

Attachment C

Response to Code Review report – Proposal P1025

Code Revision

	Issue	Response
Issues arising from the judgment in <i>Nutricia</i>		
1	'nutritive substance'—the definition of nutritive substance was found to be uncertain.	The definition of nutritive substance will be considered by FSANZ in a separate Proposal. In the draft food regulatory measure the definition of nutritive substance is revised to limit its application to the addition of nutritive substances in special purpose foods. The definition is altered in this revision to provide that a nutritive substance is a substance that is expressly described as a nutritive substance.
2	It was argued by the prosecutor that the definition of nutritive substance should be read down in Standard 2.9.2 to incorporate the concept of a relevant population group, eg infants.	The definition of nutritive substance will be considered by FSANZ in a separate Proposal. In the draft food regulatory measure the definition of nutritive substance is revised to limit its application to the Division dealing with special purpose foods.
3	A question was raised whether FOS and GOS are nutritive substances.	The definition of nutritive substance will be considered by FSANZ in a separate Proposal. The definition is altered in this revision to provide that a nutritive substance is a substance that is expressly described as nutritive substance.
4	Clause 9A of Standard 1.1.1 provides that inulin-derived substances are taken not to be nutritive substances. This creates an exception to Clause 9, which provides that nutritive substances may not be added to food unless expressly permitted.	No action is required. Inulin-derived substances are not defined as nutritive substances.
5	Clause 6 of Standard 2.9.1 does not achieve its intended purpose of prohibiting the addition of vitamins, minerals, additives or nutritive substances to infant formula unless expressly permitted or in the proportion normally present in an ingredient of the infant formula.	Clause 6 is to be repealed as it has no function. The function of prohibiting the addition of substances to the level approved or through the natural presence of a substance in an ingredient is achieved through the operation of section 1.21 and the specific permission provisions.
6	In paragraph 89 of the judgment it is identified that clause 9 in Standard 1.1.1 and clause 6 of Standard 2.9.1 overlap. The Court found that clause 6 does not more than restate clause 9.	Subsection 6(1) is not repeated. No further action is required.
7	The Court commented on the relationship between clauses 6 and 24 of Standard 2.9.1	Subsection 6(1) is not repeated. No further action is required.

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8	In paragraph 113 of the judgment reference is made to a prosecution submission that a distinction should be made between synthetic forms of galacto-oligosaccharides and the natural form. The judge found that the Code makes no distinction.	FSANZ agrees that no distinction is made in the Code. No action is required.
9	In paragraph 105 of the judgment the Court found that dietary fibre is a food or a food ingredient. This was in response to a prosecution argument that dietary fibre is not normally added to food as an ingredient.	FSANZ agrees with the opinion expressed in the judgment that dietary fibre is a food. No action required.
10	At paragraphs 125-127 the Court considered whether the phrase 'therapeutic or prophylactic' is disjunctive.	FSANZ agrees with the Court's conclusion that the words are used disjunctively in Standard 1.1A.2. As Standard 1.1A.2 is a transitional standard no remedial action is required.
11	The defendant in <i>Nutricia</i> raised an issue in relation to the construction of clause 3 of Standard 1.1A.2. The Court did not accept that construction of the provision.	No action required. However, the provisions are re-ordered in section 1.70. An incidental effect of the re-ordering is to clarify the construction of the provisions.
12	An issue was identified concerning the difference between health claims and nutrition claims	This is done in new Standard 1.2.7. (Division 7 of Part 4 of Chapter 1 of the draft food regulatory measure).
13	The legal review questions whether a definition of health claim is required.	This is done in new Standard 1.2.7. (Division 7 of Part 4 of Chapter 1 of the draft food regulatory measure).
14	Questions were raised about the definition of 'energy factors' in Standard 1.2.8 and its application to Standard 2.9.1	The matter is addressed in the revised drafting.

Issues raised in consultation with enforcement agencies and food policy agencies

1, 143, 144	A question was raised in relation to the capacity to prescribe matters such as methods of analysis by reference to external texts that are updated from time to time.	FSANZ does not have power to provide in a standard that a matter shall be determined by reference to an instrument or text as it might exist from time to time ¹ . References to external instruments and documents must be done through regular minor procedure proposals.
2	It was suggested that a 'cross-reference' system should be adopted to assist readability.	A dictionary of terms is to be incorporated in the new Code in accordance with contemporary drafting practice. Extensive cross-referencing is provided in the draft food regulatory measure.
3	It was suggested that a diagram should be incorporated to demonstrate the layout of the Code.	This suggestion has not been adopted. However, an overview is provided at section 1.03. Also, overview statements are provided for some Parts.
4, 7, 59, 147	It was suggested that all definitions should be in the one place.	A dictionary of terms is to be incorporated in the new Code in accordance with contemporary drafting practice.
5, 8, 9	Some editorial notes in the current code include definitions.	Definitions have been moved from editorial notes.

¹ See subsection 14(2) *Legislative Instruments Act 2003*

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6, 160	The current Code makes considerable use of editorial notes.	The Code has been revised to minimise the use of editorial notes.
10, 60, 94, 119, 121	Some purpose statements include definitions. A separate issue was raised with respect to the use of purpose statements to provide explanatory material.	Definitions should not be in purpose statements. Purpose statements were amended in Code Maintenance Proposal IX (Amendment 124) and many have been removed in the drafting of the draft food regulatory measure.
11, 12, 18, 25	A jurisdiction raised a concern that provisions in State law that purport to modify the operation of the Code may be rendered ineffective by other provisions of the Code.	Standards are established for a very limited purpose and cannot alter the operation of State or territory law. Standards are designed to work within the framework of the model food provisions and cannot be expected to accommodate isolated legislative efforts to alter the effect of standards.
13, 14	It was suggested that definitions of 'demonstrate' and 'equivalence' are required, in order to resolve possible inconsistency of the Code and State law.	This issue is related to the previous issue. FSANZ considers that the issue raised by the jurisdiction should be addressed through amendment of the State legislation. The issue raised cannot be addressed by a standard, which cannot specify how a state or territory is to administer its food legislation. A standard that purported to provide that a matter should be demonstrated to the satisfaction of a state or territory officer would be invalid.
15	Concern was raised about the use of the conjunction and/or in the Code.	This matter was addressed in Code Maintenance Proposal IX (Amendment 124).
16	An issue was raised in relation to the possibility of inconsistency of State law and Standard 1.6.1.	FSANZ is satisfied that the issue does not arise. The issue of equivalence that arises in Standard 1.6.1 is dealt with by AS/NZS 4659.
17	A question was raised as to whether an editorial note following cl 3 of St 1.6.2 was operative.	The editorial note and cl 3 are to be deleted. No further action required.
19	It was suggested by OLDP that Standards 1.6.1 and 1.6.2 should be amalgamated.	FSANZ has not adopted this suggestion. Standard 1.6.1 is the subject of a separate, current review.
20	An issue concerning the definition of egg.	Addressed in P301 – Primary Production & Processing Standard for Eggs & Egg Products.
21, 22 and 23	Issues were raised about the operation of provisions in Chapter 3.	The food safety and primary production and processing standards will be considered in a different proposal.
24	A submitter suggested that all of Part 3.2 should be in one standard.	The food safety standards will be considered in a different proposal.
26	A submitter expressed the view that the tables for clause 4 of Standard 4.2.3 should be drafted as an operative provision.	The primary production and processing standards will be considered in a different proposal.
27, 28, 31	A jurisdiction raised issues about the operation of labelling provisions that exempt some foods. The jurisdiction raised specific concerns about the definition of food for retail sale and the application of that provision to delivered meals.	This issue has not been addressed in this Proposal. A review of the definition of 'food for retail sale' should be completed in a different application or proposal.

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29, 85, 97, 161	OLDP and jurisdictions identified a range of drafting concerns in clause 2 of Standard 1.2.1.	New section 1.37 revises the structure of the relevant provisions to remove uncertainty.
30	OLDP identified a possible conflict between clause 6 and clause 8 of Standard 1.1.1.	New section 1.10 resolves the possible conflict.
32	OLDP identified conflicts between the definition of package in the Code and the definition of the same term in state legislation.	FSANZ notes that the definition of package in Standard 1.1.1 of the Code was deliberately narrower than the inconsistent definitions in the various state and territory food acts, which are open-ended 'includes' definitions. Any change is a policy matter that should be considered in another application or proposal.
33	OLDP identified a concern with the use of the words 'displayed on or in connection with' in clause 2 of Standard 1.2.3.	Labelling requirements are either on a label or accompanying or displayed with, or in connection with the sale of, the food product.
35	A jurisdiction identified that clause 4 of Standard 1.2.3 does not identify who has to declare the presence of an ingredient or what has to be declared.	FSANZ does not consider that the provision should establish an obligation beyond the obligation not to sell or advertise a non-compliant food.
36	OLDP raised an issue concerning the practicality of operation of paragraph 4(2)(b) of Standard 1.2.3 in relation to products of primary foods.	This issue has not been addressed in this Proposal.
37	A jurisdiction raised concerns with respect to the operation of Standard 1.5.1.	The regulation of novel foods is to be reviewed in a separate Proposal. The approach taken in this Proposal has been to repeat the current provisions of the novel foods standard, noting the concerns that have been expressed about the adequacy of the provision.
38	A jurisdiction raised a concern in relation to the operation of Standard 1.2.5, which regulates date marking.	The date marking provisions have been revised.
39	A jurisdiction raised a concern about the application of the date marking provisions to food in small packages that require a use-by date for health or safety reasons.	The provision is revised to require that the only date marking required on a small package is a use-by date, if a use-by date is appropriate for health or safety reasons.
40	A jurisdiction raised concerns about the operation of clause 11 of Standard 1.1.1, which regulates alteration of labels. The concern was that the provision does not make it clear when the provision is to apply, or who is subject to the requirement.	FSANZ is satisfied that the provision accords with the intention stated in P141, that the provision should not operate so as to prohibit over-labelling before sale of non-compliant labelling. However, compliant labelling may not be defaced, etc, without express permission.
41, 42	A jurisdiction raised a concern about the scope of clause 2 of Standard 1.3.1 and the possibility of conflict with other provisions of the Code that permit the addition of substances that can also be additives. A separate concern was raised in relation to the use of asterisks within the standard.	The drafting issues, concerning the use of asterisks and of the phrase, 'unless expressly permitted in this standard...' have been addressed. The possible conflict does not arise as all additive permissions are in Standard 1.3.1.

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43, 44, 146	Jurisdictions raised concerns about the absence of a definition of the classes of foods mention in the additives schedules.	The draft food regulatory measure does not address this concern, which is considered to be beyond the scope of the current Proposal. FSANZ considers that the classes are well understood and conform to international and domestic usage.
45	OLDP raised a drafting concern in relation to the use of bolded text in schedules and tables.	This matter was addressed in Code Maintenance Proposal IX (Amendment 124).
46, 47, 48, 49, 50, 51, 52	A jurisdiction raised concerns about the definitions of 'formulated caffeinated beverage' and 'caffeine' in Standard 2.6.4.	This matter should be addressed in a separate application or proposal.
53	OLDP raised a drafting issue in relation to clause 2B of Standard 2.6.2.	FSANZ does not consider that an issue exists. The provision, enabling the provision of a statement of typical analysis, is discretionary. The term 'typical analysis' is retained.
54	A jurisdiction raised a concern In relation to the scope of Standard 1.6.1 and its application, if any, to microorganisms that are not listed in the Schedule.	This issue is to be addressed through a separate proposal that is reviewing Standard 1.6.1
55	A jurisdiction raised a concern that Standard 1.6.1 may compromise a prosecution for the sale of unsafe food, because the Standard does not provide an exclusive listing of pathogens—leaving an inference that other organisms are non-pathogenic.	FSANZ does not consider that the inference can reasonably be made.
56	A jurisdiction raised a drafting concern with respect to the Schedule to Standard 1.6.1.	This matter is to be addressed through a separate proposal that is reviewing Standard 1.6.1
57	OLDP raised drafting concerns in relation to the definitions in Standard 1.6.2.	These matters are addressed in the draft food regulatory measure.
58	A jurisdiction raised a concern about the definition of 'food' for the purposes of the Code.	The draft food regulatory measure has been drafted on the basis that the definitions of food in the various jurisdictional food acts will apply.
61	A jurisdiction raised a concern with respect to the overlap of food safety and consumer protection legislation.	This is a policy issue that should be addressed through another application or proposal.
62	A jurisdiction raised a concern about the possibility of overlap between the jurisdictional food acts and the Code.	The draft food regulatory measure does not intentionally deal with matters that are more appropriately dealt with in jurisdictional legislation.
63, 64	A jurisdiction raised the possibility that definitions are required for a number of words that are not currently defined.	Some new definitions are in the draft food regulatory measure.

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65	A jurisdiction raised a concern with respect to the editorial note that accompanies the definition of average quantity in Standard 1.1.1.	The editorial note has been expanded to provide improved context.
66	A jurisdiction raised a concern with respect to the definition of bulk cargo container.	The definition has not been altered.
67	A jurisdiction raised a concern with respect to the definition of business address.	This concern is addressed in the revised definition in the draft food regulatory measure.
68	A jurisdiction raised a concern with respect to the editorial note accompanying the definition of claim	The definition of claim and the editorial note are revised in the variations accompanying the new nutrition, health and related claims standard—Standard 1.2.7. This is in Division 7 of Part 4 of Chapter 1 of the draft food regulatory measure.
69-77, 79	A jurisdiction raised concerns with respect to the definitions of component, fund raising event, hamper, handling, inulin derived substances, lot, lot identification, nutrition information panel, RDI and warning statement.	<p>The definition of component is revised.</p> <p>The definition of fund raising event in Standard 1.1.1 (Item 70) was amended in P1013 Code Maintenance Proposal IX (Amendment 124).</p> <p>The definition of hamper is revised to include the material previously in an editorial note.</p> <p>The definition of handling is revised as a definition of handling food.</p> <p>The definition of inulin-derived substance is slightly revised.</p> <p>A reduced definition of lot is provided in the draft food regulatory measure.</p> <p>The definition of lot identification is revised in a minor way.</p> <p>The definition of nutrition information panel is revised.</p> <p>The definition of RDI (and ESADDI) is revised, in section 1.06 and 1.07.</p> <p>The definition of warning statement is revised.</p>
78, 86- 88	OLDP raised issues with respect to the structure of the Schedule to Standard 1.1.1.	The Schedule has been revised.
80	A jurisdiction raised a concern about the operation of clause 5 of Standard 1.1.1.	Although it is agreed that a provision is not essential, the content of clause 5 that notes that guidelines issued by FSANZ under its statutory power are not binding, is repeated for its informational value.
81, 82	A jurisdiction raised a concern with respect to the concept of other foods as used in clause 10 of Standard 1.1.1 and throughout the Code.	The provision is revised in the draft food regulatory measure.
83	A jurisdiction raised a concern with respect to the possible overlap of clause 7 and subclause 10(4) of Standard 1.1.1, which both relate to the composition of final foods.	The provisions are revised to make it clear that compositional requirements relate to food products at the point of sale.
84	A jurisdiction raised a concern that clause 12 of Standard 1.1.1 may be beyond power to the extent that it purports to vary the effect of primary legislation.	The provision is revised and confined in its operation to statements required by the Code.

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89	A jurisdiction raised a drafting concern about the use of the phrase 'unless the Code otherwise requires'. The jurisdiction also questioned the need for a separate standard 1.1.2.	This recommendation has been implemented.
90-93	A jurisdiction raised concerns with respect to some compositional definitions. The concern was that the current drafting included compositional requirements in definitions.	Definitions and compositional requirements have been separated.
95	A jurisdiction raised some drafting concerns with respect to Standard 1.1A.2.	This standard is a transitional standard that will cease to have effect after the commencement of new nutrition, health and related claims standard—Standard 1.2.7.
96	A jurisdiction raised a concern with respect to the definition of amino acid modification food in Standard 1.1A.6.	The definition is revised in the draft food regulatory measure
98	A jurisdiction raised a concern with respect to limitations in the use of 'made' in paragraph 2(1)(c) of Standard 1.2.1.	This concern is not addressed in this Proposal. It may be considered in the context of the Labelling Review.
99, 100	A jurisdiction and OLDP raised concerns about the definition of 'other similar institutions' in clause 8 of Standard 1.2.1 and the relationship of that provision and subclause 1(3).	This matter has been referred to the Labelling Review
101	A jurisdiction raised concerns about the use of etc in clause headings.	This issue has been addressed in the draft food regulatory measure.
102, 145	Jurisdictions raised concerns about the drafting of clauses 3 and 4 of Standard 1.2.1.	This matter has been referred to the Labelling Review
126	A jurisdiction suggested that Standards 1.2.1 and 1.2.2 should be combined.	The revised format of the Code achieves this outcome.
104	OLDP raised a concern about the operation of subclause 1(3) of Standard 1.2.2, which provides that definitions of foods do not establish the names of foods.	The issue is addressed in the draft food regulatory measure.
105	A jurisdiction raised an issue concerning the editorial note in Standard 1.2.2 referencing the definition of supplier in Standard 1.1.1.	The editorial note is removed in the draft food regulatory measure.
106	A jurisdiction raised a concern about whether palm oil is a product other than coconut from the palm <i>Cocos nucifera</i> .	This issue has not been addressed. It may be addressed in a Proposal to review allergen labelling.
107	A jurisdiction raised a drafting question in relation to the use of a table in clause 5 of Standard 1.2.3.	The table is incorporated in the text of new section 1.55. This addresses the issue raised.

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108	A jurisdiction expressed a view that subclause 1(2) of Standard 1.2.4 does not belong in an interpretation clause.	The provision is not restated in the draft food regulatory measure.
109	A jurisdiction raised concern about the drafting of clause 5 of Standard 1.2.4.	The provision is revised in the draft food regulatory measure.
110	A jurisdiction suggested simplification of the definition of use-by-date.	The definition is revised in the draft food regulatory measure.
111	A jurisdiction suggested that the provision requiring the presentation of the details of dates should be clearer about the requirement.	The requirement is revised in the draft food regulatory measure.
112	A jurisdiction raised a drafting concern about the definition of use or storage in Standard 1.2.6.	This matter was addressed in Code Maintenance Proposal IX (Amendment 124).
113	A jurisdiction raised a concern about the definition of nutrition claim in Standard 1.2.8.	This issue has been overtaken by the nutrition, health and related claims standard—Standard 1.2.7. This is in Division 7 of Part 4 of Chapter 1 of the draft food regulatory measure.
114	A jurisdiction raised a concern about the operation of clause 16 of Standard 1.2.8.	This issue has been overtaken by the nutrition, health and related claims standard—Standard 1.2.7. This is in Division 7 of Part 4 of Chapter 1 of the draft food regulatory measure.
115	A jurisdiction expressed a view that Standard 1.2.9 should be incorporated into Standard 1.1.1.	The legibility requirements have been revised in the draft food regulatory measure.
116	A jurisdiction raised a concern about the layout of examples in editorial notes.	A different layout approach has been adopted.
117	OLDP identified issues concerning the reliance of the definitions of characterising component and characterising ingredient in Standard 1.2.10 on editorial notes.	The definitions are revised in the draft food regulatory measure.
118	OLDP raised a technical drafting issue with respect to subclauses 2(3) and 2(4) of standard 1.2.10.	The provision is revised in the draft food regulatory measure.
120	A jurisdiction raised a concern about the structure of the Schedule to Standard 1.3.1.	The Schedule has been restructured.
122	A jurisdiction raised a drafting issue in relation to Standard 1.3.2.	This matter was addressed in Code Maintenance Proposal IX (Amendment 124).
123, 124	A jurisdiction raised a concern with respect to the purpose of column 4 in the table to clause 3 in Standard 1.3.2 and a minor drafting issue within the table.	The minor drafting issue was addressed in in P1013 Code Maintenance Proposal IX. The table to clause 3 has been restructured—Schedule 14.
125	A jurisdiction raised a concern with respect to the editorial note to clause 12 of Standard 1.3.3.	The editorial note is not included in the draft food regulatory measure.
126	A jurisdiction raised a concern in relation to the drafting of a provision that requires arsenic to be treated as a metal for the purposes of Standard 1.4.1.	The provision is revised in the draft food regulatory measure.

	Issue	Response
127	A jurisdiction raised concerns about the drafting of the cereals Standard 2.1.1.	The provision is revised in the draft food regulatory measure.
128	A jurisdiction raised an issue with respect to the use of the term <i>other food containing salt</i> in Standard 2.1.1.	The provision has not been amended. It is considered that the intent is clear.
129	A jurisdiction raised a concern in relation to an earlier version of Standard 2.2.2.	No action required.
130	A jurisdiction raised a technical drafting issue in relation to the presentation of figures.	The issue was addressed in in P1013 Code Maintenance Proposal IX.
131	A jurisdiction raised a concern with respect to the drafting of the definition of formulated caffeinated beverage in Standard 2.6.4.	The provision has been revised in the draft food regulatory measure.
132	A jurisdiction raised a concern in relation to the description of foods that be labelled with a statement about standard drinks, in clause 3 of Standard 2.7.2.	The provision has been revised in the draft food regulatory measure. However, the issue identified has not been addressed.
133	A jurisdiction raised a drafting concern with respect to Division 3 of Standard 2.9.1.	This issue has been overtaken by the nutrition, health and related claims standard—Standard 1.2.7. This is in Division 7 of Part 4 of Chapter 1 of the draft food regulatory measure.
134	A jurisdiction raised an issue with respect to the addition of iodine to salt.	This provision has not been amended.
135	A jurisdiction raised concerns about the drafting of provisions that create obligations. In some cases it is not clear who has the obligation.	FSANZ considers that the standard should not be used to determine prosecution policy. Offence provisions in the application acts are broad enough to permit enforcement agencies to target prosecution action at a particular point in the supply chain.
136	A jurisdiction raised a concern with respect to the use of the term seafood business in Standard 4.2.1.	Chapter 4 standards will be considered in a different proposal.
137, 138	A jurisdiction raised concerns about the manner in which the Code establishes obligations and identifies the person who is liable to comply with a requirement.	FSANZ considers that the standard should not be used to determine prosecution policy. Offence provisions in the application acts are broad enough to permit enforcement agencies to target prosecution action at a particular point in the supply chain.
139	Not relevant	
140	A jurisdiction raised a concern that standards should be checked by enforcement agencies to ensure enforceability.	FSANZ notes that enforcement agencies are consulted in the process of standards development.
141	A jurisdiction raised an issue with respect to clause 4 of Standard 3.1.1. The submitter suggested that the provision should be simplified to assist the drafting of charges for non-compliance.	Chapter 4 standards will be considered in a different proposal.

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142	A jurisdiction expressed a view that provisions imposing requirements should be drafted with regard to enforcement practice.	The draft food regulatory measure has been drafted with the aim of increasing clarity about requirements.
148	A jurisdiction expressed concern about the appropriateness of some definitions.	No specific action.
149	A jurisdiction raised a concern about the scope of the definition of manufactured meat products and methods of analysis	The issue may be addressed by the extension of application of the definition of comminuted to the Code.
150	A jurisdiction raised a concern about the application of Standard 1.3.1 to prawns.	The relevant provisions have been revised in the draft food regulatory measure. This issue is addressed by a provision that maximum permitted limits are to be measured in the food product.
151	A jurisdiction raised a concern about the application of the maximum permitted limit to foods that are consumed in a form different to the form in which they are sold, such as crustacea sold in shells.	This issue is addressed by a provision that maximum permitted limits are to be measured in the food product.
152	A jurisdiction raised a concern with respect to the application of Standard 1.3.1 to certain cooked meat products.	No action.
153	A jurisdiction raised a concern in relation to the interaction of Standards 1.2.1 and 1.2.3 with respect to small packages that are also inner packages not for retail sale.	The provisions have been revised in the draft food regulatory measure.
154	A jurisdiction expressed concern about the scope of paragraph 2(1)(e) of Standard 1.2.1 to apply to some food products, such as bags of fruit cut for fruit salad.	This issue is not addressed by this Proposal.
155, 156	A jurisdiction raised a series of questions about the definition of delivered meal organisation in Standard 3.3.1	Chapter 3 standards will be considered in another Proposal.
157	A jurisdiction raised concerns about the adequacy of the definition of biologically active substance.	The issues have not been address in this Proposal.
158, 162	A jurisdiction raised a concern about the availability of suitable analytical methods to support prosecution.	No action taken. This is a matter for consideration in a separate application or amendment of the model food provisions.
159	A jurisdiction raised a concern about the requirement for suppliers to hold records that substantiate a claim about calcium in chewing gum.	FSANZ does not consider that the issue identified by the jurisdiction is a valid concern.
163	A jurisdiction suggested that the Code should contain a provision that applied the definitions in state or territory application acts.	It is not necessary to have such a provision as the Code is adopted by state and territory legislation.
164	A jurisdiction expressed views about the manner in which the Code should classify food.	The revised structure of the Code may address the issue identified.

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165	A jurisdiction suggested that 'deemed to comply' provisions should be in used in outcome based standards in order to assist enforcement.	This is a matter of policy that is beyond the scope of this Proposal.
166	A jurisdiction expressed concerns about the scope of primary production process standards.	Chapter 4 standards are to be reviewed in a different proposal.
167	A jurisdiction raised a concern about inconsistency of definitions of ready-to-eat in Standard 3.2.2 and Standard 3.3.1 and in Chapter 4.	Chapter 3 standards will be considered in another proposal.
168	A jurisdiction raised concerns about the application of the food safety programs standard to low care aged care establishments.	Chapter 3 standards will be considered in another proposal.
169	A jurisdiction raised a concern about the application of Standard 1.6.1 to various types of ready-to-eat meat product.	No action taken.
170	A jurisdiction expressed concern that Standard 3.2.2 does not provide sufficient guidance to small businesses.	Chapter 3 standards will be considered in another proposal.
171	A jurisdiction raised a concern about the scope of the labelling exemption in Standard 1.2.1 for food packaged in the presence of the purchaser and recommended that a definition of package be included in the Code.	There is a definition of package in the Code. Package, as a verb, should have a natural meaning consistent with the definition.
172	A jurisdiction raised a concern about the operation of Standard 1.2.5 in relation to food that is given a use-by-date for normal storage conditions and is then frozen, before the use-by-date, and sold after the use-by-date.	The provision is not amended. The Code provides for over-labelling if the label is incorrect.
173	A jurisdiction raised concerns about the application of Standard 1.2.1 to meat made and packaged on premises and then sold from a different part of the same premises, for example, supermarket open meat refrigerators.	The provisions have not been amended to address this issue.
174	A jurisdiction raised concerns about the presentation of information about food additives in Standard 1.2.4 and Standard 1.3.1.	The schedules have been revised in the draft food regulatory measure.
175	OLDP raised a drafting concern with respect to clause 8 of Standard 1.2.4.	This issue was considered in P1013 Code Maintenance Proposal IX. FSANZ proposed in the assessment report that the clause should be amended to make it clear that the class name used should refer to the primary technological function that is performed. After considering submissions FSANZ determined not to amend the provision.
176	A jurisdiction raised an issue concerning the manner of compliance with subclause 5(1) and clause 15 of Standard 1.2.8 in circumstances where a free claim is made.	This issue is overtaken by the Nutrition, Health and Related Claims Standard.

