



**New Zealand Food Safety Authority
PO Box 2835, Wellington, New Zealand**

Dairy & Plants Products Group, NZFSA

D 108.2 Non-conforming Dairy Produce

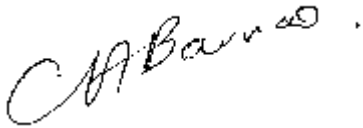
Dairy Industry Regulations 1990
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Issue of Circular

Regulation 59 of the *Dairy Industry Regulations 1990* allows the Director-General of the Ministry of Agriculture and Forestry to issue Circulars setting out criteria for matters which must be approved by, or done to the satisfaction of, the Director-General, pursuant to the *Dairy Industry Regulations 1990*.

This Circular 83 containing 'NZFSA Standard D108.2, "Non-conforming Dairy Produce," is issued in accordance with that regulation 59.

This Circular, no. 83 takes effect on 10th September 2004



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Director, Dairy and Plant Products Group
New Zealand Food Safety Authority

Date 10th September 2004

(Signed under authority delegated by the Director-General of MAF, pursuant to regulation 59 of the Dairy Industry Regulations 1990.)

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1 Background

The NZFSA Standard on Non-conforming Dairy Produce was developed to:

- outline regulatory requirements specified in New Zealand dairy legislation for the management and disposition of non-conforming dairy produce,
- describe acceptable criteria (means for satisfying NZFSA that the requirements are being achieved), and
- outline relevant importing country requirements.

2 Summary

This Standard specifies outcomes relating to non-conforming dairy produce, including dairy products.

Appendix One outlines acceptable criteria for demonstrating that the outcomes in the Standard are achieved, including:

- identification of all non-conforming produce,
- management of non-conforming produce,
- reporting of non-conforming produce,
- gathering of information concerning the non-conforming produce,
- disposing of non-conforming produce, and
- keeping appropriate records.

Proposals for alternative criteria may be approved by NZFSA, provided it can be demonstrated to NZFSA's satisfaction that the required outcomes will be achieved.

Appendix Two outlines importing country requirements relating to non-conforming dairy produce.

3 Outcome

In compliance with section 14 of the *Dairy Industry Act 1952*, dairy produce that is:

- not demonstrably safe (regulations 3 and 48 of the *Dairy Industry Regulations 1990*);
- produced, manufactured, stored or transported other than in compliance with an approved Product Safety Programme (regulations 5 and 49 of the *Dairy Industry Regulations 1990*);
- manufactured or stored in premises not registered for the class or description to which the product belongs or in breach of a condition of registration of those premises (regulations 13 and 50 of the *Dairy Industry Regulations 1990*);
- not labelled in accordance with requirements (regulations 37 and 51 of the *Dairy Industry Regulations 1990*); or
- condemned by an inspector under section 9 of the *Dairy Industry Act 1952* (regulation 41 of the *Dairy Industry Regulations 1990*);

are disposed of with the consent, in writing, of the Director-General of MAF.

Where NZFSA provides official assurances to international competent authorities, the relevant importing country requirements are demonstrated to be met.

4 Effective changes

This Standard will introduce the following changes to the previously existing situation.

- Clarify the process for destruction of non-conforming dairy produce/products that are highly perishable, or are impeding normal production
- Remove the table of minimum traceback testing and allow such sampling to be determined on a case by case basis

5 Implementation

All PSPs must comply with this Standard within 12 months of the date of its issue.

For new PSPs, this Standard will apply from the date of issue by Circular. To allow the orderly evaluation and approval of previously approved PSPs, any PSP approved under the previous

regulatory requirements shall be deemed to be approved for a period of 12 months after the date of issue.

Implementation of the ORM regulatory system will commence in February 2000 and movement of operators to the ORM system will be based on application. Consequently, this Standard has been written to enable continuation of the evaluation and verification of PSPs under the existing system and under the ORM system. During this transition period, PSPs will continue to be evaluated and verified by Assessors, NZFSA Compliance & Investigation Group. When the operator moves to the ORM system, the PSP will be evaluated and verified by approved individuals employed by an approved TPA. This change is indicated in the Standard by the use of "NZFSA/the TPA" in appropriate places.

6 Effect on compliance costs

No additional compliance costs are anticipated.

NZFSA Standard D108.2, “Non-conforming Dairy Produce”

1.0 SCOPE

This Standard contains the outcomes for the management and disposition of non-conforming dairy produce, including dairy product. This Standard applies to all non-conforming dairy produce. Everyone who produces, manufactures, transports, stores, or exports any dairy produce must comply with this Standard.

2.0 PURPOSE

This Standard sets out the outcomes that are specified in the *Dairy Industry Regulations 1990* relating to the management of any dairy produce known or suspected to not meet regulatory requirements.

The acceptable criteria outlined in Appendix One of this Standard were developed in consultation with industry to establish clear rules for judging whether or not a proposed PSP is satisfactory, and to assist parties to achieve the outcomes described in the Standard. Proposals for alternative criteria will be approved by NZFSA, provided it can be demonstrated to NZFSA's satisfaction that the required outcomes will be achieved.

Appendix Two of this Standard outlines importing country requirements relating to official assurances provided by NZFSA concerning the management of any dairy produce found or suspected to not meet regulatory requirements.

3.0 OUTCOME

In compliance with section 14 of the *Dairy Industry Act 1952*, dairy produce that is:

- not demonstrably safe (regulations 3 and 48 of the *Dairy Industry Regulations 1990*);
- produced, manufactured, stored or transported other than in compliance with an approved Product Safety Programme (regulations 5 and 49 of the *Dairy Industry Regulations 1990*);
- manufactured or stored in premises not registered for the class or description to which the product belongs or in breach of a condition of registration of those premises (regulations 13 and 50 of the *Dairy Industry Regulations 1990*);

- not labelled in accordance with requirements (regulations 37 and 51 of the *Dairy Industry Regulations 1990*); or
- condemned by an inspector under section 9 of the *Dairy Industry Act 1952* (regulation 41 of the *Dairy Industry Regulations 1990*);

are disposed of with the consent, in writing, of the Director-General of MAF.

Where NZFSA provides official assurances to international competent authorities, the relevant importing country requirements are demonstrated to be met.

4.0 INTERRELATED REQUIREMENTS

The following standards must be read in conjunction with this Standard.

- MAF Standard D101, "Product Safety Programmes." Dairy and Plant Products Group, MAF Food Assurance Authority, New Zealand Ministry of Agriculture and Forestry.
- MAF Standard D102, "Product Safety Programme Reporting Requirements." Dairy and Plant Products Group, MAF Food Assurance Authority, New Zealand Ministry of Agriculture and Forestry.
- MAF Standard D103, "Labelling of Dairy Products." Dairy and Plant Products Group, MAF Food Assurance Authority, New Zealand Ministry of Agriculture and Forestry.
- MAF Standard D105, "Milking Animal Health." Dairy and Plant Products Group, MAF Food Assurance Authority, New Zealand Ministry of Agriculture and Forestry.
- NZFSA Standard D107, "Dairy Product Safety." Dairy and Plant Products Group, New Zealand Food Safety Authority.
- MAF Standard D202, "Registration of Dairy Premises." Dairy and Plant Products Group, MAF Food Assurance Authority, New Zealand Ministry of Agriculture and Forestry.
- MAF Standard D301, "NZFSA-Approved Dairy Test Methods" (once promulgated). Dairy and Plant Products Group, Food Assurance Authority, New Zealand Ministry of Agriculture and Forestry.
- MAF Standard D302, "Registration of Dairy Laboratories." Dairy and Plant Products Group, NZFSA Food Assurance Authority, New Zealand Ministry of Agriculture and Forestry.
- "Standard for Oral Nutritional Compounds Offered for Sale in New Zealand." Agricultural Compounds and Veterinary Medicines Group, NZFSA

5.0 ADDITIONAL RESOURCES

The following documents are useful resources.

- *Dairy Products Safe and True*. Dairy and Plant Products Group, Food Assurance Authority, New Zealand Ministry of Agriculture and Forestry, 1999. World Wide Web address: www.nzfsa.govt.nz/Dairy/
- IDF Standard 50C: 1995 "Milk and Milk Products Guidance on Sampling." International Dairy Federation, 1995.

6.0 DEFINITIONS

These definitions must be read in conjunction with the interpretations in the *Dairy Industry Act 1952* and the *Dairy Industry Regulations 1990*.

NZFSA Food: Dairy & Plant Products Group definitions of terms can be found in their "Glossary of Terms", available on the Dairy & Plants website (www.nzfsa.govt.nz/Dairy/).

Corrective action - Action taken to rectify, eliminate the causes of, and prevent recurrence of any problem/failure/non-compliance identified in a plan, procedure, process, product, programme, or system.

Critical control point (CCP) – A step in a process at which a control can be applied which is essential to prevent, eliminate, or reduce a food safety hazard to an acceptable level.

Critical hazard - A hazard that could result in contamination that could be injurious to health or contamination by foreign matter.

Critical limit - A criterion which separates acceptability from unacceptability.

Critical non-compliance - An action, event or omission which may result in:

- failure of dairy produce to comply with regulatory requirements;
- failure to follow the lawful direction of an Inspector;
- an alleged offence against the *Dairy Industry Act 1952* or *Dairy Industry Regulations 1990*;
- a critical situation;

- failure of a critical control point within a NZFSA-approved programme or plan;
- failure to identify when dairy produce is non-conforming;
- failure to stop a non-compliance;
- failure to keep accurate and complete records;
- failure to provide accurate, complete, and timely reports;
- failure to dispose of non-conforming dairy produce in compliance with regulatory requirements;
- failure to prevent recurrence of a non-compliance; and/or
- failure to rectify a non-compliance within the specified timeframe.

Critical situation – Any situation which, in the professional judgement of the Inspector, places public health, animal welfare, market access, official assurances, national good, or NZFSA's credibility at risk, or where an offence is suspected.

Dairy factory – Cheese factory, butter factory, condensed milk factory or any other factory engaged in the manufacture of dairy produce and includes a skimming station, a buying or receiving station, or any other premises ancillary to a dairy factory.

Dairy produce – Milk, cream, butter, cheese, and any other product of milk or cream.

Dairy product – Dairy produce intended for sale in, or export from, New Zealand for human consumption;

- (a) includes raw milk or cream intended for sale in New Zealand for human consumption as raw milk or cream; but
- (b) does not include raw milk or cream intended to be processed before sale in New Zealand for human consumption.

Dairy raw materials – milk and/ or products obtained from milk, which are ingredients of dairy products.

Finished product – Dairy produce which has been packed, in the manner intended for sale, and is awaiting the decision concerning conformance with regulatory requirements.

Foreign matter – any extraneous thing:

- (i) that is injurious to health or harmful; or

- (ii) that is offensive; or
- (iii) the presence of which would be unexpected or unreasonable in food of that description prepared or packed for sale in accordance with good trade practice.

NZFSA CIG – The Compliance & Investigation Group of NZFSA reporting to the Director, Compliance and Investigation Group.

NZFSA Dairy & Plants – The Dairy and Plant Products Group of NZFSA, reporting to the Director, Dairy & Plant Products.

Manufacture – In relation to dairy product, means all activities involved with converting dairy produce into dairy product (with or without other substances or ingredients), and its preparation in a product factory for sale; and includes receipt or deposit of the dairy produce from which it is manufactured. (Note: includes packaging for final sale.)

Non-compliance – Any failure to comply with regulatory requirements.

Non-conforming – In relation to dairy produce, any that is suspected or known not to meet regulatory requirements.

Product factory – Means any premises that are:

- (a) a dairy factory used or intended to be used for the manufacture of any dairy product; or
- (b) a milk station

but does not include a farm dairy.

Product Safety Programme (PSP) – A programme of conditions, processes, procedures, measures, and standards to be complied with, performed, undertaken, taken, or met in relation to:

- (a) any process or activity related to dairy produce, ingredients used in the manufacture of dairy products, or both; and
- (b) sampling, examination, inspection, and testing, or any of those actions, relating to any such process or activity; and
- (c) the recording and inspection(by persons with qualifications and experience approved by the Director-General for the purpose) of information relating to any such action;

and (without limiting the generality of the foregoing) may include conditions, processes, procedures, measures, or standards relating to the production, manufacture, storage, or transport of dairy produce.

Registration – The official process whereby MAF formally confirms approval by the Director-General pursuant to the *Dairy Industry Regulations 1990*. Applies to individuals, organisations, laboratories and premises; includes adding those to its records, and other administrative aspects.

Regulatory requirements – Requirements described in or derived from legislation and/or importing country requirements, which must be met by regulated parties; found in legislation, NZFSA Standards, and MAF-approved documents (e.g. PSPs, NZFSA-approved standards).

Relabelling – Operation whereby the label on packaging containing dairy product is modified without removing the dairy product from the packaging.

Repacking – Manufacturing operation whereby dairy produce is removed from its packaging and packed into new packaging for sale as dairy product.

Reprocessing – Manufacturing operation whereby processed dairy produce is used as an ingredient in the manufacture of dairy product.

Safe – In relation to any dairy product, 'safe' means satisfactory, fit for human consumption, and not having in it or on it any pathogenic organisms

- (a) that are present in an amount that makes the product harmful or injurious to the health of the people who may eat or drink it; or
- (b) that
 - (i) are not present in an amount that makes the product harmful or injurious to the health of the people who may eat or drink it; but
 - (ii) by virtue of their ability to reproduce, to produce toxins, or both, make the product potentially harmful or injurious to the health of the people who may eat or drink it.

In relation to any dairy produce that is not a dairy product, 'safe' means satisfactory, and fit for the manufacture of dairy products.

Sanction – Official response to regulatory non-compliance.

Satisfactory – In relation to any dairy produce, means:

- a) not having in it or on it any harmful or injurious substances;
- b) not being, or containing, decomposed, dirty, rotten, spoiled or diseased substances;
- c) not affected by disease;
- d) not affected by any objectionable taint or smell;
- e) not containing any foreign matter; and
- f) not condemned under Section 9 of the *Dairy Industry Act*.

Store – Premises (not being a milk station, dairy factory, or farm dairy, or a retail shop or store ancillary to a milk station, dairy factory or farm dairy) used for storing any dairy product manufactured in any registered premises, before it comes into the possession of a buyer, or a person who is a party to a delivery arrangement (within the meaning of the *Milk Act 1988*) with the registered owner of the registered premises.

Sublotting – The process of dividing a lot or batch into two or three separate and distinct lots or batches.

Third Party Agency (TPA) – Organisation approved by NZFSA to carry out evaluation and/or verification services.

7.0 REQUIREMENTS

Everyone who produces, manufactures, transports, stores, or exports any dairy produce must operate in accordance with a NZFSA-approved Product Safety Programme (PSP) which documents procedures to ensure that any dairy produce that is:

- not demonstrably safe;
- produced, manufactured, stored or transported other than in compliance with an approved PSP;
- manufactured or stored in premises not registered for the class or description to which the product belongs or in breach of a condition of registration of those premises;
- not labelled in accordance with requirements; or
- condemned by an inspector under section 9 of the *Dairy Industry Act 1952*;

is disposed of with the consent, in writing, of the Director-General of MAF, and they keep records relevant to the above requirements.

All testing of non-conforming produce must be done in a registered dairy laboratory accredited/recognised in the appropriate category for the required test, using NZFSA-approved dairy test methods.

8.0 VERIFICATION

Verification of compliance with this Standard is undertaken by NZFSA or a NZFSA-approved TPA as part of a PSP assessment.

8.1 Criteria

The criteria for assessing compliance with this Standard are as follows.

- The means to deliver the requirements of this Standard are documented in a NZFSA-approved PSP.
- The party operates in accordance with that NZFSA-approved PSP.

- All non-conforming dairy produce is managed and disposed of in accordance with the requirements of this Standard.
- All instances of non-conforming dairy produce are reported in accordance with MAF Standard D102, "PSP Reporting Requirements."

8.2 Decision

The party is non-compliant if one or more of the criteria for assessing compliance is not met.

8.3 Result

8.3.1 Compliant parties

Compliant parties operating in accordance with NZFSA-approved PSPs are entitled to:

- produce milk or cream intended for the manufacture of dairy products,
- transport or store dairy produce, and
- manufacture, transport or store dairy products.

8.3.2 Non-compliant parties

Non-compliance with a NZFSA-approved Product Safety Programme (including selling or exporting dairy products not manufactured in accordance with an approved PSP) constitutes an offence under regulation 49 of the *Dairy Industry Regulations 1990*.

If a party does not operate in accordance with an approved PSP,

- an Order may be issued by a NZFSA Inspector to remedy any defects,
- export certification and/or use of any NZFSA marks may be suspended,
- approval of the PSP may be withdrawn, and/or
- prosecution for offences may occur.

9.0 VERSION CONTROL

Version	Date	Status	By	Approved
108.2	10 September 2004	Promulgated by Circular no. 83	Director, NZFSA Dairy & Plants	
108.1	23 December 1999	Promulgated by Circular no. 45	Director, NZFSA Dairy & Plants	

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Appendix One

ACCEPTABLE CRITERIA

Following are criteria by which a Product Safety Programme may be judged to satisfactorily achieve the requirements described in section 7 of this Standard. A Product Safety Programme which includes procedures for ensuring that each of these criteria is satisfied, and meets all other relevant PSP requirements, will be approved by NZFSA.

Proposals for alternative criteria may be approved by NZFSA, provided it can be demonstrated to NZFSA's satisfaction that the required outcomes will be achieved. A guide to the information required in these proposals and the procedures used by NZFSA to assess proposals can be obtained from NZFSA Dairy & Plant Products.

1.0 Identification

All dairy product that fails to meet the requirements of NZFSA Standard D107, "Dairy Product Safety," is identified as non-conforming.

All dairy raw materials that fail to meet the requirements of MAF Standard D115, "Raw Milk Acceptance," is identified as non-conforming.

All dairy produce supplied or manufactured, since the last recorded demonstration of conformance is identified as non-conforming.

Where dairy produce is produced, stored, transported or manufactured using common premises or equipment, all produce passing through that common premise or equipment since the last recorded demonstration of conformance and suspected of also being non-conforming is identified as non-conforming.

2.0 Management

All dairy produce identified as non-conforming is isolated, appropriately labelled and recorded and secured against use, sale or export.

All instances of non-conforming dairy produce is reported in accordance with MAF Standard D102, "PSP Reporting Requirements".

3.0 Information gathering

3.1 Traceback

When dairy produce is identified as non-conforming, a team of people with appropriate knowledge, skill and experience complete a traceback and prepare a written report.

The traceback examines all relevant records to:

- determine the extent of the defect,
- identify and isolate all non-conforming produce including current production,
- identify the cause(s),
- define the necessary corrective actions to ensure the current risk is effectively managed, and
- define the necessary corrective actions to ensure that future produce is protected against the defect.

3.2 Sampling and testing

Information to support the proposal for disposition is obtained from sampling and testing as follows.

3.2.1 Dairy raw materials

Sampling and testing of the raw materials is undertaken as prescribed by NZFSA on a case-by-case basis.

3.2.2 Dairy products

A Unregistered premises

Where dairy product has been:

- manufactured or stored in premises not registered for the class or description of product concerned, or
- in breach of a condition of registration of the premises,

sampling and testing of the product is undertaken as prescribed by NZFSA on a case-by-case basis.

B PSP coverage

Where there are gaps in PSP coverage, sampling and testing of the product is undertaken as prescribed by NZFSA on a case-by-case basis.

C Safety

i. PSP control systems

Where there has been a failure of a PSP control system, or the control limits have been exceeded, the non-conforming product is sampled and tested to assess the level of the hazard in the batch or lot of product. The minimum acceptable level of sampling and testing is undertaken as prescribed by NZFSA on a case-by-case basis.

ii. Finished product sampling and testing

Where sampling and testing of the finished product in accordance with NZFSA Standard D110 Dairy HACCP Plans," has identified that product fails to conform to the product safety standards specified in NZFSA Standard D107, "Dairy Product Safety," product is sampled and tested to assess the level of the hazard in the batch or lot of product. The minimum acceptable level of sampling and testing is undertaken as prescribed by NZFSA on a case-by-case basis.

D Truth of labelling

i. PSP control systems

Where there has been a failure of a PSP control system or the control limits have been exceeded, finished product is sampled and tested to assess the level of the attribute(s) in the batch or lot of product. The minimum acceptable level of sampling and testing is undertaken as prescribed by NZFSA on a case-by-case basis.

ii. Finished product sampling and testing

Where sampling and testing of the finished product in accordance with the HACCP plans as part of the PSP has identified that product fails to conform to the labelling standards specified in MAF Standard D103, "Labelling of Dairy Products," then the finished product is sampled and tested to assess the level of the attribute(s) in the batch or lot of product. The minimum acceptable level of sampling and testing is undertaken as prescribed by NZFSA on a case-by-case basis.

3.2.3 Sampling and testing conditions

Samples taken for the purposes of finished product testing are representative of the non-conforming product being sampled and remain representative. The portion of the sample that is tested is also representative of the product. Guidance on sampling techniques can be obtained from IDF Standard 50C: 1995 "Milk and Milk Products Guidance on Sampling."

All testing for the purposes of the determination of safety is undertaken using a NZFSA -approved test method for the attribute. A list of NZFSA -approved test methods can be obtained from the NZFSA Dairy & Plants website.

All dairy produce testing for food safety and truth of labelling is undertaken in a NZFSA-registered laboratory accredited/recognised in the appropriate category for the required test (refer MAF Standard D302, "Registration of Dairy Laboratories").

Resampling and retesting of product does not occur except:

- in accordance with the requirements for control of non-conforming testing and/or calibration work specified in ISO Guide 25/ ISO Standard 17025, and
- for the purposes of gathering information for the traceback.

4.0 Disposal of non-conforming dairy produce

The Director-General of MAF will provide written consent for the disposition of all non-conforming dairy produce. The owner of the non-conforming produce obtains this consent by submitting a detailed written proposal for disposition to NZFSA/the TPA. This proposal addresses the hazard, the level of risk associated with the proposed disposition and provides all relevant information relating to the produce concerned.

4.1 Options for disposal

The options available for the disposal of non-conforming dairy produce are:

[All produce disposal will normally be carried out in accordance with the D108 Guideline]

- sale as dairy product,
- use as dairy raw materials,
- use as animal feed or ingredients thereof,
- sale for non-food and non-feed uses, or
- destruction.

[In the case of unpackaged, perishable non-conforming dairy produce (usually liquid) the accountable person may allow the destruction of the produce in accordance with the D108 guideline and advise the TPA/NZFSA CIG within 24 hours, with a full report to follow within seven days.]

4.2 Conditions for disposal

The conditions for each disposal option are provided in Annex A. A flowchart is provided in Figure A1.1 to assist in selecting the appropriate disposal option.

4.3 Approval by other authorities

The owner of the dairy produce is responsible for obtaining the approval of any other authorities, e.g. the regional council, which is necessary for the disposal of the non-conforming produce.

4.4 Labelling of mislabelled and/or unsafe produce

Where dairy produce fails to meet the requirements of MAF Standard D103, "Labelling of Dairy Products," any MAF devices appearing on the product are defaced.

Where dairy produce fails to meet NZFSA Standard D107, "Dairy Product Safety," the following are completed:

- any MAF devices appearing on the product are defaced, and
- all packages and associated documentation bear the words "Not for Human Consumption".

4.5 Disposal

The owner of the produce disposes of the produce in accordance with NZFSA's consent and any conditions that have been specified by NZFSA, the TPA, and any other authority. The owner bears all costs associated with disposal of the produce.

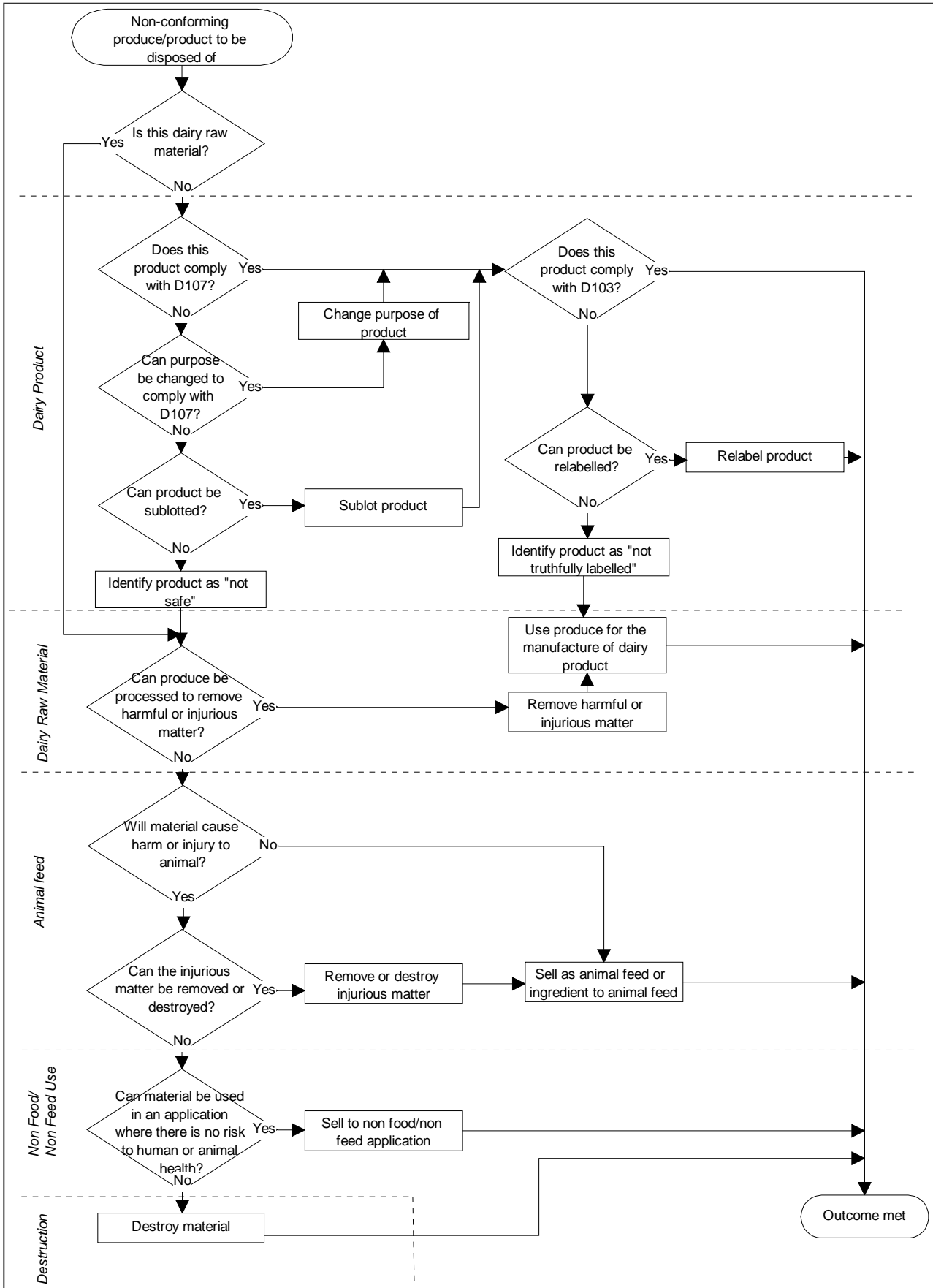
4.6 Confirmation of disposal

The owner of the produce provides NZFSA/the TPA with written confirmation of the disposal.

5.0 Records

The owner of the non-conforming dairy produce keeps appropriate records to demonstrate compliance with these requirements, for as long as is necessary for traceback and verification purposes.

Figure A1.1: Flowchart for considering disposal options



Annex A

CONDITIONS FOR DISPOSAL

The conditions of disposal are provided below for each option for disposing of non-conforming dairy produce.

1.0 Sale as dairy product

All product sold as dairy product complies with the following:

- *Dairy Industry Act 1952,*
- *Dairy Industry Regulations 1990,*
- NZFSA Standard D107, "Dairy Product Safety," and
- MAF Standard D103, "Labelling of Dairy Products."

Where product is sold in New Zealand or Australia, it also complies with the following:

- *Food Act 1982,*
- Australia-New Zealand Food Standards Code

Where product is to be exported to any country, with the exception of Australia, it also complies with the requirements of the importing country.

Dairy product may have its purpose changed, be sublabelled or relabelled provided it meets these requirements. Refer to sections 1.1, 1.2, and 1.3 below.

Where dairy product does not comply with these requirements it is considered for use as dairy raw materials. For the disposal options and conditions of dairy raw materials, refer to section 2.0, "Use as dairy raw materials."

1.1 Change of purpose

In two situations, the purpose of a dairy product may be changed to enable it to meet the requirements of NZFSA Standard D107, "Dairy Product Safety." These situations are as follows.

- Product fails to meet the importing country requirements of an importing country but meets the New Zealand standard or the importing country requirements of another importing country.
- Product fails to meet the requirements specified in NZFSA Standard D107, "Dairy Product Safety" for the intended use, e.g. infant formula, but meets the requirements for another use.

In both situations, product is labelled, before sale, in accordance with MAF Standard D103, "Labelling of Dairy Products."

1.2 Sublotting

A non-conforming batch or lot of dairy product may be split, provided all of the following conditions are met:

- The batch or lot has not been split previously.
- The batch or lot conforms to the limits for pathogenic micro-organisms specified in NZFSA Standard D107, " Dairy Product Safety ."
- The batch/lot is only split in one of the following ways:
 - good/defective,
 - defective/good, or
 - good/defective/good.
- Clear evidence exists which demonstrates that:
 - the process differed in some way which has caused some product to be defective; and
 - clear separation exists between the defective and "good" product.
- Each of the "good" sub batches/lots must be sampled and tested as a single batch/lot in accordance with the requirements specified in Appendix One, section 3.2, above.

1.3 Relabelling for sale as dairy product

Where dairy product meets the requirements above and is able to be relabelled to comply with MAF Standard D103, "Labelling of Dairy Products," it may be relabelled and sold as dairy product.

2.0 Use as dairy raw materials

All raw milk and dairy raw materials are to be satisfactory for use or sale as dairy raw materials.

All dairy raw materials comply with the following:

- *Dairy Industry Act 1952,*
- *Dairy Industry Regulations 1990,*

Satisfactory dairy raw materials may be used for the manufacture of dairy products, provided the resulting dairy product complies with the requirements for dairy products. This includes reprocessing and repacking.

Where unsatisfactory dairy raw materials can be processed or reprocessed to remove all harmful and injurious material, this may be done, provided the resulting dairy product complies with the requirements for dairy products.

Where dairy raw materials do not comply with these requirements they are considered for use as animal feed. For the options and conditions for disposal as animal feeds, refer to section 3.0, "Use as animal feed."

3.0 Use as animal feed

All material sold as animal feed or used as an ingredient for the manufacture of animal feeds complies with the following:

- *Agricultural Compounds and Veterinary Medicines Act 1999,*
- *Fair Trading Act 1986,*
- Pest management strategies made under order of the *Biosecurity Act 1993,* and
- "Standard for Oral Nutritional Compounds Offered for Sale in New Zealand," NZFSA Food: ACVM Group.

Material that meets the requirements for animal feeds may be used for animal feeds or the manufacture of animal feeds, provided the resulting animal feed complies with the requirements above.

Where material that is unsatisfactory for animal feed can be processed or reprocessed to remove all harmful and injurious material, this may be done, provided the resulting material complies with the requirements for animal feeds above.

Where material is disposed of in this manner, its use is supervised by NZFSA/the TPA, to ensure that all material is used and that none enters the human food chain.

Where material does not comply with these requirements, it is considered as material for non-food and non-feed use. For the options and conditions for disposal as material for non-food and non-feed use, refer to section 4.0, "Sale for non-food and non-feed uses."

4.0 Sale for non-food and non-feed uses

There is complete assurance that material used for non-food or non-feed uses cannot enter the human or animal food chain. All material sold for use in non-food and non-feed applications complies with the following:

- *Fair Trading Act 1986*, and
- *Sale of Goods Act 1908*

Where material is disposed of in this manner, its use is supervised by NZFSA/the TPA, to ensure that all material is used and that none enters the human or animal food chains.

Where material does not comply with these requirements, it is destroyed. Refer to section 5.0, "Destruction," for conditions.

5.0 Destruction

Material to be destroyed is buried in a controlled landfill or similar operation.

This destruction complies with:

- *Dairy Industry Act 1952,*
- *Dairy Industry Regulations 1990,*
- *Hazardous Substances and New Organisms Act 1996,*
- Pest management strategies made under order of the *Biosecurity Act 1993,* and
- *Resource Management Act 1991.*

Where material is destroyed, its destruction is supervised by NZFSA/the TPA, to ensure that all material is destroyed and that none enters the human or animal food chains.

Appendix Two

IMPORTING COUNTRY REQUIREMENTS

It is the responsibility of exporters to identify and comply with all importing country requirements; non-compliance is at their commercial risk.

Where NZFSA provides official assurances to competent authorities of importing countries, the statements to which NZFSA attests must be verifiable. Relevant requirements are described in the NZFSA Standard on dairy export certification.

At this time, NZFSA is not aware of any market access requirements involving official assurances which are additional to the requirements of this Standard.