



Australian Government

Department of Agriculture  
and Water Resources

# Proposals for changes to the inspection and analysis of imported foods – May 2017

Amendments to the Imported Food Control Order  
2001

**Imported Food**

Compliance Arrangements Branch, Compliance Division

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# Submissions

The Department of Agriculture and Water Resources is seeking submissions on proposed changes to the inspection and analysis of foods under the *Imported Food Control Act 1992* (the Act).

Your submissions will help us assess whether we need to amend these proposals to better meet the needs of stakeholders while still achieving the objectives of the *Imported Food Control Act 1992*.

## How to have your say

**The deadline for receipt of all submissions is 5pm on Monday 31 July 2017.**

The department will consider all relevant material provided within submissions. While there is no set format for a submission, please make sure you include at least the following information:

- the title of this consultation document
- your name and title
- your organisation's name if submitting on behalf of an organisation
- your contact details.

Ensure your comments can be clearly read because copies may be made to help with assessment and evaluation. Assist us by identifying the relevant section when making a general comment on a specific section of this consultation document.

You can return your submission in the following ways:

Submission: Proposals for changes to the inspection and analysis of imported foods - May 2017  
Imported Food Section  
Department of Agriculture and Water Resources  
GPO Box 858  
Canberra ACT 2601

[foodimp@agriculture.gov.au](mailto:foodimp@agriculture.gov.au)

If submitted by email, a hard copy of your submission is not needed. The department endeavours to formally acknowledge receipt of submissions within three business days. Submissions received after 31 July 2017 will not be considered unless an extension had been given before the closing date.

**Privacy:** Personal information collected by the department will only be used to enable the department to contact you about your submission and may be disclosed to specialists, another Commonwealth government agency, a State and Territory government agency or foreign government department, provided the disclosure is consistent with relevant laws, in particular the *Privacy Act 1988*.

The department requests that, as a minimum, you provide your name and contact details with your submission. Please indicate if you do not wish to have personal information published with your submission or disclosed to third parties.

Collected personal information will be used and stored consistent with the Australian Privacy Principles as outlined in the department's [Privacy Policy](#) available on the department's website.

**Confidentiality:** Subject to the *Freedom of Information Act 1982* and the *Privacy Act 1988*, content of submissions may be made public, unless you state you want all or part of your submission to be treated as confidential. A claim for confidentiality must be justified and provided as an attachment, marked 'Confidential'. 'Confidential' material will not be made public. The department reserves the right not to publish submissions.

No breach of confidence will occur if the department shares your submission with a third party referred to under 'Privacy' in seeking advice in response to your submission.

## Publishing of submissions

All submissions may be published on the department's [website](#). We will not publish material that is provided in-confidence, but will record that such information is held. In-confidence submissions may be subject to release under the provisions of the *Freedom of Information Act 1991* (FOI Act). Submissions may be published as soon as possible after the end of the public comment period. Where large numbers of documents are involved, the department would make them available on CD, rather than the website.

If you are making a submission, you may wish to indicate any grounds for withholding information contained in your submission. Reasons could include that the information is commercially sensitive or that you wish personal information, such as names and contact details, to be withheld. An automatic confidentiality disclaimer from your IT system will not be considered as grounds for withholding information if the department receives an FOI Act request.

We will take your indications into account when determining whether to release information under an FOI Act request. Any decisions to withhold information requested under the FOI Act may be reviewed by the Ombudsman.

## Next steps

After the consultation period has closed, the department will assess all submissions and consider what further amendments may be required to address the issues raised in submissions, while still achieving the objectives of the *Imported Food Control Act 1992*.

The finalised policy for amendments to the Order will then be recommended to the Minister for Agriculture and Water Resources.

**Table 1 Key dates for making amendments to the Order**

Date	Action
To 31 July 2017	Public consultation on the proposed changes to the inspection and analysis of imported foods
July/August 2017	Finalise amendments to the Order
August/September 2017	Amendments to the Order made
September/October 2017	Commencement of proposed changes to the inspection and analysis of imported foods (other than certification for bivalve molluscs and bivalve mollusc products)
September/October 2018	Commencement of certification for bivalve molluscs and bivalve mollusc products

# Proposals for changes to the inspection and analysis of imported foods

The *Imported Food Control Act 1992* (the Act) and the *Imported Food Control Regulations 1993* (the Regulations) set out provisions relating to the operation of the Imported Food Inspection Scheme (IFIS). Under the IFIS, the Minister classifies foods as either risk foods or surveillance foods. Risk foods are those classified in the *Imported Food Control Order 2001* (the Order).

The department is proposing changes to the Order, which will have implications for how some imported foods are inspected and analysed under the IFIS.

This public consultation allows the department to receive submissions that will form part of its process for considering the inspection and analysis of imported foods. Any changes recommended will be subject to government consideration and agreement.

## Links to imported food legislation

[\*Imported Food Control Act 1992\*](#)

[\*Imported Food Control Regulations 1993\*](#)

[\*Imported Food Control Order 2001\*](#)

## What is being reviewed

The department is seeking submissions on proposed changes to the inspection and analysis of imported foods, including proposed mandatory government certification of bivalve molluscs and bivalve mollusc products.

## What is not being reviewed

Aspects of the IFIS will not be considered as part of this review because they are being considered as part of other reviews and reforms processes. These are:

- the fees and charges contained within the Regulations are out of scope for this activity
- the imported food reform activity that the department is progressing
- the remaking of the Imported Food Control Regulations 1993.

Further information on this work is available on the department's [\*imported food reform web page\*](#).

The proposed changes to the inspection and analysis of foods will only consider amendments to the Order, as the remaking of the Regulations and the imported food reforms are addressing broader policy proposals to improve how we manage imported food safety risks.

# Summary of proposals

Based on risk statements that Food Standards Australia New Zealand (FSANZ) has published, the department is proposing amendments to the Imported Food Control Order 2001 (the Order) and changes to the inspection and analysis of imported foods. The risk statements published by FSANZ are on the webpage, [FSANZ advice on imported food](#). These changes relate to FSANZ advice finalised in June and November 2016, and which identifies those foods that have the potential to pose a medium or high risk to public health.

The changes to inspection and analysis are given effect through amendments to the Order by either adding, removing or modifying the kinds of foods that are considered 'risk foods'. Following amendments to the Order, the department uses Community Protection questions, known as 'CP questions' and tariff codes to refer a food for the inspection and analysis specified in the Order. The tariff codes used by the department are those in the International Convention on the Harmonized Commodity Description and Coding System (HS Convention).

The department is proposing the following changes to the Order and the inspection and analysis of the specified foods. The department invites comment on the implications of these proposed changes.

Other than for beef, beef products and seaweed, the proposed changes to inspection and analysis would not apply to food from New Zealand. This is because Australia and New Zealand have agreed to mutual recognition for the food safety controls for foods other than beef, beef products and seaweed. Imports from New Zealand of foods other than beef, beef products and seaweed, would continue to not be subject to the IFIS.

## *Seafood*

- Reclassify cooked crustaceans other than cooked prawns so that this food is not classified as risk food and therefore reduce the rate of inspection and analysis of this food (Proposal 1).
- Reclassify foods containing cooked prawns (cooked prawn products) so these foods are classified as risk foods and subjected to higher rates of inspection and analysis (for *Vibrio cholerae*), consistent with their risk to public health (Proposal 1).
- Reclassify foods containing bivalve molluscs (bivalve mollusc products) so these foods are classified as risk foods and subjected to higher rates of inspection and analysis (for biotoxins and *Listeria monocytogenes*), consistent with their risk to public health (Proposal 2).
- Classify bivalve molluscs and bivalve mollusc products so that these foods cannot be imported into Australia unless covered by a foreign government certificate the department has negotiated with the exporting country (Proposal 3). This measure would ensure through-chain food safety controls are in place for the production of bivalve molluscs.
- Reclassify ready-to-eat finfish so only cooked, smoked or cured finfish that is ready-to-eat but neither canned nor dried is a risk food (Proposal 4). This would mean the risk food in the Order would more closely align with the food that has the potential to pose a medium or high risk to public health. The reclassified risk food would also reflect the food the department currently inspects and analyses as a risk food.

### *Dried foods*

- Reclassify dried coconut so that this food is not classified as risk food and therefore reduce the rate of inspection and analysis of this food (Proposal 5).
- Reclassify dried chilli and dried fruits of the *Capsicum* genus so these foods are classified as risk foods and therefore subjected to higher rates of inspection and analysis that would be consistent with their risk to public health (Proposal 6).
- Reclassify the currently classified risk foods of pepper and paprika so that only the ready-to-eat forms of these foods would be risk foods and reduce the rate of inspection and analysis for pepper and paprika that are not ready-to-eat (Proposal 7).

### *Cheese*

- Include a definition of 'raw milk cheese' to clarify that raw milk cheese is only a risk food if it has not undergone a treatment specified in the Australia New Zealand Food Standards Code (Proposal 8). This would reflect the food the department currently inspects and analyses as a risk food.
- Reclassify 'cheese in which the growth of *Listeria monocytogenes* can occur' to clarify that cheese in which the growth of *Listeria monocytogenes* can occur is a risk food whether it is frozen or chilled (Proposal 8). This would mean the risk food in the Order would more closely align with the food that has the potential to pose a medium or high risk to public health. The reclassified risk food would also reflect the food the department currently inspects and analyses as a risk food.

### *Meat*

- Amend the definition of 'beef' in the Order to align with the Australia New Zealand Food Standards Code and so the current inspection and analysis requirements for cattle also apply to buffalo and bison (Proposal 9).
- Reclassify the current risk food of 'manufactured meat that is cooked' so the risk food is processed meat that is ready to eat but is neither canned nor dried (Proposal 10). This would mean the risk food in the Order would more closely align with the food that has the potential to pose a medium or high risk to public health. The reclassified risk food would also reflect the food the department currently inspects and analyses as a risk food.

### *Plant products*

- Classify the prohibited plants and fungi in Schedule 23 of the Australia New Zealand Food Standards Code as risk foods, to provide an efficient and effective means for the department to implement this current prohibition at the border (Proposal 11).
- Reclassify sesame seeds and sesame seed products so only the ready-to-eat forms of these foods would be risk foods, and so sesame seed oil is not a risk food (Proposal 12). This would mean the risk food in the Order would more closely align with the food that has the potential to pose a medium or high risk to public health. The reclassified risk food would also reflect the food the department currently inspects and analyses as a risk food.

- Reclassify the existing brown seaweed risk food to clarify that it is only brown seaweed of the *Phaeophyceae* class that is a risk food, so the risk food in the Order more closely aligns with the food that has the potential to pose a medium or high risk to public health (Proposal 13). The reclassified risk food would also reflect the food the department currently inspects and analyses as a risk food.
- Reclassify the existing risk food of peanuts, pistachios and their products to clarify that peanut oil and pistachio oil are not risk foods and foods containing 300 g/kg or less of peanuts and pistachios and their products are not risk foods (Proposal 14). This would mean the risk food in the Order would more closely align with the food that has the potential to pose a medium or high risk to public health. The reclassified risk food would also reflect the food the department currently inspects and analyses as a risk food.

#### *Technical amendments*

- Amendment of the definition of 'ready-to-eat' in the Order to provide that it does not include foods that are to be further processed to reduce pathogenic microorganisms potentially present in the food to safe levels (Proposal 15).
- Amendments to clarify that 'canned' foods in the Order are those that are both retorted and shelf stable, as defined in biosecurity legislation (Proposal 16).
- Amendments to clarify those foods that are classified as risk foods or surveillance foods, as currently provided for in the Imported Food Control Regulations 1993 (Proposal 17).

# Context

The department is one of many government agencies responsible for regulating food in Australia. The department administers two sets of requirements with which imported food must comply. Food imported into Australia must meet biosecurity requirements under the *Biosecurity Act 2015* (Cwlth). Imported food is also subject to the *Imported Food Control Act 1992* (Cwlth) and must meet requirements for food safety and compliance with Australia's food standards.

To monitor importers' compliance with sourcing food that meets Australia's food standards, the department operates a risk-based border inspection scheme—the Imported Food Inspection Scheme (IFIS).

FSANZ, an independent statutory authority, develops and maintains the Australia New Zealand Food Standards Code (the Code). The Code lists Australia's food standards requirements including for contaminants (such as microbiological and chemical), additives, labelling and genetically modified food, as well as production and processing standards.

FSANZ provides advice to the department on foods that have the potential to pose a medium or high risk to public health. The Minister may then classify these foods as risk food under the IFIS. All other food is classified as surveillance food. Risk food is initially referred for inspection and analysis at a rate of 100 per cent of consignments. Surveillance food is referred for inspection and analysis at a rate of five per cent of consignments.

In addition to the department's imported food testing, the state and territory governments and local governments have responsibility for ensuring that all food, including imported food, meets the requirements of food legislation (including the Code) at the point of sale.

There are two requirements that imported food must meet to ensure successful importation into Australia: biosecurity requirements and food safety requirements.

## Biosecurity requirements

All food imported into Australia must comply with Australia's biosecurity laws in the *Biosecurity Act 2015*. The department's [Biosecurity Import Conditions system \(BICON\)](#) can be used to determine if a commodity intended for import to Australia requires a permit or treatment, or if there are any other biosecurity conditions.

For further enquiries on Australian biosecurity or import permit requirements contact Imports:

Phone: 1800 900 090

Email: [Imports](#)

Importers must be sure that food complies with biosecurity requirements. If food does not meet biosecurity requirements, it will not be allowed entry into Australia.

## Food safety requirements

Once all biosecurity requirements have been addressed, food must also comply with Australia's food laws, including the *Imported Food Control Act 1992 (the Act)*.

The Act requires all imported food to meet the requirements in the [Australia New Zealand Food Standards Code](#) and not pose a risk to human health. It is the responsibility of the importer to ensure imported food complies with the Act and Australian food safety requirements.

FSANZ develops and maintains the Code. The Code lists Australia's food standards requirements including contaminants (such as microbiological and chemical), additives, labelling and genetically modified food, as well as production and processing standards.

## **Imported Food Inspection Scheme**

The department operates a risk-based border inspection scheme—the IFIS. Under this scheme, the department monitors importers' compliance with sourcing food that meets Australia's food standards and does not pose a risk to human health.

FSANZ provides advice to the department on foods that have the potential to pose a medium or high risk to public health. Regulation 9 of the Imported Food Control Regulations 1993 provides that food may be classified as risk food if FSANZ has advised the Minister that the food has the potential to pose a medium or high risk to public health. In accordance with regulation 9 and the advice from FSANZ, the Minister may classify foods as 'risk food' in the Imported Food Control Order 2001. All other food is classified as surveillance food.

Risk food is referred to the department by the Department of Immigration and Border Protection. Risk food is initially inspected and tested at a rate of 100 per cent of consignments against a published list of potential hazards, including microorganisms and contaminants. Once five consecutive consignments have passed inspection, the inspection rate may be reduced to 25 per cent; after a further 20 consecutive passes, the inspection rate may be reduced to 5 per cent.

Risk foods are subject to 'test and hold' direction and not released for sale until test results are known.

Surveillance food is referred for inspection and analysis at a rate of 5 per cent of consignments.

When imported food fails inspection, follow-up action such as treatment of the food to bring it into compliance, destruction or export is undertaken. Additionally, subsequent imports of the same food are subject to inspection at the rate of 100 per cent of consignments until a history of compliance is demonstrated.

Further information about the scheme is available on the department's [imported food inspection scheme web page](#).

# Our proposals for change

## Proposal 1 - Reclassify cooked crustaceans and foods containing cooked prawns

Reclassify cooked crustaceans, other than cooked prawns, so that this food is not classified as risk food and therefore reduce the rate of inspection and analysis of this food.

Reclassify foods containing cooked prawns (cooked prawn products) so these foods are classified as risk foods and subjected to higher rates of inspection and analysis (for *Vibrio cholerae*), consistent with their risk to public health.

### Background

FSANZ has published [risk statements](#) for cooked crustaceans, including cooked prawns, specifying that only cooked prawns and foods containing cooked prawns (cooked prawn products) have the potential to pose a medium or high risk to public health for the microorganism *Vibrio cholerae*.

### Current approach

Currently, the Order classifies crustaceans, including prawns, as a risk food if these foods are cooked (whether or not chilled or frozen), but are not canned. The department currently inspects all cooked crustaceans, including cooked prawns, that are ready-to-eat and not canned for *Salmonella* spp., coagulase-positive staphylococci and standard plate count (SPC) as a risk food. In addition, cooked prawns that are ready-to-eat and not canned are analysed for the microorganism *Vibrio cholerae* as a risk food.

Further details of the inspection and analysis of cooked crustaceans are on the department's [risk food web page](#).

### Proposed approach

The department proposes that cooked prawns should continue to be classified as a risk food if these foods are ready-to-eat and neither dried nor canned. In addition, the department proposes that foods containing cooked prawns (cooked prawn products) should be classified as a risk food if these foods are ready-to-eat and neither dried nor canned. This would be consistent with the advice provided in the risk statements published by FSANZ.

The reclassification of cooked prawn products as a risk food would mean that these foods would be subject to higher rates of inspection and analysis. However, only a small subset of cooked prawn products will need to be inspected or analysed as a risk food. The only forms of foods containing cooked prawns that need to be inspected and analysed as a risk food are those that are ready-to-eat and are neither canned nor dried.

The proposal would mean that cooked prawns would continue to be inspected and analysed for the pathogenic microorganism *Vibrio cholerae*, and cooked prawn products also would be inspected and analysed for the pathogenic microorganism *Vibrio cholerae*.

The proposal would also mean that cooked crustaceans other than cooked prawns would be reclassified so they are not risk foods (for example lobsters and crabs). This will mean that the inspection and analysis of cooked crustaceans other than prawns will be reduced.

The department is proposing to continue to inspect and analyse cooked crustaceans, including cooked prawns and cooked prawn products, for *Salmonella* spp., coagulase-positive staphylococci and standard plate count at the surveillance rate i.e. five per cent of consignments.

## Proposal 2 - Reclassify foods containing bivalve molluscs

Reclassify foods containing bivalve molluscs (bivalve mollusc products) so these foods are classified as risk foods and subjected to higher rates of inspection and analysis, consistent with their risk to public health.

### Background

FSANZ has published a [risk statement](#) for bivalve molluscs and foods containing bivalve molluscs (bivalve mollusc products) specifying that these foods have the potential to pose a medium or high risk to public health for biotoxins (paralytic shellfish poison and domoic acid) and the microorganism *Listeria monocytogenes*. Bivalve molluscs are foods such as oysters, mussels, clams and scallops.

### Current Approach

Currently, the Order classifies 'Molluscs Bivalve (whether cooked or uncooked)' as a risk food. Depending on the form of the bivalve molluscs, bivalve molluscs are currently inspected and analysed for the biotoxins domoic acid and paralytic shellfish poison, as well as the microorganisms *Listeria monocytogenes* and *E. coli*.

Further details of the inspection and analysis of bivalve molluscs are on the department's [risk food web page](#).

### Proposed approach

The department proposes that bivalve molluscs remain a risk food and that bivalve mollusc products be reclassified as a risk food, consistent with the advice provided in the risk statements published by FSANZ.

The reclassification of bivalve mollusc products (foods containing bivalve molluscs) as a risk food would subject these foods to higher rates of inspection and analysis. However, only a small subset of bivalve mollusc products would need to be inspected and analysed. The only forms that would need to be inspected and analysed are those that either:

- contain 500 g/kg or more of bivalve molluscs; or
- are ready-to-eat bivalve molluscs products and are neither canned nor dried.

The department would implement these changes through profiling foods with the use of relevant seafood tariff codes and Community Protection questions (CP questions). These codes and questions would apply when the goods are lodged under the Integrated Cargo System (ICS).

The department is proposing to make no changes to the current inspection and analysis of bivalve molluscs for *E. coli*.

## Proposal 3 - Certification for bivalve molluscs and bivalve mollusc products

Classify bivalve molluscs and bivalve mollusc products so that these foods cannot be imported into Australia unless covered by a foreign government certificate the department has negotiated with the exporting country.

### Background

Bivalve molluscs are foods such as oysters, mussels, clams and scallops. Standard 4.2.1 – Primary Production and Processing Standard for Seafood of the Australia New Zealand Food Standards Code includes through-chain food safety controls for the production of bivalve molluscs. Section 18 of the *Imported Food Control Act 1992* provides for the Secretary of the Department of Agriculture and Water Resources to determine that a certificate from a foreign government is a recognised foreign government certificate.

### Current approach

Currently, bivalve molluscs are classified as a risk food and subjected to inspection and analysis for various hazards, including the biotoxins (domoic acid and paralytic shellfish poison), *Listeria monocytogenes* and *E. coli*. Currently, bivalve molluscs produced in Australia have to comply with the requirements in Standard 4.2.1 – Primary Production and Processing Standard for Seafood of the Australia New Zealand Food Standards Code.

### Proposed approach

The department proposes the Order be amended to require foreign government certification of imported bivalve molluscs and bivalve mollusc products. This is because:

- FSANZ risk statements advise that bivalve molluscs are a medium or high risk to public health for the biotoxins, paralytic shellfish poison and domoic acid and for the microorganism *Listeria monocytogenes*; and
- through-chain production controls, including assurances about the management of growing and harvesting areas, are necessary to ensure that these hazards are effectively managed, and that bivalve molluscs and bivalve mollusc products are safe for human consumption.

This proposal would result in consistent regulation of imported and domestic bivalve mollusc production. The through-chain food safety controls specified in Standard 4.2.1 – Primary Production and Processing Standard for Seafood of the Australia New Zealand Food Standards Code are not currently being applied to imported bivalve molluscs. The introduction of mandatory foreign government certification of bivalve molluscs and bivalve mollusc products would enable the department to ensure these or equivalent through-chain food safety controls apply to imported bivalve molluscs and bivalve mollusc products.

The amendment to the Order would mean that bivalve molluscs and bivalve mollusc products could not be imported into Australia unless they were accompanied by a foreign government certificate. Many countries already require bivalve molluscs to be certified by exporting countries to ensure through-chain food safety controls are in place. For this reason, the requirement for certification is expected to have minimal impact on exporting countries.

Despite the expected minimal impact, certification arrangements with exporting countries will need to be negotiated. For this reason, the department is proposing that government certification not apply until 12 months after the Order is amended. This commencement date does not prevent any exporting country and the department from commencing voluntary certification arrangements before that date.

The department would only develop certification with an exporting country if that country could demonstrate the production of bivalve molluscs is consistent with the requirements in Standard 4.2.1 – Primary Production and Processing Standard for Seafood of the Australia New Zealand Food Standards Code. These requirements are consistent with those in the [Codex Alimentarius Code of Practice for Fish and Fishery Products](#).

New Zealand has measures in place in its legislation to manage the potential for hazards in bivalve molluscs and bivalve mollusc products. Furthermore, New Zealand already monitors hazards in imported food. For these reasons, the department is proposing that the requirements for government certification not apply to New Zealand products.

If the bivalve molluscs or bivalve mollusc products were imported without a recognised foreign government certificate, the product would not be permitted entry into Australia. A recognised foreign government certificate would be a certificate that the department has negotiated with the competent authority in the country exporting bivalve molluscs or bivalve mollusc products.

## Proposal 4 - Reclassify ready-to-eat finfish

Reclassify ready-to-eat finfish so only cooked, smoked or cured finfish that is ready-to-eat but neither canned nor dried is a risk food.
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### Background

FSANZ has published a [risk statement](#) for some ready-to-eat finfish specifying that these foods have the potential to pose a medium or high risk to public health for the microorganism *Listeria monocytogenes*.

### Current approach

Currently, the Order classifies ready-to-eat finfish as a risk food. Ready-to-eat finfish is inspected and analysed for the microorganism *Listeria monocytogenes*.

Further details of the inspection and analysis of this food is on the department's [risk food web page](#).

### **Proposed approach for order amendments**

FSANZ has advised that the ready-to-eat finfish that represent a medium or high risk to public health are those that are:

- cooked, smoked or cured; and
- ready-to-eat; and
- neither canned nor dried.

The department proposes to amend the Order to provide that the risk food is finfish that are cooked, smoked or cured and are also ready-to-eat and are neither canned nor dried. This amendment would more closely align the risk food in the Order with the food specified in the risk statement that FSANZ has published. This amendment would have no regulatory costs or benefits because the finfish (as amended) would be consistent with the food the department currently inspects and analyses.

## **Proposal 5 - Reclassify dried coconut**

Reclassify dried coconut so that this food is not classified as risk food and therefore reduce the rate of inspection and analysis of this food.

### **Background**

FSANZ has published a [risk statement](#) for dried coconut specifying that this food does not have the potential to pose a medium or high risk to public health.

### **Current approach**

Currently, the Order provides that 'coconut that is dried' is a risk food. Dried coconut is inspected and analysed as a risk food for the pathogenic microorganism *Salmonella* spp. Further details of the inspection and analysis of dried coconut is on the department's [risk food web page](#).

### **Proposed approach**

Consistent with the risk statements published by FSANZ the department proposes that the Order be amended so that dried coconut is not classified as a risk food. This would have the effect of reclassifying this food so that it is a surveillance food. This would mean this food would be subject to a five per cent rate of inspection and analysis, instead of the rates of inspection that apply to risk foods<sup>1</sup>.

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<sup>1</sup> Risk food is initially inspected and tested at a rate of 100 per cent of consignments against a published list of potential hazards, including microorganisms and contaminants. Once five consecutive consignments have passed inspection, the inspection rate may be reduced to 25 per cent; after a further 20 consecutive passes, the inspection rate may be reduced to 5 per cent.

The department is proposing to retain the analysis of dried coconut for *Salmonella* spp at the surveillance rate. This would mean that 5 per cent of consignments of dried coconut would be analysed for *Salmonella* spp. The department would implement this through the use of the specific tariff code for dried coconut.

This proposal potentially reduces inspection and analysis costs for importers of dried coconut.

## **Proposal 6 - Reclassify dried chilli and spice mixes of the *Capsicum* genus**

Reclassify dried chilli and dried fruits of the *Capsicum* genus so these foods are classified as risk foods and therefore subjected to higher rates of inspection and analysis that would be consistent with their risk to public health.

### **Background**

FSANZ has published a [risk statement](#) for pepper, paprika, dried chilli and other spices of the *Capsicum* genus specifying that these foods have the potential to pose a medium or high risk to public health for the microorganism *Salmonella* spp.

### **Current approach**

Currently, the Order only classifies ‘paprika that is dried’ and ‘pepper that is dried’ as risk foods. These foods and dried chilli and spices of the fruits of the *Capsicum* genus (including chilli) are currently inspected and analysed for the microorganism *Salmonella* spp as risk foods.

Further details of the inspection and analysis of pepper, paprika, dried chilli and other spices of the *Capsicum* genus are on the department’s [risk food web page](#).

### **Proposed approach**

The department proposes to reclassify dried chilli and other spices of fruits of the *Capsicum* genus so that these foods are risk foods, consistent with the advice provided in the risk statements published by FSANZ. The department further proposes that only the ready-to-eat forms of dried chilli and other spices of fruits of the *Capsicum* genus be classified as risk foods.

This reclassification potentially increases the inspection and analysis costs for importers of ready-to-eat forms of dried chilli and other spices of fruits of the *Capsicum* genus. This is because the reclassification would make these foods risk foods and therefore subject to a higher rate of inspection and analysis. However, the department expects the practical effect of this reclassification to be minimal because dried chilli and other spices of the fruits of the *Capsicum* genus are currently inspected and analysed as a risk food.

## Proposal 7 - Reclassify pepper and paprika

Reclassify the currently classified risk foods of pepper and paprika so that only the ready-to-eat forms of these foods would be risk foods and reduce the rate of inspection and analysis for pepper and paprika that are not ready-to-eat.

### Background

FSANZ has published a [risk statement](#) for dried pepper and paprika specifying that these foods have the potential to pose a medium or high risk to public health for the microorganism *Salmonella* spp.

### Current approach

Currently, the Order classifies dried pepper and paprika as risk foods. The department inspects and analyses dried pepper and paprika for *Salmonella* spp as a risk food.

Further details of the inspection and analysis of these foods are on the department's [risk food web page](#).

### Proposed approach

FSANZ has advised that only the ready-to-eat forms of dried pepper and paprika pose a medium or high risk to public health. The department proposes to reclassify dried pepper and dried paprika so that only the ready-to-eat forms are a risk food. This amendment would more closely align the risk food in the Order with the food specified in the risk statement that FSANZ has published.

The department would continue to implement these changes through profiling foods with the use of relevant tariff codes and Community Protection questions (CP questions) applied when the goods are lodged under the ICS. In this case, the department would implement this change through the use of a CP question that would require importers and brokers to identify if the pepper or paprika is ready-to-eat. Through this approach only ready-to-eat forms would be referred for inspection and analysis as a risk food.

## Proposal 8 - Amendments to current cheese classifications

Include a definition of 'raw milk cheese' to clarify that raw milk cheese is only a risk food if it has not undergone a treatment specified in the Australia New Zealand Food Standards Code.

Reclassify 'cheese in which the growth of *Listeria monocytogenes* can occur' to clarify that cheese in which the growth of *Listeria monocytogenes* can occur is a risk food whether it is frozen or chilled.

### Background

FSANZ has published [risk statements](#) for raw milk cheese and cheese in which the growth of *Listeria monocytogenes* can occur specifying that these foods have the potential to pose a medium or high risk to public health for certain microorganisms.

## Current approach

Currently, the Order classifies cheese in which the growth of *Listeria monocytogenes* can occur and raw milk cheese as risk foods. Cheese in which the growth of *Listeria monocytogenes* can occur is inspected and analysed for the microorganism *Listeria monocytogenes*. Raw milk cheese is subject to government certification and is inspected and analysed for *Listeria monocytogenes* and *Salmonella* spp.

Further details of the inspection and analysis of these foods are on the department's [risk food web page](#).

## Proposed approach

Cheese can be imported in frozen or chilled form. The department proposes that 'cheese in which growth of *Listeria monocytogenes* can occur' should be a risk food, irrespective of whether the cheese is frozen or chilled. This amendment would clarify the risk food includes both frozen and chilled forms of cheese in which the growth of *Listeria monocytogenes* can occur.

In addition, some forms of cheese are imported in a form that is not ready-to-eat. Consistent with the Australia New Zealand Food Standards Code, the department proposes that only 'ready-to-eat' cheese should be a risk food.

Raw milk cheese is cheese that has not been made using specifically treated milk or dairy products. The specified treatments are those in subclauses 16(1) and (2) and paragraph 16(3(a) of [Standard 4.2.4 – Primary Production and Processing Standard for Dairy Products of the Australia New Zealand Food Standards Code \(the Code\)](#). The department proposes the Order needs to be clarified so the risk food is only raw milk cheese that has not been made using milk or dairy products treated by one of the steps specified in subclauses 16(1) or (2) or paragraph 16(3(a) of Standard 4.2.4 of the Code. The department considers this amendment would be consistent with the risk advice that FSANZ has published. This amendment would also reduce any confusion about the risk food, including for international trading partners.

The department considers that all these amendments would have no regulatory costs or benefits because the risk food (as amended) would be consistent with the food the department currently inspects and analyses as a risk food.

## Proposal 9 - Amendments to current classifications for beef and beef products

Amend the definition of 'beef' in the Order to align with the Australia New Zealand Food Standards Code and so the current inspection and analysis requirements for cattle also apply to buffalo and bison.

### Background

All consignments of beef and beef products for human consumption imported into Australia must comply with the biosecurity and bovine spongiform encephalopathy (BSE) food safety requirements.

Under the *Imported Food Control Act 1992*, beef and beef products for human consumption are considered a risk food for the likely presence of BSE agent. The beef can only be sourced from countries that have had their BSE food safety risk assessed and a satisfactory BSE risk status assigned by FSANZ, and BSE certificates negotiated and agreed between the department and competent authorities of the exporting country.

### **Current approach**

Currently, the Order classifies beef and beef products as risk foods. The department inspects these foods for BSE certification. Further details of the inspection and analysis of these foods are on the department's [risk food web page](#).

### **Proposed approach**

Beef and beef products are currently classified as a risk food. However the current definition of 'beef' in the Order is limited to cattle. [Standard 2.2.1 – Meat and Meat products of the Australia New Zealand Food Standards Code](#) states that the BSE measures apply to 'bovines'. Bovines are animals in the subfamily *Bovinae* and include buffalo and bison. The department proposes to amend the definition of 'beef' in the Order so that it aligns with Standard 2.2.1. This amendment would have no regulatory costs or benefits because the risk food (as amended) would be consistent with the food the department currently inspects for certification requirements. This amendment would reduce any confusion about the risk food, including for international trading partners.

The proposed changes for beef and beef products would apply to food from New Zealand.

## **Proposal 10 - Reclassify cooked meat classification**

Reclassify the current risk food of 'manufactured meat that is cooked' so the risk food is processed meat that is ready to eat but is neither canned nor dried.

### **Background**

FSANZ has published a [risk statement](#) for some cooked meat specifying that these foods have the potential to pose a medium or high risk to public health for the microorganism *Listeria monocytogenes*.

### **Current approach**

Currently, the Order classifies manufactured meat as a risk food. The department currently inspects and analyses manufactured and processed meats for the microorganism *Listeria monocytogenes*, as well as for BSE certification, where relevant. Manufactured and processed meats are also analysed for *Salmonella spp.* at a rate of 5 per cent of consignments.

Further details of the inspection and analysis of this food is on the department's [risk food web page](#).

### **Proposed approach**

FSANZ has advised that the cooked meat that has the potential to pose a medium or high risk to public health is cooked processed meat that is ready-to-eat and is neither canned nor dried. The

department proposes to amend the Order to provide that the risk food is cooked processed meat that is ready-to-eat and is neither canned nor dried. This amendment would more closely align the risk food in the Order with the food specified in the risk statement that FSANZ has published. This amendment would have no regulatory costs or benefits because the meat (as amended) would be consistent with the food the department currently inspects and analyses.

## Proposal 11 - Classify prohibited plants and fungi

Classify the prohibited plants and fungi in Schedule 23 of the Australia New Zealand Food Standards Code as risk foods, to provide an efficient and effective means for the department to implement this current prohibition at the border.

### Background

FSANZ has published a [risk statement](#) for prohibited plants and fungi specifying that these foods have the potential to pose a medium or high risk to public health.

### Current approach

Currently, [Schedule 23](#) and [Standard 1.4.4](#) of the Australia New Zealand Food Standards Code specifies the plants and fungi that are prohibited plants and fungi. These foods cannot be sold for food for human consumption.

### Proposed approach

Based on the advice provided by FSANZ the department proposes to reclassify all the foods listed in Schedule 23 and Standard 1.4.4 so that these are risk foods. The effect of this would be to refer all these foods for inspection and analysis. On inspection, these foods would be identified as failing foods if they are for human consumption and therefore would need to be re-exported or destroyed.

The Australia New Zealand Food Standards Code specifies that prohibited plants and fungi cannot be sold for human consumption. If these foods are not for human consumption and are clearly labelled as not being food for human consumption, then the department would release the goods. The *Imported Food Control Act 1992* only applies to food that is used or capable of being used as food or drink for human consumption.

This amendment to the Order would have no regulatory costs or benefits because prohibited plants and fungi are already prohibited from sale under state and territory food legislation. The amendment to the Order to classify prohibited plants and fungi as risk foods would provide a means for the department to more efficiently and effectively implement this prohibition at the time of inspecting the food at the border.

## Proposal 12 - Reclassify sesame seeds and sesame seed products

Reclassify sesame seeds and sesame seed products so only the ready-to-eat forms of these foods would be risk foods, and so sesame seed oil is not a risk food.

## Background

FSANZ has published [risk statements](#) for sesame seeds and sesame seed products specifying that certain forms of these foods have the potential to pose a medium or high risk to public health for the microorganism *Salmonella* spp.

## Current approach

Currently, the Order classifies all sesame seeds and sesame seed products as risk foods. The department only inspects and analyses some sesame seeds and sesame seed products for *Salmonella* spp as a risk food. Details of these foods and their inspection and analysis are on the department's [risk food web page](#).

## Proposed approach

FSANZ has advised that only sesame seeds that are ready-to-eat and sesame seed products that are ready-to-eat and are not canned, nor cooked nor baked have the potential to pose a medium or high risk to public health.

The department proposes to reclassify sesame seeds so that it is only the ready-to-eat form that is a risk food. Similarly, the department proposes to reclassify sesame seed products so that the risk food is only the ready-to-eat forms that are not canned, baked nor cooked. In addition, the department proposes further amendments that would mean sesame oil is not a risk food. These amendments would reduce the scope of the sesame-containing foods that are inspected and analysed. However, the department expects any reduction in inspection and analysis to be minimal because the risk food (as amended) would be consistent with the sesame-containing foods the department currently inspects and analyses.

## Proposal 13 - Reclassify seaweed of the *Phaeophyceae* class

Reclassify the existing brown seaweed risk food to clarify that it is only brown seaweed of the <i>Phaeophyceae</i> class that is a risk food.
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## Background

FSANZ has published [risk statements](#) for seaweed specifying that brown seaweed of the *Phaeophyceae* class has the potential to pose a medium or high risk to public health for presence of iodine and inorganic arsenic.

## Current approach

Currently, the Order classifies all brown seaweed as a risk food. However, only seaweed of the *Phaeophyceae* class is inspected and analysed for iodine as a risk food and *Sargassum fusiforme* seaweed is also analysed for inorganic arsenic as a risk food.

Further details of the inspection and analysis of these foods are on the department's [risk food web page](#).

### **Proposed approach**

FSANZ has advised that seaweed of the *Phaeophyceae* class has the potential to pose a medium or high risk to public health. The department proposes to reclassify brown seaweed in the Order so that it is only brown seaweed of the *Phaeophyceae* class that is a risk food. This amendment would more closely align the risk food in the Order with the food specified in the risk statement that FSANZ has published.

This amendment would have no regulatory costs or benefits because the risk food (as amended) would be consistent with both the FSANZ published risk statement and the food the department currently inspects and analyses.

These proposed amendments would apply to food from New Zealand.

## **Proposal 14 - Reclassify peanuts and pistachios and foods containing peanuts and pistachios**

Reclassify the existing risk food of peanuts, pistachios and their products to clarify that peanut oil and pistachio oil are not risk foods and foods containing 300 g/kg or less of peanuts and pistachios and their products are not risk foods.

### **Background**

FSANZ has published [risk statements](#) for peanuts, pistachios, peanut products and pistachio products specifying which of these foods have the potential to pose a medium or high risk to public health for the mycotoxin aflatoxin.

### **Current approach**

Currently, the Order classifies all peanuts, pistachios, peanut products and pistachio products as risk foods. However, the department only inspects and analyses the following foods for aflatoxin as risk foods:

- peanuts
- peanut products (other than peanut oil)
- pistachios
- pistachio products (other than oil)
- foods containing more than 300 g/kg of all or any of the foods stated above.

Further details of the inspection and analysis of these foods are on the department's [risk food web page](#).

## Proposed approach

FSANZ has advised that:

- peanuts and pistachios continue to have the potential to pose a medium or high risk to public health; and
- peanut products other than peanut oil continue to have the potential to pose a medium or high risk to public health
- pistachio products other than pistachio oil continue to have the potential to pose a medium or high risk to public health
- foods containing more than 300 g/kg of peanuts, peanut products (other than peanut oil), pistachios and pistachio products (other than pistachio oil) have the potential to pose a medium or high risk to public health.

The department proposes that the Order be amended so that the foods classified as risk foods more closely aligns with the risk statements published by FSANZ and the food the department currently inspects and analyses for aflatoxin as a risk food.

The amendments to the Order would provide that the following foods would be classified as risk foods:

- peanuts
- peanut products (other than peanut oil)
- pistachios
- pistachio products (other than oil)
- foods containing more than 300 g/kg of all or any of the foods stated above.

The proposed amendment would have no regulatory costs or benefits because the risk food (as amended) would be consistent with the food the department currently inspects and analyses as a risk food.

## Proposal 15 - Amendment of the definition of 'ready-to-eat'

Amendment of the definition of 'ready-to-eat' in the Order to provide that it does not include foods that are to be further processed to reduce pathogenic microorganisms potentially present in the food to safe levels.

### Background

The [Australia New Zealand Food Standards Code](#) includes definitions of when a food is 'ready-to-eat' in different contexts.

### Current approach

The Order currently includes a definition of 'ready-to-eat' and provides that food is ready-to-eat if it is ordinarily consumed in the same state as that in which it is sold. This definition is based on a historical definition in the Code. Recent amendments to the Code mean that the current definition in the Order is out of date.

Based on the risk statements published by FSANZ, the hazards associated with most risk foods are only relevant where the food will not be further processed to reduce any pathogenic microorganisms potentially present in the food to safe levels. The definition of 'ready-to-eat' needs to reflect this.

### **Proposed approach**

The department proposes to amend the definition of 'ready-to-eat' in the Order to provide that a food is not ready-to-eat if it is intended to be further processed (such as cooking) to reduce any pathogenic microorganisms potentially present in the food to safe levels. These foods are not ready-to-eat because the further processing would reduce the risks associated with the food.

This amendment will have no regulatory costs or benefits for importers. However, the use of the amended definition will improve understanding of the risk foods in the Order.

## **Proposal 16 - Clarifying 'canned' foods**

Amendments to clarify that 'canned' foods in the Order are those that are both retorted and shelf stable, as defined in biosecurity legislation.
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### **Background**

The Order uses the expression 'canned' to describe some risk foods, with the purpose of excluding 'canned' forms of a food from being a risk food for certain microbiological hazards. This is because the canning process destroys pathogenic microorganisms.

### **Current approach**

Currently, the Order does not specify what 'canned' means and therefore the common meaning applies. The term 'canned' is not defined in the Australia New Zealand Food Standards Code.

The [Biosecurity \(Prohibited and Conditionally Non-prohibited Goods\) Determination 2016](#) uses the expressions 'retorted' and 'shelf stable' to describe foods, and includes definitions of these expressions.

### **Proposed approach**

To be consistent with biosecurity legislation, the department proposes to replace or clarify the expression 'canned' in the Order so that it is consistent with the approach used in the [Biosecurity \(Prohibited and Conditionally Non-prohibited Goods\) Determination 2016](#).

The department considers that this amendment would have no regulatory costs or benefits for importers. However, the use of the amended definition will improve understanding of what kinds of 'canned' foods are not considered risk foods in the Order.

## Proposal 17 - Classifying 'risk food and 'surveillance food'

Amendments to clarify those foods that are classified as risk foods or surveillance foods, as currently provided for in the Imported Food Control Regulations 1993.

### Background

Regulation 11 of the [Imported Food Control Regulations 1993](#) provides that food may be classified as surveillance food if it is not risk food, compliance agreement food or the subject of a holding order.

### Current approach

There is no specific provision in the Order that formally classifies foods as surveillance foods and this needs to be done so that there is a lawful basis for inspecting and analysing foods as surveillance foods.

### Proposed approach

The department proposes to improve transparency and amend the Order to classify food as surveillance food if it is not risk food, compliance agreement food or the subject of a holding order. This amendment would have no regulatory costs or benefits because surveillance foods would continue to be inspected and analysed as they currently are.

# Glossary

canned	'Canned' means the food has been retorted and is shelf stable.
Code	Australia New Zealand Food Standards Code.
Compliance agreement food	An agreement which may be entered into by the Secretary with a person in relation to food that may be imported into Australia in accordance with the terms of the agreement.
CP question	Community Protection question, sometimes known as a lodgement question.
Foreign government certificate	A certificate issued by an instrumentality of a specified foreign government stating that food of a specified kind meets applicable standards and does not pose a risk to human health.
FSANZ	Food Standards Australia New Zealand is a bi-national government agency responsible for developing food standards and administering the Australia New Zealand Food Standards Code. FSANZ advises the Department of Agriculture and Water Resources about food that poses a medium to high risk to human health and safety.
Holding order	A legal document provided for in the <i>Imported Food Control Act 1992</i> . Use of a holding order increases the rate of inspection of a failing food until subsequent imports demonstrate compliance with the requirements of the Act.
ICS	Integrated Cargo System is an application managed by the Department of Immigration and Border Protection and used to electronically report and record imports and exports coming into and leaving Australia. The application allows for the collection of duty and GST, and is used to monitor the movement of goods, capture statistics and for intelligence purposes.
IFIS	The imported food inspection scheme, provided for in the <i>Imported Food Control Act 1992</i> and set out in the <i>Imported Food Control Regulations 1993</i> , provides for inspection of food at the border to assess compliance with Australian food standards and that it does not pose a risk to human health.
Inspection	Includes physical inspection (visual and label assessment), or inspection and analysis (samples taken and sent for analysis), as the case requires.
Risk food	Food included in Schedule 1 of the <i>Imported Food Control Order 2001</i> .
Surveillance food	All other food not classified as risk food and not the subject of a holding order and is not compliance agreement food.