

**4-04**  
**26 May 2004**

## **INITIAL ASSESSMENT REPORT**

### **PROPOSAL P290**

# **FOOD SAFETY PROGRAMS FOR CATERING OPERATIONS TO THE GENERAL PUBLIC**

**DEADLINE FOR PUBLIC SUBMISSIONS** to FSANZ in relation to this matter:

**21 July 2004**

*(See 'Invitation for Public Submissions' for details)*

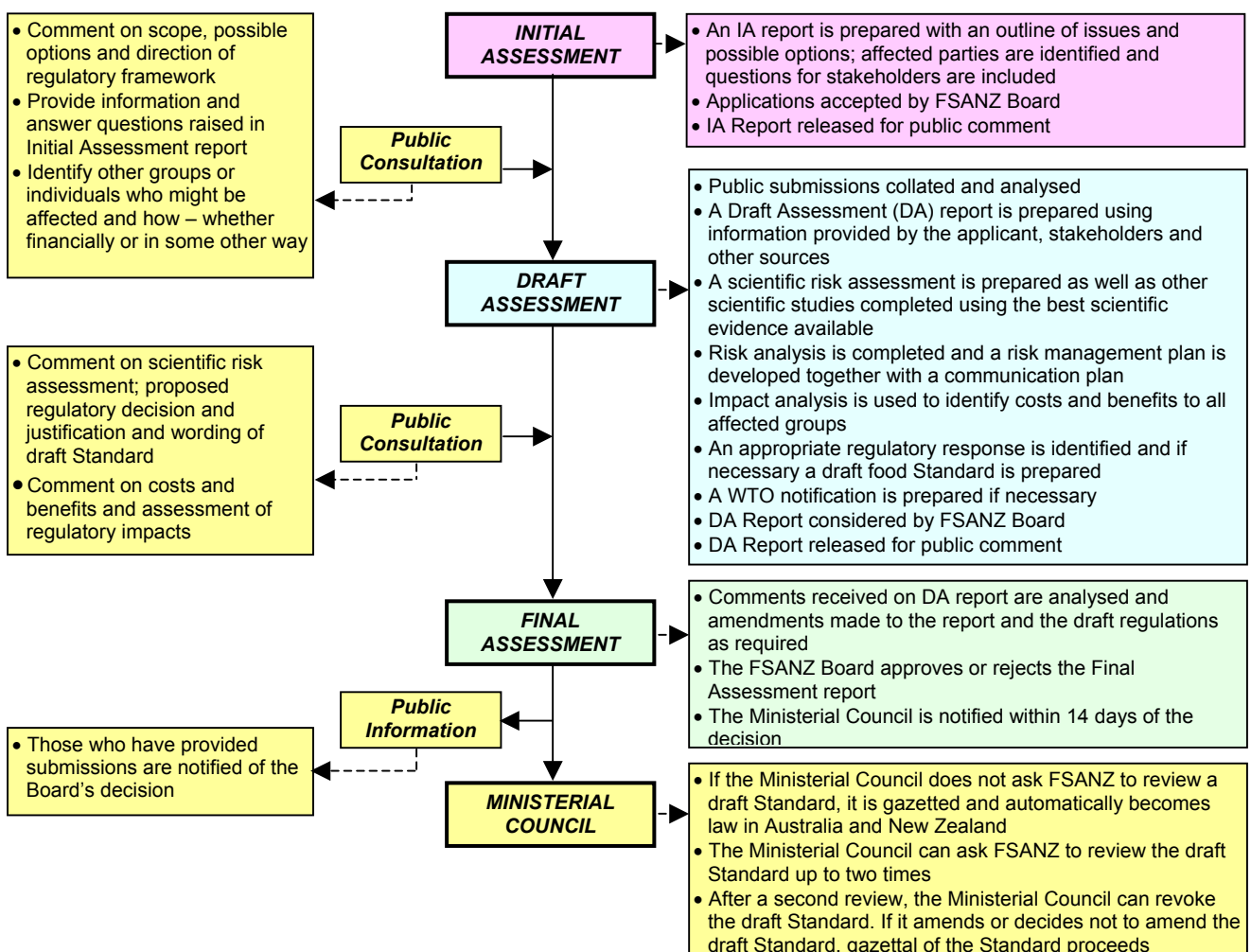
## FOOD STANDARDS AUSTRALIA NEW ZEALAND (FSANZ)

FSANZ's role is to protect the health and safety of people in Australia and New Zealand through the maintenance of a safe food supply. FSANZ is a partnership between ten Governments: the Commonwealth; Australian States and Territories; and New Zealand. It is a statutory authority under Commonwealth law and is an independent, expert body.

FSANZ is responsible for developing, varying and reviewing Standards and for developing codes of conduct with industry for food available in Australia and New Zealand covering labelling, composition and contaminants. In Australia, FSANZ also develops food Standards for food safety, maximum residue limits, primary production and processing and a range of other functions including the coordination of national food surveillance and recall systems, conducting research and assessing policies about imported food.

The FSANZ Board approves new Standards or variations to food Standards in accordance with policy guidelines set by the Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) made up of Commonwealth, State and Territory and New Zealand Health Ministers as lead Ministers, with representation from other portfolios. Approved Standards are then notified to the Ministerial Council. The Ministerial Council may then request that FSANZ review a proposed or existing Standard. If the Ministerial Council does not request that FSANZ review the draft Standard, or amends a draft Standard, the Standard is adopted by reference under the food laws of the Commonwealth, States, Territories and New Zealand. The Ministerial Council can, independently of a notification from FSANZ, request that FSANZ review a Standard.

The process for amending the *Australia New Zealand Food Standards Code* is prescribed in the *Food Standards Australia New Zealand Act 1991* (FSANZ Act). The diagram below represents the different stages in the process including when periods of public consultation occur. This process varies for matters that are urgent or minor in significance or complexity.



## INVITATION FOR PUBLIC SUBMISSIONS

FSANZ has prepared an Initial Assessment Report of Proposal P290, which includes the identification and discussion of the key issues. FSANZ invites public comment on this Initial Assessment for the purpose of preparing an amendment to the Code for approval by the FSANZ Board.

Written submissions are invited from interested individuals and organisations to assist FSANZ in preparing the Draft Assessment for this Proposal. Submissions should, where possible, address the objectives of FSANZ as set out in section 10 of the FSANZ Act. Information providing details of potential costs and benefits of the proposed change to the Code from stakeholders is highly desirable. Claims made in submissions should be supported wherever possible by referencing or including relevant studies, research findings, trials, surveys etc. Technical information should be in sufficient detail to allow independent scientific assessment.

The processes of FSANZ are open to public scrutiny, and any submissions received will ordinarily be placed on the public register of FSANZ and made available for inspection. If you wish any information contained in a submission to remain confidential to FSANZ, you should clearly identify the sensitive information and provide justification for treating it as commercial-in-confidence. Section 39 of the FSANZ Act requires FSANZ 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.

Submissions must be made in writing and should clearly be marked with the word 'Submission' and quote the correct project number and name. Submissions may be sent to the following addresses:

**Food Standards Australia New Zealand**  
**PO Box 7186**  
**Canberra BC ACT 2610**  
**AUSTRALIA**  
**Tel (02) 6271 2222**  
**[www.foodstandards.gov.au](http://www.foodstandards.gov.au)**

**Food Standards Australia New Zealand**  
**PO Box 10559**  
**The Terrace WELLINGTON 6036**  
**NEW ZEALAND**  
**Tel (04) 473 9942**  
**[www.foodstandards.govt.nz](http://www.foodstandards.govt.nz)**

Submissions should be received by FSANZ **by 21 July 2004**. Submissions received after this date may not be considered, unless the Project Manager has given prior agreement for an extension.

While FSANZ accepts submissions in hard copy to our offices, it is more convenient and quicker to receive submissions electronically through the FSANZ website using the [Standards Development](#) tab and then through [Documents for Public Comment](#). Questions relating to making submissions or the application process can be directed to the Standards Management Officer at the above address or by emailing [slo@foodstandards.gov.au](mailto:slo@foodstandards.gov.au).

Assessment reports are available for viewing and downloading from the FSANZ website. Alternatively, requests for paper copies of reports or other general inquiries can be directed to FSANZ's Information Officer at either of the above addresses or by emailing [info@foodstandards.gov.au](mailto:info@foodstandards.gov.au).

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## Executive Summary

The Food Regulation Standing Committee (FRSC) has developed Ministerial Policy Guidelines on Food Safety Management in Australia that were endorsed by the Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council). These guidelines propose that food safety programs be mandatory for four high risk food industry sectors:

- food service, whereby potentially hazardous food is served to vulnerable populations;
- harvesting, processing and distributing raw oysters and other bivalves;
- catering operations serving food to the general public; and
- producing manufactured and fermented meat.

The Australian Government Department of Health and Ageing (DoHA) undertook key projects to determine the incidence and causes of food-borne illness in Australia and to assess the costs, benefits and justification for food safety programs. The findings of these projects were published in two reports, the *National Risk Validation Project* report and the *Food Safety Management Systems – Costs, Benefits and Alternatives* report. The evidence presented in these reports supported the recommendation that food safety programs be made mandatory for the high risk food industry sectors identified. This Initial Assessment Report is concerned with proposing food safety programs for catering operations serving food to the general public. Food safety programs for the other sectors are being addressed through separate processes.

A national requirement for catering operations to have documented food safety programs will require an amendment to Standard 3.2.1 Food Safety Programs of the Code. FSANZ is responsible for implementing the decision of the Ministerial Council through the amendment of Standard 3.2.1 in the Code and has raised Proposal P290 for this purpose. The definition of catering will be an important issue to resolve in the development of this Standard. It is important, however, that this definition does not capture eating establishments (e.g. restaurants, cafés and fast food businesses which have direct cook-serve operations) as the cost/benefit analysis for this sector did not support mandatory food safety programs. Comment is specifically sought on the definition to be included in the Standard as well as on implementation issues such as audit, interpretive guides, tools and other support material.

This Initial Assessment Report provides the first opportunity for stakeholders to comment on and supply information and data to FSANZ regarding the mandatory application of Standard 3.2.1 to catering operations serving food to the general population. In addition, an advisory group will be formed which will comprise representatives from industry, from each State and Territory Government, and from consumer groups. The comments, information and data provided during this consultation will be considered during the development of the Draft Assessment Report.

## **1. Introduction**

In response to the decision in December 2003 by the Ministerial Council, FSANZ is proposing to amend Standard 3.2.1– Food Safety Programs in Chapter 3 of the Code. The Proposal is to make mandatory the requirements of the Standard to catering operations serving food to the general public. This Standard will apply in Australia only and does not apply in New Zealand.

Consistent with the Ministers' decision, amendments to the Standard will require these businesses to develop and implement audited food safety programs as defined in the Standard.

The purpose of the Initial Assessment Report is to inform the food industry, governments, consumers and other stakeholders of the Proposal to apply to catering operations serving food to the general public; to present the reasons for the Proposal, and to raise issues that FSANZ will need to address during its assessment of the Proposal. Through this Report, FSANZ invites stakeholders to comment on these issues and asks whether there are additional issues that should be considered.

## **2. Background**

### **2.1 Regulatory Framework for Mandating Standard 3.2.1**

#### *2.1.1 Introduction of the Food Safety Standards*

In August 2000, the Code was amended to include a new chapter of Food Safety Standards, for application in Australia only, for safe production of food and for premises, equipment and vehicles used by food businesses. The Standards also introduced a notification system for food businesses and a requirement that food handlers and their supervisors have food safety skills and knowledge. These new Food Safety Standards have been progressively introduced into State and Territory legislation to provide a nationally consistent set of food safety requirements for food businesses. They replace inconsistent, outdated and unduly prescriptive State and Territory hygiene regulations. These Standards are:

- Standard 3.1.1– Interpretation and Application;
- Standard 3.2.2– Food Safety Practices and General Requirements; and
- Standard 3.2.3– Food Premises and Equipment<sup>1</sup>.

State and Territory Governments also agreed to the introduction of a fourth Standard, Standard 3.2.1– Food Safety Programs, which was included in the Code in December 2000. This Standard requires food businesses, as determined by State and Territory Governments, to demonstrate that they are controlling food safety hazards in their businesses by developing and complying with food safety programs. However the Ministerial Council deferred the application of Standard 3.2.1 to food businesses until sound data on food-borne illness in Australia and more information on costs and efficacy of food safety programs were available.

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<sup>1</sup> Copies of the Standards and a guide to their interpretation are available at [www.foodstandards.gov.au](http://www.foodstandards.gov.au).

The intention of including the Standard in the Code was to promote national consistency by providing a model for States such as Victoria, which was introducing food safety programs ahead of a national requirement.

DoHA and State and Territory Governments, in cooperation with the food industry and other interested parties, undertook a range of studies to provide Governments with data on food-borne illness and an analysis of the costs and benefits of introducing mandatory food safety programs.

The results of three projects, in particular, have been important in assisting the Food Regulation Standing Committee to develop options for managing food safety in Australia. These projects are:

- the establishment of OzFoodNet to provide data on the incidence and causes of food-borne illness in Australia;
- a study into the costs and efficacy of introducing food safety programs in Australia, prepared by The Allen Consulting Group, and
- the National Risk Validation Project which identified the highest risk sectors of the food industry and undertook specific cost and benefit analysis of these sectors.

OzFoodNet reports and Final Reports of the other two studies are available from DoHA<sup>2</sup>. Evidence from these projects has supported the development of Policy Guidelines on Management of Food Safety in Australia<sup>3</sup>.

### 2.1.2 Ministerial Policy Guidelines on Food Safety Management in Australia

The Food Regulation Standing Committee (FRSC) established a policy committee in 2002 to develop options for food safety management in Australia. The aim of the policy committee was to seek an ‘all of government’ position on managing food safety risks. On 12 December 2003, the Ministerial Council approved the Ministerial Policy Guidelines on *Food Safety Management in Australia: Food Safety Programs* for national application. These guidelines include overarching principles and recommendations on which food business sectors should develop and implement mandatory food safety programs.

The Ministerial Policy Guidelines specify five overarching principles to apply when addressing particular policy issues of food safety management in Australia:

1. That regulations covering food safety management in Australia be based on risk, where the level of legislative requirements and their verification is commensurate with the level of risk.

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<sup>2</sup> OzFoodNet website: [www.ozfoodnet.org.au](http://www.ozfoodnet.org.au)

The National Risk Validation Project - Final Report (2002) can be accessed at the following link: [www.health.gov.au/pubhlth/strateg/foodpolicy/pdf/validation.htm](http://www.health.gov.au/pubhlth/strateg/foodpolicy/pdf/validation.htm)

The Final Report of *Food Safety Management Systems - Costs, Benefits and Alternatives* is available at: [www.health.gov.au/pubhlth/strateg/foodpolicy/pdf/alternatives.htm](http://www.health.gov.au/pubhlth/strateg/foodpolicy/pdf/alternatives.htm)

<sup>3</sup> The Ministerial Policy Guidelines on *Food Safety Management in Australia: Food Safety Programs* can be viewed at [www.foodsecretariat.health.gov.au/pdf/food\\_safety.pdf](http://www.foodsecretariat.health.gov.au/pdf/food_safety.pdf)

2. That risk profiling be used to classify food businesses or food industry sectors in Australia on the basis of risk.
3. At a minimum, Standard 3.2.1– Food Safety Programs should be implemented in those businesses/sectors involved in operations identified as high risk **and** where the benefit to cost ratio justifies the implementation of food safety programs.
4. That the risk classification of a business or an industry sector may change when new data on the causes and incidence of food-borne illness become available for updating the risk profile, or when the specific circumstances of an individual business can be considered and such change is justified.
5. That support is made available to community groups and small businesses to assist them meet their legislative requirements.

The Ministerial Council recommended that Standard 3.2.1– Food Safety Programs be mandatory for the four highest risk industries identified by the National Risk Validation Project. These industries are:

- food service, in which potentially hazardous food is served to vulnerable populations;
- producing, harvesting, processing and distributing raw oysters and other bivalves;
- catering operations serving food to the general public; and
- producing manufactured and fermented meat.

The Ministerial Policy Guidelines identify, where appropriate, specific issues for each of these industries including definitional matters and areas of exclusion from the requirement for particular sectors based on a low benefit to cost ratio. These matters are identified later in this report. They have also specified a timeframe for mandating Standard 3.2.1 for the highest risk sectors, which is two years after the amendment to the Code is gazetted.

This Initial Assessment Report applies to catering operations serving food to the general public.

### *2.1.3 Food Safety Programs*

A food safety program is a documented food safety management system. It is defined by Standard 3.2.1 as a written document which:

- (a) systematically identifies the potential hazards that may be reasonably expected to occur in all food handling operations of the food business;
- (b) identifies where, in a food handling operation, each hazard identified under paragraph (a) can be controlled and the means of control;
- (c) provides for the systematic monitoring of those controls;
- (d) provides for appropriate corrective action when that hazard, or each of those hazards, is found not to be under control;



- (e) provides for the regular review of the program by the food business to ensure its adequacy; and
- (f) provides for appropriate records to be made and kept by the food business demonstrating action in relation to, or in compliances with, the food safety program.

The amount of information needed in a food business' food safety program will depend on the type and complexity of the food business. In a food safety program the business is also demonstrating how it is complying with Standard 3.2.2 – Food Safety Practices and General Requirements and Standard 3.2.3 – Food Premises and Equipment.

Standard 3.2.1 explicitly excludes fund raising events from the requirement for food safety programs:

*A food business does not have to prepare a food safety program in accordance with this Standard in relation to fundraising events conducted by the food business, that is, events that raise funds solely for community or charitable causes and not for personal financial gain.*

#### *2.1.4 Support projects for the introduction of food safety programs*

FSANZ has commenced work on an interpretative guide to Standard 3.2.1 in consultation with State and Territory enforcement agencies. This guide will be generic to all food businesses, with the purpose of allowing enforcement officers to promote a nationally consistent interpretation of the requirements of Standard 3.2.1. The guide, and additional material produced by FSANZ for food businesses, will aid State and Territory Departments in their role of assisting food businesses understand their legal obligations.

DoHA has funded projects to develop 'tools' to assist food business in the highest risk sectors to implement their own, customized food safety programs at minimal cost and time to businesses. A tool to assist the catering industry, 'Tool for the development of a food safety program for Commercial Food Establishments' is expected to be finalised by mid-2004. The development of this tool was managed by Queensland Health on behalf of the Australian Government and guided by a reference group consisting of representatives from catering industry associations and government<sup>4</sup>. DoHA is responsible for distributing this tool and will provide details on its availability when the project is finalised.

FSANZ has also funded the development of a guide to food safety programs for tour operators. Work on this tool is still under way.

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<sup>4</sup> Representatives from Restaurant and Catering Queensland, Restaurant and Catering Australia, Australian Institute of Food Science and technology, FSANZ, Queensland Hotels Association, Queensland Health, Australian Government Department of Health and Ageing, Redland Shire Council and Clubs Queensland.

## **2.2 Overview**

### *2.2.1 Size of the sector*

BIS Shrapnel<sup>5</sup> estimated in 1999 that there were 4 613 contract, in-flight, and independent caterers in Australia providing 252 million meals per annum. Catering operations vary and may involve industrial and commercial catering as well as catering for functions and events. Such catering operations include:

- defence catering;
- prison catering;
- boarding schools and school canteens;
- university and college catering;
- function catering;
- camp catering;
- fete / fair / festival / market catering; and
- airline and other tourist catering.

### *2.2.2 Existing food safety regulations*

All State and Territory Governments have now adopted Standards 3.1.1, 3.2.1 and 3.2.2 of the Code into their State food legislation, requiring all food businesses to comply with the food safety measures specified. Standard 3.2.2– Food Safety Practices and General Requirements sets out specific requirements for food businesses and food handlers including food handling controls; health and hygiene requirements; cleaning, sanitising and maintenance of premises and equipment, and requirements relating to skills and knowledge of food handlers.

Standard 3.2.3– Food Premises and Equipment sets out the requirements for food premises and equipment that, if complied with, will facilitate compliance by food businesses with the food safety requirements of Standard 3.2.2. While compliance with these food safety Standards should have an effect in reducing the number of food poisoning incidents, they do not require the food businesses to identify and monitor the control of potential hazards in the business, document the food safety program and have the program audited, as required by Standard 3.2.1– Food Safety Programs.

The Victorian Government already requires all, except minimal risk, food businesses to have food safety programs under the Victorian Food Act. This means that catering businesses operating in Victoria already are obliged to comply with requirements for food safety programs that are consistent with Standard 3.2.1.

## **3. Rationale for Mandating Standard 3.2.1**

The National Risk Validation Project was undertaken in 2001 to provide a risk assessment and cost benefit evaluation process to support the implementation of food safety programs.

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<sup>5</sup> BIS Shrapnel 2001, Australian Foodservice Market 1998-2000, 6<sup>th</sup> edn, BIS Shrapnel, Sydney.

It identified potentially high risk food businesses through a review of both Australian and overseas data on food-borne disease outbreaks and examined the factors contributing to these outbreaks. Catering operations serving food to the general public was one of the businesses identified by this project as potentially high risk.

### **3.1 Scientific assessment**

#### *3.1.1 Catering operations serving food to the general population*

Catering was defined by the National Risk Validation Project as any method of preparation and service of potentially hazardous foods<sup>6</sup> which utilises an intended time period during preparation and service or when food is served to large numbers of people simultaneously. The project considered that such catering operations would include those listed above in section 2.2.1 (e.g. defence catering, prison catering, boarding schools and school canteens, university and college catering, function catering, camp catering, fete/fair/festival/market catering, airline and other tourist catering).

The food-borne illness data collected by the National Risk Validation Project showed that around 30% of outbreaks were associated with commercial catering operations.

#### *3.1.2 Factors contributing to food-borne illness*

The National Risk Validation Project found that the most important factors contributing to food-borne disease outbreaks continue to be the preparation of food in bulk, inadequate cooking or reheating, improper temperature control and the faulty personal hygiene of food handlers. These factors are more generally classified under the areas of ‘temperature misuse’ and ‘inadequate handling. Food-borne illness outbreaks associated with catering are largely attributable to these factors.

##### 3.1.2.1 Temperature misuse

When food that will support the growth of pathogenic microorganisms is produced in bulk (such as the case for large catering operations) for subsequent serving, it is more likely to suffer temperature misuse during cooling, storage or subsequent re-heating. Preparation well in advance and the inclusion of a transport step between preparation and serving provide an even greater opportunity for time/temperature abuse and pathogen growth.

##### 3.1.2.2 Inadequate handling

Inadequate handling encompasses both cross contamination and contamination by a food handler. The nature of the activities and food handling operations involved in catering mean that ready to eat foods are liable to cross contamination by inadequately trained staff using either poor practice or poor personal hygiene.

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<sup>6</sup> The meaning of potentially hazardous foods, as used in this definition, is defined in Standard 3.2.2 – *Food safety practices and general requirements* as:

*potentially hazardous food means food that has to be kept at certain temperatures to minimise the growth of any pathogenic micro-organisms that may be present in the food or to prevent the formation of toxins in the food.*

### 3.2 Cost/benefit analysis

DoHA engaged The Allen Consulting Group to undertake a review of the costs and efficacy of introducing food safety programs, as proposed by Standard 3.2.1, across all food businesses. The Final Report of this project, *Food Safety Management Systems – Costs, Benefits and Alternatives* (the Allen Report), found that the benefits of introducing Standard 3.2.1 outweighed the cost for all but ‘low risk’ businesses.

The Allen Report considered that the requirements of Standard 3.2.1 involve a fundamentally different approach to food safety management, requiring a proactive evaluation of specific risks compared to a ‘rote learning’ reactive approach to general risk categories. The costs associated with this approach are largely time-based, though businesses would feel the burden of extra hours of work and related stress. The main cost drivers include implementation costs (training and development) and the ongoing costs of record keeping and review, and audit costs.

The main benefits of food safety programs reported by the Allen Report would arise from the reductions in food-borne illness. The extent of this benefit is hard to quantify and relates to judgements around:

- the size of current incidence and associated costs; and
- the size of any decrease in food-borne illness attributable to food safety programs.

The Allen Report calculated a median benefit of \$339 million per annum, based on a 15% reduction in food-borne illness.

Data from the Allen Report was further built on by *The National Risk Validation Report* which included a cost benefit analysis of implementing food safety programs, specifically for high risk food industries. The total cost of food-borne illness associated with catering (for the general population) was estimated to be \$540 million per year or 49 cents per meal. A benefit/cost ratio was calculated at 9.9 (for class 1 outbreaks<sup>7</sup>) and 10.4 (class 1 and 2 outbreaks). This cost benefit analysis strongly supports the mandating of food safety programs for the catering sector.

## 4. Objective

In developing or varying a food standard, FSANZ is required by its legislation to meet three primary objectives which are set out in section 10 of the FSANZ Act. These are:

- the protection of public health and safety;
- the provision of adequate information relating to food to enable consumers to make informed choices; and
- the prevention of misleading or deceptive conduct.

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<sup>7</sup> Class 1 outbreaks are those where it is reasonable to assume that the cause of illness would have been detected and remedied by measures put in place under a food safety program as opposed to class 2 outbreaks where the information on the source is insufficient to make judgement on likely effectiveness of a food safety program.

In developing and varying Standards, FSANZ must also have regard to:

- the need for Standards to be based on risk analysis using the best available scientific evidence;
- the promotion of consistency between domestic and international food Standards;
- the desirability of an efficient and internationally competitive food industry;
- the promotion of fair trading in food; and
- any written policy guidelines formulated by the Ministerial Council.

The main objective in mandating Standard 3.2.1 for catering is to protect the public health and safety of consumers by reducing the incidence of food-borne illness in this sector.

## **5. Relevant Issues**

### **5.1 Scientific justification**

The National Risk Validation Project has provided the scientific basis for the Ministers' policy decision to require food safety programs for the catering sector. This Project will be an important source of information underpinning the assessment of this Proposal. However, additional information relating to health and safety risks may be available that updates the National Risk Validation Report or that may not have been addressed in this Project.

Stakeholders may provide any additional information relevant to the scientific justification to require food safety programs for the catering sector.

### **5.2 Definition of Catering**

The wording used in Standard 3.2.1– Food Safety Programs to describe the term 'catering' will define the specific types of food service operations to which Standard 3.2.1 applies. It is important, therefore, that the scope of this definition is clear and easily understood by all stakeholders and does not extend to eating establishments (such as restaurants) where the cost benefit analysis did not support the implementation of food safety programs.

The Ministerial Policy Guidelines proposes a definition for catering that was developed in consultation with government and industry representatives:-

*Businesses under this category that should have food safety programs in place are:*

- *those which serve potentially hazardous food<sup>8</sup> at a location other than where it has been prepared;*

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<sup>8</sup> The meaning of potentially hazardous foods, as used in this definition, is defined in Standard 3.2.2 – Food Safety Practices and General Requirements as:

OR

- those whereby potentially hazardous food is provided **simultaneously to all customers** where the seating capacity\* of the food premises is 50 people or more.

\* Seating capacity refers to the maximum seating capacity of the catering operation. The Ministerial Policy Guidelines suggest that the setting of the seating capacity at 50 persons will potentially prevent 65% of food-borne illness outbreaks arising with catering operations, based on evidence from the National Risk Validation Project.

The intent of the definition proposed for catering was to reflect the two major areas of concern with catering operations:

- 1) those operations where there is a transport step between the preparation of the food and its sale (which indicates an extended time period during preparation and service); and
- 2) large caterers and function centres where bulk quantities of food are prepared and served at the same time to customers.

Additionally, the definition for catering should be worded so that it does not capture eating establishments<sup>9</sup> (e.g. restaurants, cafés, fast food businesses which have direct cook-serve operations) as the cost/benefit analysis for this sector indicated that mandatory food safety programs were **not** justified. This exclusion extends to restaurants that may conduct functions occasionally where food is served simultaneously and to buffets as they cannot be justified by the benefit to cost ratio. Under the definition proposed in the Ministerial Policy Guidelines, food businesses offering buffets would only be included if:

- potentially hazardous food is served at a location other than where it has been prepared; or
- food is provided simultaneously to all customers, and the seating capacity of the food premises is 50 people or more.

Comment is sought on the definition of catering to be included in Standard 3.2.1.

Comment should consider:

- enforceability of the definition; and
- that the definition does not extend to restaurants and other eating establishments (where the benefit to cost ratio does not support the introduction of food safety programs).

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*potentially hazardous food* means food that has to be kept at certain temperatures to minimise the growth of any pathogenic micro-organisms that may be present in the food or to prevent the formation of toxins in the food.

<sup>9</sup> The National Risk Validation Project considered eating establishments as ‘direct cook-serve operations, home delivery/takeaway of hot foods anticipated for immediate consumption. On the basis of similar modes of operation eating establishments would include: restaurants; cafes; hotel/motel restaurants; clubs; takeaway, home delivery; fast food businesses.’

### 5.3 Catering at charity and community events

Although community or charitable fund raising events that fall within the definition of catering are included in the high risk category, such events are specifically excluded in Standard 3.2.1 from the food safety program requirements of the Standard.

Comment is sought as to whether there are alternative food safety management options that may be appropriate for catered fund raising events.

### 5.4 Implementation

Catering operations for the general population is one of four areas identified as high risk for which food safety programs are proposed to be mandatory. Decisions on the staging and order of the implementation of Standard 3.2.1 for each of these sectors will be up to State and Territory jurisdictions in order that prerequisites for each industry sector can be fulfilled before additional requirements are introduced. To allow for a staged implementation across sectors, the specified end date for the national implementation of mandatory food safety programs will be two years after an amendment to the Code is gazetted.

#### 5.4.1 Tools and other support material

In order to minimise costs associated with the initial preparation of a food safety program, particularly for small business, a number of tools (e.g. templates) have been developed or are under development. In Victoria, for example, the Victorian Government, through its Food Safety Unit, has provided comprehensive material on its website<sup>10</sup> to assist food businesses comply with Victorian legislation for food safety programs. Of relevance to caterers is the information on templates to assist the development of a food safety program. This includes a generic template in hard copy format and *Foodsmart*, an internet based interactive template intended for use by food service and retail businesses.

To assist catering operations, the ‘Tool for the Development of a Food Safety Program for Commercial Food Service Establishments’, as discussed in Section 2.1.4, will cover food handling activities as listed below.

- Purchase and receiving goods
- Dry storage
- Cold storage
- Frozen storage
- Thawing frozen food
- Preparation
- Cooking food
- Cooling food
- Reheating and hot holding food
- Serving, self-service and displaying food
- Food packaging and labelling

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<sup>10</sup> [www.foodsafety.vic.gov.au](http://www.foodsafety.vic.gov.au)

Transporting food  
Off site events

A generic version of this tool will be available from the DoHA and FSANZ websites. Additionally, DoHA will distribute this tool to State and Territory jurisdictions so that they can make modifications to reflect specific jurisdictional requirements. These templates will then be made available to food businesses via local authorities.

During the implementation of the Standards 3.1.1, 3.2.2 and 3.2.3, a number of fact sheets were developed to assist industry with compliance with various requirements within these Standards (for example, on health and hygiene responsibilities, temperature control requirements and food receipt). States and Territories also produced supporting material for food businesses.

Comment is sought on the need for additional tools, fact sheets or other support material to assist catering operations to prepare and implement food safety programs.

#### 5.4.2 *Interpretive guide*

FSANZ, in consultation with jurisdictions and other stakeholders, has commenced work to develop a guide to Standard 3.2.1 to explain the intent of the provisions in the Standard on a clause-by-clause basis. The primary purpose of the guide is to promote nationally consistent interpretation of Standard 3.2.1 by State and Territory enforcement officers and thereby assist them in assessing whether the objectives of the legislation are being met. However, industry associations and training organizations may find the guide useful to prepare information to assist businesses to comply with Standard 3.2.1. The interpretive guide may also be of direct use to food businesses.

The guide is likely to be similar to *Safe Food Australia* (the guide to Standards 3.1.1, 3.2.2 and 3.2.3), which was first released in 2000 and, like *Safe Food Australia*, is unlikely to be specific to any particular type of food business. However, the precise format, style and content will be based on the results of a national consultation undertaken in March 2004. A draft guide will be trialled later in 2004.

Comment on the format, style and content or other issues related to the interpretive guide may be made in response to this Initial Assessment Report.

#### 5.4.3 *Audit*

Standard 3.2.1 requires a food business to ensure that its food safety program is audited by a food safety auditor at the auditing frequency applicable to the food business. The Editorial Note to the Standard states that then ANZFA (now FSANZ) has developed food safety auditor approval criteria for food safety auditors in conjunction with States and Territories.



#### 5.4.3.1 Auditor competency and approval

Competency of auditors will be assessed as part of the auditor approval process. Approval of auditors is the responsibility of States and Territories who may maintain publicly available lists of approved auditors as part of their overall management of the audit process.

In the consultation process for the development of the Ministerial Policy Guidelines, the need for suitable, qualified auditors was raised. As part of the Australian Government's National Food Industry Strategy<sup>11</sup>, the Australian Government Department of Agriculture, Fisheries and Forestry established the National Food Safety Auditor Framework Strategy, which, in 2003, initiated a project to improve the integrity of Australia's food safety auditor infrastructure. Work is currently under way to assess existing auditing arrangements within the food industry and make recommendations for national food safety auditor competency criteria. In addition, this project will develop options for the adoption of these criteria and for the ongoing management and administration of food safety auditors. This work builds on earlier work by the former Australia New Zealand Food Authority (ANZFA) now FSANZ on the food safety auditor approval process, the audit process and audit management systems described in *Food Safety: An Audit System*<sup>12</sup>. An outcome of the project will be to ensure that good training and on-going professional development, assessment and accreditation underpin competency of food safety auditors.

#### 5.4.3.2 Type of audits

States and Territories determine whether the audit system for food businesses in the particular jurisdiction will be second-party or third-party. Second party auditors are auditors employed by the government and third party auditors are private and independent of the government. First-party audits are internal audits carried out by staff of the business and outcomes of such audits would not be recognized by the enforcement agency for the purpose of compliance with Standard 3.2.1. However, they are essential for the business to assess for itself whether it is complying with its food safety program and would form an important part of the business's review of its food safety program as required by Standard 3.2.1.

#### 5.4.3.3 Auditing frequency

Determining the frequency of auditing food safety programs is also the responsibility of States and Territories. To assist national consistency in this regard, the former ANZFA, in conjunction with States and Territories provided guidance on auditing frequency in *Food Safety: An audit system*. Frequency is dependant on the priority rating of the type of business based on the risk posed to public health and safety. A risk-based system to classify food businesses into priority ratings has been developed by FSANZ and is described in *Food Safety: The priority classification for food businesses*<sup>13</sup>. Businesses classified as 'high risk' under this system, which includes catering operations, are assigned an initial audit frequency of one audit every six months with an increase or reduction in frequency dependant on compliance.

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<sup>11</sup> Information on the National Food Industry Strategy is available on the website of the Australian Government Department of Agriculture, Forestry and Fisheries [www.daff.gov.au](http://www.daff.gov.au)

<sup>12</sup> *Food Safety: An audit system* is available on the FSANZ website [www.foodstandards.gov.au](http://www.foodstandards.gov.au)

<sup>13</sup> *Food Safety: The priority classification for food businesses* is available on the FSANZ website [www.foodstandards.gov.au](http://www.foodstandards.gov.au)

Since the development of the priority classification system for food businesses, the concept of risk profiling is being developed to provide a foundation for food safety management in Australia. Risk profiling is a process of initially evaluating a food safety problem and its context to identify the potential for the problem to impact on public health. Risk profiling was used by the National Risk Validation Project to identify the highest risk food business types and further work is currently being undertaken, funded by DoHA, to identify a nationally applicable, valid process to classify all businesses on the basis of risk.<sup>14</sup> This will support decisions on audit frequency for various classifications of businesses and may affect the frequency of auditing of caterers indicated by the priority classification system.

Other matters relevant to auditing are addressed by the State and Territory Food Acts for example, duties of food safety auditors and reporting requirements<sup>15</sup>.

#### 5.4.3.4 Auditing costs

Studies into costs and impacts of mandatory food safety programs considered ongoing costs to businesses of second or third party audits and concluded that there is a strong case for mandatory food safety programs in the commercial catering industry. FSANZ in *Food Safety: An audit system* indicated that these costs could be reduced for businesses that have a good compliance history by proposing that the audit frequency be reduced.

## **6. Regulatory Options**

In developing food Standards, FSANZ must identify two or more regulatory options and consider the pros and cons (including impacts and implications) of each. For this Proposal two options will be considered - to either amend Standard 3.2.1 to mandate food safety programs for catering businesses or to maintain the status quo.

### **6.1 Option 1 – maintain the status quo**

Option 1 means that no amendment is made to Standard 3.2.1 to apply to catering businesses (i.e. there will be no national requirement for catering businesses to have documented food safety programs). Individually, States and Territories could mandate food safety programs for this sector within their jurisdictions. This option would not be consistent with the Ministerial Policy Guidelines to require food safety programs for catering operations serving food to the general public.

### **6.2 Option 2 – amend Standard 3.2.1**

An amendment to Standard 3.2.1 would mean that catering businesses, as defined by the Standard would be required to have documented food safety programs. The definition of catering to be included in the Standard will determine the specific types of food businesses to which the Standard will apply.

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<sup>14</sup> Information on risk profiling is available on the website of the Department of Health and Ageing e.g. [www.foodsecretariat.health.gov.au](http://www.foodsecretariat.health.gov.au)

<sup>15</sup> Information and copies of State and Territory food legislation is available on the government websites of the States and Territories.

## 7. Impact Analysis

The Allen Report made an assessment of:

- the costs and benefits of meeting previous State and Territory food safety regulations;
- the incremental costs and benefits of meeting Standards 3.1.1, 3.2.2 and 3.2.3 given current practices (at that time);
- the incremental costs and benefits of meeting Standard 3.2.1 given achievement of Standards 3.1.1, 3.2.2 and 3.2.3;
- the advantages and disadvantages of alternatives to a requirement for food safety programs; and
- ways in which compliance costs of meeting the Standards could be minimised.

The Allen Report found that, while the implementation of Standard 3.2.1 includes significant costs, the benefits outweigh these costs for all but 'low risk' businesses.

As discussed previously, data from the Allen Report was further built on by *The National Risk Validation Report* which included a cost benefit analysis of implementing food safety programs, specifically for high risk food industries. The total cost of food-borne illness associated with catering (for the general population) was estimated to be \$540 million per year or 49 cents per meal. A benefit/cost ratio was calculated at 9.9 (for class 1 outbreaks<sup>16</sup>) and 10.4 (class 1 and 2 outbreaks). This cost benefit analysis strongly supports the mandating of food safety programs for the catering sector.

Findings from these reports informed the development of the Ministerial Policy Guidelines which have been assessed by the Office of Regulation Review (ORR). In its assessment the ORR took into account:

- whether the regulatory Impact Statement guidelines have been followed;
- whether the type and level of analysis are adequate and commensurate with the potential economic and social impact of the Proposal; and
- whether alternatives to regulation have been adequately considered.

The ORR has considered that these matters have been adequately addressed.

Information and comments is sought on any other issues relevant to mandating Standard 3.2.1 for the catering sector.

In particular, comment is sought on the impact of Standard 3.2.1 on small businesses within the catering sector and suggestions are sought on how imposts on this sector could be minimised.

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<sup>16</sup> Class 1 outbreaks are those where it is reasonable to assume that the cause of illness would have been detected and remedied by measures put in place under a food safety program as opposed to class 2 outbreaks where the information on the source is insufficient to make judgement on likely effectiveness of a food safety program.

## **8. Consultation**

The development of the food safety Standards has already required extensive consultation with all industry and government stakeholders, and interested parties. The projects that DoHA have undertaken to inform the Ministerial Policy Guidelines have involved the formation of Steering Committees and/or Project Management Groups to oversee the work program. These committees had representatives from Commonwealth, State and Territory Governments and the food industry, including Restaurant and Catering Australia and The Australian Hotels Association. Additionally, a public consultation process was undertaken during the preparation of the Ministerial Policy Guidelines that targeted industry organisations and community groups, government agencies and all local governments.

FSANZ will continue to consult with stakeholders in the development of the Standard through its normal processes. In addition, the development of this Proposal will involve the formation of a specific advisory group.

### **8.1 Advisory Groups**

Advisory groups will be formed to assist in the development of this Standard. This group will comprise representatives from industry, Commonwealth, State and Territory Governments, and from consumers. Industry representatives will include specific bodies/organisations identified as representing the interests of commercial catering operations.

### **8.2 World Trade Organization (WTO)**

As members of the World Trade Organization (WTO), Australia and New Zealand are obligated to notify WTO member nations where proposed mandatory regulatory measures are inconsistent with any existing or imminent international Standards and the proposed measure may have a significant effect on trade.

There are not any relevant international Standards and amending the Code to mandate food safety programs for catering operations is unlikely to have a significant effect on international trade, as the Standard will only apply to Australian food service establishments. This issue will be fully considered at Draft Assessment and, if necessary, notification will be recommended to the agencies responsible in accordance with Australia's and New Zealand's obligations under the WTO Technical Barrier to Trade (TBT) or Sanitary and Phytosanitary Measure (SPS) Agreements. This will enable other WTO member countries to comment on proposed changes to Standards where they may have a significant impact on them.

## **9. Closing remarks**

The *Ministerial Policy Guidelines on Food Safety Management in Australia: Food Safety Programs* supports that food safety programs are mandated for catering operations serving food to the general public. This is based on a scientific assessment that has determined that this sector is high risk with respect to the incidence of food-borne illness in Australia and a cost benefit analysis which strongly supports the implementation of food safety programs for catering businesses. It has been recommended, therefore, that a Proposal be raised (Proposal P290) in order to amend Standard 3.2.1–Food Safety Programs to mandate food safety programs for catering operations.

This Initial Assessment Report provides the first opportunity for stakeholders to comment on and supply information and data to FSANZ regarding the mandatory application of Standard 3.2.1 to catering operations serving food to the general population. FSANZ welcomes and encourages stakeholder input. The comments, information and data provided during this consultation will be considered during the development of the Draft Assessment Report, which will provide the next formal opportunity for stakeholders to comment.