



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

submission to the

Productivity Commission

Standards and Accreditation Inquiry

Introduction

FSANZ is a trans-Tasman authority that develops joint food standards primarily related to composition, labelling, microbiological and chemical contaminants. The standards apply to all foods produced or imported for sale in Australia and New Zealand. FSANZ also develops Australian-only primary production standards and food safety standards for the manufacturing industry, covering the whole of the food supply chain from paddock to plate.

FSANZ primary objectives are:

1. the protection of public health and safety; and
2. the provision of adequate information relating to food to enable consumers to make informed choices; and
3. the prevention of misleading or deceptive conduct

FSANZ bases its decisions on the rigorous scientific assessment of any risk to public health and safety.

The Australia New Zealand Food Standards Code (the Code) is a collection of individual food standards. The Code is adopted by the States and Territories in relevant food related legislation. It is the responsibility of State and Territory governments to enforce the Code.

FSANZ works in partnership with Australia's Commonwealth, State and Territory governments and the New Zealand Government and seeks to engage industry, consumers and public health professionals in its work.

General issues

Overall, the activities of Standards Australia and the National Association of Testing Authorities (NATA) complement the work of FSANZ and enhance the effectiveness of food standards.

FSANZ does not have a formal relationship with NATA. However FSANZ does utilise NATA accreditation of laboratories and analytical methods when tendering for surveillance or other monitoring work, as an independent assurance of technical competence. NATA accreditation of laboratories is valued by FSANZ and used in the selection of preferred tenderers.

FSANZ has a history of working closely with Standards Australia on many food related issues, to the benefit of both organisations. This relationship was recently strengthened through the signing of a memorandum of understanding to recognise the importance of this growing relationship and build on our current good working relations.

FSANZ has a pivotal role in setting food standards, with Standards Australia providing assistance with the technical aspects by providing definitional standards and analytical methods and setting limits or performance specifications. An example of this is in relation to the recently developed fish names standard which was appropriately developed by Seafood Services Australia through Standards Australia. This was not considered a core role for FSANZ in this instance.

Standards Australia welcomes FSANZ input and invites FSANZ to join its committees when developing food related standards, usually in response to proposals from the International Standards Organisation. FSANZ has the opportunity to refine the wording of these standards

and align them with the general intent of the Food Standards Code. FSANZ staff are involved in several committees, as detailed below.

In addition FSANZ's Chief Executive Officer, Mr Graham Peachey, is a member of the overarching Food Standards Sector Board of Standards Australia. This Board which meets twice a year, oversees and develops policy for the food industry; and promotes the alignment and harmonisation of Standards to facilitate trade in goods and services with Australia's and New Zealand's trading partners, among other things.

The standards of Standards Australia and FSANZ are generally complementary. The FSANZ food standards tend to be high level, outcomes based standards; while the standards of Standards Australia are more prescriptive and detailed, and in some cases provide a means for industry to achieve the higher-level food standards.

An example might be analytical methodology standard AS2070 –1999, Australian Standard for Plastics Materials for Food Contact Use. This Australian Standard developed by standards Australia and which is referenced in the Standard 1.4.3 'Articles and Materials in Contact with Food' of the Code. Standard 1.4.3 of the Code does not specify details of materials to be added to or used to produce food packaging materials or articles in contact with food. Although it is not enforceable at law, the Australian Standard does go into more specific details about this.

However some in-principle and practical issues arise when combining standards from different organisations. These are:

- the enforceability of Australian Standards compared with food standards;
- referencing Australian Standards in the Food Standards Code;
- Standards Australia's priorities compared with those of FSANZ; and
- the appropriate roles for Standards Australia and FSANZ in standards setting.

These issues are outlined below. The issues are important to consider and both organisations could progress them through the memorandum of understanding. The overall relationship between Standards Australia and FSANZ is sufficiently strong and flexible to accommodate a robust exchange of views on these matters.

Enforceability of Australian Standards compared with Food Standards

Standards developed by Standards Australia are non-mandatory, guidance standards. These are adopted by specific industries and by relevant stakeholders, underpinning voluntary compliance regimes.

In contrast, the Code is enforceable by State and Territory governments. Food Standards have to go through a rigorous review process including peer review of the scientific risk assessments and evaluation by the Office of Regulation Review against regulatory impact analysis principles.

In the area of primary production, FSANZ is moving towards the development of its own food-related standards, some of which will replace existing Standards Australia standards. FSANZ will continue to work closely with Standards Australia during the development of any new primary production food standard and seek their expertise when appropriate.

Referencing Australian Standards in the Food Standards Code

As part of the drafting of certain standards of the Code, reference is made to particular standards drafted and published by Standards Australia. For example Standard 1.6.2 relating to Microbiological Limits for Food, requires Australian/New Zealand Standards AS/NZS 1766 to be used to determine whether a food has exceeded the maximum permissible levels of foodborne micro-organisms.

When an Australian Standard is referenced in the Code, the effect may be to mandate the Australian Standard. This “mandatory compliance” effect may also arise due to

- (i) the legislative nature of the Code;
- (ii) the adoption of the Code in the Food legislation of States and Territories; and
- (iii) its enforcement by State and Territory agencies.

When the Code references Australian Standards it is important to keep these differences in mind. Also problems may arise where the referenced standard drafted by Standards Australia changes over time, including circumstances where it has been given a new AS number without FSANZ knowledge or input. Such changes will affect how the Code is interpreted and enforced.

With the recent signing of the memorandum of understanding between FSANZ and Standards Australia, it is expected that problems such as this will be able to be better managed.

Standards Australia’s priorities compared with those of FSANZ

FSANZ in its development of the Code is required by section 10 of the *FSANZ Act* to achieve objectives in relation to the protection of public health and safety, the provision of adequate information relating to food to enable consumers to make informed choices; and the prevention of misleading or deceptive conduct.

FSANZ must also have regard to matters listed in subsection 10(2) of the *FSANZ Act* which includes matters pertinent to food, the food industry, trade and international trade.

In contrast, Standards Australia in assessing whether to develop a standard considers such matters as national benefits including the potential for making a sustained contribution to the generation of national wealth; the quality of life; employment; safety; health, a more efficient use of national resources and whether it would be supportive in either harmonizing trade under the terms of the Close Economic Relations (CER) agreement between Australia and New Zealand or supporting the World Trade Organization (WTO) agreements.

While these differences exist, in the development of standards both Standards Australia and FSANZ seek to maintain consumer’s confidence in goods and services; specifically for food in the case of FSANZ. This commonality of purpose provides a platform for the standards of each organisation to be complementary.

The appropriate role for Standards Australia and FSANZ in standards setting

Standards Australia plays the primary role in setting standards for Australian industry. In respect of Food Standards, FSANZ also plays an important role in setting food standards for Australia and New Zealand.

While it is important for there to be complementarity between the two agencies, it is also important to recognise FSANZ's statutory responsibilities in relation to the development of food standards.

Background

FSANZ's relationship with Standards Australia

On 17 March 2006 Standards Australia and FSANZ entered into a Memorandum of Understanding (MoU). The MoU establishes an arrangement between the organisations which recognises the relationship between them. In particular this MoU will enable Standards Australia and FSANZ to:

- i) engage in mutual cooperation for the development of standards, and other joint activities;
- ii) ensure a co-ordinated and co-operative approach in order to avoid overlap between the activities, to make sure that effort is not duplicated and to provide a mechanism for avoiding overlap and gaps;
- iii) work collaboratively to develop solutions to standards problems;
- iv) work proactively to anticipate developments in standards issues and communicate openly in working to meet those developments;
- v) share information on standards development issues;
- vi) where the relationship between the parties has been the subject of a misunderstanding or friction, to cement the resolution of the problems, commit to working towards an improved relationship and identify mechanisms to prevent a recurrence of problems;
- vii) participate, where appropriate, in each other's technical or advisory committee or other groups formed as part of the standards development process and as detailed in each party's procedures; and
- viii) participate biannually in a meeting of the Executive Management of the parties to discuss items of mutual interest and exchange information on forthcoming issues.

Membership of Standards Australia committees

FSANZ is a formal member of certain Standards Australia committees. It is represented on the following committees:

	Food Standards Sector Board
FT-021	Meat for Human and Animal Consumption
FT-024	Food Products
FT-024-00-01	Working Group on Food Safety
FT-024-00-02	Glycemic Index of Foods
FT-024-01	Food Products – Food Microbiology
FT-024-05	Food Products – Dairy Products
FT-026	Processing Aids for Dairy Foods
FT-029	Materials in Contact with Food
BD-095	Technical advisory group on developing food premises standard

Further discussion concerning these committees follows.

- *FT-021 – Meat for Human and Animal Consumption*

FSANZ has been involved in the Standards Australia “*FT-021 – Meat for Human and Animal Consumption*” committee and its predecessors since about 1995. The committee works electronically providing comments on any proposed standards being developed by Standards Australia. Some of this work is quite intensive and involves significant work on the part of FSANZ. In other cases, where the standard does not relate to food matters, FSANZ abstains from voting.

The benefits and outcomes of FSANZ involvement with this committee ensures that appropriate standards are developed for industry. In addition, these standards are needed to allow Australian industry access to overseas markets.

Where there is a need for a standard, development can move quickly, particularly in the case of concerns about effects on trade where a standard has been put in place.

FSANZ involvement in this committee will be less useful in the future as FSANZ is developing its own food standard for meat. Standards Australia’s role therefore is an interim one in this area. Standards Australia have recognised the sensible outcome of food standards being developed by FSANZ.

- *FT-024 – Food Products*

Since November 2004, FSANZ has been a member of the Standards Australia “*FT-024 – Food Products*” committee. Since then this committee has not met.

- *FT-024-00-01 – Working Group on Food Safety*

FSANZ is a member of the Standards Australia “*FT-024-00-01 – Working Group on Food Safety*” committee. As part of its work on this committee it was asked to provide input into the International Organization for Standardization (ISO) committee drafting the ISO “*Standard 22000 Food Safety Management Systems*” which covers requirements for any organisations in the food chain. This has now been adopted as an Australian Standard.

- *FT-024-00-02 – Glycemic Index of Foods*

FSANZ was asked to join the Standards Australia “*FT-024-00-02 – Glycemic Index of Foods*” committee at the end of 2005. FSANZ involvement in this committee at that time resulted from Standards Australia’s request for FSANZ to provide specific input to the Glycemic Index standard being developed. FSANZ staff have attended two meetings of the committee and have provided information out of session.

In addition, Standards Australia has provided a submission to FSANZ in relation to the development of a food standard for ‘Nutrition, Health and Related claims’. Their submission provided an update on their work in this area.

Standards Australia has instigated a process to have its Glycemic Index standard reviewed at the international level. At this stage it has not been decided whether FSANZ will reference the Standards Australia standard in the Code. In developing these standards FSANZ and Standards Australia have taken account of each other’s work in this area. The Standards Australia standard is expected to be finalised by the middle of 2006.

- *FT-024-01 – Food Products – Food Microbiology*

FSANZ has been a member of the Standards Australia “*FT-024-01 – Food Products – Food Microbiology*” committee for over 10 years. The committee, which meets twice a year, determines the Australian position on standards being developed by the International Organization for Standardization, and also works on Australian standards where no international standard exists. Staff have spent about 3 hours per week on standards work for this committee and believe that their involvement ensures a deep and solid relationship with Standards Australia.

The standards developed by this committee have to be very prescriptive, i.e.: they include details of what temperature the food has to be for testing and what testing methods should be used.

A situation arose where the number of an Australian Standard referenced in the Food Standards Code was changed by Standards Australia. The representative on this committee did not attend the meeting where this change was discussed. FSANZ therefore did not become aware of the change until a later date. This raised concerns about enforcing the Food Standards Code because the reference to a Standards Australia standard became incorrect. The MoU between Standards Australia and FSANZ will allow better communication between the two agencies in the future.

- *FT-024-05 – Food Products – Dairy Products*

FSANZ is a member of the Standards Australia “*FT-024-05 – Food Products – Dairy Products*” committee, but it has not met since FSANZ joined.

- *FT-026 – Processing Aids for Dairy Foods*

FSANZ was asked to become a member of the Standards Australia “*FT-026 – Processing Aids for Dairy Foods*” committee in early 2005 following a restructure of Standards Australia’s food committees. Since then this committee has not met. Standards Australia sent a letter on 3 May 2006 to FSANZ asking for an opinion for the FT-026 committee on the proposed withdrawal of their standard for dairy salt.

- *FT-029 – Materials in Contact with Food*

FSANZ is a member of the Standards Australia “*FT-029 – Materials in Contact with Food*”, but since joining, the committee has not met.

- *BD-095 - Technical advisory group on developing food premises standard*

Staff commented on their work with Standards Australia during the development of an Australian Standard for food premises. FSANZ chaired the technical advisory group and Standards Australia managed the project. The draft of the standard was completed by FSANZ staff.

Other involvement with Standards Australia

FSANZ undertook a review of ‘methods of analysis’ as part of its standards review process. FSANZ concluded that, in general, ‘methods of analysis’ were better dealt with outside the Code – i.e.: as an Australian Standard. As a result of the consideration of submissions mainly

from the States and Territories, some methods of analysis and associated sampling plans remain in the Code.

In conjunction with Standards Australia, staff from FSANZ were involved in Australian Institute of Science and Technology educational seminars, presenting information on 'methods of analysis' to two separate seminars in 2005 and 2006.

In addition, FSANZ staff receive regular information, such as newsletters, from Standards Australia. Occasionally this will raise useful food related information.

FSANZ's relationship with the National Association of Testing Authorities

FSANZ does not have a formal relationship with NATA. FSANZ places value on NATA accreditation of laboratories and analytical methods, as providing some independent assurance of technical competence. When tendering or contracting for surveillance and other monitoring work to be undertaken on its behalf, FSANZ stipulates where possible that successful parties must be NATA accredited. Being able to rely on the use of NATA accredited businesses ensures that the resulting data that FSANZ generates or relies on, is as robust as practically possible.

In addition, FSANZ places great importance on the analytical quality associated with laboratory survey data. These data are used as the evidence base for many of FSANZ's food regulatory measures and in responding to emerging issues.

Lack of NATA accreditation, however, does not mean we would not necessarily use a laboratory. Accreditation may be pending or no one may be accredited at the time a given test is needed. In some situations, such as a serious food safety issue, it may be that urgent testing of the food supply is done quickly and the best available test results may be better than none at all, or a long delay.

Often the work of FSANZ has involved the use of cutting edge testing where no specific standard exists. In some cases FSANZ has supported the development and accreditation of an appropriate testing method. Other times, if the laboratory is accredited by NATA to undertake other testing then this usually instils confidence that the results will be accurate.