

15 October 1997

6/98

INFORMATION SUMMARY

PROPOSAL P158

REVIEW OF THE MAXIMUM PERMITTED CONCENTRATION OF NON-METALS IN FOOD

The Australia New Zealand Food Authority has before it a proposal to amend the Australian *Food Standards Code* on the above matter. The Authority's Preliminary Assessment Report is attached and the Authority invites public submissions on any issue raised in the Report.

Another related proposal, relating to review of the maximum permitted concentration of metals in food, is also under consideration by the Authority (Proposal P157).

REVIEW OF FOOD STANDARDS

In July 1996 an Agreement between Australia and New Zealand came into force which established the Australia New Zealand Food Authority (ANZFA) - a system for developing joint food standards and an Australia New Zealand Food Standards Code.

The aim of the Agreement is to extend the Australian food standard system to include New Zealand so that food standards developed by the Australia New Zealand Food Authority and approved by Ministerial Council can be adopted throughout Australia and in New Zealand. The current review of the Australian *Food Standards Code* (the Code) is an important element in developing joint standards. The provisions of the Agreement provide common policy objectives for developing food standards and a common approach to a transparent, timely, consultative and accountable standards setting process – both key features of the review process. The Authority is seeking to ensure full New Zealand participation in the standards setting process and the review of food standards.

The review focussed initially on the so-called generic standards, namely those relating to food labelling, food additives and the permitted levels of contaminants and residues in foods. A number of papers were also prepared dealing with policies relating to the development of a revised AFSC. The Authority's intention has been to make substantial progress on matters relating generally to all food standards before commencing the review of standards relating to particular foods.

In developing or reviewing food standards, the Authority must have regard to the objectives outlined in section 10 of the *Australia New Zealand Food Authority Act 1991*.

Consistent with these statutory objectives and the policies of the Authority, the review will, where possible:

- reduce the level of prescriptiveness of standards to facilitate innovation by allowing wider permission on the use of ingredients and additives, but with consideration of the possible increased need for consumer information;
- develop standards which are easier to understand and make amendment more straightforward;
- replace standards which regulate individual foods with standards that apply across all foods or a range of foods;
- consider the possibility of industry codes of practice as an alternative to regulation; and
- facilitate harmonisation of food standards between Australia and New Zealand.

The review will also be carried out in accordance with the competition policy principles which have been adopted by the Council of Australian Governments. These principles require the review of all business regulation to remove unnecessary obstacles to competition, and an assessment of the social, environmental, and economic impacts as well as the impacts on health of proposed regulation on all affected sectors of the community.

REGULATORY IMPACT ANALYSIS

The Authority is required, in the course of development of regulations suitable for adoption in Australia and New Zealand, to consider the impact of various options (including non-regulatory options) on all sectors of the community, including consumers, the food industry and governments in both countries. The regulatory impact assessment will identify and evaluate, though not be limited to, the costs and benefits of the regulation, and its health, economic and social impacts.

To assist in this process, comment on potential impacts or issues pertaining to these regulatory options is sought from all interested parties in order to complete the development of the regulatory impact statement. Public submissions should clearly identify relevant impact(s) or issues and provide support documentation where possible.

WORLD TRADE ORGANIZATION (WTO) NOTIFICATION

Australia and New Zealand are members of the WTO and are bound as parties to WTO agreements. In Australia, an agreement developed by the Council of Australian Governments (COAG) requires States and Territories to be bound as parties to those WTO agreements to which the Commonwealth is a signatory. Under the agreement between the Governments of Australia and New Zealand on Uniform Food Standards, ANZFA is required to ensure that food standards are consistent with the obligations of both countries as members of the WTO.

In certain circumstances Australia and New Zealand have an obligation to notify the WTO of changes to food standards to enable other member countries of the WTO to make comment. Notification is required in the case of any new or changed standards which may have a significant trade effect and which depart from the relevant international standard (or where no international standard exists).

Matters relating to public health and safety may be notified as a Sanitary or Phytosanitary (SPS) notification, and other matters as a Technical Barrier to Trade (TBT) notification.

FOOD STANDARDS SETTING IN AUSTRALIA AND NEW ZEALAND

The Governments of Australia and New Zealand entered an Agreement in December 1995 establishing a system for the development of joint food standards. The Australia New Zealand Food Authority is now developing a joint *Australia New Zealand Food Standards Code* which will provide compositional and labelling standards for food in both Australia and New Zealand.

Until the joint *Australia New Zealand Food Standards Code* is finalised, transitional arrangements for the two countries apply:

- Food sold in New Zealand (that has been manufactured in, or imported into, New Zealand either from Australia or from a third country) may comply with either the *Australian Food Standards Code*, as gazetted in New Zealand, or the *New Zealand Food Regulations*, but not a combination of both. However in all cases maximum residue limits for agricultural and veterinary chemicals must comply solely with those limits specified in the *New Zealand Food Regulations*.
- Food manufactured in Australia and sold in Australia must for most products comply solely with the *Australian Food Standards Code*. However Standard T1 allows for certain specified foods to be manufactured in accordance with the relevant provisions of *New Zealand Food Regulations*.
- Food imported into Australia from New Zealand must either comply with the *Australian Food Standards Code* or relevant provisions of the *New Zealand Food Regulations*. If they comply with the *New Zealand Food Regulations* they must also comply with Standard A14 and the maximum permitted concentrations for cadmium as set out in Standard A12 of the *Australian Food Standards Code*.
- Food imported into Australia from other than New Zealand must comply solely with the *Australian Food Standards Code*. The provisions set out in Standard T1 of the *Australian Food Standards Code* do not apply in this case.

In addition to the above, all food sold in New Zealand must comply with the *New Zealand Fair Trading Act* and all food sold in Australia must comply with the *Australian Trade Practices Act (1974)*.

Any person or organisation may apply to ANZFA to have the *Australian Food Standards Code* amended. In addition, ANZFA may develop proposals to amend the *Australian Food Standards Code*. ANZFA can provide advice on the requirements for applications to amend the *Australian Food Standards Code*.

INVITATION FOR PUBLIC SUBMISSIONS

Written submissions containing technical or other relevant information which will assist the Authority in undertaking a full assessment on matters relevant to the proposal, including consideration of its regulatory impact, are invited from interested individuals and organisations. Technical information presented should be in sufficient

detail to allow independent scientific assessment. In particular, information on levels of contaminants in commodities are sought.

Submissions providing more general comment and opinion are also invited. The Authority's policy on the management of submissions is available from the Standards Liaison Officer upon request.

The processes of the Authority are open to public scrutiny, and any submissions received will ordinarily be placed on the public register of the Authority and made available for public inspection. If you wish any confidential information contained in a submission to remain confidential to the Authority, you should clearly identify the sensitive information and provide justification for treating it in confidence. The *Australia New Zealand Food Authority Act 1991* requires the Authority to treat in confidence trade secrets relating to food and any other information relating to food, the commercial value of which would be or could reasonably be expected to be, destroyed or diminished by disclosure.

Following its full assessment of the proposal the Authority may prepare a draft standard or draft variation to a standard (and supporting draft regulatory impact statement) , or decide to reject the proposal. If a draft standard or draft variation is prepared, it is then circulated to interested parties, including those from whom submissions were received, with a further invitation to make written submissions on the draft. Any such submissions will then be taken into consideration during the inquiry which the Authority will hold to consider the draft standard or draft variation to a standard.

All correspondence and submissions on this matter should quote the full title, Proposal P158, and be addressed to the Standards Liaison Officer at one of the following addresses:

Australia New Zealand Food Authority
P O Box 7186
Canberra Mail Centre ACT 2610
AUSTRALIA
Tel (02) 6271 2258
Fax (02) 6271 2278

Australia New Zealand Food Authority
P O Box 10559
WELLINGTON 6036
NEW ZEALAND
Tel (04) 473 9942
Fax (04) 473 9855

Submissions should be received by the Authority by **16 January 1998**. General queries on this matter can be directed to the Standards Liaison Officer at the above address or by Email on slo@anzfa.gov.au however submissions should not be sent by Email as the Authority cannot guarantee receipt. Requests for general information on the Authority can be directed to the Information Officer at the above address or by Email info@anzfa.gov.au

NEW PROPOSAL

REVIEW OF THE MAXIMUM PERMITTED CONCENTRATION OF NON-METALS IN FOOD

BACKGROUND:

The Authority is in the process of reviewing the Food Standards Code with the objective of developing joint standards for Australia and New Zealand.

Standard A12 regulates the levels of metals and other contaminants permitted in food as well as listing botanicals prohibited for use in food. It is proposed that the Standard will be reviewed under three separate but related Proposals, namely:

1. Review of the maximum permitted concentration of metals in food
2. Review of the maximum permitted concentration of non-metals in food
3. Review of prohibited botanicals in food

OBJECTIVE:

The objective of this Proposal is to review the maximum permitted concentrations (MPCs) for NON-metals in food.

POLICY FRAMEWORK

In order to provide a consistent and comprehensive policy framework for the review of contaminants in food, a policy document has been prepared in which many of the issues relating to contaminants in food are discussed.

The recent review of cadmium MPCs in Australia has provided the basis for many of the issues discussed in this document. Principles for establishing MPCs were considered by the Authority and by ANZFSO in 1997.

The policy paper *The regulation of contaminants and other restricted substances in food*, is available upon request.

SCOPE OF THE REVIEW

While all substances which potentially contaminate food could be considered for inclusion in the revised Standard A12, in order to work towards a joint Australia New Zealand Food Standards Code in a reasonable timeframe, only those substances currently regulated in the Australia Food Standards Code or in the New Zealand Regulations will be considered in this review. Unless there is a particular urgency, other substances will be considered at a future date.

The review will therefore consider the following non-metals:

Vinyl chloride monomer	Acrylonitrile monomer
Vinylidene chloride	Aflatoxin
Phomopsis	Ergot
Polychlorinated biphenyls	Lupin alkaloids

Histamines	Erucic acid
Fluorine	Paralytic shellfish poison
	Domoic acid

ANZFA is especially seeking information on levels of contaminants in commodities.

IDENTIFICATION OF AFFECTED PARTIES

- A. Food Industry
- B. State/Territory/New Zealand governments
- C. Consumers

POTENTIAL REGULATORY IMPACTS

Revised MPCs for contaminants in food could affect:

A. Industry by:

1. Imposing more stringent limits for contaminants which may restrict production.
2. Relaxing or removing limits for contaminants.

B. State/Territory/New Zealand governments by:

1. Imposing more stringent limits for contaminants which requires additional surveillance.
2. Removal of limits for contaminants for some foods.

C. Consumers by:

1. Reducing or enhancing confidence in the safety of the food supply by changing the limits for contaminants in some foods.

CONCLUSIONS

The Proposal which will be based on the accompanying policy framework document is consistent with the aims of the review of the *Food Standards Code* and with the objective of developing joint standards for Australia and New Zealand.

If recommended by the Authority and agreed to by the Australia New Zealand Food Standards Council, an amendment to the Code, as suggested by this proposal, may lead to revised MPCs for non-metals in foods.