemicals requiring risk assessment and MRLs to be established.

If FSANZ is proposing to develop a priority list then this question **must** also address a request for agvet chemicals that are used in other countries and potentially present in imported foods.

How is this call for agvet chemicals any different from the current MRL process undertaken annually by FSANZ?

This question is pre-emptive, duplicative of the process already underway for the 2015 MRL proposal and assumes that the proposed approach will be approved.

The AFGC request that FSANZ refrain from developing a priority list until such time as a more comprehensive assessment of alternative approaches is considered and a cost benefit analysis conducted.

4.2. Risk Assessment

FSANZ advise that

*“a joint protocol with agreed inclusion/exclusion criteria to enable MRL’s for **all other foods** to be established will need to be developed by FSANZ and the APVMA to support the implementation of the proposed approach.”*

The AFGC request that FSANZ refrain from developing this joint protocol until such time as a more comprehensive assessment of alternative approaches is considered and a cost benefit analysis conducted.

Notwithstanding, the AFGC request assurance that industry is given the opportunity to be involved in the development of this protocol.

4.3. Risk Management

4.3.1. Cost Benefit Analysis

FSANZ envisages that expanding the *all other foods* MRL category for existing agvet chemicals in the scope of the Proposal, will liberalise current requirements and benefit Australian Government, state and territory agencies, growers and producers and the domestic and imported food industry.

No evidence has been provided in the consultation paper to support this statement and specifically how industry will benefit. In the absence of detail around timing, cost and process, industry is not able to identify any benefits.

5. Alternative Approaches

The proposed approach does not address the issues experienced by industry with imported foods; is inconsistent with ministerial policy guidelines and appears to be very resource intensive and inefficient. What is currently outlined in the proposal will not provide any additional benefit to the current route for establishing or changing MRL's, and may only confuse matters further.

The AFGC requests that FSANZ reconsider the proposed approach and specifically consider:

1. re-examining the default MRL system in place in New Zealand; and
2. acceptance of foods that meet Codex MRLs.

Together these options would constitute a system that provides a comprehensive approach to the management of agvet chemical residues within the food supply in Australia, recognising the importance of imported foods to our economy and the ability of the industry to innovate and remain competitive.

6. Conclusion

The proposed approach presented in the consultation paper provides no certainty or benefits to the food industry in Australia. Six years on from the development of the ministerial policy guidance, industry is still no further advanced and is disadvantaged by lost opportunities and the cost of sourcing materials compliant with Australian based MRLs.

In order for industry to operate in the global market, Australian regulation needs to develop a more comprehensive and innovative approach to the management of low levels of agvet chemicals which pose no safety risk to Australian consumers.

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