

22 August 2001  
03/02

## **INITIAL ASSESSMENT REPORT**

### **PROPOSAL P244**

## **FOLATE HEALTH CLAIMS PILOT – LIST OF APPROVED PRODUCTS**

### **BACKGROUND**

The following foods no longer meet the requirement that the product must contain at least 40 micrograms of folate per serve, in order to carry a folate/neural tube defect health claim:

Burgen Sunflower Barley and Sunflower Seed Loaf;  
Burgen High Bake Heritage Rye;  
Burgen High Bake Heritage White;  
Burgen High Bake Heritage Granary Malt;  
Burgen High Bake Heritage Soy and Linseed;  
Burgen High Bake Heritage Wholemeal;  
Pro-Rol;  
Swissmaid;  
Tip Top Holsom's Wholemeal;  
Tip Top Holsom's Wholemeal Toast;  
Tip Top Holsom's Wholemeal with Wheatgerm;  
Tip Top Holsom's Wholemeal with Wheatgerm Toast;  
Tip Top Hifibre White Muffins; and  
Tip Top Pro-Rol Thick.

These products should therefore be removed from the table to subclause 19(e) of Standard A1 of Volume 1 of the Code and the table to subclause 1(5) of Standard 1.1.3 of Volume 2 of the Code.

### **SECTION 36 ACTION**

Since this proposal will not have a significant adverse effect on the interests of anyone, this proposal is being carried out under Section 36 action of the ANZFA Act. Therefore there will only be one round of public consultation and ANZFA will omit to undertake an Inquiry on this matter.]

## WORLD TRADE ORGANIZATION (WTO) NOTIFICATION

Australia and New Zealand are members of the WTO and are bound as parties to WTO agreements. In Australia, an agreement developed by the Council of Australian Governments (COAG) requires States and Territories to be bound as parties to those WTO agreements to which the Commonwealth is a signatory. Under the agreement between the Governments of Australia and New Zealand on Uniform Food Standards, ANZFA is required to ensure that food standards are consistent with the obligations of both countries as members of the WTO.

A decision as to whether this matter constitutes a potential Technical Barrier to Trade (TBT) or a Sanitary or Phytosanitary (SPS) matter will be considered and a decision made at Full Assessment.

## FOOD STANDARDS SETTING IN AUSTRALIA AND NEW ZEALAND

The Governments of Australia and New Zealand entered an Agreement in December 1995 establishing a system for the development of joint food standards. On 24 November 2000, Health Ministers in the Australia New Zealand Food Standards Council (ANZFSC) agreed to adopt the new *Australia New Zealand Food Standards Code*. The new Code was gazetted on 20 December 2000 in both Australia and New Zealand as an alternate to existing food regulations until December 2002 when it will become the sole food code for both countries. It aims to reduce the prescription of existing food regulations in both countries and lead to greater industry innovation, competition and trade.

Until the joint *Australia New Zealand Food Standards Code* is finalised the following arrangements for the two countries apply:

- **Food imported into New Zealand other than from Australia** must comply with either Volume 1 (known as *Australian Food Standards Code*) or Volume 2 (known as the joint *Australia New Zealand Food Standards Code*) of the *Australian Food Standards Code*, as gazetted in New Zealand, or the *New Zealand Food Regulations 1984*, but not a combination thereof. However, in all cases maximum residue limits for agricultural and veterinary chemicals must comply solely with those limits specified in the *New Zealand (Maximum Residue Limits of Agricultural Compounds) Mandatory Food Standard 1999*.
- **Food imported into Australia other than from New Zealand** must comply solely with Volume 1 (known as *Australian Food Standards Code*) or Volume 2 (known as the joint *Australia New Zealand Food Standards Code*) of the *Australian Food Standards Code*, but not a combination of the two.
- **Food imported into New Zealand from Australia** must comply with either Volume 1 (known as *Australian Food Standards Code*) or Volume 2 (known as *Australia New Zealand Food Standards Code*) of the *Australian Food Standards Code* as gazetted in New Zealand, but not a combination thereof. Certain foods listed in Standard T1 in Volume 1 may be manufactured in Australia to equivalent provisions in the *New Zealand Food Regulations 1984*.
- **Food imported into Australia from New Zealand** must comply with Volume 1 (known as *Australian Food Standards Code*) or Volume 2 (known as *Australia New Zealand Food*

*Standards Code*) of the Australian *Food Standards Code*, but not a combination of the two. However, under the provisions of the Trans-Tasman Mutual Recognition Arrangement, food may **also** be imported into Australia from New Zealand provided it complies with the New Zealand *Food Regulations 1984*.

- **Food manufactured in Australia and sold in Australia** must comply with Volume 1 (known as Australian *Food Standards Code*) or Volume 2 (known as *Australia New Zealand Food Standards Code*) of the Australian *Food Standards Code* but not a combination of the two. Certain foods listed in Standard T1 in Volume 1 may be manufactured in Australia to equivalent provisions in the New Zealand *Food Regulations 1984*.

In addition to the above, all food sold in New Zealand must comply with the New Zealand *Fair Trading Act 1986* and all food sold in Australia must comply with the Australian *Trade Practices Act 1974*, and the respective Australian State and Territory *Fair Trading Acts*.

Any person or organisation may apply to ANZFA to have the *Food Standards Code* amended. In addition, ANZFA may develop proposals to amend the Australian *Food Standards Code* or to develop joint Australia New Zealand food standards. ANZFA can provide advice on the requirements for applications to amend the *Food Standards Code*.

## **INVITATION FOR PUBLIC SUBMISSIONS**

Written submissions containing technical or other relevant information which will assist the Authority in undertaking a draft assessment on matters relevant to the application, including consideration of its regulatory impact, are invited from interested individuals and organisations. Technical information presented should be in sufficient detail to allow independent scientific assessment.

Submissions providing more general comment and opinion are also invited. The Authority's policy on the management of submissions is available from the Standards Liaison Officer upon request.

The processes of the Authority are open to public scrutiny, and any submissions received will ordinarily be placed on the public register of the Authority and made available for inspection. If you wish any confidential information contained in a submission to remain confidential to the Authority, you should clearly identify the sensitive information and provide justification for treating it in confidence. The *Australia New Zealand Food Authority Act 1991* requires the Authority to treat in confidence trade secrets relating to food and any other information relating to food, the commercial value of which would be or could reasonably be expected to be, destroyed or diminished by disclosure.

Following its draft assessment of the application the Authority may prepare a draft standard or draft variation to a standard (and supporting draft regulatory impact statement), or decide to reject the application. If a draft standard or draft variation is prepared, it is then circulated to interested parties, including those from whom submissions were received, with a further invitation to make written submissions on the draft. Any such submissions will then be taken into consideration during the inquiry, which the Authority will hold to consider the draft standard or draft variation to a standard.

All correspondence and submissions on this matter should be addressed to the **Project Manager - Proposal P244** at one of the following addresses:

Australia New Zealand Food Authority  
PO Box 7186  
Canberra Mail Centre ACT 2610  
AUSTRALIA  
Tel (02) 6271 2222 Fax (02) 6271 2278

Australia New Zealand Food Authority  
PO Box 10559  
The Terrace WELLINGTON 6036  
NEW ZEALAND  
Fax (04) 473 9942 Fax (04) 473 9855

Submissions should be received by the Authority by: **3 October 2001**.

## **CONCLUSION**

The products listed above do not meet the nutritional eligibility criteria to carry a folate/neural tube defect health claim and should therefore be removed from the table to subclause 19(e) of Standard A1 of Volume 1 of the Code and the table to subclause 1(5) of Standard 1.1.3 of Volume 2 of the Code.

## **ATTACHMENT**

Proposed draft variation to subclause 19(e) of Standard A1 of Volume 1 of the Code and subclause 1(5) of Standard 1.1.3 of Volume 2 of the Code.

## ATTACHMENT 1

*The Food Standards Code is varied by omitting the following products from subclause (19)(e) of Standard A1 of Volume 1 and subclause 1(5) of Standard 1.1.3 of Volume 2 –*

Burgen Sunflower Barley and Sunflower Seed Loaf;  
Burgen High Bake Heritage Rye;  
Burgen High Bake Heritage White;  
Burgen High Bake Heritage Granary Malt;  
Burgen High Bake Heritage Soy and Lindseed;  
Burgen High Bake Heritage Wholemeal;  
Pro-Rol;  
Swissmaid;  
Tip Top Holsom's Wholemeal;  
Tip Top Holsom's Wholemeal Toast;  
Tip Top Holsom's Wholemeal with Wheatgerm;  
Tip Top Holsom's Wholemeal with Wheatgerm Toast;  
Tip Top Hifibre White Muffins; and  
Tip Top Pro-Rol Thick.