



Dairy Industry Act 1952
**Dairy Product Safety
Standard**

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1.0 Executive Summary

The draft NZFSA Standard D107.2, "Dairy Product Safety" specifies the safety limits for dairy products to address the requirements of the *Dairy Industry Regulations 1990* for safe and wholesome dairy products.

This draft Standard has been developed over the last 12-18 months by the Technical Consultative Committee (TCC) of the Dairy Product Safety Advisory Council (DPSAC) with consideration of the risk management approach endorsed by Codex Alimentarius.

This paper proposes the following:

- The draft D107.2, "Dairy Product Safety" be adopted until a product safety standard derived using full risk management techniques can be developed.
- The draft D107.2, "Dairy Product Safety" will recognise the requirements for product sold in New Zealand, product exported and specific market access requirements where appropriate.
- A phase-in period of 12 months from the date of effect (assumed to be April 2003) is provided.

It is anticipated that the release of this discussion document will coincide with the NZFSA Workshops being held in mid February 2003.

2.0 Scope

This paper outlines the background and issues relating to product safety standards for New Zealand dairy products, whether intended for export or the domestic market.

Given the requirement of dairy products to comply with the *Food Act 1981* and its associated regulations and standards, there is a need to clearly explain the relationship between these dairy product safety standards, promulgated under the dairy industry legislation, and the food legislation.

The draft D107.2, "Dairy Product Safety" defines the safety outcomes that must be delivered by a product factory's, a store's or exporter's PSP(s).

The draft D107.2, "Dairy Product Safety" will apply to all dairy products and have the same scope as the dairy industry legislation. This means that this Standard applies to all dairy products:

- unless the product is under the scope of the *Food Act 1981* and its associated regulations and standards, for dairy products sold in New Zealand; or
- the product leaves New Zealand territory (as export).

3.0 Purpose

This discussion document provides background information relating to Dairy Product Safety for people who are affected by the changes proposed or who are interested in the topic.

4.0 Proposal

With regards to the Dairy Product Safety, the following are proposed:

- that the draft Standard D107.2, "Dairy Product Safety" relating to Dairy Product Safety be adopted;
- that the draft Standard D107.2, "Dairy Product Safety" details the Product Safety Limits in order to satisfy the requirements of the *Dairy Industry Act 1952*;
- that the draft Standard comes into force twelve months from the date of promulgation.

5.0 Draft Standard

Draft NZFSA Standard D107.2, "Dairy Product Safety", has been drafted based on the work and recommendations of the TCC¹. Copies of the draft Standard can be obtained from NZFSA's website www.nzfssa.govt.nz or by contacting NZFSA: Dairy and Plant Products Group.

6.0 Consultation

The draft Standard is of relevance to all stakeholders in the New Zealand dairy industry. Internal and external consultation will be conducted according to the NZFSA: Dairy & Plants Consultation Policy. The deadline for public submissions is Wednesday 12 March 2003 at 5pm. **Guidance for making submissions is provided in Section 12.0 of this document and with the draft Standard.**

7.0 Risk Assessment

NZFSA is committed to the development of sanitary measures using the risk analysis process. This will result in product safety standards based on defined Food Safety Outcomes. However NZFSA recognises that until such work is completed there is a need for interim Product Safety Limits (PSLs) as provided in the draft D107.2, "Dairy Product Safety".

¹ Technical Consultative Committee of the Dairy Product Safety Advisory Council (DPSAC) which is an advisory committee set up by MAF (now NZFSA). Members are drawn from across the dairy sector with observers from the Consumers' Institute and Food Standards Australia New Zealand.

8.0 Background

8.1 History

The *Dairy Industry Regulations 1990*, Regulation 3, requires that every person who produces any milk or cream, or transports or stores any dairy produce that is not a dairy product, shall take all reasonably practicable steps to ensure that it is safe and stays safe. In addition, every person who manufactures, transports or stores, any dairy product, must take all reasonably practicable steps to ensure that it is safe and stays safe.

In response to this and other requirements of the *Dairy Industry Regulations 1990*, MAF Regulatory Authority Dairy published, "*Dairy Products Safe and True*" which outlined the responsibilities in delivering safe dairy products. The specific standards for safety were not completely defined in "Dairy Products Safe and True". In some instances the market access requirements, such as those stipulated by the FDA and European Union, were stated.

In response to the legislative requirement to have PSPs in place, dairy industry groups in association with MAF Regulatory Authority Dairy, developed codes of practice (e.g. NZCP 5, "Dairy Product Safety Standards," developed by the cooperative exporting alliance) to ensure that safe dairy produce was manufactured and exported. These codes went some way to researching and defining product safety standards at the time they were written.

Unfortunately, although MAF Regulatory Authority Dairy was involved in the development of most codes, and approved them, these codes were seen by auditors from other countries as the response of the dairy factories to the legislative requirement for safe dairy product rather than as regulatory standards.

Accordingly the first version of "Dairy Product Safety" Standard (D107.1) was prepared and adopted in 1999. This Standard was largely based of the accepted industry safety limits at the time and the existing Industry Codes of Practice.

The draft version of D107.2 that is now presented for consultation was developed by the TCC, in response to a review of the previous version of D107. Particular consideration was given to other national and international standards and literature in this area.

8.2 Current Status

The current "Dairy Product Safety" Standard (D107.1) specifies the safety limits for dairy products in order to address the requirements of the *Dairy Industry Regulations 1990* for safe and wholesome dairy products.

8.3 New Zealand's Legal Requirements

The current "Dairy Product Safety" Standard (D107.1) provides product safety outcomes that must be delivered by a product factory's or store's or exporter's PSP(s).

This Standard applies to all dairy products and has the same scope as the dairy industry legislation. This means that the Standard applies to all dairy products:

- unless the product is under the scope of the *Food Act 1981* and its associated regulations and standards, for dairy products sold in New Zealand; or
- the product leaves New Zealand territory (as export).

8.4 International Standards and Guidelines,

The WTO Sanitary and Phytosanitary (SPS) Agreement states,

“Members shall ensure that their SPS measures are based on an assessment as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organisations”.

Critical to a SPS measure is the establishment of a Food Safety Objective (FSO). The FSO is

“the reason/ purpose for a sanitary measure, and includes a description of the expected/desired extent of control of foodborne hazards resulting from the application of sanitary measure(s). In the context of equivalence, a FSO should provide a rationale for how and why a sanitary measure achieves or contributes to the achievement of a country’s Appropriate Level of Protection.”

FSOs are determined in the risk analysis process.

The draft NZFSA Standard D107.2 is seen as a progression stage towards the development of FSOs derived from a full risk analysis.

8.5 Importing Country Requirements

Memoranda of Understanding (MOUs) between the New Zealand government and other governments exist. These MOUs are designed to recognise the equivalence of New Zealand’s legislation and regulatory policies and procedures with other countries. Nations that have MOUs with New Zealand audit our practices to confirm equivalence.

The New Zealand standards, e.g. D107.2, “Dairy Product Safety”, are used as a basis for negotiation with importing authorities. The object of these negotiations is to achieve a judgement of “equivalence” thus enabling the New Zealand standard to be accepted by the importing authority.

Where this is not possible, the specific market access requirement will be identified for use, where and /or when that country’s product is being manufactured.

9.0 Issues

9.1 Differences between D107.1, “Dairy Product Safety” and draft D107.2, “Dairy Product Safety”

The following points have been identified as noteworthy differences between the requirements of D107.1, “Dairy Product Safety” and those of the draft D107.2, “Dairy Product Safety”.

9.1.1 Product Safety Limits

The draft D107.2 contains generic Microbial Product Safety Limits (PSLs) rather than Product Specific Product Safety Limits resulting in changes to the required PSLs for some products. This is considered to be a more consistent and less confusing approach. The paper, “Recommended Product Safety Limits for the NZ Dairy Industry” (available on NZFSA website) provides a final report from the industry subgroup convened to make recommendations in this area.

9.1.2 Microbial Testing

The draft D107.2 requires that any microbial testing be commenced within seven days of product manufacture date. This is an extension from the previous industry convention of a forty-eight hour requirement and is as a result of an industry working group which considered this issue. Copies of the final report of this group are available from NZFSA.

9.1.3 Heavy Metals

The draft D107.2 does not include the previous requirements of D107.1 relating to heavy metals. The requirements for heavy metals and other contaminants are now referenced to the Australia New Zealand Food Standards Code (www.foodstandards.govt.nz). The requirements of D107.1 with respect to heavy metals were taken from the *New Zealand Food Regulations 1984*. These have now been superseded by the Australia New Zealand Food Standards Code.

9.1.4 Vitamin Product Safety Limits

The draft D107.2 includes changes to the vitamin product safety limits. The proposed limits in D107.2 are based on Codex and Food and Drug Administration (FDA) requirements.

9.1.5 Residue Product Safety Outcomes

The draft D107.2 contains changes to the residue product safety outcomes. These are now referenced to:

- the limits specified in the *New Zealand (Maximum Residue Limits of Agricultural Compounds) Mandatory Food Standard 1999* in the case of Dairy products manufactured in New Zealand for sale in New Zealand;
- the limits specified by Codex in the case of imported dairy products and those dairy products manufactured for export.

Note: Maximum residue limits (MRLs) and extraneous residue limits (ERLs) published by Codex and the “New Zealand (Maximum Residue Limits of Agricultural Compounds) Mandatory Food Standard 1999” can be found on the NZFSA website.

9.1.6 Radionuclides

The draft D107.2 clarifies that radionuclides are to be monitored under a regulated control scheme.

9.1.7 Application of Product Outcomes

The draft D107.2 proposes that product outcomes are to apply throughout the shelf life of the product. This approach is consistent with a risk-based approach to food safety.

9.1.8 Retesting

The draft D107.2 proposes that the use of results from retesting of product previously found to contain pathogens in excess of PSLs contained in this Standard is not permitted.

9.1.9 Foreign Matter

The draft D107.2 proposes that each PSP should define what constitutes foreign matter as unwholesome or constituting a food safety risk.

9.2 Introduction of the Standard

Introduction of the draft Standard D107.2, “Dairy Product Safety” would require that all dairy product manufacturers review their PSPs to ensure that all areas of contamination identified in the product safety standards are adequately managed and that the PSP is compliant with this and other relevant standards.

As all dairy product manufacturers must review their PSP(s) annually, this requirement can easily be accommodated provided a transition period of 12 months following the date of implementation is allowed for this to be completed.

10.0 Implementation

10.1 Mechanism for Implementing

It is anticipated that compliance with this Standard will be assessed as part of the normal assessment of the PSP in accordance with the compliance dates given in section 4.0 of this document.

It is anticipated that existing PSP holders will use the routine assessments prior to the compliance dates to identify and initiate the changes required for compliance to D107.2, “Dairy Product Safety”.

10.2 Changes Required For Implementation

10.2.1 By NZFSA

To ensure a smooth transition in the implementation of the draft D107.2, “Dairy Product Safety”, NZFSA will provide:

- communication to affected parties of issues relating to the implementation of the draft D107.2, “Dairy Product Safety”;
- appropriate guidance material to assist with compliance with the draft D107.2, “Dairy Product Safety”.

10.2.2 By Farm Dairy Operators, Dairy Manufacturers, Stores and Transporters

These parties will be required to review PSPs to ensure that the requirements of the draft D107.2, “Dairy Product Safety” are complied with.

10.2.3 By Third Party Agencies (TPAs)

In accordance with the implementation requirements detailed in Section 4.0, audit procedures are required to verify that PSPs meet the requirements of the draft D107.2, “Dairy Product Safety”.

11.0 References

- “Codex General Principles of Food Hygiene,” (CAC/RCP 1–1969, Rev 3, 1997) (see ftp://ftp.fao.org/codex/standard/en/CXP_001e.pdf)
- *Dairy Industry Act 1952*
- *Dairy Industry Regulations 1990*
- Dairy Products Safe and True, MAF Reg Dairy Group, 1999. World Wide Web address: <http://www.maf.govt.nz/Dairy>
- “Dairy Products Safety Standards Code of Practice,” Dairy Policy Circular No. 7, MAF Regulatory Authority Dairy Group, 19 October 1992.
- *Food Act 1981*
- NZCP 5, “Dairy Product Safety Standards Code of Practice,” Issue 1, October 1992
- NZCP 5, “Dairy Product Safety Standards Code of Practice,” Draft 12, 8 March 1998
- New Zealand (Maximum Residue Limits of Agricultural Compounds) Mandatory Food Standard 1999
- “Proposed Draft Code of Practice for Milk and Milk Products,” the Joint FAO/WHO Food Standards Programme, Codex Committee on Food Hygiene (CX/FH 98/5, July 1998)
- “Recommended Product Safety Limits for the NZ Dairy Industry”. Report to the Technical Consultative Committee (TCC) from Subgroup One (this paper is available from the NZFSA Dairy and Plants website).

12.0 Invitation to Comment

The draft D107.2, "Dairy Product Safety" Standard has been prepared by the NZFSA: Dairy and Plant Products Group for comment by the interested parties. The following points may be of assistance in preparing comments:

- Wherever possible, comment should be specific to a particular section of the document. All major sections are numbered and these numbers should be used to link comments to the document.
- Omissions should be clearly and separately indicated.
- Comments should be to the point and, where possible, reasons and data to support comment are requested.
- The use of examples to illustrate particular points is encouraged.
- As a number of copies may be made of your comments, please use good quality type, or make sure the comments are clearly hand-written in black or blue ink.

Please include the following information in your submission:

- the title of the discussion document;
- your name and title (if applicable);
- your contact details;
- your organisation's name (if applicable);
- your address;
- the number(s) of the sections you are commenting on.

Please note the deadline for submissions, which is **Wednesday 12 March 2003 at 5pm**. **Late submissions will not be accepted.**

Comments should be sent to:

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