



DISCUSSION PAPER

PROPOSAL TO REVOKE THE

CODE OF PRACTICE FOR DAIRY

FOOD SAFETY, 2002

MAY 2017

Background

The *Dairy Act 2000(Vic)* (the Dairy Act) provides for DFSV to make a code of practice which imposes a duty or duties on a specified person or body or a specified class of persons and bodies. The current *DFSV Code of Practice for dairy food safety* (the Code) was approved by the then responsible Minister in September 2002 and came into effect on 1 December of that year.

The Code outlines the framework for regulation of food safety in the Victorian dairy industry and sets out the general principles of the regulations and specific requirements for each type of dairy business.

Major changes have occurred in the food regulatory landscape since 2002 and throughout 2015 DFSV conducted a systematic review of the regulatory framework including the regulatory requirements of the Dairy Act, the *Food Act 1984 (Vic)* (Food Act), the Australia New Zealand Food Standards Code (FSC), the Code and current DFSV standard licence conditions.

It was found that, in addition to the Code referencing out of date and superseded requirements, all regulatory requirements currently outlined in the Code of Practice are imposed by, and enforceable through, primary legislation. Specifically many of the requirements of the Code of Practice are now covered by the FSC through the introduction in 2008 of Standard 4.2.4 – Primary Production and Processing Standard for Dairy Products. In addition a number of documents referenced in the Code of Practice have been superseded and the specific requirements are inconsistent with those outlined in the Code of Practice.

Proposal

DFSV is of the view that given that the regulatory requirements of the relevant Acts and the FSC substantially cover the requirements of the Code of Practice and are considered to adequately manage food safety risk in dairy businesses, a code of practice is no longer necessary in order to effectively regulate food safety in the Victorian dairy industry. On this basis DFSV intends to request that the Minister for Agriculture revokes the Code.

The 2015 review highlighted the complexity of the dairy regulatory framework and in order to ensure that Victorian dairy businesses can easily access information about their regulatory obligations it is intended that a licensee 'manual' and supporting guidance materials be developed, provided to all licensees and prospective licensees and made available on the DFSV website.

Implications

The Code outlines general requirements for all dairy businesses to implement hygienic practices, prevent contamination and implement a HACCP based Food Safety Program (FSP).

The Code goes on to outline for each business type specific requirements to be implemented, adding detailed requirements for FSP support programs (eg pest control, cleaning, traceability) and referencing FSC standards.

S16 of the Food Act requires that any person must comply with the requirements of the FSC in relation to '*conduct of a food business or to food intended for sale*'. General food safety requirements for food businesses are outlined in Chapter 3 of the FSC and the specific requirements for food safety in dairy businesses in Standard 4.2.4.

For dairy farms the specific requirements in Standard 4.2.4 include the requirement for the business to:

- implement a documented food safety program that includes measures to control the temperature of milk to prevent or reduce the growth of microbiological hazards and to ensure milk only sourced from healthy animals,
- implement support programs for cleaning and pest control
- maintain a system for ensuring traceability of inputs, animals and milk produced
- ensure staff have appropriate skills and knowledge for the work they undertake
- implement additional measures for production of milk to be used for raw milk cheese

There may be some dairy farmers who are producing milk for profit but not for processing for human consumption who would not be covered by the Food Act. DFSV would not want to impose food safety requirements on such businesses except to the extent that they ensure that the milk produced cannot be consumed or mistaken for food. DFSV has imposed licence conditions on all licensees in order to manage this risk and it is intended that this licence condition remain in place.

For dairy collection and transportation (defined as carriers under the Dairy Act) the specific requirements in Standard 4.2.4 include the requirement for the business to:

- implementation of a documented food safety program that includes measures to manage hazards arising from vehicles, equipment and containers used and the staff engaged,
- implement a support program for cleaning
- implement time and temperature controls to prevent to reduce the growth of microbiological hazards
- ensure staff have appropriate skills and knowledge for the work they undertake
- implement specific measures for transportation of raw milk to make raw milk cheese

For dairy processing (or manufacturers under the Dairy Act) the specific requirements in Standard 4.2.4 include the requirement for the business to:

- implement a documented food safety program that includes measures to control the temperature of milk to prevent or reduce the growth of microbiological hazards and to ensure milk only sourced from healthy animals,
- maintain a system for identifying suppliers of inputs and immediate recipients of products produced
- treat milk used to make dairy products (other than milk used to make raw milk cheese) or dairy products in a specified way to kill and reduce pathogenic microorganisms
- produce raw milk cheese in accordance with specific requirements
- ensure staff have appropriate skills and knowledge for the work they undertake

There may be some dairy manufacturers who receive milk direct from a dairy farm but do not handle or sell food (ie producers of dairy products not intended for human consumption) who would not be covered by the Food Act. DFSV would not want to impose food safety requirements on such businesses except to the extent that they ensure that the dairy products they produce could not be mistaken for food. DFSV has already imposed licence conditions on all licensees in order to manage this risk and this licence condition would remain.

Standard 4.2.4 of the FSC does not currently include specific requirements for dairy distributors and the food safety requirements for distribution businesses are limited to the requirements outlined in Standard 3.2.2 and Standard 3.2.3. As a result the current Code requirement that dairy distributors have a FSP would no longer apply if the Code were revoked. This would bring DFSV regulatory requirements into line with both national and Victorian requirements on like businesses ie businesses which only warehouse or distribute pre-packaged food. Currently a declaration under s19 of the *Food Act 1984* requires Class 3 businesses such as distributors to keep records with respect to temperature control, suppliers and distribution of product. DFSV is of the view that these requirements are adequate to manage food safety risk in dairy distribution businesses and that the removal of a requirement for dairy distributors to have a documented food safety program does not compromise the food safety regulatory framework.

Attachment 1 provides an analysis of the provisions in the 2002 Code against the primary legislative instruments which impose the corresponding regulatory requirements on dairy businesses.

Attachment 1: Analysis of Code of Practice provisions against other legislative instruments

<p>1.2 Powers of authorized officer</p>	<p>Direct quotes from the Dairy Act</p>
<p>1.3 Adopts Listeria Manual, Salmonella Manual and Vol 2 of 2000 Food Standard Code</p>	<p>These three documents have been superseded. The new Dairy Pathogen Manual can be implemented through approval, and monitoring adequacy, of a FSP.</p>
<p>2 In general terms outlines requirement for validated hygienic practices, prevention of contamination and application of HACCP through a Food Safety Program</p>	<p>Requirements are described in Standard 4.2.4 of the current Food Standards Code</p>
<p>3.2 Describes matters to be covered in a dairy farm Food Safety Program</p>	<p>All matters covered by FSP requirements of farmers at Standard 4.2.4</p>
<p>3.3 Requires compliance with Standards 1.4.1 and 1.4.2 of the 2000 Food Standards Code and describes in detail requirement for raw milk temperature control</p>	<p>Standards 1.4.1 and 1.4.2 of the current version of the FSC continue to apply. Milk cooling parameters are no longer considered appropriate, guidance material is in place to and applied through FSP to ensure milk cooling meets acceptable food safety outcomes.</p>
<p>4.2 Describes matters to be covered in a dairy carrier Food Safety Program</p>	<p>All matters covered by FSP requirements of carriers at Standard 4.2.4</p>
<p>4.3 Describes requirement for raw milk temperature control</p>	<p>Milk cooling parameters no longer considered appropriate and guidance material is in place to ensure milk cooling meets acceptable food safety outcomes.</p>
<p>5.2 Describes matters to be covered in a dairy manufacturer Food Safety Program</p>	<p>All matters covered by FSP requirements of manufacturers at Standard 4.2.4, other standards within the Food Standards Code or can be implemented through approval, and monitoring adequacy of, a FSP</p>
<p>5.3 Requires compliance with pathogen control documents and a list of standards within the Food Standards Code</p>	<p>All references have been superseded by new guidance documents updated versions of the Food Standards Code</p>
<p>6.2 Describes requirements to be covered in a dairy distributor Food Safety Program.</p>	<p>No other current instrument requires a dairy distributor to have a food safety program. Under the Food Act declaration requiring certain classes of business to have a food safety program distributors are only required to keep certain records.</p>