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Dear s 22

Thank you for your enquiry, received by FSANZ on 8 October 2014, regarding Diatomaceous Earth as a potential novel food. You enquired whether in the view of the Advisory Committee on Novel Foods (the Committee)¹ an application to amend Standard 1.5.1 - Novel Foods of the *Australia New Zealand Food Standards Code* (the Code) should be made.

Standard 1.5.1 of the Code requires FSANZ to conduct a pre-market safety assessment of those non-traditional foods that are deemed to be novel according to the definitions in the Standard. The definitions of 'non-traditional food' and 'novel food' are provided in the Attachment to this letter.

The Committee discussed your enquiry on 26 November 2014. The Committee used the Guidance Tool to assist in finalising a view. The Guidance Tool is divided into Part 1 – Determining whether a food is non-traditional or not; and Part 2 – Determining whether an assessment of public health and safety considerations is required for a non-traditional food.

The Committee has formed the view that Diatomaceous Earth does meet the definition of 'non-traditional food' on the basis that this food does not have a history of human consumption in Australia or New Zealand (part 1 of the guidance tool). Part 2 of the Guidance Tool requires the Committee to consider whether Diatomaceous Earth requires a pre-market assessment of public health and safety considerations. The Committee has undertaken a preliminary hazard identification process and formed the view that an assessment of public health and safety considerations is not required for Diatomaceous Earth. Based on the information available, it is unlikely that Diatomaceous Earth is considered to be within the scope of the definition of novel food for the purposes of standard 1.5.1.

The Committee noted that Diatomaceous Earth used as a food ingredient should meet the specifications for identity and purity of Diatomaceous Earth used as a processing aid/filtering agent in foods. Standard 1.3.4 – Identity and Purity - of the Code lists relevant references sources for specifications of processing aids, such as Diatomaceous Earth. The Committee's

¹ The Advisory Committee on Novel Foods comprises representatives from Australian State and Territory jurisdictions, and the New Zealand Ministry for Primary Industries. The Committee provides recommendations to the General Manager / Food Standards (Wellington) as to whether particular foods meet the definitions of 'non-traditional food' and 'novel food' in Standard 1.5.1 of the Code.

view is therefore relevant only for Diatomaceous Earth that meets these specifications. The Committee noted that the World Health Organisation's Joint Expert Committee on Food Additives and the United States Food Chemical Codex have both published specifications for Diatomaceous Earth. The Committee also noted that Australian state and territory and New Zealand Food Acts require that all food offered for sale should be safe and suitable.

It is the responsibility of manufacturers, suppliers or importers to ensure products comply with the requirements of the Code. FSANZ is not responsible for enforcing the requirements of the Code. Enforcement of the Code is the responsibility of the Commonwealth, State, Territory and New Zealand Governments. Accordingly, the interpretation and application of Standard 1.5.1, including decisions about the novelty of a food or food ingredient, is ultimately the responsibility of those jurisdictions. Therefore while the Committee may express a view about whether or not Diatomaceous Earth meets the definition of a novel food for the purposes of Standard 1.5.1, it is ultimately a decision for the relevant enforcement authority.

You should also note that the making of health claims on food labels or advertisements for food is subject to the requirements of Standard 1.2.7 – Nutrition, Health and Related Claims and Standard 1.1A.2 – Transitional Standard – Health Claims. Standard 1.1A.2 is a transitional standard that operates concurrently with Standard 1.2.7 until January 2016. During the transitional period Standard 1.1A.2 operates unchanged by Standard 1.2.7. A supplier can rely on this Standard or Standard 1.1A.2, but not both. At the end of the transitional period, Standard 1.1A.2 will cease to operate.

If you wish to discuss this matter further, please contact [REDACTED]

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Yours sincerely

Dean Stockwell
General Manager
Food Standards (Wellington)

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ATTACHMENT

non-traditional food means –

- (a) a food that does not have a history of human consumption in Australia or New Zealand; or
- (b) a substance derived from a food, where that substance does not have a history of human consumption in Australia or New Zealand other than as a component of that food; or
- (c) any other substance, where that substance, or the source from which it is derived, does not have a history of human consumption as a food in Australia or New Zealand.

novel food means a non-traditional food and the food requires an assessment of the public health and safety considerations having regard to -

- (a) the potential for adverse effects in humans; or
- (b) the composition or structure of the food; or
- (c) the process by which the food has been prepared; or
- (d) the source from which it is derived; or
- (e) patterns and levels of consumption of the food; or
- (f) any other relevant matters.