

20 December 2013

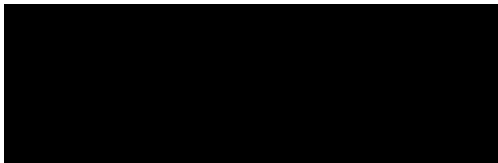
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Dear Sir/Madam

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on the ***Call for Submissions [2013] – Proposal P1017: Criteria for Listeria monocytogenes – Microbiological Limits for Foods.***

Yours sincerely



Katherine Rich
Chief Executive

Food Standards Australia New Zealand
PROPOSAL P1017 CRITERIA FOR LISTERIA MONOCYTOGENES –
MICROBIOLOGICAL LIMITS FOR FOODS
Call for Submissions [2013]
20 December 2013

The New Zealand Food & Grocery Council (the “NZFGC”) welcomes the opportunity to make a submission on *Call for Submissions [2013] – Proposal P1017: Criteria for Listeria monocytogenes – Microbiological Limits for Foods*.

New Zealand Food & Grocery Council

The NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. Collectively this sector generates \$28.7 billion in the New Zealand domestic retail food, beverage and grocery products market and \$26.3 billion in export revenue from exports to 183 countries. Food and beverage manufacturing is the largest manufacturing sector in New Zealand representing 46% of total manufacturing income and 34% of all manufacturing salaries and wages.

Food and beverage manufacturing and wholesaling in New Zealand directly employs 104,160 people (5% total employment) and, when taking the wider food and beverage value chain (including farming and food retailing/foodservice) into account, employment soars to 344,820 in 85,252 enterprises. This represents around one in five people employed in our country.

No matter how you look at it, the New Zealand food, beverage and grocery sector makes a substantial contribution to the New Zealand domestic economy, to our exports and to the general economic well-being of the country.

Proposal P1017

The NZFGC understands this second call for submissions on P1017 seeks to apply a horizontal approach to the limits for *Listeria monocytogenes* in Standard 1.6.1 in the Australia New Zealand Food Standards Code (Food Standards Code) in order to regularise the approach across all ready-to-eat (RTE) foods. The intention is to distinguish between those RTE foods that will support the growth of *L. monocytogenes* from those that do not support such growth. In addition a range of other, unrelated amendments are proposed to the Standard to

Overarching Comment

NZFGC generally supports the approach taken in the review in relation to *L. monocytogenes*, the associated results of the review and many of the amendments as drafted in Attachment A also in relation to *L. Monocytogenes*. There are a number of key exceptions to this support in the proposals in the Call for Submissions for P1017 that NZFGC does not support:

- in relation to scope of P1017, the inclusion of amendments to other areas of Standard 1.6.1 that are NOT related to *L. monocytogenes* NOR to ready-to-eat foods

potentially removes the prospect of consultation with affected stakeholders on matters that could have a major impact on them – sectors covering unpasteurised milk, comminuted fermented meat, bivalve molluscs, cereal based foods for infants, and powdered infant formula products;

- the definition of microorganism;
- the ‘lot of food’ and ‘the food’; and
- the inclusion in the proposed draft Schedule of various limits in column 5 (the acceptable microbiological level in a sample unit) of the term “MPN” (most probable number) referring to a specific methodology.

Specific Comments

Proposals to replace existing limits for L. Monocytogenes

NZFGC strongly supports moving from a product-by-product approach (that specifies *L. monocytogenes* limits for specific foods) to an approach applied across all ready-to-eat (RTE) foods (that distinguishes between those RTE foods that will support the growth of *L. monocytogenes* from those that do not support such growth). FSANZ has shown that without a broader approach, there is always the risk that some foods will not have *L. Monocytogenes* limits applied where they should be thereby presenting potential human health risks.

As a result, NZFGC supports the draft amendments to Standard 1.6.1 specifically concerning *L. Monocytogenes*. We support the definition of “ready-to-eat” in relation to food and its inclusion in clause 2 of Standard 1.1.1 (interpretation). This will be consistent with the direction being taken in P1025, to generally co-locate definitions together.

Definition of microorganism

NZFGC does not support a definition of ‘microorganism’ that includes it meaning ‘test’. The definition is proposed as:

“**microorganism** means a microbiological agent, test or toxin listed in Column 2 of the Schedule.”

A microorganism is not a test and should not be defined as such. The definition should be deleted and the collective term of “microbiological agent, test or toxin” used instead as appropriate.

Use of ‘lot of food’ and ‘the food’

The current Standard and the revised Purpose Statement correctly refer to the products of interest as a ‘lot of food’ or a ‘consignment of food’. This defines, for manufacturing purposes, the approach that must be taken during processing. There are clearly times in the manufacturing process when ‘food’ would not meet the limits set because the process is about addressing and managing to the set limits so that each lot of food meets the limit at the end of the process. The term ‘lot of food’ is correctly referenced in clause 3 but the more generic term ‘food’ is used in all subsequent clauses. This is particularly problematic in clause 5. Clause 5(1) should commence as “Food from a lot of food that is listed ... etc” and clause 5(2) as “A lot of food does not comply ...”

Without consistently referring to a ‘lot of food’, serious and costly impacts are likely for the manufacturing process.

Methods of analysis

Some submitters called for a provision that would allow rapid methods of detection to be used where these were validated against the ISO reference methods through a recognised

system of validation (for example, AOAC OMA, AOAC RI, AFNOR). This facility has not been included and leaves Australia and New Zealand trailing the rest of the world in this area.

NZFGC considers it essential for methods of analysis for *L. monocytogenes*, which are already aligned with ISO standards, to be specified in the Code. In line with the foregoing, it is equally important that other methods that provide equivalent sensitivity, reproducibility and reliability are specified if they have been appropriately validated (based on ISO16140).

The Food Standards Code currently prescribes methods according to standards AS/NZ 1766 and AS/NZS 4659. It would be helpful if the International equivalents ISO11290-2 and ISO 16140 were included as equivalent standards.

NZFGC notes that the “MPN” method of analysis has been defined and applied in the Standard in several areas. There is no discussion as to the reasons for this method to be defined, its impact, alternate methods or for it being mandated in relation to *E.coli* or to coliforms. NZFGC does not support inclusion of the definition of “MPN” nor its application to the range of areas proposed.

Scope of P1017 and due process

The scope of P1017 is focused primarily on moving from a product-by-product approach to the specification of *L. Monocytogenes* to an approach based on product and processing characteristics. In addition, the intention of P1017 was to “review elements of Standard 1.6.1 that are out-dated or unclear such as reference methods of analysis, the purpose of Standard 1.6.1 and the presentation of information within the Schedule to the standard.”

Presumably the intention of the secondary area of review was to make amendments that were more aligned to P1025 in terms of being of minor regulatory impact and addressing legal matters to improve the efficacy of the legislation.

The first call for submissions made it clear that the outdated Australian/New Zealand Standard Methods for Food Microbiology (AS/NZS 1766) were referenced and that these would be updated. “MPN” was not mentioned at the time and it is therefore reasonable to expect that sectors that might have seen no impact in P1017 for them in November 2012 may not have reviewed this second call for submissions. This means that potentially, if there are impacts for the unpasteurised milk, comminuted fermented meat, bivalve molluscs, cereal based foods for infants, and powdered infant formula products, the addition of “MPN” alongside the entries for these products may not be picked up/commented on by the affected companies or industry organisations.

Issues of scope are significant in standards setting activities and NZFGC does not support combining a specific focus of a proposal with ‘other’ amendments where these are not clearly identified to specific, potentially affected sectors or reflected in the title of the Proposal.

NZFGC does not believe the amendments made relating to MPN have regard to due process. The inclusion of MPN in relation to several food products, effectively mandates this method of analysis to the exclusion of all others. The Call for Submissions provides no rationale for such mandating and no discussion of competing methods nor of the impact on the affected industry sectors.

NZFGC recommends that the amendments relating to MPN should not proceed but rather that these be held over until a full assessment is made. For the unpasteurised milk, comminuted fermented meat, bivalve molluscs, and cereal based foods for infants sectors, this would be considered when the limits for *E.coli* are reviewed. For infant formula products, this would be when all the limits for infant formula are considered as a group.

Comments on Supporting Document 1: Guidance on the application of microbiological criteria for *Listeria monocytogenes* in RTE food – Proposal P1017 ...

FSANZ is also seeking comments on a Guidance document prepared for use in connection with the application of the revised Standard 1.6.1. The intention is that the Guidance document will replace the FSANZ *Recall guidelines for packaged ready-to-eat foods found to contain Listeria monocytogenes at point of sale* (Recall Guidelines) and *Guidelines for the microbiological examination of ready-to-eat foods* (RTE Guidelines) (FSANZ 2001a; FSANZ 2001b).

Under the heading “Standard 1.6.1” on page 4, examples are helpfully provided of foods that are likely to be covered by the definition of RTE foods and therefore subject to the provisions of Standard 1.6.1. No such examples are provided for foods unlikely to support the growth of *L. Monocytogenes* as described on page 5 and FGC suggests that the inclusion of some examples would be helpful.

NZFGC considers the balance of the guidance document to be helpful and practical for use by industry.