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Monitoring importers of specified high-risk foods



Photo acknowledgement:
Jenah Shaw, Office of the Auditor-General

Monitoring importers of specified high-risk foods

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Auditor-General's overview

E ngā mana, e ngā reo, e ngā karangarangatanga maha o te motu, tēnā koutou.

New Zealand imports food from many countries. Some imported foods have been associated with food recalls and outbreaks of foodborne illness in New Zealand.

New Zealanders expect the food they buy to be safe. An effective food safety system is important to protect public health. The Food Act 2014 makes importers responsible for ensuring that the food they bring into the country is safe and suitable for consumption. The Ministry for Primary Industries (the Ministry) is responsible for monitoring whether importers are meeting their responsibilities and that importing requirements are working effectively.

New Zealand's food import system relies on a level of trust that importers are assessing the safety and suitability of food that will be sold to the public. As with any system involving trust, checks are needed to ensure that importers are meeting their responsibilities.

I wanted to know how well the Ministry was monitoring importers of foods that present a greater risk to consumers (specified high-risk foods). These foods account for less than 4% of all imported food (by weight).

Importers and importing requirements have not been monitored effectively

In my view, the Ministry does not have a clear understanding of the effectiveness of the food import system. This is because the Ministry is not consistently monitoring whether importers are assessing the safety and suitability of specified high-risk foods before they arrive in the country. The Ministry also does not collect all the information it needs to assess the effectiveness of food importing requirements. Until recently, some aspects of the system (such as importer registration) were poorly monitored.

The Ministry is aware of these issues. In recent years, the Ministry has made improvements, including checking that importers are registered and arranging for food to be tested on arrival to New Zealand in a timely way. It has also improved how it understands and acts on emerging food safety risks. The Ministry has increased checks on the importers of some specified high-risk foods.

However, more improvement is needed so the Ministry can respond to a food import market that is subject to changing food trends and risks. The risks from some imported foods are currently being managed reactively. This means that, in some cases, action is only taken after people have fallen ill.

Improvements are under way

The Ministry told us it agrees with our findings. Since 2021, the Ministry has been working on proposals to strengthen the food safety system, including more monitoring of importers and of imported food. As we finalised this report, the Ministry commenced public consultation on two proposed levies, including a food importer levy to support increased monitoring.

This is positive progress on a system that has not been well monitored in the past. However, in my view, the Ministry also needs to do more with the information it already collects to build and maintain its understanding of importers' compliance with food importing requirements, as well as the effectiveness of those requirements. The Ministry could also do more to ensure that importers of specified high-risk foods are aware of their responsibilities.

I have made three recommendations in this report to support a more effective food import system.

Acknowledgements

This audit is the first of our rapid performance audits, which requires agencies to work with my audit team to tight time frames. I acknowledge Ministry staff for their constructive engagement with this work. I look forward to seeing improvements in this important area.

Nāku noa, nā



John Ryan
Controller and Auditor-General | Tumuaki o te Mana Arotake

9 February 2024

Our recommendations

We recommend that the Ministry for Primary Industries:

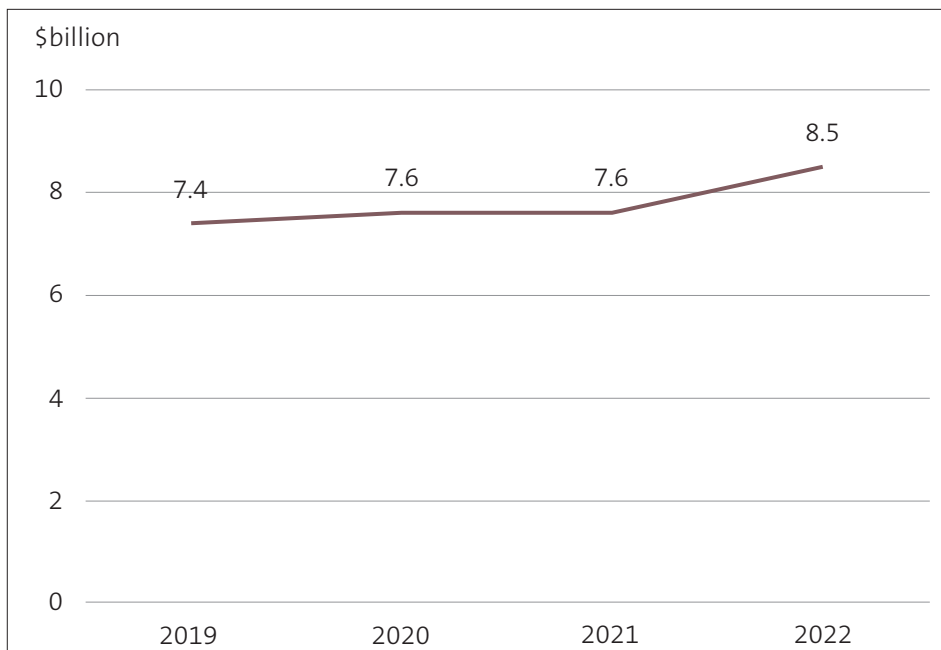
1. take a more proactive approach to identify non-compliance with requirements for importing specified high-risk foods by regularly collating and evaluating information about importers and imported food;
2. further improve its understanding of:
 - the information that importers need to improve their compliance with requirements for importing specified high-risk foods; and
 - the most effective way of informing importers; and
3. strengthen the system for controlling the import of specified high-risk foods by ensuring that it has the information it needs to:
 - regularly review the requirements for importing specified high-risk foods so that they are appropriate, clear, and working as intended; and
 - detect food safety risks earlier, better understand them, and respond more effectively.

1

Introduction

- 1.1 New Zealanders expect the food they buy to be safe. The market for imported food is complex and often changing. Changes in what we like to eat and how we eat it affect what is imported and where it is imported from.
- 1.2 As at 2020, New Zealand imports food from 218 countries. The volumes of food imported into New Zealand have not changed much in recent years. However, the value of imported food has increased. In 2022, imported food was valued at \$8.5 billion (see Figure 1). In early 2024, there were more than 3700 registered food importers in the country.

Figure 1
The value of food imports, from 2019 to 2022



Source: Based on data from the Ministry for Primary Industries.

- 1.3 When new types of food are imported, and from new places of origin, there can be new risks to public health that will need to be managed.
- 1.4 Some imported foods have been associated with food recalls and outbreaks of foodborne illness. Between June 2022 and July 2023, 39 people contracted Hepatitis A in cases that were attributed to consuming imported frozen berries. Half of these people were hospitalised.

1.5 The latest figures from the Ministry for Primary Industries (the Ministry) showed that of the 60 consumer-level recalls that occurred in 2022, 27 were for imported food. This was an increase on previous years.

1.6 The Food Act 2014 (the Food Act) regulates the importing of food into New Zealand¹ and makes importers responsible for the safety and suitability of the food they import. The Ministry is responsible for monitoring importers' compliance with the Food Act.

Why we did this audit

1.7 We carried out an audit to understand how well the Ministry monitors food importers' compliance with the requirements for importing foods that present a greater risk to consumers and public health (specified high-risk foods).

1.8 New Zealand's food import system relies on a level of trust that importers are assessing the safety and suitability of food that will be sold to the public. As with any system involving trust, checks are needed to ensure that importers are meeting their responsibilities.

1.9 Data supplied by the Ministry showed that, in 2022, specified high-risk foods made up 7.4% of imported food by value and 3.3% of imported food by weight.

How we carried out this audit

1.10 We looked at:

- the Ministry's approach to checking whether importers are meeting all requirements for importing specified high-risk foods; and
- how the Ministry assesses the effectiveness of food importing requirements.

1.11 We expected that:

- the Ministry's approach to monitoring importers would be informed by the risks posed by the specified high-risk foods;
- requirements for importing specified high-risk foods would be clear, and that importers would understand their responsibilities;
- the Ministry would have a good understanding of importers' compliance with all requirements; and
- the Ministry would collect the right information to support regular reviews of importing requirements for specified high-risk food to ensure that requirements are working effectively.

1.12 Monitoring importers and having effective food importing requirements are parts of a broader food safety system, which includes domestically produced food. We did not look at the broader food safety system for this audit.

1 The Animal Products Act 1999 and the Wine Act 2003 are also components of the food safety system.

- 1.13 This is the first of two rapid performance audits announced in our 2023/24 annual plan. Our rapid audits are intended to provide insight and analysis into matters of public interest in a short time frame. This audit was completed in 12 weeks.

Independence

- 1.14 The Controller and Auditor-General and the Deputy Controller and Auditor-General are independent Officers of Parliament. Their independence, and the independence of those who work on their behalf, is critically important to the good standing of the Office's work. To help maintain Parliament's and the public's trust and confidence, the Office of the Auditor-General has a Code of Ethics. The Code includes the independence requirements that the Auditor-General and those who carry out work on their behalf need to meet.
- 1.15 The Deputy Auditor-General, Andrew McConnell, recently held Deputy Director-General positions in the Ministry for Primary Industries. He was appointed to the role of Deputy Auditor-General in May 2023 and has not been involved with any aspect of this performance audit.

The food import system

2.1 In this Part, we describe:

- importers' responsibility for the food they import;
- the Ministry's responsibility for monitoring importers' compliance with importing requirements;
- the regulatory oversight of specified high-risk foods; and
- the additional importing requirements for specified high-risk foods.

Importers are responsible for the safety and suitability of food they import

2.2 Managing food safety risks requires a robust food control system. International best practice indicates that it should be science- and risk-based and cover all aspects of the food chain. A prevention-based approach, where safety is part of the entire process (from food production to consumption), is most effective for reducing the risk of foodborne illness or injury.²

2.3 The Food Act promotes a science- and risk-based approach to developing food safety standards and requirements. The Food Regulations 2015 and the *Food notice: Requirements for registered food importers and imported food for sale* (2023 Food Notice), which are issued under the Act, set out the safety requirements for importing food.³

2.4 Importers are responsible for the safety and suitability of all the food they import.⁴ Importers must meet food safety requirements, which include:

- being registered with the Ministry;
- ensuring that an assessment of the food is carried out before it arrives in the country – the assessment must confirm that, when it is sold, the food will be safe and suitable;
- taking all reasonable steps to ensure that food is safely and suitably transported and stored;
- keeping records about the food they import (including its safety and suitability and how it was handled, transported, and stored) for at least four years;
- carrying out a simulated food recall every year; and
- ensuring that the food complies with relevant New Zealand domestic food standards, relevant standards of the Australia New Zealand Food Standards Code, and any applicable requirements for specified high-risk foods.

2 Food and Agriculture Organization of the United Nations and the World Health Organization (2003), *Assuring Food Safety and Quality: Guidelines for Strengthening National Food Control Systems*, at fao.org.

3 Section 204 of the Food Act 2014 allows the Ministry to issue notices that set requirements or specify matters that are permitted by the Act, or to supplement regulations made under the Act.

4 The Food Act 2014 defines suitability as the composition, labelling, identification, and condition of the food being appropriate for its intended use.

2.5 Figure 2 describes what importers must do to bring specified high-risk foods into New Zealand.

Figure 2
Importers' responsibilities when bringing specified high-risk foods into New Zealand



* This involves checking against New Zealand Standards – manufacturer, storage, transport, labelling – and ensuring that a food recall plan is in place.

The Ministry is responsible for monitoring that importers are meeting requirements

2.6 The Food Act states that, in relation to importing food, the Ministry is responsible for:

- implementing, managing, and monitoring the food safety regime for imported food;
- dealing with applications for registration by importers;
- monitoring compliance with the applicable requirements of the Food Act;
- contingency planning for incidents that could affect the safety and suitability of food; and
- monitoring and implementing the enforcement system under the Food Act.

2.7 The Food Act also states that the costs of the Ministry in administering the Act (that are not provided for by the Crown) should be recovered from those who use or benefit from the functions, powers, and services provided. The methods of cost recovery include fees, charges, and levies.

2.8 Currently, a range of fee-based services are in place to cover the cost of certain activities, such as sampling and testing specified high-risk foods (see paragraph 2.26). However, there are no levies for carrying out other activities that benefit food businesses (such as importers) and support public health. This includes monitoring compliance or testing the effectiveness of food safety clearance requirements.

2.9 New Zealand and Australia have joint food standards and have committed to sharing, wherever possible, the same standards for food composition and labelling.

- 2.10 Food that is legally sold in Australia can also be legally sold in New Zealand (and vice versa). Food imported into either country can then be sent to the other without further requirements (however, there are exceptions for some specified high-risk foods).
- 2.11 New Zealand also recognises the equivalency of food safety control systems of certain jurisdictions with New Zealand's food control system. These jurisdictions include the United Kingdom, the European Union, and the United States of America. This means that the Ministry can, generally, have confidence in the safety and suitability of food that comes from these places, and confidence in the food from other countries that meet the requirements of those jurisdictions. However, requirements still apply to some specified high-risk foods (see paragraph 2.23).
- 2.12 New Zealand's international trade obligations also help determine the rules that can be put in place to regulate imported food. New Zealand is a member of the World Trade Organization and is a signatory to the Application of Sanitary and Phytosanitary measures. New Zealand also has several free trade agreements.
- 2.13 Under these agreements, New Zealand cannot impose requirements on imported food that unfairly favour locally produced food of the same type. This means that any requirement applied to imported food must be scientifically defensible and risk-based.

Specified high-risk foods are subject to more regulatory oversight

- 2.14 Foodborne illness or injury can be caused by food contaminated with harmful bacteria, viruses, foreign matter, or chemicals.
- 2.15 Specified high-risk foods are those categorised under the Food Act as "high regulatory interest" or "increased regulatory interest". Food in these categories have specific known hazards (chemical, physical, or biological) to consumers.
- 2.16 The difference between "high" and "increased" regulatory interest food is how much is known about the risk. Food classified as increased regulatory interest has potential risks to human health that are less well understood. Categorising a food as increased regulatory interest enables the Ministry to collect information to inform whether additional risk mitigation or management measures are required. Additional border clearance requirements can also be imposed on food in this category while the assessment takes place.
- 2.17 The Ministry decides whether food should be categorised as high regulatory interest or increased regulatory interest.

2.18 Figure 3 lists the specified high-risk foods in the 2023 Food Notice.

Figure 3
Specified high-risk foods

High regulatory interest food	Increased regulatory interest food
Raw milk products	Frozen berries (other than the examples below)
Fresh cheese, curd cheese, and soft cheese (pasteurised)	Frozen berries that have been heat treated
Histamine susceptible fish and fish products	Frozen berries that will be heat treated in New Zealand
Puffer fish	
Chilled ready-to-eat smoked fish and smoke-flavoured fish	
Fermented meat products, meat paste, and pâté	
Peanuts and pistachio nuts, and food that contains such products (including peanut butter)	
Tahini and other crushed sesame seed products, and food that contains such products	
Ready-to-eat crustaceans, including shrimps, prawns, lobsters, crabs, and Moreton Bay bugs, and food that contains such products	
Bivalve molluscan shellfish (except scallops that are adductor muscle only), and food that contains bivalve molluscan shellfish	
Scallops (whole adductor muscle only)	
Pepper, chilli, and paprika (dried)	
Bovine meat and bovine meat products (including food containing such products)	

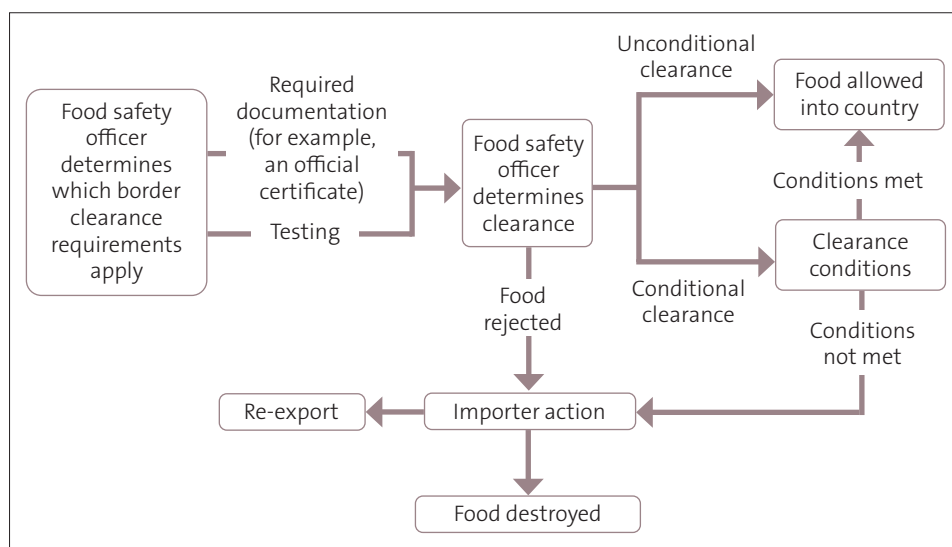
Source: Ministry for Primary Industries (2023), *Food notice: Requirements for registered food importers and imported food for sale*.

Specified high-risk foods have additional importing requirements

Specified high-risk foods require food safety clearance

- 2.19 Importers of specified high-risk foods need to meet more requirements than those listed in paragraph 2.4. Importers must not allow specified high-risk food to be sold until food safety clearance has been given. Figure 4 shows the food safety clearance process.

Figure 4
Food safety clearance process for specified high-risk foods



- 2.20 The Ministry's food safety officers are responsible for checking that consignments of specified high-risk foods meet relevant food safety clearance requirements.
- 2.21 To receive food safety clearance, importers must:
- provide documentation that gives assurance that the food has been managed safely; or
 - have the food tested in New Zealand for specific hazards.
- 2.22 Food that meets clearance requirements are allowed into the country. In some cases, food safety officers can apply additional conditions to food that does not meet clearance requirements. For example, some food might need to be heat treated before obtaining clearance. If a food does not meet the clearance conditions, it will be destroyed or re-exported.

- 2.23 Requirements for food safety clearance vary depending on the food and where it is from. Some imported foods are only accepted from jurisdictions where the Ministry has confidence in their food safety system (although some clearance requirements still apply). Other specified high-risk foods are accepted from any country but require testing. For example:
- Raw milk products are only accepted from the European Union, the United Kingdom, or Switzerland. Importers are required to provide an official certificate (see paragraph 2.24).
 - Pepper, chilli, and paprika require testing regardless of the country of origin.
 - Fermented meat products, meat paste, and pâté from the European Union or the United Kingdom require official documentation stating that the food is safe. When imported from any other country these same types of food must be tested.

What documentation importers can provide for clearance of specified high-risk foods

- 2.24 The types of documentation that importers can provide at the border include:
- an official certificate from the country of origin's competent authority;⁵
 - a declaration from the food manufacturer; or
 - documented evidence confirming the food has passed a specified test or meets a specified condition.⁶
- 2.25 The use of documents for border clearance, where this is an option, varies greatly between food types. For example, the Ministry's data showed that for the year ending June 2023, only 4% of consignments of peanuts, pistachio nuts, and food that contains such products are cleared using documents. This compares to 24% of frozen berry consignments or 86% of fresh, curd, and soft cheeses.

5 Official certificates are negotiated and agreed on between the Ministry and the exporting country's competent authority – the organisation that has the legally delegated or invested authority, capacity, or power to perform this function. Official certificates are issued by the exporting country's competent authority for a specific consignment of food. See mpi.govt.nz.

6 The test or condition that must be met is set out in the 2023 Food Notice. See mpi.govt.nz.

What sampling and testing involves

- 2.26 Food can be sampled and tested when this is identified as an option in the current Food Notice. Testing for food safety clearance purposes is not intended to establish the safety of the imported food. It is the responsibility of importers to establish that food that arrives in New Zealand is safe and suitable before this testing. Importers should have records to show that they have done this.
- 2.27 The Ministry's sampling and testing involves testing fewer samples than would be required to establish safety. The process is designed only to provide additional assurance that importers have complied with the requirements to establish the safety and suitability of the food.
- 2.28 Sampling and testing takes place in New Zealand. A sample of the food is taken by food safety officers and tested for specific organisms or substances. Samples are tested only at a Ministry-approved laboratory. Importers must safely store the food being tested until a food safety officer provides clearance.

3

The Ministry's monitoring of importers needs to improve

- 3.1 In this Part, we describe how the Ministry:
- has made improvements to the food importing process;
 - monitors importers' compliance with the requirements for importing specified high-risk food; and
 - tests the effectiveness of requirements that apply to importing specified high-risk foods.
- 3.2 We expected that the Ministry would be monitoring how well importers are complying with requirements for specified high-risk foods at each stage of the importing process. We also expected the Ministry to have a process in place to assess the effectiveness of importing requirements.

Summary of findings

- 3.3 The Ministry has made improvements to how it monitors parts of the importing process. Before 2021, the Ministry was not checking that importers were registered. The Ministry was also not regularly checking that importers were organising sampling and testing of food (when necessary) or following up to ensure compliance when this was not happening. These are fundamental controls for importing food safely that were not being monitored.
- 3.4 The Ministry has addressed these issues. The Ministry has also reviewed the requirements for two types of specified high-risk food. These changes have addressed gaps that risked undermining the effectiveness of the food safety system.
- 3.5 The Ministry has also recently provided importers clearer guidance about the requirements that they must meet.
- 3.6 However, the Ministry is not routinely checking that importers of specified high-risk foods are complying with the general requirement to establish the safety and suitability of food before it arrives in New Zealand (see paragraph 2.4). This requirement involves importers assessing the safety and suitability of the food and maintaining records to show how they have done this.
- 3.7 Other food safety control measures established by the Food Act, and initiatives under way in the food industry, provide confidence that some importers are complying with those requirements. However, the Ministry does not have an up-to-date view on the extent to which importers are compliant.
- 3.8 The Ministry is also not routinely reviewing the effectiveness of the requirements for importing specified high-risk foods.

- 3.9 As a result, the Ministry largely relies on reactive systems designed to detect and respond to incidents related to unsafe food entering the country (such as a New Zealand food manufacturer detecting an issue with an imported ingredient).
- 3.10 The Ministry needs to prioritise work to bring together the information it collects about importers and imported food to help it to understand the effectiveness of the system for importing specified high-risk food.

The Ministry has improved how the food importing system works

The Ministry has processes to detect emerging food safety risks

- 3.11 The Ministry carries out work to understand and act on new food safety risks. In 2021, it established an emerging risks team to scan for new and changing food safety risks. It also has relationships with food safety agencies from other countries (for example, Australia and the United Kingdom) and shares information about food safety issues with them.
- 3.12 As a result of sharing information, food safety issues in other countries have at times resulted in food being removed from the New Zealand market. In such instances, the Ministry has taken a proactive approach by acting on a risk before it becomes an issue.

The Ministry ensures that only registered importers can bring food into the country

- 3.13 To be able to monitor importers' compliance with regulatory requirements, the Ministry needs to know who the importers are. As described in paragraph 2.4, the Food Act requires all importers of food for sale in New Zealand to be registered. Those seeking registration need to be deemed "a fit and proper person" and are required to pay a fee.
- 3.14 Registration lasts for 12 months and can be renewed. The Ministry can refuse to register an importer on certain grounds – for example, repeated failure to comply with food importing requirements.
- 3.15 In 2020, the Ministry carried out a review of the registration of importers of food for sale and found that many were not registered. In 2021, to address this problem, the Ministry reminded importers of the need to be registered. Border officials began using a new software system to identify unregistered importers when they lodge consignments of food for sale.

- 3.16 The Ministry now has an up-to-date database of registered food importers. Only registered importers can bring food into New Zealand for sale. If food arrives at the border and the importer is not registered, the food is held until the importer has completed registration.

There is now a process to follow up non-compliance with food sampling and testing

- 3.17 As described in paragraphs 2.26-2.28, importers can have their food tested to meet clearance requirements.
- 3.18 The Ministry's border clearance team recently implemented a new approach to monitor whether importers are organising sampling and testing within a specified time frame. Importers are allowed 30 days to organise food sampling and testing. If this does not occur, a food safety officer follows this up with the importer. If, in another 30 days, the food has still not been sampled and tested, the matter is referred to Food Compliance Services (a team within the Ministry) to investigate and potentially take enforcement action.
- 3.19 Before this approach was implemented, non-compliance was not being regularly followed up and there was a risk that untested food was entering the country. This gap in the system has now been addressed.

There is now clearer guidance about how to meet the food importing requirements

- 3.20 Importers need to understand food importing requirements to comply with them. The Ministry published the 2022 Food Notice to provide greater clarity about importers' obligations at all stages of the food importing process.
- 3.21 Although the Food Regulations 2015 required importers to establish the safety and suitability of the food they are importing, food notices published before 2022 did not explain what this should involve. Ministry staff told us this meant that importers were doing what they thought was necessary but were not sure they were fully complying.
- 3.22 Changes were made in the 2022 Food Notice to explain requirements more clearly and support greater importer compliance.
- 3.23 The 2023 Food Notice gives more detail on what is required to meet the safety and suitability requirements, including what importers need to do to ensure that food is transported and stored appropriately and what records must be kept.

- 3.24 The Ministry's website also has detailed information about what importers should be doing to meet the requirements that apply at all stages of the food import process.

The Ministry has assessed the effectiveness of food clearance requirements for some specified high-risk food

- 3.25 As part of a well-functioning food safety system, the requirements for importing specified high-risk food should be checked regularly to ensure that they are appropriate, clear, and working as intended.
- 3.26 The Ministry has reviewed the requirements for importing two specified high-risk food groups – bovine meat products and frozen berries. As a result of these reviews, the Ministry made changes to the requirements for these foods, including how these foods are managed at the border (see paragraph 3.56).

The Ministry needs to monitor importers at each stage of the importing process

No monitoring programmes have been established under the Food Act

- 3.27 The Food Act allows for monitoring programmes to be established. Among other things, the Act states that “monitoring programmes can be used for determining the safety and suitability of food” or for “ensuring the effectiveness of the food safety regime”. Monitoring programmes can only be established on the recommendation of the responsible Minister.
- 3.28 The Ministry understands that monitoring programmes can help it to identify potential non-compliance with importing requirements. We were told that monitoring programmes could look at matters such as food fraud (where food is tested to ensure that it is what it claims to be) or how labelling regulations are complied with. The results could be used to identify the risks of particular foods or importers.
- 3.29 There are currently no monitoring programmes established under the Food Act. The Ministry has carried out other research and survey activity that provides information related to the safety and suitability of some imported food. However, these activities are limited in scope and frequency (see paragraph 3.68).
- 3.30 During our audit, the Ministry was working on proposals to establish and fund monitoring programmes and intended to seek Ministerial approval for them. As we finalised this report, the Ministry commenced public consultation on a food importer levy to fund this monitoring. In the meantime, the Ministry relies on

other mechanisms available under the Food Act to monitor importers' compliance. We discuss these below.

Food control plans, national programmes, and food industry initiatives help manage the risks posed by some imported food

- 3.31 The Food Act categorises food businesses by the level of food safety risk they present to the public. The Act requires high-risk businesses to operate under a food control plan. Medium- and lower-risk businesses must follow a national programme.⁷
- 3.32 Food control plans and national programmes help food businesses ensure that the food they sell is safe and suitable. They require businesses to identify hazards related to the food and the processes required to control, manage, and eliminate or minimise them.
- 3.33 The Food Act excludes importing as a reason for requiring a business to operate under a food control plan or national programme. However, some registered importers also run a business, like food manufacturing or retail, that is required to operate under a food control plan or national programme.
- 3.34 The Ministry has done work that shows food control plans and national programmes help importers to comply with importing requirements. In 2018, the Ministry carried out a targeted study of a small group of importers. This study found that importers operating under a food control plan or national programme had better compliance with food importing requirements than those that did not.⁸
- 3.35 The Ministry's 2018 study also highlighted how private standards developed by some food businesses support importers to meet importing requirements. For example, a supermarket chain had its own approved supplier programme for importers. Importers that were part of the programme had better compliance with official importing requirements than other importers.
- 3.36 We spoke to an importer who told us that the supermarket he sold food to had clear and stringent requirements. These include clear and documented evidence that an importer had done all they could to confirm that the imported food was produced, handled, and stored in ways that make it safe and suitable.

7 Businesses deemed higher risk include restaurants, cafés, takeaways, catering, supermarkets, butchers, and delis. Medium- and lower-risk businesses include transporters or distributors of food, bread bakeries, brewers, and manufacturers of confectionary. See mpi.govt.nz.

8 The audit included 30 importers of varying sizes – from companies importing about one container load of goods each year to some importing more than 60 containers each year. It covered all food types, not just specified high-risk foods.

There is limited use of verification powers

- 3.37 The Food Act allows the Ministry to require official checks on how well a business's practices, procedures, and activities comply with the applicable requirements of the Act. This is called verification. Food businesses pay fees to cover the cost of verification.
- 3.38 Importers operating under food control plans and national programmes are subject to routine verification of their operations, including how the safety of food is assessed and maintained. The Ministry's 2018 study found that this verification was happening.
- 3.39 Importers that do not operate under a food control plan or national programme are not automatically subject to verification. However, they can be subject to verification if there is evidence that the importer or the food they import is not meeting requirements. The Food Regulations 2015 list what the Ministry must consider when requiring the verification of importers' operations. These include:
- any recalls of an imported food;
 - any contamination, or suspected contamination, by any hazard;
 - information that is reasonable grounds to suspect a food is not safe or suitable;
 - information that is reasonable grounds to suspect that an importer's operations do not comply with the requirements of the Food Act; and
 - any findings from monitoring, surveys, or auditing carried out by the Ministry that have implications for the safety and suitability of food.
- 3.40 There has been little verification of businesses that do not operate under food control plans or national programmes. However, a verification process for some of these importers was established in 2023. The Ministry plans to carry out verification for all importers of two specified high-risk foods that were the subject of recent investigations. This means that importers can be subject to verification because of known food safety issues with the type of product they import.
- 3.41 We spoke to Ministry staff who felt that more verification of importers was necessary. They highlighted the lack of monitoring programmes as a factor that prevented more verification from happening.
- 3.42 We were also told that the Ministry is not collating the information it collects about individual importers to assess risks related to importers more generally. Doing so could provide a basis for more widespread verification of importers.

Compliance checks do occur in response to food safety events

- 3.43 Checking importers' compliance with requirements for importing specified high-risk foods is often done in response to a food safety event.
- 3.44 Food safety events involving domestic or imported food might be related to chemical, physical, or biological hazards and can involve:
- a New Zealand-based food manufacturer detecting contamination in an imported ingredient;
 - somebody finding foreign matter in food;
 - non-compliant labelling (for example, allergens not being listed);
 - non-compliant composition; or
 - food being linked to illness in the community.
- 3.45 The Ministry's Food Compliance Services investigates the likely cause of the identified hazard. This investigation includes assessing whether the importers involved have complied with all the relevant requirements. Depending on what an investigation finds, the Ministry might work with an importer to improve their compliance or take enforcement action through the courts. During our audit, we saw examples of recent enforcement action taken by the Ministry.

The Ministry could better use the information it collects to develop a more proactive approach to monitoring importers' compliance

- 3.46 In our view, the Ministry needs an approach that can detect potential risks with an imported food or importer and act before it becomes a food safety event. The Ministry told us it agrees. However, it said that this type of approach would require more resources.
- 3.47 As discussed in paragraph 3.30, the Ministry has begun public consultation on a food importer levy that will cover the costs of monitoring.
- 3.48 In our view, the Ministry could also use the information it currently collects about importers to determine if verification of more importers is appropriate. The Ministry collects information about importers' compliance with border clearance requirements, such as whether they have met testing requirements and the results of testing. Its verification work also produces insights into importers' knowledge of, and compliance with, importing requirements.
- 3.49 More could be done to bring this information together and build a picture of importers that are performing well and importers that are not. This would help the

Ministry to be more proactive in managing some of the risks that specified high-risk foods present. In our view, the Ministry should prioritise this work.

Recommendation 1

We recommend that the Ministry for Primary Industries take a more proactive approach to identify non-compliance with requirements for importing specified high-risk foods by regularly collating and evaluating information about importers and imported food.

Educating importers could support higher levels of compliance

- 3.50 The Ministry needs to consider what more it can do to help importers understand the requirements for importing specified high-risk foods.
- 3.51 The Ministry's 2018 study noted that importers lacked understanding of food importing requirements. This was the case even for compliant importers. The study noted a level of "accidental compliance" among importers it looked at – some importers were unaware of certain requirements even though they were complying with them.
- 3.52 As discussed in paragraphs 3.23-3.24, we found that the 2023 Food Notice and the Ministry's website provide detailed information about importers' responsibilities. The Ministry told us that it is planning further improvements to the information on its website and is developing a newsletter for food importers.
- 3.53 The Ministry has a staff member available to answer queries from importers about the importing process and the rules that apply. Ministry staff also attend industry trade shows to help educate importers about their responsibilities.
- 3.54 However, despite these improvements, recent investigations into food safety events have found that some importers remain unaware of food importing requirements. Some importers have little understanding of their responsibility to ensure that the food they import is safe and suitable. The importers had limited information about the suppliers that manufactured the food, how hazards associated with the products were controlled, and traceability.
- 3.55 The Ministry should consider what other steps it can take to help importers understand their responsibilities (for example, whether enough information is available to importers about their responsibilities before they register or renew their registration).

Recommendation 2

We recommend that the Ministry for Primary Industries further improve its understanding of:

- the information that importers need to improve their compliance with requirements for importing specified high-risk foods; and
 - the most effective way of informing importers.
-

The Ministry needs to collect the right information to assess whether controls are working

The effectiveness of requirements for most specified high-risk foods has not been reviewed

- 3.56 The Ministry has methods to review the effectiveness of import control measures for individual specified high-risk foods (see paragraph 2.15 for definitions). To date, the Ministry has reviewed two specified high-risk foods – bovine meat products and frozen berries – to ensure that the targeted requirements are appropriate and working effectively.
- 3.57 Bovine meat products are categorised as a high regulatory interest food because of the potential risk from the presence of the bovine spongiform encephalopathy (BSE) agent in the products. Bovine meat products can only be imported from countries that have a BSE risk status acceptable to New Zealand. An official certificate showing this is required for clearance of consignments of bovine meat products.
- 3.58 In 2019, the Ministry initiated a review of importing requirements for bovine meat products. This review was in response to repeated non-compliance by importers and the challenges the Ministry had enforcing clearance requirements.
- 3.59 One of the main findings of the review was that it was not clear to importers what products were included or excluded from the definition of bovine meat products. For example, tallow was imported without an official certificate because the importer did not consider that it met the definition of a bovine meat product.
- 3.60 This also meant it was difficult for the Ministry to show that importers had not complied with the requirements in the food notice. The definitions were clarified in the 2022 Food Notice.
- 3.61 Frozen berries were the second type of specified high-risk food to be reviewed. Frozen berries are currently categorised as an increased regulatory interest food because of the potential risk from the Hepatitis A virus in these products.

- 3.62 In 2020, the Ministry looked at ways to strengthen import controls after hearing about outbreaks of Hepatitis A overseas that were attributed to frozen berries. The Ministry was also aware of more people eating uncooked frozen berries and uncertainty about the effectiveness of product testing.
- 3.63 The review found that imported frozen berries continued to present a significant food safety risk and should be re-categorised as a high regulatory interest food. The review also found that reliance on testing for E. Coli (to get food safety clearance) was not an effective way of managing the risk from bacterial and viral contamination. Because of this, the review recommended that testing be removed as a requirement for border clearance.
- 3.64 The use of official certificates is the other mechanism available for clearance of consignments of frozen berries (see paragraph 2.24). These are not commonly used because no exporting country has negotiated the development of an official certificate with the Ministry. The Ministry recommended that third party certificates be added as another option.⁹
- 3.65 The Ministry's process to assess both these food types appeared robust and in line with international best practice. The Ministry is aware of the need to review other specified high-risk foods. However, we were told that doing more of these reviews was subject to resource availability.

The Ministry needs to collect better information to understand how well import controls are working

- 3.66 To provide assurance that the risks of specified high-risk foods are being effectively managed, the Ministry needs to collect and collate various types of data and information. This is more than just monitoring compliance of individual importers through verification and more than monitoring food with known issues. It also includes collecting information from a variety of sources that can provide a more complete picture of where food is imported from, how it is produced and consumed, and any potential risks.
- 3.67 Ministry staff told us about some of the types of information that would be useful to build a complete picture of the effectiveness of importing requirements. This included information on chemical residues on food, border clearance data, reviews of New Zealand foodborne illness data, and information from system audits and verification of importers.
- 3.68 The Ministry collects some of this data and information, such as border clearance data of the results of sampling and testing. However, there are gaps. As mentioned, there are no monitoring programmes established under the Food

⁹ A third-party certificate is a certificate issued by an accredited certification body that confirms a food producers' food safety management system meets certain standards.

Act. The Ministry does manage national monitoring programmes under other Acts (such as the Animal Products Act 1999) that involve chemical residues and microbiological testing. However, these programmes have limited coverage of imported food and cannot be used to provide assurance that food import controls are working.

Information needs to be brought together to assess how effectively the system is working and better identify emerging risks

- 3.69 Data on importers' compliance with food importing requirements can be used to better understand how effectively different standards are working (for example, by showing where non-compliance is commonly occurring).
- 3.70 The Ministry collects information about importers' compliance with food importing requirements at the border – for example, whether they have met testing requirements. This information is used to inform changes to how some clearance requirements are carried out in practice (for example, the regularity of testing for different food types).
- 3.71 We heard that this information can also be accessed by other parts of the Ministry, such as Food Compliance Services. However, this cannot be accessed in real time or in ways that are easy to interrogate because of how the systems are set up. For example, the Ministry's Food Regulation team can ask for reports on the data but cannot access it themselves to run their own analysis.
- 3.72 When collected and regularly analysed, information about compliance with clearance requirements, combined with other information the Ministry currently collects, can help to build a better understanding of how effective the current regulations are.
- 3.73 However, we did not see evidence that the Ministry is systematically bringing together the information it currently has and using it to understand and improve the effectiveness of food importing requirements.
- 3.74 The Ministry could be more proactive in its approach to understanding emerging risks. We heard from Ministry staff that work was mainly focused on more immediate food safety risks. They told us there was an opportunity to take a more strategic approach by analysing whether individual food safety events were indicators of a wider issue requiring changes to importing requirements.

- 3.75 In our view, the Ministry does not have an up-to-date picture of the effectiveness of all food importing requirements or of changing food safety risks. Although the Ministry uses information to react appropriately to issues as they arise, a more strategic approach would allow the Ministry to identify risks earlier and ensure that it is making improvements to food import controls in a timely way.

Recommendation 3

We recommend that the Ministry for Primary Industries strengthen the system for controlling the import of specified high-risk foods by ensuring that it has the information it needs to:

- regularly review the requirements for importing specified high-risk foods so that they are appropriate, clear, and working as intended; and
 - detect food safety risks earlier, better understand them, and respond more effectively.
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