## Comments from Departments of Health and Primary Industries Victoria, and Dairy Food Safety Victoria

## Due date of submission: 16 November 2012

The Victorian Departments of Health and Primary Industries, and Dairy Food Safety Victoria welcome the opportunity to provide comments on Proposal 1017 – Criteria for *Listeria monocytogenes* (Lm) – Microbiological Limits for Foods.

### The case for review

We support the grounds provided for a review of this standard. Of particular concern is the current disconnect between the prescriptive, product based standards for Lm in the Code; the current Lm recall guidelines; and the food safety requirements in Chapters 3 and 4 of the Code that support a preventative through-chain approach to managing food safety risks. The prescriptive nature of the existing standard, that is, nil Lm to be detected in 25g, does not allow for practical risk assessment decisions to be made on products within the categories listed which may have been reformulated or otherwise processed to prevent the growth of Lm, should contamination occur. The inflexible application of this standard together with the inconsistent application of recall guidelines has come at a cost to both food businesses and enforcement agencies in cases where products pose little risk to the consumer.

Recent international risk assessments demonstrate that the risk of listeriosis is strongly influenced by the ability of the food to support the growth of Lm to high levels. This is the basis of the approach taken by Codex in 2007 (upon which Option 1 is based) which has the potential to address the identified issues of the current standard.

### Preferred option – Option 1, supported by guidelines

This option proposes changing the limits set for Lm in Standard 1.6.1 to include two sets of criteria:

- for ready to eat foods in which growth of Lm will not occur (limit of <100 cfu/g); and
- for ready to eat foods in which growth of Lm can occur (organism not detected in 25g)

Lm is currently the only pathogen to be the subject of recall guidelines. The nationally consistent application of these guidelines relies on alignment with a Standard in the Code that clarifies which criteria apply to particular products, and what methods of analysis must be used. Option 1 will effectively align the Standard with the recall guidelines.

While it is agreed that, “control measures that prevent the occurrences of high levels of contamination at consumption are expected to have the greatest impact on reducing rates of listeriosis” (p6, Call for Submissions), it is important to recognise that one of the roles of an Lm Standard, other than to protect public health, is to provide certainty to industry and regulators around when a recall may be warranted.

It is anticipated that the adoption of option 1, supported by comprehensive guidance material, will provide for a nationally consistent and internationally harmonised approach to the risk management of Lm.

Other advantages of this approach include:

- It is risk based and can be applied across all food categories;

- Manufacturers and suppliers would have more certainty around process validation and verification, and whether or not further listericidal steps (such as the use of phage preparations) may be appropriate. This is most applicable to the more highly processed products; and
- Products which cannot support the growth of Lm containing only low levels of these organisms would not be the subject of disproportionate actions. This reduces the impost on industry and enforcement agencies, enabling resources to be more appropriately targeted, reducing unnecessary waste. Further, unnecessary food recalls contribute to unwarranted public concern about the safety of food.

**Issues**

*Growth or no growth*

- The proposed standard introduces the additional hurdle of having to determine whether the food can or cannot support the growth of Lm before applying the appropriate tests. It is recognised that the manufacturers of more highly processed products would, or should, have considered the likelihood of Lm contamination and growth in the development of HACCP based food safety programs. However, information on whether or not there are controls in place to prevent the growth of Lm may not be available to laboratories conducting testing on behalf of enforcement agencies. Defaulting, in the absence of such information, to a presumption that a food will support the growth of Lm (as suggested on p9, Call for Submissions) is not supported as this is not commensurate with the risk, and puts enforcement agencies back into the situation that this review is seeking to rectify.
- There are issues associated with minimally processed ready to eat foods such as packaged salads, or assembled mixed foods, such as packaged sandwiches and rolls. The application of pH or water activity criteria to determine the potential for Lm growth, for example, can be problematic with these products. These types of products have been the subject of recalls in Australia and New Zealand over the past 12 years, although at relatively low frequency (refer to Attachments A and B of the Call for Submissions). It is arguable that the enumeration criteria should be applied routinely to many of these products.
- The provision of microbiological testing services is a highly competitive business, and the majority of laboratories therefore tend to quote on cheaper 'rapid' test methods which typically are for the detection only and not enumeration of Lm. These methods are well suited for screening, and improve time to market where test and hold obligations exist. There may be a reluctance to follow up a detection with enumeration where appropriate, however, as this further testing would be made at an additional cost. It is important that laboratories and their clients are made aware of their obligations to conduct the appropriate tests.

To address these issues it is recommended that any new standard should be supported by comprehensive guidance material (the guidelines) based on robust scientific evidence, which sets out criteria for determining 'growth or no growth' and for controlling growth (ensuring that this remains flexible and allows for innovation), and which gives general guidance for the treatment of some of the more problematic foods mentioned above. The guidelines could also provide tables of foods known to support, or not support, the growth of Lm.

*The definition of ready to eat food*

We support in principle the adoption of the Codex definition for ready to eat food (RTEs), namely, "any food which is normally eaten in its raw state or any food, handled, processed, mixed, cooked, or otherwise prepared into a form which is normally eaten without further listericidal steps", and its inclusion in the Standard. However, because of

the potential for some foods that could be consumed in their raw state but would ordinarily be subject to further listericidal steps (for example, cheese supplied for pizza toppings), we recommend that the guidelines include advice on the interpretation of the definition of RTEs.

This notwithstanding, as the proposed standard, under option 1, refers to RTEs, these must be clearly defined.

*Methods of analysis*

The consistent application and enforceability of any microbiological standard, and the compatibility of data, depends on having a prescribed method of analysis. Different microbiological methods will give different results, especially with enumeration techniques.

As part of the broader review of Standard 1.6.1 it is requested that FSANZ and Standards Australia discuss the current naming conventions for standard methods to address the ongoing issue around methods that are updated periodically. Codex addresses this by stating that 'the current version of the standard shall be used' and we support this approach.

*Sampling plans*

Standard 1.6.1 currently prescribes sampling plans for particular foods and pathogens. For Lm this involves testing five sample units which, in most cases, must be free of Lm in 25g. This approach is suited to the more highly processed products. It is not well suited to the assessment of the types of assembled mixed foods mentioned above, as one product may not be representative of another. Food surveillance activities currently only require one sample of these types of foods to be assessed. It is recommended that there be some discretion around sampling plans built into any new Lm standard and that guidance material is provided. Standard 1.6.1 states that

> "Where an authorised officer takes or otherwise obtains a sample of food which is the subject of a suspected food poisoning incident or consumer complaint, the results of an analysis conducted on such food are not invalid by reason that fewer sample units than prescribed have been analysed or that a sample unit analysed is smaller than prescribed".

This clause (3.3) was introduced to deal specifically with complaint samples, and a similar approach should be taken in the case of foods not suited to existing sampling plans.