



PROPOSAL P1013

CODE MAINTENANCE IX

EXPLANATORY STATEMENT

Executive Summary

Purpose

FSANZ regularly seeks to amend the *Australia New Zealand Food Standards Code* (the Code) to maintain its currency and clarity. The purpose of Proposal P1013 is to assess a range of proposed amendments to the Code. The amendments are intended to address inconsistencies, misspellings, grammatical and typographical errors, omissions and items requiring updating or clarification plus minor changes to the Code that do not warrant full assessment under the FSANZ application or proposal process.

Assessing the Proposal

In assessing the Proposal, FSANZ has had regard to the following matters as prescribed in section 59 of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act):

- Whether costs that would arise from a food regulatory measure developed or varied as a result of the Proposal outweigh the direct and indirect benefits to the community, Government or industry that would arise from the development or variation of the food regulatory measure.
- Whether there are other measures that would be more cost-effective that could achieve the same end.
- Any relevant New Zealand standards.
- Any other relevant matters.

Decision

To approve the draft variations to various Standards to maintain the currency, accuracy and clarity of the Code, including minor changes to the Code identified through the recent legislative audit, and to approve the use of two new food additives.

Reasons for Decision

The proposed amendments:

- do not raise any public health or safety concerns
- will ensure that the Code remains current and that errors and inconsistencies are addressed
- are expected to result in a net benefit for industry, government and the community in general.

Consultation

In accordance with the FSANZ Act, this Proposal was assessed under the General Procedure, meaning that one round of consultation has been undertaken.

Public comment on the Assessment Report for this Proposal was sought from 15 December 2010 to 9 February 2011. A total of 13 submissions were received. The issues raised in these submissions were carefully considered by FSANZ. A summary is provided in Attachment 3 to this Report.

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Introduction

Proposal P1013 – Code Maintenance IX was prepared by FSANZ to amend the Code to address inconsistencies, misspellings, grammatical and typographical errors, omissions and items requiring clarification or updating, including updating references and amending or deleting outdated provisions. There are also some issues that arise from time to time (including in applications) that could more efficiently be considered as part of a Proposal. FSANZ has compiled these issues for consideration as part of this Proposal.

In accordance with the FSANZ Act, this Proposal is being assessed in accordance with the General Procedure with one round of public comment.

1. The Issue / Problem

The Code is regularly amended to reflect the changing nature of the food supply and the associated changes to regulatory requirements. On occasions, minor typographical errors or inconsistencies can occur and FSANZ identifies and corrects these errors and inconsistencies to ensure the Code remains as accurate as possible. This Proposal includes a small number of proposed variations to the Code to address these matters.

In addition to these minor changes, FSANZ also reviews provisions in the Code to identify outdated or unnecessary provisions, and areas where clarity could be improved. This Proposal includes a number of proposed variations to update references to external documents, and to improve clarity.

This Proposal also provides an opportunity to address other minor changes to the Code that do not warrant full assessment under the FSANZ application or proposal process, in the most efficient manner, for example, permission of new food additives where there are no safety issues. The Proposal also includes removal of the provisions for the exclusive use of tall oil phytosterol esters when the period of exclusivity expires (July 2011).

In addition, an audit of all Standards in the *Australia New Zealand Food Standards Code* was completed in 2010 by the Office of Legislative Drafting and Publishing (OLDP). This audit made numerous recommendations relating to the structure, content and meaning of text in the Standards. A number of the recommendations have been included in this Proposal and others will be addressed in future work.

2. Objectives

The specific objective of this Proposal is to correct and update food regulatory measures in the Code.

In developing or varying a food standard, FSANZ is required by its legislation to meet three primary objectives which are set out in section 18 of the FSANZ Act. These are:

- 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.

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.

RISK ASSESSMENT

3. Issues raised and solutions

The amendments to the Code included in this Proposal have been provided to FSANZ by jurisdictions and other stakeholders; or identified during the legislative audit by OLDP; or have been generated internally within FSANZ. The majority of the issues relate to inconsistencies, misspellings, grammatical errors, omissions and items requiring updating or clarification.

The amendments to the Code through this Proposal do not negatively impact on public health or safety. On this basis, a general risk assessment is not considered to be necessary, although for some of the issues a risk assessment has been undertaken and is briefly described when addressing the specific issue.

AMENDMENTS

In this section, the issues are arranged under the relevant standards and the following details are provided with regard to each issue:

Location: The relevant clause, subclause, paragraph or Table where the problem arises.

Issue: The nature of the inconsistency, error or other issue and where necessary the rationale and risk assessment for the suggested amendment.

Solution: The amendment.

When significant amendments have been made to the amendments proposed in the Assessment Report, the following details are provided:

Location: The relevant clause, subclause, paragraph or Table where the problem arises.

Issue: The nature of the inconsistency, error or other issue and where necessary the rationale and risk assessment for the suggested amendment.

Solution proposed in Assessment Report: The amendment proposed in the Assessment Report.

Submitter comments and FSANZ response: A brief summary of the submitter comments and response from FSANZ. (A summary of submitter comments and the FSANZ response is also provided in Attachment 3.)

In addition, minor amendments to the Code made in response to submitter comments are explained in Attachment 3.

Details about the amendments to Editorial notes are provided in section 4.

The drafting of each amendment to the Code is provided in Attachment 1A. Drafting of amendments to Editorial notes in the Code is provided in Attachment 2A. The drafting of the amendments previously proposed in the Assessment Report is provided in Attachments 1B and 2B.

3.1 Amendments to various standards

Location: Wherever the word ‘micro-organism’ occurs (Standards 1.5.1 (Editorial note), 1.6.1, 2.4.2, 2.5.4, 3.3.1 (Editorial note), 3.2.2, 3.2.3, 3.3.1, 4.2.1, 4.2.3, 4.2.4 and 4.5.1).

Issue 1: Microorganism should not be hyphenated.

Solution: Replace ‘micro-organism’ with ‘microorganism’.

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

Location: Subclause 1(1) (application of the provisions of the Code)

Issue 2: OLDP recommendation to clarify meaning of ‘and/or’.

Solution: Redraft to remove the expression (replace with ‘the provisions of this Code apply to food products (a) sold or prepared for sale in Australia or New Zealand; and (b) imported into Australia or New Zealand.’)

Location: Clause 16 (new clause), definition of ‘Code of Federal Regulations’ and wherever the Code of Federal Regulations is referenced in the Code (Standards 1.3.1 and 1.3.4).

Issue 3: The US Code of Federal Regulations is mentioned in various places in the Code. This means each entry requires updating regularly.

Solution: Define the Code of Federal Regulations in Standard 1.1.1 for citation throughout the Code. Remove reference to the date of the Code of Federal Regulations where currently mentioned in the Code.

Location: Clause 2, definition of component

Issue 4: The term ‘final product’ is used rather than the more appropriate term ‘final food’.

Solution: Amend to ‘final food’.

Location: Definition of ‘fund raising events’ in clause 1 and use of this term in paragraph 2(4)(e) of Standard 1.2.10 and clause 6 of Standard 3.2.1.

Issue 5: The term should be singular (fund raising event).

Solution: Change definition and reference to ‘fund raising events’ to singular.

3.3 Standard 1.1.2 – Supplementary Definitions for Foods

Location: Definition of cocoa

Issue 6: The definition refers to ‘with or without the addition of salt and/or spices’. OLDP recommendation to clarify meaning of ‘and/or’.

Solution: Redraft to remove the expression (replace with ‘with or without the addition of salt or spices’).

Location: Definition of coffee

Issue 7: The definition refers to ‘roasting and/or grinding’. OLDP recommendation to clarify meaning of ‘and/or’.

Solution: Replace with ‘roasting, grinding, or both the roasting and grinding’.

3.4 Standard 1.2.1 – Application of Labelling and Other Information Requirements

Location: Paragraphs 2(1)(a) and 3(1)(d)

Issue 8: The terminology ‘food not in a package’ is inconsistent with the terminology in paragraph 5(2)(a) – ‘the food is other than in a package’.

Solution: Amend to use just one precise term (i.e. the food is not in a package).

Location: Paragraph 2(2)(a)

Issue 9: Under this paragraph, foods exempt from bearing a label must comply with subclauses 1(1) or 1(2) of Standard 1.2.2, however of these two subclauses, only subclause 1(2) refers to foods exempt from bearing a label.

Solution: Remove the reference to subclause 1(1) in paragraph 2(2)(a).

Location: Subclause 3(1)

Issue 10: Inclusion of ‘for’ at the end of subclause 3(1) is not grammatically correct as it applies to (c). Repetition of the word ‘food’ at the start of each paragraph (d) to (f) is not necessary.

Solution: Move the word ‘for’ to the start of both paragraphs 3(1)(a) and (b). Move the word ‘food’ from (d), (e) and (f) to after the wording ‘...except where the –’.

Location: Subparagraph 5(2)(c)(i)

Issue 11: Subclause 5(2) provides an exemption for outer packages from the labelling requirements prescribed in subclause 5(1), when the information prescribed in Standard 1.2.2 is provided on the outer package. However subclause 6(2) allows supplier details (required under Standard 1.2.2) to be provided in accompanying documentation rather than on a label of food for catering purposes. It is unclear under subclause 5(2) whether supplier details are required on the outer package in order for an outer package to be exempt from the labelling requirements prescribed in subclause 5(1), or whether the exemption also applies if supplier details are provided in accompanying documentation as provided for under subclause 6(2).

Solution: Amend subclause 5(2) to reflect that the supplier details could be provided in accompanying documentation (provided that the product name and lot identification are on the label of the outer package) in order for the exemption for outer packages from the other labelling requirements prescribed in subclause 5(1) to apply.

Location: Subclause 6(4)

Issue 12: The comma after the word ‘purposes’ is not necessary.

Solution: Remove comma.

Location: Table to clause 8, wherever ‘and/or’ occurs.

Issue 13: OLDP recommendation to clarify meaning of ‘and/or’.

Solution: Redraft to remove the expression (replace with ‘or’).

3.5 Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations

Location: Purpose

Issue 14: The Standard includes a clause regarding a warning statement, however the Purpose does not make reference to this.

Solution: Add to the Purpose that the Standard sets out mandatory warning statements.

Location: Clause 3 heading

Issue 15: The heading refers to 'warning statements and declarations' however the clause only includes requirements for warning statements.

Solution: Remove 'and declarations' from the clause heading and update the Table of Provisions to reflect this amendment.

Location: Subclause 3(2)

Issue 16: The subclause refers to 'advisory statement' but should refer to 'warning statement'.

Solution: Replace 'advisory statement' with 'warning statement'.

Location: Table to clause 4

Issue 17: The entry for Fish and fish products ends with a full stop (other entries do not have full stops).

Solution: Remove full stop.

Location: Table to clause 4

Issue 18: The terms 'tree nuts and sesame seeds' and 'peanuts and soybeans' are combined entries which may cause confusion. In addition, these foods are unrelated in terms of allergy e.g. many people with a tree nut allergy can safely consume sesame seeds.

Solution: Provide separate entries for each of the above foods.

3.6 Standard 1.2.4 – Labelling of Ingredients

Location: Paragraph 2 (d)

Issue 19: The exemption from the requirement to label with a statement of ingredients for liquid milk and milk products and cream and cream products sold in glass bottles with no label other than that on the foil cap is now redundant. This is because other labelling requirements currently apply to these products, such as supplier name and address and a nutrition information panel (no exemption for these products was sought when these requirements were introduced). These other labelling requirements mean that there will be no glass bottles with 'no other label other than that on the foil cap' so the exemption will never apply.

Solution: Remove exemption.

Location: Entry for milk solids in Table to clause 4

Issue 20: OLDP recommendation to clarify meaning of 'and/or'.

Solution: Redraft to remove the expression (replace with 'or').

Location: Clause 5, wherever 'and/or' appears

Issue 21: OLDP recommendation to clarify meaning of 'and/or'.

Solution: Redraft to remove the expression (replace with 'or').

Location: Clause 6

Issue 22: Subclause 6(2) as written could be interpreted to mean that compound ingredients must be declared as 'Name (ingredient 1, ingredient 2, etc)', however subclause 6(1) clearly states there are two options.

Solution: Redraft clause 6 to clearly indicate the two options for declaring compound ingredients in foods (except for food standardised in Standard 2.9.2 and foods containing alcoholic beverages standardised in Standards 2.7.2 to 2.7.5).

Location: Subclauses 8(2), 8(4) and 8(5)

Issue 23: It is not clear that the food additive class name used in the ingredient list should relate to the technological function of the food additive performed in the food, not what technological function the food additive is capable of.

It is not clear in clause 8 that the names in Schedule 2 are prescribed names.

Solution proposed in Assessment Report: Amend clause 8 to clarify that the food additive class name used in the statement of ingredients must describe the primary technological function of that food additive in the food and to clarify that the names in Schedule 2 are prescribed names.

Submitter comments and FSANZ response: There was concern that the amendment relating to the technological function of the food additive would prohibit class names that were not strictly functions, from being used on a food label. While technical clarity was intended, FSANZ has not made the proposed amendment because not all of the class names in Schedule 1 of Standard 1.2.4 are technological functions, e.g. Vegetable Gum. However the proposed amendment to subclauses 8(2) and 8(5) to clarify that the names in Schedule 2 are prescribed names remains.

Location: New clause (10)

Issue 24: Clause 3 of Standard 2.4.1 – Edible Oils refers to labelling requirements for oil where it is specifically named. The clause applies when oil has undergone a process which has altered the fatty acid composition of the edible oil. This labelling requirement applies both to the name of the food if the food is an oil described in this clause, and when a food contains as an ingredient, an oil described in this clause. As this requirement is located in the Edible Oils Standard, the labelling requirement may not be obvious to manufacturers using edible oils as ingredients.

Solution: Provide a cross reference to clause 3 of Standard 2.4.1 in Standard 1.2.4 – Labelling of Ingredients. Update the Table of Provisions to reflect this new clause.

Location: Schedule 2, Part 2

Issue (new): Under the entry for Anthocyanins, 'Blackcurrant' is spelt incorrectly. This is a new issue that was identified by FSANZ following the release of the Assessment Report.

Solution: Correct spelling.

3.7 Standard 1.2.5 – Date Marking of Food

Location: Clause 1, definition of 'use-by date'

Issue 25: The definition of 'use-by date' refers to 'health and safety' whereas under clause 2, a use-by date is required for 'health or safety' reasons. The latter phrase is correct.

Solution: Amend 'health and safety' to 'health or safety'.

Location: Clause 5

Issue 26: The reference to 'chronological form' doesn't clearly identify the intent as recommended under Proposal P139 – Date Marking of Packed Food (Full Assessment Report). Under Proposal P139 it was recommended that the date mark must be expressed as the day, followed by the month, followed by the year, as appropriate according to subclause 5(1), unless the month is expressed in letters, in which case the month can be expressed before the day. The day and year must be in uncoded numerical form, however the month may be expressed in uncoded numerical form or in letters.

Solution: Amend to clarify the intent as outlined above.

Location: Subclause 6(2)

Issue 27: The exemption from the requirement to label with a statement of ingredients for liquid milk and milk products and cream and cream products sold in glass bottles with no label other than that on the foil cap is now redundant. This is because other labelling requirements currently apply to these products, such as supplier name and address and a nutrition information panel (no exemption for these products was sought when these requirements were introduced). These other labelling requirements mean that there will be no glass bottles with 'no other label other than that on the foil cap' so the exemption will never apply.

Solution: Remove exemption.

Location: Clause 7

Issue 28: The intent, as indicated in the Proposal P139 – Date Marking of Packed Food Full Assessment Report, was that 'packed on' dates (referred to as 'packing dates' in that Report) are permitted in addition to a date mark prescribed by Standard 1.2.5. It is not clear that the permission in clause 7 for the addition of a 'manufacturer's or packer's code' includes permission for the addition of a packed on date.

Solution: Amend to clarify the intent, i.e. that the date the food was packed on ('packed on' date) may not be used instead of a use-by date or best-before date (or baked-for date), but is permitted as additional information.

3.8 Standard 1.2.6 – Directions for Use and Storage

Location: Purpose

Issue 29: The OLDP legislative audit identified that the use of 'and/or' requires too much work from the reader and can be interpreted in different ways.

The Purpose mentions labelling is required for reasons of 'health and safety', however this is referred to as 'health or safety' later in the Standard.

Solutionproposed in Assessment Report: Remove reference to 'and/or' and amend 'health and safety' to 'health or safety'.

Submitter comments and FSANZ response: A submitter suggested that the proposed Purpose statement could be amended to reflect that either directions for use, or directions for storage, or both directions for use and storage could apply. FSANZ has considered this and has simplified the Purpose to: 'This Standard identifies when directions for use and directions for storage are required to be included on a label.'

Location: Clauses 1, 2 and 3

Issue 30: The OLDP legislative audit identified that the interpretation of 'use or storage' (i.e. 'includes use and storage') and use of this term in clauses 2 and 3 could be clarified.

Solution: Remove the interpretation of 'use or storage' and clarify clauses 2 and 3 to indicate that directions for the use of the food or the storage of the food, or both, should be provided when required. Update the Table of Provisions to reflect these amendments.

3.9 Standard 1.2.8 – Nutrition Information Requirements

Location: Clause 1

Issue 31: The definitions of polyunsaturated fatty acids, saturated fatty acids and trans fatty acids include a typographical error, i.e. the word 'acids' after 'double bonds' and after 'trans configuration'.

Solution: Delete the word 'acids' after 'double bonds' and after 'trans configuration' as applicable.

Location: Paragraph 3 (a)

Issue 32: This subclause provides an exemption for food sold at fundraising events from the requirement to include a nutrition information panel on the label of the package of food, but food sold at fundraising events is already exempt from this requirement under Standard 1.2.1.

Solution: Delete 3(a) 'sold at fundraising events'.

Location: Paragraph 3 (l)

Issue 33: The term 'mineral water or spring water' is defined in Standard 2.6.2, not 'mineral or spring water' as stated in this subclause.

Solution: Amend subclause 3(l) to reflect the term defined in Standard 2.6.2.

Location: Subclause 5(7), nutrition information panel format

Issue 34: The second dash point under 'sugars' should have two asterisks, i.e. **.

Solution: Insert another *.

Location: Clause 10

Issue 35: Under Proposal P167 – Nutrition Labelling the intent was that where directions for draining the food prior to consumption are found on the label, 'the manufacturer should be required to declare nutritional information according to the drained weight of the product'. This is not clearly reflected in this clause.

Solution: Add that the particulars in the panel must relate to the food after draining.

Location: Clause 10 heading

Issue (new): A submitter suggested that the heading of clause 10 – 'Food that must be drained before consumption' could be amended in a similar manner to the amendment to the clause 11 heading (issue 36).

Solution: FSANZ agrees and has therefore amended the heading to 'food intended to be drained before consumption'.

Location: Clause 11 heading 'Food to be prepared or consumed with other food'

Issue 36: The heading appears as if the clause is an instruction to prepare or consume food with other food.

Solution: Add the word 'intended' to this heading.

Location: Clause 11

Issue 37: It is not clear that the third column of the nutrition information panel should indicate the average energy content and average quantities of the nutrients and biologically active substances of the combined foods, when the food in the package is prepared or consumed with other foods.

Solution: Amend to clarify the intent as outlined above.

Location: Subclause 13(5), reference to the declaration of 'alpha-linolenic acid, docosahexaenoic acid and/or eicosapentaenoic acid'

Issue 38: OLDP recommendation to clarify meaning of 'and/or'.

Solution: Redraft to clarify that the clause refers to the declaration of alpha-linolenic acid, docosahexaenoic acid or eicosapentaenoic acid, or a combination.

Location: Subclause 13(5)

Issue (new): Since the release of the Assessment Report, FSANZ has identified that this subclause refers to the declaration of the 'source' of the omega 3 fatty acids, i.e. alpha-linolenic acid, docosahexaenoic acid or eicosapentaenoic acid, however the word 'source' is not the most appropriate word to describe these types of omega 3 fatty acids.

Solution: Replace 'source' with 'type'.

3.10 Standard 1.2.9 – Legibility

Location: Clause 3

Issue 39: The formatting of ‘3mm’ and ‘1.5mm’ is incorrect (no space before the mm).

Solution: Correct formatting.

3.11 Standard 1.2.10 – Characterising Ingredients and Components of Food

Location: Subclauses 5(2) and 7(2)

Issue 40: Subclause 5(2) was previously amended to indicate that the declared percentage ‘may’ be rounded rather than ‘must’ be rounded, so that low percentages (less than 5%) of characterising ingredients didn’t have to be rounded to 0.0%. However this amendment inadvertently also removed the requirement to round percentages of 5% and greater to the nearest whole number. Under subclause 7(2), the percentage of the characterising component ‘must’ be rounded to the nearest whole number or 0.5 decimal place. This is inconsistent with subclause 5(2).

Solution proposed in Assessment Report: Amend both subclauses to require that for declarations of 5% or greater, the percentage must be rounded to the nearest whole number and for declarations of less than 5%, the percentage may be rounded to the nearest 0.5%.

Submitter comments and FSANZ response: Some submitters expressed concern that the amendment to require the declared percentages to be rounded is prescriptive given the declaration is for information, not health and safety. FSANZ agrees that it would be appropriate for industry to determine whether or not to round the percentage. It is noted that rounding of the percentage will not impact on whether or not the declaration is misleading. Therefore only subclause 7(2) has been amended, to permit rather than require the declared percentage to be rounded, for consistency with subclause 5(2).

3.12 Standard 1.2.11 – Country of Origin Requirements

Location: Subclauses 1(4) and 1(5)

Issue 41: These subclauses provided the dates of commencement (being 2006) of certain requirements in the Standard and are no longer necessary.

Solution: Remove subclauses.

Location: Table to subclause 2(2), wherever ‘a mix of local and/or imported foods’ occurs

Issue 42: OLDLP recommendation to clarify meaning of ‘and/or’

Solution proposed in Assessment Report: Replace with ‘a mix of local and imported foods’.

Submitter comments and FSANZ response: A submitter expressed concern that the proposed variation removes certain provisions and is a significant change warranting further consideration.

In response to this submitter concern, FSANZ has redrafted the subclause to clearly capture the labelling options currently provided by this subclause, i.e. ‘a mix of local or imported foods or both as the case may be’.

3.13 Standard 1.3.1 – Food Additives

Location: Editorial note following clause 3

Issue 43: Good Manufacturing Practice (GMP) is not used uniformly throughout the Code, and is sometimes interchangeable with Good Hygienic Practice (GHP).
The extract from the Codex document in the Editorial note is only defined for food additive use, and is not a general definition.
The same criteria are true for processing aids and (b) in the Editorial note is specifically referring to processing aids in the context of the Code.

Solution proposed in Assessment Report: Delete the current Editorial note.
Add a definition of GMP with respect to the addition of food additives and processing aids only, to Standard 1.1.1, based on what was in the Editorial note.
Delete the definition of GMP in the Interpretation of Standard 1.3.3.
Modify (b) of the processing aid interpretation in clause 1 of Standard 1.3.3 to include reference to GMP.

Submitter comments and FSANZ response: While there was support for this change, there was some concern that this proposed amendment was creating a new definition.
As this is not a new Code requirement, merely a relocation in the Code, FSANZ has therefore proceeded with this amendment.

Location: Subclause 6(2)

Issue 44: A colon is used, not a dash.

Solution: Replace colon with dash.

Location: Clause 7

Issue 45: The words 'Other than by direct addition' are unnecessary and could be confusing.

Solution: Delete the words 'Other than by direct addition' from the start of clause.

Location: Clause 11

Issue 46: The publications list needs updating.

Solution proposed in Assessment Report: Paragraph (a)(i) Update the reference to June 2009 (from August 2007) for the FEMA GRAS flavouring lists.
Paragraph (a)(iii) Update the CFR reference

Submitter comments and FSANZ response: Several submitters noted that the FEMA GRAS flavouring list had been updated in January 2011 and suggested that this reference be used. It was also pointed out that the IFT publication of the FEMA GRAS list is a secondary publication, and that the Code should refer directly to the FEMA GRAS flavouring list.
Accordingly FSANZ has updated the reference to FEMA GRAS 25 (2011).

Location: Paragraph 11 (b)

Issue 47: The clause is not clear. Many of these extracted flavours are actually a mixture of flavours that may not have every single entity characterised. The inclusion of 'synthetic' in the main text does not make sense.

Solution: Amend drafting to include mixtures of substances and to clarify how the clause applies to those substances obtained by synthetic means.

Location: General Provisions of Schedule 1

Issue 48: The general permissions for additives in Schedule 2 and the Schedule 3 and Schedule 4 colours should be in the Standard, not in the front section of Schedule 1.

The user guide referred to no longer exists.

Solution proposed in Assessment Report: Move 'Additives in Schedule 2...' and 'Colours in Schedule 3...' to a specific provision in clause 3.

Move 'Colours in Schedule 4...' to a specific provision in clause 3 and clarify that the limits apply to the combination of total colours in the food as stated in the current Schedule 4 header.

Amend the heading of Schedule 4 to reflect this.

Remove reference to the user guide.

Submitter comments and FSANZ response: One submitter suggested that the word 'processed' should be removed.

FSANZ believes that this would be a major change, and should not be considered in this Proposal.

Location: Schedule 1, item 1.1.3

Issue 49: The limits for these food additives should be expressed as 'mg/kg'.

Solution: Multiply the levels by 1000 and change the units to mg/kg.

Location: Schedule 1, item 1.4.2 heading

Issue 50: Putting a full stop after 'etc' is not consistent with virtually all other occurrences in the Code.

Solution: Remove full stop after 'etc'.

Location: Item heading 4.1.3 – Peeled and/or cut fruits and vegetables

Issue 51: OLDP recommendation to clarify meaning of 'and/or'.

Solution proposed in Assessment Report: Amend category heading to replace 'and/or' with 'or'.

Submitter comments and FSANZ response: One submitter was concerned that the proposed drafting did not allow for fruit and vegetables that are both peeled and cut.

FSANZ agrees and has redrafted the heading to include fruit and vegetables that are peeled, cut, or both peeled and cut.

Location: Schedule 1, item 6.4 (qualification for INS 234)

Issue 52: The word 'etc.' after flapjacks is unnecessary.

Solution: Remove 'etc.' from the qualification.

Location: Schedule 1, item 6.4 (qualification for INS 243)

Issue 53: It is not clear that 'cooked pasta and noodles only' is associated with INS 243 only.

Solution: Change 'cooked' to 'Cooked'

Location: Schedule 1, item 10.4 Dried and/or heat coagulated egg products

Issue 54: OLDP recommendation to clarify meaning of 'and/or'

Solution: Change 'and/or' to 'or'.

Location: Schedule 1, item 14.2

Issue 55: The 'no alcohol' is not clear as a class of alcoholic beverage in the heading

Solution: Change heading to read 'Alcoholic Beverages (including alcoholic beverages that have had the alcohol reduced or removed)'.

Location: Schedule 1, item 20.2 soup bases (made up as directed)

Issue 56: Having the words 'made up as directed' in the heading is potentially confusing and inconsistent with other entries in the Schedule.

Solution proposed in Assessment Report: Amend the entry to 'soup' and remove the words 'made up as directed' as these are unnecessary.

Submitter comments and FSANZ response: Submitters pointed out that this change would permit the additives in soups as well as in soup bases, and this change in permission is inappropriate.

FSANZ agrees and is not changing this food type, but has clarified the meaning of the maximum levels.

Location: Schedule 2 and Standard 1.2.4, Schedule 2

Issue 57: Modified starches (1400 series) are currently generally permitted food additives but Schedule 2 does not include acetylated oxidized starch (1451), however, it is a generally permitted food additive internationally.

This starch was assessed by the Joint Expert FAO/WHO Committee on Food Additives (JECFA) in 2002. JECFA concluded that 'Because of the nature of acetylated oxidized starch and its similarity to other modified starches with similar non-systemic effects, the Committee established an ADI 'not specified', based on the known uses of acetylated oxidized starch as an ingredient in confectionery products.'¹

FSANZ has considered the information examined by JECFA and its conclusion, and has concluded that an additional risk assessment is not necessary.

This modified starch has a technological use in confectionery, and will only be used by industry if there is a benefit. The permission for this modified starch will not have a negative trade impact.

Solution proposed in Assessment Report: Acetylated oxidized starch and the INS number of 1451 should be added to Schedule 2 of Standard 1.3.1 and Schedule 2 of Standard 1.2.4.

Submitter comments and FSANZ response: One submitter was opposed to permitting a new additive via the Code Maintenance Proposal. They also noted that it was not clear that aspects other than safety had been considered.

FSANZ acknowledges that this is a new additive, but considers that an appropriate level of risk assessment has been conducted. This Proposal contains a round of consultation. The issue, and FSANZ's assessment, are now further described above.

FSANZ has therefore proceeded with this amendment.

¹ADI 'not specified' is a term applicable to a food substance of very low toxicity which, on the basis of the available data (chemical, biochemical, toxicological, and other), the total dietary intake of the substance arising from its use at the levels necessary to achieve the desired effect and from its acceptable background in food does not, in the opinion of JECFA, represent a hazard to health. For that reason, and for reasons stated in individual evaluations, the establishment of an acceptable daily intake expressed in numerical form is not deemed necessary.

Location: Schedule 2

Issue 58: Sodium gluconate (INS 576) is not in the list of gluconates in the Code, even though it is in the group list of gluconates given an ADI 'not specified' by JECFA and has usage permission in the EC and USA.

JECFA considered calcium gluconate, magnesium gluconate, potassium gluconate, and sodium gluconate together, because all four salts are freely ionized and it is appropriate to allocate a group ADI, including glucono-delta-lactone, on the basis of their anion, gluconic acid.

Toxicology studies and case reports considered by JECFA in making this decision included studies conducted with all the compounds, but sodium gluconate and glucono-delta-lactone were the most frequently used test substances.

FSANZ has reviewed the JECFA Monograph concerning sodium gluconate and related compounds at

<http://www.inchem.org/documents/jecfa/jecmono/v042ie12.htm> and concluded that there is no need for a separate risk assessment for sodium gluconate, in that the group risk assessment conducted by JECFA is already to a large extent based on studies of sodium gluconate.

Sodium gluconate is primarily used in salt substitutes, but also has other technological applications. It will only be used by industry if there is a benefit.

The permission for this additive will not have a negative trade impact.

The permission for this additive may have a public health benefit through reduction in sodium in food.

Solution proposed in Assessment Report: Sodium gluconate and the INS number of 576 should be added to Schedule 2 of Standard 1.3.1 and to Schedule 2 of Standard 1.2.4.

Submitter comments and FSANZ response: One submitter was opposed to permitting a new additive via the Code Maintenance Proposal. They also noted that it was not clear that aspects other than safety had been considered.

FSANZ acknowledges that this is a new additive, but considers that an appropriate level of risk assessment has been conducted. This proposal contains a round of consultation. The issue, and FSANZ's assessment, are now further described above.

FSANZ has therefore proceeded with this amendment.

Location: Schedule 5, definition of flavour enhancer

Issue 59: The definition refers to 'enhances the existing taste and/or odour'. OLDP recommendation to clarify meaning of 'and/or'.

Solution: Redraft to 'enhances the existing taste or odour'.

Location: Schedule 5, definition of flavouring

Issue 60: The definition refers to 'impart taste and/or odour'. OLDP recommendation to clarify meaning of 'and/or'.

Solution: Replace 'and/or' with 'or'.

3.14 Standard 1.3.2 – Vitamins and Minerals

Location: Definition of 'claimable food', clause 1

Issue 61: OLDP recommendation to clarify meaning of 'and/or'.

Solution: Amend (c) to refer to 'two or more of the following –' and replace 'and/or' with 'or'.

Location: Table to clause 3

Issue 62: Formatting is inconsistent, i.e. use of colons and dashes.

The 'other edible oils' is not meant to be a subset of the sunflower oil and safflower oil. It should be a category in its own right.

The entry for fruit juice is unclear due to the formatting. Inclusion of reconstituted fruit juice is unnecessary, as permission to fortify these are captured by permission to fortify fruit juice.

Solution: Correct formatting and separate out the entry for 'other edible oils' so it is not a subset of sunflower oils and safflower oils. Remove reconstituted fruit juice.

Location: Table to clause 3, wherever 'and/or' occurs

Issue 63: OLDP recommendation to clarify meaning of 'and/or'

Solution proposed in Assessment Report: Replace 'and/or' with 'or'.

Submitter comments and FSANZ response: Submitters identified that as a result of this amendment, there are no provisions for fortification of a mixed fruit and vegetable drink and a mixed fruit and vegetable juice.

FSANZ agrees that the proposed amendment removed the current provision for a mixed fruit and vegetable drink. Mixed fruit and vegetable drinks will therefore be added back into the Table. However mixed fruit and vegetable juices are not currently specified in the Table and have therefore not been added.

Since the Assessment Report, FSANZ has also identified that 'vegetable drink' is not included in the relevant heading within the Table to clause 3 and that the Code currently incorrectly refers to 'puree of comminution'. Vegetable drink will therefore be added to the heading. The incorrect reference to 'puree of comminution' has been amended to 'puree or comminution'.

Location: Table to clause 3, wherever the term 'thiamine' is used

Issue 64: Spelling of 'thiamine' is not consistent.

Solution: Amend to 'thiamin'.

3.15 Standard 1.3.3 – Processing Aids

Location: Clause 11

Issue 65: Because this clause refers to permissions both for packaged water and to water used as an ingredient, where the water is used as an ingredient it is not clear if the maximum levels refer to the level in water added to food or to the level in the final food.

In the former Australian *Food Standards Code* the maximum levels applied to the level in water added to food, and the intent under Proposal P188 – Processing Aids was to maintain this approach.

Solution: Amend to clarify that the maximum levels apply to the water added to food, rather than to the final food.

Location: Table to clause 14

Issue 66: The heading of the middle column ('Food') is not appropriate, as the items in the middle column refer to functions of the processing aids rather than (or in addition to) foods.

Solution: Amend the heading from 'Food' to 'Function'.

Location: Table to clause 14, reference to 'Reduce and/or inhibit bacterial population' in the entry for lactoperoxidase from bovine milk

Issue 67: OLDP recommendation to clarify meaning of 'and/or'

Solution: Replace with 'Reduce the bacterial population or inhibit bacterial growth'.

3.16 Standard 1.3.4 – Identity and Purity

Location: Clause 1 and Purpose

Issue 68: FSANZ has been advised that ‘ensures that substances added to food ... meet appropriate specifications for identity and purity of food additives...’ is ambiguous in defining what the Standard applies to.

Solution: Amend to reflect that the Standard applies to food additives, processing aids, vitamins, minerals, novel food substances and other added nutrients.

Location: Clauses 2 and 3

Issue 69: The references to some of the documents are outdated.

Solution: Update to reflect latest versions.

Location: Clause 3

Issue 70: The specifications from the Organisation Internationale de la Vigne et du Vin (OIV) were intended to be added to Standard 1.3.4 as part of Application A605 – Yeast Mannoproteins as a Food Additive for Wine but were inadvertently deleted when Proposal P1001 – Omnibus VII was progressed in parallel.

The OIV specifications are viewed by FSANZ and the industry as good specifications for wine additives and processing aids that are internationally accepted and recognised, including for mannoproteins.

Solution: Amend to include the *International Oenological Codex* (2010 supplementary edition) as an additional secondary source of specifications.

Submitter comments: In the Assessment Report, submitters were asked whether all current references in clauses 2 and 3 of Standard 1.3.4 should be maintained in addition to the above. Submitters agreed that this should be the case.

Submitters were also asked whether any other references should be added to these clauses. No other references were recommended in response.

Location: Clause 4

Issue 71: The absence of a definition of a ‘heavy metal’ makes interpretation and compliance more difficult.

There is no apparent reason for the high level of total heavy metals.

In the Inquiry Report for Proposal P189 – Specifications for Identify & Purity of Food Additives, Processing Aids, Vitamins, Minerals & Other Added Nutrients, FSANZ indicated that the actual JECFA limits would be incorporated into the Code when they became available.

Solution: Define heavy metal requirements as they are defined by JECFA i.e. remove existing (c), and insert new (c) and (d) for cadmium and mercury, each with limits of 1 mg/kg.

Location: Schedule

Issue 72: The specifications for oils or dried algae rich in DHA or ARA are presented as commercial specifications with many requirements that are not related to safety or characterisation and which may impact on trade.

The specifications for heavy metals have been updated to reflect the lower levels achievable in the commercial product. The specifications for DHA or ARA, hexane and *trans* fatty acids have also been updated to match international specifications.

The heading of each of the specifications for the oils rich in DHA or ARA and for the dried marine microalgae are not correctly hyphenated.

Solution proposed in Assessment Report: The specifications should be rewritten to reflect purity and composition factors related to food safety and characterisation and to reflect international specifications.

Revise the headings.

Submitter comments and FSANZ response: Submitters supported the proposed changes. One industry submitter requested additional parameters but FSANZ's view is that these are quality rather than purity matters and were not appropriate in the Code. FSANZ has proceeded with the amendments published in the Assessment report.

3.17 Standard 1.4.1 – Contaminants and Natural Toxicants

Location: Purpose

Issue 73: Incorrect names for WTO agreements are used. The last paragraph (regarding Generally Expected Levels (GELs)) is not appropriate in a Purpose.

Solution: Insert correct WTO Agreement names. Remove fourth paragraph.

Location: Subclause 1(5) and Table to clause 2

Issue 74: Reference to 'edible kelp' in brackets next to seaweed implies other types of seaweed that are commonly consumed (e.g. hijiki) do not have to meet this requirement for arsenic levels. However international and FSANZ surveys indicate that seaweeds other than edible kelp, in particular hijiki, may have levels of arsenic of public health concern.

Solution: Remove '(edible kelp)' where it appears after 'seaweed'.

Location: Table to clause 2

Issue 75: There is insufficient clarity of the meaning of 'cocoa products'. A review of FSANZ's records in this matter indicates that FSANZ did intend to control the level of cadmium in the final products only, as opposed to the primary products.

Solution proposed in Assessment Report: Provide clarity that 'cocoa products' does not include primary products that are made entirely of whole or part of the cocoa bean (such as cocoa paste).

Submitter comments and FSANZ response: One submitter – an industry peak body – was concerned that the proposed solution did not specifically address final products only, as opposed to the primary products. Following further consultation, FSANZ has concluded that this issue should not be progressed in this Proposal, but could be progressed in a future proposal. Accordingly this proposed amendment has been withdrawn.

Location: Clauses 2, 3, 4 and 5 and Tables to these clauses

Issue 76: The clauses refer to 'unbolded type' in the Tables. The OLDP identified that this method of referencing certain information in tables could be improved.

Solution: Remove references to unbolded type and restructure tables to provide clarification.

3.18 Standard 1.4.2 – Maximum Residue Limits (Australia only)

Location: Subclause 4(2) and all Schedules

Issue 77: There is an implication that this Standard was designed for traded commodities only, e.g. whole grain, which is not necessarily correct. Schedule 4 defines the classes of foods. For example, for cereals the portion of the commodity to which the MRL applies is the 'whole commodity', including for rice, 'rice in husk'. However in processing there is often fractionation of components, for example, grain into endosperm, bran and germ; or concentration through evaporation, e.g. dried apples. Subclause 4(2) is intended to make it clear that the limits apply to all processed forms of these products.

Solution proposed in Assessment Report: Amend subclause 4(2) to clarify that the limits apply to all processed forms including separated fractions.

Submitter comments and FSANZ response: Although there were no specific comments received from submitters about this issue, following further internal discussion FSANZ decided not to make the proposed amendment at this stage. The issues may be considered in a future MRL Proposal to allow specific consultation with the Australia Pesticides and Veterinary Medicines Authority (APVMA), the Department of Agriculture, Fisheries and Forestry and other interested parties.

Location: Schedule 1, wherever 'and/or' occurs

Issue 78: OLDP recommendation to clarify meaning of 'and/or'.

Solution proposed in Assessment Report: Replace 'and/or' with 'and'.

Submitter comments and FSANZ response: Although there were no specific comments received from submitters about this issue, following further internal discussion FSANZ decided not to make the proposed amendments at this stage. The issues may be considered in a future MRL Proposal to allow specific consultation with the Australia Pesticides and Veterinary Medicines Authority (APVMA), the Department of Agriculture, Fisheries and Forestry and other interested parties.

Location: Schedule 4, wherever 'and/or' occurs

Issue 79: OLDP recommendation to clarify meaning of 'and/or'.

Solution proposed in Assessment Report: Replace 'and/or' with 'or', except for reference to 'pods and/or immature seeds' which is replaced with 'pods and immature seeds'.

Submitter comments and FSANZ response: Although there were no specific comments received from submitters about this issue, following further internal discussion FSANZ decided not to make the proposed amendments at this stage. The issues may be considered in a future MRL Proposal to allow specific consultation with the Australia Pesticides and Veterinary Medicines Authority (APVMA), the Department of Agriculture, Fisheries and Forestry and other interested parties.

Location: Schedules 1 and 2

Issue 80: The units for each of the maximum and extraneous residue limits are only expressed in clauses 2 and 3 of the Standard, not in each of the Schedules.

Solution: Insert 'mg/kg' after the heading words maximum residue limits and extraneous residue limits.

3.19 Standard 1.4.4 – Prohibited and Restricted Plants and Fungi

Location: Schedule 1

Issue 81: The reference to '*Plugeus* spp.' should be '*Pluteus* spp.'

Solution: Amend entry.

Location: Schedule 1 and 2

Issue 82: The need for the reference to 'Australian Approved Name' is not necessary. It is not referred to elsewhere in the Code and is a Therapeutic Goods Administration document aimed at terminology for medicines.

Solution: Delete reference to 'Not an Australian Approved Name' and the associated asterisks from Schedules 1 and 2, and delete the definition of Australian Approved Name List from Standard 1.1.1.

3.20 Standard 1.5.1 – Novel Foods

Location: Table to clause 2

Issue 83: The oils derived from marine microalgae and the dried marine microalgae are not correctly hyphenated.

Solution: Amend the formatting to reflect that recommended in Standard 1.3.4 (see issue 72 above).

Location: Tables to clauses 2 and 3

Issue (new): In July 2011 the period of exclusivity for tall oil phytosterol esters will expire. Although in the Assessment Report it was proposed to insert the date of expiry of the exclusive period into the Editorial note following the Table to clause 3 (see issue 138), FSANZ now considers it would be clearer if the provisions for tall oil phytosterol esters are not listed in the Table to clause 3 upon expiry of the exclusive period.

Solution: The entry for tall oil phytosterol esters in the Table to clause 3 will therefore be moved into the Table to clause 2 upon expiry of the exclusive period. As a result, the Editorial note following clause 3 of Standard 2.5.4, which refers to the exclusive use of tall oil phytosterol esters, will no longer be relevant and has therefore been removed.

3.21 Standard 1.6.1 – Microbiological Limits for Food

Location: Subclause 2(3) and the Schedule

Issue 84: Clause 2 of Standard 1.6.1 provides that foods listed in the Schedule are subject to the conditions listed in clause 2, however there is no link in the Schedule back to the conditions in clause 2 – meaning it may be missed.

Solution: Move the current exemption for milk for retail sale from subclause 2(3) to the Schedule and add a reference to clause 2 to the heading of the Schedule.

3.22 Standard 1.6.2 – Processing Requirements (Australia only)

Location: Table of Provisions

Issue 85: The Table of Provisions needs to be amended as a result of deletions in Amendment No. 116 (to take effect on 20 May 2012).

Solution: Amend to reflect correct clause headings

Location: Clause 8

Issue 86: It is not grammatically correct to refer to 'A fermented comminuted processed meat'. *Meat* is plural.

Solution: Change to 'Fermented comminuted processed meat'.

3.23 Standard 2.2.1 – Meat and Meat Products

Location: Purpose

Issue 87: The Purpose includes information that is unnecessary and not relevant in a Purpose.

Solution proposed in Assessment Report: Delete all of the Purpose except for the first sentence.

Submitter comment and FSANZ Response: Submitters expressed concern about the removal of cross references from the Code as these are useful from a regulatory perspective. It was suggested that cross references in the Code are considered under future work by the Code audit working group. FSANZ agrees that cross references in the Code could be addressed under a future project in a more systematic manner. The proposed amendment has therefore not been made, however following the release of the Assessment Report, FSANZ has identified a grammatical error in the first sentence – this has been corrected.

Location: Clause 4

Issue 88: The wording of this clause is confusing.

Solution: Redraft to clarify the intent:

Presence of brain, heart, kidney, liver, tongue or tripe in a food must be declared either as offal or as the specific type of offal.

This must be declared on the label on a package of food, or where the food is not required to bear a label, be declared to the purchaser.

For all other types of offal, the specific name of the offal must be declared on the label of a package of food, or, if the food is not required to bear a label, declared to the purchaser.

Location: Clause 7

Issue 89: Regulation of the use of colourings for branding meat is not appropriate in this Standard.

Solution proposed in Assessment Report: Relocate the permissions for colourings for branding the surface of meat to Standard 1.3.3 – Processing Aids, as the purpose of the colourings is to stamp carcasses for quality or inspection purposes – not to add colour to the final meat. As a consequence, remove the exemption from the requirement to declare the presence of the colour on the label (subclause 7(2)), as processing aids are already exempt from the requirement to be listed in the statement of ingredients under Standard 1.2.4.

Submitter comments and FSANZ response: One submitter argued that the function did not meet the definition of a processing aid as it may be performing a function in the final food.

FSANZ is still of the view that this use meets the definition of a processing aid as its technological purpose is to assist processing, and has therefore proceeded with the solution proposed in the Assessment Report.

Location: Subclause 9(3)

Issue 90: The clause refers to ‘fermented comminuted processed meat’ when it should refer to ‘fermented comminuted manufactured meat’.

Solution: Replace the word ‘processed’ with ‘manufactured’.

Location: Clause 10

Issue 91: It is not grammatically correct to refer to ‘A fermented comminuted processed meat’. *Meat* is plural.

Solution: Change to ‘Fermented comminuted processed meat’.

Location: Paragraph 11(3)(b)

Issue 92: The paragraph refers to bovine fat 'and/or' bovine tallow. OLDP recommendation to clarify meaning of 'and/or'

Solution: Replace 'and/or' with 'or'.

3.24 Standard 2.2.2 – Egg and Egg Products

Location: Purpose

Issue 93: The Purpose includes information that is unnecessary and not relevant in a Purpose.

Solution proposed in Assessment Report:Delete the second sentence of the Purpose.

Submitter comment and FSANZ Response: Submitters expressed concern about the removal of cross references from the Code as these are useful from a regulatory perspective. It was suggested that cross references in the Code are considered under future work by the Code audit working group.

FSANZ agrees that cross references in the Code could be addressed under a future project in a more systematic manner. The proposed amendment has therefore not been made.

3.25 Standard 2.2.3 – Fish and Fish Products

Location: Purpose and clause 2

Issue 94: This Standard includes a limit for histamine in fish and fish products. This is not a compositional issue, but is a natural toxin in some fish.

Solution proposed in Assessment Report: Delete clause 2 and include the limit in the Table to clause 5 of Standard 1.4.1 – Contaminants and Natural Toxicants.

Amend the Purpose to remove the reference to histamine.

Submitter comments and FSANZ response: One submitter argued that histamine did not meet the definition of a natural toxin, and the requirement would be better left in Standard 2.2.3.

FSANZ still is of the view that histamine in fish is a natural toxin, and should be listed in the same way as some other toxins in Standard 1.4.1.

However, for information, a reference will be placed in an Editorial note in Standard 2.2.3 so that it is clear that the requirement remains.

3.26 Standard 2.3.1 – Fruit and Vegetables

Location: Defined term 'peeled and/or cut fruit and vegetables', clause 1

Issue 95: OLDP recommendation to clarify meaning of 'and/or'

Solution: As the terms 'peeled' and 'cut' have the common meaning, there is no need for this definition in the Code.

3.27 Standard 2.4.1 – Edible Oils

Location: Definition of 'edible oils', clause 1

Issue 96: The definition refers to 'the triglycerides and/or diglycerides of fatty acids'. OLDP recommendation to clarify meaning of 'and/or'.

Solution proposed in Assessment report:Amend definition to include the 'triglycerides and diglycerides'.

Submitter comment and FSANZ Response: A submitter questioned whether the effect of changing 'and/or' to include 'triglycerides and diglycerides' would mean edible oils must be composed of both. FSANZ agrees that the definition could be interpreted to mean that an edible oil must be composed of both triglycerides and diglycerides, and has therefore amended the definition to refer to triglycerides, diglycerides or both.

Location: Clause 3

Issue (new): A submitter queried what was meant by 'the specific name of an oil', e.g. would this include 'vegetable oil'? FSANZ notes it was not intended to include use of 'vegetable oil' but only where the specific source of the oil is named, e.g. 'Sunflower oil'.

Solution: Clarify by amending to 'the specific source name of an oil'.

3.28 Standard 2.4.2 – Edible Oil Spreads

Location: Purpose

Issue 97: The Purpose refers to butter but does not make it clear that butter is not regulated by Standard 2.4.2.

Solution: Amend the Purpose to clarify that Standard 2.4.2 does not regulate butter.

3.29 Standard 2.5.1 – Milk

Location: Subclause 2(2), reference to 'by the addition and/or withdrawal of milk components'.

Issue (new): OLDP recommendation to clarify meaning of 'and/or'. (New drafting was provided for this issue in Attachment 1 of the Assessment Report; however the issue wasn't included in the Assessment Report issue list.)

Solution: Replace 'and/or' with 'or'.

Location: Purpose and clause 4

Issue 98: Reference to the milk processing requirements in Standard 4.2.4 is not necessary.

Solution proposed in Assessment Report: Delete clause 4 and references to Standard 4.2.4 in the Purpose.

Submitter comments and FSANZ response: A submitter commented that as Standard 4.2.4 does not apply to retail sale activities, it is not clear whether removal of this provision in Standard 2.5.1 will impact on the requirements for milk sold at retail to be processed in accordance with Standard 4.2.4.

FSANZ agrees that it is not certain that other sections of the Code cover this provision in Standard 4.2.4 and agrees to retain clause 4 and the reference to Standard 4.2.4.

3.30 Various Part 2.5 Standards

Location: Purpose of Standards 2.5.2 – Cream, 2.5.3 – Fermented Milk Products, 2.5.4 – Cheese, 2.5.5 – Butter, 2.5.6 – Ice Cream, 2.5.7 – Dried Milks, Evaporated Milks and Condensed Milks

Issue 99: Reference to processing requirements is not necessary.

Solution: Delete reference to processing requirements from the Purpose and move into an Editorial note.

3.31 Standard 2.5.3 – Fermented Milk Products

Location: Clause 1, definition of fermented milk

Issue 100: The definition refers to 'fermentation of milk and/or products derived from milk'. OLDP recommendation to clarify meaning of 'and/or'.

Solution: Replace 'and/or' with 'or'.

Location: Clause 2 and Table to subclause 2(3)

Issue 101: The Table refers to 'culture'. Culture is not defined or used elsewhere in the Standard.

The Table does not mention viable organisms, so it is not clear how it relates to subclause 2(2). It is also not clear whether the requirement in the Table relates to each culture (singular) or the total of all cultures. The Table and clause uses 'proportion', however pH is not expressed as a proportion.

Solution proposed in Assessment Report: In the Table to subclause 2(3), replace 'microorganisms from the added culture' with 'viable microorganisms used in the fermentation'.

Amend 'Proportion' to 'Value'.

Submitter comments and FSANZ response: One submitter stated that the term 'culture' is well understood by industry and enforcement agencies. They also noted that the Table does not need to mention viable organisms as the requirement is written in terms of colony forming units, which can only be formed by viable microorganisms.

FSANZ remains concerned that two different wordings are currently used for the same requirement, and prefers to not use the term 'culture'. As published in the Assessment Report, FSANZ has removed the existing subclause 2(2) and put the requirement into the table to subclause 2(3).

The argument regarding measurement is correct – i.e. only live organisms develop into colony forming units. Reference to 'viable' has therefore not been included in the Table.

3.32 Standard 2.5.4 – Cheese

Location: Clause 1, definition of cheese.

Issue 102: The definition refers to 'milk and/or materials obtained from milk'. OLDP recommendation to clarify meaning of 'and/or'.

Solution proposed in Assessment Report: Replace 'and/or' with 'or'.

Submitter comments and FSANZ response: A submitter stated that replacing 'and/or' with 'or' may not accurately reflect current or future practices of making cheese with milk and additional materials derived from milk such as casein. FSANZ agrees and has amended the definition to refer to 'milk or materials obtained from milk, or both'.

Location: Clause 2

Issue 103: The clause heading refers to composition; however the clause is about permitted ingredients.

Solution proposed in Assessment Report: Redraft to clarify that the clause is about permission to add ingredients.

Submitter comments and FSANZ response: One submitter stated that the proposed amendment could create more uncertainty as the emphasis on 'permitted ingredients' implies that the list is comprehensive and therefore fully inclusive of additive permissions.

FSANZ agrees as there was no intention to imply a change in permission. 'Permitted' and 'ingredients' have been removed and the clause heading amended to refer to the addition of other foods.

3.33 Standard 2.5.5 – Butter

Location: Subclause 2(2)

Issue 104: The clause heading refers to composition, however the subclause 2(2) is about permitted ingredients.

Solution proposed in Assessment Report: Redraft to clarify that the subclause 2(2) is about permission to add ingredients.

Submitter comments and FSANZ response: One submitter stated that the proposed amendment could create more uncertainty as the emphasis on ‘permitted ingredients’ implies that the list is comprehensive and therefore fully inclusive of additive permissions.

FSANZ agrees as there was no intention to imply a change in permission. ‘Permitted’ and ‘ingredients’ have been removed and the clause heading amended to refer to the addition of other foods.

3.34 Standard 2.5.7 – Dried Milks, Evaporated Milks and Condensed Milks

Location: Clauses 1 and 2 and the Schedule

Issue 105: The clauses refer to ‘unbolded type’ and ‘bolded type’ in the Schedule. The OLDP identified that this method of referencing certain information could be improved.

Solution: Remove references to unbolded/bolded type and restructure Schedule to provide clarification.

Location: Subclause 2(1), wherever ‘and/or’ occurs.

Issue (new): OLDP recommendation to clarify meaning of ‘and/or’. (Note new drafting was provided for this issue in Attachment 1 of the Assessment Report; however the issue wasn’t included in the Assessment Report issue list.)

Solution: Replace ‘and/or’ with ‘or’ (amend to ‘The fat, or protein, or both fat and protein, content of the milk... by the addition or withdrawal of milk constituents...’).

3.35 Standard 2.6.2 – Non-Alcoholic Beverages and Brewed Soft Drinks

Location: Clause 1, definition of brewed soft drink and definition of formulated beverage, wherever ‘and/or’ is referred to

Issue 106: OLDP recommendation to clarify meaning of ‘and/or’.

Solution: Redraft to remove the expression.

Location: Subclause 2(2) and Table to subclause 2(2) (composition of packaged water)

Issue 107: Subclause 2(2) and the Table to subclause 2(2) stipulate compositional requirements for packaged waters. The Table to subclause 2(2) lists limits for various substances that may be present in Australian and New Zealand packaged waters as naturally occurring constituents or contaminants. These limits have not been amended since the Standard was published in 2000. The Australasian Bottled Water Institute Inc. (ABWI) has made an application (A1043 – World Health Organization Limits for Packaged Water) to FSANZ seeking adoption by reference of the World Health Organization (WHO) guideline values for chemicals that are of health significance in drinking-water. This has the advantage of aligning the permitted levels in Australian and New Zealand with internationally accepted standards. While there are some changes with respect to inorganic substances, the major changes are the inclusion of limits for organic substances and the reduction in the maximum permitted level of naturally occurring fluoride from 2.0 mg/L to 1.5 mg/L. FSANZ has been informed that industry in Australia and New Zealand is confident that it can meet the WHO limits.

As the WHO limits are subject to rigorous analysis, FSANZ does not believe that further risk analysis is required.

Solution proposed in Assessment Report: Update the provisions in Standard 2.6.2 for the composition of packaged waters in relation to the presence of certain substances. Replace subclause 2(2) and the Table to sub-clause 2(2) in Standard 2.6.2 with the following sentence:

‘Water presented in packaged form must not contain substances at greater levels than the guideline values specified in *Annex 4 Chemical summary tables, Table A4.3 Guideline values for chemicals that are of health significance in drinking-water* in the *Guidelines for drinking-water quality, 3rd edition incorporating the 1st and 2nd addenda, Volume 1 Recommendations, World Health Organization, Geneva 2008.*’

Amend Standard 1.4.2 to clarify that the Standard does not apply to packaged water.

Submitter comments and FSANZ response: No information was received to the explicit question regarding whether or not this change would have commercial, trade or health impacts.

However three jurisdictions requested this proposed amendment not proceed as they did not feel there was sufficient consideration of all the issues. They also noted that FSANZ has received an Application (A1043) covering this matter. Accordingly FSANZ has not proceeded with the actions proposed in the Assessment Report but will progress the issue through the Application.

3.36 Standard 2.6.3 – Kava

Location: Purpose

Issue 108: The Purpose indicates that this Standard regulates the ‘sale and distribution’ of kava. However it regulates the form and labelling of kava.

Solution proposed in Assessment Report: Replace ‘sale and distribution’ with ‘form and labelling’.

Submitter comments and FSANZ response: A submitter noted that the labelling requirements outlined in the first sentence of the Purpose do not need to be repeated in the second sentence. FSANZ agrees there is repetition. Therefore the Purpose has been rewritten to better reflect the purpose of the Standard and the second sentence of the Purpose omitted to remove the repetition.

Location: Clause 2, reference to ‘peeled root and/or peeled rootstock’

Issue 109: OLDP recommendation to clarify meaning of ‘and/or’

Solution: Replace ‘and/or’ with ‘or’.

3.37 Standard 2.7.1 – Labelling of Alcoholic Beverages and Food Containing Alcohol

Location: Table to clause 2, column 1

Issue 110: The expressions ‘containing not more than’ and ‘no less than’ are difficult to follow.

Solution proposed in Assessment Report: Amend to ‘Alcoholic beverages containing 1.15% or less alcohol by volume’ and ‘Beverages containing 0.5% or more alcohol by volume’.

Submitter comments and FSANZ response: The wording would be even clearer if the words ‘but less than 1.15% alcohol by volume’ were added after ‘Beverages containing 0.5% or more’. FSANZ agrees with this recommendation and has amended the drafting to reflect the submitter’s recommendation.

3.38 Various Part 2.7 Standards

Location: Clause 2 of Standards 2.7.2 – Beer, 2.7.3 – Fruit Wine and Vegetable Wine, and 2.7.4 – Wine and Wine Product, and clauses 2 and 3 of Standard 2.7.5 - Spirits

Issue 111: The clause headings refer to composition, so it is not clear these clauses are about permitted ingredients.

Submitter comments and FSANZ response: Redraft to clarify that the clauses are about permission to add ingredients.

Submitter comments and FSANZ response: One submitter stated that the proposed amendment could create more uncertainty as the emphasis on ‘permitted ingredients’ implies that the list is comprehensive and therefore fully inclusive of additive permissions.

FSANZ agrees as there was no intention to imply a change in permission. ‘Permitted’ and ‘ingredients’ have been removed and the clause headings amended to refer to the addition of other foods. No amendment has been made to clause 2 of Standard 2.7.2 – Beer as this heading already referred to the addition of other foods.

3.39 Standard 2.7.3 – Fruit Wine and Vegetable Wine

Location: Clause 1

Issue 112: The terms ‘fruit wine and/or vegetable wine’ and ‘fruit wine and/or vegetable wine product’ are defined. OLDP recommendation to clarify meaning of ‘and/or’. These terms currently only apply in Standard 2.7.3 but are used in Standard 1.3.1.

Solution: Redraft to remove reference to ‘and/or’ and amend to apply these definitions wherever these terms are used in the Code. Modify the Purpose to reflect these amendments.

3.40 Standard 2.7.4 – Wine and Wine Product

Location: Purpose

Issue 113: The information in the Purpose relating to Acts and Regulations etc in Australia and New Zealand is not appropriate in a Purpose.

Solution: Move the last two paragraphs of the Purpose into an Editorial note.

3.41 Standard 2.8.1 – Sugars

Location: Purpose

Issue 114: The Purpose refers to honey but does not make it clear that honey is not regulated by Standard 2.8.1. The reference to the location in the Code of the regulation of intense sweeteners is not necessary.

Solution proposed in Assessment Report: Amend the Purpose to clarify that Standard 2.8.1 does not regulate honey. Delete the reference to intense sweeteners.

Submitter comment and FSANZ Response: Submitters expressed concern about the removal of cross references from the Code as these are useful from a regulatory perspective. It was suggested that cross references in the Code are considered under future work by the Code audit working group.

FSANZ agrees that cross references in the Code could be addressed under a future project in a more systematic manner. Removal of the reference to intense sweeteners has therefore not been made.

3.42 Standard 2.9.1 – Infant Formula Products

Location: Purpose

Issue 115: The reference to other provisions in the Code in relation to infant formula products is unnecessary.

Solution proposed in Assessment Report: Delete the fourth and fifth paragraphs of the Purpose.

Submitter comment and FSANZ Response: Submitters expressed concern about the removal of cross references from the Code as these are useful from a regulatory perspective. It was suggested that cross references in the Code are considered under future work by the Code audit working group. FSANZ agrees that cross references in the Code could be addressed under a future project in a more systematic manner. The proposed amendment has therefore not been made.

Location: Definition of protein substitute, clause 1

Issue 116: The definition refers to 'L-amino acids and/or the hydrolysate...'. OLD DP recommendation to clarify meaning of 'and/or'

Solution: Redraft to remove reference to 'and/or' and reword the definition to clarify that protein substitutes are able to contain both amino acids and hydrolysates, either singly or in combination.

Location: Table to clause 7

Issue 117: The list of permitted forms of nucleotides in the Table has forms that are not covered by the specifications in the Code or specified sources in Standard 1.3.4, and do not match Codex permissions. This appears to be an error.

Solution proposed in Assessment Report: Remove Adenosine 5'-monophosphate sodium salt, Cytidine 5'-monophosphate sodium salt and Uridine 5'-monophosphate from the list of permitted forms in the Table.

Submitter comments and FSANZ response: One submitter observed that manufacturers have possibly incorporated these nucleotides in their products. However infant formula companies have advised that they do not use these forms of the nucleotides. FSANZ has proceeded with the amendment proposed in the Assessment Report.

Location: Paragraph 16(2)(e)

Issue 118: The requirement for inulin-derived substances and galacto-oligosaccharides to be declared in weight per 100 ml was intended to apply to the powdered or concentrated form of infant formula product when reconstituted.

Solution proposed in Assessment Report: Reword to clarify that the declaration must be expressed in weight per 100 mL when reconstituted.

Submitter comments and FSANZ response: A submitter noted that 'according to directions' could be added, for consistency with other clauses in the Standard. FSANZ agrees with this recommendation. The paragraph will be reworded to clarify that the declaration must be expressed in weight per 100 mL when the product is reconstituted according to directions.

Location: Paragraph 20(1)(f) and paragraphs 20(2)(a) and (b)

Issue 119: The broad reference to Standard 1.2.4 and to clause 16 in clause 20 means it is not totally clear where reference to nutrients or nutritive substances on labels of infant formula products is prohibited.

Solution: Amend paragraph 20(1)(f) to clarify that the nutrient or nutritive substance can only be declared in accordance with clause 30, in a statement of ingredients (in accordance with Standard 1.2.4) or in a nutrition information statement (in accordance with clause 16 of Standard 2.9.1).
Amend paragraphs 20(2)(a) and (b) to be consistent with this amended wording.

3.43 Standard 2.9.2 – Foods for Infants

Location: Purpose

Issue 120: The reference to other provisions in the Code in relation to foods for infants is unnecessary.

Solution proposed in Assessment Report: Delete the third paragraph of the Purpose.

Submitter comment and FSANZ Response: Submitters expressed concern about the removal of cross references from the Code as these are useful from a regulatory perspective. It was suggested that cross references in the Code are considered under future work by the Code audit working group.
FSANZ agrees that cross references in the Code could be addressed under a future project in a more systematic manner. The proposed amendment has therefore not been made.

Location: Purpose

Issue 121: The purpose refers to 'and/or'. OLDP recommendation to clarify meaning of 'and/or'

Solution: Redraft to remove the expression.

Location: Definition of food for infants, clause 1

Issue 122: The definition refers to 'food that is intended and/or represented'. OLDP recommendation to clarify meaning of 'and/or'.

Solution: Replace 'and/or' with 'or'.

Location: Paragraph 4 (b)

Issue 123: The clause refers to 'may contain vitamin C and/or folate'. OLDP recommendation to clarify meaning of 'and/or'.

Solution: Replace with 'may contain vitamin C or folate or both'.

3.44 Standard 2.9.4 – Formulated Supplementary Sports Foods

Location: Paragraph 7(3)(a)

Issue 124: The paragraph refers to 'the product is useful either before, during and/or after sustained strenuous exercise'. OLDP recommendation to clarify meaning of 'and/or'.

Solution proposed in Assessment Report: Replace with 'the product is useful for one or more of before, during, or after sustained strenuous exercise'.

Submitter comment and FSANZ response: Two submitters considered that the replacement sentence is unclear. FSANZ has therefore simplified the sentence to the following: 'the product is useful before, during or after sustained strenuous exercise'.

During further consideration of this issue, FSANZ has realised that this phrase in paragraph 7(3)(a) is also in paragraphs 8(3)(d) and 9(4)(b). The amendment as outlined above has therefore been made to these paragraphs.

3.45 Standard 3.3.1 – Food Safety Programs for Food Service to Vulnerable Persons

Location: Schedule

Issue 125: The Schedule refers to ‘provide chemotherapy and/or renal dialysis services’.
OLDP recommendation to clarify meaning of ‘and/or’

Solution: Replace ‘and/or’ with ‘or’.

3.46 Standard 4.2.1 – Primary Production and Processing Standard for Seafood

Location: Clause 15, definition of ASQAP Manual

Issue 126: The Standard refers to version 3 (2002) of the ASQAP Manual, however various updates have been made to the ASQAP Manual since then. The Schedule to the Standard specifies the ASQAP Manual conditions so the specific version number and year in the definition is not necessary.

Solution: Remove the version number and year from the definition.

Location: Clause 15, definition of ‘batch’

Issue 127: The current definition of batch restricts the meaning to shellfish harvested from a lease and does not capture wild harvest shellfish industries. This effectively exempts wild shellfish harvesting activities from the requirements for co-mingling and is not commensurate with the intended outcome of Standard 4.2.1. It is also not commensurate with the definition in the Australian Shellfish Quality Assurance Program (ASQAP) Operations Manual, which captures all shellfish industries including wild shellfish harvesting activities.

Solution: Amend the definition of ‘batch’ to align with the ASQAP Operations Manual and capture wild harvest shellfish industries, as follows: ***Batch means a quantity of bivalve molluscs harvested from a particular harvesting area (e.g. marine farm, lease or designated wild shellstock harvest area) and with the same harvest date.***

3.47 Standard 4.5.1 – Wine Production Requirements

Location: Subclause 5(4)

Issue 128: Methanol is a natural toxicant produced during alcoholic fermentation. As such, it is already listed in Standard 1.4.1 in the Table to clause 3. It is not appropriate to have it in a production standard. Additionally, the limits are different for white wine in Standards 4.5.1 and 1.4.1, with the level in Standard 1.4.1 being more consistent with the maximum limits in other countries and the Organisation Internationale de la Vigne et du Vin (OIV).

Solution proposed in Assessment Report: Remove subclause 5(4) from Standard 4.5.1.

Submitter comments and FSANZ response: No responses were received to the explicit question on whether the change would have negative trade repercussions. Two submitters requested that the requirements be retained in Standard 4.5.1 as well as in Standard 1.4.1. FSANZ believes that this is not required as its presence in Standard 1.4.1 covers both imported and local product.

4. Amendments to Editorial notes

4.1 Standard 1.1.1 – Preliminary Provisions - Application, Interpretation and General Prohibitions

Location: Editorial note following the Purpose

Issue 129: The *Food Act 2008* (Western Australia) came into effect on 23 October 2009. However, the Purpose refers to the *Health Act 1991*.

Solution: Update entry to *Food Act 2008* (Western Australia).

Location: Editorial note following the Purpose

Issue: The year of the *Food Act* (Northern Territories) is not stated. Note this is a new issue that was identified following the release of the Assessment Report.

Solution: Update entry to include the year of this Act.

Location: Editorial note following definition of ‘fund raising events’

Issue 130: The Editorial note does not relate to the definition and belongs in explanatory material.

Solution: Remove Editorial note (the information in this Editorial note has been provided in a new fact sheet on the FSANZ Website).

4.2 Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations

Location: Editorial note following Table to clause 2

Issue 131: Incorrectly has a hyphen after 2.5.1. ‘Dried’ does not start with a capital.

Solution: Amend to correct formatting.

4.3 Standard 1.2.5 – Date Marking of Food

Location: Editorial note following subclause 2(2)

Issue 132: The Editorial note refers to the incorrect title of a user guide and it is not standard practice to refer to user guides in the Code.

Solution: Remove reference to this guide from the Editorial note.

4.4 Standard 1.2.9 – Legibility Requirements

Location: Editorial note following clause 3

Issue 133: Grammatical errors and the name of Standard 1.1.1 is missing.

Solution: Correct grammatical errors and add in name of Standard 1.1.1.

4.5 Standard 1.2.10 – Characterising Ingredients and Components of Food

Location: The statement ‘An example of a characterising component is milk fat in ice cream’ in the Editorial note following subclause 2(4).

Issue 134: The Editorial note repeats the information provided in the first Editorial note following subclause 1(1) and the information is not relevant to subclause 2(4).

Solution: Delete the statement mentioned above in the Editorial note following subclause 2(4).

4.6 Standard 1.2.11 – Country of Origin Requirements

Location: Editorial note following subclause 2(3)

Issue 135: The Editorial note contains mistakes and is unnecessary.

Solution: Delete the Editorial note.

4.7 Standard 1.3.1 – Food Additives

Location: Editorial note following clause 11

Issue 136: Communication with the Flavour and Fragrance Association of Australia and New Zealand (FFAANZ) has indicated that the consolidated list of artificial flavouring substances referred to in this Editorial note is now obsolete.

Solution: Remove the Editorial note following clause 11.

4.8 Standard 1.3.2 – Vitamins and Minerals

Location: Table to clause 3 - Bread

Issue 137: It is not clear that bread sold in New Zealand may have folic acid added to it.

Solution: Add an Editorial note referencing the New Zealand folic acid fortification standard.

4.9 Standard 1.5.1 – Novel Foods

Location: Editorial note following clause 3

Issue 138: The entry for the dates at the end of the Editorial note has not been completed. The second paragraph contains incorrect information.

Solutionproposed in Assessment Report: Amend the Editorial note to complete the gazettal commencement date (8 April 2010) and 15 months/end date. Remove the incorrect information.

Submitter comments and FSANZ response: While no submitter responses were received, FSANZ internal feedback is that it would be better to define the form of the permission after the end date, and to include that amendment in this Proposal. Therefore the provisions for tall oil phytosterol esters have been moved from the Table to clause 3 into the Table to clause 2 and the gazettal commencement date and 15 months/end date have not been inserted into the Editorial note. Because of this, the second paragraph of the Editorial note has not been removed as it reflects the process for moving the provisions from the Table to clause 3 into the table to clause 2. However the third paragraph and bold text has been removed as it will no longer be applicable.

4.10 Standard 2.2.1 – Meat and Meat Products

Location: Editorial note following definition of meat in clause 1

Issue 139: The cross references to other Standards in the Code are not necessary.

Solution: Delete Editorial note.

4.11 Standard 2.2.3 – Fish and Fish Products

Location: Editorial note following the definition of fish in clause 1.

Issue 140: The first publication referenced in the Editorial note for New Zealand guidance no longer exists. Seafood Services Australia, under which the Australian Fish Names Committee is established, has advised FSANZ that the guidance note for readers in Australia is very loose and does not provide appropriate guidance.

Solution: Delete the first publication for New Zealand from the Editorial note (all of 1). Add the following to the Editorial note, as advised by Seafood Services Australia, to improve clarity and provide further direction for Australia:

This Standard does not define specific names for fish. An Australian Fish Names Standard (AS SSA 5300) has been published which provides guidance on standard fish names to be used in Australia.

- 1. Hard copies of the Australian Fish Names Standard (AS-SSA 5300) are available from Seafood Services Australia at <http://www.seafood.net.au/shop>*
- 2. A searchable database of Australian Standard Fish Names is available at <http://www.fishnames.com.au/>*

4.12 Standards in Part 2.5 – Dairy Products

Location: Editorial note preceding the Table of Provisions

Issue 141: The list of regulatory instruments for processing dairy products in New Zealand is incomplete and unnecessary. The reference to the location in the Code for processing requirements is in the Purpose but is more appropriate in an Editorial note. In addition it does not specify that the processing requirements apply only in Australia.

Solution: Revise the Editorial note to refer to the requirements for processing dairy products in New Zealand generically rather than specifically. Move the reference to the processing requirements in Australia (Standard 4.2.4) from the Purpose to the Editorial note.

4.13 Standard 2.7.4 – Wine and Wine Products

Location: Editorial note following clause 2

Issue 142: The information in the Editorial note is not considered to be necessary.

Solution: Delete the Editorial note.

4.14 Standard 2.7.5 – Spirits

Location: Editorial note following clause 4

Issue 143: The information in the Editorial note is not considered to be necessary.

Solution proposed in Assessment Report: Delete the Editorial note.

Submitter comment and FSANZ Response: Submitters expressed concern about the removal of cross references from the Code as these are useful from a regulatory perspective. It was suggested that cross references in the Code are considered under future work by the Code audit working group. FSANZ agrees that cross references in the Code could be addressed under a future project in a more systematic manner. The proposed amendment has therefore not been made.

4.15 Standard 2.9.1 – Infant Formula Products

Location: Editorial note following clause 23

Issue 144: The Editorial note doesn't refer to the specifications in Standard 1.3.4 for the novel sources of DHA (those approved under Standard 1.5.1).

Solution: Add reference to the specifications in Standard 1.3.4 for the novel sources of DHA. Amend the current Editorial note to reflect the renaming of these products as per amendments to Standard 1.3.4 above.

4.16 Standard 4.2.1 – Primary Production and Processing Standard for Seafood

Location: Wherever the word 'food-borne' occurs (now identified to be in clause 13 rather than in an Editorial note).

Issue 145: Food-borne should not be hyphenated.

Solution: Replace 'food-borne' with 'foodborne'.

4.17 Standard 4.2.4 – Primary Production and Processing Standard for Dairy Products

Location: Editorial note following subclause 15(5), 'Dairy products may have a greater fat and/or solids content compared to milk...'

Issue 146: The OLDP legislative audit identified that the use of 'and/or' requires too much work from the reader and can be interpreted in different ways.

Solution: Replace 'and/or' with 'or'.

5. Options

The regulatory options available for this Proposal are:

5.1 Option 1 – To reject the Proposal

This option maintains the *status quo* by retaining the existing drafting in the Code.

5.2 Option 2 – To approve draft variations to the Code to incorporate the recommended amendments

This option would require the approval of draft amendments to the Code incorporating the recommended amendments as outlined in this Report, after having considered each of the proposed amendments individually and on their own merits.

6. Impact Analysis (RIS ID: 11751)

The Office of Best Practice Regulation in its letter of 6 September 2010 has advised FSANZ that it believes the proposed amendments will have no to low impacts on business and individuals and therefore does not require a Regulation Impact Statement (RIS).

6.1 Benefit Cost Analysis and Comparison of Options

In assessing Proposals, FSANZ considers the impact of various regulatory (and non-regulatory) options on all sectors of the community, including the food industry, governments and consumers in Australia and New Zealand.

For this Proposal, Option 1 is not regarded as viable or desirable because it would perpetuate errors, inconsistencies and outdated provisions in the Code.

While the costs to the community of adopting this option are low, the lack of credibility associated with retaining provisions that are known to be inadequate means that this option is not considered appropriate.

Under Option 2, the proposed amendments will have the benefit of clarifying regulatory measures thus improving capacity for compliance and enforcement. There will also be improved ability for industry innovation and consistency internationally by amending the Code as proposed. Apart from the need for agencies to acquaint themselves with the changes to the Code, there are unlikely to be any costs associated with this option. Option 2 is therefore a viable and desirable option.

7. Addressing FSANZ's Primary Objectives

The legislative objectives that FSANZ is required to meet when developing or varying a food standard are noted in section 2. The majority of the amendments under this Proposal were editorial in nature and therefore the three primary objectives were not directly relevant to the considerations of most issues.

However, for some specific issues, certain objectives were relevant and were taken into consideration. For example, with regards to the objective of protection of public health and safety, the need for a safety assessment was considered when considering the addition of two new food additives (issues 57 and 58) and maximum levels of arsenic were extended to apply to all seaweed for reasons of public health and safety (issue 74). The objective of prevention of misleading or deceptive conduct was relevant to the conditions regarding rounding of percentages of characterising ingredients and components (issue 40).

Communication and Consultation Strategy

8. Communication

This Proposal includes amendments to a number of food regulatory measures in the Code. FSANZ did not anticipate that these amendments would be of major significance and applied a basic communication strategy to this Proposal. This involved alerting the community to the opportunity to comment on the proposed changes to the Code via a media release, website and FSANZ's Facebook page. Email alerts were sent to more than 5000 subscribers to the FSANZ Notification Circular and to interested parties.

FSANZ has notified the Ministerial Council of its decision on the draft variations to the Code. Stakeholders, including the public, will be notified on the gazettal of changes to the Code on the FSANZ website.

9. Consultation

Public comment on the Assessment Report for this Proposal was sought from 15 December 2010 to 9 February 2011. A total of 13 submissions were received. A summary of these is provided in Attachment 3 to this Report.

Overall, many of the amendments that FSANZ put forward were supported. Some submitters did not comment on the merits of all the proposed changes and restricted their comments only to those issues in which they had issues of concern. Others noted their support for the proposed amendments except for comments provided on specific issues.

Two jurisdictional submitters expressed concern that certain amendments proposed in the Assessment Report should have been left for consideration by the legislative Code audit working group. In some instances, a view was expressed that certain issues should be dealt with via an Application or specific proposal. It was also considered that the removal of 'and/or' from the Code did not necessarily result in greater clarity.

Specific comments from submitters and FSANZ responses, including further amendments to the Code, have been incorporated under the relevant issues in section 3 and 4 of this Report where significant. Minor amendments to the Code made in response to submitter comments are explained Attachment 3.

In addition to the comments provided in Attachment 3, some submitters provided useful background information and suggestions for inclusions in other proposals, which will be considered by FSANZ in the future.

9.1 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 are unlikely to have a significant effect on international trade as they relate to the correction of errors, clarification of the intent of certain provisions and in some cases amendments to the Code to align with international standards.

On this basis, a notification was not made under either the WTO Technical Barriers to Trade (TBT) or Sanitary and Phytosanitary Measures (SPS) Agreements.

Conclusion

10. Conclusion and Decision

The recommended draft variations in this Proposal have been prepared to address inconsistencies, misspellings, grammatical and typographical errors, omissions and items requiring updating or clarification. This Proposal also includes minor changes to the Code that do not warrant full assessment under the FSANZ application or proposal process, for example, permission of new food additives where there are no safety issues.

In assessing this Proposal, FSANZ has had regard to the following matters as prescribed in section 59 of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act):

- whether costs that would arise from a food regulatory measure developed or varied as a result of the Proposal outweigh the direct and indirect benefits to the community, Government or industry
- there are no other measures that would be more cost-effective that could achieve the same end
- any relevant New Zealand standards
- any other relevant matters.

Preferred Decision

To approve the draft variations to various Standards to maintain the currency, accuracy and clarity of the Code, including minor changes to the Code identified through the recent legislative audit, and to approve the use of two new food additives.

10.1 Reasons for Decision

The recommended amendments:

- do not raise any public health or safety concerns
- will ensure that the Code remains current and that errors and inconsistencies are addressed
- are expected to result in a net benefit for industry, government and the community in general.

11. Transitional Arrangements

The variations in this Proposal will take effect on gazettal. However a food product would be taken to comply with the variations for a period of 12 months following gazettal, if the food product complied with the Code before the variations commenced (under subclause 1(2) of Standard 1.1.1).

ATTACHMENTS

- 1A. Draft variations to the *Australia New Zealand Food Standards Code*
- 1B. Draft variations to the *Australia New Zealand Food Standards Code* proposed in the Assessment Report
- 2A. Draft variations to the Editorial Notes in the *Australia New Zealand Food Standards Code*
- 2B. Draft variations to the Editorial Notes in the *Australia New Zealand Food Standards Code* proposed in the Assessment Report
3. Summary of issues raised in public submissions

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



Food Standards (Proposal P1013 – Code Maintenance IX) Variation

The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. The Standard commences on the dates specified in clause 3 of this variation.

Dated 27 June 2011

A handwritten signature in black ink, appearing to be 'CAA'.

Standards Management Officer
Delegate of the Board of Food Standards Australia New Zealand

1 Name

This instrument is the *Food Standards (Proposal P1013 – Code Maintenance IX) Variation*.

2 Variation to Standards in the *Australia New Zealand Food Standards Code*

The Schedule varies the Standards in the *Australia New Zealand Food Standards Code*.

3 Commencement

These variations commence on **11 July 2011**, with the exception of Item [53] which commences on **20 May 2012** and Item [54] which commences on **26 November 2012**.

SCHEDULE

[1] *The Australia New Zealand Food Standards Code is varied by omitting micro-organism wherever appearing in the Standards listed in the Table to this item, substituting microorganism –*

Table to Item [1]

Standard 1.6.1
Standard 2.4.2
Standard 3.2.2
Standard 3.2.3
Standard 4.2.1
Standard 4.2.3
Standard 4.2.4
Standard 4.5.1

[2] *The Editorial notes in the Standards of the Australia New Zealand Food Standards Code listed in Column 1 of the Table to this item are varied by omitting the Editorial notes listed in Column 2 –*

Table to Item 1

| Column 1 Standard | Column 2 Editorial note |
|----------------------|---|
| Standard 1.1.1 | The Editorial note following the definition of fund raising events |
| Standard 1.2.11 | The Editorial note following subclause 2(3) |
| Standard 1.3.1 | The Editorial note following clause 3 |
| Standard 1.3.1 | The Editorial note following clause 11 |
| Standard 2.2.1 | The Editorial note within clause 1 |
| Standard 2.5.4 | The Editorial note following clause 3 |
| Standard 2.7.4 | The Editorial note following clause 2 |

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

[3.1] *omitting from the Editorial note preceding the Table of Provisions –*

Health Act 1911 (Western Australia)
Food Act (Northern Territory)

substituting –

Food Act 2004 (Northern Territory)
Food Act 2008 (Western Australia)

[3.2] *omitting subclause 1(1), substituting –*

(1) Unless expressly provided elsewhere in this Code, the provisions of this Code apply to food products –

- (a) sold or prepared for sale in Australia or New Zealand; and
- (b) imported into Australia or New Zealand.

[3.3] *omitting the definition of **Australian Approved Names List** in clause 2*

[3.4] *omitting final product from the definition of **component** in clause 2, substituting final food*

[3.5] *omitting the definition of **fund raising events** in clause 2, substituting –*

fund raising event means an event that raises funds solely for a community or charitable cause and not for personal financial gain.

[3.6] *inserting in alphabetical order in clause 2 –*

Good Manufacturing Practice (GMP), with respect to the addition of additives and processing aids to food, means –

- (a) the quantity of additive or processing aid added to food shall be limited to the lowest possible level necessary to accomplish its desired effect; and
- (b) the quantity of the additive or processing aid that becomes a component of food as a result of its use in the manufacture, processing or packaging of a food, and which is not intended to accomplish any physical or other technical effect in the finished food itself, is reduced to the extent reasonably possible; and
- (c) the additive or processing aid is prepared and handled in the same way as a food ingredient.

[3.7] *inserting following clause 15 –*

16 Citation of the United States Code of Federal Regulations (CFR)

(1) In this Code, a reference to the Code of Federal Regulations, or CFR, is a reference to the 2010 compilation of the United States Code of Federal Regulations.

(2) In this Code, the Code of Federal Regulations is cited in the following format –

[title number] CFR § [section number]

[3.8] *updating the Table of Provisions to reflect these amendments*

[4] Standard 1.1.2 of the Australia New Zealand Food Standards Code is varied by –

[4.1] *omitting salt and/or spices from the definition of **cocoa** in clause 1, substituting salt or spices*

[4.2] *omitting the definition of **coffee** in clause 1, substituting –*

coffee means the product prepared by roasting or grinding, or both the roasting and grinding, of coffee beans.

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

[5.1] *omitting paragraph 2(1)(a), substituting –*

- (a) the food is not in a package; or

[5.2] *omitting from paragraph 2(2)(a) –*

subclauses 1(1) or (2)

substituting –

subclause 1(2)

[5.3] *omitting subclause 3(1), substituting -*

(1) Subject to subclause (2), food other than food –

- (a) for retail sale; or
- (b) for catering purposes; or
- (c) supplied as an intra company transfer;

must bear a label containing the information prescribed in Standard 1.2.2, except where the food –

- (d) is not in a package; or
- (e) is in an inner package or packages contained in an outer package where the label on the outer package includes the information prescribed in Standard 1.2.2; or
- (f) is in a transportation outer and the information prescribed in Standard 1.2.2 is clearly discernable through the transportation outer on the labels on the packages within.

[5.4] *omitting paragraph 5(2)(c), substituting –*

(c) an outer package where the –

- (i) label on the outer package includes the information prescribed in Standard 1.2.2; and
- (ii) food in the inner package is labelled in accordance with subclause (1); or

(d) an outer package where the –

- (i) information prescribed in clause 3 of Standard 1.2.2 is provided in documentation accompanying that food; and
- (ii) label on the outer package includes the information prescribed in clauses 1 and 2 of Standard 1.2.2; and
- (iii) food in the inner package is labelled in accordance with subclause (1).

[5.5] *omitting from subclause 6(4) –*

catering purposes,

substituting –

catering purposes

[5.6] *omitting and/or wherever appearing in Column 2 of the Table to clause 8, substituting or*

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

[6.1] *omitting from the Editorial note following clause 2 –*

Standard 2.5.1. – ‘dried milks’

substituting –

Standard 2.5.1. ‘Dried milks’

[6.2] *inserting and warning after mandatory advisory in the Purpose.*

[6.3] *omitting from the heading to clause 3 –*

and declarations

[6.4] *omitting advisory statement from subclause 3(2), substituting warning statement*

[6.5] *omitting from the Table to clause 4 –*

| |
|--|
| Fish and fish products, except for isinglass derived from swim bladders and used as a clarifying agent in beer and wine. |
| Peanuts and soybeans, and their products |
| Tree nuts and sesame seeds and their products other than coconut from the fruit of the palm <i>Cocos nucifera</i> |

substituting –

| |
|---|
| Fish and fish products, except for isinglass derived from swim bladders and used as a clarifying agent in beer and wine |
| Peanuts and peanut products |
| Soybeans and soybean products |
| Tree nuts and tree nut products other than coconut from the fruit of the palm <i>Cocos nucifera</i> |
| Sesame seeds and sesame seed products |

[6.6] *updating the Table of Provisions to reflect these amendments*

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

[7.1] *omitting clause 2, substituting –*

2 Requirement for statement of ingredients

The label on a package of food must include a statement of ingredients unless –

- (a) the food is labelled with the name of the food which would otherwise be those ingredients listed in the ingredient list; or
- (b) the food is water presented in packaged form as standardised in Standard 2.6.2; or
- (c) the food is an alcoholic beverage standardised in Standard 2.7.2 to Standard 2.7.5 of this Code; or
- (d) the food is contained in a small package.

[7.2] *omitting and/or from the entry for milk solids in the Table to clause 4, substituting or*

[7.3] *omitting and/or wherever appearing in clause 5, substituting or*

[7.4] *omitting clause 6, substituting –*

6 Declaration of compound ingredients

(1) A compound ingredient must be declared in the statement of ingredients either –

- (a) by declaring the compound ingredient by name in its appropriate place in the statement of ingredients, and listing its ingredients in brackets after the name of the compound ingredient, in descending order of ingoing weight in the compound ingredient, as specified in the Table to this clause; or
- (b) by declaring all of the ingredients of the compound ingredient separately as if they were individual ingredients of the final food.

(2) However, paragraph 6(1)(a) does not apply to food standardised in Standard 2.9.2.

(3) The ingredients in an alcoholic beverage, standardised in Standards 2.7.2 to 2.7.5 of this Code, do not need to be declared in a statement of ingredients if the alcoholic beverage has been declared as an ingredient in the food.

Table to clause 6

| Amount of compound ingredient in the food | Ingredients of the compound ingredient to be included in the statement of ingredients |
|---|--|
| 5% or more | All ingredients |
| less than 5% | 1. If applicable, any substance listed in the Table to clause 4 of Standard 1.2.3; and 2. all food additives in the compound ingredient that perform a technological function in the final food |

Editorial note:

An example for clause 6 is the statement of ingredients for canned spaghetti, which could read –
‘tomatoes, water, spaghetti (wheat flour, egg, water), sugar, salt, flavours’
under option (a) or –
‘tomatoes, water, wheat flour, egg, sugar, salt, flavours’
under option (b).

[7.5] *omitting specific name from subclause 8(2), substituting prescribed name*

[7.6] *inserting the words as indicated in Schedule 2 of this Standard at the end of subclause 8(5)*

[7.7] *inserting following clause 9 –*

10 Process declaration for oil

If a food contains oil as an ingredient, and the specific source name of the oil is used on the label of the food, the label must include the statement prescribed in clause 3 of Standard 2.4.1.

[7.8] *inserting the following entries in Part 1 and Part 2 of Schedule 2 –*

| | |
|----------------------------|------|
| Acetylated oxidised starch | 1451 |
| Sodium gluconate | 576 |

[7.9] *omitting blackcurrent from Part 2 of Schedule 2, substituting blackcurrant*

[7.10] *updating the Table of Provisions to reflect these amendments*

[8] Standard 1.2.5 of the Australia New Zealand Food Standards Code is varied by –

[8.1] *omitting from the definition of **use-by date** in clause 1 health and safety, substituting health or safety*

[8.2] *omitting the first paragraph from the Editorial note following subclause 2(2)*

[8.3] *omitting clause 5 and the Examples under clause 5, substituting –*

5 Prescribed form of date

(1) If the best-before date or use-by date of a food is not more than 3 months from the date it is applied, the date mark must consist at least of the day and month, expressed in that order.

- (2) If the best-before date or use-by date of a food is more than 3 months from the date it is applied, the date mark must consist at least of the month and year, expressed in that order.
- (3) The best-before date and use-by date must be expressed in numerical form, except for the month which may be expressed in letters. Where the month is expressed in letters, the month may precede the day.
- (4) The day, month and year so expressed within the best-before or use-by date must be distinguishable.

Examples:

For paragraph 5(1) –

23 Dec or 23 12
23 12 2012 or 23 Dec 2012

For paragraph 5(2) –

Dec 2012 or 12 2012
23 12 2012 or 23 Dec 2012

For paragraph 5(3) –

23 Dec 2012 or Dec 23 2012

[8.4] *omitting clause 6, substituting –*

6 Statement of storage conditions

The label on a package of food must include a statement of any specific storage conditions required to ensure that the food will keep for the period indicated by the use-by date, or the best-before date.

[8.5] *omitting subclause 7(2), substituting –*

(2) Subclause (1) does not preclude the label on a package of food from including a packed-on date or a manufacturer's or packer's code in addition to the required use-by date or best-before date.

[9] **Standard 1.2.6** of the Australia New Zealand Food Standards Code is varied by –

[9.1] *omitting the Purpose, substituting –*

Purpose

This Standard identifies when directions for use and directions for storage are required to be included on a label.

[9.2] *omitting clauses 1, 2 and 3, the Table to clause 3 and the Editorial note following the Table to clause 3, substituting –*

1 Directions for use and storage of food

(1) The label on a package of food must include directions for the use of the food or the storage of the food, or both, if the food is of such a nature as to require the directions for health or safety reasons.

(2) If food is unpackaged, the food must either be labelled with, or accompanied by, directions for the use of the food or the storage of the food, or both, if the food is of such a nature as to require the directions for health or safety reasons.

(3) If the food is of a kind listed in column 1 of the Table to this clause, the food must be labelled with, or accompanied by, the directions for use set out in column 2.

Table to clause 1

| Column 1 | Column 2 |
|-------------------|--|
| Food | Directions for use |
| Raw bamboo shoots | A statement that indicates that bamboo shoots should be fully cooked before being consumed. |
| Raw sweet cassava | A statement that indicates that sweet cassava should be peeled and fully cooked before being consumed. |

[9.3] *updating the Table of Provisions to reflect these amendments*

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

[10.1] *omitting acids after bonds from the definition of **polyunsaturated fatty acids** in clause 1*

[10.2] *omitting acids after bonds from the definition of **saturated fatty acids** in clause 1*

[10.3] *omitting acids after configuration from the definition of **trans fatty acids** in clause 1*

[10.4] *omitting clause 3, substituting –*

3 Nutrition information requirements and exemptions

Subject to clause 4, the label on a package of food must include a nutrition information panel except where the food is –

- (a) deleted
- (b) an alcoholic beverage standardised in Standard 2.7.2 to Standard 2.7.5 of this Code; or
- (c) a herb, a spice, a herbal infusion; or
- (d) vinegar and related products as standardised in Standard 2.10.1; or
- (e) salt and salt products as standardised in Standard 2.10.2; or
- (f) tea, decaffeinated tea, decaffeinated instant or soluble tea, instant or soluble tea, coffee, decaffeinated coffee, decaffeinated instant or soluble coffee, instant or soluble coffee, as defined in Standard 1.1.2; or
- (g) an additive for the purposes of Standard 1.3.1; or
- (h) a processing aid as defined in Standard 1.3.3; or
- (i) fruit, vegetables, meat, poultry, and fish that comprise a single ingredient or category of ingredients; or
- (j) in a small package; or
- (k) gelatine as defined in Standard 1.1.2; or
- (l) water, or mineral water or spring water as defined in Standard 2.6.2; or
- (m) prepared filled rolls, sandwiches, bagels and similar products; or
- (n) jam setting compound; or
- (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; or
- (p) a beverage containing no less than 0.5% alcohol by volume that is not standardised in Standard 2.7.2 to Standard 2.7.5 of this Code; or
- (q) kava as standardised in Standard 2.6.3.

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

(7) The information prescribed in subclause (4) and subclause (5), where required to be included in a nutritional information panel, must be set out in the following format –

| NUTRITION INFORMATION | | |
|---|---|---|
| Servings per package: (insert number of servings) | | |
| Serving size: g (or mL or other units as appropriate) | | |
| | Quantity per Serving | Quantity per 100 g (or 100 mL) |
| Energy | kJ (Cal) | kJ (Cal) |
| Protein, total | g | g |
| – * | g | g |
| Fat, total | g | g |
| – saturated | g | g |
| – ** | g | g |
| – trans | g | g |
| – ** | g | g |
| – polyunsaturated | g | g |
| – ** | g | g |
| – monounsaturated | g | g |
| – ** | g | g |
| Cholesterol | mg | mg |
| Carbohydrate | g | g |
| – sugars | g | g |
| – ** | g | g |
| – ** | g | g |
| – ** | g | g |
| Dietary fibre, total | g | g |
| – ** | g | g |
| Sodium | mg (mmol) | mg (mmol) |
| (insert any other nutrient or biologically active substance to be declared) | g, mg, µg (or other units as appropriate) | g, mg, µg (or other units as appropriate) |

*a sub-group nutrient **a sub-sub-group nutrient

[10.6] *omitting clause 10, substituting –*

10 Food intended to be drained before consumption

The label on a package of food with directions indicating that the food should be drained before consumption, must include the particulars set out in each column of the panel expressed as a proportion of the drained food, and must clearly indicate that the particulars set out in each column of the panel relate to the drained food.

[10.7] *omitting clause 11, substituting –*

11 Food intended to be prepared or consumed with other food

The label on a package of food intended to be prepared or consumed with at least one other food, may include an additional column at the right hand side of the panel, specifying, in the same manner as set out the panel –

- (a) a description of the additional food or foods; and
- (b) the quantity of the additional food or foods; and

- (c) the average energy content of the combined foods; and
- (d) the average quantities of nutrients contained in the combined foods; and
- (e) the average quantities of biologically active substances contained in the combined foods.

[10.8] *omitting subclause 13(5), substituting –*

(5) Where a nutrition claim is made in accordance with subclause (3) or subclause (4), the declarations in the nutrition information panel must indicate the type of omega 3 fatty acids, namely –

- (a) alpha-linolenic acid; or
- (b) docosahexaenoic acid; or
- (c) eicosapentaenoic acid; or
- (d) a combination of the above.

[10.9] *updating the Table of Provisions to reflect these amendments*

[11] **Standard 1.2.9** of the Australia New Zealand Food Standards Code is varied by –

[11.1] *omitting 3mm from subclause 3(a), substituting 3 mm*

[11.2] *omitting 1.5mm from subclause 3(b), substituting 1.5 mm*

[11.3] *omitting the Editorial note following clause 3, substituting –*

Editorial note:

1. 'Warning statement is defined in Standard 1.1.1 – Preliminary Provisions – Application, Interpretation and General Prohibitions.
2. 'Small package' is defined in Standard 1.2.1 – Application of Labelling and Other Information Requirements.

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

[12.1] *omitting fund raising events from paragraph 2(4)(e), substituting a fund raising event*

[12.2] *omitting the second paragraph from the Editorial note following subclause 2(4)*

[12.3] *omitting subclause 7(2), substituting –*

(2) If the percentage declared is 5% or greater, it may be rounded to the nearest whole per cent. If the percentage declared is below 5%, it may be rounded to the nearest 0.5 per cent.

[13] **Standard 1.2.11** of the Australia New Zealand Food Standards Code is varied by –

[13.1] *omitting subclauses 1(4) and 1(5)*

[13.2] *omitting local and/or imported foods as the case may be wherever appearing in Column 2 of the Table to subclause 2(2), substituting local foods or imported foods or both*

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

[14.1] *omitting clause 3, substituting –*

3 Permitted use of additives

(1) The additives listed by name or number in Schedules 1, 2, 3 and 4 may be added to a food or class of food to perform technological functions provided that –

- (a) the use complies with any restrictions on use listed in Schedule 1; and

- (b) the proportion of the additive is no more than the maximum level necessary to achieve one or more technological functions under the conditions of Good Manufacturing Practice (GMP).

(2) The additives in Schedule 2 may be present in processed foods as a result of use in accordance with GMP, except where expressly prohibited in Schedule 1.

(3) The colours in Schedule 3 may be present in processed foods as a result of use in accordance with GMP except where expressly prohibited in Schedule 1.

(4) The colours in Schedule 4 may be present in processed foods to a combined maximum level of 290 mg/kg in foods, and 70 mg/L in beverages, except where expressly prohibited in Schedule 1.

[14.2] *omitting from subclause 6(2) –*

calculated by:

substituting –

calculated by –

[14.3] *omitting from clause 7 –*

Other than by direct addition, a food

substituting –

A food

[14.4] *omitting clause 11, substituting –*

11 Permitted flavouring substances

Permitted flavouring substances, for the purposes of this Standard, are –

- (a) Flavouring substances which are listed in at least one of the following publications –
- (i) Generally Recognised as Safe (GRAS) lists of flavouring substances published by the Flavour and Extract Manufacturers' Association of the United States from 1960 to 2011 (edition 25); or
 - (ii) Chemically-defined flavouring substances, Council of Europe, November 2000; or
 - (iii) 21 CFR § 172.515; or
- (b) Flavouring substances obtained by physical, microbiological, enzymatic, or chemical processes from material of vegetable or animal origin either in its raw state or after processing by traditional preparation process including drying, roasting and fermentation; or
- (c) Flavouring substances obtained by synthetic means which are identical to any of the flavouring substances described in subparagraph (b).

[14.5] *omitting from Schedule 1 under item 0 GENERAL PROVISIONS –*

***Additives in Schedule 2 may
be present in processed foods
as a result of use in
accordance with GMP except
where expressly prohibited in
this schedule.***

Colours in Schedule 3 may be present in processed foods as a result of use in accordance with GMP except where expressly prohibited in this schedule.

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

For an explanation and examples of the different food additive classifications in Schedule 1, please refer to the user guide to Standard 1.3.1 - Food Additives.

The asterisk (*) in Schedule 1 indicates that additives in Schedules 2, 3 and 4 are permitted.

[14.6] *omitting from Schedule 1 item 1.1.3 Liquid milk to which phytosterols, phytostanols or their esters have been added, substituting –*

1.1.3 Liquid milk to which phytosterols, phytostanols or their esters have been added

| | | | |
|-----|---------------------------------------|------|-------|
| 401 | Sodium alginate | 2000 | mg/kg |
| 407 | Carrageenan | 2000 | mg/kg |
| 412 | Guar gum | 2000 | mg/kg |
| 471 | Mono- and diglycerides of fatty acids | 2000 | mg/kg |
| 460 | Microcrystalline cellulose | 5000 | mg/kg |

[14.7] *omitting from Schedule 1 from the heading for item 1.4.1 Cream, reduced cream and light cream) –*

light cream)

substituting –

light cream

[14.8] *omitting from Schedule 1 from the heading for item 1.4.2 Cream products (flavoured, whipped, thickened, sour cream etc.) –*

sour cream etc.

substituting –

sour cream etc

[14.9] *omitting from Schedule 1 from the heading for item 4.1.3 Peeled and/or cut fruits and vegetables –*

Peeled and/or cut fruits and vegetables

substituting –

Fruits and vegetables that are peeled, cut, or both peeled and cut

[14.10] *omitting from Schedule 1 under item 6.4* Flour products (including noodles and pasta)*, *the entries –*

| | | | | |
|-----|------------------------|-----|-------|--|
| 234 | Nisin | 250 | mg/kg | Flour products that are cooked on hot plates only e.g. crumpets, pikelets, flapjacks, etc. |
| 243 | Ethyl lauroyl arginate | 200 | mg/kg | cooked pasta and noodles only |

substituting –

| | | | | |
|-----|------------------------|-----|-------|---|
| 234 | Nisin | 250 | mg/kg | Flour products that are cooked on hot plates only e.g. crumpets, pikelets, and flapjacks. |
| 243 | Ethyl lauroyl arginate | 200 | mg/kg | Cooked pasta and noodles only |

[14.11] *omitting from Schedule 1 wherever appearing in item 10.4* Dried and/or heat coagulated egg products, *the words and/or, substituting or*

[14.12] *omitting from Schedule 1 from the heading for item 14.2* Alcoholic beverages (including no and low alcohol) –

(including no and low alcohol)

substituting –

(including alcoholic beverages that have had the alcohol reduced or removed)

[14.13] *omitting from Schedule 1 the heading under item 20.2* Food other than beverages* -

soup bases (made up as directed)

substituting –

soup bases (the max permitted levels apply to soup made up as directed)

[14.14] *inserting the following entries in each of the listings in Schedule 2 –*

| | |
|------|----------------------------|
| 1451 | Acetylated oxidised starch |
| 576 | Sodium gluconate |

[14.15] *omitting wherever appearing in Schedule 4 –*

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

substituting –

Colours permitted to a combined maximum level of 290 mg/kg in processed foods, and a combined maximum level of 70 mg/L in beverages, except where expressly prohibited in Schedule 1

[14.16] *omitting wherever appearing in Schedule 5 under the Definition column –*

taste and/or odour

substituting –

taste or odour

[15] **Standard 1.3.2** of the Australia New Zealand Food Standards Code is varied by –

[15.1] *omitting and/or wherever appearing in the definition of **claimable food** in clause 1, substituting or*

[15.2] *omitting a mixture of from the definition of **claimable food** in clause 1, substituting two or more of the following*

[15.3] *omitting Thiamine wherever appearing in the Table to clause 3, substituting Thiamin*

[15.4] *omitting from the Table to clause 3 –*

| Edible oils and spreads | | | | |
|---|--------|---|--|------------------|
| Edible oil spreads and margarine: – containing no more than 28% total saturated fatty acids and trans fatty acids | 10 g | Vitamin A Vitamin D Vitamin E | 110 µg (15%) 1.0 µg (10%) 3.5 mg (35%) | 125 µg 1.6 µg |
| Sunflower oil and safflower oil – other edible oils – containing no more than 28% total saturated fatty acids and trans fatty acids | 10 g | Vitamin E | 7.0 mg (70%) 3.0 mg (30%) | |
| Fruit juice, vegetable juice, fruit drink and fruit cordial | | | | |
| Fruit juice, reconstituted fruit juice, concentrated fruit juice: – Blackcurrant – Guava – Other fruit juice – Mango – Pawpaw – Other fruit juice | 200 mL | Calcium Folate Vitamin C Carotene forms of Vitamin A | 200 mg (25%) 100 µg (50%) 500 mg (12.5 times) 400 mg (10 times) 120 mg (3 times) 800 µg (1.1 times) | |
| Tomato juice, concentrated tomato juice | 200 mL | Vitamin C Carotene forms of Vitamin A Folate Calcium | 60 mg (1.5 times) 200 µg (25%) 100 µg (50%) 200 mg (25%) | |

| | | | | |
|---|--------|--|---|--|
| Vegetable juice | 200 mL | Vitamin C Carotene forms of Vitamin A Folate Calcium | 60 mg (1.5 times) 200 µg (25%) 100 µg (50%) 200 mg (25%) | |
| Fruit and/or vegetable drinks containing at least 250 mL/L of the juice, puree of comminution of the fruit and/or vegetable; fruit and/or vegetable drink concentrate which contains in a reference quantity at least 250 mL/L of the juice, puree or comminution of the fruit and/or vegetable | 200 mL | Folate Vitamin C Carotene forms of vitamin A Calcium | refer to clause 8 refer to clause 8 refer to clause 8 200 mg (25%) | |

substituting –

| | | | | |
|--|------|------------------------|------------------------------|------------------|
| Edible oils and spreads | | | | |
| Edible oil spreads and margarine | 10 g | Vitamin A Vitamin D | 110 µg (15%) 1.0 µg (10%) | 125 µg 1.6 µg |
| Edible oil spreads and margarine containing no more than 28% total saturated fatty acids and trans fatty acids | 10 g | Vitamin E | 3.5 mg (35%) | |
| Sunflower oil and safflower oil | 10 g | Vitamin E | 7.0 mg (70%) | |
| Edible oils (except sunflower and safflower oil) containing no more than 28% total saturated fatty acids and trans fatty acids | 10 g | Vitamin E | 3.0 mg (30%) | |
| Fruit juice, vegetable juice, fruit drink, vegetable drink and fruit cordial | | | | |

| | | | |
|---|--------|---|---|
| All fruit juice and concentrated fruit juice | 200 mL | Calcium Folate Vitamin C Carotene forms of Vitamin A | 200 mg (25%) 100 µg (50%) 120 mg (3 times) 200 µg (25%) |
| Blackcurrant juice, concentrated blackcurrant juice | 200 mL | Vitamin C | 500 mg (12.5 times) |
| Guava juice, concentrated guava juice | 200 mL | Vitamin C | 400 mg (10 times) |
| Mango juice | 200 mL | Carotene forms of Vitamin A | 800 µg (1.1 times) |
| Pawpaw juice, concentrated pawpaw juice | 200 mL | Carotene forms of Vitamin A | 300 µg (40%) |
| Tomato juice, concentrated tomato juice | 200 mL | Vitamin C Carotene forms of Vitamin A Folate Calcium | 60 mg (1.5 times) 200 µg (25%) 100 µg (50%) 200 mg (25%) |
| Vegetable juice | 200 mL | Vitamin C Carotene forms of Vitamin A Folate Calcium | 60 mg (1.5 times) 200 µg (25%) 100 µg (50%) 200 mg (25%) |
| Fruit drinks, vegetable drinks and fruit and vegetable drinks containing at least 250 mL/L of the juice, puree or comminution of the fruit or vegetable or both; fruit drink, vegetable drink or fruit and vegetable drink concentrate which contains in a reference quantity at least 250 mL/L of the juice, puree or comminution of the fruit or vegetable, or both | 200 mL | Folate Vitamin C Carotene forms of vitamin A Calcium | refer to clause 8 refer to clause 8 refer to clause 8 200 mg (25%) |

[15.5] *inserting the following* Editorial note *following the* Table to clause 3 –

Editorial note:

The *New Zealand (Mandatory Fortification of Bread with Folic Acid) Food Standard 2007* applies to bread sold in New Zealand. This Standard does not apply to bread sold or prepared for sale in, or imported into Australia.

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

[16.1] *omitting the definition of **GMP** in clause 1*

[16.2] *omitting paragraph (b) from the definition of **processing aid** in clause 1, substituting –*

- (b) the proportion of the processing aid is no more than the maximum level necessary to achieve one or more technological functions under conditions of Good Manufacturing Practice (GMP).

[16.3] *omitting final food from clause 11, substituting water*

[16.4] *omitting Food from the heading to the Table to clause 14, substituting Function*

[16.5] *omitting from the Table to clause 14 –*

| | | |
|---|---|-----|
| Lactoperoxidase from bovine milk EC 1.11.1.7 | Reduce and/or inhibit bacterial population on meat surfaces | GMP |
|---|---|-----|

substituting –

| | | |
|---|--|-----|
| Lactoperoxidase from bovine milk EC 1.11.1.7 | Reduce the bacterial population or inhibit bacterial growth on meat surfaces | GMP |
|---|--|-----|

[16.6] *inserting in the Table to clause 14 –*

| | | |
|---|--|-----|
| Colours permitted in Schedules 2, 3 and 4 of Standard 1.3.1 | Applied to the outer surface of meat as a brand for the purposes of inspection or identification | GMP |
|---|--|-----|

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

[17.1] *omitting the Purpose, substituting –*

Purpose

This Standard ensures that food additives, processing aids, novel food substances, vitamins and minerals and nutritive substances added to food in accordance with this Code meet appropriate specifications for identity and purity. In general, these specifications are those used by the international community.

[17.2] *omitting clauses 1, 2 and 3, substituting –*

1 Application

This Standard applies only to the following substances which are added to food in accordance with this Code, or sold for use in food –

- (a) food additives;
- (b) processing aids;
- (c) vitamins and minerals;
- (d) novel food substances; and
- (e) nutritive substances.

2 Substances with specifications in primary sources

A substance must comply with a relevant monograph published in one of the following –

- (a) the Schedule to this Standard; or

- (b) Combined Compendium of Food Additive Specifications, FAO JECFA Monograph 1 (2005) as superseded by specifications published in FAO JECFA Monographs 3 (2006) and FAO JECFA Monographs 4 (2007) and FAO JECFA Monographs 5 (2008) and FAO JECFA Monographs 7 (2009) and FAO JECFA Monographs 10 (2010), Food and Agriculture Organisation of the United Nations. Rome; or
- (c) *Food Chemicals Codex* (7th Edition) published by United States Pharmacopoeia (2010).

3 Substances with specifications in secondary sources

If there is no monograph applying to a substance under clause 2, the substance must comply with a relevant monograph published in one of the following –

- (a) the *British Pharmacopoeia 2010*, TSO, Norwich (2010); or
- (b) the United States Pharmacopoeia, 34th Revision and The National Formulary, 29th Edition (2010); or
- (c) the *Pharmaceutical Codex*, 12th Edition, Council of the Pharmaceutical Society of Great Britain. The Pharmaceutical Press, London (1994); or
- (d) *Martindale; The Complete Drug Reference*. The Pharmaceutical Press London (2009); or
- (e) the *European Pharmacopoeia 6th Edition*, Council of Europe, Strasbourg (2007); or
- (f) the *International Pharmacopoeia 4th Edition*, World Health Organization, Geneva (2006 and 2008 supplement); or
- (g) the *Merck Index*, 14th Edition, (2006); or
- (h) the *Code of Federal Regulations*; or
- (i) the *Specifications and Standards for Food Additives*, 7th Edition (2000), Ministry of Health and Welfare (Japan); or
- (j) the *International Oenological Codex* (2010 supplementary edition), Organisation Internationale de la Vigne et du Vin (OIV).

[17.3] *omitting paragraph 4(c), substituting –*

- (c) 1 mg/kg of cadmium;
- (d) 1 mg/kg of mercury.

[17.4] *omitting from paragraph (c) under the Specification for carboxymethyl cellulose ion exchange resin in the Schedule –*

CFR Title 21 part 173.25(c)(4)

substituting –

21 CFR § 173.25(c)(4)

[17.5] *omitting from paragraph (c) under the Specification for quaternary amine cellulose ion exchange resin in the Schedule –*

CFR Title 21 part 173.25(c)(4)

substituting –

21 CFR § 173.25(c)(4)

[17.6] *omitting from paragraph (c) under the Specification for diethyl aminoethyl cellulose ion exchange resin in the Schedule –*

CFR Title 21 part 173.25(c)(4)

substituting –

21 CFR § 173.25(c)(4)

[17.7] *omitting from paragraph (c) under the Specification for agarose ion exchange resin in the Schedule –*

CFR Title 21 part 173.25(c)(4)

substituting –

21 CFR § 173.25(c)(4)

[17.8] *omitting from the Schedule the entries for–*

Specification for docosahexaenoic acid (DHA) – rich dried marine micro-algae (*Schizochytrium* sp.)

Specification for docosahexaenoic acid (DHA) – rich oil derived from marine micro-algae (*Schizochytrium* sp.)

Specification for docosahexaenoic acid (DHA) – rich oil derived from the algae *Cryptocodinium cohnii*

Specification for oil derived from the fungus *Mortierella alpina* rich in arachidonic acid (ARA)

Specification for docosahexaenoic acid (DHA) - rich oil derived from marine micro-algae (*Ulkenia* sp.)

substituting –

Specification for dried marine micro-algae (*Schizochytrium* sp.) rich in docosahexaenoic acid (DHA)

| | |
|----------------------------|--|
| Full chemical name for DHA | 4,7,10,13,16,19-docosahexaenoic acid (22:6n-3 DHA) |
| Solids (%) | min. 95.0 |
| DHA (%) | min. 15.0 |
| Lead (mg/kg) | max. 0.5 |
| Arsenic (mg/kg) | max. 0.5 |

Specification for oil derived from marine micro-algae (*Schizochytrium* sp.) rich in docosahexaenoic acid (DHA)

| | |
|----------------------------|--|
| Full chemical name for DHA | 4,7,10,13,16,19-docosahexaenoic acid (22:6n-3 DHA) |
| DHA (%) | min. 32 |
| Trans fatty acids (%) | max. 2.0 |
| Lead (mg/kg) | max. 0.1 |
| Arsenic (mg/kg) | max. 0.1 |
| Mercury (mg/kg) | max. 0.1 |
| Hexane (mg/kg) | max. 0.3 |

Specification for oil derived from the algae *Cryptocodinium cohnii* rich in docosahexaenoic acid (DHA)

| | |
|----------------------------|--|
| Full chemical name for DHA | 4,7,10,13,16,19-docosahexaenoic acid (22:6n-3) |
| DHA (%) | min. 35 |
| Trans fatty acids (%) | max. 2.0 |
| Lead (mg/kg) | max. 0.1 |
| Arsenic (mg/kg) | max. 0.1 |
| Mercury (mg/kg) | max. 0.1 |
| Hexane (mg/kg) | max. 0.3 |

Specification for oil derived from the fungus *Mortierella alpina* rich in arachidonic acid (ARA)

| | |
|----------------------------|---|
| Full chemical name for ARA | 5,8,11,14-eicosatetraenoic acid (20:4n-6 ARA) |
| ARA (%) | min. 35 |
| Trans fatty acids (%) | max. 2.0 |
| Lead (mg/kg) | max. 0.1 |
| Arsenic (mg/kg) | max. 0.1 |
| Mercury (mg/kg) | max. 0.1 |
| Hexane (mg/kg) | max. 0.3 |

Specification for oil derived from marine micro-algae (*Ulkenia* sp.) rich in docosahexaenoic acid (DHA)

| | |
|----------------------------|--|
| Full chemical name for DHA | 4,7,10,13,16,19-docosahexaenoic acid (22:6n-3 DHA) |
| DHA (%) | min. 32 |
| Trans fatty acids (%) | max. 2.0 |
| Lead (mg/kg) | max. 0.2 |
| Arsenic (mg/kg) | max. 0.2 |
| Mercury (mg/kg) | max. 0.2 |
| Hexane (mg/kg) | max. 10 |

[18] **Standard 1.4.1** of the Australia New Zealand Food Standards Code is varied by –

[18.1] *omitting from the Purpose –*

Consideration has also been given to Australia's and New Zealand's international trade obligations under the World Trade Organization's Sanitary and Phytosanitary Agreement and Technical Barrier to Trade Agreement.

In order to assist both enforcement agencies and industry to maintain contaminant levels at the lowest achievable levels, Generally Expected Levels (GELs), have been established to complement the use of MLs. GELs, while not legally enforceable, provide a benchmark against which to measure contaminant levels in foods. The list of GELS is provided in the User Guide – Generally Expected Levels (GELs) for Metal Contaminants.

substituting –

Consideration has also been given to Australia's and New Zealand's international trade obligations under the World Trade Organization's Agreement on the Application of Sanitary and Phytosanitary Measures and the Agreement on Technical Barriers to Trade.

[18.2] *omitting from subclause 1(5) –*

(edible kelp)

[18.3] *omitting the definitions for **food** and **metal contaminant** in subclause 2(1), substituting –*

food means the food or class of foods listed in Column 2 of the Table to this clause.

metal contaminant means a substance listed in Column 1 of the Table to this clause and includes compounds of a metal.

[18.4] *omitting subclauses 2(2) and 2(3), substituting -*

(2) The maximum levels for metal contaminants in food are listed in Column 3 of the Table to this clause.

(3) Where a mixed food contains food or a class of foods listed in Column 2 of the Table to this clause, the proportion of the metal contaminant permitted to be present in the mixed food (ML1) is calculated in accordance with the formula prescribed in subclause 1(6).

[18.5] *omitting the Table to clause 2, substituting –*

Table to clause 2

| Column 1 Contaminant | Column 2 Food | Column 3 Maximum level (mg/kg) |
|---------------------------------|--|---|
| Arsenic (total) | Cereals | 1 |
| Arsenic (inorganic) | Crustacea Fish Molluscs Seaweed | 2 2 1 1 |
| Cadmium | Chocolate and cocoa products Kidney of cattle, sheep and pig Leafy vegetables (as specified in Schedule 4 to Standard 1.4.2) Liver of cattle, sheep and pig Meat of cattle, sheep and pig (excluding offal) Molluscs (excluding dredge/bluff oysters and queen scallops) Peanuts Rice Root and tuber vegetables (as specified in Schedule 4 to Standard 1.4.2) Wheat | 0.5 2.5 0.1 1.25 0.05 2 0.5 0.1 0.1 0.1 |
| Lead | Brassicac Cereals, Pulses and Legumes Edible offal of cattle, sheep, pig and poultry Fish Fruit Infant formulae Meat of cattle, sheep, pig and poultry (excluding offal) Molluscs Vegetables (except brassicas) | 0.3 0.2 0.5 0.5 0.1 0.02 0.1 2 0.1 |
| Mercury | Crustacea Fish (as specified in Schedule 4 to Standard 1.4.2) and fish products, excluding gemfish, billfish (including marlin), southern bluefin tuna, barramundi, ling, orange roughy, rays and all species of shark Gemfish, billfish (including marlin), southern bluefin tuna, barramundi, ling, orange roughy, rays and all species of shark Fish for which insufficient samples are available to analyse in accordance with clause 6 Molluscs | mean level of 0.5* mean level of 0.5* mean level of 1* 1 mean level of 0.5* |
| Tin | All canned foods | 250 |

* A reference to a mean level in the Table to clause 2 in this Standard is to the mean level of mercury in the prescribed number of sample units as described in clause 6 of this Standard.

[18.6] *omitting the definition of **food** in subclause 3(1), substituting –*

food means the food or class of foods listed in Column 2 of the Table to this clause.

[18.7] *omitting the definition of **non-metal contaminant** in subclause 3(1), substituting –*

non-metal contaminant means a substance listed in Column 1 of the Table to this clause.

[18.8] *omitting subclauses 3(2) and 3(3), substituting –*

(2) The maximum levels for non-metal contaminants in food are listed in Column 3 of the Table to this clause.

(3) Where a mixed food contains a food or class of foods listed in Column 2 of the Table to this clause, the proportion of the non-metal contaminant permitted to be present in the mixed food (ML1) is calculated in accordance with the formula prescribed in subclause 1(6).

[18.9] *omitting the Table to clause 3, substituting –*

Table to clause 3

| Column 1 Contaminant | Column 2 Food | Column 3 Maximum level (mg/kg unless specified otherwise) |
|---|---|---|
| Acrylonitrile | All food | 0.02 |
| Aflatoxin | Peanuts Tree nuts (as specified in Schedule 4 to Standard 1.4.2) | 0.015 0.015 |
| Amnesic shellfish poisons (Domoic acid equivalent) | Bivalve molluscs | 20 |
| 3-chloro-1,2-propanediol | Soy sauce and oyster sauce | 0.2 calculated on a 40% dry matter content |
| Diarrhetic shellfish poisons (Okadaic acid equivalent) | Bivalve molluscs | 0.2 |
| 1,3-dichloro-2-propanol | Soy sauce and oyster sauce | 0.005 calculated on a 40% dry matter content |
| Ergot | Cereal grains | 500 |
| Methanol | Red wine, white wine and fortified wine Whisky, Rum, Gin and Vodka Other spirits, fruit wine, vegetable wine and mead | 3 g of methanol per litre of ethanol 0.4 g of methanol per litre of ethanol 8 g of methanol per litre of ethanol |
| Neurotoxic shellfish poisons | Bivalve molluscs | 200 MU/kg |
| Paralytic shellfish poisons (Saxitoxin equivalent) | Bivalve molluscs | 0.8 |
| Phomopsins | Lupin seeds and the products of lupin seeds | 0.005 |
| Polychlorinated biphenyls, total | Mammalian fat Poultry fat Milk and milk products | 0.2 0.2 0.2 |

| | | |
|----------------|----------|------|
| | Eggs | 0.2 |
| | Fish | 0.5 |
| Vinyl chloride | All food | 0.01 |

[18.10] *omitting the definition of **food** in subclause 4(1), substituting –*

food means the food or class of foods listed in Column 2 of the Table to this clause.

[18.11] *omitting in bold type from the definition of **natural toxicant from the addition of a flavouring substance** in subclause 4(1)*

[18.12] *omitting subclauses 4(2) and 4(3), substituting –*

(2) The maximum levels for natural toxicants from the addition of a flavouring substance in food are listed in Column 3 of the Table to this clause.

(3) Where a mixed food contains a food or class of foods listed in Column 2 of the Table to this clause, the proportion of the natural toxicant from the addition of a flavouring substance permitted to be present in the mixed food (ML1) is calculated in accordance with the formula prescribed in subclause 1(6).

[18.13] *omitting the Table to clause 4, substituting –*

Table to clause 4

| Column 1 Toxicant | Column 2 Food | Column 3 Maximum level (mg/kg unless specified otherwise) |
|------------------------------|---|--|
| Agaric acid | Food containing mushrooms | 100 |
| | Alcoholic beverages | 100 |
| Aloin | Alcoholic beverages | 50 |
| Berberine | Alcoholic beverages | 10 |
| Coumarin | Alcoholic beverages | 10 |
| Hydrocyanic acid, total | Confectionery | 25 |
| | Stone fruit juices | 5 |
| | Marzipan | 50 |
| | Alcoholic beverages | 1 mg per 1% alcohol content |
| Hypericine | Alcoholic beverages | 2 |
| Pulegone | Confectionery | 350 |
| | Beverages | 250 |
| Quassine | Alcoholic beverages | 50 |
| Quinine | Mixed alcoholic drinks not elsewhere classified | 300 |
| | Tonic drinks, bitter drinks and quinine drinks | 100 |
| | Wine based drinks and reduced alcohol wines | 300 |

| | | |
|---------------------------|---------------------------------|-----|
| Safrole | Food containing mace and nutmeg | 15 |
| | Meat products | 10 |
| | Alcoholic beverages | 5 |
| Santonin | Alcoholic beverages | 1 |
| Sparteine | Alcoholic beverages | 5 |
| Thujones (alpha and beta) | Sage stuffing | 250 |
| | Bitters | 35 |
| | Sage flavoured foods | 25 |
| | Alcoholic beverages | 10 |

[18.14] *omitting the definition of **food** in subclause 5(1), substituting –*

food means the food or class of foods listed in Column 2 of the Table to this clause.

[18.15] *omitting in bolded type from the definition of **natural toxicant** in subclause 5(1)*

[18.16] *omitting subclauses 5(2), 5(3) and 5(4), substituting –*

(2) The maximum levels for natural toxicants in food are listed in Column 3 of the Table to this clause.

(3) Where a mixed food contains a food or class of foods listed in Column 2 of the Table to this clause, the proportion of the natural toxicants permitted to be present in the mixed food (ML1) is calculated in accordance with the formula prescribed in subclause 1(6).

(4) Subclause 1(2) of Standard 1.1.1 does not apply to ready-to-eat cassava chips for the purposes of the Table to clause 5.

[18.17] *omitting the Table to clause 5, substituting –*

Table to clause 5

| Column 1 Toxicant | Column 2 Food | Column 3 Maximum level (mg/kg) |
|---|--|---|
| Erucic acid | Edible oils | 20,000 |
| Histamine | Fish and fish products | 200 |
| Hydrocyanic acid, total | Ready-to-eat cassava chips | 10 |
| Lupin alkaloids | Lupin flour, lupin kernel flour, lupin kernel meal and lupin hulls | 200 |
| The ML for Tutin to cease on 31 March 2011 Tutin | Tutin in honey Tutin in comb honey | 2 0.1 |

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

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

Maximum Residue Limits (mg/kg)

[19.2] *omitting the heading to Schedule 2, substituting –*

Extraneous Residue Limits (mg/kg)

[20] **Standard 1.4.4** of the Australia New Zealand Food Standards Code is varied by –

[20.1] *omitting from Schedule 1 –*

Plugeus spp.

substituting –

Pluteus spp.

[20.2] *omitting from Schedule 1 and Schedule 2, wherever occurring, the symbol **

[20.3] *omitting from Schedule 1 and Schedule 2, wherever occurring –*

* Not an Australian Approved Name.

[21] **Standard 1.5.1** of the Australia New Zealand Food Standards Code is varied by –

[21.1] *omitting from the Editorial note following clause 1 –*

micro-organisms

substituting –

microorganisms

[21.2] *omitting paragraph 3 and the bolded text from the Editorial note following clause 3*

[21.3] *omitting from the Table to clause 2 –*

| | |
|--|--|
| Docosahexaenoic acid (DHA) – rich dried marine micro-algae (<i>Schizochytrium</i> sp.) | |
| Docosahexaenoic acid (DHA) – rich oil derived from marine micro-algae (<i>Schizochytrium</i> sp.) | |
| Docosahexaenoic acid (DHA) – rich oil derived from marine micro-algae (<i>Ulkenia</i> sp.) | |

substituting –

| | |
|---|--|
| Dried marine micro-algae (<i>Schizochytrium</i> sp.) rich in docosahexaenoic acid (DHA) | |
| Oil derived from marine micro-algae (<i>Schizochytrium</i> sp.) rich in docosahexaenoic acid (DHA) | |
| Oil derived from marine micro-algae (<i>Ulkenia</i> sp.) rich in docosahexaenoic acid (DHA) | |

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

[22.1] *omitting clause 2, substituting –*

2 Application

(1) The foods listed in column 1 of the Schedule in this Standard must, subject to subclause (2), comply with the microbiological limits set in relation to that food in the Schedule.

(2) In the case of powdered infant formula with added lactic acid producing cultures, the Standard Plate Count (SPC) microbiological limit applies prior to the addition of the lactic acid cultures to the food.

[22.2] *omitting the heading from the Schedule, substituting –*

SCHEDULE

Microbiological criteria (clause 2)

[22.3] *omitting from column 1 of the Schedule –*

Unpasteurised milk

substituting –

Unpasteurised milk for retail sale

[23] **Standard 1.6.2** of the Australia New Zealand Food Standards Code is varied by omitting from subclauses 8(2) and 8(3) –

A fermented comminuted processed meat

substituting –

Fermented comminuted processed meat

[24] **Standard 2.2.1** of the Australia New Zealand Food Standards Code is varied by –

[24.1] *omitting the first paragraph of the Purpose, substituting –*

This Standard includes definitions, compositional requirements and labelling requirements for meat and meat products. Processing requirements for processed meat products, including fermented comminuted meat products are contained in Standard 1.6.2.

[24.2] *omitting clause 4, substituting –*

4 Declaration of the presence of offal in food

(1) The presence of offal in a food must be –

- (a) declared in the statement of ingredients; or
- (b) where the food is not required to bear a label, otherwise declared to the purchaser.

(2) The presence of brain, heart, kidney, liver, tongue or tripe in a food must be declared as 'offal' or by the specific name of the type of offal.

(3) The presence of any other type of offal in a food must be declared by the specific name of the type of offal.

[24.3] *omitting clause 7, substituting –*

7 Deleted

[24.4] *omitting processed from subclause 9(3), substituting manufactured*

[24.5] *omitting from clause 10 –*

Where a fermented comminuted manufactured meat or a fermented

substituting –

Where fermented comminuted manufactured meat or fermented

[24.6] *omitting paragraph 11(3)(b), substituting –*

- (b) a minor ingredient of a processed product, where that ingredient comprises bovine fat or bovine tallow; and

[24.7] *updating the Table of Provisions to reflect these amendments*

[25] **Standard 2.2.2** of the Australia New Zealand Food Standards Code is varied by omitting the first sentence of the Purpose, *substituting –*

This Standard provides definitions and requirements for egg and egg products.

[26] **Standard 2.2.3** of the Australia New Zealand Food Standards Code is varied by –

[26.1] *omitting the Purpose, substituting –*

Purpose

This Standard defines the term ‘fish’ and requires the provision of certain cooking instructions for raw fish which has been joined using a binding system without the application of heat.

[26.2] *omitting the Editorial note following clause 1, substituting –*

Editorial note:

This Standard does not define specific names for fish. An Australian Fish Names Standard (AS SSA 5300) has been published which provides guidance on standard fish names to be used in Australia.

1. Hard copies of the Australian Fish Names Standard (AS-SSA 5300) are available from Seafood Services Australia at <http://www.seafood.net.au/shop>.
2. A searchable database of Australian Standard Fish Names is available at <http://www.fishnames.com.au>.
3. New Zealand common, Maori, and scientific names for fish species are available from the website of the Ministry of Agriculture and Forestry at <http://www.foodsafety.govt.nz/industry/sectors/seafood/fish-names/index.htm>.

The Table to clause 5 of Standard 1.4.1 prescribes the maximum level of histamine permitted in fish and fish products.

[26.3] *omitting clauses 2 and 3, substituting –*

2 Labelling etc of formed or joined fish

Where raw fish has been formed or joined in the semblance of a cut or fillet of fish using a binding system without the application of heat, whether coated or not, a declaration that the fish is either formed or joined, in conjunction with cooking instructions indicating how the microbiological safety of the product can be achieved –

- (a) must be included on the label on the package of the fish; or
(b) if the food is not required to be labelled, must be provided to the purchaser.

[26.4] *updating the Table of Provisions to reflect these amendments*

[27] **Standard 2.3.1** of the Australia New Zealand Food Standards Code is varied by omitting the definition of **peeled and/or cut fruit and vegetables** in clause 1

[28] **Standard 2.4.1** of the Australia New Zealand Food Standards Code is varied by –

[28.1] omitting the definition of **edible oils** in clause 1, substituting –

edible oils means the triglycerides, diglycerides, or both the triglycerides and diglycerides of fatty acids of plant or animal origin, including aquatic plants and aquatic animals.

[28.2] inserting the word *source* after the word *specific* in clause 3

[29] **Standard 2.4.2** of the Australia New Zealand Food Standards Code is varied by inserting and is not covered by this Standard after Standard 2.5.5 in the Purpose.

[30] **Standard 2.5.1** of the Australia New Zealand Food Standards Code is varied by –

[30.1] omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for milk are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[30.2] omitting and/or from subclause 2(2), substituting or

[31] **Standard 2.5.2** of the Australia New Zealand Food Standards Code is varied by –

[31.1] omitting from the Purpose –

Processing requirements for cream are contained in Standard 4.2.4.

[31.2] omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for cream are contained in Standard 4.2.4.

New Zealand has its own processing requirements for cream.

[32] **Standard 2.5.3** of the Australia New Zealand Food Standards Code is varied by –

[32.1] omitting from the Purpose –

Processing requirements for fermented milk are contained in Standard 4.2.4

[32.2] omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for fermented milk products are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[32.3] omitting and/or from the definition of **fermented milk** in clause 1, substituting or

[32.4] omitting clause 2, substituting –

2 Composition of fermented milk, including yoghurt

(1) Fermented milk may contain other foods.

(2) In fermented milk and the fermented milk portion of a food containing fermented milk, each component or parameter listed in Column 1 must comply with the value specified in Column 2 of the Table to this subclause.

Table to subclause 2(2)

| Column 1 | Column 2 |
|---|-------------------------------|
| Component or parameter | Value |
| protein (measured as crude protein) | minimum 30 g/kg |
| pH | maximum 4.5 |
| microorganisms used in the fermentation | minimum 10 ⁶ cfu/g |

[33] **Standard 2.5.4 of the Australia New Zealand Food Standards Code is varied by –**

[33.1] *omitting from the Purpose –*

Processing requirements for cheese are contained in Standard 4.2.4

[33.2] *omitting the Editorial note preceding the Table of Provisions, substituting –*

Editorial note:

The Australian processing requirements for cheese are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[32.3] *omitting the definition of cheese in clause 1, substituting –*

cheese means the ripened or unripened solid or semi-solid milk product which may be coated and is obtained by one or both of the following processes –

- (a) coagulating wholly or partly milk, or materials obtained from milk, or both, through the action of rennet or other suitable coagulating agents, partially draining the whey which results from such coagulation; or
- (b) processing techniques involving concentration or coagulation of milk, or materials obtained from milk, or both, which give an end-product with similar physical, chemical and organoleptic characteristics as the product described in paragraph (a).

[33.4] *omitting clause 2 substituting –*

2 Addition of other foods during production

Cheese may contain –

- (a) water; and
- (b) lactic acid producing microorganisms; and
- (c) flavour producing microorganisms; and
- (d) gelatine; and
- (e) starch; and
- (f) vinegar; and
- (g) salt.

[33.5] *updating the Table of Provisions to reflect this amendment*

[34] **Standard 2.5.5** of the Australia New Zealand Food Standards Code is varied by –

[34.1] *omitting from the Purpose* –

Processing requirements for butter are contained in Standard 4.2.4

[34.2] *omitting the Editorial note preceding the Table of Provisions, substituting* –

Editorial note:

The Australian processing requirements for butter are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[34.3] *omitting clause 2, substituting* –

2 Composition of butter

Butter must contain no less than 80.0% m/m milkfat.

3 Addition of other foods during production

Butter may contain –

- (a) water; and
- (b) salt; and
- (c) lactic acid producing microorganisms; and
- (d) flavour producing microorganisms.

[34.4] *updating the Table of Provisions to reflect these amendments*

[35] **Standard 2.5.6** of the Australia New Zealand Food Standards Code is varied by –

[35.1] *omitting from the Purpose* –

Processing requirements for ice cream are contained in Standard 4.2.4.

[35.2] *omitting the Editorial note preceding the Table of Provisions, substituting* –

Editorial note:

The Australian processing requirements for ice cream are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[36] **Standard 2.5.7** of the Australia New Zealand Food Standards Code is varied by –

[36.1] *omitting from the Purpose* –

Processing requirements for dried, evaporated and condensed milk are contained in Standard 4.2.4.

[36.2] *omitting the Editorial note preceding the Table of Provisions, substituting* –

Editorial note:

The Australian processing requirements for dried, evaporated and condensed milks are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[36.3] *omitting the definition of **components of milk products** in clause 1*

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

(1) The fat, or protein, or both fat and protein, content of the milk used to make dried milks or condensed milks, may be adjusted to comply with the compositional requirements set out in this Standard, by the addition or withdrawal of milk constituents in such a way as not to alter the whey protein to casein ratio of the milk being adjusted.

[36.5] *omitting subclause 2(3), substituting –*

(3) In addition to the general compositional requirements of this Standard, the milk products listed in Column 1 of the Schedule, when made from cow's milk, must contain the components listed in Column 2, in the corresponding proportions specified in Column 3 of the Schedule.

[36.6] *omitting the Schedule, substituting –*

SCHEDULE

| Column 1 | Column 2 | Column 3 |
|------------------------|------------------------|-------------------------------------|
| Dried whole milks | Milkfat Water | Minimum 26% m/m Maximum 5% m/m |
| Dried skim milks | Milkfat Water | Maximum 1.5% m/m Maximum 5% m/m |
| Condensed whole milks | Milkfat Milk solids | Minimum 8% m/m Minimum 28% m/m |
| Condensed skim milks | Milkfat Milk solids | Maximum 1% m/m Minimum 24% m/m |
| Evaporated whole milks | Milkfat Milk solids | Minimum 7.5% m/m Minimum 25% m/m |
| Evaporated skim milks | Milkfat Milk solids | Maximum 1% m/m Minimum 20% m/m |

[37] ***Standard 2.6.2** of the Australia New Zealand Food Standards Code is varied by –*

[37.1] *omitting the definition of **brewed soft drink** from clause 1, substituting –*

brewed soft drink means the product prepared by a fermentation process from water with sugar and one or more of –

- (a) fruit extractives or infusions; or
- (b) vegetable extractives or infusions.

[37.2] *omitting vitamins and/or minerals from the definition of **formulated beverage** in clause 1, substituting vitamins or minerals or both vitamins and minerals*

[38] ***Standard 2.6.3** of the Australia New Zealand Food Standards Code is varied by –*

[38.1] *omitting the first paragraph from the Purpose, substituting –*

This Standard contains restrictions on the parts of the *Piper methysticum* (kava) plant which may be sold under food legislation, and provides requirements for labelling. The Standard also prohibits the use of kava as an ingredient in food.

[38.2] *omitting and/or from clause 2, substituting or*

[39] **Standard 2.7.1** of the Australia New Zealand Food Standards Code is varied by omitting from the Table to subclause 2(1) –

| | |
|---|--|
| Alcoholic beverages containing not more than 1.15 % alcohol by volume | 'CONTAINS NOT MORE THAN X% ALCOHOL BY VOLUME' or words and expressions of the same or similar effect |
| Beverages containing no less than 0.5% alcohol by volume | |

substituting –

| | |
|---|--|
| Alcoholic beverages containing 1.15% or less alcohol by volume | 'CONTAINS NOT MORE THAN X% ALCOHOL BY VOLUME' or words and expressions of the same or similar effect |
| Beverages containing 0.5% or more, but less than 1.15%, alcohol by volume | |

[40] **Standard 2.7.3** of the Australia New Zealand Food Standards Code is varied by –

[40.1] *omitting the Purpose, substituting –*

Purpose

This Standard defines the composition of fruit wine, vegetable wine, fruit wine product, vegetable wine product, mead, cider and perry.

[40.2] *omitting from clause 1 –*

In this Standard –

substituting –

(1) In this Standard –

[40.3] *omitting the definitions for **fruit wine and/or vegetable wine and fruit wine and/or vegetable wine product** in clause 1*

[40.4] *inserting in clause 1, following the definition of **perry** –*

(2) Any reference to fruit wine or vegetable wine in the Code refers to a product prepared from the complete or partial fermentation of fruit, vegetable, grains, cereals or any combination or preparation of those foods, other than that produced solely from grapes.

(3) Any reference to fruit wine product or vegetable wine product in the Code refers to a food containing no less than 700 mL/L of fruit wine, or vegetable wine, or both fruit and vegetable wine, which has been formulated, processed, modified or mixed with other foods such that it is not a fruit wine or vegetable wine.

[40.5] *omitting clause 2, substituting –*

2 Addition of other foods during production

Fruit wine, vegetable wine and mead may contain –

(a) fruit juice and fruit juice products; and

- (b) vegetable juice and vegetable juice products; and
- (c) sugars; and
- (d) honey; and
- (e) spices; and
- (f) alcohol; and
- (g) water.

[40.6] *updating the Table of Provisions to reflect these amendments*

[41] Standard 2.7.4 of the Australia New Zealand Food Standards Code is varied by –

[41.1] *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.

[41.2] *omitting the Editorial note preceding the Table of Provisions, substituting –*

Editorial note:

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

- (a) the use of geographical indications for wine, sparkling wine and fortified wine;
- (b) limited derogations from the requirements in this Standard for wine, sparkling wine and fortified wine for export;
- (c) blending rules for wine, sparkling wine and fortified wine; and
- (d) 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.

The New Zealand *Geographical Indications (Wines and Spirits) Registration Act 2006* applies to geographical indications in relation to wine. The Act will commence on a date to be proclaimed by the Governor-General of New Zealand.

[41.3] *omitting clause 2, substituting –*

2 Addition of other foods to wine during production

The following foods may be added to wine during production –

- (a) grape juice and grape juice products; and
- (b) sugars; and
- (c) brandy or other spirit; and
- (d) water, where the water is necessary to incorporate any permitted food additive or processing aid.

[42] Standard 2.7.5 of the Australia New Zealand Food Standards Code is varied by –

[42.1] *omitting clauses 2 and 3, substituting –*

2 Addition of other foods to spirit during production

Spirit may contain –

- (a) water; and
- (b) sugars; and
- (c) honey; and
- (d) spices.

3 Addition of other foods to brandy during production

Brandy may contain –

- (a) water; and
- (b) sugars; and
- (c) honey; and
- (d) spices; and
- (e) grape juice; and
- (f) grape juice concentrates; and
- (g) wine; and
- (h) prune juice.

[42.2] *updating the Table of Provisions to reflect these amendments*

[43] *Standard 2.8.1 of the Australia New Zealand Food Standards Code is varied by omitting the second paragraph of the Purpose, substituting –*

Honey is standardised in Standard 2.8.2 and is not covered by this Standard. Standard 1.3.1 regulates intense sweeteners.

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

[44.1] *omitting the definition of **protein substitute** in clause 1, substituting –*

protein substitute means –

- (a) L-amino acids; or
- (b) the hydrolysate of one or more of the proteins on which infant formula product is normally based; or
- (c) a combination of L-amino acids and the hydrolysate of one or more of the proteins on which infant formula product is normally based.

[44.2] *omitting the following entries from the Table to clause 7 –*

| | | | |
|----------------------------|--|---------|---------|
| Adenosine 5'-monophosphate | Adenosine 5'-monophosphate Adenosine 5'-monophosphate sodium salt | 0.14 mg | 0.38 mg |
| Cytidine 5'-monophosphate | Cytidine 5'-monophosphate Cytidine 5'-monophosphate sodium salt | 0.22 mg | 0.6 mg |
| Uridine 5'-monophosphate | Uridine 5'-monophosphate Uridine 5'-monophosphate sodium salt | 0.13 mg | 0.42 mg |

substituting –

| | | | |
|----------------------------|--------------------------------------|---------|---------|
| Adenosine 5'-monophosphate | Adenosine 5'-monophosphate | 0.14 mg | 0.38 mg |
| Cytidine 5'-monophosphate | Cytidine 5'-monophosphate | 0.22 mg | 0.6 mg |
| Uridine 5'-monophosphate | Uridine 5'-monophosphate sodium salt | 0.13 mg | 0.42 mg |

[44.3] *omitting from paragraph 16(2)(e) –*

expressed in weight per 100 mL.

substituting –

expressed in weight per 100 mL when the product is reconstituted in accordance with directions.

[44.4] *omitting paragraph 20(1)(f), substituting –*

- (f) subject to clause 28, a reference to the presence of any nutrient or nutritive substance, except for a reference to a nutrient or nutritive substance in –
 - (i) accordance with clause 30 – Claims relating to lactose free formula or low lactose formulas; or
 - (ii) the statement of ingredients in accordance with Standard 1.2.4 – Labelling of Ingredients; or
 - (iii) the nutrition information statement in accordance with clause 16 of this Standard – Declaration of nutrition information; or

[44.5] *omitting paragraphs 20(2)(a) and 20(2)(b), substituting –*

- (a) the statement of ingredients in accordance with Standard 1.2.4 – Labelling of Ingredients; or
- (b) the nutrition information statement in accordance with clause 16 of this Standard – Declaration of nutrition information.

[44.6] *omitting the Editorial note following the Table to clause 23, substituting –*

Editorial note:

Standard 1.3.4 contains specifications for dried marine microalgae (*Schizochytrium* sp.) rich in docosahexaenoic acid (DHA), oil derived from marine microalgae (*Schizochytrium* sp.) rich in docosahexaenoic acid (DHA), oil derived from the algae *Cryptocodinium cohnii* rich in docosahexaenoic acid (DHA), oil derived from the fungus *Mortierella alpina* rich in arachidonic acid (ARA), and oil derived from marine microalgae (*Ulkenia* sp.) rich in docosahexaenoic acid (DHA).

[45] **Standard 2.9.2** of the Australia New Zealand Food Standards Code is varied by –

[45.1] *omitting the first paragraph from the Purpose, substituting –*

This Standard provides for the compositional (including nutritional) and labelling requirements of foods intended or represented for use as food for infants. Foods in this Standard are intended to be fed to infants in addition to human milk or infant formula products or both. This Standard does not apply to infant formula products, as they are regulated by Standard 2.9.1, nor does it apply to formulated meal replacements and formulated supplementary foods as they are regulated by Standard 2.9.3.

[45.2] *omitting and/or from the definition of **food for infants** in clause 1, substituting or*

[45.3] *omitting following forms: wherever occurring in clause 3, substituting following forms–*

[45.4] *omitting and/or folate from paragraph 4(b), substituting or folate or both*

[46] **Standard 2.9.4** of the Australia New Zealand Food Standards Code is varied by –

[46.1] *omitting paragraph 7(3)(a), substituting –*

- (a) the product is useful before, during, or after sustained strenuous exercise; and

[46.2] *omitting paragraph 8(3)(d), substituting –*

- (d) the product is useful before, during, or after sustained strenuous exercise.

[46.3] *omitting paragraph 9(4)(b), substituting –*

(b) the product is useful before, during or after sustained strenuous exercise.

[47] **Standard 3.2.1** of the Australia New Zealand Food Standards Code is varied by omitting clause 6, substituting –

6 Fund raising events

A food business does not have to prepare a food safety program in accordance with this Standard in relation to a fund raising event conducted by the food business.

[48] **Standard 3.3.1** of the Australia New Zealand Food Standards Code is varied by –

[48.1] *omitting from the Editorial note following subclause 1(2) –*

micro-organisms

substituting –

microorganisms

[48.2] *omitting and/or wherever occurring in the Schedule, substituting or*

[49] **Standard 4.2.1** of the Australia New Zealand Food Standards Code is varied by –

[49.1] *omitting food-borne wherever appearing, substituting foodborne*

[49.2] *omitting the definition of ASQAP Manual in clause 15, substituting –*

ASQAP Manual means the Australian Shellfish Quality Assurance Program Operations Manual.

[49.3] *omitting the definition of batch in clause 15, substituting –*

batch means a quantity of bivalve molluscs harvested from a particular harvesting area (e.g. marine farm, lease or designated wild shellstock harvest area) and with the same harvest date.

[50] **Standard 4.2.4** is varied by omitting and/ or from the Editorial note following subclause 15(5), substituting or

[51] **Standard 4.5.1** of the Australia New Zealand Food Standards Code is varied by omitting subclause 5(4), substituting –

(4) Deleted

[52] **Standard 1.5.1** is varied by –

[52.1] *omitting the entry for Tall oil phytosterol Esters from the Table to clause 3*

[52.2] *inserting the following entry into the Table to clause 2 –*

| | |
|-----------------------------|--|
| Tall oil phytosterol esters | <p>The tall oil phytosterol esters must comply with the specification for tall oil phytosterol esters in the Schedule to Standard 1.3.4.</p> <p>The food must comply with the requirements in clause 2 of Standard 1.2.3.</p> <p>The name 'tall oil phytosterol esters' or 'plant sterol esters' must be used.</p> <p>May only be added to cheese and processed cheese, in accordance with Standard 2.5.4.</p> <p>Foods to which tall oil phytosterol esters have been added must not be used as ingredients in other foods.</p> |
|-----------------------------|--|

[53] **Standard 1.6.2** is varied by omitting from the Table of Provisions—

4 Eviscerated poultry

substituting –

4 Deleted

[54] **Standard 1.6.2** is varied by omitting from the Table of Provisions—

3 Processing of egg products

substituting –

3 Deleted

Draft variations to the *Australia New Zealand Food Standards Code* proposed in the Assessment Report

Subsection 94 of the FSANZ Act provides that standards or variations to standards are legislative instruments, but are not subject to disallowance or sunseting

To commence: on gazettal

[1] *The Australia New Zealand Food Standards Code is varied by omitting micro-organism wherever appearing in the Standards listed in the Table to this item, substituting microorganism –*

Table to Item [1]

Standard 1.6.1
Standard 2.4.2
Standard 2.5.4
Standard 3.2.2
Standard 3.2.3
Standard 3.3.1
Standard 4.2.1
Standard 4.2.3
Standard 4.2.4
Standard 4.5.1

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

[2.1] *omitting subclause 1(1), substituting –*

(1) Unless expressly provided elsewhere in this Code, the provisions of this Code apply to food products –

- (a) sold or prepared for sale in Australia or New Zealand; and
- (b) imported into Australia or New Zealand.

[2.2] *omitting the definition of **Australian Approved Names List** in clause 2*

[2.3] *omitting final product from the definition of **component** in clause 2, substituting final food*

[2.4] *omitting the definition of **fund raising events** in clause 2, substituting –*

fund raising event means an event that raises funds solely for a community or charitable cause and not for personal financial gain.

[2.5] *inserting in alphabetical order in clause 2 –*

Good Manufacturing Practice (GMP), with respect to the addition of additives and processing aids to food, means –

- (a) the quantity of additive or processing aid added to food shall be limited to the lowest possible level necessary to accomplish its desired effect; and
- (b) the quantity of the additive or processing aid that becomes a component of food as a result of its use in the manufacture, processing or packaging of a food, and which is not intended to accomplish any physical or other technical effect in the finished food itself, is reduced to the extent reasonably possible; and

- (c) the additive or processing aids prepared and handled in the same way as a food ingredient.

[2.6] *inserting following clause 15 –*

16 Citation of the United States Code of Federal Regulations (CFR)

(1) In this Code, a reference to the Code of Federal Regulations, or CFR, is a reference to the 2010 compilation of the United States Code of Federal Regulations.

(2) In this Code, the Code of Federal Regulations is cited in the following format –

[title number] CFR § [section number]

[3] *Standard 1.1.2 of the Australia New Zealand Food Standards Code is varied by –*

[3.1] *omitting salt and/or spices from the definition of **cocoa** in clause 1, substituting salt or spices*

[3.2] *omitting the definition of **coffee** in clause 1, substituting –*

coffee means the product prepared by roasting or grinding, or both the roasting and grinding, of coffee beans.

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

[4.1] *omitting paragraph 2(1)(a), substituting –*

(a) the food is not in a package; or

[4.2] *omitting from paragraph 2(2)(a) –*

subclauses 1(1) or (2)

substituting –

subclause 1(2)

[4.3] *omitting subclause 3(1), substituting -*

(1) Subject to subclause (2), food other than food –

- (a) for retail sale; or
- (b) for catering purposes; or
- (c) supplied as an intra company transfer;

must bear a label containing the information prescribed in Standard 1.2.2, except where the food –

- (d) is not in a package; or
- (e) is in an inner package or packages contained in an outer package where the label on the outer package includes the information prescribed in Standard 1.2.2; or
- (f) is in a transportation outer and the information prescribed in Standard 1.2.2 is clearly discernable through the transportation outer on the labels on the packages within.

[4.4] *omitting paragraph 5(2)(c), substituting –*

(c) an outer package where the –

- (i) label on the outer package includes the information prescribed in Standard 1.2.2; and

- (ii) food in the inner package is labelled in accordance with subclause (1); or
- (d) an outer package where the –
 - (i) information prescribed in clause 3 of Standard 1.2.2 is provided in documentation accompanying that food; and
 - (ii) label on the outer package includes the information prescribed in clauses 1 and 2 of Standard 1.2.2; and
 - (iii) food in the inner package is labelled in accordance with subclause (1).

[4.5] *omitting from subclause 6(4) –*

catering purposes,

substituting –

catering purposes

[4.6] *omitting and/or wherever appearing in Column 2 of the Table to clause 8, substituting or*

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

[5.1] *inserting and warning after mandatory advisory in the Purpose.*

[5.2] *omitting from the heading to clause 3 –*

and declarations

[5.3] *omitting advisory statement from subclause 3(2), substituting warning statement*

[5.4] *omitting from the Table to clause 4 –*

| |
|--|
| Fish and fish products, except for isinglass derived from swim bladders and used as a clarifying agent in beer and wine. |
| Peanuts and soybeans, and their products |
| Tree nuts and sesame seeds and their products other than coconut from the fruit of the palm <i>Cocos nucifera</i> |

substituting –

| |
|---|
| Fish and fish products, except for isinglass derived from swim bladders and used as a clarifying agent in beer and wine |
| Peanuts and peanut products |
| Soybeans and soybean products |
| Tree nuts and tree nut products other than coconut from the fruit of the palm <i>Cocos nucifera</i> |
| Sesame seeds and sesame seed products |

[5.5] *updating the Table of Provisions to reflect these amendments*

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

[6.1] *omitting clause 2, substituting –*

2 Requirement for statement of ingredients

The label on a package of food must include a statement of ingredients unless –

- (a) the food is labelled with the name of the food which would otherwise be those ingredients listed in the ingredient list; or

- (b) the food is water presented in packaged form as standardised in Standard 2.6.2; or
- (c) the food is an alcoholic beverage standardised in Standard 2.7.2 to Standard 2.7.5 of this Code; or
- (d) the food is contained in a small package.

[6.2] *omitting and/or from the entry for milk solids in the Table to clause 4, substituting or*

[6.3] *omitting and/or wherever appearing in clause 5, substituting or*

[6.4] *omitting clause 6, substituting –*

6 Declaration of compound ingredients

(1) A compound ingredient must be declared in the statement of ingredients either –

- (a) by declaring the compound ingredient by name in its appropriate place in the statement of ingredients, and listing its ingredients in brackets after the name of the compound ingredient, in descending order of ingoing weight in the compound ingredient, as specified in the Table to this clause; or
- (b) by declaring all of the ingredients of the compound ingredient separately as if they were individual ingredients of the final food.

(2) However, paragraph 6(1)(a) does not apply to food standardised in Standard 2.9.2.

(3) The ingredients in an alcoholic beverage, standardised in Standards 2.7.2 to 2.7.5 of this Code, do not need to be declared in a statement of ingredients if the alcoholic beverage has been declared as an ingredient in the food.

Table to clause 6

| Amount of compound ingredient in the food | Ingredients of the compound ingredient to be included in the statement of ingredients |
|--|--|
| 5% or more | All ingredients |
| less than 5% | 1. If applicable, any substance listed in the Table to clause 4 of Standard 1.2.3; and 2. all food additives in the compound ingredient that perform a technological function in the final food |

Editorial note:

An example for clause 6 is the statement of ingredients for canned spaghetti, which could read

‘spaghetti (wheat flour, water), meat, sugar, water’

under option (a) or

‘wheat flour, meat, sugar, water’

under option (b).

[6.5] *omitting subclause 8(2), substituting –*

(2) Where an additive must be declared and its technological function in the food can be classified in one of the classes of additives listed in Schedule 1 of this Standard the additive must be declared by the name of that class followed by the additive’s prescribed name or code number in brackets, as indicated in Schedule 2 of this Standard.

[6.6] *inserting for its technological function in the food in subclause 8(4), before must be used*

[6.7] *omitting subclause 8(5), substituting –*

(5) Where a food additive's technological function in the food cannot be classified in one of the classes specified in Schedule 1, it must be declared in the statement of ingredients by use of its prescribed name, as indicated in Schedule 2 of this Standard.

[6.8] *inserting following clause 9 –*

10 Process declaration for oil

If a food contains oil as an ingredient, and the specific name of the oil is used on the label of the food, the label must include the statement prescribed in clause 3 of Standard 2.4.1.

[6.9] *inserting the following entries in alphabetical order into Part 1 of Schedule 2 –*

| | |
|----------------------------|------|
| Sodium gluconate | 576 |
| Acetylated oxidised starch | 1451 |

[6.10] *inserting the following entries in numerical order into Part 2 of Schedule 2 –*

| | |
|----------------------------|------|
| Sodium gluconate | 576 |
| Acetylated oxidised starch | 1451 |

[6.11] *updating the Table of Provisions to reflect these amendments*

[7] **Standard 1.2.5** of the Australia New Zealand Food Standards Code is varied by –

[7.1] *omitting from the definition of **use-by date** in clause 1 health and safety, substituting health or safety*

[7.2] *omitting clause 5 and the Examples under clause 5, substituting –*

5 Prescribed form of date

(1) If the best-before date or use-by date of a food is not more than 3 months from the date it is applied, the date mark must consist at least of the day and month, expressed in that order.

(2) If the best-before date or use-by date of a food is more than 3 months from the date it is applied, the date mark must consist at least of the month and year, expressed in that order.

(3) The best-before date and use-by date must be expressed in numerical form, except for the month which may be expressed in letters. Where the month is expressed in letters, the month may precede the day.

(4) The day, month and year so expressed within the best-before or use-by date must be distinguishable.

Examples:

For paragraph 5(1) –

3 Dec or 3 12
3 12 99 or 3 Dec 99

For paragraph 5(2) –

Dec 99 or 12 99
3 12 99 or 3 Dec 99

For paragraph 5(3) –

3 Dec 99 or Dec 3 99

[7.3] *omitting clause 6, substituting –*

6 Statement of storage conditions

The label on a package of food must include a statement of any specific storage conditions required to ensure that the food will keep for the period indicated by the use-by date, or the best-before date.

[7.4] *omitting subclause 7(2), substituting –*

(2) Subclause (1) does not preclude the label on a package of food from including a packed-on date or a manufacturer's or packer's code in addition to the required use-by date or best-before date.

[8] Standard 1.2.6 of the Australia New Zealand Food Standards Code is varied by –

[8.1] *omitting the Purpose, substituting –*

Purpose

This Standard requires directions for use or storage of food to be included on a label where, for reasons of health or safety, consumers should be informed of specific use or storage requirements.

[8.2] *omitting clauses 1, 2 and 3 and the Table to clause 3, substituting –*

1 Directions for use and storage of food

(1) The label on a package of food must include directions for the use of the food or the storage of the food, or both, if the food is of such a nature as to require the directions for health or safety reasons.

(2) If food is unpackaged, the food must either be labelled with, or accompanied by, directions for the use of the food or the storage of the food, or both, if the food is of such a nature as to require the directions for health or safety reasons.

(3) If the food is of a kind listed in column 1 of the Table to this clause, the food must be labelled with, or accompanied by, the directions for use set out in column 2.

Table to clause 1

| Column 1 | Column 2 |
|-------------------|--|
| Food | Directions for use |
| Raw bamboo shoots | A statement that indicates that bamboo shoots should be fully cooked before being consumed. |
| Raw sweet cassava | A statement that indicates that sweet cassava should be peeled and fully cooked before being consumed. |

[8.3] *updating the Table of Provisions to reflect these amendments*

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

[9.1] *omitting acids after bonds from the definition of **polyunsaturated fatty acids** in clause 1*

[9.2] *omitting acids after bonds from the definition of **saturated fatty acids** in clause 1*

[9.3] *omitting acids after configuration from the definition of **trans fatty acids** in clause 1*

[9.4] *omitting clause 3, substituting –*

3 Nutrition information requirements and exemptions

Subject to clause 4, the label on a package of food must include a nutrition information panel except where the food is –

- (a) deleted
- (b) an alcoholic beverage standardised in Standard 2.7.2 to Standard 2.7.5 of this Code; or
- (c) a herb, a spice, a herbal infusion; or
- (d) vinegar and related products as standardised in Standard 2.10.1; or
- (e) salt and salt products as standardised in Standard 2.10.2; or
- (f) tea, decaffeinated tea, decaffeinated instant or soluble tea, instant or soluble tea, coffee, decaffeinated coffee, decaffeinated instant or soluble coffee, instant or soluble coffee, as defined in Standard 1.1.2; or
- (g) an additive for the purposes of Standard 1.3.1; or
- (h) a processing aid as defined in Standard 1.3.3; or
- (i) fruit, vegetables, meat, poultry, and fish that comprise a single ingredient or category of ingredients; or
- (j) in a small package; or
- (k) gelatine as defined in Standard 1.1.2; or
- (l) water, or mineral water or spring water as defined in Standard 2.6.2; or
- (m) prepared filled rolls, sandwiches, bagels and similar products; or
- (n) jam setting compound; or
- (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; or
- (p) a beverage containing no less than 0.5% alcohol by volume that is not standardised in Standard 2.7.2 to Standard 2.7.5 of this Code; or
- (q) kava as standardised in Standard 2.6.3.

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

(7) The information prescribed in subclause (4) and subclause (5), where required to be included in a nutritional information panel, must be set out in the following format –

| NUTRITION INFORMATION | | |
|---|----------------------|--------------------------------|
| Servings per package: (insert number of servings) | | |
| Serving size: g (or mL or other units as appropriate) | | |
| | Quantity per Serving | Quantity per 100 g (or 100 mL) |
| Energy | kJ (Cal) | kJ (Cal) |
| Protein, total | g | g |
| – * | g | g |
| Fat, total | g | g |
| – saturated | g | g |
| – ** | g | g |
| – trans | g | g |
| – ** | g | g |
| – polyunsaturated | g | g |
| – ** | g | g |
| – monounsaturated | g | g |
| – ** | g | g |
| Cholesterol | mg | mg |
| Carbohydrate | g | g |
| – sugars | g | g |
| – ** | g | g |

| | | |
|---|---|---|
| - ** | g | g |
| - ** | g | g |
| Dietary fibre, total | g | g |
| - ** | g | g |
| Sodium | mg (mmol) | mg (mmol) |
| (insert any other nutrient or biologically active substance to be declared) | g, mg, µg (or other units as appropriate) | g, mg, µg (or other units as appropriate) |

*a sub-group nutrient **a sub-sub-group nutrient

[9.6] *inserting in clause 10 following must–*

include the particulars set out in each column of the panel expressed as a proportion of the drained food, and must

[9.7] *omitting clause 11, substituting –*

11 Food intended to be prepared or consumed with other food

The label on a package of food intended to be prepared or consumed with at least one other food, may include an additional column at the right hand side of the panel, specifying, in the same manner as set out the panel, descriptions and quantities of the additional food or foods, together with the average energy content of the combined foods and the average quantities of nutrients and biologically active substances contained in the combined foods.

[9.8] *omitting subclause 13(5), substituting –*

(5) Where a nutrition claim is made in accordance with subclause (3) or subclause (4), the declarations in the nutrition information panel must indicate the source of omega 3 fatty acids, namely –

- (a) alpha-linolenic acid; or
- (b) docosahexaenoic acid; or
- (c) eicosapentaenoic acid; or
- (d) a combination of the above.

[10] **Standard 1.2.9** of the Australia New Zealand Food Standards Code is varied by –

[10.1] *omitting 3mm from subclause 3(a), substituting 3 mm*

[10.2] *omitting 1.5mm from subclause 3(b), substituting 1.5 mm*

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

[11.1] *omitting fund raising events from paragraph 2(4)(e), substituting a fund raising event*

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

(2) If the percentage declared is 5% or greater, it must be rounded to the nearest whole percent. If the percentage declared is below 5%, it may be rounded to the nearest 0.5 percent.

[11.3] *omitting subclause 7(2), substituting –*

(2) If the percentage declared is 5% or greater, it must be rounded to the nearest whole percent. If the percentage declared is below 5%, it may be rounded to the nearest 0.5 percent.

[12] **Standard 1.2.11** of the Australia New Zealand Food Standards Code is varied by –

[12.1] *omitting subclauses 1(4) and 1(5)*

[12.2] *omitting* local and/or imported *from Column 2 of the Table to subclause 2(2), substituting* local and imported

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

[13.1] *omitting clause 3, substituting* –

3 Permitted use of additives

(1) The additives listed by name or number in Schedules 1, 2, 3 and 4 may be added to a food or class of food to perform technological functions provided that –

- (a) the use complies with any restrictions on use listed in Schedule 1; and
- (b) the proportion of the additive is no more than the maximum level necessary to achieve one or more technological functions under the conditions of Good Manufacturing Practice (GMP).

(2) The additives in Schedule 2 may be present in processed foods as a result of use in accordance with GMP, except where expressly prohibited in Schedule 1.

(3) The colours in Schedule 3 may be present in processed foods as a result of use in accordance with GMP except where expressly prohibited in Schedule 1.

(4) The colours in Schedule 4 may be present in processed foods to a combined maximum level of 290 mg/kg in foods, and 70 mg/L in beverages, except where expressly prohibited in Schedule 1.

[13.2] *omitting from subclause 6(2)* –

calculated by:

substituting –

calculated by –

[13.3] *omitting from clause 7* –

Other than by direct addition, a food

substituting –

A food

[13.4] *omitting clause 11, substituting* –

11 Permitted flavouring substances

Permitted flavouring substances, for the purposes of this Standard, are –

- (a) Flavouring substances which are listed in at least one of the following publications –
 - (i) *Food Technology, A Publication of the Institute of Food Technologists, Generally Recognised as Safe (GRAS) lists of flavouring substances published by the Flavour and Extract Manufacturers' Association of the United States from 1960 to June 2009; or*
 - (ii) *Chemically-defined flavouring substances, Council of Europe, November 2000; or*
 - (iii) *21 CFR § 172.515; or*

- (b) Flavouring substances obtained by physical, microbiological, enzymatic, or chemical processes from material of vegetable or animal origin either in its raw state or after processing by traditional preparation process including drying, roasting and fermentation; or
- (c) Flavouring substances obtained by synthetic means which are identical to any of the flavouring substances described in subparagraph (b).

[13.7] *omitting from Schedule 1 under item 0 GENERAL PROVISIONS –*

Additives in Schedule 2 may be present in processed foods as a result of use in accordance with GMP except where expressly prohibited in this schedule.

Colours in Schedule 3 may be present in processed foods as a result of use in accordance with GMP except where expressly prohibited in this schedule.

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

For an explanation and examples of the different food additive classifications in Schedule 1, please refer to the user guide to Standard 1.3.1 - Food Additives.

The asterisk (*) in Schedule 1 indicates that additives in Schedules 2, 3 and 4 are permitted.

[13.8] *omitting from Schedule 1 item 1.1.3 Liquid milk to which phytosterols, phytostanols or their esters have been added, substituting –*

1.1.3 Liquid milk to which phytosterols, phytostanols or their esters have been added

| | | | |
|-----|---------------------------------------|------|-------|
| 401 | Sodium alginate | 2000 | mg/kg |
| 407 | Carrageenan | 2000 | mg/kg |
| 412 | Guar gum | 2000 | mg/kg |
| 471 | Mono- and diglycerides of fatty acids | 2000 | mg/kg |
| 460 | Microcrystalline cellulose | 5000 | mg/kg |

[13.9] *omitting from Schedule 1 from the heading for item 1.4.2 Cream products (flavoured, whipped, thickened, sour cream etc.) –*

sour cream etc.

substituting –

sour cream etc

[13.10] *omitting from Schedule 1 from the heading for item 4.1.3 Peeled and/or cut fruits and vegetables –*

and/or

substituting –

or

[13.11] *omitting from Schedule 1 under item 6.4 Flour products (including noodles and pasta)*, the entries –*

| | | | | |
|-----|------------------------|-----|-------|--|
| 234 | Nisin | 250 | mg/kg | Flour products that are cooked on hot plates only e.g. crumpets, pikelets, flapjacks, etc. |
| 243 | Ethyl lauroyl arginate | 200 | mg/kg | cooked pasta and noodles only |

substituting –

| | | | | |
|-----|------------------------|-----|-------|---|
| 234 | Nisin | 250 | mg/kg | Flour products that are cooked on hot plates only e.g. crumpets, pikelets, and flapjacks. |
| 243 | Ethyl lauroyl arginate | 200 | mg/kg | Cooked pasta and noodles only |

[13.12] *omitting from Schedule 1 wherever appearing in item 10.4 Dried and/or heat coagulated egg products, the words and/or, substituting or*

[13.13] *omitting from Schedule 1 from the heading for item 14.2 Alcoholic beverages (including no and low alcohol) –*

(including no and low alcohol)

substituting –

(including alcoholic beverages that have had the alcohol reduced or removed)

[13.14] *omitting from Schedule 1 the heading under item 20.2 Food other than beverages* -*

soup bases (made up as directed)

substituting –

soup

[13.15] *inserting in columns 1 and 2 respectively in each of the listings in Schedule 2 (Alphabetical Order and Numeric Order) –*

| | |
|------|----------------------------|
| 576 | Sodium gluconate |
| 1451 | Acetylated oxidised starch |

[13.16] *omitting wherever appearing in Schedule 4 –*

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

substituting –

Colours permitted to a combined maximum level of 290 mg/kg in processed foods, and a combined maximum level of 70 mg/L in beverages, except where expressly prohibited in Schedule 1

[13.17] *omitting wherever appearing in Schedule 5 under the Definition column –*

taste and/or odour

substituting –

taste or odour

[14] **Standard 1.3.2** of the Australia New Zealand Food Standards Code is varied by –

[14.1] *omitting and/or wherever appearing in the definition of claimable food in clause 1, substituting or*

[14.2] *omitting a mixture of from the definition of claimable food in clause 1, substituting two or more of the following*

[14.3] *omitting thiamine wherever appearing in the Table to clause 3, substituting thiamin*

[14.4] *omitting and/or wherever appearing in the Table to clause 3, substituting or*

[14.5] *omitting from the Table to clause 3 –*

| | | | | |
|---|--------|---|--|------------------|
| Edible oils and spreads | | | | |
| Edible oil spreads and margarine: – containing no more than 28% total saturated fatty acids and trans fatty acids | 10 g | Vitamin A Vitamin D Vitamin E | 110 µg (15%) 1.0 µg (10%) 3.5 mg (35%) | 125 µg 1.6 µg |
| Sunflower oil and safflower oil – other edible oils – containing no more than 28% total saturated fatty acids and trans fatty acids | 10 g | Vitamin E | 7.0 mg (70%) 3.0 mg (30%) | |
| Fruit juice, vegetable juice, fruit drink and fruit cordial | | | | |
| Fruit juice, reconstituted fruit juice, concentrated fruit juice: – Blackcurrant – Guava – Other fruit juice – Mango – Pawpaw – Other fruit juice | 200 mL | Calcium Folate Vitamin C Carotene forms of Vitamin A | 200 mg (25%) 100 µg (50%) 500 mg (12.5 times) 400 mg (10 times) 120 mg (3 times) 800 µg (1.1 times) 300 µg (40%) 200 µg (25%) | |

| | | | | |
|---|--------|---|---|--|
| Tomato juice, concentrated tomato juice | 200 mL | Vitamin C Carotene forms of Vitamin A Folate Calcium | 60 mg (1.5 times) 200 µg (25%) 100 µg (50%) 200 mg (25%) | |
|---|--------|---|---|--|

substituting –

| | | | | |
|--|--------|---|---|------------------|
| Edible oils and spreads | | | | |
| Edible oil spreads and margarine | 10 g | Vitamin A Vitamin D | 110 µg (15%) 1.0 µg (10%) | 125 µg 1.6 µg |
| Edible oil spreads and margarine containing no more than 28% total saturated fatty acids and trans fatty acids | 10 g | Vitamin E | 3.5 mg (35%) | |
| Sunflower oil and safflower oil | 10 g | Vitamin E | 7.0 mg (70%) | |
| Edible oils (except sunflower and safflower oil) containing no more than 28% total saturated fatty acids and trans fatty acids | 10 g | Vitamin E | 3.0 mg (30%) | |
| Fruit juice, vegetable juice, fruit drink and fruit cordial | | | | |
| All fruit juice and concentrated fruit juice | 200 mL | Calcium Folate Vitamin C Carotene forms of Vitamin A | 200 mg (25%) 100 µg (50%) 120 mg (3 times) 200 µg (25%) | |
| Blackcurrant juice, concentrated blackcurrant juice | 200 mL | Vitamin C | 500 mg (12.5 times) | |
| Guava juice, concentrated guava juice | 200 mL | Vitamin C | 400 mg (10 times) | |
| Mango juice | 200 mL | Carotene forms of Vitamin A | 800 µg (1.1 times) | |
| Pawpaw juice, concentrated pawpaw juice | 200 mL | Carotene forms of Vitamin A | 300 µg (40%) | |
| Tomato juice, concentrated tomato juice | 200 mL | Vitamin C Carotene forms of Vitamin A Folate Calcium | 60 mg (1.5 times) 200 µg (25%) 100 µg (50%) 200 mg (25%) | |

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

[15.1] *omitting the definition of **GMP***

[15.2] *omitting paragraph (b) from the definition of **processing aid** in clause 1, substituting –*

- (b) the proportion of the processing aid is no more than the maximum level necessary to achieve one or more technological functions under conditions of Good Manufacturing Practice (GMP).

[15.3] *omitting final food from clause 11, substituting water*

[15.4] *omitting Food from the heading to the Table to clause 14, substituting Function*

[15.5] *omitting from the Table to clause 14 –*

| | | |
|---|---|-----|
| Lactoperoxidase from bovine milk EC 1.11.1.7 | Reduce and/or inhibit bacterial population on meat surfaces | GMP |
|---|---|-----|

substituting –

| | | |
|---|---|-----|
| Lactoperoxidase from bovine milk EC 1.11.1.7 | Reduce the bacterial population or inhibit bacterial growth | GMP |
|---|---|-----|

[15.6] *inserting in the Table to clause 14 –*

| | | |
|---|--|-----|
| Colours permitted in schedules 2, 3 and 4 of Standard 1.3.1 | Applied to the outer surface of meat as a brand for the purposes of inspection or identification | GMP |
|---|--|-----|

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

[16.1] *omitting the Purpose, substituting –*

Purpose

This Standard ensures that food additives, processing aids, vitamins and minerals and other nutrients added to food in accordance with this Code meet appropriate specifications for identity and purity. In general, these specifications are those used by the international community.

[16.2] *omitting clauses 1, 2 and 3, substituting –*

1 Application

This Standard applies only to the following substances which are added to food in accordance with this Code, or sold for use in food –

- (a) food additives;
- (b) processing aids;
- (c) vitamins and minerals;
- (d) novel food substances; and
- (e) nutritive substances.

2 Substances with specifications in primary sources

A substance must comply with a relevant monograph (if any) published in one of the following –

- (a) the Schedule to this Standard; or
- (b) Combined Compendium of Food Additive Specifications, FAO JECFA Monograph 1 (2005) as superseded by specifications published in FAO JECFA Monographs 3 (2006) and FAO JECFA Monographs 4 (2007) and FAO JECFA Monographs 5 (2008) and FAO JECFA Monographs 7 (2009) and FAO JECFA Monographs 10 (2010), Food and Agriculture Organisation of the United Nations, Rome; or
- (c) *Food Chemicals Codex* (7th Edition) published by United States Pharmacopoeia (2010).

3 Substances with specifications in secondary sources

If there is no monograph applying to a substance under clause 2, the substance must comply with a relevant monograph (if any) published in one of the following –

- (a) the *British Pharmacopoeia 2010*, TSO, Norwich (2010); or
- (b) the United States Pharmacopeia, 34th Revision and The National Formulary, 29th Edition (2010); or
- (c) the Pharmaceutical Codex, 12th Edition, Council of the Pharmaceutical Society of Great Britain. The Pharmaceutical Press, London (1994); or
- (d) Martindale; The Complete Drug Reference. The Pharmaceutical Press London (2009); or
- (e) the European Pharmacopoeia 6th Edition, Council of Europe, Strasbourg (2007); or
- (f) the International Pharmacopoeia 4th Edition, World Health Organization, Geneva (2006 and 2008 supplement); or
- (g) the Merck Index, 14th Edition, (2006); or
- (h) the Code of Federal Regulations; or
- (i) the *Specifications and Standards for Food Additives*, 7th Edition (2000), Ministry of Health and Welfare (Japan); or
- (j) the *International Oenological Codex* (2010 supplementary edition), Organisation Internationale de la Vigne et du Vin (OIV).

[16.3] *omitting paragraph 4(c), substituting –*

- (c) 1 mg/kg of cadmium;
- (d) 1 mg/kg of mercury.

[16.4] *omitting from paragraph (c) under the Specification for carboxymethyl cellulose ion exchange resin in the Schedule –*

CFR Title 21 part 173.25(c)(4)

substituting –

21 CFR § 173.25(c)(4)

[16.5] *omitting from paragraph (c) under the Specification for quaternary amine cellulose ion exchange resin in the Schedule –*

CFR Title 21 part 173.25(c)(4)

substituting–

21 CFR § 173.25(c)(4)

[16.6] *omitting from paragraph (c) under the Specification for diethyl aminoethyl cellulose ion exchange resin in the Schedule –*

CFR Title 21 part 173.25(c)(4)

substituting–

21 CFR § 173.25(c)(4)

[16.7] *omitting from paragraph (c) under the Specification for agarose ion exchange resin in the Schedule –*

CFR Title 21 part 173.25(c)(4)

substituting –

21 CFR § 173.25(c)(4)

[16.8] omitting from the Schedule the entries for–

Specification for docosahexaenoic acid (DHA) – rich dried marine micro-algae (*Schizochytrium* sp.)

Specification for docosahexaenoic acid (DHA) – rich oil derived from marine micro-algae (*Schizochytrium* sp.)

Specification for docosahexaenoic acid (DHA) – rich oil derived from the algae *Cryptocodinium cohnii*

Specification for oil derived from the fungus *Mortierella alpina* rich in arachidonic acid (ARA)

Specification for docosahexaenoic acid (DHA) - rich oil derived from marine micro-algae (*Ulkenia* sp.)

substituting –

Specification for dried marine micro-algae (*Schizochytrium* sp.) rich in docosahexaenoic acid (DHA)

| | |
|----------------------------|--|
| Full chemical name for DHA | 4,7,10,13,16,19-docosahexaenoic acid (22:6n-3 DHA) |
| Solids (%) | min. 95.0 |
| DHA (%) | min. 15.0 |
| Lead (mg/kg) | max. 0.5 |
| Arsenic (mg/kg) | max. 0.5 |

Specification for oil derived from marine micro-algae (*Schizochytrium* sp.) rich in docosahexaenoic acid (DHA)

| | |
|----------------------------|--|
| Full chemical name for DHA | 4,7,10,13,16,19-docosahexaenoic acid (22:6n-3 DHA) |
| DHA (%) | min. 32 |
| Trans fatty acids (%) | max. 2.0 |
| Lead (mg/kg) | max. 0.1 |
| Arsenic (mg/kg) | max. 0.1 |
| Mercury (mg/kg) | max. 0.1 |
| Hexane (mg/kg) | max. 0.3 |

Specification for oil derived from the algae *Cryptocodinium cohnii* rich in docosahexaenoic acid (DHA)

| | |
|----------------------------|--|
| Full chemical name for DHA | 4,7,10,13,16,19-docosahexaenoic acid (22:6n-3) |
| DHA (%) | min. 35 |
| Trans fatty acids (%) | max. 2.0 |
| Lead (mg/kg) | max. 0.1 |
| Arsenic (mg/kg) | max. 0.1 |
| Mercury (mg/kg) | max. 0.1 |
| Hexane (mg/kg) | max. 0.3 |

Specification for oil derived from the fungus *Mortierella alpina* rich in arachidonic acid (ARA)

| | |
|----------------------------|---|
| Full chemical name for ARA | 5,8,11,14-eicosatetraenoic acid (20:4n-6 ARA) |
| ARA (%) | min. 35 |
| Trans fatty acids (%) | max. 2.0 |
| Lead (mg/kg) | max. 0.1 |
| Arsenic (mg/kg) | max. 0.1 |
| Mercury (mg/kg) | max. 0.1 |
| Hexane (mg/kg) | max. 0.3 |

Specification for oil derived from marine micro-algae (*Ulkenia* sp.) rich in docosahexaenoic acid (DHA)

| | |
|----------------------------|--|
| Full chemical name for DHA | 4,7,10,13,16,19-docosahexaenoic acid (22:6n-3 DHA) |
| DHA (%) | min. 32 |
| Trans fatty acids (%) | max. 2.0 |
| Lead (mg/kg) | max. 0.2 |
| Arsenic (mg/kg) | max. 0.2 |
| Mercury (mg/kg) | max. 0.2 |
| Hexane (mg/kg) | max. 10 |

[17] **Standard 1.4.1** of the Australia New Zealand Food Standards Code is varied by –

[17.1] *omitting from the Purpose* –

Consideration has also been given to Australia's and New Zealand's international trade obligations under the World Trade Organization's Sanitary and Phytosanitary Agreement and Technical Barrier to Trade Agreement.

In order to assist both enforcement agencies and industry to maintain contaminant levels at the lowest achievable levels, Generally Expected Levels (GELs), have been established to complement the use of MLs. GELs, while not legally enforceable, provide a benchmark against which to measure contaminant levels in foods. The list of GELs is provided in the User Guide – Generally Expected Levels (GELs) for Metal Contaminants.

substituting –

Consideration has also been given to Australia's and New Zealand's international trade obligations under the World Trade Organization's Agreement on the Application of Sanitary and Phytosanitary Measures and the Agreement on Technical Barriers to Trade.

[17.2] *omitting from subclause 1(5)* –

(edible kelp)

[17.3] *omitting the definitions for **food** and **metal contaminant** in subclause 2(1), substituting* –

food means the food or class of foods listed in Column 2 of the Table to this clause.

metal contaminant means a substance listed in Column 1 of the Table to this clause and includes compounds of a metal.

[17.4] *omitting subclauses 2(2) and 2(3), substituting* -

(2) The maximum levels for metal contaminants in food are listed in Column 3 of the Table to this clause.

(3) Where a mixed food contains food or a class of foods listed in Column 2 of the Table to this clause, the proportion of the metal contaminant permitted to be present in the mixed food (ML1) is calculated in accordance with the formula prescribed in subclause 1(6).

[17.5] *omitting the Table to clause 2, substituting* –

Table to clause 2

| Column 1 Contaminant | Column 2 Food | Column 3 Maximum level |
|---------------------------------|--|--|
| Arsenic (total) | Cereals | 1 mg/kg |
| Arsenic (inorganic) | Crustacea Fish Molluscs Seaweed | 2 mg/kg 2 mg/kg 1 mg/kg 1 mg/kg |
| Cadmium | Chocolate and cocoa products, excluding cocoa products which are made entirely of the whole or part of the cocoa bean Kidney of cattle, sheep and pig Leafy vegetables (as specified in Schedule 4 to Standard 1.4.2) Liver of cattle, sheep and pig Meat of cattle, sheep and pig (excluding offal) Molluscs (excluding dredge/bluff oysters and queen scallops) Peanuts Rice Root and tuber vegetables (as specified in Schedule 4 to Standard 1.4.2) Wheat | 0.5 mg/kg 2.5 mg/kg 0.1 mg/kg 1.25 mg/kg 0.05 mg/kg 2 mg/kg 0.5 mg/kg 0.1 mg/kg 0.1 mg/kg 0.1 mg/kg |
| Lead | Brassicas Cereals, Pulses and Legumes Edible offal of cattle, sheep, pig and poultry Fish Fruit Infant formulae Meat of cattle, sheep, pig and poultry (excluding offal) Molluscs Vegetables (except brassicas) | 0.3 mg/kg 0.2 mg/kg 0.5 mg/kg 0.5 mg/kg 0.1 mg/kg 0.02 mg/kg 0.1 mg/kg 2 mg/kg 0.1 mg/kg |
| Mercury | Crustacea Fish (as specified in Schedule 4 to Standard 1.4.2) and fish products, excluding gemfish, billfish (including marlin), southern bluefin tuna, barramundi, ling, orange roughy, rays and all species of shark Gemfish, billfish (including marlin), southern bluefin tuna, barramundi, ling, orange roughy, rays and all species of shark Fish for which insufficient samples are available to analyse in accordance with clause 6 Molluscs | mean level of 0.5 mg/kg* mean level of 0.5 mg/kg* mean level of 1 mg/kg* 1 mg/kg mean level of 0.5 mg/kg* |
| Tin | All canned foods | 250 mg/kg |

* A reference to a mean level in the Table to clause 2 in this Standard is to the mean level of mercury in the prescribed number of sample units as described in clause 6 of this Standard.

[17.6] *omitting the definition of **food** in subclause 3(1), substituting –*

food means the food or class of foods listed in Column 2 of the Table to this clause.

[17.7] *omitting the definition of **non-metal contaminant** in subclause 3(1), substituting –*

non-metal contaminant means a substance listed in Column 1 of the Table to this clause.

[17.8] *omitting subclauses 3(2) and 3(3), substituting –*

(2) The maximum levels for non-metal contaminants in food are listed in Column 3 of the Table to this clause.

(3) Where a mixed food contains a food or class of foods listed in Column 2 of the Table to this clause, the proportion of the non-metal contaminant permitted to be present in the mixed food (ML1) is calculated in accordance with the formula prescribed in subclause 1(6).

[17.9] *omitting the Table to clause 3, substituting –*

Table to clause 3

| Column 1 Contaminant | Column 2 Food | Column 3 Maximum level |
|--|---|--|
| Acrylonitrile | All food | 0.02 mg/kg |
| Aflatoxin | Peanuts Tree nuts (as specified in Schedule 4 to Standard 1.4.2) | 0.015 mg/kg 0.015 mg/kg |
| Amnesic shellfish poisons (Domoic acid equivalent) | Bivalve molluscs | 20 mg/kg |
| 3-chloro-1,2-propanediol | Soy sauce and oyster sauce | 0.2 mg/kg calculated on a 40% dry matter content |
| Diarrhetic shellfish poisons (Okadaic acid equivalent) | Bivalve molluscs | 0.2 mg/kg |
| 1,3-dichloro-2-propanol | Soy sauce and oyster sauce | 0.005 mg/kg calculated on a 40% dry matter content |
| Ergot | Cereal grains | 500 mg/kg |
| Methanol | Red wine, white wine and fortified wine Whisky, Rum, Gin and Vodka Other spirits, fruit wine, vegetable wine and mead | 3 g of methanol per litre of ethanol 0.4 g of methanol per litre of ethanol 8 g of methanol per litre of ethanol |
| Neurotoxic shellfish poisons | Bivalve molluscs | 200 MU/kg |
| Paralytic shellfish poisons (Saxitoxin equivalent) | Bivalve molluscs | 0.8 mg/kg |
| Phomopsins | Lupin seeds and the products of lupin seeds | 0.005 mg/kg |
| Polychlorinated biphenyls, total | Mammalian fat Poultry fat Milk and milk products Eggs Fish | 0.2 mg/kg 0.2 mg/kg 0.2 mg/kg 0.2 mg/kg 0.5 mg/kg |
| Vinyl chloride | All food | 0.01 mg/kg |

[17.10] *omitting the definition of **food** in subclause 4(1), substituting –*

food means the food or class of foods listed in Column 2 of the Table to this clause.

[17.11] *omitting in bold type from the definition of **natural toxicant** from the addition of a **flavouring substance** in subclause 4(1)*

[17.12] *omitting subclauses 4(2) and 4(3), substituting –*

(2) The maximum levels for natural toxicants from the addition of a flavouring substance in food are listed in Column 3 of the Table to this clause.

(3) Where a mixed food contains a food or class of foods listed in Column 2 of the Table to this clause, the proportion of the natural toxicant from the addition of a flavouring substance permitted to be present in the mixed food (ML1) is calculated in accordance with the formula prescribed in subclause 1(6).

[17.13] *omitting the Table to clause 4, substituting –*

Table to clause 4

| Column 1 Toxicant | Column 2 Food | Column 3 Maximum level |
|------------------------------|--|---|
| Agaric acid | Food containing mushrooms Alcoholic beverages | 100 mg/kg 100 mg/kg |
| Aloin | Alcoholic beverages | 50 mg/kg |
| Berberine | Alcoholic beverages | 10 mg/kg |
| Coumarin | Alcoholic beverages | 10 mg/kg |
| Hydrocyanic acid, total | Confectionery Stone fruit juices Marzipan Alcoholic beverages | 25 mg/kg 5 mg/kg 50 mg/kg 1mg per 1% alcohol content |
| Hypericine | Alcoholic beverages | 2 mg/kg |
| Pulegone | Confectionery Beverages | 350 mg/kg 250 mg/kg |
| Quassine | Alcoholic beverages | 50 mg/kg |
| Quinine | Mixed alcoholic drinks not elsewhere classified Tonic drinks, bitter drinks and quinine drinks Wine based drinks and reduced alcohol wines | 300 mg/kg 100 mg/kg 300 mg/kg |
| Safrole | Food containing mace and nutmeg Meat products Alcoholic beverages | 15 mg/kg 10 mg/kg 5 mg/kg |
| Santonin | Alcoholic beverages | 1 mg/kg |
| Sparteine | Alcoholic beverages | 5 mg/kg |
| Thujones (alpha and beta) | Sage stuffing Bitters Sage flavoured foods Alcoholic beverages | 250 mg/kg 35 mg/kg 25 mg/kg 10 mg/kg |

[17.14] *omitting the definition of **food** in subclause 5(1), substituting –*

food means the food or class of foods listed in Column 2 of the Table to this clause.

[17.15] *omitting in bolded type from the definition of **natural toxicant** in subclause 5(1)*

[17.16] *omitting subclauses 5(2), 5(3) and 5(4), substituting –*

(2) The maximum levels for natural toxicants in food are listed in Column 3 of the Table to this clause.

(3) Where a mixed food contains a food or class of foods listed in Column 2 of the Table to this clause, the proportion of the natural toxicants permitted to be present in the mixed food (ML1) is calculated in accordance with the formula prescribed in subclause 1(6).

(4) Subclause 1(2) of Standard 1.1.1 does not apply to ready-to-eat cassava chips for the purposes of the Table to clause 5.

[17.17] *omitting the Table to clause 5, substituting –*

Table to clause 5

| Column 1 Toxicant | Column 2 Food | Column 3 Maximum level (mg/kg) |
|---|--|---|
| Erucic acid | Edible oils | 20,000 |
| Histamine | Fish and fish products | 200 |
| Hydrocyanic acid, total | Ready-to-eat cassava chips | 10 |
| Lupin alkaloids | Lupin flour, lupin kernel flour, lupin kernel meal and lupin hulls | 200 |
| The ML for Tutin to cease on 31 March 2011 Tutin | Tutin in honey Tutin in comb honey | 2 0.1 |

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

[18.1] *inserting after subclause 1(7) –*

(8) To avoid doubt, this Standard does not apply to packaged water.

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

(2) Unless Schedules 1 or 2 specify a separate MRL or ERL for a processed food, the MRL or ERL applies to that food whether raw or processed, including separated fractions.

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

Maximum Residue Limits (mg/kg)

[18.4] *omitting and/or wherever appearing in Schedule 1, substituting and*

[18.5] *omitting the heading to Schedule 2, substituting –*

Extraneous Residue Limits (mg/kg)

[18.6] *omitting and/or wherever appearing in Schedule 4, substituting or*

[19] **Standard 1.4.4** of the Australia New Zealand Food Standards Code is varied by –

[19.1] *omitting from Schedule 1 –*

Plugeus spp.

substituting –

Pluteus spp.

[19.2] *omitting from Schedule 1 and Schedule 2, wherever occurring, the symbol **

[19.3] *omitting from Schedule 1 and Schedule 2, wherever occurring –*

* Not an Australian Approved Name.

[20] **Standard 1.5.1** of the Australia New Zealand Food Standards Code is varied by omitting from the Table to clause 2 –

| | |
|--|--|
| Docosahexaenoic acid (DHA) – rich dried marine micro-algae (<i>Schizochytrium</i> sp.) | |
| Docosahexaenoic acid (DHA) – rich oil derived from marine micro-algae (<i>Schizochytrium</i> sp.) | |
| Docosahexaenoic acid (DHA) – rich oil derived from marine micro-algae (<i>Ulkenia</i> sp.) | |

substituting –

| | |
|---|--|
| Dried marine micro-algae (<i>Schizochytrium</i> sp.) rich in docosahexaenoic acid (DHA) | |
| Oil derived from marine micro-algae (<i>Schizochytrium</i> sp.) rich in docosahexaenoic acid (DHA) | |
| Oil derived from marine micro-algae (<i>Ulkenia</i> sp.) rich in docosahexaenoic acid (DHA) | |

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

[21.1] *omitting clause 2, substituting –*

2 Application

(1) The foods listed in column 1 of the Schedule in this Standard must, subject to subclause (2), comply with the microbiological limits set in relation to that food in the Schedule.

(2) In the case of powdered infant formula with added lactic acid producing cultures, the Standard Plate Count (SPC) microbiological limit applies prior to the addition of the lactic acid cultures to the food.

[21.2] *omitting the heading from the Schedule, substituting –*

SCHEDULE Microbiological criteria (clause 2)

[21.3] *omitting from column 1 of the Schedule –*

Unpasteurised milk

substituting –

Unpasteurised milk for retail sale

[22] **Standard 1.6.2** of the Australia New Zealand Food Standards Code is varied by omitting from subclauses 8(2) and 8(3) –

A fermented comminuted processed meat

substituting –

Fermented comminuted processed meat

[23] **Standard 2.2.1** of the Australia New Zealand Food Standards Code is varied by –

[23.1] *omitting the Purpose, substituting –*

Purpose

This Standard includes definitions, compositional and labelling requirements for meat and meat products.

[23.2] *omitting clause 4, substituting –*

4 Declaration of the presence of offal in food

(1) The presence of offal in a food must be -

- (a) declared in the statement of ingredients; or
- (b) where the food is not required to bear a label, otherwise declared to the purchaser.

(2) The presence of brain, heart, kidney, liver, tongue or tripe in a food must be declared as 'offal' or by the specific name of the type of offal.

(3) The presence of any other type of offal in a food must be declared by the specific name of the type of offal.

[23.3] *omitting clause 7, substituting –*

7 Deleted

[23.4] *omitting processed from subclause 9(3), substituting manufactured.*

[23.5] *omitting from clause 10 –*

Where a fermented comminuted manufactured meat or a fermented

substituting –

Where fermented comminuted manufactured meat or fermented

[23.6] *omitting paragraph 11(3)(b), substituting –*

- (b) a minor ingredient of a processed product, where that ingredient comprises bovine fat or bovine tallow; and

[24] **Standard 2.2.2** of the Australia New Zealand Food Standards Code is varied by omitting the Purpose, *substituting –*

Purpose

This Standard provides definitions and requirements for egg and egg products.

[25] **Standard 2.2.3** of the Australia New Zealand Food Standards Code is varied by –

[25.1] *omitting the Purpose, substituting –*

Purpose

This Standard defines the term ‘fish’ and requires the provision of certain cooking instructions for raw fish which has been joined using a binding system without the application of heat.

[25.2] *omitting clauses 2 and 3, substituting –*

2 Labelling etc of formed or joined fish

Where raw fish has been formed or joined in the semblance of a cut or fillet of fish using a binding system without the application of heat, whether coated or not, a declaration that the fish is either formed or joined, in conjunction with cooking instructions indicating how the microbiological safety of the product can be achieved –

- (a) must be included on the label on the package of the fish; or
- (b) if the food is not required to be labelled, must be provided to the purchaser.

[25.3] *updating the Table of Provisions to reflect these amendments*

[26] **Standard 2.3.1** of the Australia New Zealand Food Standards Code is varied by omitting the definition of **peeled and/or cut fruit and vegetables**

[27] **Standard 2.4.1** of the Australia New Zealand Food Standards Code is varied by omitting the definition of **edible oils**, substituting –

edible oils means the triglycerides and diglycerides of fatty acids of plant or animal origin, including aquatic plants and aquatic animals.

[28] **Standard 2.4.2** of the Australia New Zealand Food Standards Code is varied by inserting and is not covered by this Standard after Standard 2.5.5 in the Purpose.

[29] **Standard 2.5.1** of the Australia New Zealand Food Standards Code is varied by –

[29.1] *omitting from the Purpose –*

Processing requirements for milk are contained in Standard 4.2.4. Subclause 4(2) of this Standard does not apply to milk produced in New Zealand.

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

- 4 Milk to be processed
- 5 Phytosterols, phytostanols and their esters

substituting –

- 4 Phytosterols, phytostanols and their esters

[29.3] *omitting and/or from subclause 2(2), substituting or*

[29.4] *omitting clauses 4 and 5, substituting –*

4 Phytosterols, phytostanols and their esters

Phytosterols, phytostanols and their esters may only be added to milk –

- (a) that contains no more than 1.5 g total fat per 100 g; and
- (b) that is supplied in a package, the labelled volume of which is no more than 1 litre; and

- (c) where the total plant sterol equivalents content is no less than 3 g/L of milk and no more than 4 g/L of milk.

[30] **Standard 2.5.2** of the Australia New Zealand Food Standards Code is varied by omitting from the Purpose –

Processing requirements for cream are contained in Standard 4.2.4.

[31] **Standard 2.5.3** of the Australia New Zealand Food Standards Code is varied by –

[31.1] *omitting from the Purpose –*

Processing requirements for fermented milk are contained in Standard 4.2.4

[31.2] *omitting and/or from the definition of **fermented milk** in clause 1, substituting or*

[31.3] *omitting clause 2, substituting –*

2 Composition of fermented milk, including yoghurt

(1) Fermented milk may contain other foods.

(2) In fermented milk and the fermented milk portion of a food containing fermented milk, each component or parameter listed in Column 1 must comply with the value specified in Column 2 of the Table to this subclause.

[31.4] *omitting the Table to subclause 2(3), substituting –*

Table to subclause 2(3)

| Column 1 | Column 2 |
|--|-------------------------------|
| Component or parameter | Value |
| protein (measured as crude protein) | minimum 30 g/kg |
| pH | maximum 4.5 |
| viable microorganisms used in the fermentation | minimum 10 ⁶ cfu/g |

[32] **Standard 2.5.4** of the Australia New Zealand Food Standards Code is varied by –

[32.1] *omitting from the Purpose –*

Processing requirements for cheese are contained in Standard 4.2.4

[32.2] *omitting and/or wherever appearing in clause 1, substituting or*

[32.3] *omitting clause 2 substituting –*

2 Permitted ingredients

Cheese may contain the following ingredients–

- (a) water; and
- (b) lactic acid producing microorganisms; and
- (c) flavour producing microorganisms; and
- (d) gelatine; and
- (e) starch; and
- (f) vinegar; and
- (g) salt.

[32.4] *updating the Table of Provisions to reflect this amendment*

[33] **Standard 2.5.5** of the Australia New Zealand Food Standards Code is varied by –

[33.1] *omitting from the Purpose* –

Processing requirements for butter are contained in Standard 4.2.4

[33.2] *omitting clause 2, substituting* –

2 Composition of butter

Butter must contain no less than 80.0% m/m milkfat.

3 Permitted ingredients

Butter may contain the following ingredients–

- (a) water; and
- (b) salt; and
- (c) lactic acid producing microorganisms; and
- (d) flavour producing microorganisms.

[33.3] *updating the Table of Provisions to reflect these amendments*

[34] **Standard 2.5.6** of the Australia New Zealand Food Standards Code is varied by *omitting from the Purpose* –

Processing requirements for ice cream are contained in Standard 4.2.4.

[35] **Standard 2.5.7** of the Australia New Zealand Food Standards Code is varied by –

[35.1] *omitting from the Purpose* –

Processing requirements for dried, evaporated and condensed milk are contained in Standard 4.2.4.

[35.2] *omitting the definition of **components of milk products** in clause 1*

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

(1) The fat, or protein, or both fat and protein, content of the milk used to make dried milks or condensed milks, may be adjusted to comply with the compositional requirements set out in this Standard, by the addition or withdrawal of milk constituents in such a way as not to alter the whey protein to casein ratio of the milk being adjusted.

[35.4] *omitting subclause 2(3), substituting* –

(3) In addition to the general compositional requirements of this Standard, the milk products listed in Column 1 of the Schedule, when made from cow's milk, must contain the components listed in Column 2, in the corresponding proportions specified in Column 3 of the Schedule.

[35.5] *omitting the Schedule, substituting* –

SCHEDULE

| Column 1 | Column 2 | Column 3 |
|------------------------|------------------------|-------------------------------------|
| Dried whole milks | Milkfat Water | Minimum 26% m/m Maximum 5% m/m |
| Dried skim milks | Milkfat Water | Maximum 1.5% m/m Maximum 5% m/m |
| Condensed whole milks | Milkfat Milk solids | Minimum 8% m/m Minimum 28% m/m |
| Condensed skim milks | Milkfat Milk solids | Maximum 1% m/m Minimum 24% m/m |
| Evaporated whole milks | Milkfat Milk solids | Minimum 7.5% m/m Minimum 25% m/m |
| Evaporated skim milks | Milkfat Milk solids | Maximum 1% m/m Minimum 20% m/m |

[36] **Standard 2.6.2** of the Australia New Zealand Food Standards Code is varied by –

[36.1] *omitting the definition of **brewed soft drink** from clause 1, substituting –*

brewed soft drink means the product prepared by a fermentation process from water with sugar and one or more of –

- (a) fruit extractives or infusions; or
- (b) vegetable extractives or infusions.

[36.2] *omitting vitamins and/or minerals from the definition of **formulated beverage** in clause 1, substituting vitamins or minerals or both vitamins and minerals*

[36.3] *omitting subclause 2(2) and the Table to subclause 2(2), substituting –*

(2) Water presented in packaged form must not contain substances at greater levels than the guideline values specified in *Annex 4 Chemical summary tables, Table A4.3 Guideline values for chemicals that are of health significance in drinking-water in the Guidelines for drinking-water quality, 3^d edition incorporating the 1st and 2nd addenda, Volume 1 Recommendations, World Health Organization, Geneva 2008.*

[37] **Standard 2.6.3** of the Australia New Zealand Food Standards Code is varied by –

[37.1] *omitting sale and distribution from the Purpose, substituting form and labelling*

[37.2] *omitting and/or from clause 2, substituting or*

[38] **Standard 2.7.1** of the Australia New Zealand Food Standards Code is varied by –

[38.1] *omitting from the Table to subclause 2(1) –*

| | |
|---|--|
| Alcoholic beverages containing not more than 1.15 % alcohol by volume | ‘CONTAINS NOT MORE THAN X% ALCOHOL BY VOLUME’ or words and expressions of the same or similar effect |
| Beverages containing no less than 0.5% alcohol by volume | |

substituting –

| | |
|--|--|
| Alcoholic beverages containing 1.15% or less alcohol by volume | 'CONTAINS NOT MORE THAN X% ALCOHOL BY VOLUME' or words and expressions of the same or similar effect |
| Beverages containing 0.5% or more alcohol by volume | |

[39] **Standard 2.7.2** of the Australia New Zealand Food Standards Code is varied by –

[39.1] *omitting clause 2, substituting –*

2 Permitted addition of other foods during production

The following foods may be added to beer during production –

- (a) cereal products or other sources of carbohydrate; and
- (b) sugar; and
- (c) salt; and
- (d) herbs and spices.

[40] **Standard 2.7.3** of the Australia New Zealand Food Standards Code is varied by –

[40.1] *omitting the Purpose, substituting –*

Purpose

This Standard defines the composition of fruit wine, vegetable wine, fruit wine product, vegetable wine product, mead, cider and perry.

[40.2] *omitting from clause 1 –*

In this Standard –

substituting –

(1) In this Standard –

[40.3] *omitting the definitions for **fruit wine and/or vegetable wine and fruit wine and/or vegetable wine product***

[40.4] *inserting in clause 1, following the definition of **perry** –*

(2) Any reference to fruit wine or vegetable wine in the Code refers to a product prepared from the complete or partial fermentation of fruit, vegetable, grains, cereals or any combination or preparation of those foods, other than that produced solely from grapes.

(3) Any reference to fruit wine product or vegetable wine product in the Code refers to a food containing no less than 700 mL/L of fruit wine, or vegetable wine, or both fruit and vegetable wine, which has been formulated, processed, modified or mixed with other foods such that it is not a fruit wine or vegetable wine.

[40.5] *omitting clause 2, substituting –*

2 Permitted ingredients

Fruit wine, vegetable wine and mead may contain the following ingredients–

- (a) fruit juice and fruit juice products; and
- (b) vegetable juice and vegetable juice products; and
- (c) sugars; and
- (d) honey; and

- (e) spices; and
- (f) alcohol; and
- (g) water.

[41] *Standard 2.7.4 of the Australia New Zealand Food Standards Code is varied by 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.

[41.1] *omitting clause 2, substituting –*

2 Permitted addition of other foods to wine during production –

The following foods may be added to wine during production –

- (a) grape juice and grape juice products; and
- (b) sugars; and
- (c) brandy or other spirit; and
- (d) water, where the water is necessary to incorporate any permitted food additive or processing aid.

[42] *Standard 2.7.5 of the Australia New Zealand Food Standards Code is varied by –*

[42.1] *omitting clauses 2 and 3, substituting –*

2 Permitted ingredients of spirit and brandy

Spirit and brandy may contain the following ingredients –

- (a) water; and
- (b) sugars; and
- (c) honey; and
- (d) spices.

3 Permitted addition of other foods to brandy during production

The following foods may be added to brandy during production –

- (a) grape juice; and
- (b) grape juice concentrates; and
- (c) wine; and
- (d) prune juice.

[43] *Standard 2.8.1 of the Australia New Zealand Food Standards Code is varied by omitting the second paragraph of the Purpose, substituting –*

Honey is standardised in Standard 2.8.2 and is not covered by this Standard.

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

[44.1] *omitting the fourth and fifth paragraphs from the Purpose*

[44.2] *omitting the definition of **protein substitute** in clause 1, substituting –*

protein substitute means –

- (a) L-amino acids; or

- (b) the hydrolysate of one or more of the proteins on which infant formula product is normally based; or
- (c) a combination of L-amino acids and the hydrolysate of one or more of the proteins on which infant formula product is normally based.

[44.3] *omitting the following entries from the Table to clause 7,*

| | | | |
|----------------------------|--|---------|---------|
| Adenosine 5'-monophosphate | Adenosine 5'-monophosphate Adenosine 5'-monophosphate sodium salt | 0.14 mg | 0.38 mg |
| Cytidine 5'-monophosphate | Cytidine 5'-monophosphate Cytidine 5'-monophosphate sodium salt | 0.22 mg | 0.6 mg |
| Uridine 5'-monophosphate | Uridine 5'-monophosphate Uridine 5'-monophosphate sodium salt | 0.13 mg | 0.42 mg |

substituting –

| | | | |
|----------------------------|--------------------------------------|---------|---------|
| Adenosine 5'-monophosphate | Adenosine 5'-monophosphate | 0.14 mg | 0.38 mg |
| Cytidine 5'-monophosphate | Cytidine 5'-monophosphate | 0.22 mg | 0.6 mg |
| Uridine 5'-monophosphate | Uridine 5'-monophosphate sodium salt | 0.13 mg | 0.42 mg |

[44.4] *omitting from paragraph 16(2)(e) –*

expressed in weight per 100 mL.

substituting –

expressed in weight per 100 mL when the product is reconstituted.

[44.5] *omitting paragraph 20(1)(f), substituting –*

- (f) subject to clause 28, a reference to the presence of any nutrient or nutritive substance, except for a reference to a nutrient or nutritive substance in –
 - (i) accordance with clause 30 – Claims relating to lactose free formula or low lactose formulas; or
 - (ii) the statement of ingredients in accordance with Standard 1.2.4 – Labelling of Ingredients; or
 - (iii) the nutrition information statement in accordance with clause 16 of this Standard – Declaration of nutrition information; or

[44.6] *omitting paragraphs 20(2)(a) and 20(2)(b), substituting –*

- (a) the statement of ingredients in accordance with Standard 1.2.4 – Labelling of Ingredients; or
- (b) the nutrition information statement in accordance with clause 16 of this Standard – Declaration of nutrition information.

[45] **Standard 2.9.2** of the Australia New Zealand Food Standards Code is varied by –

[45.1] *omitting the first paragraph from the Purpose, substituting –*

This Standard provides for the compositional (including nutritional) and labelling requirements of foods intended or represented for use as food for infants. Foods in this Standard are intended to be fed to infants in addition to human milk or infant formula products or both. This Standard does not apply to infant formula products, as they are regulated by Standard 2.9.1, nor does it apply to formulated meal replacements and formulated supplementary foods as they are regulated by Standard 2.9.3.

[45.2] *omitting the third paragraph from the Purpose*

[45.3] *omitting and/or from the definition of **food for infants** in clause 1, substituting or*

[45.4] *omitting and/or folate from paragraph 4(b), substituting or folate or both*

[46] **Standard 2.9.4** of the Australia New Zealand Food Standards Code is varied by omitting paragraph 7(3)(a), substituting –

- (a) the product is useful for one or more of before, during, or after sustained strenuous exercise; and

[47] **Standard 3.2.1** of the Australia New Zealand Food Standards Code is varied by omitting clause 6, substituting –

6 Fund raising events

A food business does not have to prepare a food safety program in accordance with this Standard in relation to a fundraising event conducted by the food business.

[48] **Standard 3.3.1** of the Australia New Zealand Food Standards Code is varied by omitting and/or from the Schedule, substituting or

[49] **Standard 4.2.1** of the Australia New Zealand Food Standards Code is varied by –

[49.1] *omitting food-borne wherever appearing, substituting foodborne*

[49.2] *omitting the definition of ASQAP Manual from clause 15, substituting –*

ASQAP Manual means the Australian Shellfish Quality Assurance Program Operations Manual.

[49.3] *omitting the definition of **batch** from clause 15, substituting –*

batch means a quantity of bivalve molluscs harvested from a particular harvesting area (e.g. marine farm, lease or designated wild shellstock harvest area) and with the same harvest date.

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

[50.1] *omitting subclause 5(4), substituting –*

(4) Deleted

To commence: on 20 May 2012

[51] **Standard 1.6.2** of the Australia New Zealand Food Standards Code is varied by omitting from the Table of Provisions–

4 Eviscerated poultry

substituting –

4 Reserved

Draft variations to Editorial Notes in the *Australia New Zealand Food Standards Code* (at Approval)

To commence: on gazetta

[1] *The Editorial notes in the Standards of the Australia New Zealand Food Standards Code listed in Column 1 of the Table to this item are varied by omitting the Editorial notes listed in Column 2*

–

Table to Item 1

| Column 1 Standard | Column 2 Editorial note |
|----------------------|---|
| Standard 1.1.1 | The Editorial note following the definition of fund raising events |
| Standard 1.2.11 | The Editorial note following clause 2 |
| Standard 1.3.1 | The Editorial note following clause 3 |
| Standard 1.3.1 | The Editorial note following clause 11 |
| Standard 2.2.1 | The Editorial note within clause 1 |
| Standard 2.5.4 | The Editorial note following clause 3 |
| Standard 2.7.4 | The Editorial note following clause 2 |

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

[2.1] *omitting from the Editorial note preceding the Table of Provisions –*

Health Act 1911 (Western Australia)

substituting –

Food Act 2008 (Western Australia)

[2.2] *omitting from the Editorial note preceding the Table of Provisions –*

Food Act (Northern Territory)

substituting –

Food Act 2004 (Northern Territory)

[3] **Standard 1.2.3** of the Australia New Zealand Food Standards Code is varied by omitting from the Editorial note following clause 2 –

Standard 2.5.1. – ‘dried milks’

substituting –

Standard 2.5.1. ‘Dried milks’

[4] **Standard 1.2.5** of the Australia New Zealand Food Standards Code is varied by omitting the first paragraph from the Editorial note following subclause 2(2)

[5] **Standard 1.2.9** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note following clause 3, substituting –

Editorial note:

1. 'Warning statement is defined in Standard 1.1.1 – Preliminary Provisions – Application, Interpretation and General Prohibitions.
2. 'Small package' is defined in Standard 1.2.1 – Application of Labelling and Other Information Requirements.

[6] *Standard 1.2.10 of the Australia New Zealand Food Standards Code is varied by omitting the second paragraph from the Editorial note following subclause 2(4)*

[7] *Standard 1.3.2 of the Australia New Zealand Food Standards Code is varied by inserting the following Editorial note following the Table to clause 3 –*

Editorial note:

The New Zealand (Mandatory Fortification of Bread with Folic Acid) Food Standard 2007 applies to bread sold in New Zealand. This Standard does not apply to bread sold or prepared for sale in, or imported into Australia.

[8] *Standard 1.5.1 of the Australia New Zealand Food Standards Code is varied by –*

[8.1] *omitting from the Editorial note following clause 1 –*

micro-organisms

substituting –

microorganisms

[8.2] *omitting paragraph 3 and the bolded text from the Editorial note following clause 3*

[9] *Standard 2.2.3 of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note following clause 1, substituting –*

Editorial note:

This Standard does not define specific names for fish. An Australian Fish Names Standard (AS SSA 5300) has been published which provides guidance on standard fish names to be used in Australia.

1. Hard copies of the Australian Fish Names Standard (AS-SSA 5300) are available from Seafood Services Australia at <http://www.seafood.net.au/shop>.
2. A searchable database of Australian Standard Fish Names is available at <http://www.fishnames.com.au>.
3. New Zealand common, Maori, and scientific names for fish species are available from the website of the Ministry of Agriculture and Forestry at <http://www.foodsafety.govt.nz/industry/sectors/seafood/fish-names/index.htm>

The Table to clause 5 of Standard 1.4.1 prescribes the maximum level of histamine permitted in fish and fish products.

[10] *Standard 2.5.1 of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –*

Editorial note:

The Australian processing requirements for milk are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[11] **Standard 2.5.2** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for cream are contained in Standard 4.2.4.

New Zealand has its own processing requirements for cream.

[12] **Standard 2.5.3** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for fermented milk products are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[13] **Standard 2.5.4** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for cheese are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[14] **Standard 2.5.5** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for butter are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[15] **Standard 2.5.6** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for ice cream are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[16] **Standard 2.5.7** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for dried, evaporated and condensed milks are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[17] **Standard 2.7.4** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

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

- (a) the use of geographical indications for wine, sparkling wine and fortified wine;
- (b) limited derogations from the requirements in this Standard for wine, sparkling wine and fortified wine for export;
- (c) blending rules for wine, sparkling wine and fortified wine; and
- (d) 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.

The New Zealand *Geographical Indications (Wines and Spirits) Registration Act 2006* applies to geographical indications in relation to wine. The Act will commence on a date to be proclaimed by the Governor-General of New Zealand.

[18] *Standard 2.9.1 of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note following the Table to clause 23, substituting –*

Editorial note:

Standard 1.3.4 contains specifications for dried marine microalgae (*Schizochytrium sp.*) rich in docosahexaenoic acid (DHA), oil derived from marine microalgae (*Schizochytrium sp.*) rich in docosahexaenoic acid (DHA), oil derived from the algae *Cryptocodinium cohnii* rich in docosahexaenoic acid (DHA), oil derived from the fungus *Mortierella alpina* rich in arachidonic acid (ARA), and oil derived from marine microalgae (*Ulkenia sp.*) rich in docosahexaenoic acid (DHA).

[19] *Standard 3.3.1 of the Australia New Zealand Food Standards Code is varied by omitting from the Editorial note following subclause 1(2) –*

micro-organisms

substituting –

microorganisms

[20] *Standard 4.2.4 of the Australia New Zealand Food Standards Code is varied by omitting and/ or from the Editorial note following subclause 15(5), substituting or*

Draft variations to Editorial Notes in the *Australia New Zealand Food Standards Code* proposed in the Assessment Report

To commence: on gazettal

[1] The Editorial notes in the Standards of the Australia New Zealand Food Standards Code listed in Column 1 of the Table to this item are varied by omitting the Editorial notes listed in Column 2

–

Table to Item 1

| Column 1 Standard | Column 2 Editorial note |
|----------------------|---|
| Standard 1.1.1 | The Editorial note following the definition of fund raising events |
| Standard 1.2.11 | The Editorial note following clause 2 |
| Standard 1.3.1 | The Editorial note following clause 3 |
| Standard 1.3.1 | The Editorial note following clause 11 |
| Standard 2.2.1 | The Editorial note within clause 1 |
| Standard 2.7.4 | The Editorial note following clause 2 |
| Standard 2.7.5 | The Editorial note following clause 4 |

[2] **Standard 1.1.1** of the Australia New Zealand Food Standards Code is varied by omitting from the Editorial note preceding the Table of Provisions –

Health Act 1911 (Western Australia)

substituting –

Food Act 2008 (Western Australia)

[3] **Standard 1.2.3** of the Australia New Zealand Food Standards Code is varied by omitting from the Editorial note following clause 2 –

Standard 2.5.1. – ‘dried milks’

substituting –

Standard 2.5.1. ‘Dried milks’

[4] **Standard 1.2.5** of the Australia New Zealand Food Standards Code is varied by omitting the first paragraph from the Editorial note following subclause 2(2)

[5] **Standard 1.2.9** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note following clause 3, substituting –

Editorial note:

1. ‘Warning statement is defined in Standard 1.1.1 – Preliminary Provisions – Application, Interpretation and General Prohibitions.
2. ‘Small package’ is defined in Standard 1.2.1 – Application of Labelling and Other Information Requirements.

[6] **Standard 1.2.10** of the Australia New Zealand Food Standards Code is varied by omitting the second paragraph from the Editorial note following subclause 2(4)

[7] **Standard 1.3.2** of the Australia New Zealand Food Standards Code is varied by inserting the following Editorial note following the Table to clause 3 –

Editorial note:

The New Zealand (Mandatory Fortification of Bread with Folic Acid) Food Standard 2007 applies to bread sold in New Zealand. This Standard does not apply to bread sold or prepared for sale in, or imported into Australia.

[8] **Standard 1.5.1** of the Australia New Zealand Food Standards Code is varied by–

[8.1] omitting from the Editorial note following clause 1 –

micro-organisms

substituting –

microorganisms

[8.2] omitting paragraphs 2 and 3 and the bolded text from the Editorial note following clause 3, substituting –

For information purposes only, the exclusive period for the following novel foods listed in column 1 of the Table to clause 3 are as follows:

| Novel food | Brand | Commencement date | End date |
|-----------------------------|--------------|--------------------------|-----------------|
| Tall oil phytosterol Esters | LiveActive® | 8 April 2010 | 8 July 2011 |

[9] **Standard 2.2.3** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note following clause 1, substituting –

Editorial note:

This Standard does not define specific names for fish. An Australian Fish Names Standard (AS SSA 5300) has been published which provides guidance on standard fish names to be used in Australia.

1. Hard copies of the Australian Fish Names Standard (AS-SSA 5300) are available from Seafood Services Australia at <http://www.seafood.net.au/shop>.
2. A searchable database of Australian Standard Fish Names is available at <http://www.fishnames.com.au>.
3. Approved Scientific, New Zealand Common, Maori, and Foreign Common Names of New Zealand Commercial Fish Species, are available from the New Zealand Food Safety Authority website at <http://www.nzfsa.govt.nz/animalproducts/registers-lists/approved-fish-names/>.

[10] **Standard 2.5.1** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for milk are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[11] **Standard 2.5.2** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for cream are contained in Standard 4.2.4.

New Zealand has its own processing requirements for cream.

[12] **Standard 2.5.3** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for fermented milk products are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[13] **Standard 2.5.4** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for cheese are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[14] **Standard 2.5.5** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for butter are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[15] **Standard 2.5.6** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for ice cream are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[16] **Standard 2.5.7** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

The Australian processing requirements for dried, evaporated and condensed milks are contained in Standard 4.2.4.

New Zealand has its own processing requirements for milk and milk products.

[17] **Standard 2.7.4** of the Australia New Zealand Food Standards Code is varied by omitting the Editorial note preceding the Table of Provisions, substituting –

Editorial note:

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

- (a) the use of geographical indications for wine, sparkling wine and fortified wine;
- (b) limited derogations from the requirements in this Standard for wine, sparkling wine and fortified wine for export;
- (c) blending rules for wine, sparkling wine and fortified wine; and
- (d) 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.

The New Zealand *Geographical Indications (Wines and Spirits) Registration Act 2006* applies to geographical indications in relation to wine. The Act will commence on a date to be proclaimed by the Governor-General of New Zealand.

[18] **Standard 2.9.1** of the *Australia New Zealand Food Standards Code* is varied by omitting the Editorial note following the Table to clause 23, substituting –

Editorial note:

Standard 1.3.4 contains specifications for dried marine microalgae (*Schizochytrium sp.*) rich in docosahexaenoic acid (DHA), oil derived from marine microalgae (*Schizochytrium sp.*) rich in docosahexaenoic acid (DHA), oil derived from the algae *Crypthecodinium cohnii* rich in docosahexaenoic acid (DHA), oil derived from the fungus *Mortierella alpina* rich in arachidonic acid (ARA), and oil derived from marine microalgae (*Ulkenia sp.*) rich in docosahexaenoic acid (DHA).

[19] **Standard 3.3.1** of the *Australia New Zealand Food Standards Code* is varied by omitting from the Editorial note following subclause 1(2)–

micro-organisms

substituting –

microorganisms

[20] **Standard 4.2.4** of the *Australia New Zealand Food Standards Code* is varied by omitting and/ or from the Editorial note following subclause 15(5), substituting or

Summary of issues raised in public submissions in response to the assessment report

Public comment on the Assessment Report for this Proposal was sought from 15 December 2010 to 9 February 2011. Some specific questions to submitters were posed in the Assessment Report, as detailed in table 1. A total of 13 submissions were received. A summary of the issues raised and the response from FSANZ is provided in table 2 below. In addition to the comments provided below, some submitters provided useful background information and suggestions for inclusions in other proposals, which will be considered by FSANZ in the future. Some submitters noted their support for the proposed amendments except for comments provided on specific issues.

Table 1: Questions posed in Assessment Report

| Issue number and proposed solution | Question |
|---|--|
| 23. Amend clause 8 of Standard 1.2.4 to clarify that the food additive class name used in the statement of ingredients must describe the primary technological function of that food additive in the food. | 1. Are you aware of any foods that would require relabelling as a result of this amendment? 2. If so, please provide details of the extent and cost of the labelling changes required. |
| 40. Standard 1.2.10, subclauses 5(2) and 7(2). Amend both subclauses to require that for declarations of 5% or greater, the percentage must be rounded to the nearest whole number and for declarations of less than 5%, the percentage may be rounded to the nearest 0.5%. | 3. Do you agree with the recommendation to require declarations of characterising ingredients of 5% or greater to be rounded to the nearest whole number? 4. Are you aware of any foods that would require relabelling as a result of this amendment? |
| 70. Clause 3 of Standard 1.3.4. Amend to include the <i>International Oenological Codex</i> (2010 supplementary edition) as an additional secondary source of specifications. | 5. Should all current references in clauses 2 and 3 of Standard 1.3.4 be maintained in addition to those proposed as updated references? 6. Are there any other references that should be added to these clauses? If yes, which references and why? |
| 72. Schedule to Standard 1.3.4 The specifications should be rewritten to reflect purity and composition factors related to food safety and characterisation and to reflect international specifications. | 7. Are you aware of any commercial impacts as a result of the proposed amendments to these specifications? |
| 107. Update the provisions in Standard 2.6.2 for the composition of packaged waters in relation to the presence of certain substances. | 8. As there are some differences between the WHO guidelines and the current Code, please identify if this change would have commercial, trade or health impacts. |
| 117. Standard 2.9.1, clause 7. Remove Adenosine 5'-monophosphate sodium salt, Cytidine 5'-monophosphate sodium salt and Uridine 5'-monophosphate from the list of permitted forms in the Table. | 9. Do you consider that the removal of these permitted forms of nucleotides from the Code would be of concern to industry, particularly with respect to existing products? |
| 128. Remove subclause 5(4) from Standard 4.5.1. | 10. Do you believe this change will have negative trade repercussions? |

Table 2: Summary of issues raised in public submissions and FSANZ response

| Submitter | Issue | Comment | FSANZ Response |
|---|-------|---|--|
| Coral Sea Fishing | N/A | Clarity is needed regarding generally permitted processing aid carbon monoxide. Is it a food additive or processing aid? | This matter was not included in the Assessment Report. As this relates to definitions of additives and processing aids, it is not appropriate to consider under this Proposal. |
| J Anderson | | Proposes that a book format [for the Code] is much easier to follow and use. | This will be considered under work associated with the legislative audit of the Code. |
| NZ Ministry of Agriculture and Forestry (MAF) | N/A | Standard 1.2.8, clause 10 – the title could also be amended, i.e. Food <i>intended</i> to be drained before consumption | Agreed and amendment made. |
| NZ MAF | N/A | Standard 2.9.1, clause 7 and 8. Clause 7(1)(b) infers that the total maximum amount of nucleotide 5' – monophosphates permitted to be present in infant formula is 1.76 mg/100kJ (0.38 + 0.6 + 0.12 + 0.24 + 0.42mg/100kJ). However in clause 8 it states that infant formula product must contain no more than 3.8 mg /100kJ. MAF would like to know if this needs to be corrected in a future Code Maintenance Proposal or if there is an explanation for these differences in values. | The total of 3.8mg/100kJ is to allow for naturally occurring nucleotides in addition to any permitted added nucleotides. If changes to wording of paragraphs 7(1)(b) or 8 are required for clarity this will be considered as part of a future review of the infant formula standard. |
| SA Health | N/A | Consider there has not been sufficient consultation with jurisdictions on implementation of the legislative audit and therefore it is premature to make amendments to the Code, in particular removal of cross referencing. Cites cross references related to issues 87, 93, 99, 114, 115, 120 and 143 and suggests that these should be retained as they are useful from a regulatory perspective. | FSANZ agrees that cross references could be reviewed in a more systematic manner under a future project. These cross references have therefore not been removed from the Code. For issue 99, the reference to processing requirements in Australia that is currently in the Purpose, has been moved into an Editorial note. |
| Victorian Department of Health (Vic Health) | N/A | Proposed solution to redraft 'and/or' expressions in the 32 instances identified is supported however the redrafting is inconsistent, question whether the intent is captured. | FSANZ has reviewed the drafting proposed to remove the 'and/or' expression and has made some amendments as outlined in this Report. |
| Vic Health | N/A | Suggest some aspects included in this Proposal are best excluded, so that the Proposal can be confined to housekeeping measures. In the absence of any immediate enforcement problems, prefer that the following issues be prioritised and dealt with systematically and consistently by the Code audit working group: 1. Definitions 2. Treatment of compositional requirements 3. Treatment of references to external documents (except removal of redundant references) 4. Clarification as to whom has obligations to comply with the Code 5. Cross referencing of standards 6. Purpose, Application, Interpretation and Editorial Note sections (including rationale for inclusion) | FSANZ has committed to considering smaller Code audit issues together in omnibus-type proposals and addressing larger more complex issues separately in major projects. In order to implement the recommendations of the Code audit in a timely manner, it was decided that FSANZ would progress the smaller issues which are of a housekeeping nature in code maintenance proposals wherever possible. The larger issues to be considered in major projects at a later time are: 1. Review of nutritive substances 2. Review of novel foods 3. Review of definitions and interpretation 4. Review processing aids and food additives 5. Review of labelling standard |

| Submitter | Issue | Comment | FSANZ Response |
|--|-------------|---|---|
| Queensland Health (Qld Health) | 5 | Standard 3.2.1 clause 6 relates to 'Fund raising events' however the proposed substitution refers to 'a fundraising event'. | Agree – extra space removed. |
| NZ MAF | 18 | [5.4] Cocos nucifera should be in italics. | Agree – Cocos nucifera in Table to clause 4 of Standard 1.2.3, put back into italics. |
| NZ MAF | 22 | [6.4] Agree with intent of the change. Provisions in the Table to clause 6 also apply to clause 6(1)(b). The inclusion of meat in the editorial note is not helpful. Suggest meat is replaced by a tomato-based ingredient. | Don't agree that the provisions in Table to clause 6 also apply to paragraph 6(1)(b), the Table is only referenced in subclause 6(2) which applies only to paragraph 6(1)(a). Agree – ingredients of canned spaghetti ingredients have been amended to a tomato based sauce. |
| Food Technology Association of Australia (FTA) | 23 | Many products would need to be relabelled at unknown costs. | Agree with the need to further assess the impact. While technical clarity was intended, the intended change is not possible because not all the class names in Schedule 1 of Standard 1.2.4 are technological functions. The proposed drafting has therefore been removed, apart from some minor editorial changes. |
| SA Health | 23 | This issue should not be addressed via an omnibus proposal. Requires full FSANZ consultation because any changes would be substantial. Whilst food additive class names enhance consumers' understanding of food additives present in food, they are not 'technical' in nature. | |
| Vic Health | 23 | Are not aware of any foods that would require relabelling as a result of this amendment. | |
| NSW Food Authority | 24 | Standard 2.4.1, clause 3. It is not clear what it meant by 'specific name', would like clarification and if it extends to wording such as 'edible oil' and 'vegetable oil' as well as oils labelled as 'sunflower oil', olive oil etc. If not, there is potential for the requirement in this clause for the labelling statement to be circumvented. | A review of Proposal P162 reports indicates the clause was intended only to apply when the vegetable source of the oil was specifically named, eg sunflower oil, in order that consumers are not deceived as to the fatty acid composition when using the specific source name of the oil. The clause has been further clarified by adding 'source', i.e. the clause states 'specific source name of the oil'. |
| Vic Health | 24 | This is a good illustration of where a cross reference is appropriate. There are a number of other issues which propose the deletion of cross references but this is dealt with on a more ad hoc basis. The preferred approach would be to establish principles on when and where cross referencing would be appropriate. This will become more evident as the Code audit working group progresses and particularly where structural issues are considered. | FSANZ will review cross references in the Code in a future project. |
| Dr A Poynton | 25, 29 & 30 | The definition of use-by date refers to 'health and safety' reasons but should only refer to 'safety'. The words 'health' should be deleted from Standards 1.2.5 and 1.2.6. | Depletion of nutrients over time could be a health reason for a use-by date. To exclude 'health' would be out of scope of this Proposal. |
| NZ MAF | 26 | [7.2] The examples could be updated by providing dates closer to 2011. | Agree – dates amended. |

| Submitter | Issue | Comment | FSANZ Response |
|--------------------------|-------|---|--|
| NZ MAF | 29 | [8.1] The proposed Purpose statement could be amended to reflect that either directions for use, or directions for storage, or both directions for use and storage could apply. | Agree – Purpose was reworded to better reflect the purpose of Standard. |
| SA Health | 32 | This paragraph should be retained as it lists the exemption conditions in one place. Alternatively these exemption conditions could be referenced in the Purpose of Standard 1.2.8. | The paragraph only lists exemptions that are additional to those in Standard 1.2.1 (apart from foods sold at fund-raising events). Leaving the exemption for food for fund-raising events in this clause is inconsistent with the rest of the exemptions in Standard 1.2.1 and creates confusion when applying clause 4 of Standard 1.2.8. |
| NZ MAF | 34 | [9.5] There is an error in the table – the 'Dietary fibre, total' entry should only have one asterisk. | FSANZ agrees that there is an error in the Table, however as this Table provides the prescribed format for a nutrition information panel, it is not appropriate to amend this under this Proposal at this time. The error will be considered under future FSANZ work. |
| NZ MAF | 37 | [9.7] Agree with the intent but the new drafting is long and potentially confusing. Provide suggested amendment. | Agree – drafting reformatted for clarity as suggested by the submitter. |
| Dr A Poynton | 40 | Without recourse to manufacturing data, it is impossible to police the actual amount except in cases of gross errors, so requiring rather than recommending is unrealistic. | Agree that the requirement to round percentages that are above 5% is very prescriptive for a labelling requirement provided for consumer information. |
| FTA | 40 | Question 3: should be worded as 'may be' rather than 'must be' rounded to the nearest whole number. | The permission to round the percentage of characterising ingredients will be retained as currently provided for in the Code. Subclause 7(2) has been amended as proposed in the Assessment Report, to permit but not require the percentage of characterising components to be rounded, for consistency with rounding of the percentage of characterising ingredients. |
| NZ MAF | 40 | Q3: considers there needs to be consistency with how numbers are rounded in the Code. It may therefore be preferable to maintain the status quo – optional rounding. | |
| Qld Health Vic Health | 40 | Agree with recommendation to require declarations of characterising ingredients of 5% or greater to be rounded to the nearest whole number. | |
| Qld Health | 42 | The current standard applies in the case of (i) a mix of local foods or (ii) a mix of imported foods or (iii) a mix of local and imported foods. The proposed variation will remove provisions (i) and (ii). The amendment is a significant change and warrants further consideration. | The drafting has been reworded to allow for the three options outlined by the submitter. |
| Dr A Poynton | 43 | Having moved the definition of GMP to Standard 1.1.1, it would be helpful in Standard 1.3.1 to indicate that a definition exists and where it is. | It is the intention to move as many definitions as possible to Chapter 1 of the Code. Only in exceptional circumstances would an additional entry or 'signpost' be put in other sections of the Code. We don't see the need for a signpost here. |
| NSW Food Authority | 43 | Support the intent of the proposed amendment but suggest inclusion of 'processing aid' in subclause (b) is redundant and may cause confusion, because a processing aid will only be added to a food with the intention of accomplishing a physical or other technical effect in the finished food itself. | Not all processing aids will be added to a food with the intention of accomplishing a physical or other technical effect in the finished food itself. The wording and requirements have not changed from what is |

| Submitter | Issue | Comment | FSANZ Response |
|---|-------|---|---|
| SA Health | 43 | Creating a new definition via this proposal is not supported. May raise issues for enforcement agencies, particularly in establishing the appropriate level of an additive necessary to achieve a desired function in a specific food. The definition proposed is inconsistent with the wording of the definition of GMP in the Codex General Standard for Food Additives CODEX STAN 192-1995. | in the Code already, except that they have been drafted as a formal definition rather than the current cases – an Editorial note in Standard 1.3.1 and an incomplete reference in Standard 1.3.3. Any changes to the wording and requirement would be considered through a separate proposal. |
| Vic Health | 43 | The principle of 'one term one meaning' (one of the Audit recommendations) is supported as is locating those terms in Standard 1.1.1. | Support noted. |
| NSW Food Authority | 45 | Standard 1.3.1, clause 7. Questions whether there is a typographical error and the amendment should read 'an additive' not 'a food'. | This is not an error – under the proposed drafting the reference to 'a food additive' as is currently in clause 7 is retained. |
| Flavour and Fragrance Association of Australia & NZ | 46 | Replace the proposed date from June 2009 to January 2011. Justification is that the GRAS 25 list has just been published. | It is true that GRAS 25 list was electronically published dated January 25, 2011. It is also true that, for some reason, the Code references a secondary publication of this a list – IFT. IFT has not yet re-published FEMA GRAS 25. |
| Food Liaison Pty Ltd | 46 | The amendment adopts up to GRAS 24 however the FEMA has already published GRAS 25 which is available on the FEMA website. Food Technology is only a secondary means of publishing the FEMA GRAS lists and FSANZ should consider adopting the list published directly by FEMA. Notes the proposed amendment to sub-paragraph (a)(iii) does not reference a date. This allows the latest version to always be adopted. The same could be achieved for FEMA GRAS Flavouring Substances Lists by changing the proposed amendment to (a)(i) to <i>Generally Recognised as Safe (GRAS) lists of flavouring substances published by the Flavours and Extracts Manufacturers Association of the United States</i> . Referring to the secondary publishing delays adoption of the latest FEMA lists, and, by including dates, requires constant amendment. | The Code has been amended to reference the FEMA GRAS lists of flavouring substances from 1960 to edition 25, 2011. With respect to Food Liaison's comment regarding no publication date in respect of CFR, this is now covered by separate definition of CFR being the 2010 version. |
| FTA | 46 | The latest FEMA GRAS Flavouring Substances 25 was very recently published and should be included in the Code via this Proposal. | |
| NZ MAF | 48 | [13.1] The word 'processed' should be deleted in clauses 3(2), 3(3) and 3(4) because the word may limit permissions made in Schedule 1 categories when this is not intended. | The wording is the same as that used for the general provisions or table headers, so it would be inappropriate to change at this point. This issue could be further discussed when reviewing the additive standard. |
| Dr A Poynton | 49 | The heading in Schedule 1, item 1.4.1 should read 'Cream, reduced cream and light cream' (no bracket). | Agree – the extra bracket has now been removed. |
| NZ MAF SA Health | 51 | [13.10] The fruit and vegetables may be both peeled and cut, this should be specified. The proposed drafting does not allow for both to apply. | Agree – the drafting has been amended to capture both peeled and cut fruit and vegetables. |
| Dr A Poynton | 56 | Removing the words 'made up as directed' changes the requirement. | Comments noted regarding the accidental change in |

| Submitter | Issue | Comment | FSANZ Response |
|--------------------|-----------|---|---|
| Vic Health | 56 | The intense sweetener additive permissions are for soup bases, not soup generally, but the levels are, by necessity, on the product made up as directed due to the variability of moisture content of soup bases. Current wording is not considered confusing and the amendment is not supported. | permission, and 'soup bases' to remain as the food category heading, but made clearer that the maximum levels apply to the made-up soup. |
| SA Health | 57 and 58 | Inappropriate to insert new additives into the Code via an Omnibus Proposal. This is a substantive change and the process requires a full FSANZ consultative process as required by its legislation. Although JECFA evaluation supports their safety, there has been no FSANZ evaluation of the technological justification as well as no identity and purity reference provided and no impact analysis. | FSANZ acknowledges that these are new additives, but considers that an appropriate level of risk assessment has been conducted and therefore an Application is not required. This Proposal contains a round of consultation. The risk analysis has included safety (i.e. the JECFA view was considered, not relied on; the relevant ADIs are both group ADIs already including these particular forms; and there is a JECFA specification). Regarding issue 57, the food additive has a technological use in confectionery. Regarding issue 58, the food additive is primarily used in salt substitutes, but also has other technological applications. Both will only be used by industry if there is a benefit. |
| NZ MAF | 59 | [13.17] Flavour enhancers and flavours could enhance both the taste and odour. When both, could apply, this should be specified. | If either the taste or odour is enhanced, the definition has been met. |
| NSW Food Authority | 60 | It appears the proposed change marginally narrows the substances covered. Suggest retaining the intent of the present wording. | |
| NZ MAF | 63 | [14.4] The removal of 'and/or' applies to 'Fruit and/or vegetable drinks...'. By changing to 'or', appears to be no ability to have a fruit and vegetable drink. | Agree. Fruit and vegetable drinks added back into the Table to clause 3 of Standard 1.3.2. |
| Qld Health | 63 | It needs to be acknowledged that there can be fruit juice/drink and there can be a combination of vegetable juice/drink and fruit juice/drink. This is a significant change and warrants further consideration. | As above for fruit drink. However for fruit juice, the table does not currently mention fruit and vegetable juice, therefore this has not been included. |
| Vic Health | 66 | The table already has 'function' as the header to the second column so the amendment is not required. | Amendment is correct; 'function' is not currently used in the heading. |
| NZ MAF | 67 | [15.5] Lactoperoxidase may reduce and inhibit the bacterial population. The phrase 'or both' is required. | If either occurs, the definition has been met. |
| NZ MAF | 68 | [16.2] Agree the Purpose statement should be amended. Note the amended clause 1 and query the use of the term 'novel food substances '. This is not a term defined in the Code. Assume that such a term is intended to reflect the point that not all novel foods need a specification for identify and purity (such as whole foods). | We agree that 'substances' are not generally defined in the Code, but the submitter's point is correct in that not all novel foods require a specification. The term substance is used throughout the Code, and It is expected that the issue of definitions will be included in a specific proposal in the future. |
| SA Health | 68 | The amendment does not adequately link to the new clause 1 which also refers to 'novel foods and nutritive substances'. These are not wholly captured by the term 'nutrients' in the Purpose. | Agree – novel food substances added to this amendment. |

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| Vic Health | 68 | <p>Are not aware of any enforcement or interpretation difficulties associated with the wording of the current Standard. The word 'substance' is well understood and in their view is correctly applied to capture the broad application of the Standard.</p> <p>The amendment to clause 1 narrows the application of the Standard, given the legal status of the Purpose statement is questionable, as 'biologically active substances' and 'other nutrients' are not listed.</p> <p>Strongly suggest the need for this change be considered and if FSANZ remains of the view it should be included, a full explanation of the reason for the change is included.</p> <p>Note: 'nutritive substances' includes vitamins and minerals so there is no need to list them separately.</p> <p>At this stage, as the reason for the change is not apparent the amendment is not supported.</p> <p>Question 5: yes.</p> | <p>FSANZ was responding to feedback that 'ensures that substances added to food ... meet appropriate specifications for identity and purity of food additives...' was ambiguous. This has now been made clear in the summary of the issue.</p> <p>The amendment captures the specific existing requirements:</p> <ul style="list-style-type: none"> 'Other nutrients' are covered by vitamins and minerals plus nutritive substances. There is no mention of other 'biologically active substances' in this clause at present, and it is inappropriate to include them. <p>(Note we are anticipating that in the future there is likely to be a revisiting of this clause.)</p> |
| NZ MAF | 69 | <p>Clause 2 continues to use the phrase (<i>if any</i>), in relation to relevant monographs. This appears incorrect, as the effect of clause 2 is that a monograph will apply – either one in the Schedule or from another source. Therefore question continued inclusion of the term 'if any'.</p> | <p>Agree – '(if any)' is not necessary. Reference to 'if any' in clause 2 and clause 3 of Standard 1.3.4 has been removed.</p> |
| FTA | 70 | <p>Question 5: Yes.</p> <p>Preferably if a legal method can be found to write the clauses to allow the latest published version become the recognised reference on the day of publication, it would obviate the current system of references often being out of date.</p> <p>Question 6: not aware of any other references that should be included.</p> | <p>Acknowledged but this is not possible under 14(1)(a) of the Legislative Instruments Act.</p> |
| NZ MAF | 70 | <p>Question 5: Yes. This will ensure the widest coverage of substances (especially for processing aids, which may not have a JECFA specification).</p> | <p>Support noted.</p> |
| Bioplus Life Sciences Private Limited | 72 | <p>Support the new specifications for oil derived from marine micro-algae (<i>Schizochytrium</i> sp) rich in DHA.</p> <p>Propose amendments to include free fatty acid content and palmitic acid content</p> | <p>Acknowledge support for the new specifications.</p> <p>FSANZ does not see the need for specifying the levels of free fatty acid content and palmitic acid as these are quality rather than specification issues.</p> |
| NZ MAF | 75 | <p>[17.5] Agree with the clarification for chocolate and cocoa products.</p> | <p>Support noted.</p> |

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| The Australian Industry Group, Confectionery Sector | 75 | Supports the need for clarification in the Table to clause 2 of Standard 1.4.1. Proposes that clarification ensures the ML for cadmium apply to the finished products as intended (as consumed or at retail). | The principle of this clarification is that the Standard was to only apply to food as sold, however it was not possible to define this precisely. FSANZ acknowledges that some intermediate products (for example, chocolate crumb) would need to comply with the proposed Standard. Conversely, it was recognised that cocoa powder containing no other ingredients and sold at retail would not be required to meet this Standard. As the issue has not been satisfactorily resolved, FSANZ has not proceeded with the proposed amendment in this Proposal. |
| NZ MAF | 76 | [17.17] The units in column 3 in the table to clause 5 are not expressed consistently with the tables in clauses 3 and 4. | Agree, amendment has been made to provide a consistent approach across the Tables to clauses 2-5. |
| NZ MAF | 84 | [21.3] Agree with the solution concerning the entry for unpasteurised milk however the issue is not fully explained in the document. | Issue rewritten more clearly in Approval Report. |
| Vic Health | 84 | P1007 will include the consideration of a microbiological standard for unpasteurised milk to be used in the manufacture of raw milk products so any amendments to Standard 1.6.1 should be made when that Proposal is finalised. | This is not a change to the Standard, just a relocation of the existing qualification to a more logical place – i.e. in the Table itself, consistent with Code Audit recommendations. |
| NZ MAF | 88 | [23.2] Concerned that current clause 4(2), which prohibits certain types of offal, does not appear to be reflected in the current drafting. | Discussion with the submitter indicates they no longer have this concern and support the proposed drafting. |
| NZ MAF | 89 | [15.6] Suggests the permission to brand meat is retained in Standard 2.2.1, as it does not appear to meet the requirements as a processing aid (may be performing a function in the final food). | The primary use is inspection/quality in processing. The fact that it may also perform a function in the final food is not relevant – it is still a processing aid. |
| SA Health | 94 | Clause 2 should not be deleted. Some fish species contain the amino acid histidine, which can convert to histamine. Histamine is not a natural toxin or a contaminant. As histamine is a compositional issue in fish and fish products it should remain in Standard 2.2.3. | We take a different view – while histamine is not accumulated from the environment, it is still a toxin. Therefore it does not seem to be appropriately placed in Standard 2.2.3. Its listing in Standard 1.4.1 is consistent with the other natural toxicants listed. However, it is possible that the requirement in Standard 1.4.1 may be overlooked and so a cross-reference in Standard 2.2.3 has been made. |
| SA Health | 95 | Changing from ‘and/or’ to ‘or’ changes the meaning. Vegetables can be peeled and cut, not just one or the other. A definition of ‘fruit and/or cut vegetables should be retained in Standard 2.3.1 in order for the hierarchy of additive permissions in Standard 1.3.1 to operate. | This use of certain food additives is permitted if a vegetable is cut, and another set if the vegetable is peeled. If it both peeled and cut then both sets apply. |

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| SA Health | 96 | Question whether the effect of changing 'and/or' to include 'triglycerides and diglycerides' would mean edible oils must be composed of both. Most edible oils are triglycerides and may not necessarily contain diglycerides. Assurance is sought that the proposed amendment does not prohibit the sale of edible oils if they do not contain diglycerides. | Agree that amendment may have had unintended consequences. The definition of edible oils has been amended to the 'triglycerides or diglycerides or both the triglycerides and diglycerides...' |
| SA Health | 98 | Retain clause 4. Suggest this amendment is considered as a separate proposal as further consideration is needed of the legal implications. As Standard 4.2.4 does not apply to retail sale activities, it is not clear whether removal of this provision in Standard 2.5.1 will impact on the requirements for milk sold at retail to be processed in accordance with Standard 4.2.4. Retain cross references in Purpose of Standard 2.5.1 to aid interpretation. | We agree that it is not certain that other sections of the Code cover this provision in Standard 4.2.4. Agree to retain clause 4. Cross-references maintained. |
| Vic Health | 101 | The term 'culture' is well understood by industry and enforcement agencies. Suggest that whether or not it needs to be defined, as it currently is in Standard 4.5.1 clause 3 and 4, requires discussion and should be left to the Code audit working group's consideration of definitions and interpretation so that issues are dealt with consistently. The Table does not need to mention viable organisms as the requirement is written in terms of colony forming units, which can only be formed by viable microorganisms. Agree that the term 'proportion' does not apply to pH however this raises the greater issue of the lack of consistency in the way compositional requirements are set out across the Code viz some in tabular form, some in text and all with varying terminology. The format for compositional requirements should be standardised as part of the Code audit working groups consideration. | While the expressions in subclause 2(2) and the Table to subclause 2(3) may be regarded as technically equivalent, we are concerned that this is still a legislative risk. The argument regarding measurement is correct – i.e. only live organisms develop into colony forming units. Expected to be addressed via other proposals, never the less when considering current proposals FSANZ is addressing issues of clarity and form as appropriate. |
| Qld Health | 102 | Replacing 'and/or' with 'or' may not accurately reflect current or future practices of making cheese with milk and additional materials derived from milk such as casein. | Agree. The term 'both milk and materials obtained from milk' has been added to the definition of cheese in Standard 2.5.4. |
| Vic Health | 104 | The proposed amendment could create more uncertainty as the emphasis on 'permitted ingredients' implies that the list is comprehensive and therefore fully inclusive of additive permissions. The amendment and approach is not supported. | FSANZ agrees as there was no intention to imply a change in permission. 'Permitted' and 'ingredients' have been removed from the relevant clauses of Standards 2.5.4, 2.5.5, 2.7.2, 2.7.3, 2.7.4 and 2.7.5. |
| NZ MAF, SA Health, Vic Health | 107 | [36.3] Do not support this change. Suggest this issue is addressed within Application A1043. | Given the response from these three submitters, and no comments from industry, it is agreed to not proceed with this change under this Proposal but to proceed with the Application. |
| NZ MAF | 108 | [37.1] Proposed drafting does not appear to link correctly to the second sentence of the Purpose statement. The labelling requirements in the second sentence do not need to be repeated. | Agree. The Purpose has been reworded to indicate the Standard regulates the labelling of kava and provides restriction on the parts of the kava plant that can be sold and to remove repetition. |

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| NZ MAF | 110 | [38.1] Agree the table should be redrafted. It would be even clearer if the words 'but less than 1.15% alcohol by volume' were added after 'Beverages containing 0.5% or more alcohol by volume'. | Agree. Reworded as suggested. |
| NZ MAF | 111 | [39.1] Question whether 'other foods' is correct. Should this be 'other food ingredients'? | See issue 104. |
| Vic Health | 111 | Similar issues as for 104. The drafting of definitions and compositional requirements requires further discussion, to avoid need for further amendment. For these reasons, in the absence of further information, the amendment is not supported. | |
| FTA | 117 | Considers this matter should not be dealt with via Code Maintenance but should be a full proposal with rationale provided for the removal of these nucleotides. Many manufacturers have possibly incorporated these nucleotides in their products in the belief they were legal substances and therefore their products would not cause any harm and/or were beneficial. Question 9: all infant food manufacturers may be affected as reformulation will be required and pre-printed packaged will have to be destroyed and replaced. | Consultation with the manufacturers has confirmed that these nucleotide forms are not used, and that there is no reason for them to be in the Code. |
| NZ MAF | 118 | [44.4] To ensure consistency with clause 16(2)(a) to (d), this could read 'expressed in weight per 100 ml of infant formula product that has been reconstituted according to directions'. | Agree. Standard 2.9.1, paragraph 16(2)(e) should read 'expressed in weight per 100 mL when the product is reconstituted according to directions' and has been amended. |
| Qld Health, SA Health | 124 | The replacement sentence is not clear. | Due to this concern, FSANZ has simplified this sentence. |
| FTA | 128 | Considers that Standard 4.5.1 should be amended to comply with the requirements in Standard 1.4.1, rather than deleting the incorrect clause from Standard 4.5.1. | The listing in Standard 1.4.1, as well as being in a more appropriate Standard in the Code, also means the limits will apply to domestic and imported wines. |
| SA Health | 128 | Retain this subclause and align levels. It is helpful from a regulatory perspective to have all relevant compositional limits listed in the one Standard. Alternatively a reference to Standard 1.4.1 could be made. | FSANZ believes that placing the requirements in Standard 1.4.1 is more appropriate. There is no need to have the requirement in an Australian-only production standard and also a finished product standard. |
| Vic Health | 128 | Supports the amendment. | Support noted. |
| NZ MAF | 140 | Suggests the weblink to fish names is updated following NZFSA being absorbed into the NZ Ministry of Agriculture and Forestry. | Updated link as provided. |