

**Comments from the Victorian Departments of Health and Human Services and Economic Development, Jobs, Transport and Resources**

**Due date of submission – 10 February 2015**

The Victorian Departments of Health and Human Services and Economic Development, Jobs, Transport and Resources (the Departments) welcome the opportunity to provide comments for Proposal P1016 assessing the requirements on the sale or prohibition of raw apricot kernels.

The Departments recognises that the risk assessment and the information on the acute dietary exposure demonstrate that raw apricot kernels may pose a public health risk, and that this risk is difficult to quantify as the levels of hydrocyanic acid vary in the raw kernels.

The Departments support Option 5: that is, to prepare a draft variation to the Food Standards Code (the Code) to prohibit the sale of unhulled (skin on) and hulled (skin off) raw apricot kernels in Standard 1.4.4 with exemptions for apricot kernel-derived foods that are safe for consumption, on the basis that such a variation would provide adequate public health protection. We have some concerns that the variation, as drafted, will impact on legitimate use of these products, and these are detailed below.

A particular issue for the Departments is that the proposed variation will apply only to foods, and that non-food uses will not be affected by the proposed prohibition in the Code. Moreover, the proposed prohibition will alter the market place and the manner in which raw apricot kernels are sold, with the strong possibility that some businesses will sell a food under the guise of a non-food product, as has been seen with raw milk sold as bath milk. This will create enforcement issues for regulatory agencies. It is our view that there needs to be a more strategic consideration regarding how non-food raw apricots kernels may be sold to consumers.

This variation will only address risk resulting from unintentional incidents, the data provided in the proposal indicates that such incidents are relatively uncommon, and no information is provided about the severity of the small number of recorded incidents. As prohibiting the sale of raw apricot kernels would not necessarily address all opportunities to purchase these products, nor prevent people from consuming the kernels, the Departments would support a more detailed impact analysis for each of the risk management options provided, including the possibility of clearer labelling advice for these products and specifying processing requirements.

**Comments regarding legitimate use of raw apricot kernels**

The Departments note that the risk assessment conducted for P1016 demonstrated a need to introduce a regulatory approach to reduce the potential risk of future poisoning incidents resulting from the consumption of raw apricot kernels. While the preferred risk management option is to prohibit the sale of raw apricot kernels, it is important that careful consideration of all the issues and options is made. The Departments are of the view that the wording of the draft variation needs amendment, with further clarification as to the basis of the exemptions included to allay any concerns about the safety of exempted products.

The proposed variation lists a number of foods that are currently in the market place which would be affected by a prohibition of raw apricot kernels. However, this list is not exhaustive, excluding foods such as apricot jam, persipan or blanched kernels. It is not clear why these products have not been included in the list. Further, the inclusion of such a list in the draft variation may cause problems for enforcement agencies in the future, as new products or existing products that contain raw apricot kernels that are not listed may be potentially in breach of the variation, although they do not present a public health risk. This may hinder industry innovation, discouraging new food product development unless a business is willing to make an application to amend the Code. This can be prohibitively expensive for small to medium size enterprises.

It is the Departments' view that the draft variation should be less specific, worded in such a way that raw apricot kernels are only allowed to be added as an ingredient of food if processing will take place to reduce any risk associated with the consumption of the final food. This may include the removal of the cyanogenic glycosides via an appropriate process. Taking this approach, specifying processing of the kernels so they are safe to consume (for example as stone fruit juices or confectionary) would also be consistent with the requirements for sweet cassava and bamboo shoots that exist in the Code. The adoption of the alternative wording would reduce the potential impacts on the supply of raw apricot kernels to other manufacturers.