

**EXPLANATORY STATEMENT**

**PROPOSAL P284**

**MINOR AMENDMENTS OMNIBUS V**

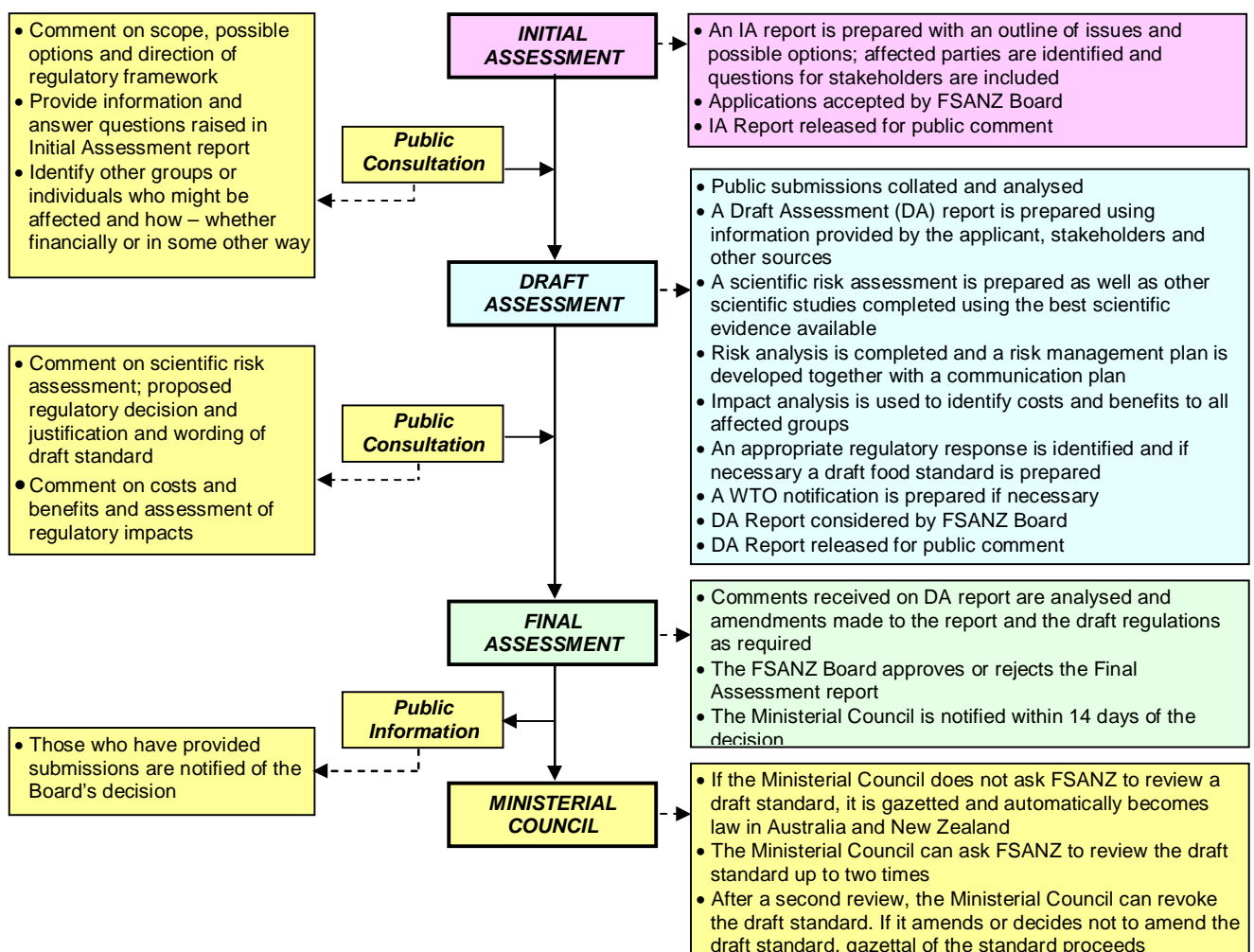
## FOOD STANDARDS AUSTRALIA NEW ZEALAND (FSANZ)

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.



## **Final Assessment Stage**

FSANZ has now completed two stages of the assessment process and held two rounds of public consultation as part of its assessment of this Proposal. This Final Assessment Report and its recommendations have been approved by the FSANZ Board and notified to the Ministerial Council.

If the Ministerial Council does not request FSANZ to review the draft amendments to the Code, an amendment to the Code is published in the *Commonwealth Gazette* and the *New Zealand Gazette* and adopted by reference and without amendment under Australian State and Territory food law.

In New Zealand, the New Zealand Minister of Health gazettes the food standard under the New Zealand Food Act. Following gazettal, the standard takes effect 28 days later.

## **Further Information**

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Assessment reports are available for viewing and downloading from the FSANZ website [www.foodstandards.gov.au](http://www.foodstandards.gov.au) or alternatively paper copies of reports can be requested from FSANZ's Information Officer at [info@foodstandards.gov.au](mailto:info@foodstandards.gov.au) including other general inquiries and requests for information.

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## **Executive Summary and Statement of Reasons**

### **Issues**

Food Standards Australia New Zealand (FSANZ) has previously prepared four minor omnibus Proposals (P245, P254, P262 and P266) to correct errors that raised issues of minor significance or complexity in the *Australia New Zealand Food Standards Code* (the Code). Proposal P284 is the fifth minor amendments omnibus. The proposed amendments are intended to correct minor errors such as inconsistencies and ambiguities, omissions, misspellings and grammatical errors.

### **Consultation**

Under section 36 of the FSANZ Act, FSANZ decided to omit one round of public consultation as it was satisfied that the Proposal raised issues of minor significance and complexity only. There were, however, a number of matters raised by submitters that FSANZ decided to address in further draft variations. Also, some further matters were identified by FSANZ that warranted addressing in this Omnibus, and additional draft variations were prepared. As a result, FSANZ proposed to invite further public comment on the draft variations to the Code.

### **Conclusion and Statement of Reasons**

- The proposed draft variations contained in this Proposal have been prepared to correct errors that raise issues of minor significance or complexity only, identified since the adoption of the Code.
- This will ensure that the Code is as clear, correct and precise as possible.

## **1. Introduction**

In December 2002, the Code became the sole repository of food product standards in Australia and New Zealand. It is therefore important that the Code be as accurate, unambiguous and as correct as possible.

## **2. Regulatory Problem**

Since the gazettal of the Code in December 2000, a number of matters that raise issues of minor significance or complexity have been identified as needing amendment. These include inconsistencies, misspellings, grammatical errors, omissions and items requiring updating or clarification. These amendments are required to ensure that the requirements contained in the Code are correctly expressed, thereby furthering FSANZ's section 10 objectives. A number of these matters have been corrected already by amendments agreed in the completed Proposals P245, P254, P262 and P266.

## **3. Objective**

This new Proposal includes a number of minor amendments to the Code that have been identified since the previous Omnibus. It is expected that there will be regular Omnibus papers to address minor amendments and corrections to the Code as they are identified.

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.

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.

In seeking to make minor amendments to the Code, FSANZ seeks to maintain the integrity of the Code so protecting public health and safety, ensuring consumers have adequate information and preventing false and misleading conduct.

## **4. Relevant Issues**

The amendments to the Code contained in this Proposal are contained in the following:

The Commentary

Standard 1.1.1 – Preliminary Provisions – Application, Interpretation and General Prohibitions;

Standard 1.2.1 – Application of Labelling and Other Information Requirements;

Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations;

Standard 1.2.4 – Labelling of Ingredients;

Standard 1.2.6 – Directions for Use and Storage;

Standard 1.2.8 – Nutrition Information Requirements;

Standard 1.2.10 – Characterising Ingredients and Components of Food;

Standard 1.3.1 – Food Additives;

Standard 1.3.3 – Processing Aids;

Standard 1.3.4 – Identity and Purity;

Standard 1.4.1 – Contaminants and Natural Toxicants;

Standard 1.4.2 – Maximum Residue Limits;

Standard 1.5.2 – Food Produced Using Gene Technology;

Standard 1.6.1 – Microbiological Limits for Food;

Standard 1.6.2 – Processing Requirements;

Standard 2.7.4 – Wine and Wine Product;

Standard 2.7.5 – Spirits;

Standard 2.9.1 – Infant Formula Products;

Standard 3.1.1 – Interpretation and Application;

Standard 3.2.1 – Food Safety Programs;

Standard 3.2.2 – Food Safety Practices and General Requirements; and

Standard 4.5.1 – Wine Production Requirements.

The adoption of the draft variations is recommended for the following reasons:

- to correct typographical and editorial errors;
- to update information which is no longer relevant;
- to remove inconsistencies and ambiguities in the Code; and
- to clarify the intent of a number of clauses.

### **4.1 Assessment of draft amendments**

The draft amendments listed below in Section 5 are intended to address minor inconsistencies, misspellings, grammatical errors and omissions, and to correct items requiring updating or clarification. The amendments are required to ensure that the information contained in the Code is correct thereby ensuring FSANZ's section 10 objectives are met. Each of these minor amendments has been assessed by scientific and legal staff to ensure that the recommended solutions are consistent with the intent of the Standards within the Code.

The following details are provided with regard to each proposed amendment arranged under the relevant Standards:



- Location:** the relevant clause, subclause, paragraph, sub-paragraph or Table where the problems arise or, where relevant, additional details such as section heading or column;
- Explanation:** the nature of the problem/error and rationale for the suggested amendment; and
- Solution:** proposed solution.

## 5. Details of proposed amendments

### 5.1 Part 1.1 – Preliminary

#### 5.1.1 *Ancillary Documents*

- Location:** Commentary.
- Explanation:** The commentary is outdated and does not reflect the new food regulatory environment in Australia and New Zealand.
- Solution:** Amend the commentary to reflect the new food regulatory environment in Australia and New Zealand and to include additional commentary about the new Chapter 4 standards.

#### 5.1.2 *Chapters 1-4*

- Location:** The *Australia New Zealand Food Standards Code* generally.
- Explanation:** The *New Zealand Food Regulations 1984* have been repealed
- Solution:** Omit all references to those regulations, wherever occurring.

#### 5.1.3 *Standard 1.1.1 – Preliminary Provisions – Application, Interpretation and General Prohibitions*

- Location:** Clause 2, paragraph (c).
- Explanation:** The definition of **warning statement** in (c) should refer to subclause 26(1), Standard 2.9.1 and not subclause 27(1), Standard 2.9.1.
- Solution:** In clause 2, paragraph (c), replace the reference to subclause 27(1) with subclause 26(1).
- Location:** Subclause 5(2)
- Explanation:** Subclause 5(2) states that editorial notes are for information only and are not legally binding. This subclause should also include a reference to the Commentary.
- Solution:** Amend subclause 5(2) to include both the Commentary and editorial notes as being for information only and not legally binding.

## 5.2 Part 1.2 – Labelling and other Information Requirements

### 5.2.1 Standard 1.2.1 – Application of Labelling and Other Information Requirements

**Location:** Subclause 2(2).

**Explanation:** Subclause 2(1) exempts food for retail sale and catering purposes from bearing a label setting out all the information prescribed in the Code, subject to subclause 2(2). Subclause 2(2) requires that certain information must be provided, notwithstanding any exemptions from labelling that may apply under subclause 2(1). The current reference to Clause 2 of Standard 1.2.6 creates ambiguity in relation to Clause 3 of Standard 1.2.6. Subclauses 3(1), 3(2), 3(3) and 3(4), Standard 2.9.4 - Formulated Supplementary Sports Foods require that specific information is provided on the label of a Formulated Supplementary Sports Food. However, if a supplementary sports food is exempt from bearing a label, this information is currently not required as it is not cross-referenced in Standard 1.2.1, subclause 2(2). Finally, the current listing of the subclauses is cumbersome and inconsistent.

**Solution:** Include references to subclauses 3(1), 3(2), 3(3) and 3(4), Standard 2.9.4 in subclause 2(2), Standard 1.2.1. Remove the reference to clause 2 of Standard 1.2.6 and listing subclauses in groups according to Standards.

### 5.2.2 Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations

**Location:** Table to clause 2.

**Explanation:** ‘Bee pollen’ and ‘propolis’ are listed separately in Column 1 of the Table to clause 2 and their respective advisory statements are listed in Column 2 (Amendment No. 64, 13/12/02). The words ‘bee pollen’ and ‘propolis’ on their own imply that the advisory statements are not required for foods containing these substances as ingredients, but only for ‘bee pollen and ‘propolis’ sold as foods. The advisory statements should also apply to foods containing these substances as ingredients.

**Solution:** Amend the separate references to bee pollen and propolis in Column 1 to include bee pollen when presented as a food or a food containing bee pollen as an ingredient; and propolis when presented as a food or a food containing propolis as an ingredient. It is not necessary to include a reference to compound ingredients, as these are a subset of ingredients.

**Location:** Table to Clause 2.

**Explanation:** ‘Kola beverages containing added caffeine’ are listed in Column 1 of the Table to clause 2 and Column 2 lists that they must have an advisory statement to the effect that the product contains caffeine. The current wording implies that the advisory statement does not capture a food containing a kola beverage that contains added caffeine. The advisory statement should also be required for foods that contain kola beverages containing added caffeine.

**Solution:** Amend Column 1 to ensure that the advisory statement also applies to kola beverages that contain added caffeine or food that contains a kola beverage or beverages with added caffeine as an ingredient. It is not necessary to include a reference to compound ingredients, as these are a subset of ingredients.

**Location:** Subclause 4(2).

**Explanation:** The wording in subclause 4(2) is such that, where the food is not required to bear a label, the substances listed in the Table to clause 4 must be displayed on or in connection with the display of the food or provided to the purchaser on request. This declaration should relate to the presence of the substance rather than the substance itself.

**Solution:** Amend subclause 4(2) to refer to the **presence** of the substance rather than the **actual** substance.

5.2.3 *Standard 1.2.4 – Labelling of Ingredients, Standard 1.2.8 – Nutrition Information Requirements and Standard 1.2.10 - Characterising Ingredients and Components of Food*

**Location:** Paragraph 2(b), Standard 1.2.4; paragraphs 3(b) and 3(o), Standard 1.2.8; and paragraph 2(4)(i), Standard 1.2.10.

**Explanation:** Currently any references to alcoholic beverages throughout the Code refer to the words ‘...alcoholic beverage standardised in Part 2.7 of this Code’. The Distilled Spirits Industry Council of Australia (DSICA) has requested an amendment to the references to alcoholic beverages throughout the Code to clarify that Standard 2.7.1 is not to be considered.

**Solution:** Amend paragraph 2(b), Standard 1.2.4; paragraphs 3(b) and 3(o), Standard 1.2.8; and paragraph 2(4)(i), Standard 1.2.10 to refer to alcoholic beverages standardised in Standard 2.7.2 to Standard 2.7.5.

5.2.4 *Standard 1.2.6 – Directions for Use and Storage*

**Location:** Clause 3

**Explanation:** A colon is used at the end of the clause rather than a hyphen.

**Solution:** Substitute a hyphen for the colon

5.2.5 *Standard 1.2.8 – Nutrition Information Requirements*

**Location:** Paragraph 5(1)(a).

**Explanation:** Paragraph 5(1)(a) states that the nutrition information panel must include the number of servings of the food in the package. Some manufacturers have advised that this presents a problem where the weight of the package of food varies. For example, some packaged cheeses and meats have random and variable weights, depending on the size of the package. In these circumstances, whilst the serving size may remain consistent for the same product, the number of servings in the package of food will vary depending on the weight/size of the package.

Consequently, the manufacturer may be required to produce individual nutrition information panels to cater for the variation in the number of servings in products of different weights/sizes.

**Solution:** Permit the nutrition information panel to also include the number of servings of the food per kg (or other appropriate unit) for those foods where the weight or volume of the food as packaged is variable.

**Location:** Clause 17

**Explanation:** The heading to clause 17 and subclause 17(1) refer to claims in respect of the salt, sodium or potassium content of a food, however subclause 17(1) refers to a claim to the effect that a food is low in sodium content alone. This is confusing and should be extended to include a claim that a food is low in salt.

**Solution:** Amend subclause 17(1) to include a claim that a food is low in salt, as well as low in sodium.

#### 5.2.6 *Standard 1.2.10 – Characterising Ingredients and Components of Food*

**Location:** Paragraph 2(4)(g)

**Explanation:** Paragraph 2(4)(g) should be followed by ‘; or’ and not a full stop.

**Solution:** Amend paragraph 2(4)(g) as follows: (g) food standardised in Standard 1.1A.1 or Standard 2.9.1; or

### 5.3 **Part 1.3 – Substances Added to Food**

#### 5.3.1 *Standard 1.3.1 – Food Additives*

**Location:** Clause 4

**Explanation:** Various industry stakeholders believe the current wording is ambiguous and could infer that a more restrictive use of intense sweeteners was intended. Some interpret the clause to mean that intense sweeteners may be used only for total replacement of sugars, rather than for partial replacement. The former Australian *Food Standards Code* permitted reduced joule foods if at least 25% of the sugars were replaced by intense sweeteners and there was not an intention to restrict their use further in the new Code.

**Solution:** Amend clause 4, Standard 1.3.1 to clarify the original intent, which was to permit the use of intense sweeteners for either partial replacement or total replacement of sugars in a food.

**Location:** Paragraph 11(a)(i).

**Explanation:** Update reference for Generally Recognised as Safe (GRAS) lists of flavourings substances from Food Technology, to include GRAS 21, published in May 2003.

**Solution:** In paragraph 11(a)(i), replace ‘December 2001’ with ‘May 2003’.

**Location:** Schedule 1, item 0 General Provisions and Schedule 4 headings.

**Explanation:** A previous omnibus amendment which clarified the permission for the colours in Schedule 4 in foods ‘other than beverages’ and for ‘beverages’, no longer specifies that only processed foods are to be give the permission.

This needs to be corrected. The headings to Schedule 4, alphabetical and numerical listings also need to be corrected as they are inconsistent with the wording for Schedules 1, 2 and 3 which all specify that food additives are permitted only for processed foods.

**Solution:** Amend the wording in item 0 to specify that the colours in Schedule 4 may only be added to processed foods. Also amend the headings to Schedule 4.

**Location:** Schedule 1, item 13.4 Formulated supplementary sports foods.

**Explanation:** Formulated supplementary sports foods were regulated by Standard R10 in Volume 1 and permission for the addition of alitame and acesulphame potassium were given in Volume 1. Proposal P216 transported the contents of Standard R10 to Standard 2.9.4 in Volume 2 without a thorough review and with only minor amendment. The permissions for the addition of alitame and acesulphame potassium in formulated supplementary sports foods were not carried over to Volume 2 due to an omission.

**Solution:** Amend Schedule 1, item 13.4 - Formulated supplementary sports foods to include permissions for alitame (40 mg/kg) and acesulphame potassium (500 mg/kg) as per Volume 1.

**Location:** Schedule 1, item 13.4 Formulated supplementary sports foods.

**Explanation:** Application A452 has now resulted in approval for a new intense sweetener, aspartame-acesulphame salt in the Code wherever a current permission for both parent sweeteners (aspartame and acesulphame potassium) is present. As the permission for acesulphame potassium will be reinserted (as per above entry), a corresponding amendment for aspartame-acesulphame salt is also required.

**Solution:** Amend Schedule 1, item 13.4 - Formulated supplementary sports foods to include permission for aspartame-acesulphame salt (1100 mg/kg).

**Location:** Schedule 1, item 14.1.3, sub-item Electrolyte drink and electrolyte drink base.

**Explanation:** The sub-item Electrolyte drink and electrolyte drink base is inconsistent with other sub-item headings as the word 'Electrolyte' should have a lower case 'e'.

**Solution:** Amend the word 'Electrolyte' to 'electrolyte'.

**Location:** Schedule 1, item 14.1.3, sub-item electrolyte drink and electrolyte drink base.

**Explanation:** The permission for the addition of acesulphame potassium in electrolyte drink and electrolyte drink base in Volume 1 (150 mg/kg) was inadvertently omitted from Volume 2.

**Solution:** Amend Schedule 1, item 14.1.3, sub-item electrolyte drink and electrolyte drink base to include permission for acesulphame potassium (150 mg/kg) as per Volume 1.

### 5.3.2 *Standard 1.3.3 – Processing Aids*

**Location:** Table to Clause 11

**Explanation:** Incorrect spelling of 'Phosphorous Acid'

**Solution:** Substitute the correct spelling.

### 5.3.3 *Standard 1.3.4 – Identity and Purity*

**Location:** Paragraph 2(b)  
**Explanation:** The reference to the 4<sup>th</sup> Edition of the Food Chemicals Codex is out of date.  
**Solution:** Provide correct reference.

**Location:** Schedule to Standard 1.3.4, Specification for quaternary amine cellulose ion exchange resin, paragraph (c).  
**Explanation:** The word ‘shall’ is missing from paragraph (c).  
**Solution:** Insert ‘shall’ in paragraph (c) as follows: ‘When subjected to the extraction regime listed in the CFR Title 21 part 173.25(c)(4), but using dilute hydrochloric acid at pH2 in place of 5% acetic acid, the ion exchange resins shall result in no more than 25 ppm of organic extractives’.

## 5.4 **Part 1.4 – Contaminants and Residues**

### 5.4.1 *Standard 1.4.1 – Contaminants and Natural Toxicants*

**Location:** Second paragraph of the Purpose.  
**Explanation:** Typographical error: ‘heath’ instead of ‘health’  
**Solution:** Correction of typographical error.

### 5.4.2 *Standard 1.4.2 – Maximum Residue Limits*

**Location:** Schedule 1  
**Explanation:** Anomalies and inconsistencies of varying origin in commodity, chemical and residue definition names, along with incorrect Maximum Residue Limits for some chemicals  
**Solution:** Correct the anomalies and inconsistencies by making general and specific amendments where required in the Schedule.

**Location:** Schedule 2  
**Explanation:** Typographical error, omission of round brackets for a subset of a commodity  
**Solution:** Correction of typographical error.

## 5.5 **Part 1.5 – Foods Requiring Pre-Market Clearance**

### 5.5.1 *Standard 1.5.2 – Food Produced Using Gene Technology*

**Location:** Clause 1, definition of ‘line’.  
**Explanation:** Typographical error: at the end of b(ii) there should be a semi colon and not a full stop.  
**Solution:** Correction of typographical error.

**Location:** Clause 3.  
**Explanation:** Clause 3 provides an exemption to the general prohibition on sale and use of food produced using gene technology, providing the conditions specified in subclause (2) are met. This exemption was intended to apply as a transitional arrangement only, until such time as the safety assessment of 20 applications were completed. These have now been completed, therefore the exemption in clause 3 no longer applies.  
**Solution:** Delete clause 3 as it is now redundant.

## **5.6 Part 1.6 – Microbiological and Processing Requirements**

### *5.6.1 Standard 1.6.1 – Microbiological Limits for Food*

**Location:** Clause 1  
**Explanation:** ‘food’ is defined in Standard 1.6.1 as a food listed in the Schedule to the Standard, the sampling requirements in the Standard would not apply to foods not listed in Standard 1.6.1. This may affect food samples that are the subject of a suspected food poisoning incident or consumer complaint, for which there is no listing for that food in Standard 1.6.1. TAG agreed that the definition of ‘food’ should be removed from the Standard.  
**Solution:** Omit the definition of food from the Standard.

### *5.6.2 Standard 1.6.2 – Processing Requirements (Australia only)*

**Location:** Paragraph 1, editorial note to clause 2.  
**Explanation:** Paragraph 2(1)(b), exempts raw milk extra hard grating cheeses, as a category, from the milk heat treatment requirement provided they meet the criteria of having less than 36% moisture, are stored for at least 6 months at no less than 10°C and have undergone a curd cooking step of no less than 48°C. This exemption was due to be reviewed within 12 months from its date of gazettal, that is, by 13 December 2003. This review was completed on 10 December 2003, therefore paragraph 1 of the editorial note to clause 2 is now redundant.  
**Solution:** Delete the following editorial note to clause 2: ‘Paragraph 2(1)(b) is to be reviewed within 12 months from its date of gazettal’.

## **5.6 Part 2.7 – Alcoholic Beverages**

### *5.6.1 Standard 2.7.4 – Wine and Wine Product*

**Location:** Purpose to Standard 2.7.4.  
**Explanation:** The NZFSA advised that for New Zealand, the *Wine Makers Act 1981* had been repealed and replaced by the *Wine Act 2003*.  
**Solution:** Omit the current Purpose and substitute an updated Purpose.

**Location:** Editorial note to Purpose.  
**Explanation:** The purpose of the NZ Geographical Indications Act requires clarification.  
**Solution:** Change ‘appellations’ to ‘geographical indications’.

**Location:** Editorial note to clause 2.  
**Explanation:** The Editorial note should refer to the New Zealand *Wine Act 2003* as a source of information relating to wine production in New Zealand. Also, the reference to Standard 4.1.1 Wine Production Requirements is incorrect.  
**Solution:** Amend the Editorial note to indicate that New Zealand information for wine production can be found in the New Zealand *Wine Act 2003*. Also amend the reference to Standard 4.1.1 to Standard 4.5.1.

#### 5.6.2 *Standard 2.7.5 – Spirits*

**Location:** Paragraph 4(2)(b)  
**Explanation:** Punctuation mark missing from the end of the paragraph.  
**Solution:** Insert a full stop.

### 5.7 **Part 2.9 – Special Purpose Foods**

#### 5.7.1 *Standard 2.9.1 – Infant Formula Products*

**Location:** Table to subclause 24(1) and Schedule 1.  
**Explanation:** For the purposes of the Code, potassium and sodium are considered electrolytes rather than minerals and therefore should not be included as minerals in the Table to subclause 24(1) and Schedule 1.  
**Solution:** Remove references to potassium and sodium as minerals in the Table to subclause 24(1) and Schedule 1 and include them as electrolytes.

### 5.8 **Part 3.1 – Interpretation and Application**

#### 5.8.1 *Chapter 3*

**Location:** Chapter 3 of the Code generally.  
**Explanation:** Use of colons instead of hyphens, and thus inconsistent with FSANZ drafting practice (except in Editorial notes).  
**Solution:** Substitute hyphens for colons wherever occurring, except in Editorial notes.

#### *Standard 3.1.1 – Interpretation and Application*

**Location:** Clause 1.  
**Explanation:** It is unclear whether the definition of ‘equipment’ encompasses shopping trolleys. Advice from OLC is that it is unlikely that the definition would encompass shopping trolleys, however the matter is not free from doubt, and that shopping trolleys would more likely be termed as vehicles used to transport food. The matter requires clarification as differing outcomes may result.  
**Solution:** Provide a definition that makes clear that vehicles used to transport food includes shopping trolleys, and which makes clear the cleaning and maintenance requirements.



## 5.9 Part 3.2 – Food Safety Requirements

### 5.9.1 Standard 3.2.1 – Food Safety Programs

**Location:** Clause 2(1).

**Explanation:** The reference to Standard 3.1.1 is incorrect.

**Solution:** Remove the words ‘Interpretation and Application’ after Standard 3.1.1.

### 5.9.2 Standard 3.2.2 – Food Safety Practices and General Requirements

**Location:** Subclauses 19(2) and 21(1).

**Explanation:** It is not clear where items, such as shopping baskets, provided by food businesses to purchasers to transport food are covered by this part of the Code.

**Solution:** Vary subclauses 19(2) and 21(1) to include a general provision that items provided by food business for purchasers to use to transport food are covered by these subclauses and bring these items into the cleaning and maintenance requirements of the Code.

## 5.10 Part 4.5

### 5.10.1 Standard 4.5.1 – Wine Production Requirements

**Location:** Table to clause 3

**Explanation:** Grape skin extract, which is permitted to be added to wine under Standard 1.3.1 has been omitted from the Table to clause 3 (additives).

**Solution:** Add grape skin extract to the Table to clause 3.

**Location:** Table to clause 3 and Table to clause 4.

**Explanation:** Calcium carbonate, potassium carbonate and potassium hydrogen carbonate are currently listed in the Table to clause 3 (additives), however, these substances are used for deacidification and are more correctly processing aids as they no longer have a functional effect in the final product. They should therefore be listed in the Table to clause 4 (processing aids).

**Solution:** Remove calcium carbonate, potassium carbonate and potassium hydrogen carbonate from the Table to clause 3 and add to the Table to clause 4.

**Location:** Table to clause 4.

**Explanation:** The permission for dimethylpolysiloxane as a processing aid was overlooked when developing the Standard. It is permitted for use in wine made in accordance with Standard 2.7.4 and so has already been assessed for technological justification and raises no public health and safety concerns.

**Solution:** Add dimethylpolysiloxane to the list of processing aids in the Table to clause 4.

- Location:** Subclause 5(7).  
**Explanation:** Subclause 5(7) restricts the presence of water in wine to that used for adding permitted food additives and processing aids only. There is no permission for the presence of small amounts of water in wine due to processes that are incidental to the winemaking process (such as water in cleaning lines etc).  
**Solution:** Amend subclause 5(7) to also permit the presence of water in wine due to processes that are incidental to the winemaking process.
- Location:** Clause 5  
**Explanation:** Application A474 was to have inserted a subclause to the effect that where no maximum permitted levels for processing aids or food additives had been specified in Standard 4.5.1, those may only be added in accordance with conditions of Good Manufacturing Practice (GMP). The subclause was unintentionally omitted from the Final Assessment Report.  
**Solution:** Insert new subclause 5(8) to allow for processing aids and food additives, where no maximum permitted level has been set, to be added in accordance with conditions of GMP.
- Location:** Subclause 6(1).  
**Explanation:** Paragraph 6(1)(a) is listed twice.  
**Solution:** Amend second reference to ‘(a)’, to ‘(b)’.

## **6. Regulatory Options**

The two options for the amendments are outlined in this Proposal are:

1. adopt the proposed draft variations contained in this Proposal; or
2. reject the proposed draft variations contained in this Proposal.

## **7. Impact Analysis**

### **7.1 Affected Parties**

The parties affected by this Proposal are:

- 1 Consumers in Australia and New Zealand.
- 2 Food industry, including Australian and New Zealand manufacturers, exporters to Australia and New Zealand including multi-national manufacturers, and Australia and New Zealand importers.
- 3 Government agencies in Australia and New Zealand who enforce the Code.

### **7.2 Impact Analysis**

Assessment of this Proposal was undertaken to examine primarily whether there were any significant public health and safety risks. There are no identifiable public health and safety risks associated with the proposed amendments to the Code.

By correcting minor errors the Proposal also ensures the provision of adequate information to consumers and prevents misleading or deceptive conduct. The assessment also has regard to using the best available scientific risk assessment and ensuring consistency between domestic and international food standards.

Overall there are no significant costs related to the Proposal and there are some benefits to be gained by consumers, industry and governments. There are no perceived benefits associated with remaining with the status quo. Finally, the Proposal will not adversely affect international trade.

## **8. Consultation**

FSANZ decided, pursuant to section 36 of the FSANZ Act, to omit to invite public submissions in relation to the Proposal prior to making a Draft Assessment. FSANZ was satisfied that this step would not have an adverse effect on anyone's interests and that the Proposal raised issues of minor complexity only.

However, in the consultation stage following Draft Assessment, a number of submitters raised matters pertinent to the drafting which warranted consideration being given, in some instances, to revised drafting options. Within FSANZ, further items which warranted Omnibus amendment were also identified. As a result, further amendments were made, and in accordance with the usual practices of FSANZ, a Preliminary Draft Assessment Report was prepared and a further round of public comment was sought. Where appropriate, these comments have been considered in this Final Assessment Report and revised drafting.

The proposed amendments in this Proposal have been discussed internally within FSANZ by relevant scientific and legal staff to ensure they are accurate and consistent with the Code.

### **8.1 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.

The proposed amendments to the Code to correct errors and clarify the intent of certain provisions are unlikely to have a significant effect on international trade as the issues are minor and without serious implication. The issues therefore were not notified to the agencies responsible for Australia and New Zealand's obligations under either the WTO Technical Barrier to Trade (TBT) or Sanitary and Phytosanitary Measure (SPS) Agreements.

## **9. Conclusion and Recommendation**

The proposed draft variations in this Proposal have been prepared to correct errors of minor significance and complexity (including inconsistencies, misspellings, grammatical errors and omissions) identified in the Code. It is recommended that this Proposal be circulated for public comment. FSANZ's section 10 objectives will be maintained by ensuring minor errors are amended and there is consistency in the Code.

## **ATTACHMENTS**

1. Draft variations to the *Australia New Zealand Food Standards Code*
2. Summary of submissions

**Draft Variations to the *Australia New Zealand Food Standards Code***

**To commence: on gazettal**

[1] *The Australia New Zealand Food Standards Code is varied by –*

[1.1] *omitting the Commentary, substituting –*

**COMMENTARY**

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**THE AUSTRALIA NEW ZEALAND FOOD STANDARDS SYSTEM**

The Australia New Zealand food standards system is a cooperative arrangement between Australia, New Zealand and the Australian States and mainland Territories to develop and implement uniform food standards.

The system for the development of joint Australia New Zealand food standards was first established under a treaty between Australia and New Zealand signed in December 1995. Within Australia, the system is based upon the initial 1991 Commonwealth, State and Territory Agreement in relation to the adoption of uniform food standards. This system continues in operation under the Food Regulation Agreement 2002, and is implemented by food legislation in each State and Territory and in New Zealand, and by the *Food Standards Australia New Zealand Act 1991* (FSANZ Act) of the Commonwealth of Australia. The FSANZ Act establishes the mechanisms for the development and variation of joint food regulatory measures (a food standard or a code of practice) and creates Food Standards Australia New Zealand (the Authority) as the agency responsible for the development and maintenance of a joint *Australia New Zealand Food Standards Code* (the Code).

Although the Authority develops food standards, responsibility for enforcing and policing food standards rests with the States and Territories in Australia and the New Zealand government in New Zealand. Further, in relation to food imported into Australia, the Commonwealth, through the *Imported Food Control Act 1992*, enforces the Code. Within each jurisdiction there are one or more agencies responsible for food surveillance charged with the task of ensuring the requirements of the Code are met.

*Australia New Zealand Food Standards Code*

The Code is a collection of individual food standards. Standards on related matters are grouped together into Parts, which in turn are collected together into four Chapters. Chapter 1 deals with standards which apply to all foods, with the exception of Maximum Residue Limits (MRLs) and processing requirements for which New Zealand has its own regulations. Chapter 2 deals with standards affecting particular classes of foods. Food hygiene is not part of the joint food standards system and Chapter 3 deals with food hygiene issues specific to Australia. New Zealand has its own food hygiene arrangements. Chapter 4 contains standards dealing with the primary production of food in Australia. Again, New Zealand has its own arrangements for primary production of food.

Food standards have the force of law. It is an offence in New Zealand, and a criminal offence in Australia to supply food that does not comply with relevant food standards.

Notwithstanding food standards, it is also an offence to sell food which is damaged, deteriorated or perished, which is adulterated, or which is unfit for human consumption. Because food standards are given legal effect by State, Territory and New Zealand laws, it is important to read this Food Standards Code in conjunction with the relevant food legislation.

This Code should also be read in conjunction with other applicable laws, such as the Australian *Trade Practices Act 1974*, the New Zealand and State and Territory Fair Trading Acts and the New Zealand, State and Territory Food Acts. The provisions in these Acts, particularly relating to conduct which is false, misleading or deceptive, apply to the supply of food in trade and commerce.

Food standards are developed or varied by the Authority, either by application from any agency, body, or person, or by a proposal of its own initiative. Notices are published in Australia and New Zealand seeking comment from the public on applications and proposals.

The Authority is required by the FSANZ Act to observe certain processes in the course of developing or reviewing food regulatory measures. However the Authority must have regard to the following overarching objectives, in priority order

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

The Authority must also have regard to the following:

- 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;
- any written policy guidelines formulated by the Council for the purposes of this paragraph and notified to the Authority.

Standards or variations to standards developed and approved by the Authority are subject to review by a council of Health Ministers known as the Australia and New Zealand Food Regulation Ministerial Council. The Council meets approximately twice a year, with some business conducted out-of-session through correspondence.

Standards approved by the Authority are published in the Commonwealth of Australia Gazette and the New Zealand Gazette and become legally binding. A commencement date for the standard is also specified. The standards published in the Gazettes are adopted by reference and without amendment into the food laws of the States and Territories and of New Zealand.

How to seek a variation to a food standard

If you wish to apply for the development of a new standard, or variation of an existing standard, an application form can be obtained by writing to the Standards Management Officer at either of the addresses shown below:

Food Standards Australia New Zealand  
PO Box 7186  
Canberra BC ACT 2610  
AUSTRALIA

Food Standards Australia New Zealand  
PO Box 10559 The Terrace  
Wellington 6036  
NEW ZEALAND

[1.2] *omitting wherever occurring all references to the New Zealand Food Regulations 1984.*

[2] **Standard 1.1.1** of the Australia New Zealand Food Standards Code is varied by –

[2.1] *omitting from clause 2, the definition of Code, substituting –*

**Code** means the Australia New Zealand Food Standards Code as defined in section 3 of the *Food Standards Australia New Zealand Act 1991*.

[2.2] *omitting from clause 2, paragraph (c) of the definition of warning statement, substituting –*

(c) subclauses 14(1), 14(3) and 26(1) of Standard 2.9.1; and

[2.3] *omitting subclause 5(2), substituting –*

(2) In this Code, the Commentary and editorial notes are for information only and are not legally binding.

[3] **Standard 1.2.1** of the Australia New Zealand Food Standards Code is varied by –

[3.1] *omitting subclause 2(2), substituting –*

(2) Notwithstanding subclause (1), food for retail sale or for catering purposes must comply with any requirements specified in –

- (a) subclauses 2(2), 3(2), 4(2) and 5(2) of Standard 1.2.3; and
- (b) Standard 1.2.6; and
- (c) subclauses 4(2) and 4(3) of Standard 1.2.8; and
- (d) subclause 2(3) of Standard 1.2.10; and
- (e) subclause 4(3) of Standard 1.5.2 and
- (f) clause 6 of Standard 1.5.3; and
- (g) subclause 4(3) and clauses 5, 6, and 10 of Standard 2.2.1; and
- (h) clause 3 of Standard 2.2.3; and
- (i) subclause 3(2) of Standard 2.6.3; and
- (j) subclauses 3(3) and 3(4) of Standard 2.6.4; and
- (k) subclauses 3(1), 3(2), 3(3) and 3(4) of Standard 2.9.4

[4] **Standard 1.2.3** of the Australia New Zealand Food Standards Code is varied by –

[4.1] *omitting from Column 1 of the Table to clause 2, Bee Pollen, Kola beverages containing added caffeine and Propolis, substituting –*

Bee pollen presented as a food, or a food containing bee pollen as an ingredient as defined in Standard 1.2.4
Kola beverages containing added caffeine, or food containing a kola beverage containing added caffeine as an ingredient as defined in Standard 1.2.4.
Propolis presented as a food, or food containing propolis as an ingredient as defined in Standard 1.2.4.

[4.2] *omitting subclause 4(2), substituting –*

(2) The presence of the substances listed in the Table to this clause must be –

- (a) declared on the label on a package of the food; or
- (b) where the food is not required to bear a label pursuant to clause 2 of Standard 1.2.1 –
  - (i) declared on or in connection with the display of the food; or
  - (ii) declared to the purchaser upon request.

[5] **Standard 1.2.4** of the Australia New Zealand Food Standards Code is varied by –

[5.1] *omitting paragraph 2(b), substituting –*

- (b) the food is an alcoholic beverage standardised in Standard 2.7.2 to Standard 2.7.5 of this Code; or

[6] **Standard 1.2.6** of the Australia New Zealand Food Standards Code is varied by *omitting the colon from clause 3, substituting a hyphen.*

[7] **Standard 1.2.8** of the Australia New Zealand Food Standards Code is varied by –

[7.1] *omitting paragraph 3(b), substituting –*

- (b) an alcoholic beverage standardised in Standard 2.7.2 to Standard 2.7.5 of this Code; or

[7.2] *omitting paragraph 3(o), substituting –*

- (o) a kit which is intended to be used to produce an alcoholic beverage standardised in Standard 2.7.2 to Standard 2.7.5 of this Code.

[7.3] *omitting paragraph 5(1)(a), substituting –*

- (a) the number of servings of the food in the package expressed as either –



- (i) the number of servings of the food, or
- (ii) the number of servings of the food per kg, or other units as appropriate, for those packaged foods where the weight or volume of the food as packaged is variable; and

[7.4] *omitting subclause 17(1), substituting –*

(1) A claim to the effect that a food is low in salt or sodium content must not be made unless the food contains no more than 120 mg of sodium per 100 g of the food.

[8] **Standard 1.2.10** of the Australia New Zealand Food Standards Code is varied by –

[8.1] *omitting paragraph 2(4)(g), substituting –*

- (g) food standardised in Standard 1.1A.1 or Standard 2.9.1; or

[8.2] *omitting paragraph 2(4)(i), substituting –*

- (i) alcoholic beverages standardised in Standard 2.7.2 to 2.7.5 of this Code.

[9] **Standard 1.3.1** of the Australia New Zealand Food Standards Code is varied by –

[9.1] *omitting clause 4, substituting –*

#### **4 Requirements for use of intense sweeteners**

Save where otherwise expressly stated in Schedule 1 and notwithstanding any specific level specified in a Schedule to this Standard, intense sweeteners may only be added to food as a flavour enhancer or in an amount necessary to replace, either wholly or partially, the sweetness normally provided by sugars.

[9.2] *omitting from paragraph 11 (a)(i), December 2001; or, substituting –*

May 2003; or

[9.3] *omitting from the General Provisions of Schedule 1 –*

*Colours in Schedule 4 may be present to a maximum level of 290 mg/kg in foods other than beverages and 70 mg/L in beverages except where expressly prohibited in this schedule*

*substituting –*

*Colours in Schedule 4 may be present in processed foods to a maximum level of 290 mg/kg in foods other than beverages and 70 mg/L in beverages except where expressly prohibited in this schedule*

[9.4] *inserting in Schedule 1, under item 13.4 –*

950	Acesulphame potassium	500	mg/kg
956	Alitame	40	mg/kg
962	Aspartame-acesulphame salt	1100	mg/kg

[9.5] *omitting from Schedule 1, under item 14.1.3, sub-item Electrolyte, substituting –*  
**electrolyte**

[9.6] *inserting in Schedule 1, under item 14.1.3 sub-item Electrolyte drink and electrolyte drink base –*

950	Acesulphame potassium	150	mg/kg
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[9.7] *omitting the headings to Schedule 4, alphabetical and numeric listings, substituting –*

**Colours permitted to a maximum level of 290 mg/kg in processed foods and to a maximum level of 70 mg/L in beverages other than beverages specified in Schedule 1**

[10] *Standard 1.3.3 of the Australia New Zealand Food Standards Code is varied by –*

[10.1] *omitting from the Table to clause 11, under the heading Substance, Phosphorus acid, substituting –*

Phosphorous acid

[11] *Standard 1.3.4 of the Australia New Zealand Food Standards Code is varied by –*

[11.1] *omitting paragraph (b) of clause 2, substituting –*

- (b) the fifth edition of the Food Chemicals Codex published by the National Academy of Sciences and the National Research Council of the United States of America in Washington, D.C. (2004); or

[11.2] *omitting from the Schedule, under the heading Specification for quaternary amine cellulose ion exchange resin, paragraph (c), substituting –*

- (c) When subjected to the extraction regime listed in the CFR Title 21 part 173.25(c)(4), but using dilute hydrochloric acid at pH2 in place of 5% acetic acid, the ion exchange resins shall result in no more than 25 ppm of organic extractives.

[12] *Standard 1.4.1 of the Australia New Zealand Food Standards Code is varied by omitting the second paragraph of the Purpose, substituting –*

A ML has been established only where it serves an effective risk management function and only for those foods which provide a significant contribution to the total dietary exposure. Food not listed in this Standard may contain low levels of contaminants or natural toxicants. However, MLs have not been assigned to these foods because they present a low public health risk. The general provisions of the Food Acts relating to the availability of safe foods apply to all foods.

[13] *Standard 1.4.2 of the Australia New Zealand Food Standards Code is varied by –*

[13.1] *omitting from Schedule 1, wherever occurring, the commodity name in Column 1 of the table to this sub-item, substituting the commodity name in Column 2–*

COLUMN 1	COLUMN 2
BEANS, EXCEPT BROAD BEAN AND SOYA BEAN	BEANS [EXCEPT BROAD BEAN AND SOYA BEAN]
BLACKCURRANTS	CURRANT, BLACK
BRASSICA (COLE OR CABBAGE) VEGETABLES	BRASSICA (COLE OR CABBAGE) VEGETABLES, HEAD CABBAGES, FLOWERHEAD BRASSICAS
FRUITING VEGETABLES , OTHER THAN CUCURBITS [EXCEPT SWEET CORN, CORN-ON-THE-COB]	FRUITING VEGETABLES , OTHER THAN CUCURBITS [EXCEPT SWEET CORN, (CORN-ON-THE-COB)]
GALANGAL	GALANGAL, GREATER
PEPPERS	PEPPERS, SWEET
PEPPERS, SWEET (CAPSICUMS)	PEPPERS, SWEET
PEPPERS (CAPSICUMS)	PEPPERS, SWEET
TROPICAL AND SUB-TROPICAL FRUITS – INEDIBLE PEEL	ASSORTED TROPICAL AND SUB-TROPICAL FRUITS – INEDIBLE PEEL

[13.2] *omitting from Schedule 1 all entries for the following chemical –*

Metasulfuron-methyl

[13.3] *omitting from Schedule 1 the chemical and chemical residue definition appearing in Column 1 of the Table to this sub-item, substituting the chemical and chemical residue definition in appearing in Column 2 –*

COLUMN 1	COLUMN 2
<p style="text-align: center;"><b>QUINZALOFOP-ETHYL</b></p> <p style="text-align: center;">SUM OF QUIZALOFOP-ETHYL AND QUIZALOFOP ACID ID AND OTHER ESTERS, EXPRESSED AS QUIZALOFOP-ETHYL</p>	<p style="text-align: center;"><b>QUIZALOFOP-ETHYL</b></p> <p style="text-align: center;">SUM OF QUIZALOFOP-ETHYL AND QUIZALOFOP ACID AND OTHER ESTERS, EXPRESSED AS QUIZALOFOP-ETHYL</p>

[13.4] *omitting from Schedule 1 the chemical residue definitions for the chemicals appearing in Column 1 of the Table to this sub-item, substituting the chemical residue definition appearing in Column 2 –*

<b>COLUMN 1</b>	<b>COLUMN 2</b>
<b>PYRIDATE</b>	SUM OF PYRIDATE AND METABOLITES CONTAINING 6 CHLORO-4-HYDROXYL-3-PHENYL PYRIDAZINE, EXPRESSED AS PYRIDATE
<b>THIOMETON</b>	SUM OF THIOMETON, ITS SULFOXIDE AND SULFONE, EXPRESSED AS THIOMETON

[13.5] *omitting from Schedule 1 the foods and associated MRLs for each of the following chemicals –*

<b>CHLORPYRIFOS</b> CHLORPYRIFOS	
OILSEED [EXCEPT COTTON SEED]	T*0.05
OILSEED [EXCEPT PEANUT]	T*0.05
<b>GLYPHOSATE</b> GLYPHOSATE	
ADZUKI BEANS	T10
PULSES [EXCEPT ADZUKI BEAN (DRY), COWPEA (DRY), MUNG BEAN (DRY), SOYA BEAN (DRY)]	5
<b>OXYFLUORFEN</b> OXYFLUORFEN	
POULTRY MEAT (IN THE FAT)	0.2
<b>ZERANOL</b> ZERANOL	
CATTLE, EDIBLE	0.02

[13.6] *inserting in alphabetical order in Schedule 1, the foods and associated MRLs for each of the following chemicals –*

<b>CHLORPYRIFOS</b> CHLORPYRIFOS	
OILSEED [EXCEPT COTTON SEED AND PEANUT]	T*0.05
<b>GLYPHOSATE</b> GLYPHOSATE	
ADZUKI BEAN (DRY)	10
SOYA BEAN (DRY)	10
<b>METSULFURON-METHYL</b> METSULFURON-METHYL	
CHICK-PEA (DRY)	T*0.05
<b>PERMETHRIN</b> PERMETHRIN, SUM OF ISOMERS	
KAFFIR LIME LEAVES	T10
LEMON GRASS	T10
LEMON VERBENA	T5

<b>OXYFLUORFEN</b> OXYFLUORFEN	
POULTRY MEAT (IN THE FAT)	0.2
<b>ZERANOL</b> ZERANOL	
CATTLE, EDIBLE OFFAL OF	0.02

[13.7] *omitting from Schedule 1, under the entries for the following chemicals, the MRL for the food, substituting –*

<b>CYPRODINIL</b> CYPRODINIL	
STONE FRUITS	*0.01
<b>METHYL BROMIDE</b> METHYL BROMIDE	
VEGETABLES [EXCEPT CUCUMBER AND PEPPERS, SWEET]	T*0.05
<b>PROPACHLOR</b> PROPACHLOR	
BRASSICA (COLE OR CABBAGE) VEGETABLES, HEAD CABBAGES, FLOWERHEAD BRASSICAS	0.6
<b>PYMETROZINE</b> PYMETROZINE	
BRASSICA (COLE OR CABBAGE) VEGETABLES, HEAD CABBAGES, FLOWERHEAD BRASSICAS	*0.02
<b>SETHOXYDIM</b> SUM OF SETHOXYDIM AND METABOLITES CONTAINING THE 5-(2- ETHYLTHIOPROPYL)CYCLOHEXENE-3-ONE AND 5-HYDROXYCYCLOHEXENE-3-ONE MOIETIES AND THEIR SULFOXIDES AND SULFOXIDES AND SULFONES, EXPRESSED AS SETHOXYDIM	
BRASSICA (COLE OR CABBAGE) VEGETABLES, HEAD CABBAGES, FLOWERHEAD BRASSICAS	0.2

[13.8] *omitting from Schedule 2, under the entries for the following chemicals, the Extraneous Residue Limit for the food, substituting –*

<b>ALDRIN AND DIELDRIN</b> SUM OF HHDN AND HEOD	
MILKS (IN THE FAT)	E0.15

[14] *Standard 1.5.2 of the Australia New Zealand Food Standards Code is varied by –*

[14.1] *omitting from the Table of Provisions –*

3 Exemption to general prohibition on sale and use

*substituting –*

3 Deleted

[14.2] *omitting subparagraph 1(b) of the definition of line, substituting –*

(b) any plant, descended from the plant referred to in paragraph (a), that is the result of conventional breeding of that plant with –

(i) any other plant that does not contain a transformation event or events; or

(ii) any other plant that contains a transformation event or events, whether expressed as a line or event, that is listed in Column 1 of the Table to clause 2 of this Standard;

but shall not be taken to mean any plant derived solely as a result of conventional breeding.

[14.3] *omitting clause 3 substituting –*

3 Deleted

[15] **Standard 1.6.1** of the Australia New Zealand Food Standards Code is varied by –

[15.1] *omitting from clause 1 the definition of food.*

[16] **Standard 1.6.2** of the Australia New Zealand Food Standards Code is varied by –

[16.1] *omitting from the Editorial note to clause 2 –*

Paragraph 2(1)(b) is to be reviewed within 12 months from its date of gazettal.
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[17] **Standard 2.7.4** of the Australia New Zealand Food Standards Code is varied by –

[17.1] *omitting the Purpose, substituting –*

### **Purpose**

This Standard sets general definitions for wine and wine product and provides permissions for the addition of certain foods during the production of wine.

The Australian *Wine and Brandy Corporation Act 1980* and the Regulations made under the Act should also be consulted. The Act and the Regulations contain provisions which, for example, regulate:

– the use of geographical indications for wine, sparkling wine and fortified wine;

- limited derogations from the requirements in this Standard for wine, sparkling wine and fortified wine for export;
- blending rules for wine, sparkling wine and fortified wine; and
- the compositional and other requirements for wine, sparkling wine and fortified wine imported into Australia from countries with which Australia has a wine trading agreement prescribed by the Act.

For wines produced in New Zealand, the *Wine Act 2003*, and the Regulations, Specifications and Notices made under that Act, should also be consulted. These contain provisions that regulate the making, supply and export of wine in New Zealand.

[17.2] *omitting from the Editorial note to the Purpose, appellations, substituting –*

geographical indications

[17.3] *omitting the first paragraph of the Editorial note to clause 2, substituting –*

For the production of wine in New Zealand clause 2 of this Standard applies, and should be read in conjunction with the New Zealand *Wine Act 2003*. For the production of wine in Australia, clause 2 of this Standard should be read in conjunction with clause 3 of Standard 4.5.1.

[18] *Standard 2.7.5 of the Australia New Zealand Food Standards Code is varied by inserting a full stop at the end of subparagraph 4(2)(b).*

[19] *Standard 2.9.1 of the Australia New Zealand Food Standards Code is varied by –*

[19.1] *omitting from the Table of Provisions –*

24 Vitamins and minerals

*substituting –*

24 Vitamins, minerals and electrolytes

[19.2] *omitting the heading to clause 24, subclause 24(1) and the Table to subclause 24(1), substituting –*

## **24 Vitamins, minerals and electrolytes**

(1) Infant formula and follow-on formula must contain the vitamins, minerals and electrolytes specified in column 1 of the Table to this subclause provided that, in relation to each vitamin, mineral or electrolyte –

- (a) the added vitamin, mineral or electrolyte is in a permitted form as listed in Schedule 1; and
- (b) the infant formula or follow-on formula contains no less than the amount specified in column 2 of the Table; and

- (c) the infant formula or follow-on formula contains no more than the amount specified in column 3 of the Table, if any.

**Table to subclause 24(1)**

Column 1	Column 2	Column 3
Nutrient	Minimum amount per 100 kJ	Maximum amount per 100 kJ
<b>Vitamins</b>		
Vitamin A	14 µg	43 µg
Vitamin D	0.25 µg	0.63 µg
Vitamin C	1.7 mg	
Thiamin	10 µg	
Riboflavin	14 µg	
Preformed Niacin	130 µg	
Vitamin B <sub>6</sub>	9 µg	36 µg
Folate	2.0 µg	
Pantothenic acid	70 µg	
Vitamin B <sub>12</sub>	0.025 µg	
Biotin	0.36 µg	
Vitamin E	0.11 mg	1.1 mg
Vitamin K	1.0 µg	
<b>Minerals</b>		
Chloride	12 mg	35 mg
Calcium	12 mg	
Phosphorus	6 mg	25 mg
Magnesium	1.2 mg	4.0 mg
Iron	0.2 mg	0.5 mg
Iodine	1.2 µg	10 µg
Copper	14 µg	43 µg
Zinc	0.12 mg	0.43 mg
Manganese	0.24 µg	24.0 µg
Selenium	0.25 µg	1.19 µg
<b>Electrolytes</b>		
Sodium	5 mg	15 mg
Potassium	20 mg	50 mg

[19.3] *omitting the Editorial note following subclause 24(4), substituting –*

**Editorial note:**

This Standard contains guidelines setting out the recommended levels of vitamins, minerals and electrolytes that as a matter of good practice should not be exceeded.

[19.4] *omitting the Editorial note to clause 33, substituting –*

**Editorial note:**

The provisions of clause 24 of this Standard also apply in respect of the vitamins, minerals and electrolytes permitted in an infant formula product for specific dietary use based upon protein substitutes.



[19.5] *omitting the heading to Schedule 1, substituting –*

**Permitted forms of vitamins, minerals and electrolytes in infant formula products**

[19.6] *omitting the column heading from Column 1 of Schedule 1, substituting –*

Vitamins, Minerals and Electrolytes

[20] *Chapter 3 of the Australia New Zealand Food Standards Code is varied by omitting, wherever occurring (except in Editorial notes), colons, substituting dashes*

[21] *Standard 3.1.1 of the Australia New Zealand Food Standards Code is varied by –*

[21.1] *inserting in clause 1 –*

**Vehicles used to transport food** includes shopping trolleys.

[22] *Standard 3.2.1 of the Australia New Zealand Food Standards Code is varied by –*

[22.1] *omitting subclause 2(1), substituting –*

(1) This Standard applies to food businesses in Australia in accordance with Standard 3.1.1 and subclause (2).

[23] *Standard 3.2.2 of the Australia New Zealand Food Standards Code is varied by –*

[23.1] *omitting subclause 19(2), substituting –*

(2) A food business must maintain all fixtures, fittings and equipment, having regard to its use, and those parts of vehicles that are used to transport food, and other items provided by the business to purchasers to transport food, to a standard of cleanliness where there is no accumulation of –

- (a) food waste;
- (b) dirt;
- (c) grease; or
- (d) other visible matter.

[23.2] *omitting subclause 21(1), substituting –*

(1) A food business must maintain all fixtures, fittings and equipment, having regard to its use, and those parts of vehicles that are used to transport food, and other items provided by the business to purchasers to transport food, in a good state of repair and working order having regard to their use.

[24] *Standard 4.5.1 of the Australia New Zealand Food Standards Code is varied by –*

[24.1] *inserting in the Table to clause 3 –*

Grape skin extract
--------------------

[24.2] *omitting from the Table to clause 3 and inserting in the Table to clause 4 –*

Calcium carbonate Potassium carbonate Potassium hydrogen carbonate
--

[24.3] *inserting in the Table to clause 4 –*

Dimethylpolysiloxane
----------------------

[24.4] *omitting subclause 5(7), substituting –*

(7) Wine, sparkling wine and fortified wine may contain water in proportion not exceeding 30 mL/L where the water is necessary for the incorporation of any substance specified in clause 3 or clause 4, or where the water is incidental to the winemaking process.

[24.5] *inserting after subclause 5(7) –*

(8) Where this clause does not otherwise specify a maximum permitted level for -

- (a) a food additive listed in the Table to clause 3; or
- (b) a processing aid listed in the Table to clause 4;

of this Standard, then the use of the food additive or processing aid must be consistent with conditions of Good Manufacturing Practice (GMP).

[24.6] *omitting subclause 6(1), substituting –*

(1) In addition to the substances permitted by clauses 3 and 4 of this Standard, sparkling wine may also contain –

- (a) grape spirit; and
- (b) brandy; and
- (c) sugars.

### Summary of Submissions

The Preliminary Final Assessment Report for Proposal P284 – Minor Amendments Omnibus V was approved for public comment by the FSANZ Board on 8 October 2004. Public consultation was held between 21 October 2004 and 1 December 2004. Six submissions were received.

#### 1. Australian Food and Grocery Council

- Supported the proposed drafting amendments with the following exceptions:

##### Commentary

- The drafting refers to the development of regulatory measures but not variation to regulatory measures. Therefore recommends including a reference to the variation of regulatory measures in paragraph 2 of the Commentary.

**Comment:** The drafting was amended accordingly.

#### **Standard 1.1.1 – Preliminary Provisions – Application, Interpretation and General Prohibitions**

- Considers that in this context ‘phosphorus’ is the correct spelling as it refers to the elemental form. Therefore the change proposed by FSANZ should not be made. However, agrees that the change of ‘phosphorus acid’ to ‘phosphorous acid’ in Standard 1.3.3 is correct and should remain.

**Comment:** The drafting was amended accordingly.

#### **Standard 1.2.8 – Nutrition Information Requirements**

- Supports making a variation to accommodate random weight packages but considers that the drafting is inappropriate. The number of serves ‘per g, mg, µg’ represent values that are tens, hundreds and thousands of times less than a typical serve and recommends that larger units are used. Suggests an amended form of drafting.

**Comment:** The drafting was amended to delete reference to the number of serves per g, mg and µg.

#### **Standard 1.3.1 – Food Additives**

- Supports updating the reference to GRAS lists of flavours, however considers that there is a comma missing from Item [9.2] of the drafting, after the first ‘or’.

**Comment:** The drafting was amended accordingly.

- Supports standardising the wording in Schedule 1, item 0 General Provisions and Schedule 4 headings to refer to processed foods. However, considers that the wording proposed for the Schedule 4 headings in Item [9.6] of the drafting could be better worded to reflect the wording proposed for Schedule 1, item 0. Proposes alternative drafting.

**Comment:** FSANZ does not consider that an amendment to the drafting is required.

- Supports inclusion of the intense sweetener acesulphame potassium in Schedule 1, item 14.1.3, sub-item electrolyte drink and electrolyte drink base. However considers that the drafting in Item [9.5] should read: ‘inserting in Schedule 1, under item 14.1.3 sub-item electrolyte drink and electrolyte drink base’.

**Comment:** The drafting was amended accordingly.

## 2. Department of Health, South Australia

Generally supported the amendments in the Proposal but offered the following comments:

### **Standard 1.2.8 – Nutrition Information Requirements**

- Questioned whether there needs to be some clarification regarding the role of potassium chloride and whether it is included in the claim for ‘low salt’ in clause 17, Standard 1.2.8. Industry considers that potassium chloride is excluded by definition from being a salt and can be used as a salt substitute in low salt products.

**Comment:** FSANZ considers that the issue of potassium chloride and ‘low salt’ claims is outside the scope of this Proposal.

## 3. Department of Human Services, Victoria

- Supported the proposed draft variations contained in the Proposal.

## 4. Food Technology Association of Victoria (FTA)

- Accepted Option 1, with the following suggested further amendments.

### **Standard 1.3.1 – Food Additives**

- Suggested that the proposed drafting in the General Provisions [Item 9.4] and the heading to Schedule 4 [Item 9.6] be amended to omit a possible ambiguity. The current wording could imply that each single colour of the colours listed in Schedule 4 could be added to a processed food at 290 mg/kg or each colour could be added to a beverage at 70 mg/L. This would mean that the total level of all the colours added from Schedule 4 could exceed 290 mg/kg or 70 mg/L respectively. Suggested alternative drafting.

**Comment:** FSANZ does not consider that an amendment to the drafting is required.

## 5. New Zealand Food Safety Authority

Agrees with the proposed draft variations contained in the Proposal, however noted the following:

- Section 5.1.2 of the Preliminary Final Assessment Report incorrectly refers to the *New Zealand Food Regulations 1994*, rather than the *New Zealand Food Regulations 1984*.

**Comment:** The Final Assessment Report was amended accordingly.

### **Standard 1.2.8 – Nutrition Information Requirements**

- In Item [7.3] of the drafting, stated that there is still a reference to ‘non-standardised portions’ and it is not clear that this reflects the problem as described in Section 5.2.5 of the Preliminary Final Assessment Report. Suggests that the drafting is made clearer (or an editorial note is added) and that this alternative provision is described in the User Guide.

**Comment:** The Final Assessment Report and drafting were amended accordingly.

## 6. Queensland Health

### **Standard 1.2.10 – Characterising Ingredients and Components of Food**

- In Item [8.2] of the drafting, suggested that the reference to ‘Standards 2.7.2 to 2.7.5’ in paragraph 2(4)(i), Standard 1.2.10 be changed to ‘Standard 2.7.2 to Standard 2.7.5 as it is inconsistent with previous amendments in the drafting.

**Comment:** The drafting was amended accordingly.

### **Standard 1.4.2 – Maximum Residue Limits**

- In Item [13.3] of the drafting, noted that the word ‘ID’ is missing from the chemical definition in Schedule 1.
- In Item [13.4] of the drafting, noted that PYRIDATE should be inserted before THIOMETON in Column 1, as alphabetically, PYRIDATE comes before THIOMETON.
- In Item [13.5] of the drafting, stated that the existing reference to CHLORPYRIFOS in Schedule 1 cannot be found. Also stated that the last line in the reference to OXYFLUORFEN should read POULTRY MEAT (IN THE FAT) 0.2 as opposed to POULTRY MEAT (IN THE DAT) 0.2.
- In Item [13.6] of the drafting, suggested that the reference to PERMETHRIN in Schedule 1 should read ‘PERMETHRIN, SUM OF ISOMERS’.
- In Item [13.6] of the drafting, stated that the reference to OXYFLUROFEN in Schedule 1 should be changed to OXYFLUORFEN.

**Comment:** The comments relating to Items [13.3], [13.4] and [13.6] were amended in the drafting.

In relation to Item [13.5] and Chlorpyrifos, the drafting reflects the need to make changes to the Gazetted version of the Code and not that listed in the compilation. There have been slight discrepancies in the past and this amendment is part of FSANZ's strategy to correct such anomalies.

In relation to Item [13.5] and Oxyfluorfen, the Gazetted version of the Code is correct, therefore this part of the item will be removed from the Final Assessment drafting.

#### **Standard 4.5.1 – Wine Production Requirements**

- In Item [24.4] of the drafting, states that the reference to subclause 5(6) needs to be changed to subclause 5(7) and the proposed substitution needs to begin with a (7) as opposed to (6).

**Comment:** The drafting was amended accordingly.