



26 April 2011

Dear Sir/Madam

Application A1038 – Irradiation of Persimmons - Assessment Report

Thank you for the opportunity to comment on this application. The Ministry of Agriculture and Forestry (MAF) has the following comments to make.

In preparing this submission MAF consulted with the National Radiation Laboratory (NRL). MAF would like to acknowledge the assistance of Dr Peter Roberts in preparing this submission.

With the changes to government departments in New Zealand, Biosecurity New Zealand is now an integral part of MAF. References in the Assessment Report to Biosecurity New Zealand should be updated to New Zealand MAF.

MAF supports Option 2, that is to prepare draft variations to Standard 1.1.1 - Application, Interpretation and General Prohibitions and Standard 1.5.3 – Irradiation of Food, to permit the use of irradiation on persimmons as a phytosanitary measure. We are satisfied that the proposed irradiation is technologically justified and that no public health or safety concerns were identified. The proposed additional amendments are justified to provide improved clarity, interpretation, and operation of Standard 1.5.3 subject to our comments below:

MAF notes that FSANZ has taken the opportunity to make amendments to Standard 1.5.3, in addition to those required by this application regarding irradiation of persimmons, to provide clarity around interpretation and operation of the standard. MAF agrees with this approach, however we would like to suggest that this should be communicated in the title of the consultation so that stakeholders are aware of the full scope of the consultation document. i.e. consultation is broader than an application to irradiate persimmons.

We note that the application is made by Queensland Primary Industries and Fisheries to permit the irradiation of persimmons as a phytosanitary measure. We would like to point out that persimmons are grown in New Zealand. However, before any legal irradiation of any food in New Zealand, a person would, as a user of radioactive material and/or irradiating apparatus, need to be licensed for that use under the Radiation Protection Act 1965 (the Act). The scope of the Act is limited to ionising radiation safety and it is administered by the National Radiation Laboratory (NRL). A licence under the Act has not previously been granted for such a practice. In addition, any application for a licence would be considered by NRL to be a new practice in New Zealand and consequently be subject to a review of radiation safety requirements.

7.1 Insertion of new units for dosage in the Glossary of Symbols

MAF supports the inclusion of 'kGy' and 'kiloGray' in the Glossary of symbols in Clause 8 of Standard 1.1.1 – Application, Interpretation and General Prohibitions. At the same time we would like to suggest that the Meaning for the unit Gy is updated from 'Grays' to 'Gray'. i.e. the unit should be singular rather than the current plural.



7.2 Amendments to provide clarity to the purpose and definitions of Standard 1.5.3

MAF notes that New Zealand is not mentioned in the 3rd paragraph of the Purpose and proposes that the text is amended to include New Zealand.

7.3 Structural changes to Standard 1.5.3 and proposed new clauses

In the Assessment Report FSANZ notes that the Model Food Provisions in the State/Territory Food Acts contain a definition of unsafe and unsuitable food. However there are no such definitions in the Code or New Zealand Food Act. FSANZ specifically invited comments on the impacts on New Zealand of this reference to unsafe or unsuitable food in the current drafting.

MAF's view is that a lack of definitions of the terms 'unsafe or unsuitable food' in either the Food Act or the Code has the potential to cause enforcement issues in New Zealand as a lack of definitions leaves the terms open to interpretation. We note that the Food Bill does contain definitions to address these terms, but the Food Bill is unlikely to be enacted before the proposed amendments to the Code are envisaged to be gazetted. See Attachment 1 for relevant definitions from the Food Bill (As reported from the Primary Production Committee).

MAF's preference is for a definition of 'unsafe or unsuitable food' to be included in Standard 1.5.3 (Irradiation of Food) as they are key terms that determine whether or not a particular food is permitted to be irradiated, so are integral to the application of this standard.

7.4 Removal of other unnecessary provisions

7.4.1 Deletion of the clause relating to records for food irradiation (clause 5)

The deletion of clause 5 is proposed by FSANZ due to the view that State/Territory and New Zealand legislation and current irradiation facilities already require record keeping for irradiated foods. FSANZ specifically requested comments from New Zealand licencing authorities that there is in existence appropriate legislation that would cover the current requirements in clause 5.

MAF, after consulting with NRL, is of the understanding that the legislative record keeping and traceability requirements for persons licensed under the Act to use radioactive material and/or irradiating apparatus in New Zealand (only records relating to radiation safety and security are required) do not cover all the current requirements in clause 5. In addition section 41 of the Food Act imposes requirements relating to record keeping and creates an offence for contravening or failing to comply with those requirements. See Attachment 2 for details of Section 41 of the Food Act.

If clause 5 is deleted and other legislative requirements/offence provisions are relied on, an irradiation facility will not be required to comply with section 41(2) of the Food Act and will not commit an offence under the Food Act if it fails to keep the necessary records. MAF would not be able to make sure that the facility is keeping the necessary records and take enforcement action if the facility fails to comply with the record-keeping requirements in other legislation. It will have to rely on the relevant enforcement agency under the other legislation.

Although FSANZ notes that clauses 4 and 6 of Standard 1.2.1 require food to be accompanied with sufficient information to enable the purchaser to comply with the labelling or other declaration requirements of the Code, if requested by the purchaser or relevant authority, it does not appear that the purchaser requires all of the information set out in clause 5(1) in order to comply with the labelling or other declaration requirements. Therefore, it does not appear that other provisions in the Code will cover all of the information that is required to be kept under clause 5(1).

MAF is of the view that clause 5 should be retained for two reasons. First, the legislative record-keeping and traceability requirements for licensed irradiation facilities in New Zealand do not cover the current requirements in clause 5. Second, MAF needs to be able to monitor the compliance of irradiation facilities with record-keeping requirements and take enforcement action, if necessary.

To summarise MAF is of the view that clause 5 should be maintained in Standard 1.5.3. MAF needs to be able to monitor the compliance of irradiation facilities with record-keeping requirements and take enforcement action, if necessary.

7.4.2.1 Removal of all examples of labeling of irradiated foods from Standard 1.5.3

In the Assessment Report it mentions “a future ‘guidance’ document”. MAF is seeking clarification on the term “future ‘guidance’ document”. Does FSANZ have anything specific in mind, and the timing of this?

7.4.2.3 Deletion of sub clause 6(4)

FSANZ is proposing to delete sub clause 6(4) as ‘it is repetitive information and is adequately covered under provisions in the Code that require this information to be held.’ MAF requests that FSANZ specify the other provisions in the Code that require the information to be held. It is currently unclear and the rationale behind the need for this information to be provided in the label needs to be provided. We note that the Codex General Standard for Irradiated Foods sub clause 7.1 Inventory Control requires the information in sub clause 6(4) to be provided in shipping documents.

Risk Assessment Report

MAF agrees with the interpretation of the rat carcinogenicity study, that due to its limitations its interpretation as to the actual risk to humans is limited. Given this and the work undertaken on identifying the low potential for 2-ACBs to form in irradiated persimmons, the associated risks from the addition of persimmons to the list of approved irradiated foods is minimal.

The report would benefit with some more discussion on how the interpretation of the rat carcinogenicity study fits alongside the other carcinogenicity studies conducted to date (either in 2.2.3 or 2.3). This further discussion should have emphasis on the conductance of the previously accepted studies to OECD guidelines and how the interpretation of carcinogenicity has to rely on a weight of evidence basis.

As this report will remain as the current assessment for irradiated food, it would aid public understanding by giving a clear explanation of the rationale for concluding that this study would have limited value in the risk assessment.

Consumer’s knowledge of irradiation

MAF is unable to provide any further information on consumer’s knowledge of irradiation.

Yours sincerely

Attachment 2

Food Act cl 41

41 Records

- (1) Every person who, in the course of any business, imports, prepares, processes, manufactures, packs, stores, carries, delivers, or sells any food or appliance shall keep, in some place of security at his place of business, such records as may be required by any regulations or food standards made under this Act, and shall retain them for such period as may be specified in those regulations or food standards, as the case requires.
- (2) Every person who, in the course of any business, imports, prepares, processes, manufactures, packs, stores, carries, delivers, or sells any food or appliance, shall at all reasonable times permit any officer to inspect and make copies of any such record, and shall at all reasonable times on demand afford to any officer all further information in his possession with respect to any dealings by that person relating to any food or appliance.
- (3) Every person commits an offence against this Act who contravenes or fails to comply in any respect with any of the provisions of this section.

