



17 July 2019

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Dear Sir/Madam

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on the *Call for Submissions – Application A1163: Food irradiation definition of herbs and spices*

Yours sincerely



***Call for submissions – Application A1163:
Food irradiation definition of herbs and
spices***

**Submission by the New Zealand Food & Grocery
Council**

17 July 2019

NEW ZEALAND FOOD & GROCERY COUNCIL

1. The New Zealand Food & Grocery Council (“NZFGC”) welcomes the opportunity to comment on the *Call for submissions – Application A1163: Food irradiation definition of herbs and spices* (the Call for Submissions).
2. NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. This sector generates over \$34 billion in the New Zealand domestic retail food, beverage and grocery products market, and over \$31 billion in export revenue from exports to 195 countries – some 72% of total merchandise exports. Food and beverage manufacturing is the largest manufacturing sector in New Zealand, representing 44% of total manufacturing income. Our members directly or indirectly employ more than 400,000 people – one in five of the workforce.

The Application

3. Sapro (Australia), the applicant, is an importer and wholesale distributor of South African and other African products to Australia. Supported by retail businesses in Queensland (Springbok Foods Pty Ltd), West Australia (Cape to Cairo WA) and Victoria (The South African Shop), Sapro applied in May 2018 to have the Australia New Zealand Food Standards Code (the Food Standards Code) amended to remove ambiguity around the definition of the term ‘herbs and spices’ for the purposes of irradiation. Standard 1.5.3 *Irradiation of food*, refers to Schedule 22 for a definition of herbs and spices. The rationale for the application was an outdated definition that is being differentially interpreted by enforcement agencies.

COMMENTS

4. NZFGC strongly supports the amendment being sought but strongly opposes the proposed drafting solution presented by FSANZ.
5. Continuing to reference Schedule 22 for purposes other than residue limits for agricultural or veterinary chemicals in Australia is confusing and conflicting not the least because its purpose, as set out in Standard 1.4.2—2, is “to set out the maximum residue limits and extraneous residue limits for agricultural or veterinary chemicals that are permitted in foods for sale”. Schedule 22 was never intended to be a multipurpose Schedule. Continuing to reference it perpetuates unnecessarily ill-conceived legal drafting.
6. Cleaning up the definition now instead of confounding the matter further by sticking blindly to Schedule 22 is flawed for the following reasons.
 - a) FSANZ states that not delivering a generic definition for Standard 1.5.3 is supported by the fact that there is “no single Codex definition for herbs and spices that is consistent across all Codex texts”. There is no single definition in Codex because of the need to tailor definitions for specific purposes. That, from our perspective, is precisely the reason for a generic definition in Standard 1.5.3. It would leave Schedule 22 to meet its stated purpose (determining categories of foods and levels of maximum residue levels from the application or agricultural and veterinary chemicals).
 - b) The difficulty that Schedule 22 has presented is precisely because it was drawn from the Codex Committee on Pesticides Residues (CCPR). CCPR provided the source of food categories and definitions for replication in Schedule 22. Expanding that purpose has been a case of lazy drafting or trying to fit a square peg in a round hole. In 2001

its dual use might have been a quick and convenient fix. Continuing this use is misplaced and misguided in 2019. Applying Schedule 22 to irradiation when that was never its intended purpose is making poor drafting worse.

- c) Of the three countries/regions referenced in the Call for Submissions (European Union (EU), Canada and the United States) none try to define herbs and spices in regulation for the purposes of irradiation. The closest appears to be the US which provides guidance. The Food Standards Code is anomalous globally.
 - d) Schedule 22 is an anachronism for New Zealand use since Standard 1.4.2, to which it is almost exclusively applied, is an Australia-only standard. Removing reference in Standard 1.5.3 to Schedule 22 removes any ambiguity for New Zealand industry and enforcement about what parts of the Food Standards Code has applicability in New Zealand even where the principal purpose does not apply. It has long been an irritation in terms of use for this reason.
7. We note Schedule 22 is also referenced in Schedule 5 for the purposes of calculating V points for the nutrient profiling scoring system. This is the only other non-agricultural and veterinary chemicals use made of Schedule 22 which could also be addressed in due course.
8. As the Call for Submissions reports, we agree there are no safety concerns that require assessment. “The least restrictive option [presented by the applicant] was the outcome intended in 2001 following assessment of A413”. We strongly recommend that instead of retaining reference to Schedule 22 in Standard 1.5.3, clean it up once and for all and include a generic definition for the purposes of Standard 1.5.3. Removing reference to Schedule 22 is clean, unambiguous and consistent internationally.