FOOD STANDARDS Australia New Zealand
Te Mana Kounga Kai – Ahitereiria me Aotearoa

55 Blackall Street
BARTON ACT 2600
Australia
PO Box 7186
CANBERRA BC ACT 2610
Australia
Tel + 61 2 6271 2222
Fax +61 2 6271 2278
www.foodstandards.gov.au

Office of the Chief Executive Officer

Mr Tim Watling
Committee Secretary
Senate Rural and Regional Affairs and Transport References Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Mr Watling

FSANZ submission to the Inquiry into the Implications of the use of Fenthion on Australia's horticultural industry

Thank you for your email of 19 December 2013 on behalf of the Senate Rural and Regional Affairs and Transport References Committee, inviting Food Standards Australia New Zealand (FSANZ) to make a submission to the Inquiry into the Implications of the use of Fenthion on Australia's horticultural industry.

FSANZ has attached a submission to the Inquiry on the aspect of the terms of reference for which FSANZ has responsibility. FSANZ has responsibility for developing a national standard for the presence of residues of agricultural and veterinary chemicals in food for human consumption. FSANZ has no role in relation to the use of such chemicals or the control of pests and no role in relation to the enforcement of the national standard.

I trust that the information provided in this submission will assist the Committee with the inquiry.

Yours sincerely

Steve McCutcheon
Chief Executive Officer

28 January 2014

The Role of Food Standards Australia New Zealand

Food Standards Australia New Zealand (FSANZ) is an independent statutory authority established under the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act). The food regulation system is described in the Intergovernmental Food Regulation Agreement, made between the States, Territories and Commonwealth of Australia, the most recent version of which is dated 3 July 2008. The primary purpose of the system, as articulated in the Food Regulation Agreement, is to provide 'safe food controls for the purpose of protecting public health and safety'.

In developing food standards, FSANZ's primary objectives are the protection of public health and safety, the provision of adequate information relating to food to enable consumers to make informed choices and the prevention of misleading or deceptive conduct.

Enforcement of the Code is the responsibility of State and Territory and New Zealand enforcement agencies and, for imported food at the Australian border, the Department of Agriculture.

The COAG Legislative and Governance Forum on Food Regulation (the Forum), which sits as the Food Regulation Ministerial Council, develops policy guidelines to which FSANZ has to have regard when setting food standards.

The objects statement in the FSANZ Act makes it clear that FSANZ was established to facilitate the achievement of the goals of giving consumers confidence in the quality and safety of the food supply chain. It is also to provide a regulatory framework that establishes an economically efficient environment for industry, giving consumers information relating to food that enables them to make informed choices, and providing consistency in domestic and international food regulation in Australia and New Zealand. It must do all this without reducing the safeguards applying to public health and consumer protection.

The primary function of FSANZ is to develop food standards for consideration by the Forum.

The FSANZ Act also requires standards to be based on risk analysis using the best available scientific evidence, promote consistency with international standards, promote an efficient and internationally competitive food industry and promote fair trading in food products. Standards should also be developed with regard to policy guidelines developed by the Ministerial Forum, good regulatory practice and relevant New Zealand standards.

In addition to standards development work, FSANZ has legislative functions that require it to coordinate and report on food recall activities on behalf of State and Territory jurisdictions; and provide risk assessment advice to the Department of Agriculture where food imports present a medium or high food safety risk. FSANZ also plays a major role in coordinating jurisdictional activities and facilitating common approaches in responding to food incidents that span state borders.

FSANZ has no role to play in animal health risk assessment or standards. FSANZ has no powers in respect of enforcement of standards in the *Australia New Zealand Food Standards Code* (the Code)

The role of FSANZ in relation to agricultural and veterinary chemicals

FSANZ has no direct role in relation to the use of agricultural and veterinary chemicals in Australia or elsewhere.

FSANZ has developed an Australia-only standard that lists maximum residue limits (MRLs) for residues of agricultural and veterinary chemicals that are permitted in food sold — Standard 1.4.2 – Maximum Residue Limits.

Standard 1.4.2 provides that food must not have any detectable residue of a chemical that is not mentioned in the Standard or a chemical for which there is no permission for that food.

The Standard is applied by state and territory Acts that create offences of handling or selling unsuitable food. Food is unsuitable if it contains a chemical agent that is foreign to the food, other than an agricultural or veterinary chemical that is present in an amount that is permitted by the Code.

The limits in the Code may be varied by FSANZ and certain MRLs in the Code may be varied by the APVMA. . For the Food Standards Code, the limits are established by reference to the amount of the chemicals that could be present in food when the chemicals are used at the minimum effective level and using Good Agricultural Practice (GAP), a level that is determined by the agency responsible for the regulation of use, and after an assessment of the potential risk to public health and safety at that level.

Division 2A of Part 3 of the FSANZ Act provides that the APVMA may vary the Maximum Residue Limits Standard (Standard 1.4.2). The procedures for variation of the Standard by the APVMA are set out in that Division. Essentially, if the APVMA is considering a variation of the Agvet Code and forms an opinion that variation of the Standard is appropriate, the APVMA is required to give notice of that opinion to FSANZ. FSANZ is required to give public notice of the APVMA opinion. The APVMA can then proceed to develop a proposed variation and notify FSANZ of that proposed variation. FSANZ must either prepare, or oversee the preparation of, a dietary exposure assessment. A copy of the assessment and FSANZ's comments on the assessment is to be provided to the Forum. A variation made by the APVMA has effect on gazettal by the APVMA and registration under the *Legislative Instruments Act 2003*.

Section 83 of the FSANZ Act provides that notwithstanding Division 2A, FSANZ may also vary the Maximum Residue Limits Standard. When FSANZ proposes to vary the Code, it is required to conduct at least one round of public consultation and its decisions are subject to consideration by the Forum. Variations to the Code that are made under this procedure are published after consideration by the Forum.

The majority of variations to Standard 1.4.2 now occur as a result of action taken by APVMA. FSANZ varies the Standard occasionally in response to applications made for specific changes or as a proposal prepared by FSANZ in response to representations made to FSANZ, primarily by importers of foods or foreign governments or organisations.

Fenthion

Standard 1.4.2 permits fenthion residues in a range of foods (see the attached table).

FSANZ agreed early in 2012 to consult on and make APVMA chemical review-related MRL variations in the Code, instead of the APVMA performing this role. In line with its regulatory decisions on the use of chemical products containing fenthion, the APVMA requested in November 2012 that FSANZ consider varying fenthion MRLs in the Code. FSANZ considered variations to fenthion MRLs in a proposal (M1009) to vary the Code and consulted on the proposed changes over a four-week period in May through June 2013.

As part of M1009, which was gazetted and took effect on 9 January 2014 following consideration by the Forum, fenthion MRLs were varied as requested by the APVMA. In considering the proposed variations to fenthion MRLs, no public health or safety concerns were identified. The estimated dietary exposure is within the health-based guidance values established by the Department of Health's Office of Chemical Safety. No submissions to the proposal identified the need for any fenthion MRL variation proposed by the APVMA to be changed. The fenthion MRLs in Standard 1.4.2 align with those listed in the APVMA MRL Standard.

Over ninety foods were analysed for fenthion residues in the latest Australian Total Diet Study (ATDS), the 23rd study. Food sampling for this study was conducted in 2008. A range of foods were sampled and analysed to represent the total Australian diet including fresh fruit and vegetables, red meat, chicken, eggs, bread and other bakery goods, wine, dairy foods, breakfast cereals, tea, coffee, soft drink, canned fruit and tap water. Fenthion was not detected in any of the foods analysed. FSANZ will include fenthion in the next ATDS to analyse pesticide residues in food, the 25th study.

Table: Permissions in Standard 1.4.2 for residues of fenthion in food as at Amendment No. 145

Note: units are mg/Kg

Fenthion Sum of fenthion, its oxygen analogue, and their sulfoxides and sulfones, expressed as fenthion	
Apricot	T0.2
Assorted tropical and sub-tropical fruits – inedible peel	5
Cattle, edible offal of	1
Cattle meat	1
Cherries	T0.4
Citrus fruits	T0.7
Eggs	*0.05
Grapes	T0.2
Melons, except watermelon	T3
Milks	T0.2
Nectarine	T0.25
Olive oil, crude	T0.5
Olives	T0.2
Peach	T0.2
Peppers, Chili	T7
Peppers, Sweet	T0.5
Persimmon, Japanese	T0.3
Pig, edible offal of	0.5
Pig meat	0.5
Plums	T0.25
Pome fruits	T0.25
Poultry, edible offal of	*0.05
Poultry meat	*0.05
Sheep, edible offal of	0.2
Sheep meat	0.2
Watermelon	T3