



Investigation Number

10594

Investigation Title

Impossible brand Plant Based Burger Patties - Undeclared Genetically Modified Ingredient-
Integrity Food Distributors Ltd

Complaint Recorded By

9(2)(a)

Complaint Date

10-May-22

Investigator Assigned

Sharon Ayres

Released under the Official Information Act 1982



Investigation Summary

Report Date: 6-Jul-22

Released under the Official Information Act 1982



Informant / Complainant Details

Name: MPI Internal

Primary Contact:

Alternative Contact:

Address:

Incident Details

Date: 10-May-22

Time: 15:15

Location:

Details:

On the 10th of May 2022 NZFS Food Compliance received notification regarding the labelling of the Impossible brand Plant Based Burger Patties as one of the ingredients may not be labelled and declared as genetically modified.

NZFS Food Compliance also received a complaint from GE Free NZ regarding the same issues with the Impossible brand Plant Based Burger Patties in that they are not labelled correctly with regards to their genetically modified ingredient.

Investigation Classification

Complaint Type Category: Labelling

Complaint Type Non-complying label

Classification:

Illness Type:

Illness:

Commodity Category: Mixed Foods

Commodity Classification: Meals

Act/Regulations: Food Act 2014

Allegation: s244 - Involving breaching or failure to comply with requirement

Regime:

Food Sector Category:

Food Sector

Classification:



Statutory Sanctions

Act: Food Act 2014
Sanction: s243 - Involving breaching or failing to comply with food standard
Sanction Detail:
Information provided by manufacturer proved allegation unfounded.

Investigation Job Sheet

Total Time Taken: (includes 1 hour admin time) **7:20**
Investigator: 9(2)(a)
Date: 9-May-22 **Time:** 11:05
Category: Email **Identifier:**
Comments: **Time Taken:** 1:00

Appendix Register #2

From: Info <info@mpi.govt.nz>
Sent: Monday, 9 May 2022 11:07 AM
To: Food Compliance <Food.Compliance@mpi.govt.nz>
Subject: FW: Complaint on Food Labelling

Hi,

We have received the enquiry below from an MPI customer.

If this enquiry has been misdirected to your area, please come back to us and will redirect.

Regards,
9(2)(a)

Customer Enquiries Centre (CEC)
Government Services | Public Affairs
Charles Fergusson Building
Ministry for Primary Industries - Manatū Ahu Matua
www.mpi.govt.nz | info@mpi.govt.nz
Case number 00709887.

----- Forwarded Message -----
From: jon muller [secretary@gefree.org.nz]
Sent: 7/05/2022 8:07 PM
To: info@mpi.govt.nz
Subject: Complaint on Food Labelling

Dear MPI,
Please find updated email re Complaint to MPI . Please ignore the one sent 6 May at 515 pm



Can you please acknowledge you got this correct version?

Regards
Jon Muller
GE free NZ

- Member of public complaint

Investigator: 9(2)(a)

Date: 10-May-22

Time: 15:15

Category: Email

Identifier:

Comments:

Time Taken: 1:00

Appendix Register #1

From: Jenny Bishop <Jenny.Bishop@mpi.govt.nz>
Sent: Tuesday, 10 May 2022 3:16 PM
To: Food Compliance <Food.Compliance@mpi.govt.nz>
Cc: Saartjie Schultz (Sarah) <Saartjie.Schultz@mpi.govt.nz>
Subject: FW: Impossible Burgers

Hi all

Can we please set up a file on this. The outcome needs to come through to me.

Ngā mihi

Jenny

From: Jenny Bishop
Sent: Tuesday, 10 May 2022 3:11 PM
To: Vincent Arbuckle <Vincent.Arbuckle@mpi.govt.nz>
Subject: RE: Impossible Burgers

Kia ora Vince

Thanks for this. I understood it should be labelled as GM (as per our summary below), so we will look into this as well.

Ngā mihi

Jenny

From: Vincent Arbuckle <Vincent.Arbuckle@mpi.govt.nz>
Sent: Tuesday, 10 May 2022 1:15 PM
To: Jenny Bishop <Jenny.Bishop@mpi.govt.nz>
Subject: FW: Impossible Burgers

FYI Jenny

<https://www.foodticker.co.nz/comcom-complaint-made-against-countdown-for-impossible-burger/>

Regards



Vince

From: 9(2)(a) >
Sent: Thursday, 28 April 2022 2:01 PM
To: Vincent Arbuckle <Vincent.Arbuckle@mpi.govt.nz>
Cc: Jenny Bishop <Jenny.Bishop@mpi.govt.nz>
Subject: Re: Impossible Burgers

Thanks team!

On Thu, 28 Apr 2022 at 13:31, Vincent Arbuckle <Vincent.Arbuckle@mpi.govt.nz> wrote:
Kia ora 9(2)(a)

Thank you for your email, I apologise for the delay in response.

NZFS considers that this 'Impossible Burger' product has followed due process to be approved for sale in New Zealand.

This product comes under the Australia New Zealand Food Standards Code, and Food Standards Australia New Zealand conducted a full risk assessment including two rounds of public consultations – the documents and findings are available here. In addition to usual naming and nutrition labelling requirements, the product needs to be labelled as 'genetically modified' to ensure consumers are adequately informed. In 2018, MPI published a media release with several reports including a MPI report on the plant-based burger. The information on this site, most notably the case study on Impossible Burgers, may be of interest for those who have raised concerns - available here.

Again, thank you for reaching out to NZFS. If you have any further questions please do not hesitate to contact me.

Ngā mihi

Vince

Vincent Arbuckle
Deputy Director-General, New Zealand Food Safety
Ministry for Primary Industries - Manatū Ahu Matua | Pastoral House, 25 The Terrace | PO Box 2526 | Wellington 6140 | New Zealand
Mobile: 9(2)(a) | vincent.arbuckle@MPI.govt.nz | Web: www.mpi.govt.nz

From: 9(2)(a) >



Sent: Thursday, 21 April 2022 11:44 AM
To: Vincent Arbuckle <Vincent.Arbuckle@mpi.govt.nz>
Subject: Impossible Burgers

Dear Vince

We have had a number of concerns raised about the safety of a product called the Impossible Burger. This product is made in the USA and has been approved for sale in New Zealand. It contains soy leghemoglobin and this is clearly labelled.

The concerns we are receiving are based on a belief that genetically engineered substances need to go through long term safety assessments before being approved.

Does the Ministry have an official position/or some advice you could share on this matter please?

Much appreciated,

Nāku iti nei, nā

9(2)(a)

Director, Corporate Affairs, Sustainability, Health and Safety, Quality and Food Safety
COUNTDOWN

9(2)(a)

Please find attached
- original complaint and reply from ARBUCKLE Vince

Investigator:	Sharon Ayres	Time:	9:30
Date:	12-May-22	Identifier:	
Category:	Other (i.e. Media Info)	Time Taken:	0:30
Comments:			

Appendix 3:
- FSANZ application A1186 approval report 15/12/2020

AYRES receives and reviews file.

- Queries raised as to whether Impossible Meat products in NZ declare on the label that the soy leghemoglobin and soy protein are genetically modified.

- Excerpt from A1186 approval report:

Section 1.5.2—4 of Standard 1.5.2 – Food produced using gene technology sets out the requirement to label certain food as ‘genetically modified’. Subsection 1.5.2—4(3) states that if the genetically modified food is an ingredient in a packaged food for sale (among other things e.g. a substance used as a food additive), the information may be included in the statement of ingredients.

If the food for sale is intended for immediate consumption and is prepared and sold from food premises and vending vehicles (including restaurants, takeaway outlets, caterers and selfcatering institutions), it is exempt from the requirement to label food as ‘genetically modified’ (paragraph 1.5.2—4(1)(e)).



However, the Code requires information relating to foods produced using gene technology to be on labelling for food sold to a caterer (paragraph 1.2.1—15(f) of Standard 1.2.1). Consequently, in relation to such food, a consumer may seek information about the food from the food business.

Investigator: Sharon Ayres
Date: 12-May-22 **Time:** 10:00
Category: Other (i.e. Media Info) **Identifier:**
Comments: **Time Taken:** 0:30

Appendix 4:
- Snips from websites 12/05/2022

Investigation plan:

1. Obtain actual label artwork for NZ product.
2. Advise NZ distributor of requirements.
3. Investigate label change process if required.
4. Check information provided to food service (e.g. Hell Pizza).
5. Confirm with 9(2)(a) that the exemption to declare GM for food sold for immediate consumption applied to website information on ingredients.

AYRES reviews Impossible Foods NZ website

- Where to buy - Countdown and Hell Pizza
- Ingredients on this website declare "Soy Leghemoglobin (genetically modified)"
- Currently, only the beef product is listed as available in NZ.

AYRES reviews Countdown online shopping website

- No search results for 'Impossible'

AYRES reviews Hell Pizza website

- Impossible Burger Pizza - can't find detailed ingredients list/ Not listed on website Nutritional Info list. Not listed on the menu download.

Investigator: Sharon Ayres
Date: 12-May-22 **Time:** 10:53
Category: Email **Identifier:**
Comments: **Time Taken:** 0:15

AYRES sends query to 9(2)(a) requiring clarification of information to accompany or be displayed with food not requiring to bear a label (e.g. from food service).

From: Sharon Ayres
Sent: Thursday, 12 May 2022 10:53 am
To: 9(2)(a)
Subject: Soy leghemaglobin GM labelling

Good morning 9(2)(a),
We have received a file regarding possible incorrect labelling of products containing GM soy leghemaglobin.



I have reviewed the A1186 approval report and just want to confirm I understand the part that relates to food sold for immediate consumption (i.e. Impossible Burger pizza from Hell Pizza).

Section 1.5.2—4 of Standard 1.5.2 – Food produced using gene technology sets out the requirement to label certain food as ‘genetically modified’. Subsection 1.5.2—4(3) states that if the genetically modified food is an ingredient in a packaged food for sale (among other things e.g. a substance used as a food additive), the information may be included in the statement of ingredients.

If the food for sale is intended for immediate consumption and is prepared and sold from food premises and vending vehicles (including restaurants, takeaway outlets, caterers and self-catering institutions), it is exempt from the requirement to label food as ‘genetically modified’ (paragraph 1.5.2—4(1)(e)).

However, if takeaway/delivery pizza's are exempt from bearing a label because;

1.2.1-6

- (a) is made and packaged on the premises from which it is sold; or
- (d) is delivered packaged, and ready for consumption, at the express order of the purchaser (other than when the food is sold from a vending machine);

Then 1.2.1-9 applies i.e. the information must accompany or be displayed in connection with the display of the food. Which includes:

1.2.1-9(3)(b) if the food for sale is not in a package—information relating to foods produced using gene technology (see section 1.5.2—4);

So does 1.5.2-4 trump the requirement for 1.2.1-9(3)(b)?

i.e. information that must accompany or be displayed with the food (not required to bear a label) does not need to include the declaration of GM food/ingredients?

Kind regards,
Sharon

Investigator: Sharon Ayres
Date: 13-May-22 **Time:** 14:18
Category: Email **Identifier:**
Comments: **Time Taken:** 0:05

AYRES sends label query to 9(2)(a) (Regulatory Manager Woolworths)

From: Sharon Ayres
Sent: Friday, 13 May 2022 2:18 pm
To: 9(2)(a)
Subject: Impossible Foods product labelling query

Good afternoon 9(2)(a)
New Zealand Food Safety has recently received a couple of queries related to Impossible Beef which I understand Countdown was stocking. I have searched the website and cannot currently see it for sale online.
Therefore I was wondering whether you had a copy of the labelling that was on the product supplied to Countdown?

Can I also ask whether you were importing this directly, or purchasing via Integrity Food Distributors?

Most appreciated,



Sharon

Investigator: Sharon Ayres
Date: 13-May-22 **Time:** 15:31
Category: Email **Identifier:**
Comments: **Time Taken:** 0:15

Appendix 5:
- Email from AYRES to subject (Integrity Food Distributors)

Investigator: Sharon Ayres
Date: 13-May-22 **Time:** 17:50
Category: Email **Identifier:**
Comments: **Time Taken:** 0:05

Appendix 6:
- Response from 9(2)(a) with image of Countdown variant label

Image supplied states 'soy leghemaglobin (genetically modified)' but not the soy protein.

Importer for this product is IFD.

Investigator: Sharon Ayres
Date: 16-May-22 **Time:** 16:22
Category: Evidence, Email **Identifier:**
Comments: **Time Taken:** 0:10

Appendix 7:
- Response from 9(2)(a) at Impossible Foods Aotearoa New Zealand including PIFs for food service variant.

Summary

- Immunity Fuel also received complaint direct from GE Free NZ.
- The soy protein in the NZ product is not GE - therefore no statement.
- Labels and PIF clearly state 'soy leghemoglobin (genetically modified)' so compliant.

I cannot access dropbox links for the 5lb bricks - but PIF has correct info.

Investigator: Sharon Ayres
Date: 18-May-22 **Time:** 12:57
Category: Email **Identifier:**
Comments: **Time Taken:** 0:30

AYRES reviews information from 9(2)(a) and asks for evidence of non-GE soy protein.

From: Sharon Ayres
Sent: Wednesday, 18 May 2022 12:57 pm
To: 9(2)(a) >



Cc: 9(2)(a)
Subject: RE: FW: Impossible Beef labelling query

Good afternoon 9(2)(a),
Thanks very much for that information.

In addition, do you have an assurance or similar from your supplier that could be provided as evidence that the soy protein is not genetically engineered?

Kind regards,
Sharon

Investigator: Sharon Ayres
Date: 19-May-22 **Time:** 14:32
Category: Email **Identifier:**
Comments: **Time Taken:** 0:05

Appendix 8:
- Email from 9(2)(a) with soy-trait PCR analysis result

My GE-free evidence query is answered by 9(2)(a) ,
Impossible Foods)

Soy sourced from a non-GMO identity preservation (IP) programme.
Each lot of soy undergoes a PCR analysis for soy traits.

I ask for details of the IP programme.

From: Sharon Ayres
Sent: Monday, 23 May 2022 11:57 am
To: 9(2)(a)
Cc: 9(2)(a)
Subject: RE: Impossible Beef labelling query

Hello 9(2)(a),
The redacted document is fine. Can you tell me the name of the IP program involved? That should be sufficient information regarding that query.

Ngā mihi,
Sharon

Investigator: Sharon Ayres
Date: 25-May-22 **Time:** 13:32
Category: Email **Identifier:**
Comments: **Time Taken:** 0:05

Response from 9(2)(a) with IP Programme details

From: 9(2)(a) >
Sent: Wednesday, 25 May 2022 1:32 pm



To: Sharon Ayres <Sharon.Ayres@mpi.govt.nz>
Cc: 9(2)(a) >
Subject: Re: Impossible Beef labelling query

Hi Sharon,

The suppliers' program is called "Documented Non-GMO Identity Preservation Program for Soybean-Based Products." It is audited and certified, at a minimum, every two years by an independent third party; currently the supplier is certified by 9(2)(b)(ii).

Regards,
9(2)(a)

Investigator: Sharon Ayres
Date: 26-May-22 **Time:** 12:55
Category: Email **Identifier:**
Comments: **Time Taken:** 0:05
AYRES follows up with 9(2)(a) as to food service query.

From: Sharon Ayres
Sent: Thursday, 26 May 2022 12:55 pm
To: 9(2)(a) >
Subject: RE: Soy leghemaglobin GM labelling

Hi 9(2)(a)
Just wondering if you've had a chance to look at this?

Kind regards,
Sharon

Investigator: Sharon Ayres
Date: 26-May-22 **Time:** 13:03
Category: Email **Identifier:**
Comments: **Time Taken:** 0:10
AYRES sends file summary to BISHOP.

From: Sharon Ayres
Sent: Thursday, 26 May 2022 1:03 pm
To: Jenny Bishop <Jenny.Bishop@mpi.govt.nz>
Cc: Kirsten Cassells <Kirsten.Cassells@mpi.govt.nz>
Subject: Impossible Foods - Impossible Burger

Tēnā koe, e Jenny,

I have completed enquiries regarding the Impossible Burger labelling of GE ingredients. The file states the outcome should be run by you.

I have confirmation from Impossible Foods in the US that the NZ product contains GE soy leghemaglobin only. The soy protein used in the NZ product is non GE and this is verified



through a Documented Non-GMO Identity Preservation Program for Soybean-Based Products. In addition, each batch is tested for soy-traits via 9(2)(b)(ii).

Therefore, I can confirm that the product available in the New Zealand retail market via Countdown has compliant labels, with the following statement in the ingredients list: 'soy hemoglobin (genetically modified)'.

This information is also provided in the product specification provided with Impossible Burger 5kg bricks to food service. I haven't yet heard back from 9(2)(a) as to whether the GM statement should appear in association with the food as per other mandatory statements.

However, I am now in a position to provide a response back to GE Free NZ summarizing the labelling of the retail product. I believe Impossible Foods have also been in contact with GE Free NZ.

Please let me know if you are happy for me to proceed with that response to GE Free NZ.

Ngā mihi,
Sharon

Investigator: Sharon Ayres
Date: 30-May-22 **Time:** 9:30
Category: Email **Identifier:**
Comments: **Time Taken:** 0:10

Appendix 9:
- Response from 9(2)(a) regarding food service declaration.

SUMMARY

-Under 1.5.2-5(1)(e) takeaways/delivered pizza (for immediate consumption) are not required to provide labelling information re GM ingredients.

This supersedes the requirement to declare as per 1.2.1-9 (3)(b).

Investigator: Sharon Ayres
Date: 20-Jun-22 **Time:** 9:36
Category: Phone Call **Identifier:**
Comments: **Time Taken:** 0:05

BISHOP calls AYRES to discuss file @09:36

- BISHOP is happy for a response to be provided to GE Free NZ regarding the findings.

Investigator: Sharon Ayres
Date: 5-Jul-22 **Time:** 10:42
Category: Email **Identifier:**
Comments: **Time Taken:** 0:20

AYRES sends email response to MULLER/Jon (GE Free NZ).



- I asked CASSELLS to review this email before I sent it.

From: Sharon Ayres
Sent: Tuesday, 5 July 2022 10:42 am
To: 'secretary@gefree.org.nz' <secretary@gefree.org.nz>
Subject: RE: Complaint on Food Labelling

Good morning Jon,
New Zealand Food Safety (NZFS) has completed its investigation into your query regarding the use of non-declared GMO soy in Impossible-brand burger patties sold in the New Zealand market.

We can confirm that the soy protein used in the NZ product is from non-genetically modified sources. The product is correctly labelled in terms of the genetically modified soy, leghemaglobin, and the soy-protein ingredient. This information is also provided to food-service customers.

Under the Australia New Zealand Food Standards Code section 1.5.2-4(1)(e) takeaways/delivered pizza (i.e. for immediate consumption) are not required to provide labelling information at point of sale regarding genetically modified ingredients, although they are provided with this information if queried by consumers.

Please feel free to contact me if required.
Ngā mihi,
Sharon

Investigator:	Sharon Ayres	Time:	10:25
Date:	6-Jul-22	Identifier:	
Category:	Email	Time Taken:	1:00
Comments:			

Appendix 10:

- Email with summary letter to Integrity Food Distributors Limited, cc'ing 9(2)(a) (Impossible Foods)

Investigation Topics

Introduction

Notification details

On 21 April 2022, Woolworths Corporate Affairs contacted ARBUCKLE/ Vince (NZFS) regarding queries from customers on the safety of the genetically modified soy leghemaglobin present in Impossible Burgers (sold by Countdown).

On 7 May 2022, GE Free NZ sent a letter to NZFS Food Compliance Services alleging that Impossible Burgers sold in New Zealand contained genetically modified soy protein (in addition to the soy leghemaglobin) that was not declared on the label. GE Free NZ wanted NZFS to recall the product in NZ.



Discussion

Investigation

ARBUCKLE responded to Woolworths on 28 April 2022 with information regarding the FSANZ assessment undertaken prior to approval of soy leghemaglobin for human consumption in NZ. The importer of Impossible Burgers for NZ is Integrity Foods Distributors Limited (IFD). They were contacted by an FCO on 13 May 2022. IFD forwarded the query to Impossible Foods. Impossible Foods provided evidence that the NZ product does not contain genetically modified soy protein, only the genetically modified soy leghemaglobin. This is verified through a Documented Non-GMO Identity Preservation Program for Soybean-Based Products. In addition, each batch is tested for soy-traits via ^{9(2)(b)(ii)}. Impossible Burger products in the US/Canada do contain genetically modified soy protein. Images of this label is what was provided to NZFS by GE Free NZ.

Conclusion

Outcome

No breach or non-compliance was identified.
GE Free NZ was responded to.

File Recommendation

I recommend that this file is now closed.

Released under the Official Information Act 1982



Appendix Register

No	Date	Comments
2	9-May-22	- Complaint from GE Free NZ
1	10-May-22	Original complaint and reply from ARBUCKLE Vince
3	12-May-22	- FSANZ application A1186 approval report 15/12/2020
4	12-May-22	- Snips from websites 12/05/2022
5	13-May-22	- Email from AYRES to subject (Integrity Food Distributors)
6	13-May-22	- Response from 9(2)(a) with image of Countdown variant label
7	16-May-22	- Response from 9(2)(a) at Impossible Foods Aotearoa New Zealand including PIFs for food service variant.
8	19-May-22	- Email from 9(2)(a) with soy-trait PCR analysis result
9	30-May-22	- Response from 9(2)(a) regarding food service declaration.
10	6-Jul-22	- Email with summary letter to Integrity Food Distributors Limited, cc'ing 9(2)(a) (Impossible Foods)