

## Seamons, Colleen

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**From:** Jennifer Thompson [Jennifer.Thompson@aigroup.asn.au]  
**Sent:** Wednesday, 9 February 2011 5:06 PM  
**To:** submissions  
**Subject:** Submission : P1013 - Code Maintenance IX Assessment Report  
**Attachments:** P1013 response Feb 2011.pdf

Dear Submissions

Please find attached copy of the confectionery industry's response to P1013.

Many thanks  
Jennifer

Jennifer Thompson  
*Technical & Regulatory Manager*  
**THE AUSTRALIAN INDUSTRY GROUP**  
**Confectionery Sector**  
**Direct Tel: 61 3 9867 0181**  
**Mobile: 0418 223 170**  
**Fax: 61 3 9867 0271**  
**Web: [www.aigroup.com.au/](http://www.aigroup.com.au/)**  
**Email: [jennifer.thompson@aigroup.asn.au](mailto:jennifer.thompson@aigroup.asn.au)**

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**Submission in response to Food Standard Australia New Zealand's Proposal P1013 –  
Code Maintenance IX Assessment Report – December 2010**

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**About the Confectionery Industry in Australia and New Zealand**

The Australian Industry Group Confectionery Sector represents manufacturers of chocolate, sugar and gum confectionery, suppliers of ingredients, machinery, packaging materials and services to the industry, and wholesaler and distributor firms. We have approximately 140 members, including multinational organisations, major companies, small and medium enterprises and niche businesses operating in Australia and New Zealand. The Australian confectionery industry's direct market value is in excess of A\$2.9b and NZ\$580 million, respectively.

**Our contact details are:** Jennifer Thompson, Technical & Regulatory Manager, Australian Industry Group Confectionery Sector, Level 1, 20 Queens Road, Melbourne, Vic, 3004.  
Email: [jennifer.thompson@aigroup.asn.au](mailto:jennifer.thompson@aigroup.asn.au).

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Thank you for the opportunity to comment on the FSANZ Proposal P1013 – Code Maintenance IX Assessment Report released in December 2010. This response is provided on behalf of the Australasian confectionery manufacturing industry and specifically considers Issue 75.

Currently the Table to clause 2, Standard 1.4.1 – Contaminants and Natural Toxicants specifies the permitted cadmium limit for "Chocolate and cocoa products" being 0.5mg/kg. At the time this Standard was amended the previous all catching "All other foods" category was removed and in its place specific levels were designated for certain foods, including "Chocolate and cocoa products". FSANZ intended the cadmium level for chocolate and cocoa products apply to the finished food and not the commodity or primary products (such as cocoa paste) and FSANZ's Proposal 1013 confirms this intention. However, without sufficient clarification it is easy to see the maximum residue limit of 0.5mg/kg for chocolate and cocoa products applying equally to commodity and consumer products.

The current requirement is **not** intended to capture commodities or semi processed commodities (no ML applies in these cases), rather the **finished food as consumed at retail**.

The confectionery industry supports the need for clarification in the Table to clause 2 of Standard 1.4.1 and in dialogue with FSANZ representatives we have suggested the amendment be worded in a manner that signals that the cadmium ML applies to chocolate and cocoa products **as consumed or at retail**, thereby excluding commodities and intermediary commodities.

The amendment proposed by FSANZ in P1013 replaces "Chocolate and cocoa products" with "Chocolate and cocoa products, excluding cocoa products which are made entirely of the whole or part of the cocoa bean".

We believe FSANZ's proposed amendment may only partially help clarify the original intent that the cadmium maximum limit applies to chocolate products as consumed and not commodity and intermediary semi processed non-finished product lines.

In discussion with FSANZ representatives it is understood that the proposed amendments would **exclude** products such as cocoa powder or kibbled cocoa nibs (as a consumer product). Both have the capacity to be sold at retail – the cocoa powder would be typically mixed with other foods prior to consumption and the kibbled cocoa nibs presented similarly to coffee beans.

However, we believe the unintended consequence of the proposed amendment captures cocoa type commodities that are not made entirely of cocoa, for example chocolate crumb (a blend of cocoa product and milk powder and may have a variable composition depending on the manufacturer) as a semi processed commodity and not presented for retail sale. The proposed amendment would also apply to a chocolate drinking powder (a sugar and cocoa blend) sold at retail and used in a similar manner to cocoa powder that is made entirely of cocoa.

Potentially, ambiguity may continue to remain between commodity, semi processed and finished product due to the variable nature in which cocoa products are consumed and marketed, **without** further clarification.

We suggest that the proposed amendment needs to control the level of cadmium in the final products as originally intended and with the support of an editorial note to ensure clarity.

We suggest the intent of the editorial note convey that the ML controls the level of cadmium in the final products as consumed at retail and not to commodity and semi processed cocoa commodity products.

**Recommendations:**

1. The confectionery industry supports the need for clarification in the Table to clause 2 of Standard 1.4.1 – Contaminants and Natural Toxicants.
2. The confectionery industry proposes that clarification ensures the ML for cadmium apply to the finished products as intended.
3. It is preferable that an amendment be re-worded to reflect the intention.
4. Inclusion of an explanatory editorial note is suggested.

Again, thank you for the opportunity to comment and if you have any further queries, or require clarification, please do not hesitate to contact Jennifer Thompson (contact details above). We would be pleased to continue working with FSANZ as the process evolves, particularly as this review involves only one round of public consultation.

(February 2011)