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Australia

Food and Agricultural Import Regulations and Standards - Narrative

FAIRS Country Report - 2010

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Report Highlights:

All sections of this report have been reviewed and updated to reflect new or updated laws and regulations.

Australia is a major producer of raw materials and processed foods, but imports a growing volume of food and beverages. Imports have increased steadily over recent years. U.S. exports of consumer ready products to Australia have risen by over 80 percent in value in the past five years. All foods sold in Australia must comply with a range of laws designed to protect public health and safety, to ensure plant and animal pests and diseases are not introduced, and to assist consumers. These laws apply equally to imported and locally produced foods. The information contained in this report deals with both public health and quarantine requirements for foods imported into Australia. All imported food must first comply with quarantine and imported food requirements and then with food safety requirements.

DISCLAIMER: This report has been prepared by the Office of Agricultural Affairs, USDA/Foreign Agricultural Service in Canberra, Australia for U.S. exporters of domestic food and agricultural products. While every possible care has been taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was unavailable. It is highly recommended that U.S. exporters verify the full set of import requirements with their Australian customers, who are normally best equipped to research such matters with local authorities, *before* any goods are shipped.

FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.

Please contact this office if you have any comments, corrections or suggestions about the material contained in this report.

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INTRODUCTION

Although Australia is a major producer of raw materials and processed foods, imports still represent a considerable and growing proportion of available food and beverages. While locally based producers provide over 90 percent of domestic consumption, imports have increased steadily in recent years. There are a number of reasons for this:

- The changing population mix in a multicultural society, whereby people desire foods typical of their native cultures;
- The increasing variety of quality, low cost foods available from developing countries;
- The inability of domestic food producers to satisfy local demand;
- Australian consumer tastes are changing - people are prepared to experiment with new foods and cuisines; and
- The relatively strong Australian dollar.

Also, many imported foods do not compete with domestic products, because Australia does not produce or process such foods or local production is insufficient to meet demand.

All foods sold in Australia must comply with a range of laws designed to protect public health and safety, to ensure plant and animal pests and diseases are not introduced, and to assist consumers. These laws apply equally to imported and locally produced foods. The information contained in this report deals with both public health and quarantine (i.e. animal and plant health) requirements for foods imported into Australia.

All food imported into Australia must first comply with quarantine and imported food requirements and then with food safety requirements. Quarantine requirements are the first barrier that must be cleared for all imported food.

Information on various sectors of the Australian market is available from the [FAS Attache Reports](#) site on the Internet.

SECTION I: FOOD LAWS

The Australia New Zealand food standards development system is a cooperative arrangement between the Commonwealth of Australia, New Zealand and the Australian States and Territories in order to develop and implement uniform food standards. The system for the development of joint Australia New Zealand food standards was established under a treaty between Australia and New Zealand signed in December 1995. Within Australia, the system is based on a 1991 Commonwealth, State and Territory Agreement in relation to the adoption of uniform food standards.

Food Standards Australia New Zealand (FSANZ – www.foodstandards.gov.au) is a statutory authority operating under the *Food Standards Australia New Zealand Act 1991*. The Act provides a focus for cooperation between governments, industry and the community to establish and maintain uniform food regulations in Australia and New Zealand.

The food standards development system is implemented by food legislation in each State and Territory and in New Zealand, and by the *Australia New Zealand Food Authority Act 1991* (the ANZFA Act) of the Commonwealth of Australia. The ANZFA Act establishes the mechanisms for the development of joint food regulatory measures (a food standard or a code of practice) and creates Food Standards Australia New Zealand as the agency responsible for the development and maintenance of a joint Australia New Zealand Food Standards Code (ANZFSC). In 2005 and 2006 the Australia New Zealand Food Regulation Ministerial Council agreed to a number of measures to expedite FSANZ's assessment and approval processes and better protect commercially valuable information. As a result, the *Food Standards Australia New Zealand Amendment Bill 2007* was passed on June 20, 2007. Since October 1, 2007, all applications received are assessed under the reform assessment process. This harmonizes, as far as possible, the processes for the assessment of applications and proposals and aligns the processes for setting of Maximum Residue Limits of the Australian Pesticides and Veterinary Medicines Authority and FSANZ. The reforms also enable the development of urgent standards due to unforeseen negative impacts on trade.

Although FSANZ develops food standards, responsibility for enforcing and policing food standards rests with the States and Territories in Australia and the New Zealand Government in New Zealand. Each government has one or more agencies within their health administrations responsible for food surveillance that are charged with the task of ensuring the requirements of the ANZFSC are met.

The ANZFSC is a collection of individual food standards. Standards on related matters are grouped together into Parts, which in turn are collected together into four Chapters. Chapter 1 deals with standards which apply to all foods; however, New Zealand regulates its own Maximum Residue Limits (MRLs) for food, so Standard 1.4.2 regulates MRLs in Australia only. Chapter 2 deals with standards affecting particular classes of foods. Chapter 3 deals with food hygiene issues in Australia only – New Zealand has its own food hygiene arrangements, and food hygiene is not part of the joint food standards system. Chapter 4 deals with Primary Production Standards in Australia only.

Food standards have the force of law. It is a criminal offence in Australia to supply food that does not comply with relevant food standards. Notwithstanding food standards, it is also an offence to sell food which is damaged, deteriorated or perished, which is adulterated, or which is unfit for human consumption. Because food standards are given legal effect by State, Territory and New Zealand laws, it is important to read the ANZFSC in conjunction with the relevant food legislation.

The ANZFSC should also be read in conjunction with other applicable laws, such as the Australian *Trade Practices Act 1974* (particularly the provisions relating to conduct which is false, misleading or deceptive) which applies to the supply of food in trade and commerce. An overview of the legislation is available on the [Australian Competition and Consumer Commission](http://www.accc.gov.au) (ACCC) web site. The ACCC has also produced a number of guides to assist people involved in the food industry to meet their obligations under the Trade Practices Act. Specifically, there are guides available on [food labeling](#), the use of [food descriptors](#), and [country of origin labeling](#).

Food standards are developed or varied by FSANZ, either by application from any individual, agency or body or by a proposal of its own initiative. Notices are published by FSANZ via media release in Australia and New Zealand seeking comment from the public on applications and proposals.

When assessing a food regulatory matter, FSANZ is required to take into account:

- any submissions received from the public in response to its public notices;
- three statutory objectives listed in order of priority:
 - a. the protection of public health and safety;
 - b. the provision of adequate information relating to food to enable consumers to make informed choices;
 - c. the prevention of misleading or deceptive conduct;
- Other factors set out in the Act:
 - a. the need for standards to be based on risk analysis using the best available scientific evidence;
 - b. the promotion of consistency between domestic and international food standards;
 - c. the desirability of an efficient and internationally competitive food industry; and
 - d. the promotion of fair trading in food.
- relevant New Zealand standards; and
- any other relevant matters.

The most recent version of the ANZFSC is available at the following site:

<http://www.foodstandards.gov.au/foodstandards/foodstandardscode/>.

Food Standards Australia New Zealand (FSANZ)

Food Standards Australia New Zealand protects the health and safety of the people in Australia and New Zealand by maintaining a safe food supply. FSANZ is a bi-national independent statutory authority that develops food standards for composition, labeling and contaminants, including microbiological limits, that apply to all foods produced, or imported for sale, in Australia and New Zealand. FSANZ works in partnership with Australia's Commonwealth, State and Territory governments and the New Zealand Government.

In Australia, FSANZ develops food standards to cover the whole of the food supply chain - from paddock [field] to plate - for both the food manufacturing industry and primary producers.

FSANZ's responsibilities include:

- Developing standards for food manufacturing, labeling, processing and primary production;
- Providing information to consumers to enable better consumer choice;
- Coordinating national food surveillance, enforcement and food recall;
- Conducting consumer and industry research;
- Undertaking dietary exposure modeling and scientific risk assessments; and
- Providing risk assessment advice on imported food.

The Australia and New Zealand Food Regulation Ministerial Council develops policy guidance which is then used by Food Standards Australia New Zealand to guide the development of food standards for the Australia and New Zealand Food Standards Code. The Australian Government, States and Territories and the New Zealand Government are represented by their Health Ministers on this Council. Health Ministers are joined by Ministers from other relevant portfolios such as agriculture and consumer affairs, to ensure a whole-of-government approach to food safety regulation.

The Food Standards Code is adopted under the Food Acts of each of the States and Territories and New Zealand. The Food Standards Code is also enforced through these government agencies. It is a criminal offence in Australia to supply food that does not comply with the relevant food standard.

Foods available for sale in Australia and New Zealand must also comply with relevant fair-trading and trade practice laws, food laws, and other laws such as those protecting the environment and controlling the use of poisons, etc.

Food standards can be varied through a process which starts either by receipt of an application (which may be initiated by individuals, companies or bodies representing an industry or consumer group) or a proposal (initiated by FSANZ and usually covering more complex public health and safety issues). Manufacturers wanting to introduce a new food, make a food using a new process, or use a new additive should first check to see whether the ANZFSQ already has suitable standards. Where it doesn't, FSANZ can be requested to develop a new standard or vary an existing one. Major amendments to the *Food Standards Australia New Zealand Act 1991* passed the Australian Parliament on June 20, 2007. These amendments affected how FSANZ assesses applications and proposals to amend the Australia New Zealand Food Standards Code from October 1, 2007. A key amendment relates to applications, whereby all applications are now required to include certain minimum information as detailed in the *FSANZ Act* and in the [Application Handbook](#).

Detailed information on the process of applications and proposals is available on the Information for Applicants page on the FSANZ web site at: <http://www.foodstandards.gov.au/standardsdevelopment/informationforapplicants/index.cfm>

If you wish to apply for the development of a new standard or variation of an existing standard, detailed information is available from:

Standards Management Officer
Food Standards Australia New Zealand
P.O. Box 7186
Canberra BC, ACT 2610
Australia

Tel: +61 2 6271 2222

Fax: +61 2 6271 2278

E-mail: standards.management@foodstandards.gov.au

Web Site: <http://www.foodstandards.gov.au/standardsdevelopment/>

In Australia, FSANZ also:

- Coordinates food product recalls in cooperation with the States and Territories;
- Conducts research on matters that may be included in a food standard;
- Undertakes food safety education initiatives in cooperation with the States and Territories;
- Develops Codes of Practice for industry on any matter that may be included in a food standard;
- Develops risk assessment policies for foods imported into Australia.

FSANZ can be contacted at the following address:

Food Standards Australia New Zealand
P.O. Box 7186
Canberra BC, ACT 2610
Australia

Tel: +61 2 6271 2222
Fax: +61 2 6271 2278
E-mail: info@foodstandards.gov.au
Web Site: <http://www.foodstandards.gov.au>

Imported Food Inspection Scheme

All foods sold in Australia must comply with a range of laws designed to protect public health and safety, uphold Australia's quarantine regulations, and to assist consumers. These laws apply equally to imported and locally produced foods. The following information deals with both public health and quarantine (i.e., animal & plant health) requirements for foods imported into Australia. The requirements for each are quite different, but the import clearance of foods is the responsibility of Australian Quarantine and Inspection Service (AQIS) and is coordinated under the Imported Food Inspection Scheme (IFIS).

All food imported into Australia must in the first instance comply with quarantine requirements and then the requirements of the *Imported Food Control Act 1992*. A release issued after the quarantine inspection is **NOT** a clearance from the IFIS inspection.

All incoming shipments of food must be declared to the Australian Customs Service using the international harmonized tariff schedules. AQIS has a direct link to the Customs computer network and is able to place impediments on foods that require clearance.

Importers of targeted foods are obliged to go to AQIS to secure the release of the goods. With risk-category foods, the criterion for the release of goods and whether or not the food needs to be inspected is based on the compliance history of the producer.

AQIS maintains its own computer network linking inspectors in all States and Territories. The system holds records of the inspection status of all overseas suppliers of risk foods and, through the network inspection staff can be notified as to whether or not an inspection for a particular shipment is required.

While the focus of the IFIS is on food safety, imported foods must comply with all requirements of the ANZSC. It is the legal responsibility of the importer to ensure they do so. **U.S. exporters should not assume that because their products are accepted in other markets (e.g. European Union, Japan) that they will be automatically accepted in Australia.** Often the Australian standards differ in such areas as the description of the product; its composition; the use of preservatives, if any preservatives are permitted (and what residual levels may remain); and what colorings are permitted and at what levels.

AQIS inspectors check the food against the requirements of the ANZSC. Inspectors examine all referred foods for labeling compliance and a visual inspection. The visual inspection involves, where necessary, opening the packages and examining the food for contamination and the package for defects that may impact on food safety.

Inspectors will ensure that the label:

- is in English;
- has an accurate trade description;
- has manufacturer/importer details;
- has the Country of Origin declared;

- has batch/lot codes;
- has date marking (in the correct format);
- has net weight – contents; and
- has statement of ingredients (where appropriate).

AQIS has a managed process whereby importers are given the opportunity to check labeling for compliance with the requirements of the ANZFSO and, where necessary, to make corrections to the labeling prior to arranging an IFIS inspection. Importers must ensure that the consignment has cleared quarantine before undertaking any examination of their food for IFIS purposes.

Rather than reject foods for import entry, AQIS will allow corrective action to be taken for significant breaches. Minor defects will generally be cleared on an undertaking from the importer that the problem will be fixed. However, repeated failures could result in a Holding Order being issued (see below for details).

At the time of the inspection, the AQIS officer may take samples for laboratory analysis to determine the food's microbiological status, levels of any pesticide residues, the correct use of additives and the food's composition.

It is the importer's responsibility to ensure that the foods they import comply with the requirements of the ANZFSO. The requirements of the ANZFSO can be complex and if U.S. exporters are not sure if their foods will comply, they should check with their importer and have them seek legal advice or ask a consultant food technologist. Having a food assessed prior to importation reduces the risk of any unnecessary delays and any additional expense if food is found not to comply after arrival in Australia.

Where U.S. exporters are in any doubt about what quarantine prohibitions or restrictions may apply to foods that they are interested in exporting to Australia, they are encouraged to contact AQIS prior to shipment.

Imported Food Program
Australian Quarantine and Inspection Service
GPO Box 858
Canberra, ACT 2601

Tel: +61-2-6272 5488
Fax: +61-2-6272 5423
Email: foodimp@aqis.gov.au

The IFIS is jointly run by the AQIS and FSANZ, with FSANZ advising on food risk assessment policy for the program and AQIS having operational responsibility for inspection and sampling.

Authorized AQIS offices carry out inspections of food against Australian requirements. The standards applied are those set down in the ANZFSO and these same standards apply to foods manufactured in Australia.

When food is imported into Australia, it is placed into one of two inspection categories. These categories determine the frequency with which the food will be inspected. The categories are: (1) risk, and (2) surveillance. FSANZ advises AQIS, based on a risk assessment process, which food belongs in which category. These food inspection categories are regularly reviewed by FSANZ.

Risk category food: FSANZ categorizes food as 'risk' if it has the potential to pose a medium to high risk to public health. FSANZ advise AQIS of the risk category for food, which determines the frequency with which it will be inspected and the appropriate testing regime. Risk food is referred to AQIS by Customs at a rate of 100% of consignments.

Risk food is initially inspected and tested at a rate of 100% against a published list of potential hazards—including micro-organisms and contaminants. Once five consecutive consignments have passed inspection, the inspection rate is reduced to 25%; after a further 20 consecutive passes, the inspection rate is reduced to 5%.

Risk foods are subject to 'test and hold' direction and are not released for sale until test results are known. Consignments of risk food which fail inspection and therefore do not meet Australian standards cannot be imported. These foods must be brought into compliance otherwise the food will be re-exported or destroyed.

Any consignments that fail result in a return to 100% testing of that product until a history of compliance is re-established for the producer of the food.

The list of risk-categorized foods is subject to change at any time and AQIS may inspect and analyze other foods which it has reason to believe may not comply with the requirements of the ANZFS. The latest AQIS Imported Food Notices, which includes the latest notice relating to the tests applied to risk category foods, are available at: <http://www.daff.gov.au/aqis/import/food/notices>.

Random surveillance category food: All other foods are considered to pose a low risk to human health and safety and are referred by Customs at the rate of 5% of consignments for inspection by AQIS for compliance with Australian food standards. These foods are referred to as 'random surveillance foods'. Analyses applied to these foods include those for pesticides and antibiotics above accepted levels, microbiological contaminants, natural toxicants, metal contaminants and food additives.

As the random surveillance foods are considered to be low risk, they are subject to a 'test and release' direction and can be distributed for sale before test results have been received. However, if AQIS receives adverse test results, the relevant state or territory food regulatory authority is advised so they can determine if a recall is required. Any action, such as a recall or withdrawal taken on goods released by an importer is at the importer's expense.

The inspection rate for surveillance food that fails inspection is also increased to 100% until a history of compliance is established for the producer or importer of the food. The process for increasing inspection of surveillance food is referred to as applying a Holding Order. A holding order remains in place until favorable test results are received. Following five consecutive passes, the rate of referral returns to 5% of consignments.

The latest AQIS Imported Food Notices, which includes the latest notice relating to the tests applied to surveillance category foods, are available at: <http://www.daff.gov.au/aqis/import/food/notices>.

Holding Orders

In the event of an active or random surveillance food not complying with the ANZFS, a Holding Order may be issued. A Holding Order effectively means that the inspection category of the food has been raised to "risk" status. This means that all future shipments of that food from the offending supplier will be automatically detained and held until compliance with Australia's requirements is confirmed. After five clear inspections, the food reverts back to its prior surveillance category. Further details on the Holding Order process are available at: <http://www.daff.gov.au/aqis/import/food/holding-orders>.

Quarantine

When any food is imported into Australia it must first comply with quarantine requirements.

Control in Australia is achieved by the total prohibition of some foods, or foods from certain countries. Additionally, Australia has strictly controlled import conditions that require various treatments (e.g. fumigation, time/temperature controls, etc.) that must be supported by import permits and attestations on export certificates from authorities in the country of origin. Examples of products for which Australia requires attestations from authorities in the country of origin are:

- chicken meat and chicken meat products
- pork and pork products

- beef and beef products
- egg and egg products
- fruits and vegetables
- dairy products
- salmon (fresh)

All of these products are either not permitted, or are permitted under strict supervision. Generally, if a food is processed to an extent that would eliminate the hazard that is of quarantine concern to Australia, there is no restriction.

U.S. exporters need to determine exactly what restrictions exist on the foods they wish to export to Australia. In some cases a prohibition exists simply because an import risk analysis from which appropriate control measures can be determined has not been requested. In this case, import would not be permitted until an import risk analysis has been undertaken.

The Australian government has a formal mechanism in place for evaluating the degree of risk associated with the importation of certain products or produce from foreign countries. The evaluation procedure involves other governments, industry groups, academia and consumers. The evaluation is often a protracted exercise and can take some years to complete, particularly for foods that are unprocessed or only partially processed, as these are perceived to represent the greatest danger of carrying pests and diseases into Australia.

AQIS maintains a searchable import conditions database for agricultural products entering Australia (known as ICON) at the following site. http://www.aqis.gov.au/icon/asp/ex_querycontent.asp.

Section II: Labeling Requirements

[Food Standards Australia New Zealand](#) (FSANZ) has responsibility for the administration of the Australia New Zealand Food Standards Code (ANZFSC), which is subject to frequent amendment. The labeling requirements stated below are subject to change, so the ANZFSC should be consulted for definitive information on current food labeling requirements. The most up-to-date version of the ANZFSC is available on the FSANZ website at <http://www.foodstandards.gov.au/foodstandards/foodstandardscode/>. FSANZ has also developed '[User Guides](#)' for various parts of the ANZFSC to assist with interpretation and provide examples. Where a User Guide is available for a standard, a link has been provided from this report. The User Guides, unlike the ANZFSC itself, are not legally binding. If in any doubt about interpreting the standards, you should seek independent legal advice.

[Chapter 1](#) of the ANZFSC covers the general standards that apply to all foods.

[Chapter 2](#) contains standards for a number of specific commodity groups. These are:

- Part 2.1 - Cereals
- Part 2.2 - Meat, eggs & fish
- Part 2.3 - Fruit & vegetables
- Part 2.4 - Edible oils
- Part 2.5 - Dairy products
- Part 2.6 - Non-alcoholic beverages
- Part 2.7 - Alcoholic beverages
- Part 2.8 - Sugars & honey
- Part 2.9 - Special purpose foods
- Part 2.10 - Standards for other foods (salt, vinegar & chewing gum)

Chapter 3 relates to food safety standards that apply to Australia only and Chapter 4 relates to primary production standards which also apply to Australia only.

General Labeling Standard

There is a [User Guide](#) available which gives an overview for Labeling of food for retail sale & for catering purposes.

[Part 1.2](#) of the ANZFSC sets out the application of general labeling and other information requirements, and labeling and information requirements specific to certain foods in Chapter 2 of the ANZFSC. This Part sets out the labeling requirements for food for sale and information that must be provided in conjunction with the sale of certain foods, where labeling is not required. Food Product Standards in Chapter 2 may impose additional labeling and information requirements for specific classes of food.

Unless specifically exempted, the label on a package of food for retail sale or for catering purposes must include the following core information:

- **Prescribed name** or, where no name is prescribed, a name or a description of the food sufficient to indicate the true nature of the food
- **Lot identification**
- **Name and business address in Australia or New Zealand of the supplier**
- **Mandatory warning and advisory statements and declarations**, specified in Standard 1.2.3 and any other warning and advisory statements specified elsewhere in the ANZFSC
- **Ingredient listing**
- **Date marking**
- **Nutrition information panel**

- **Percentage labeling** (characterizing ingredient/s and component/s)
- **Directions for use or storage** where, for reasons of public health and safety, consumers need appropriate directions for use or storage of the food
- **Country of Origin** must be stated on products made and sold in Australia, other than food products from New Zealand.

Clause 2 of [Standard 1.2.1](#) describes the circumstances where food for retail sale or for catering purposes may be exempt from bearing a label.

The Name of the Food

The label on a package of food must include:

- the prescribed name of the food, where the name is declared in the ANZFS to be a prescribed name; and
- in any other case, a name or a description of the food sufficient to indicate its true nature.

The name or description of the food should be sufficiently specific to differentiate it from other foods and reflect its true nature. There is no specific requirement as to where this information should appear on a label.

There are a few *prescribed names* in the ANZFS. A prescribed name is a name by which a food is defined or described in a standard and is declared to be a prescribed name in that Standard. Examples include 'honey', 'formulated supplementary food' and 'formulated supplementary food for young children'.

In accordance with food law and fair trading law, suppliers must not represent foods in a false, misleading or deceptive manner.

Clause 1 of [Standard 1.2.2](#) - Food Identification Requirements includes the requirements for naming food.

Lot Identification

Lot marking is required on packaged food to assist in the event of a food recall. A lot mark identifies the 'lot' a food comes from as well as the premises from where the food was packed or prepared. A date mark and address details can help satisfy the requirements of a lot mark.

There are some specific exemptions from lot identification. These exemptions cover:

- Individual portions of ice cream or ice confection; and
- Food in small packages when the bulk packages and the bulk container in which the food is stored or displayed for sale includes lot identification.

Clause 2 of [Standard 1.2.2](#) - Food Identification Requirements includes the requirements for lot identification.

Name and Business Address of Supplier

The label on a package of food must include the name and business address in Australia of the supplier of the food. The term 'supplier' includes the packer, manufacturer, the vendor or importer of the food. Business address means a description of the location of the premises from which the business in question is being operated, but does not include a postal address.

Clause 3 of [Standard 1.2.2](#) - Food Identification Requirements includes the requirements for the name and business address of the supplier.

Mandatory Warning & Advisory Statements and Declarations ([Standard 1.2.3](#))

There is a [User Guide](#) available for this Standard.

The ANZFSC requires that certain information be provided to consumers on labels on packaged food. This information may be in the form of a **prescribed statement**, which includes warning statements, an **advisory statement** or a specific **declaration**, depending on the degree of risk to the health and safety of consumers. Some of these statements and declarations are set out in general standards and some are set out in commodity standards. U.S. exporters should make certain that they understand the requirements and have all the required statements on their labels.

For guidance on the use and application of all warning and advisory statements and the declaration of certain substances in food see the [User Guide](#) on warning and advisory declarations.

Prescribed statements: A prescribed statement is a specific labeling statement that must be expressed on a label on a package of food in the exact words and in the format specified in the ANZFSC. There are two types of prescribed statements: warning statements and statements on food produced using gene technology.

A prescribed warning statement is required on:

- Condensed milk, modified milk and skim milk (Standard 2.5.7);
- Kava (Standard 2.6.3);
- Infant Formula Products (Standard 2.9.1);
- Foods for Infants (Standard 2.9.2);
- Formulated Supplementary Sports Foods (Standard 2.9.4); and
- Royal jelly presented as a food and food containing royal jelly (Standard 1.2.3).

Clause 3 of [Standard 1.2.3](#) – Mandatory Warning and Advisory Statements and Declarations deals with warning statements.

Prescribed statements on food produced using gene technology - the label on a package of genetically modified foods requires a prescribed statement on the label that the food or ingredient is 'genetically modified'.

[Standard 1.5.2](#) – Food Produced Using Gene Technology defines 'genetically modified food', 'novel DNA and/or novel protein' and 'altered characteristics' and sets out labeling requirements for food produced using gene technology.

Advisory statements: Advisory statements do not need to be expressed in the exact words set out in the ANZFSC. Manufacturers are able to use their own words for advisory statements as long as the words are to the effect of the statement in the ANZFSC, i.e. the words convey the intended meaning.

[Standard 1.2.3](#) – Mandatory Warning and Advisory Statements and Declarations clause 2 and clause 5, specify some advisory statements.

Declarations of certain substances in food: Certain substances, in the form of an ingredient, ingredient of a compound ingredient, or component of a food additive or a processing aid, or component of a processing aid, must be declared when present in a final food. This must be done in the circumstances outlined in [Standard 1.2.3](#). The requirement to declare certain substances may be satisfied by the declarations in the ingredient list.

Clause 4 of [Standard 1.2.3](#) lists substances to be declared.

Ingredient Listing ([Standard 1.2.4](#))

There is a [User Guide](#) available for this standard.

Unless specifically exempted, packaged foods are required to list all the ingredients and compound ingredients used in the manufacture of that food. An ingredient means any substance, including food additives, used in the preparation of food. A compound ingredient means an ingredient of a food, which is itself made up of two or more ingredients, e.g. spaghetti, which is made up of flour, egg and water.

Ingredients and compound ingredients must be declared in a statement of ingredients in descending order of ingoing weight subject to limited exceptions. The names of ingredients should be sufficiently detailed to describe the ingredient, and accurate to ensure they are not false, misleading or deceptive, or likely to mislead or deceive.

Clause 2 of [Standard 1.2.4](#) lists exemptions from ingredient labeling.

Date Marking ([Standard 1.2.5](#))

There is a [User Guide](#) available for this standard.

Packaged food is generally required to be date-marked.

A date mark will usually be in the form of a 'best-before' date. Food with a 'best-before' date of two or more years is exempt from date marking. Additional exemptions, including those for small packages, are set out in clause 2 of Standard 1.2.5.

When, for health and safety reasons, a food should not be consumed after a certain date, a 'use-by' date is required. There are very few foods that will be required to be labeled with a 'use-by' date.

There are also prescribed forms for date marks and dates, and requirements to include statements of specific storage conditions on labels of packaged food.

[Standard 1.2.5](#) – Date Marking of Packaged Food defines date marking and regulates the use of 'best-before' and 'use-by' dates.

Nutrition Labeling ([Standard 1.2.8](#))

There is a [User Guide](#) available for this standard.

Subject to specific exemptions, food required to bear a label **must** display a nutrition information panel setting out the energy, protein, fat, saturated fat, carbohydrate, sugars and sodium content of the food. A nutrition information panel must be set out in the prescribed format and must include the number of servings in the package and the average quantity of the food in a serving.

Additional nutrition labeling requirements generally apply if a specific nutrition claim is made.

Clause 3 of this Standard lists **exemptions** from nutrition information requirements.

U.S. exporters should work closely with their importer to get the nutritional panel correct, as this is an area where problems are often encountered. *The U.S. style nutrition panel is not acceptable for the Australian market.*

A [Nutrition Panel Calculator](#) is available to assist with calculating amounts for the Nutrition Panel.

Percentage labeling (characterizing ingredients and components) ([Standard 1.2.10](#))

There is a [User Guide](#) available for this standard.

Foods that have a characterizing ingredient(s) and/or component(s) must be labeled with a percentage declaration of the characterizing ingredient or component. The percentage declaration is calculated on the basis of the ingoing weight of the characterizing ingredient or component. The percentage declaration may be an actual amount or a minimum amount, provided that a minimum declaration is clearly labeled. Placement of the declaration on the label is not prescribed. Where it is included in the ingredient list, it must appear immediately after the name of the ingredient in the list.

Clause 2 of this Standard lists **exemptions** from percentage declarations.

Directions for Use and Storage ([Standard 1.2.6](#))

Directions for use and storage are mandatory where, because of the nature of the food and for reasons of public health and safety, consumers need directions about specific use or storage requirements.

This standard operates in addition to the date marking requirements in Standard 1.2.5. The commodity standards in Chapter 2 of the ANZFSC may prescribe additional specific requirements for directions for use and/or storage.

Country of Origin Labeling ([Standard 1.2.11](#))

There is a [Guide](#) available for this standard.

In December 2005, FSANZ signed into law the new Country of Origin Food Labeling Standard for Australia – Standard 1.2.11. The new standard had a phase-in period and came into full force for unpackaged fruit, vegetables, nuts and seafood for Australia-only products on June 8, 2006, for some unpackaged pork products on December 8, 2006, and for packaged goods on December 8, 2007.

The standard includes:

- broadening the scope of the previous transitional standard to include unpackaged fresh pork, ham and bacon products and processed unpackaged seafood, vegetables, nuts and fruit;
- a requirement that unpackaged products included in the standard have a specific country-of-origin label – not just a statement that the product is imported;
- distinct statement of origin information on packaged products;
- a requirement for country of origin declarations for packaged and unpackaged foods to be consistent with trade practices legislation and trade practices law; and
- strengthened requirements for legibility and print size on labels and signs used to declare the country of origin for unpackaged foods.

In May 2010, FSANZ announced that it would be starting work on a Proposal to extend the Country of Origin Labeling standard to apply to all unpackaged meat products (i.e. beef, chicken & lamb) and not just pork. Work on this assessment began in May 2010 and is expected to be completed by early 2011.

U.S. suppliers should pay close attention to the requirements of this standard to ensure that they do not breach the principles of the Trade Practices Act. Particular guidance is given in the standard with regard to ‘product of’ and ‘made in’ statements (see information provided later in this report, Section VI, relating to the requirements of the Trade Practices Act as it relates to Country of Origin statements).

Weights and Measures Requirements

Package weight is not governed by the ANZFSC. Australia does, however, have national system of trade measurement, which is under the administration and regulatory oversight of the [National Measurement Institute](#). Please check this website for details on weights and measurements requirements.

The two core requirements with respect to packaging of prepackaged products are that the package must be marked with:

- 1) the name and address of the person who packed the product (or on whose behalf it was packed) in a clear, conspicuous and legible manner on the main display panel
- 2) a statement of the net measurement in a clear, conspicuous and legible manner. The measurement must be declared in metric terms.

Labeling of Genetically Modified foods ([Standard 1.5.2](#))

Mandatory labeling of foods of agricultural biotechnology ('genetically modified'), where introduced DNA or protein is present in the final food, came into force on December 7, 2001.

Under the Standard, food or ingredients labeled 'genetically modified' contain new genetic material or protein as a result of the genetic modification or have altered characteristics, e.g. changed nutritional values, compared to the conventional food. Some flavorings may also be derived from genetically modified organisms, but labeling is only required if they are in a concentration of more than 1 gram per kilogram (0.1%). Food additives and processing aids do not need to be labeled unless the introduced genetic material is present in the final food.

Claims about foods not produced using gene technology - for example, "GM-free", must be consistent with the provisions of the overarching consumer protection laws in the [Trade Practices Act](#) in Australia (see Section VI in this report) and the Fair Trading Act in New Zealand, as well as food legislation in both countries.

Under the labeling standard, for packaged foods the words '**genetically modified**' must be used in conjunction with the name of the food, or in association with the specific ingredient within the ingredient list; and for unpackaged foods for retail sale (such as unpackaged fruit and vegetables, or unpackaged processed or semi-processed foods) the words '**genetically modified**' must be displayed in association with the food, or in association with the particular ingredient within that food.

Food prepared for immediate consumption – for example, in restaurants and take-outs – does not need to have genetically modified ingredients identified.

Section III: Packaging and Container Regulations

Packaging Size

There are no packaging or container size regulations for food products in Australia. Manufacturers may pack food in any size container.

The Australia New Zealand Food Standards Code (ANZFS Code) does not regulate the manufacture of packaging materials. Consequently, the ANZFS Code does not specify which materials may be added to or used to produce food packaging materials or any articles and materials in contact with food. It is the responsibility of food manufacturers and retailers to ensure that the products used in association with food are safe and that the food complies with the general requirements in the Australian and New Zealand Food Acts and with the specific requirements in the ANZFS Code which relate to contaminants ([Standard 1.4.3](#), Articles and Materials in Contact with Food).

Legibility Requirements ([Standard 1.2.9](#))

There is a [User Guide](#) available for this standard.

Any information required in or on a food label needs to comply with legibility requirements as set out in [Standard 1.2.9](#). The ANZFS Code requires that all food labels must present information so that it is:

- legible
- prominent (such as to afford a distinct contrast to the background), and
- in English.

This approach allows manufacturers flexibility in label presentation but requires them to ensure that the information is clearly and readily accessible to the consumer. Additional legibility requirements apply to warning statements. These are discussed below.

In order to be legible, information on food labels should be:

- **Indelible**—Printing that under normal conditions of use and storage fades, runs, or is rubbed off would no longer be legible or prominent. A label with such printing would not comply with Standard 1.2.9.
- **Distinct**—Decorations and embellishments such as logos should not interfere with the legibility of the words on the label. Text printed on complex or pictorial or otherwise multicolored backgrounds is unlikely to be adequately legible in many cases.
- **Easy to read**—The use of all lower case or all capitals is not prescribed in the Code. However, statements in sentence or title case are usually easier to read than statements in upper case or in mixed case.

A minimum size of type is not required for most information required on food labels (except warning statements – see below). It is up to the manufacturer to determine which type size is best for such information, provided the label is legible.

National trade measurement laws control the measurement of pre-packed articles by quantity. The National Measurement Institute (NMI) web pages contain details of the requirements for businesses in relation to [pre-packaged goods](#) including details of the position, size, etc. for where the measurement information must appear on a label, . Other regulations may also be downloaded from the NMI [Measurement Legislation](#) page.

All the labeling information required by the ANZFS Code must be in English. Information in other languages is permitted on a label of a package of food or in association with a display of food, so long as the information does not negate or contradict the information on the label in English.

Further legibility requirements for warning and other statements

Warning statements: Certain warning statements are required to be expressed on the label of packages of specific foods. The words for each warning statement are prescribed and **must** be written on the label using the text required under the ANZFS. For most packages, each letter or numeral must be at least 3 mm in size when measured from the base to the top of the letter or numeral. Separate requirements apply to small packages. Manufacturers may choose the type and style of lettering of a warning statement, ensuring that the statement is legible and prominent so as to afford a distinct contrast to the background.

Advisory statements or mandatory declarations: The ANZFS also requires information to be provided about certain foods and substances in the form of mandatory declarations or advisory statements. The Code does not prescribe exact wording or a minimum type size for these statements. Where such statements are required, in presenting them manufacturers must comply only with the general legibility requirements of [Standard 1.2.9](#).

Legibility requirements for warning statements on small packages

Because of their small size, small packages are permitted to have warning statements written in a minimum type size of 1.5 mm. A small package is a package with a surface area of less than 100^{cm²}.

Section IV: Food Additives Regulations

There is a [User Guide](#) available for this standard.

Unless expressly permitted in [Standard 1.3.1](#), food additives must not be added to food.

A food additive may be used only where permitted by Standard 1.3.1 and only where it performs a technological function. These functions are listed in Schedule 5 of the standard. The following criteria are guiding principles that FSANZ uses in assessing whether a food additive is listed in Standard 1.3.1 and therefore is permitted for use in foods, i.e. that:

- it poses no unacceptable risk to health when used in amounts up to the specified permitted limits;
- there is a demonstrable need for the substance and it fulfils a technological function that benefits consumers; and
- it is used in any food only up to the level that achieves the technological function, even if higher levels might pose no threat to health.

Food additives should always be used in accordance with Good Manufacturing Practice (GMP). Manufacturers are responsible for justifying the use of additives, and the level of additive used. The Codex Alimentarius Commissions Procedural Manual sets out the following relevant criteria for use in assessing compliance with GMP:

- the quantity of additive added to food shall be limited to the lowest possible level necessary to accomplish its desired effect;
- the quantity of the additive that becomes a component of food as a result of its use in the manufacture, processing or packaging of a food and which is not intended to accomplish any physical, or other technical effect in the food itself, is reduced to the extent reasonably possible; and
- the additive is prepared and handled in the same way as a food ingredient.

Specifications for food additives are listed in the schedules of Standard 1.3.1. [Schedule 1](#) contains information on the permitted uses of food additives by food type; [Schedule 2](#) contains miscellaneous additives permitted to GMP in processed foods specified in Schedule 1; [Schedule 3](#) contains colors permitted to GMP in processed foods specified in Schedule 1; [Schedule 4](#) contains colors permitted to specified levels in processed foods specified in Schedule 1; and, [Schedule 5](#) contains technological functions which may be performed by food additives.

For the purposes of ingredient labeling, food additives are treated the same as other ingredients in a food. Schedule 1 of Standard 1.2.4 lists about twenty class names for additives based on their technical function. Schedule 2 of Standard 1.2.4 lists all permitted additives by their prescribed name and code number. An additive must be declared in the ingredient list in its correct place by using its appropriate class name (from Schedule 1), followed by the additive's specific name or code number (from Schedule 2). One exception to this rule is that enzymes need only be declared by the class name 'enzyme' and not by specifically declaring the name of the enzyme.

Where a food additive is capable of being classified in more than one class, the class name used must be the class name that best reflects the function of the additive in the food. A food additive that cannot be classified in one of the classes specified in Schedule 1 must be declared by using its prescribed name (from Schedule 2).

Special note should be taken for additives that are genetically modified. For more information on the declaration of genetically modified ingredients see the information which appeared earlier in this report (see Labeling of Genetically Modified Foods in Section II).

Section V: Pesticides and Other Contaminants

The Australian Pesticide & Veterinary Medicines Authority (APVMA) – www.apvma.gov.au - is the Australian government authority responsible for the assessment and registration of pesticides and veterinary medicines for use in Australia and for their regulation up to and including the point of retail sale and for establishing Maximum Residue Limits (MRLs) in food for those chemicals it registers. The APVMA administers the National Registration Scheme for Agricultural and Veterinary Chemicals (NRS) in partnership with the States and Territories and with the active involvement of other Australian government agencies.

MRLs for food in Australia are regulated by FSANZ. For chemicals not currently registered for use in Australia by APVMA, FSANZ is able to set a MRL tolerance for food. For example, if a chemical is being used in agricultural production in other countries FSANZ carry out their own research using information from CODEX & other sources and to establish a tolerance which is then listed in the Food Standards Code. All MRLs (those set by either APVMA or FSANZ) must be adopted into the Food Standards Code before they apply. If a MRL is not listed in the Food Standards Code, then the tolerance is zero.

[Standard 1.4.2](#) lists the maximum permissible limits for agricultural and veterinary chemical residues present in food. [Schedule 1](#) lists all of the agricultural and veterinary chemical limits in particular foods. If a maximum residue limit for an agricultural or veterinary chemical in a food is not listed in Schedule 1, there must be no detectable residues of that agricultural or veterinary chemical in that food. [Schedule 2](#) lists all extraneous agricultural chemical limits in particular foods. If an extraneous residue limit for an agricultural chemical in a food is not listed in Schedule 2, there must be no detectable residues of that agricultural chemical in that food. [Schedule 3](#) groups certain agricultural or veterinary chemicals according to their chemical groups. Commodity and commodity groups that are referred to in this Standard are listed in [Schedule 4](#). Schedule 4 also specifies the part of the commodity to which the maximum or extraneous residue limit refers.

Maximum residue limits are constantly being reviewed and updated. As noted above, Australia has its own system of setting MRLs. It should also be noted that Australia does not automatically default to CODEX MRLs if a tolerance is not listed in the Food Standards Code.

Section VI: Other Regulations and Requirements

Trade Practices Act

As mentioned throughout this report, the *Trade Practices Act 1974* should be taken into account as it pertains to false, misleading or deceptive conduct relating to labeling or advertising of food products. The Australian Competition and Consumer Commission (ACCC - www.accc.gov.au) is the body which administers the Trade Practices Act. An overview of the Act can be found at: <http://www.accc.gov.au/content/index.phtml/itemId/788579>).

The ACCC has produced a number of guides to assist those involved in the food industry to meet their obligations under the Trade Practices Act. These guides are:

[Food Descriptors Guideline to the Trade Practices Act](#) – provides a trade practices perspective on industry representations about food and beverage products. The guideline is to assist food and beverage businesses in understanding the law as it generally applies to this area, together with examples of the types of claims businesses can, and cannot, make about their products and the context(s) in which such claims can be made.

[Food Labeling Guide](#) – is designed to help businesses in the food and beverage industry meet their obligations under the Trade Practices Act, by ensuring that their product labeling, packaging and advertising is accurate and is not likely to mislead consumers.

[Country of Origin Guidelines to the Trade Practices Act](#) – this guide is to help the food and beverage industry understand the provisions of the Trade Practices Act that relate to making country of origin representations. It contains information to help businesses and industry groups develop strategies to improve compliance with the Trade Practices Act. Please note: this publication cannot be relied upon as stating ‘the law’ on country of origin claims.

Advertising

Labeling rules apply also to advertising of the product. Anything required or prohibited on a label must either appear or not appear in any printed, oral or televised advertisement for that product.

It is an offence to label or to advertise food in a manner that is false or misleading in any particular, or deceptive. This is spelled out in the State and Territory Food Acts and Trade Practices Act of the Federal Government.

Foods Requiring Pre-Market Clearance

Novel Foods ([Standard 1.5.1](#))

This Standard regulates the sale of novel food and novel food ingredients. This Standard prohibits the sale of these foods unless they are listed in the Table to Clause 2 of the Standard, and comply with any special conditions of use in that Table. The specific permission may impose conditions relating to matters such as the need for preparation or cooking instructions, warning statements or other advice, or the need to meet specific requirements of composition or purity.

FSANZ will assess the safety for human consumption of each novel food prior to its inclusion in the Table. The safety assessment will be performed in accordance with the Authority’s safety assessment guidelines.

Novel food includes novel foods used as ingredients in another food. Categories of novel foods may include, but are not limited to: plants or animals and their components; plant or animal extracts; herbs, including extracts; dietary macro-components; single chemical entities; micro-organisms, including probiotics; foods produced from new sources, or by a process not previously applied to food.

Information regarding applying for approval for a novel food is available in Section 3.5.2 of the FSANZ [Application Handbook](#).

Genetically Modified Foods ([Standard 1.5.2](#))

Division 1 of this Standard addresses health and safety requirements, regulating the sale of food produced using gene technology, other than additives and processing aids. The Standard prohibits the sale and use of these foods unless they are included in the Table to Clause 2 and comply with any special conditions in that Table.

The Authority will assess the safety for human consumption of each food produced using gene technology or such class of food prior to its inclusion in the Table. The safety assessment will be performed according to the Authority's approved safety assessment criteria.

Additives and processing aids which are produced using gene technology are not regulated in Division 1 of this Standard. Other Standards in the Code regulate additives and processing aids and require pre-market approval for these substances.

Division 2 of this Standard specifies labeling and other information requirements for foods, including food additives and processing aids, produced using gene technology.

Information regarding applying for approval for food produced using gene technology is available in Section 3.5.1 of the FSANZ [Application Handbook](#).

Food Irradiation ([Standard 1.5.3](#))

This Standard prohibits the irradiation of food, or ingredients or components of food, unless a specific permission is given. The specific permission may impose conditions relating to matters such as dose, packaging materials, approved premises or facilities.

Even where this Standard permits irradiation, food should only be processed by irradiation where such processing fulfils a technological need or is necessary for a purpose associated with food safety. Food should not be processed by irradiation as a substituted procedure for good manufacturing practices.

The absorbed radiation dose applied for the purpose of irradiating food should be the minimum that is reasonably commensurate with the technological and public health purposes to be achieved. It should also be in accordance with good radiation processing practice.

Food to be processed by irradiation, and the packages and packing materials used or intended for use in connection with food so processed, should be of suitable quality and in an acceptable hygienic condition appropriate for the purpose of such processing. They should also be handled before and after irradiation according to good manufacturing practices, taking into account, in each case, the particular requirements of the technology of the process.

The operation of irradiation facilities and control of the irradiation process should be undertaken in accordance with any relevant State, and Territory, and New Zealand law governing radiation control. They should also be undertaken in accordance with an appropriate Code of Practice such as the 1983 Codex Alimentarius General Standard for Irradiated Foods and its associated Code of Practice for the Operation of Irradiation Facilities Used for the Treatment of Foods.

This Standard also sets out permitted sources of radiation, requires the keeping of certain records in relation to the irradiation of food, and requires the labeling of food which has been irradiated.

Information regarding applying for approval for irradiated food is available in Section 3.5.3 of the FSANZ [Application Handbook](#).

Approval of Genetically Modified Foods

Information for people wishing to apply to FSANZ to introduce a new food produced using gene technology as provided for in the ANZFSC is available on the [Standards Development](#) page of the FSANZ web site and/or the [Applications Handbook](#).

Government-to-Government Certification Arrangements

Imported foods legislation permits AQIS to enter into arrangements with Government authorities in other countries. Before recognizing any certification issued by other authorities, AQIS must be satisfied that there is a system in place that is monitored by the authorities and that it ensures that foods will comply with Australian requirements.

Foods accompanied by certificates from approved agencies are quickly cleared by IFIS, assuming quarantine requirements are met. Minimum fees apply to foods cleared under certification. Random audit inspections and analyses are conducted on certified shipments.

If something is later found to be wrong with a food certified by an AQIS approved overseas authority, AQIS resolves the problem with the certifying agency without taking action against the importer or the supplier. The approved foreign country authority is required to resolve the problem and if problems continue AQIS may suspend the arrangement.

Information on the current foreign government certification arrangements can be found at:
<http://www.daff.gov.au/aqis/import/food/notices/2009/2009/ifn-06-09>.

Quality Assurance Systems

The *Imported Food Control Act 1992* allows for AQIS to enter into arrangements with overseas manufacturers in the form of Quality Assurance programs based on the principles of HACCP or ISO9000 systems that will ensure foods are prepared to equivalent standards. AQIS must assess applications and supporting information from relevant authorities in overseas countries before agreeing to a system of certification for overseas food suppliers who are operating under quality assurance systems.

Trade Samples

The amounts of food that may be imported as trade samples for the purposes of scientific or commercial evaluation are:

- For foods in liquid form, up to 20 liters;
- For foods not in liquid form, up to 20 kilograms;
- For concentrated liquid foods (however packed), that are used in the preparation of other foods or are not usually consumed unless as part of a prepared food, not more than 2 liters;
- For moisture reduced foods (however packed), other than liquid foods, that are used in the preparation of other foods or are not usually consumed unless as part of a prepared food, not more than 2 kilograms net weight;
- For spices (however packed) that are used in the preparation of other foods or are not usually consumed unless as part of a prepared food, not more than 1 kilogram.

Food imported as trade samples must not be consumed by any person.

Section VII: Other Specific Standards

Specific Commodity Standards

[Chapter 2](#) of the ANZFSC contains standards for a number of specific commodity groups. These are:

- Part 2.1 - Cereals
- Part 2.2 - Meat, eggs & fish
- Part 2.3 - Fruit & vegetables
- Part 2.4 - Edible oils
- Part 2.5 - Dairy products
- Part 2.6 - Non-alcoholic beverages
- Part 2.7 - Alcoholic beverages
- Part 2.8 - Sugars & honey
- Part 2.9 - Special purpose foods
- Part 2.10 - Standards for other foods (vinegars & salt)

Nutrition Claims

Where a nutrition claim is made, the Nutrition Information Panel must include seven mandatory nutrients:

- Energy
- Protein
- Fat
- Saturated fat
- Carbohydrate
- Sugars, and
- Sodium

The Panel must also include any claimed nutrient or biologically active substance, or any other nutrients that may be triggered.

Information regarding the type of nutrition claims that can and cannot be made, as well as examples of Nutritional Information Panels for each type of claim, is contained in the [User Guide](#) to [Standard 1.2.8](#). A [nutrition panel calculator](#) is also available to assist in calculating mandatory nutrition information for the panels.

Permitted Health Claims

Unless specifically permitted in [Standard 1.1A.2](#), Transitional and Temporary Standard for Health Claims, health claims in food labels and advertisements are currently **prohibited** in Australia. Standard 1.1A.2 implements a pilot trial for the management of health claims in relation to folate only. The provisions in Standard 1.1A.2 are still in place.

In December 2003 the Australia New Zealand Food Regulation Ministerial Council agreed to a new Nutrition, Health and Related Claims framework that allows food manufacturers to make factual claims regarding the health benefits of their product on labels and in advertising. FSANZ is currently in the process of developing a standard for inclusion in the Food Standards Code on permitted health claims to replace the transitional standard ([Proposal 293](#)). The draft final assessment report has been presented to the Ministerial Council and they have requested a review. Until the review is finalized and accepted by the Ministerial Council, the transitional standard will remain in force.

Fortification of Food with Vitamins & Minerals

[Standard 1.3.2](#) regulates the addition of vitamins and minerals to foods, and the claims which can be made about the vitamin and mineral content of foods, other than those special purpose foods standardized in Part 2.9, the addition of iodine to certain salt products in Standard 2.10.2, the addition of thiamin to flour for bread making in Standard 2.1.1, the addition of vitamin D to table edible oil spreads and margarine in Standard 2.4.2, the addition of vitamins to formulated caffeinated beverages in Standard 2.6.4 and certain claims permitted elsewhere in this Code.

Words and Expressions

The use of certain words and expressions are restricted. Words such as polyunsaturated, 'pure', 'natural', 'organic', 'low alcohol', 'non alcoholic', 'health' and 'vitamin enriched,' etc are restricted and guidance should be sought from the relevant product standard and from the ACCC guidelines mentioned elsewhere in this report.

Pictures and Designs

Manufacturers should ensure that their pictorial representations do not give a misleading overall impression about their products. Things to be considered by manufacturers using pictorial representations include:

- A manufacturer should not give a pictorial representation that an insignificant ingredient is present in significant amounts; or that a significant ingredient is not present or present in insignificant amounts. The manufacturer must do this so that the picture of one ingredient does not imply the absence of another important ingredient.
- Food labels may include pictures that are not foods or ingredients but which may imply the presence of foods or ingredients related to the pictures, or imply an origin to the food.
- Many foods are flavored either with flavorings or with small amounts of foods. If the flavoring of an ingredient has been added and a picture of the ingredient is used by a manufacturer, then the manufacturer must ensure that the consumer can determine that a flavoring of the ingredient has been added and not the actual ingredient.
- A pictorial representation may demonstrate the use or serving suggestion of a food. This can be useful information for consumers and useful for marketing the food, providing the label does not mislead consumers into thinking that the foods illustrated are contained in the product. To avoid this confusion, the pictorial representations for the purposes of demonstrating the use or serving suggestion of a food should be clear that the pictorials are for demonstration purposes only and that the pictorials are not representing the ingredients of the food.

Pictures or designs may be prohibited on certain foods and manufacturers and importers should familiarize themselves with the restrictions in the ANZFS. The ACCC [Food Descriptors Guideline to the Trade Practices Act](#) also provides some guidance on the acceptable use of pictures and designs as they relate to the Trade Practices Act.

Section VIII: Copyright and/or Trademark Laws

Australian law protects patents, trademarks and copyrights. Australia is a member of the World Intellectual Property Organization, the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention, the Patent Cooperation Treaty, the Trans-Tasman Mutual Recognition Agreement for the Patent Attorney Profession, the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purpose of Patent Procedure, the Strasbourg Agreement Concerning the International Patent Classification, Nice Agreement for the International Classification of Goods and Services for the Purposes of the Registration of Marks, and the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights.

IP Australia is the Federal Government agency responsible for registrations of patents, trademarks and designs. IP Australia incorporates the Patent, Trade Mark and Designs Offices which administer the *Patents Act 1990*, the *Trade Marks Act 1995*, the *Designs Act 1906* and associated regulations as well as the *Olympic Insignia Protection Act 1987* and the *Scout Association Act 1924*. More information and links to the legislation are available on the [IP Australia](http://www.ipaustralia.gov.au) web site. Contact details for IP Australia are:

IP Australia
P.O. Box 200
Woden, ACT 2606
Australia
Tel: +61-2-6283-2999
Fax: +61-2-6283-7999
Email: assist@ipaustralia.gov.au
Web Site: <http://www.ipaustralia.gov.au/>

Patents: Patents are available for inventions in all fields of technology and are the principle system for protecting ownership of any device, substance, method of process that is new or inventive and they are protected under the *Patents Act, 1990*. There are two types of patents in Australia: a standard patent giving long-term protection and control over an invention for up to 20 years; and, an innovation patent - a relatively fast, inexpensive protection option, lasting a maximum of 8 years. Biotechnological methods of breeding and biotechnologically produced plants and animal products are protectable under the Patents Act (s.18). Further information is available on the Patents page of the IP Australia Website - <http://www.ipaustralia.gov.au/ip/patents.shtml>.

Trademarks: Trademarks may be protected for ten years and renewed indefinitely upon request by registration under the *Trademarks Act, 1995*. It is wise for any U.S. exporter intending to market a product in Australia to check with the trademarks office at IP Australia to ensure that its mark or name is not already in use. Further information is available on the Trademarks page of the IP Australia Website - <http://www.ipaustralia.gov.au/ip/trademarks.shtml>.

Designs: A new or original design may be registered for up to ten years maximum (in five year increments). Registration gives the owner the exclusive rights to make, use and sell articles incorporating the registered design. Further information is available on the Designs page of the IP Australia Website - <http://www.ipaustralia.gov.au/ip/designs.shtml>.

Copyrights: Copyrights are protected under the *Copyright Act 1968*. The Attorney-General's Department administers the legislation for automatic rights to copyright and circuit layout rights. Further information is available on the Copyright page of the IP Australia Website - <http://www.ipaustralia.gov.au/ip/copyright.shtml>.

Section IX: Import Procedures

There is no pre-market approval of either the composition or labeling of any food in Australia. Imported food must comply with all aspects of the Australia New Zealand Food Standards Code (ANZFS) at the point of entry into Australia. The Australian Quarantine and Inspection Service performs random inspections on any food imported. High-risk foods can be targeted for inspection at a higher frequency.

All goods imported into Australia must be cleared by Customs, whether they are imported by air, sea or mail. While imports of low value will generally be released by Customs for delivery direct to consignees, importers are responsible for obtaining a formal Customs clearance for consignments of goods above set value limits (currently A\$1000).

Cost recovery charges apply for the processing of entries. The cost will depend on whether the entry is an electronic entry or a documentary (manual) entry.

The minimum documentation required to be submitted with customs import entries or Informal Clearance Documents includes an airway bill or bill of lading, invoices, and any other papers (including packing lists, insurance documents, import permits, etc.) relating to the shipment.

Importers are required to ensure that goods entering the commerce of Australia are correctly marked. Customs administers truth in labeling provisions that makes it an offence to knowingly apply, or for imported goods to carry, false trade descriptions.

Customs import entry procedures are based on self-assessment by importers who should be aware of all their obligations: penalties may be imposed for the submission of incorrect or misleading information or for the omission of information to mislead. Therefore, while it is not a requirement, it is recommended that importers use the services of a customs broker to complete customs import entries and related clearance formalities. Brokers specialize in the clearance of imported goods and are licensed by the Australian Customs Service.

More information on importing goods into Australia is available from the Australian Customs Service on their Internet Site - <http://www.customs.gov.au/>

The use of local agent representation is highly recommended.

Appendix I: Government Regulatory Agency Contacts

Local government authorities that have responsibility for administering and evaluating imported products:

AQIS Imported Food Program

GPO Box 858

Canberra ACT 2600

Tel: +61 2 6272 5488

Fax: +61 2 6272 4389

Email: foodimp@aqis.gov.au

Food Standards Australia New Zealand

P.O. Box 7186

Canberra BC, ACT 2610

Australia

Tel: +61 2 6271 2222

Fax: +61 2 6271 2278

E-mail: info@foodstandards.gov.au

Web: <http://www.foodstandards.gov.au>

Australian Customs Service

5-11 Constitution Avenue

Canberra, ACT 2601

Australia

Tel: +61 2 6275-6666

Fax: +61 2 6275-5930

Email: information@customs.gov.au

Web: <http://www.customs.gov.au>

Office of the Gene Technology Regulator (MDP54)

GPO Box 9848

Canberra, ACT 2601

Australia

Fax: +61 2 6271-4202

Email: ogtr@health.gov.au

Web: <http://www.ogtr.gov.au>

IP Australia

P.O. Box 200

Woden, ACT 2606

Australia

Tel: +61 2) 6283-2999

Fax: +61 2 6283-7999

Email: assist@ipaustalia.gov.au

Web: <http://www.ipaustalia.gov.au>

Australian Department of Health & Aged Care
GPO Box 9848
Canberra City, ACT 2601
Australia

Web: <http://www.health.gov.au>

State Departments of Health

ACT Department of Health & Community Care

Web: <http://www.health.act.gov.au/c/health/>

NSW Department of Health

Web: <http://www.health.nsw.gov.au>

Victorian Department of Human Services

Web: <http://www.dhs.vic.gov.au>

Queensland Health

Web: <http://www.health.qld.gov.au>

South Australian Department of Health

Web: <http://www.health.sa.gov.au/>

Health Department of Western Australia

Web: <http://www.health.wa.gov.au>

Tasmanian Department of Health & Human Services

Web: <http://www.dhhs.tas.gov.au>

Northern Territory Health & Families

Web: <http://www.health.nt.gov.au/>

SPS & TBT Contacts

Each member government is responsible for the notification procedures associated with agreement under the World Trade Organization (WTO). Examples here relate to the Sanitary and Phytosanitary Agreement (SPS) and Technical Barriers to Trade (TBT) Agreement. WTO obligations include notifying any trade significant proposals that are not substantially the same as international standards to the WTO; providing copies of the proposed regulation upon request; allowing time for comments; and also to provide upon request copies of other relevant documents on existing regulations related to food and agriculture. Information on the country's regulations, standards and certification procedures can also be obtained through the Enquiry Point(s) listed below:

Australian SPS contact point
Trade and Market Access Division
Department of Agriculture, Fisheries and Forestry
GPO Box 858
CANBERRA ACT 2601
AUSTRALIA
E-mail: sps.contact@daff.gov.au

TBT Enquiry Point
Office of Trade Negotiations
Department of Foreign Affairs & Trade
RG Casey Building
John McEwen Crescent
Barton, ACT 2601
Australia
E-mail: tbt.enquiry@dfat.gov.au

Appendix II: Other Import Specialist Contacts

Office of the Agricultural Counselor

U.S. Embassy

Moonah Place

Yarralumla, ACT 2600

Australia

Tel: +61 2 6214 5854

Fax: +61 2 6273 1656

E-Mail: AgCanberra@fas.usda.gov

Food & Beverage Importers Association

181 Drummond Street

Carlton, VIC 3053

Australia

Tel: +61 3 9639 3644

Fax: +61 3 9639 0638

E-mail: admin@fbia.org.au

Web: <http://www.fbia.org.au>

American Chamber of Commerce in Australia (Head Office & NSW State Office)

Tel: +61 2 8031 9000

Fax: +61 2 9251 5220

E-mail: nswamcham@amcham.com.au

Web: <http://www.amcham.com.au>

American Chamber of Commerce State Offices

Victoria

Tel: +61 3 9614 7744

Fax: +61 3 9614 8181

E-mail: adminvic@amcham.com.au

Western Australia

Tel: +61 8 9325 9540

Fax: +61 8 9221 3725

E-mail: wa@amcham.com.au

South Australia

Tel: +61 8 8212 4688

Fax: +61 8 8212 4755

E-mail: sa@amcham.com.au