



10 February 2015

Project Officer Proposal P1016
Food Standards Australia New Zealand
PO Box 10559
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WELLINGTON 6036



Dear Sir/Madam

Proposal P1016 Hydrocyanic acid in Apricot Kernels and Other Foods

Thank you for the opportunity to comment on this proposal. The Ministry for Primary Industries (MPI) has the following comments to make.

We have considered the five non-regulatory and regulatory options presented by FSANZ, and note that FSANZ considers that option 5 is the preferred option, which is to:

Prepare draft variations to include a prohibition on the sale of unhulled (skin on) and hulled (skin off) raw apricot kernels in Standard 1.4.4 with exemptions for apricot kernel-derived foods that are safe for human consumption.

Based on the information provided, MPI agrees with FSANZ's assessment that option 5 is the preferred approach. We will be interested to see the views of other stakeholders, and may review our position if new information comes to light.

Safety assessment

MPI agrees with FSANZ's risk assessment that consumption of both hulled and unhulled apricot kernels presents an unacceptably high risk to consumers due to hydrocyanic acid (HCN) poisoning. The occurrence of poisoning of New Zealand consumers following intentional consumption of apricot kernels supports the FSANZ toxicology assessment in establishing the significant risk these products present. MPI is also concerned that the level of variation of HCN in apricot kernels (reports of levels up to 2300 mg/kg where the average is considered to be 1450 mg/kg), creates challenges in developing and administering risk management strategies such as providing consumer advice and setting recommendations for appropriate

Standards

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consumption. Therefore, prohibiting the sale of both hulled and unhulled apricot kernels for sale in Australia and New Zealand will minimise the risks of poisoning incidences resulting from consumption of these products. It is worth noting that according to MPI's records, no enquiries or complaints regarding apricot kernels have been recorded since 2008.

Food-dietary supplement interface

Medsafe (under Ministry of Health) is responsible for administering the Dietary Supplements Regulations 1985. The definition of a dietary supplement includes that dietary supplements are sold in a controlled dosage form as a liquid, powder or tablet.

Medsafe has indicated that it would not regard apricot kernels themselves as a dietary supplement, given they are presented more like a food. Furthermore, Medsafe considers that apricot kernel extracts that have been encapsulated or tableted are unlikely to meet the definition of dietary supplement, as apricot kernels contain amygdalin. In New Zealand, amygdalin is scheduled as a prescription medicine at all strengths, and dietary supplements must not contain ingredients at quantities that are scheduled as prescription, restricted (pharmacist only), or pharmacy only under the Medicines Regulations 1984.

Food – supplemented food interface

The New Zealand Supplemented Food Standard 2013 regulates products sold as supplemented food, and are defined as being represented as a food that has a substance or substances added, that have a physiological role over and above that provided from food. The standard requires that certain aspects of the Food Standards Code applies. Standard 1.4.4 Prohibited Plants and Fungi applies to supplemented food, meaning that manufacturers, importers and sellers must meet the requirements under this Standard. Therefore, if the proposed draft variation were to be accepted, supplemented foods would not be permitted to contain apricot kernels (apart from the exempted foods). MPI considers that based on FSANZ's risk assessment, this is an appropriate outcome. MPI also notes that the standard also requires that a supplemented food must not contain any substance that is intended to have an intoxicating effect on any person who consumes it.

Import data

According to New Zealand Customs import data records dating back to 2011, apricot kernels have been imported into New Zealand each year. Between 2011 and 2013 there was an average of 264 kg imported. In 2014, approximately 1280 kg were imported; the increase due to a single shipment of 1000 kg from Turkey. The import data also shows that the intended end use of the apricot kernels is likely to be for raw consumption, rather than for further processing. MPI does not have any further information on the potential use for such ingredients.

Manufacture and sale of apricot kernels in New Zealand

MPI has been unable to obtain information from the industry on the manufacture and sale of apricot kernels in New Zealand.

MPI conducted a search on apricot kernels as an ingredient contained in food type dietary supplements collected in its survey in 2012. No products were identified as containing apricot kernels. We also conducted a further search using the University of Auckland, *National Institute for Health Innovation Nutritrack database*. MPI identified 7 unique cake and biscuit products containing apricot kernels as an ingredient during 2013 and 2014. These products are similar to that identified in FSANZ's risk assessment. No packaged apricot kernels were found.

Comments on the proposed options

Option 1 – Maintain status quo

MPI agrees that based on the risk assessment, and the potential risk of harm to children, maintaining the status quo is not adequate in protecting public health and safety. MPI also agrees that the effectiveness of website advice may be limited, in particular where not all population groups have access to the internet, or would even consider seeking out this information.

Option 2 – Mandatory labelling

Mandatory labelling in addition to providing consumer advice, may limit consumption. MPI does however agree that based on the risk assessment, and the potential risk of harm to children of consuming as little as one kernel per day, this option may not be adequate in protecting public health and safety.

Option 3 – Set maximum limit

This Standard sets out the maximum levels (MLs) of specified metal and non-metal contaminants and natural toxicants in nominated foods. As a general principle, regardless of whether or not an ML exists, the levels of contaminants and natural toxicants in all foods should be kept As Low As Reasonably Achievable (the ALARA principle). MPI agrees that based on the risk assessment, the ML for apricot kernels alone, would be set at a very low level and would effectively lead to a similar outcome under Option 5. MPI however considers that expanding the current list in Table to Clause 4 under Standard 1.4.1 and setting an ML for apricot kernel containing products, would be a suitable option. This is discussed further under '*Comments on the draft variation*' below.

Option 4 – Prohibition on sale of unhulled apricot kernels, plus consumer advice regarding hulled kernels

Based on the information provided, MPI considers that prohibiting the sale of unhulled apricot kernels that contain significantly higher amounts of HCN, and where the acute reference dose is 3 kernels for adults and 1 for children, is an appropriate risk management approach.

If hulled apricot kernels were continued to be sold, it is questionable whether manufacturer's advice on maximum consumption levels (no more than 21 kernels for adults, and 6 kernels for children) would be a sufficient risk management strategy in particular for children. Furthermore, where levels of HCN in kernels have been reported well above the average, the recommended maximum levels remain a concern. Size, legibility, and positioning of this information on the product would also need careful consideration, as it is possible that this information may be overlooked. Provision of manufacturer's advice should also be supported with consumer information and fact sheets to ensure greater consumer awareness.

Option 5 – Prohibition on sale

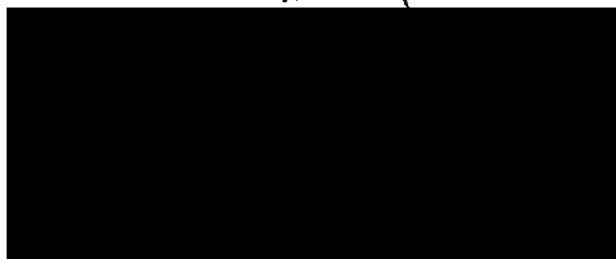
MPI agrees that based on the risk assessment and additional information provided, the option to prohibit the sale of both unhulled and hulled apricot kernels presents the greatest protection of public health and safety. MPI also agrees that it should not limit the sale of apricot kernel derived foods which do not present a risk to public health, such as biscuits, jams and apricot nectar that are currently on the market. MPI is however concerned that the draft variation may not adequately prohibit the production of new and innovative apricot kernel containing products such as confectionery and cakes. MPI's concerns are outlined in the following section.

Comments on the draft variation

Based on the information provided to date, MPI agrees with the preferred option 5 to prohibit the sale of both hulled and unhulled apricot kernels. This is based on the level of risk and the difficulty in managing this risk through risk management strategies such as labelling and/ or consumer advice.

MPI is however concerned that the draft variation under Standard 1.4.4 Clause 3, may still allow for the addition of raw apricot kernels to foods such as cakes, biscuits and confectionery. Although we understand the intention is to allow for products currently available on the market (such as almond fingers and amaretto) to be sold, it may also allow for an increase in the production of apricot kernel containing products, such as chocolate covered apricot kernels (sold as confectionery), or ground up apricot kernels added to a muesli bar (sold as a cake or biscuit). MPI considers that this might be avoided by providing an ML in Table to Clause 4, under Standard 1.4.1 for cakes, biscuits, oils, and confectionery.

Yours sincerely,

A large black rectangular box redacting the signature of the Manager Food Science and Risk Assessment.

Manager Food Science and Risk Assessment