



10 February 2015

Food Standards Australia New Zealand
Boeing House
55 Blackall Street
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Attention: Standards Management Officer

Proposal P1027 – Consultation Paper
Managing Low-level Ag & Vet Chemicals without Maximum Residue Limits

The Food & Beverage Importers Association (“FBIA”) welcomes the opportunity to respond to the Consultation Paper for Proposal P1027 – Managing Low-level Ag & Vet Chemicals without Maximum Residue Limits. By way of background, the FBIA is an industry association that represents importers of food and beverages, both retail ready and ingredients for further processing, into Australia.

Problem

The purpose of this Proposal is to provide a method for dealing with inadvertent, minor residues of permitted agvet chemicals in foods for which no maximum residue limit (MRL) has been set. Currently, under Australian food legislation, there must be no detectable residue in a food commodity for which an MRL has not been established in Standard 1.4.2.

The difficulties with this “zero tolerance” approach are well articulated in the Public Consultation Paper:

- 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
- trade issues associated with domestic and imported food

As a preliminary observation, it is important to recognise that FSANZ now considers requests to change MRLs in the Code to harmonise them with MRLs established by Codex or by a regulatory authority in a recognised jurisdiction. The practice is that there is one MRL proposal each year to consider these requests. This welcome initiative means that exporters/importers may request MRLs to provide for legitimate uses of agvet chemicals in

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the country of production. This Proposal should thus be seen as providing an approach for dealing with inadvertent, minor residues and not for dealing with legitimate uses that can be recognised through the harmonisation process.

FSANZ's Proposed Approach

The consultation paper posits for consideration an approach to this problem of the inadvertent presence of low level chemical residues in food commodities that sets MRLs for “all other foods”. Before arguing for the preferred position, FSANZ discusses and then finds as unsatisfactory two other approaches: first, default limits, and secondly, case-by-case risk assessment by relevant authorities.

Default Limits

The advantages of a default limit are that there is a clear, measurable and transparent standard that is easy to understand and apply by both regulators and industry.

The consultation paper, however, sees four major disadvantages:

- Inconsistency between default limits in different countries
- High default limits (e.g. 0.1 mg/kg) do not adequately account for potential health risks
- New analytical capabilities may make the default limit outdated quickly
- Some exclusions would be required for highly toxic chemicals

The FBIA does not see these points as decisive against a default limit. The first two disadvantages are countered by the fact that Australia would be setting its own default limit and can set a default limit in keeping with its regard for potential health risks. The third point is the very reason for having a default limit (to avoid having to deal with ever minor level of detections), and as for the fourth, the fact that some chemicals might have to be excluded does not negate the overall benefit of a default limit approach.

In addition, we note that New Zealand, the major source of Australia's food imports, has a well-established default limit system. The Consultation Paper does not include any specific analysis of the New Zealand experience with default limits.

Before discarding the “default limits” approach, we would suggest that an assessment be made of the New Zealand system to judge the practical consequences of this approach and to assess whether there have been any health risks or administrative difficulties in the system.

Case-by-case risk assessment by relevant authorities

FSANZ also considered an approach which would permit regulatory agencies to respond to unexpected low level agvet chemical residues in foods, but found it unsatisfactory for a range of reasons, including:



- decreased harmonisation in approaches of enforcement agencies
- lack of clear information for food producers that supply to retailers under Quality Assurance programs on acceptable residue levels
- lack of a clear limit for users of the Code when inadvertent residues are found
- lack of a transparent regulatory change for importers bringing food commodities into Australia
- an increase in regulatory burden for jurisdictions

While regarding this approach as preferable to the current “zero tolerance” approach, we tend to agree with FSANZ’s reservations, in particular the lack of transparency.

Proposed Approach: “All other foods” category

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.

The benefits are said to be:

- no substantial change to the Code required
- currently used by the APVMA for a limited number of chemicals and consistent with the APVMA’s risk assessment framework for approving and registering agvet chemical products
- consistent with the risk assessment approach for setting MRLs
- provides a clear and transparent target
- allows the MRLs to be reviewed as required based on new information made available through state/territory and border regulatory activities.

In our view, those arguments are not persuasive and do not lead to a conclusion that this approach should be preferred to a “default limit” approach. In reply, we would comment:

- the introduction of an “all other foods” category, in our view, would be a substantial change to the structure of the Food Standards Code. This approach has been applied to contaminants and was found to be unsatisfactory.
- the proposal places undue emphasis on MRLs being a food safety standard, rather than as seen as a matter of good agricultural practice.
- if a MRL is set for certain chemicals, it does not solve the problem for other chemicals for which a MRL is not established
- the paper does not provide information on the APVMA’s work, and without that, the solution seems to us broader, more complex and require more resources than necessary.



The point about unexpected agvet chemical residues being found is that they are unexpected. If an importer/exporter expected a residue would be found, then they would seek to use the FSANZ harmonisation process.

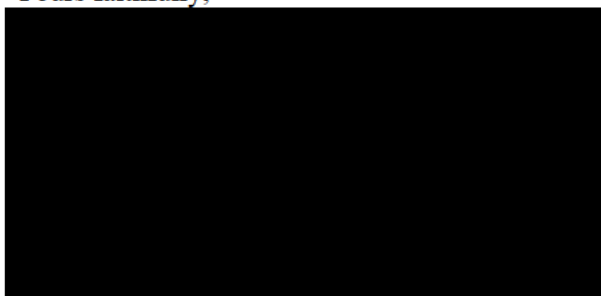
Conclusion

On the evidence of the consultation paper, the FBIA does not support the FSANZ proposal of an “all other foods” category. It is not persuaded that the FSANZ proposal would be a more cost-effective and efficient method of dealing with inadvertent, minor residues of permitted agvet chemicals in foods for which no maximum residue limit (MRL) has been set than the default levels approach.

We support the AFGC request that FSANZ reconsider the proposed approach and specifically consider re-examining the default MRL system in place in New Zealand and the acceptance of Codex MRLs.

Should you have any questions on the above, please do not hesitate to contact me.

Yours faithfully,



A J Beaver
Secretary