

Response ID [REDACTED]

Submitted to Public Consultation - Review of the Food Standards Australia New Zealand Act 1991 - Impact Analysis
Submitted on 2024-04-10 15:54:51

Introduction

Have you read the Impact Analysis?

Yes

Demographics

What is your full name?

Full name:

Dr Narelle Fegan

Are you answering on behalf of an organisation?

Yes

What is the name of your organisation?

Organisation name::

Food Safety Research Alliance (FSRA) – an alliance between federal/state government, industry and researchers/academics. These comments have been prepared by members of the Alliance but excluded the participation of members FSANZ and the New South Wales Food Authority.

Which sector do you represent?

Research/Academic

Other: :

What country are you responding from?

Australia

Other: :

If we require further information in relation to this submission, can we contact you?

Yes

What is your email address?

Email address::

[REDACTED]

Section 3 - The problems to solve

Section 3 - The problems to solve (Methodology)

What are the issues with the current methodology? How should it be improved? Please provide justification.

Free text box, no character limit:

The FSRA considers that the methodology used to develop ratings that address the impact and extent of the policy problems identified reflects the extensive consultation undertaken during this work. In particular, the FSRA supports the points raised under 3.1.10 (Policy Problem 4, Sub-problem 2) in which it is identified that FSANZ lacks adequate resources to coordinate and apply data collected to inform 'food safety and composition'. The FSRA supports the adequate resourcing of FSANZ to assist in this role to protect public health in increasingly complex food systems.

Are there other methodologies or evidence that the Impact Analysis should consider?

Free text box, no character limit:

Section 3 - The problems to solve (Ratings)

Are the ratings assigned to each of the sub-problems and ultimately the problem appropriate?

Yes

Which rating(s) do you believe is inappropriately rated? What would be a fair rating for the problem? Please provide justification. (Free text)

Free text box, no character limit:

Section 5 - Options for reform

Component 2.1

Component 2.1.1

Would amending Section 3 and 18 of the Act to include a definition of public health and safety reduce confusion about how FSANZ considers short and long-term risks to health when developing food standards?

Yes

Additional comments (optional):

The FSRA considers that the perception of competing priorities contributes to this confusion in industry and amongst regulators. A suitable definition of public health and safety may be found in the Ministerial Policy Guideline of 13 December 2013, in which it states that Public health and safety in relation to food refers to all those aspects of food consumption that could adversely affect the general population or a particular community's health either in the short term or long term, including preventable diet-related disease, illness and disability as well as acute food safety concerns. Any definition should reflect sound and robust science underpinning public health and safety.

Do you anticipate that this clarification could materially impact the way that FSANZ approaches applications and proposals and the factors to which they give regard?

No

Additional comments (optional):

The FSRA understands that FSANZ is currently required to consider public health and safety as part of its remit. Incorporating clarification of the scope of FSANZ's consideration could contribute to managing stakeholders' expectations of outcomes for applications and proposals. Further, more detail on the extent of the 'regard' that FSANZ is required to take of Ministerial Policy Guidelines would benefit all stakeholders

What would be the impact of clarifying the definition of 'protection of public health and safety' within the Act?

Positive

Additional comments (optional):

Component 2.1.2

Would revising the way FSANZ communicates its consideration of Ministerial Policy Guidance in developing food regulatory measures support greater transparency in the development of food regulatory measures?

Yes

How could the consideration of Ministerial Policy Guidance in the development of food regulatory measures be effectively communicated?

Free text box, no character limit:

More clarity for stakeholders about the regard given to Ministerial Policy Guidance, including a detailed reasoning for the acceptance or rejection of that guidance would be valued. The Food Regulation Secretariat should also play a greater role in this communication.

Component 2.1.3

Would new provisions and/or language changes in the Act better support FSANZ to recognise Indigenous culture and expertise?

Prefer not to respond / I don't know

Free text box, no character limit:

The FSRA supports recognition of indigenous cultures in Australia and New Zealand but this matter is out of scope of the Alliance.

What provisions or language changes could be included in the Act to promote recognition of Indigenous culture and expertise?

Prefer not to respond / I don't know

Free text box, no character limit:

The FSRA supports recognition of indigenous cultures in Australia and New Zealand but this matter is out of scope of the Alliance.

Component 2.1

Are there other initiatives that should be considered in Component 2.1?

Prefer not to respond / I don't know

Free text box, no character limit:

For example, of the European Union Regulation 178/2002 (General Food Law) can be taken, where Article 1 of the Regulation states:
This Regulation provides the basis for the assurance of a high level of protection of human health and consumers' interest in relation to food, taking into account in particular the diversity in the supply of food including traditional products, whilst ensuring the effective functioning of the internal market

Component 2.2

Component 2.2.1

Would the introduction of a risk-based framework support FSANZ to be flexible and proportionate in handling of changes to the Food Standards Code?

Yes

Free text box, no character limit:

The FSRA supports an evidence -based, outcome focused, approach to formulating food safety regulatory measures, based on risk assessments that are well articulated and designed.

What criterion and/or evidence should be used to form the basis of a risk framework?

Free text box, no character limit:

The indicative risk framework in Component 2.2.1 Table 10 forms a good base for the development of risk based framework for food regulatory measures. Criterion 5 can be expanded with consideration of i) whether similar applications/proposals have already been assessed in the bi- national system (i.e. to cover for variations in products, similar products by different applicants), ii) whether an evidence base has been compiled in support of regulatory decisions in other major global jurisdictions (i.e. EU, UK, US).

What would be the impact of introducing a risk-based framework to guide development of food regulatory measures for you?

Prefer not to respond / I don't know

Free text box, no character limit:

The FSRA would not be impacted directly

Component 2.2.2

Would enabling FSANZ to accept risk assessments from international jurisdictions support FSANZ to exercise risk-based and proportionate handling of applications and proposals? How so?

Yes

Free text box, no character limit:

The FSRA would support the adoption of scientifically sound standards from reputable international organisations, based on established criteria for acceptance. Adoption of these standards would require comparison of populations and dietary consumption patterns with Australian and New Zealand populations. This would be a cost and time saving measure for both FSANZ and industry, reducing duplication of effort and allowing input of international expertise into Australian systems.

Would enabling (but not compelling) FSANZ to automatically recognise appropriate international standards support more risk-based and proportionate handling of applications and proposals and improve efficiency and effectiveness? How so?

Yes

Free text box, no character limit:

The FSRA considers that there would be advantages for FSANZ in releasing resources, and also for industry.

Would introducing a minimal check pathway for very low risk products help FSANZ exercise risk-based and proportionate handling of applications and proposals and improve efficiency and effectiveness?

Yes

Free text box, no character limit:

The FSRA considers that this could be feasible, but needs to be considered within the current lack of holistic consideration of the Code, and the lack of review of the safety of Standards to ensure safety is supported by current food consumption patterns (as an example foods containing caffeine). FSANZ has to be resourced to undertake reviews, which would be consistent with incorporating a definition of public health and safety in the revised Act.

Would introducing principles in legislation to allow FSANZ to create other pathways to amend food standards help FSANZ exercise risk-based and proportionate handling of applications and proposals?

Prefer not to respond / I don't know

Free text box, no character limit:

The FSRA would not be impacted directly.

What would be the impact of introducing new pathways to amend food standards for you?

Prefer not to respond / I don't know

Free text box, no character limit:

The FSRA would not be impacted directly.

Are there other opportunities relating to new pathways to amend food standards that should be considered?

Prefer not to respond / I don't know

Free text box, no character limit:

Component 2.2.3

Would increasing opportunities for decision making arrangements to be delegated support FSANZ to be more flexible and efficient? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

The FSRA would not be impacted directly.

What factors should be considered when determining the level of risk for decision-making arrangements?

Free text box, no character limit:

The FSRA considers that the responsibilities of Ministers, making law for all Australian jurisdictions and New Zealand, should be carefully assessed before changes to decision making arrangements are considered further.

What would be the impact of streamlining decision-making arrangements for you?

Prefer not to respond / I don't know

Free text box, no character limit:

The FSRA would not be impacted directly.

What expertise should be considered when determining the delegation of decisions to an alternative person?

Free text box, no character limit:

No comment.

Component 2.2.4

Would a one-off investment of time and resources to develop and publish a list of traditional foods or ingredients that have undergone nutritional and compositional assessments facilitate entry of traditional foods to market?

Prefer not to respond / I don't know

Free text box, no character limit:

The FSRA supports recognition of indigenous cultures in Australia and New Zealand and considers that safety assessment could also be considered in the one-off investment, in addition to the nutritional and compositional assessment.

Would the development of further guidance materials on how traditional foods can be assessed for safety facilitate entry of traditional foods to market? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

Component 2.2.5

Would resourcing FSANZ to undertake more timely, holistic and regular reviews of standards allow FSANZ to be more strategic and consistent in changes to food standards?

Yes

Free text box, no character limit:

The FSRA represents an alliance of food safety researchers. The regular review of standards will allow for new scientific evidence to contribute to standard development, amendment or revocation where public health and safety is not supported

Are there other initiatives that should be considered to drive more holistic consideration of food standards?

Yes

Free text box, no character limit:

This holistic consideration needs to be clearly articulated within the revised Act, and FSANZ must be adequately resourced to undertake this as a priority activity in addition to horizon scanning activities, recognition of validated advanced testing methods, and improved data mining capacities. FSANZ should aim to build stronger links with national and international food safety and quality researchers.

Component 2.2.6

Would the use of Codes of Practice and guidelines better support the implementation of the Food Standards Code and help to address issues that do not warrant the time and resources required to develop or vary a standard?

Yes

Free text box, no character limit:

The Compendium of Microbiological Methods provides a good example of the use of Codes of Practice by FSANZ's to support the Food Standards Code.

Can you provide an example of an issue that would have been/be better solved by a Code of Practice or guideline?

Free text box, no character limit:

How could the decision pathway for the development of a Code of Practice or guideline be incorporated into the risk framework outlined in Component 2.2.1?

Free text box, no character limit:

What would be the expected impact if Codes of Practice and guidelines were developed for industry, by industry?

Neutral

Free text box, no character limit:

The FSRA recognises the value of FSANZ as an independent scientific authority. Codes of Practice to support food standards, as laws, must be developed by FSANZ in consultation with industry,

Component 2.2

Are there other initiatives that should be considered in Component 2.2?

Prefer not to respond / I don't know

Free text box, no character limit:

Component 2.3

Component 2.3.1

Would amending the compositional requirements of the FSANZ Board increase flexibility and reflect contemporary governance processes?

Yes

Free text box, no character limit:

The FSRA considers that application of modern board governance principles to the FSANZ board would be beneficial.

Would amending the nomination process for the FSANZ Board to be an open market process increase efficiency and support a better board skill mix?

Yes

Free text box, no character limit:

The FSRA notes that not all nominating organisations are extant. An open market approach should contribute to the diversity of the board, and allow for specific skills gaps to be more readily addressed.

Component 2.3.2

What would be the expected impact of removing the option for applications to be expedited?

Prefer not to respond / I don't know

Free text box, no character limit:

Component 2.3.3

What would be the expected impact of the implementation of an industry-wide levy?

Negative

Free text box, no character limit:

Increased or new industry levies may impact on impact on the food industry's ability to invest in research and innovation.

How could eligibility criteria for a levy be set so that it is fair, consistent and feasible to administer?

Free text box, no character limit:

What do you think could be an acceptable range for a levy rate? Please provide your response in Australian Dollars.

Free text box, no character limit:

What would be the expected impact of compulsory fees for all applications?

Prefer not to respond / I don't know

Free text box, no character limit:

Are there specific entrepreneurial activities that FSANZ should be considering charging for to build up a more sustainable funding base?

Prefer not to respond / I don't know

Free text box, no character limit:

The FSRA has no comment on specific entrepreneurial activities that FSANZ could undertake other than to note that the independence, or the perception of independence, is important for all stakeholders to have confidence in the food regulatory system. Moreover, increased entrepreneurial activities by FSANZ could serve to be a distraction from the organisation's principle activities.

Component 2.3.4

Would imposing a food recall coordination levy imposition contribute to a more sustainable funding base and support FSANZ to rebalance its workload priorities by addressing resourcing pressures? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

How could eligibility criteria for a levy be set so that it is fair, consistent and feasible to administer?

Free text box, no character limit:

Would charging jurisdictions to add additional proposal or project work to FSANZ's workplan meaningfully support FSANZ to rebalance its workload priorities by addressing resourcing pressures? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

What would be the expected impact of imposing a food recall coordination levy on jurisdictions?

Prefer not to respond / I don't know

Free text box, no character limit:

How would this need to be implemented to be successful?

Free text box, no character limit:

Would it be better to charge a levy per recall, or an annual levy?

Not Answered

Free text box, no character limit:

What would be the expected impact of charging jurisdictions a fee to add additional proposal work to FSANZ's workplan?

Prefer not to respond / I don't know

Free text box, no character limit:

How would this need to be implemented to be successful?

Free text box, no character limit:

Component 2.3

Are there other initiatives that should be considered in Component 2.3?

Prefer not to respond / I don't know

Free text box, no character limit:

Component 2.4

Component 2.4.1

Would establishing mechanisms to enable FSANZ and FMM to undertake periodic joint agenda setting lead to a shared vision of system priorities?

Yes

How would this need to be implemented to be successful?

Free text box, no character limit:

The FSRA understands that such mechanisms exist. If there is a perception of the mechanisms failing, it suggests lack of resources or communication on the part of the FMM and/or FSANZ.

What factors should be considered as part of the joint prioritisation matrix?

Free text box, no character limit:

In what ways could FSANZ and FMM work together in a more coordinated way?

Free text box, no character limit:

Component 2.4.2

Would more routine engagement between FSANZ and the FRSC reduce duplication of effort and missed opportunities to manage risk? How so?

Yes

Free text box, no character limit:

The FSRA understands that such mechanisms exist. If there is a perception of the mechanisms failing, it suggests lack of resources or communication on the part of FRSC and/or FSANZ.

What approaches could be used to improve collaboration between FSANZ, the FRSC, and the FMM?

Free text box, no character limit:

Component 2.4.3

Would FSANZ assuming a role as a database custodian for Australia meaningfully improve intelligence sharing across the regulatory system? How so?

Yes

Free text box, no character limit:

FSANZ assuming a role of guardianship of existing and new databases (such as AMR) is supported. This will be a significant piece of work, involving identification of suitable data sources, liaising with other data holders, identifying stakeholders, mining these data and sharing results. These data would provide direction for food safety research organisations to improve the health of Australian and New Zealand consumers. This would require additional resources, being a new role for FSANZ.

What types of data would be most useful for FSANZ to curate?

Free text box, no character limit:

Microbiological data, chemicals in foods, dietary consumption patterns, antimicrobial resistance bacteria, issue horizon scanning, foresighting. Preliminary work on data sharing has been conducted by the ISFR data working group and this should be revisited.

Component 2.4.4

Would establishing information sharing arrangements with international partners reduce duplication of effort and missed opportunities to manage risk?

Yes

Free text box, no character limit:

The FSRA considers that formal arrangements with reputable international partners (such as the current arrangement between FSANZ and Health Canada about GM food safety) can reduce duplications and improve risk management

What should be the focus of such information sharing arrangements?

Free text box, no character limit:

New and emerging food processing technologies, impact of changing environmental conditions on food composition and microflora, horizon scanning to identify knowledge gaps, risk assessment methodologies and risk assessment results.

Component 2.4.5

Would introducing Statements of Intent into food standards meaningfully improve consistent interpretation and enforcement of food standards? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

Out of scope for FSRA.

What should a Statement of Intent include to benefit industry and enforcement agencies to understand and consistently apply food standards?

Free text box, no character limit:

Component 2.4.6

Would FSANZ being resourced to develop, update and maintain industry guidelines improve consistent interpretation and enforcement of food standards? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

Out of scope for FSRA

Would amending the Act to allow FSANZ to develop guidelines in consultation with First Nations or Māori peoples support cultural considerations being taken into account in the food standards process?

Prefer not to respond / I don't know

Free text box, no character limit:

Out of scope for FSRA.

Component 2.4.7

Would FSANZ collaborating with jurisdictional enforcement agencies improve inconsistent interpretation and enforcement of food standards?

Prefer not to respond / I don't know

Free text box, no character limit:

Out of scope for FSRA.

Component 2.4

Are there other initiatives that should be considered in Component 2.4?

Prefer not to respond / I don't know

Free text box, no character limit:

Section 6 - Net Benefit

Section 6 - Net Benefit (Option 1)

Are there other costs and benefits that have not yet been qualified or quantified?

Prefer not to respond / I don't know

Free text box, no character limit:

What are the growth expectations of the First Nations and Māori food sector?

Free text box, no character limit:

What are the current delay costs to industry?

Free text box, no character limit:

Do you have any additional data that would be useful in characterising the costs and benefits of current regulatory settings?

No

Free text box, no character limit:

Any other comments regarding the Option 1 information in the Net Benefit section?

Prefer not to respond / I don't know

Free text box, no character limit:

Section 6 - Net Benefit (Option 2)

Are there other costs and benefits for different stakeholders that have not yet been qualified? What are they?

Prefer not to respond / I don't know

Free text box, no character limit:

Do you have any additional data that would be useful to characterising the costs and benefits of proposed initiatives?

No

Free text box, no character limit:

Any other comments regarding the Option 2 information in the Net Benefit section?

Prefer not to respond / I don't know

Free text box, no character limit:

Section 8 - Best option and implementation

Section 8 - Best option and implementation (Solving policy problems)

Does the approach to assessing the degree to which an option solves a policy problem make sense? How so?

Yes

Free text box, no character limit:

Is the rating assigned to each of the sub-problems appropriate? If not, why?

Yes

Free text box, no character limit:

Section 8 - Best option and implementation (Delivery risks)

Do you think the delivery risks have been appropriately identified and categorised within the Impact Analysis?

Yes

Free text box, no character limit:

Are the delivery risk ratings assigned to each of the sub-problems appropriate?

Yes

Free text box, no character limit:

Section 9 - Evaluation of the preferred option

Are there any other factors that should be captured in a future evaluation?

Yes

Free text box, no character limit:

Inadequate resourcing will continue to hamper FSANZ's efficiency, even with regulatory reform. The Australian and New Zealand governments should recognise the value of the safe food system that FSANZ, FMM and FRSC contribute to, along with jurisdictions and local governments. Food production and processing contributes significantly to the economies of both countries, at minimal costs to government 'FSANZ's substantive funding equates to \$0.70 per person per year in Australia and \$0.40 per person, per year in New Zealand' (p25, IAR).

Other comments

Is there anything else you want to share with us on the Impact Analysis?

Yes

Free text box, no character limit:

The Food Safety Research Alliance (FSRA) is a collaboration between Federal and State governments, academic and research institutions and the food industry. The FSRA aims to support Australian food and agribusinesses, government, research institutes and academia to jointly identify and prioritise gaps in food safety research, and develop a sustainable model for future research collaboration, enabling mutual benefit for all.

Privacy and Confidentiality

Do you want this submission to be treated as confidential?

No.

If you want all or parts of this submission to be confidential, please state which parts and why.

Free text box, no character limit: