

Comments from the Victorian Departments of Environment and Primary Industries and Health

Due date of submission: 24 December 2014

The Victorian Departments of Environment and Primary Industries and Health (the Departments) welcome the opportunity to provide comments on Proposal P1034, to assess whether there are any unmanaged public health and safety risks in relation to chemical migration from packaging into food (CMPF).

The Departments believe that collection of information into unmanaged risks related to CMPF is warranted, but believe that the scope of this Proposal should extend to emerging packaging technology (such as the use of nanomaterials and 'intelligent packaging' solutions), as this technology may currently be used by businesses, or may be used prior to further planned examination by FSANZ. The Departments feel that inclusion of emerging packaging technology in this proposal could lead to valuable information gathered on current practices, upon which a more accurate assessment of the health and safety concerns of CMPF as a whole could be conducted.

To assist FSANZ, the Departments have set out below responses to some of the questions posed:

Question 1. What concerns, if any, do you have about food packaging in relation to food safety?

The Departments are concerned that current regulations in the *Australia New Zealand Food Standards Code* (the Code) do not provide businesses with adequate information or direction to ensure that they only use packaging materials that are safe to contact food.

We have concerns that Standard 1.4.3 refers only to the safety of 'articles and materials' (including packaging materials) if taken into the mouth, and does not address the risk of CMPF. The Australian Standard (AS2070-1999) referred to in Standard 1.4.3 contains outdated available information, is limited in that it only relates to plastic food packaging materials, and refers readers to European and United States regulations which can be difficult to access and interpret. The current requirements in Standard 1.4.3 prohibiting articles in contact with food from being potential choking hazards should be removed as this is not a food safety issue; this type of product safety issue is dealt with under Australian Consumer Law by consumer agencies.

Standard 3.2.2 requires that all food packaging materials be fit for their intended use and are not likely to cause food contamination. However, being an outcome-based Standard, any further directions on how to achieve these outcomes is lacking.

We have concerns that food businesses, including food service businesses, and regulators may lack knowledge relating to the suitability of particular food packaging materials, both during food processing and for use by consumers (following preparation instructions). We have concerns that there is no single location for regulatory agencies to refer businesses to who are seeking this information. The risk of food businesses using unsuitable packaging that could lead to CMPF issues may be exacerbated if they cannot find clear guidance.

We are also concerned that there is a lack of knowledge, by both industry and regulators, regarding the use and composition of recycled materials used in food packaging, and the subsequent health and safety concerns that may arise from chemical migration when these materials are in contact with food. This type of issue may emerge as new analytical methods are developed and knowledge is gained of potentially unsafe chemicals and compounds, placing further pressure on regulators to manage any potential risks.

Question 2. What measures do you think could be implemented to resolve these concerns?

The Departments support a tiered approach to dealing with CMPF issues.

The Departments are in favour of the regulatory prohibition of the use of packaging materials that contain specific chemicals and compounds that should not be present in food, if it is determined that these chemicals and compounds may migrate into the food and present a demonstrated public health risk.

The Departments are also in favour of having prescriptive regulatory limits for specific chemicals where it has been identified that migration from packaging into food could occur at a level that has the potential to create a risk to public health and safety, but where this risk could be minimised with correct use.

The Departments suggest that maximum limits or prohibitions for specific chemicals for which there has been a demonstrated risk to health should be prescribed in the Food Standards Code.

For packaging/chemicals for which there is no evidence of health and safety risks, the Departments support the use of guidance materials documented in a single source/location, to which businesses can easily and readily refer to. This guidance material should be current, should consider the full range of food packaging materials, should be relevant to the food and packaging industries in Australia and New Zealand and should be flexible enough to facilitate development of new packaging materials and technologies.

Question 13. Are there other industry standards that you reference and adhere to regularly?

No. The Departments believe that there is not currently a suitable standard that can be referred to for guidance on food packaging materials. As a regulator, the Department of Health notes that this is problematic, particularly if enforcement action relating to the inappropriate use of packaging were to be pursued.

Question 14. Would you see benefits if a more prescriptive approach to packaging regulations were introduced?

Yes, with regard to packaging materials/chemicals that are known present health and safety concerns. This would give food businesses and regulators guidance regarding the safety and suitability of these packaging materials being used in relation to their application.

Ultimately, we believe a tiered approach, as suggested in our response to question 2, would be the most appropriate way to reduce uncertainty for businesses and regulators around the safety and suitability of certain packaging materials, while providing enough flexibility to address ongoing developments in packaging materials and technologies.